

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6555 / February 14, 2024

Admin. Proc. File No. 3-21364

In the Matter of

MARCUS BEAM

ORDER DISCHARGING ORDER TO SHOW CAUSE, DIRECTING PREHEARING
CONFERENCE, AND REMINDING RESPONDENT OF HIS OBLIGATION TO SEND HIS
FILINGS TO THE OFFICE OF THE SECRETARY

On April 11, 2023, the Securities and Exchange Commission issued an order instituting proceedings (“OIP”) against Marcus Beam pursuant to Section 203(f) of the Investment Advisers Act of 1940.¹ On August 24, 2023, the Commission ordered Beam to show cause why he should not be deemed in default and the proceeding determined against him for failing to file an answer to the OIP.² On September 28, 2023, Beam responded to that order by filing a motion to vacate any default that had been entered against him. In the motion, Beam stated that he had experienced various difficulties preparing filings due to his incarceration. Beam subsequently served the Division with an answer to the OIP, which the Division filed with the Commission. On January 19, 2024, the Division moved for summary disposition, requesting that the Commission indefinitely bar Beam from the securities industry.³

Although Beam has now filed an answer to the OIP, it does not appear that the parties have conducted a prehearing conference. The OIP directed the parties to do so within 14 days of

¹ *Marcus Beam*, Advisers Act Release No. 6279, 2023 WL 2910250 (Apr. 11, 2023).

² *Marcus Beam*, Advisers Act Release No. 6386, 2023 WL 5506856 (Aug. 24, 2023). This order was a renewed order to show cause issued when the Commission learned that a prior order to show cause may not have been properly served on Beam. *See id.* at *1; *see also Marcus Beam*, Advisers Act Release No. 6337, 2023 WL 4267447 (June 29, 2023).

³ Rule of Practice 250(b), 17 C.F.R. § 201.250(b) (authorizing filing of motion for summary disposition “after a respondent’s answer has been filed and documents have been made available to that respondent for inspection and copying pursuant to” Rule of Practice 230, 17 C.F.R. § 201.230). Beam has filed an answer, and the Division states that it has made documents available to him pursuant to Rule 230.

service of Beam's answer to the OIP and, following the conference, to file a statement with the Office of the Secretary advising the Commission of any agreements reached at the conference.⁴ If a prehearing conference was not held, the parties were ordered to file a statement advising the Commission of that fact and of the efforts made to meet and confer.⁵ The parties have not filed any statement regarding a prehearing conference.

In light of Beam's response to the order to show cause and answer, IT IS ORDERED that the order be discharged and that Beam will not be deemed in default at this time.

IT IS FURTHER ORDERED that Beam and the Division conduct a prehearing conference by March 13, 2024.⁶ The parties may meet in person or participate by telephone or other remote means. At the conference, the parties may discuss relevant matters, including any proposed schedule for Beam to respond to the Division's motion and for the Division to file any reply to that response. Following the conference, the parties shall file a statement with the Office of the Secretary advising the Commission of any agreements reached at the conference. If a prehearing conference is not held, a statement shall be filed with the Office of the Secretary advising the Commission of that fact and of the efforts made to meet and confer. If Beam fails to participate in the prehearing conference as directed by this order, he may be deemed in default and the proceeding may be determined against him.

Beam is also reminded that he must send any papers he files with the Commission to the Office of the Secretary, rather than the Office of the General Counsel,⁷ and that the failure to do so may lead to his filings being rejected.⁸ Although the street address is the same for both offices, filings must be addressed to the Office of the Secretary to ensure that they are received

⁴ *Beam*, 2023 WL 2910250, at *2.

⁵ *Id.*

⁶ Rule of Practice 221, 17 C.F.R. § 201.221.

⁷ *See* Rule of Practice 151(b), 17 C.F.R. § 201.151(b) ("Filing of papers with the Commission shall be made by filing them with the Secretary."). Beam was previously reminded of this obligation on November 22, 2023, and sent a copy of the Rules of Practice. Nonetheless, Beam appears to have mailed a copy of his answer to the Office of General Counsel instead of the Office of the Secretary.

⁸ Rule of Practice 180(b), 17 C.F.R. § 201.180(b).

and entered on the docket. Beam shall also continue to send his filings to counsel for the Division of Enforcement and to include a certificate of service with his filings.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary