

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940  
Release No. 6778 / November 27, 2024

Admin. Proc. File No. 3-20928

In the Matter of  RICHARD GEARHART
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ORDER TO SHOW CAUSE

On July 7, 2022, the Securities and Exchange Commission issued an order instituting proceedings (“OIP”) pursuant to Section 203(f) of the Investment Advisers Act of 1940 against Richard Gearhart.<sup>1</sup> After Gearhart filed an answer to the OIP, the Division of Enforcement filed a motion for summary disposition on October 31, 2024, in which it requested that Gearhart be barred from the securities industry. Under the Commission’s Rules of Practice, Gearhart was required to respond to the motion by November 12, 2024.<sup>2</sup> Gearhart has yet to do so.

Accordingly, Gearhart is ORDERED to SHOW CAUSE by January 3, 2025, why he should not be deemed in default and why this proceeding should not be determined against him due to his failure to respond to the Division’s motion or otherwise defend this proceeding. Gearhart’s submission shall address the reasons for his failure to timely file a response to the Division’s motion, include a proposed response to that motion to be considered if the Commission does not find him in default, and address the substance of the Division’s request for sanctions.

If Gearhart responds to this order to show cause, the Division may file a reply within 14 days after its service. If Gearhart does not file a response, the Division’s motion for summary disposition may be construed by the Commission as a motion for entry of an order of default and the imposition of remedial sanctions.

A respondent’s failure to timely file a brief in response to a dispositive motion or to comply with an order may result in the determination of the matter at issue against the respondent, entry of default, or the prohibition of the introduction of evidence or the exclusion of

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<sup>1</sup> *Richard Gearhart*, Advisers Act Release No. 6064, 2022 WL 2531752 (July 7, 2022); 15 U.S.C. § 80b-3(f).

<sup>2</sup> *See* Rules of Practice 150(e), 154(b), 160, and 250(f)(2)(i), 17 C.F.R. §§ 201.150(e), .154(b), .160, and .250(f)(2)(i); *BDO China Dahua CPA Co.*, Exchange Act Release No. 72753, 2014 WL 3827605, at \*1 n.2 (Aug. 4, 2014) (clarifying application of Rule of Practice 160).

testimony regarding the matter at issue.<sup>3</sup> When a default is entered, the allegations in the OIP will be deemed to be true and the Commission may determine the proceeding against the respondent upon consideration of the record without holding a public hearing.<sup>4</sup>

We remind the parties that any document filed with the Commission must also be served upon all participants in the proceeding and be accompanied by a certificate of service.<sup>5</sup> Upon review of the filings in response to this order, the Commission will either direct further proceedings by subsequent order or issue a final opinion and order resolving the matter.

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

Vanessa A. Countryman  
Secretary

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<sup>3</sup> Rules of Practice 155(a)(2), 180(c), 17 C.F.R. §§ 201.155(a)(2), .180(c).

<sup>4</sup> Rules of Practice 155, 180, 17 C.F.R. §§ 201.155, .180; *see also* *Gearhart*, 2022 WL 2531752, at \*4 (providing that the Commission may issue a final order after determining that a party is deemed to be in default).

<sup>5</sup> *See* Rule of Practice 150, 17 C.F.R. § 201.150 (generally requiring parties to serve each other with their filings); Rule of Practice 151(d), 17 C.F.R. § 201.151(d) (“Papers filed with the Commission . . . shall be accompanied by a certificate stating the name of the person or persons served, the date of service, the method of service, and the mailing address or email address to which service was made, if not made in person.”).