

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 102999 / May 7, 2025

INVESTMENT ADVISERS ACT OF 1940
Release No. 6879 / May 7, 2025

Admin. Proc. File No. 3-22286

In the Matter of

MARK J. BOUCHER

ORDER TO SHOW CAUSE

On November 6, 2024, the Securities and Exchange Commission issued an order instituting proceedings under Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940 (“OIP”), against Mark J. Boucher, who is currently incarcerated.¹ On February 24, 2025, the Commission issued an order extending Boucher’s time to file an answer to the OIP until March 26, 2025.² As of the date of this order, Boucher has not filed an answer. The prehearing conference and the hearing are thus continued indefinitely.

Accordingly, Boucher is ORDERED to SHOW CAUSE by June 23, 2025, why he should not be deemed to be in default and why this proceeding should not be determined against him due to his failure to file an answer or otherwise to defend this proceeding. Boucher’s submission shall address the reasons for his failure to timely file an answer, and include a proposed answer to be accepted if the Commission does not deem him to be in default. Boucher shall deliver any response, including any answer, to the proper prison authorities no later than the due date, for forwarding to the Commission’s Office of the Secretary.³

¹ *Mark J. Boucher*, Exchange Act Release No. 101521, 2024 WL 4696137 (Nov. 6, 2024).

² *Mark J. Boucher*, Exchange Act Release No. 102472, 2025 WL 592817 (Feb. 24, 2025).

³ *See Houston v. Lack*, 487 U.S. 266, 276 (1988) (holding that, under federal prison mailbox rule, pro se prisoners’ notices of appeal are “filed” at moment of delivery to prison authorities for forwarding to the district court); *Adams v. United States*, 173 F.3d 1339, 1341 (11th Cir. 1999) (per curiam) (noting that this rule applies “to other filings by *pro se* prisoners”).

When a party is deemed to be in default, the allegations in the OIP may be deemed to be true and the Commission may determine the proceeding against that party upon consideration of the record without holding a public hearing.⁴ The OIP also informed Boucher if he did not file an answer he could be deemed to be in default and the proceedings determined against him.⁵

If Boucher files a response to this order to show cause, the Division may file a reply within 28 days after its service. Otherwise, the Division shall file a motion for entry of an order of default and the imposition of remedial sanctions by July 21, 2025, which should address each statutory element of the relevant provisions of Exchange Act Section 15(b) and Advisers Act Section 203(f).⁶ The motion should discuss relevant authority relating to the legal basis for, and the appropriateness of, the requested sanctions and include evidentiary support sufficient to make an individualized assessment of whether those sanctions are in the public interest.⁷ The parties may file opposition and reply briefs within the deadlines provided by the Rules of Practice.⁸ The failure to timely oppose a dispositive motion is itself a basis for a finding of default;⁹ it may result in the determination of the proceeding adversely to the non-moving party and may be deemed a forfeiture of arguments that could have been raised at that time.¹⁰

⁴ Rules of Practice 155, 180, 17 C.F.R. §§ 201.155, .180.

⁵ *Boucher*, 2024 WL 4696137, at *2; *see also Boucher*, 2025 WL 592817, at *1 (same).

⁶ *See, e.g., Shawn K. Dicken*, Exchange Act Release No. 89526, 2020 WL 4678066, at *2 (Aug. 12, 2020) (requesting additional information from the Division “regarding the factual predicate for Dicken’s convictions” and “why these facts establish” the need for remedial sanctions); *see also Shawn K. Dicken*, Exchange Act Release No. 90215, 2020 WL 6117716, at *1 (Oct. 16, 2020) (clarifying the additional information needed from the Division).

⁷ *See generally Rapoport v. SEC*, 682 F.3d 98, 108 (D.C. Cir. 2012) (requiring “meaningful explanation for imposing sanctions”); *McCarthy v. SEC*, 406 F.3d 179, 190 (2d Cir. 2005) (stating that “each case must be considered on its own facts”); *Gary L. McDuff*, Exchange Act Release No. 74803, 2015 WL 1873119, at *1, *3 (Apr. 23, 2015); *Ross Mandell*, Exchange Act Release No. 71668, 2014 WL 907416, at *2 (Mar. 7, 2014), *vacated in part on other grounds*, Exchange Act Release No. 77935, 2016 WL 3030883 (May 26, 2016); *Don Warner Reinhard*, Exchange Act Release No. 61506, 2010 WL 421305, at *3-4 (Feb. 4, 2010), *appeal after remand*, Exchange Act Release No. 63720, 2011 WL 121451, at *5-8 (Jan. 14, 2011).

⁸ *See* Rules of Practice 154, 160, 17 C.F.R. §§ 201.154, .160.

⁹ *See* Rules of Practice 155(a)(2), 180(c), 17 C.F.R. §§ 201.155(a)(2), .180(c); *see, e.g., Behnam Halali*, Exchange Act Release No. 79722, 2017 WL 24498, at *3 n.12 (Jan. 3, 2017).

¹⁰ *See, e.g., McBarron Capital LLC*, Exchange Act Release No. 81789, 2017 WL 4350655, at *3-5 (Sep. 29, 2017); *Bennett Grp. Fin. Servs., LLC*, Exchange Act Release No. 80347, 2017 WL 1176053, at *2-3 (Mar. 30, 2017), *abrogated in part on other grounds by Lucia v. SEC*, 585 U.S. 237 (2018); *Apollo Publ’n Corp.*, Securities Act Release No. 8678, 2006 WL 985307, at *1 n.6 (Apr. 13, 2006).

Boucher is reminded that he must serve the Division of Enforcement with a copy of any document that he files with the Office of the Secretary,¹¹ and that he must include a certificate of service providing the details of that service with each such document.¹² The Commission previously granted Boucher leave to serve and file documents by mail or other nonelectronic means identified in the Rules of Practice.¹³

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

¹¹ Rule of Practice 150(a), 17 C.F.R. § 201.150(a). The mailing address to which Boucher's filings should be sent for filing is Office of the Secretary, U.S. Securities and Exchange Commission; 100 F Street N.E., Mail Stop 1090; Washington, DC 20549.

¹² Rule of Practice 151(d), 17 C.F.R. § 201.151(d). A certificate of service "stat[es] 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." *Id.* Here, the Division is represented by Daniel J. Maher and Stephen T. Kaiser, U.S. Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549.

¹³ *Boucher*, 2025 WL 592817, at *1 (citing Rules of Practice 150(d) and 152(a)(2), 17 C.F.R. §§ 201.150(d) and .152(a)(2)).