

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 85423 / March 26, 2019

ACCOUNTING AND AUDITING ENFORCEMENT  
Release No. 4032 / March 26, 2019

Admin. Proc. File No. 3-18994

In the Matter of

JOSEPH S. AMUNDSEN, CPA,  
MICHAEL T. REMUS, CPA, AND  
MICHAEL REMUS CPA.

NOTICE REGARDING CORRESPONDENCE

The Commission has received seven items of correspondence from respondent Joseph S. Amundsen. This notice addresses those seven items.

The first item, dated March 6, 2019 and titled “Response to SEC Order - Rule of Practice 161,” asserts that the Commission “agreed to have these matters presented to the SF District Court on March 20, 2019,” but is now “trying to suspend” the court date. It also asserts that the Commission has “informally agreed to stay” these “administrative charges” until April 20, 2019. Amundsen continues to conflate this administrative proceeding with the entirely separate civil injunctive action in the U.S. District Court for the Northern District of California. To be clear, none of the orders issued by the Commission in this proceeding purports to suspend any court date—nor could it—including the hearing before the district court that is currently set for March 28, 2019.<sup>1</sup> As to this proceeding, the Commission has neither been presented with nor approved any stipulation among the parties to continue the matter until April 20, 2019. The Commission reminds the parties that they must conduct a prehearing conference pursuant to Rule of Practice 221 by April 3, 2019, and that they shall file a statement by April 5, 2019 reporting the parties’ positions with respect to the matters listed in Rule of Practice 221(c) and advising the Commission of any agreements reached at said conference.<sup>2</sup>

The second item, dated March 8, 2019, purports to be an answer to the order instituting proceedings. It “requests that this Administrative Proceeding[] be summarily dismissed” and

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<sup>1</sup> See DE 124, Case No. 3:83-cv-00711-WHA (N.D. Cal. Mar. 25, 2019); DE 112, Case No. 3:83-cv-00711-WHA (N.D. Cal. Feb. 11, 2019).

<sup>2</sup> *Joseph S. Amundsen, CPA*, Exchange Act Release No. 85284, 2019 WL 1116195, at \*2 (Mar. 11, 2019).

asserts “[t]here is no violation.”<sup>3</sup> This document does not comply with Rule of Practice 220, governing the content of answers, because it does not “specifically admit, deny, or state that the party does not have, and is unable to obtain, sufficient information to admit or deny each allegation” in the OIP.<sup>4</sup> Because Amundsen has not “file[d] an answer in compliance with Rule of Practice 220 by March 18, 2019,” as required by the Commission’s March 11, 2019 order, he is “deemed to have filed an answer denying all of the allegations in the OIP.”<sup>5</sup>

The third item, dated March 16, 2019 and titled “Response to letter March 13, 2019,” argues that the Commission has “no authority” to institute administrative proceedings because, Amundsen asserts, a 1983 settlement extinguished “all charges against [him].” Amundsen, so long as he complies with the applicable deadlines and other procedural rules governing the timely and proper presentation of issues,<sup>6</sup> will have the opportunity to develop and press this argument. But at this very early stage of the proceedings, and without the benefit of adversarial briefing, it is not yet ripe for disposition.

The remaining four items—a “Request for Reconsideration” dated February 27, 2019; two additional such requests dated March 6, 2019 and March 8, 2019; and a “Petition to Vacate and Answer to Contempt Charge” dated March 9, 2019—are directed to either the U.S. Court of Appeals for the Ninth Circuit or the U.S. District Court for the Northern District of California. As made clear above and in two prior notices, *this* administrative proceeding is set before the Securities and Exchange Commission, and is separate from the cases or appeals in other fora in which Amundsen may also be a party.<sup>7</sup> It is neither necessary nor appropriate for Amundsen to transmit copies of his filings in *other* cases or appeals to the Office of the Secretary. No further

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<sup>3</sup> The letter also contends that the Division of Enforcement “has offered legal advice to Amundsen, without notification to the other” respondents. This claim appears to be premised on a March 7, 2019 email from a Division attorney informing Amundsen that although he is “free to submit materials to the Office of the Secretary in this matter, [the Division] will not undertake to do so on [his] behalf.” This is not legal advice—it is an accurate, factual statement about the Commission’s filing process, Rule of Practice 151, 17 C.F.R. § 201.151—and, insofar as it is a communication entirely between two parties, is not subject to the prohibition against *ex parte* communications with the decisionmaker. *Cf.* Rule of Practice 120, 17 C.F.R. § 201.120.

<sup>4</sup> Rule of Practice 220, 17 C.F.R. § 201.220.

<sup>5</sup> *Joseph S. Amundsen, CPA*, 2019 WL 1116195, at \*2.

<sup>6</sup> *See, e.g., McBarron Capital LLC*, Exchange Act Release No. 81789, 2017 WL 4350655, at \*5 (Sep. 29, 2017); *see also Bennett Group Fin. Servs., LLC*, Exchange Act Release No. 80347, 2017 WL 1176053, at \*2 (Mar. 30, 2017) (holding that the Commission has no obligation to “independently . . . identify and develop arguments that a party fails to advance with clarity”).

<sup>7</sup> *Joseph S. Amundsen, CPA*, Exchange Act Release No. 85310, 2019 WL 1167740, at \*1 (Mar. 13, 2019); *Joseph S. Amundsen, CPA*, Exchange Act Release No. 85250, 2019 WL 1036154, at \*1 (Mar. 5, 2019).

action will be taken regarding these filings, or any future ones that are not directed to the Commission or that seek relief that is not available from the Commission in this proceeding.

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

Vanessa A. Countryman  
Acting Secretary