

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 85653 / April 15, 2019

Admin. Proc. File No. 3-18774

In the Matter of

HEIDI WIVOLIN

ORDER TO SHOW CAUSE

On September 17, 2018, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Heidi Wivolin pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940.¹ On December 19, 2018, the Division of Enforcement filed the Declaration of Andrew O. Schiff, which states that service of the OIP was made on Wivolin on September 20, 2018, pursuant to Rule 141(a)(2)(i) of the Commission’s Rules of Practice.²

As stated in the OIP, Wivolin’s answer was required to be filed within 20 days of service of the OIP.³ As of the date of this order, Wivolin has not filed an answer. The prehearing conference and the hearing are thus continued indefinitely.

Accordingly, Wivolin is ORDERED to SHOW CAUSE by April 29, 2019, why she should not be deemed to be in default and why this proceeding should not be determined against her due to her failure to file an answer and to otherwise defend this proceeding. When a party defaults, the allegations in the OIP will 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 informed Wivolin that a failure to file an answer could result in her being deemed in default and the proceedings determined against her.⁵

¹ *Heidi Wivolin*, Exchange Act Release No. 84164, 2018 WL 4404614 (Sep. 17, 2018).

² 17 C.F.R. § 201.141(a)(2)(i).

³ *Heidi Wivolin*, 2018 WL 4404614, at *2; Rules of Practice 151(a), 160(b), 220(b), 17 C.F.R. §§ 201.151(a), 160(b), .220(b).

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

⁵ *Wivolin*, 2018 WL 4404614, at *3.

If Wivolin files a response to this order to show cause, the Division may file a reply within 14 days after its service. If Wivolin does not file a response, the Division shall file a motion for default and other relief by May 27, 2019. The motion for default and other relief may be accompanied by additional evidence pertinent to the Commission's individualized assessment of whether the requested relief is appropriate and in the public interest.⁶ The parties may file opposition and reply briefs within the deadlines provided by the Rules of Practice.⁷ The failure to timely oppose a dispositive motion is itself a basis for a finding of default;⁸ it may result in the determination of particular claims, or the proceeding as a whole, adversely to the non-moving party and may be deemed a forfeiture of arguments that could have been raised at that time.⁹

The parties are reminded that an electronic courtesy copy of each filing should be emailed to APFilings@sec.gov in PDF text-searchable format.

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
Acting Secretary

⁶ 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 (D.C. Cir. 2005) (“each case must be considered on its own facts”); *Gary McDuff*, Exchange Act Release No. 74803, 2015 WL 1873119, at *1 (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).

⁷ See Rules of Practice 154, 160, 17 C.F.R. §§ 201.154, .160.

⁸ See Rules of Practice 155(a)(2), 180(c), 17 C.F.R. § 201.155(a)(2), .180(c); see, e.g., *Benham Halali*, Exchange Act Release No. 79722, 2017 WL 24498, at *3 n.12 (Jan. 3, 2017).

⁹ See, e.g., *McBarron Capital LLC*, Exchange Act Release No. 81789, 2017 WL 4350655, at *3-5 (Sep. 29, 2017); *Bennett Group Fin. Servs., LLC*, Exchange Act Release No. 80347, 2017 WL 1176053, at *2-3 (Mar. 30, 2017); *Apollo Publ'n Corp.*, Securities Act Release No. 8678, 2006 WL 985307, at *1 n.6 (Apr. 13, 2006).