

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 90215 / October 16, 2020

Admin. Proc. File No. 3-18831

In the Matter of

SHAWN K. DICKEN

ORDER REQUESTING ADDITIONAL MATERIALS

On September 24, 2018, the Commission issued an Order Instituting Proceedings (“OIP”) against Shawn Dicken pursuant to Section 15(b) of the Securities Exchange Act of 1934.¹ The OIP alleged that Dicken had been convicted of violating various Michigan state laws for financial misconduct that occurred while she was associated with a broker-dealer. Dicken did not file an answer to the OIP or otherwise respond. On April 4, 2019, the Division of Enforcement filed a motion requesting that Dicken be found in default and barred from the securities industry and from participating in any offering of a penny stock. Dicken has not responded to the Division’s motion.

On August 12, 2020, we issued an order requesting additional materials from the Division.² We explained in that order that when determining whether remedial action, including an industry bar, is in the public interest, “the Commission must consider the question with reference to the underlying facts and circumstances of the case.”³ We explained that, in this instance, the Commission’s consideration of those facts and circumstances would benefit from further briefing, as well as “any further documentation relevant to such matters or otherwise relevant to [the Commission’s] public interest analysis.”⁴

¹ *Shawn K. Dicken*, Exchange Act Release No. 84272, 2018 WL 4562834 (Sept. 24, 2018).

² *Shawn K. Dicken*, Exchange Act Release No. 89526, 2020 WL 4678066 (Aug. 12, 2020).

³ *Id.* at *1 (citing *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff’d on other grounds*, 450 U.S. 91 (1981)).

⁴ *Dicken*, 2020 WL 4678066, at *2.

The Division filed its response on September 11, 2020, which consisted of a brief and a declaration from the attorney serving as counsel for the Division in the matter. The declaration explained that the Division had obtained paper copies of the Michigan trial court transcript and sentencing hearings, and offered summaries of various sections relating to the issues outlined in our August 12, 2020 order.

Based on our review of the Division's submissions, it appears that the Commission would benefit from being able to review the underlying documents in the trial court record.⁵ With consideration for the likely length of that record and the possible logistical difficulties of providing them under the current circumstances,⁶ we are requiring the Division to submit only the transcripts for the jury instructions and the sentencing hearings, though the Division may, if it deems it necessary or appropriate, submit additional materials.

Accordingly, it is ORDERED that the Division shall provide by December 16, 2020, a copy of the transcripts of the jury instructions and the sentencing hearings referenced in its September 11, 2020 submissions. The materials may be accompanied by a brief, not to exceed 5000 words, limited to addressing the facts underlying Dicken's convictions and the appropriateness of the sanctions sought. The brief shall contain specific citations to the evidence. To the extent the Division deems it necessary or appropriate, any additional evidentiary materials shall be attached to the brief, which shall contain specific citations to the evidence relied upon.⁷

It is further ORDERED that Dicken may file a brief by February 16, 2020, not to exceed 5000 words, responding to the Division's filings. Dicken's brief should also address why she

⁵ Cf. *Emich Motors Corp. v. General Motors Corp.*, 340 U.S. 558, 568-69 (1961) (discussing materials that can be used to show which issues were "distinctly put in issue and directly determined" by a general jury verdict of guilty (internal quotation marks and citations removed)); *Chisholm v. DLA*, 656 F.2d 42, 48-49 (3d Cir. 1981) (allowing agency to establish "which issues were litigated" by a conviction culminating in a general jury verdict by "introduction of the record of the criminal proceeding").

⁶ See, e.g., *Order Granting a Temporary Conditional Exemption from the Broker Registration Requirements of Section 15(a) of the Securities Exchange Act of 1934 for Certain Activities of Registered Municipal Advisors*, Exchange Act Release No. 89074, 2020 WL 3397774 (June 16, 2020), <https://www.sec.gov/rules/exorders/2020/34-89074.pdf> (offering temporary exemptions from certain requirements "to address disruption in the municipal securities markets as a result of the coronavirus disease 2019 ('COVID-19') pandemic"); *Pending Administrative Proceedings*, Exchange Act Release No. 88415, 2020 WL 1322001 (Mar. 18, 2020), <https://www.sec.gov/litigation/opinions/2020/33-10767.pdf> (modifying Commission policy regarding extensions and certain administrative procedures).

⁷ Rule of Practice 452, 17 C.F.R. § 201.452.

has failed to file an answer previously or to otherwise defend this proceeding until now, and why the Commission should not find her in default as a result.⁸ If Dicken files such a responsive brief, the Division may file a reply within 14 days after its service. If Dicken does not file a response, she may be held in default and the proceeding may be determined against her.

The parties' attention is called to the Commission's March 18, 2020 order regarding the filing and service of papers, which provides that pending further order of the Commission parties to the extent possible shall submit all filings electronically at apfilings@sec.gov.⁹

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

Vanessa A. Countryman
Secretary

⁸ See *Shawn K. Dicken*, Exchange Act Release No. 85778, 2019 WL 1977070, at *1 (May 3, 2019) (show cause order warning Dicken that failure to respond may cause the Commission to find her in default, and noting that the OIP did the same).

⁹ *Pending Administrative Proceedings*, 2020 WL 1322001.