

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 34-100987 / September 10, 2024

Admin. Proc. File No. 3-21974

In the Matter of

DAVID H. GOLDMAN

SECOND ORDER REGARDING SERVICE

On June 18, 2024, the Securities and Exchange Commission issued an order instituting proceedings (“OIP”) against David H. Goldman pursuant to Section 15(b) of the Securities Exchange Act of 1934.¹ After the Commission issued an initial order regarding service,² the Division of Enforcement filed a status report, which stated that service of the OIP was made on Goldman on June 24, 2024, by delivery to an attorney who represented Goldman in the underlying civil action. The status report asserts that the attorney indicated that she represented Goldman in this proceeding, without explicitly indicating whether Goldman authorized her to accept service of the OIP.³ Moreover, no attorney has made an appearance for Goldman in this proceeding.⁴ Thus, the Commission would benefit from additional briefing or evidence to determine whether the attorney was “an agent authorized by appointment or by law to receive” notice on Goldman’s behalf.⁵ Alternatively, the Division may attempt to serve Goldman directly.

¹ *David H. Goldman*, Exchange Act Release No. 100382, 2024 WL 3054128 (June 18, 2024).

² *David H. Goldman*, Exchange Act Release No. 100744, 2024 WL 3845329 (Aug. 16, 2024).

³ The status report indicates that on July 22, 2024, the attorney told Division counsel that she no longer represents Goldman in this proceeding.

⁴ *Cf.* Rule of Practice 150(b), 17 C.F.R. § 201.150(b) (requiring service of papers on a represented person’s attorney who has filed an appearance).

⁵ Rule of Practice 141(a)(2)(i), 17 C.F.R. § 201.141(a)(2)(i); *cf. United States v. Ziegler Bolt & Parts Co.*, 111 F. 3d 878, 881 (Fed. Cir. 1997) (“[T]he record must show that the attorney exercised authority beyond the attorney-client relationship, including the power to accept service.”); *Island Jay, Inc. v. MyLocker.com, L.L.C.*, No. 19-11501, 2023 WL 2733377, at *5 n.4 (E.D. Mich. Mar. 31, 2023) (“An attorney’s acceptance of service in unrelated matters and an

Therefore, to assist the Office of the Secretary in maintaining a record of service that establishes that the OIP has been properly served,⁶ IT IS ORDERED that the Division of Enforcement file a status report concerning service of the OIP by September 24, 2024, and every 28 days thereafter until service is accomplished.

The parties' attention is directed to the e-filing requirements in the Rules of Practice.⁷

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

Vanessa A. Countryman
Secretary

attorney's participation in a matter prior to the filing of a complaint in that matter may not be sufficient, without more, to establish an attorney's authorization to accept or waive service for that particular case.").

⁶ See Rule of Practice 141(a)(3), 17 C.F.R. § 201.141(a)(3).

⁷ See Rules of Practice 151, 152(a), 17 C.F.R. §§ 201.151, .152(a) (providing procedure for filing papers with the Commission and mandating electronic filing in the form and manner posted on the Commission's website); *Instructions for Electronic Filing and Service of Documents in SEC Administrative Proceedings and Technical Specifications*, <https://www.sec.gov/efapdocs/instructions.pdf>. Parties generally also must certify that they have redacted or omitted sensitive personal information from any filing. Rule of Practice 151(e), 17 C.F.R. § 201.151(e).