

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6579 / March 27, 2024

Admin. Proc. File No. 3-21333

In the Matter of

GUSTAVO A. GUZMAN

ORDER DISCHARGING ORDER TO SHOW CAUSE AND GRANTING EXTENSION OF
TIME TO FILE ANSWER

On March 6, 2023, the Securities and Exchange Commission issued an order instituting proceedings (“OIP”) against Gustavo A. Guzman, who is currently incarcerated, pursuant to Section 203(f) of the Investment Advisers Act of 1940.¹ On August 28, 2023, the Division of Enforcement filed a notice of service, which establishes that service of the OIP was made on Guzman on March 16, 2023, pursuant to Rule 141(a)(2)(i) of the Commission’s Rules of Practice.² Guzman failed to file an answer and was ordered to show cause why he should not be deemed in default.³ On February 26, 2024, the Office of the Secretary received a letter from Guzman stating that he had instructed his prior legal counsel to respond to the OIP, but counsel failed to do so “without [his] knowledge,” and that he has subsequently been unable to contact counsel.⁴

We construe Guzman’s letter as a response to the show cause order. Given the circumstances of this case, IT IS ORDERED that the order to show cause is discharged, and that Guzman is not deemed in default at this time. IT IS FURTHER ORDERED that the deadline for Guzman to file an answer to the OIP is extended to May 13, 2024.

¹ *Gustavo A. Guzman*, Advisers Act Release No. 6255, 2023 WL 2385776 (Mar. 6, 2023).

² 17 C.F.R. § 201.141(a)(2)(i).

³ *Gustavo A. Guzman*, Advisers Act Release No. 6524, 2024 WL 111149 (Jan. 8, 2024).

⁴ Although Guzman states that he has been assigned new counsel in his criminal proceeding—and that such counsel should be “contact[ed] . . . to update your file on me”—no counsel has yet made an appearance in this matter on Guzman’s behalf.

Guzman is reminded that he must also serve the Division with a copy of any document that he files with the Commission⁵ and he must include a certificate of service with each document he files.⁶ Guzman is further reminded of the Commission's e-filing requirements.⁷ If Guzman remains unrepresented by counsel in this proceeding, and is unable to reasonably file and serve documents electronically, he shall file a statement explaining why he cannot do so and how long he expects such inability to file electronically will last.⁸ Guzman shall deliver any such statement about his inability to file electronically, along with his answer, to the proper prison authorities no later than May 13, 2024, for forwarding to the Commission's Office of the Secretary.⁹ If Guzman is represented by counsel, counsel shall file a notice of appearance with the Office of the Secretary as soon as practicable.¹⁰

⁵ Rule of Practice 150(a), 17 C.F.R. § 201.150(a). The Division is represented by Jeffrey A. Shank, 175 West Jackson Boulevard, Suite 1450, Chicago, Illinois 60604; shankj@sec.gov.

⁶ 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.*

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).

⁸ See Rules of Practice 150(c)(1), 152(a)(1), 17 C.F.R. § 201.150(c)(1), .152(a)(1) (discussing certification of inability to serve and file documents electronically).

⁹ 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 the 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 "mailbox rule [applies] to other filings by pro se prisoners").

¹⁰ See Rule of Practice 102(d)(2), 17 C.F.R. § 201.102(d)(2) (requiring a person appearing in a representative capacity before the Commission to "file with the Commission, and keep current, a written notice stating the name of the proceeding, the representative's name, business address, email address, and telephone number; and the name, email address, and address of the person being represented").

If Guzman files an answer, the parties shall adhere to the prehearing conference schedule set forth in the OIP.¹¹ But as explained in the OIP, if Guzman does not file an answer or participate in the prehearing conference, he may be deemed in default, the allegations of the OIP may be deemed to be true, and the proceeding may be determined against him.¹²

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

Vanessa A. Countryman
Secretary

¹¹ See *Guzman*, 2023 WL 111149, at *2 (providing for a prehearing conference within 14 days of service of the answer).

¹² See *id.*; see also Rules of Practice 155(a), 220(f), 221(f), 17 C.F.R. § 201.155(a), .220(f), .221(f).