

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 93092 / September 21, 2021

INVESTMENT ADVISERS ACT OF 1940
Release No. 5870 / September 21, 2021

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4255 / September 21, 2021

Admin. Proc. File No. 3-20395

In the Matter of

STOCKMAN KAST RYAN & CO. LLP;
ELLEN S. FISHER, CPA; AND
DAVID H. KAST, CPA

ORDER

On July 13, 2021, the Securities and Exchange Commission issued an order instituting an administrative proceeding (“OIP”) against Stockman Kast Ryan & Co. LLP, Ellen S. Fisher, CPA, and David H. Kast, CPA (collectively, “Respondents”), pursuant to Section 4C of the Securities Exchange Act of 1934, Section 203(k) of the Investment Advisers Act of 1940, and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.¹ Respondents filed an answer to the allegations contained in the OIP on August 6, 2021. On September 2, 2021, the parties were directed to conduct a prehearing conference and to file a joint prehearing conference statement addressing a proposed prehearing schedule.²

The parties filed a joint statement on September 15, 2021. They stated that, after a prehearing conference, they had reached agreement on a proposed schedule with an approximately five-day hearing to commence on April 25, 2022. Accordingly, it is ORDERED, based on the parties’ representations, that the parties adhere to the following schedule:

¹ *Stockman Kast Ryan & Co.*, Exchange Act Release No. 92382, 2021 WL 2953521 (July 13, 2021).

² *Stockman Kast Ryan & Co.*, Exchange Act Release No. 92859, 2021 WL 4031162 (Sept. 2, 2021).

September 17, 2021	Parties exchange initial witness lists.
December 23, 2021	Close of fact discovery.
January 14, 2022	Last date to serve expert reports.
February 4, 2022	Last date to serve rebuttal expert reports.
February 28, 2022	Close of expert discovery.
March 7, 2022	Last date to file any motions for summary disposition, if leave for any such motions is granted.
March 7, 2022 ³	Parties exchange revised witness lists and initial exhibit lists.
March 21, 2022	Parties to file objections to proposed witnesses and exhibits.
	Parties to file any motions <i>in limine</i> or other pre-hearing motions.
	Parties to file prehearing briefs.
April 4, 2022	Deadline to request subpoenas for witnesses to appear at the hearing.
	Parties to file any oppositions to motions <i>in limine</i> or other pre-hearing motions.
April 8, 2022	Last date to file oppositions to any motions for summary disposition.
April 15, 2022	Last date to file replies to any motions for summary disposition.

³ This deadline is either March 7, 2022 or 49 days before the hearing commences. For this event, as well as for some subsequent events, the parties agreed that the event should occur at a certain amount of time before the hearing commences. Thus, if the hearing date should be moved by subsequent order, then the due date for the event will also shift.

April 18, 2022	Final prehearing conference including ruling on any motions <i>in limine</i> or other pre-hearing motions.
April 20, 2022	Parties exchange final witness lists and final exhibit lists. Parties exchange pre-marked exhibits.
April 25, 2022	Hearing commences.

It is further ORDERED that the parties shall seek leave to file any motions for summary disposition pursuant to Rule of Practice 250(c) by January 7, 2022, by filing a concise statement, which also addresses whether the parties consent to any modifications of the prehearing schedule as a result of such motion for summary disposition.⁴

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

Vanessa A. Countryman
Secretary

⁴ See 17 C.F.R. § 201.250(c) (requiring leave to be sought to file motions for summary disposition in 120-day proceedings and articulating that summary disposition may be granted as to a claim or defense when there is “no genuine issue with regard to any material fact” and “the movant is entitled to summary disposition as a matter of law”); *see also Stockman Kast Ryan & Co.*, 2021 WL 2953521, at *37 (designating this proceeding one under the “120-day timeframe”).