

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5667 / January 12, 2021

Admin. Proc. File No. 3-19685

In the Matter of

BARTON W. STUCK,

Respondent.

ORDER

On January 31, 2020, the Securities and Exchange Commission issued an order instituting proceedings (“OIP”) against Barton W. Stuck (“Respondent”) pursuant to Section 203(f) of the Investment Advisers Act of 1940.¹ Respondent was served with the OIP on March 24, 2020. Respondent was subsequently granted multiple extensions of time in which to answer the OIP, the last of which allowed Respondent until October 20, 2020 to file an answer, but warned him that further extension requests would not be entertained.² Instead of answering the OIP by that date, Respondent requested another extension of time. We denied that request and ordered him to show cause by November 9, 2020, why the Commission should not find him in default for failing to file an answer or otherwise defend the proceeding.³ As of the date of this order, Respondent has not responded to the show cause order.

¹ *Barton W. Stuck*, Investment Advisers Act Release No. 5439, 2020 WL 508866, at *1 (Jan. 31, 2020).

² *See Barton W. Stuck*, Investment Advisers Act Release No. 5472, 2020 WL 1659873 (Apr. 2, 2020) (extending time to answer until May 13, 2020); *Barton W. Stuck*, Investment Advisers Act Release No. 5507, 2020 WL 2613173 (May 21, 2020) (extending time to answer until July 20, 2020); *Barton W. Stuck*, Investment Advisers Act Release No. 5544, 2020 WL 4038964 (July 17, 2020) (extending time to answer until July 27, 2020); *Barton W. Stuck*, Investment Advisers Act Release No. 5553, 2020 WL 4339273 (July 28, 2020) (extending time to answer until September 28, 2020); *Barton W. Stuck*, Investment Advisers Act Release No. 5608, 2020 WL 5912405 (Oct. 6, 2020) (denying request for an extension of time, but granting limited extension of time to answer until October 20, 2020).

³ *Barton W. Stuck*, Investment Advisers Act Release No. 5619, 2020 WL 6286293 (Oct. 26, 2020).

Given Respondent's failure to respond to the show cause order, the Division of Enforcement may file a motion for default and other relief by February 11, 2021. The motion for default and other relief may be accompanied by evidence pertinent to the Commission's individualized assessment of whether the requested relief is appropriate and in the public interest.⁴ The failure to timely oppose a dispositive motion is itself a basis for a finding of default;⁵ 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.⁶

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 should to the extent possible submit all filings electronically at apfilings@sec.gov.⁷

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
Secretary

⁴ 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").

⁵ 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).

⁶ 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).

⁷ See *Pending Administrative Proceedings*, Exchange Act Release No. 88415, 2020 WL 1322001 (March 18, 2020), available at <https://www.sec.gov/litigation/opinions/2020/33-10767.pdf>.