

Securities and Exchange Commission

§ 201.152

(1) Personal service—handing a copy to the person required to be served; or leaving a copy at the person's office with a clerk or other person in charge thereof, or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein;

(2) Mailing the papers through the U.S. Postal Service by first class, registered, or certified mail or Express Mail delivery addressed to the person;

(3) Sending the papers through a commercial courier service or express delivery service; or

(4) Transmitting the papers by facsimile machine where the following conditions are met:

(i) The persons serving each other by facsimile transmission have agreed to do so in a writing, signed by each party, which specifies such terms as they deem necessary with respect to facsimile machine telephone numbers to be used, hours of facsimile machine operation, the provision of non-facsimile original or copy, and any other such matters; and

(ii) Receipt of each document served by facsimile is confirmed by a manually signed receipt delivered by facsimile machine or other means agreed to by the parties.

(d) *When service is complete.* Personal service, service by U.S. Postal Service Express Mail or service by a commercial courier or express delivery service is complete upon delivery. Service by mail is complete upon mailing. Service by facsimile is complete upon confirmation of transmission by delivery of a manually signed receipt.

§ 201.151 Filing of papers with the Commission: Procedure.

(a) *When to file.* All papers required to be served by a party upon any person shall be filed with the Commission at the time of service or promptly thereafter. Papers required to be filed with the Commission must be received within the time limit, if any, for such filing.

(b) *Where to file.* Filing of papers with the Commission shall be made by filing

them with the Secretary. When a proceeding is assigned to a hearing officer, a person making a filing with the Secretary shall promptly provide to the hearing officer a copy of any such filing, provided, however, that the hearing officer may direct or permit filings to be made with him or her, in which event the hearing officer shall note thereon the filing date and promptly provide the Secretary with either the original or a copy of any such filings.

(c) *To whom to direct the filing.* Unless otherwise provided, where the Commission has assigned a case to a hearing officer, all motions, objections, applications or other filings made during a proceeding prior to the filing of an initial decision therein, or, if no initial decision is to be filed, prior to the time fixed for the filing of briefs with the Commission, shall be directed to and decided by the hearing officer.

(d) *Certificate of service.* Papers filed with the Commission or a hearing officer shall be accompanied by a certificate stating the name of the person or persons served, the date of service, the method of service and the mailing address or facsimile telephone number to which service was made, if not made in person. If the method of service to any party is different from the method of service to any other party or the method for filing with the Commission, the certificate shall state why a different means of service was used.

§ 201.152 Filing of papers: Form.

(a) *Specifications.* Papers filed in connection with any proceeding as defined in § 201.101(a) shall:

(1) Be on one grade of unglazed white paper measuring 8½ x 11 inches, except that, to the extent that the reduction of larger documents would render them illegible, such documents may be filed on larger paper;

(2) Be typewritten or printed in either 10- or 12-point typeface or otherwise reproduced by a process that produces permanent and plainly legible copies;

(3) Include at the head of the paper, or on a title page, the name of the Commission, the title of the proceeding, the names of the parties, the subject of the particular paper or

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pleading, and the file number assigned to the proceeding;

(4) Be paginated with left hand margins at least 1 inch wide, and other margins of at least 1 inch;

(5) Be double-spaced, with single-spaced footnotes and single-spaced indented quotations; and

(6) Be stapled, clipped or otherwise fastened in the upper left corner.

(b) *Signature required.* All papers must be dated and signed as provided in §201.153.

(c) *Suitability for recordkeeping.* Documents which, in the opinion of the Commission, are not suitable for computer scanning or microfilming may be rejected.

(d) *Number of copies.* An original and three copies of all papers shall be filed.

(e) *Form of briefs.* All briefs containing more than 10 pages shall include a table of contents, an alphabetized table of cases, a table of statutes, and a table of other authorities cited, with references to the pages of the brief wherein they are cited.

(f) *Scandalous or impertinent matter.* Any scandalous or impertinent matter contained in any brief or pleading or in connection with any oral presentation in a proceeding may be stricken on order of the Commission or the hearing officer.

§201.153 Filing of papers: Signature requirement and effect.

(a) *General requirements.* Following the issuance of an order instituting proceedings, every filing of a party represented by counsel shall be signed by at least one counsel of record in his or her name and shall state that counsel's business address and telephone number. A party who acts as his or her own counsel shall sign his or her individual name and state his or her address and telephone number on every filing.

(b) *Effect of signature.* (1) The signature of a counsel or party shall constitute a certification that:

(i) the person signing the filing has read the filing;

(ii) to the best of his or her knowledge, information, and belief, formed after reasonable inquiry, the filing is well grounded in fact and is warranted

by existing law or a good faith argument for the extension, modification, or reversal of existing law; and

(iii) the filing is not made for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of adjudication.

(2) If a filing is not signed, the hearing officer or the Commission shall strike the filing, unless it is signed promptly after the omission is called to the attention of the person making the filing.

§201.154 Motions.

(a) *Generally.* Unless made during a hearing or conference, a motion shall be in writing, shall state with particularity the grounds therefor, shall set forth the relief or order sought, and shall be accompanied by a written brief of the points and authorities relied upon. All written motions shall be served in accordance with §201.150, be filed in accordance with §201.151, meet the requirements of §201.152, and be signed in accordance with §201.153. The Commission or the hearing officer may order that an oral motion be submitted in writing. Unless otherwise ordered by the Commission or the hearing officer, if a motion is properly made to the Commission concerning a proceeding to which a hearing officer is assigned, the proceeding before the hearing officer shall continue pending the determination of the motion by the Commission. No oral argument shall be heard on any motion unless the Commission or the hearing officer otherwise directs.

(b) *Opposing and reply briefs.* Except as provided in §201.401, briefs in opposition to a motion shall be filed within five days after service of the motion. Reply briefs shall be filed within three days after service of the opposition.

(c) *Length limitation.* A brief in support of or opposition to a motion shall not exceed 10 pages, exclusive of pages containing any table of contents, table of authorities, and/or addendum. Requests for leave to file briefs in excess of 10 pages are disfavored.