

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 2187/January 7, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-15945

In the Matter of

THOMAS A. NEELY, JR.

:
: ORDER

The Securities and Exchange Commission instituted this proceeding with an Order Instituting Proceedings (OIP) on June 25, 2014, pursuant to Sections 8A of the Securities Act of 1933 and 21C of the Securities Exchange Act of 1934. The hearing is scheduled to commence on February 23, 2015, in Birmingham, Alabama. *Thomas A. Neely, Jr.*, Admin. Proc. Rulings Release No. 2150, 2014 SEC LEXIS 4866 (A.L.J. Dec. 18, 2014) (December 18 Order). The December 18 Order postponed the commencement of the hearing in response to Respondent Thomas A. Neely, Jr.'s (Neely), opposed request for a postponement of the hearing date to February 23 or later based on the fact that he did not receive full access to the Division of Enforcement's (Division) entire investigative file until November 25, 2014, despite his and the Division's best efforts to identify and replace corrupt portions of the file.

This order addresses the parties' reaction, conveyed in a December 29 email from the Division, to the December 18 Order. The Division expressed concerns that the hearing would not be completed in an efficient manner if it starts on February 23 because of the unavailability of various participants at various times during subsequent weeks. Accordingly, the Division proposed, and Neely did not oppose, a postponement of the hearing date to March 30. The Division noted that the December 18 Order, which urged the parties to reduce the number of hearing days through stipulations and/or by considering some video hearing sessions, indicated that the undersigned had a potential conflict during the week of March 2-6. No other participant has a conflict during that week. In light thereof, with the potential of rearranging the current schedule of the undersigned, and in consideration of the factors enumerated in 17 C.F.R. § 201.161(b)(1), the hearing will commence on February 23 and continue during the following week if needed.

While the Division predicts that its direct case and Neely's case will each last more than one week, the hearing was originally projected to last about two weeks. While Neely's Answer to the OIP cautiously demands strict proof of almost every allegation, the possibility remains that the parties may be able to streamline the hearing by stipulating to undisputed facts and applicable law, including accounting standards.

Consistent with the schedule associated with the previous hearing date,¹ the following prehearing procedural schedule that synchronizes with the February 23, 2015, hearing date will be adopted:

- February 2, 2015 Parties to exchange, file and provide the undersigned with a copy of expert reports submitted in lieu of direct testimony;
- February 17, 2015 Parties to exchange and file prehearing briefs, stipulations, and any objections to exhibits or witnesses; and
- February 19, 2015 Telephonic prehearing conference at 10:30 a.m. EST.

IT IS SO ORDERED.

/S/ Carol Fox Foelak
Carol Fox Foelak
Administrative Law Judge

¹ See *Thomas A. Neely, Jr.*, Admin. Proc. Rulings Release Nos. 1685, 2014 SEC LEXIS 2862 (A.L.J. Aug. 8, 2014) (adopting prehearing schedule proposed by the parties for the originally scheduled December 8, 2014, hearing date); 1904, 2014 SEC LEXIS 3812 (A.L.J. Oct. 9, 2014) (postponing hearing to January 12, 2015); 1959, 2014 SEC LEXIS 4074 (A.L.J. Oct. 29, 2014) (adopting prehearing schedule proposed by the parties for the January 12, 2015, hearing date).