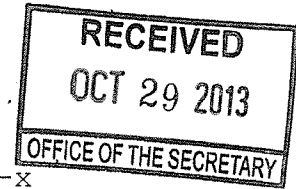


UNITED STATES OF AMERICA  
BEFORE THE  
SECURITIES AND EXCHANGE COMMISSION  
Administrative Proceeding  
File No. 3-15255



-----x  
In the Matter of

JOHN THOMAS CAPITAL MANAGEMENT  
GROUP, LLC, d/b/a PATRIOT28, LLC,  
GEORGE R. JARKESY, JR.  
JOHN THOMAS FINANCIAL, INC.  
ANASTASIOS "TOMMY" BELESIS,

Respondents.  
-----x

Held at 3 World Financial Center, New York,  
New York 10281, on October 24, 2013, commencing at 2:25  
o'clock p.m.

B E F O R E: HON. CAROL FOX FOELAK,  
Administrative Law Judge

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A P P E A R A N C E S:

TODD D. BRODY

ALEX BIEL

Securities and Exchange Commission

New York Regional Office

200 Vesey Street, Suite 400

New York, New York 10281

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BY: KAREN COOK, ESQ.

STEPHEN GLEBOFF, ESQ.

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Attorney for Respondents

1130 Connecticut Avenue, Suite 500

Washington, D.C. 20036

ALSO PRESENT:

LANCE FOGARTY, Computer Expert

Protegggo, LLC

1 P R O C E E D I N G S

2 JUDGE FOELAK: Let's go on the record.

3 This is the pre-hearing conference in the matter of  
4 Administrative Proceeding No. 3-15255 entitled John Thomas  
5 Capital Management Group, LLC, d/b/a Patriots28, LLC, and  
6 others.

7 And this pre-hearing conference is being held by  
8 telephone at around 2:30 Eastern Time on October 24, 2013.

9 I am Judge Foelak.

10 Can I have your appearances for the record, please.

11 MR. BRODY: Todd Brody and Alex Biel, for the  
12 Division.

13 MS. COOK: Karen Cook, Steve Gleboff, Mike  
14 McColloch.

15 MR. SPORKIN: Stan Sporkin, for the Respondents.

16 JUDGE FOELAK: Are there any settlement  
17 negotiations we should be apprised of?

18 MR. BRODY: No, your Honor.

19 JUDGE FOELAK: The Respondents had requested an  
20 in-person oral argument on their pending motion, and that  
21 will be denied.

22 Respondents have articulated at great length the  
23 arguments that they wish to make, and there is no need for  
24 an oral argument

25 Okay. Firstly, at issue is the Respondents' motion

1 dated the 15th of October, and it is entitled "Motion to  
2  
3 Compel Production of Brady Material and Other Things."

4 I am requesting expedited consideration.

5 And also received was the Division's opposition,  
6 and Respondents' reply, which we've received and studied.

7 Okay.

8 Looking at it from a high level, basically  
9 Respondents argued that Brady and Jencks material was not  
10 produced, and general facts material should be produced, and  
11 there are many gaps, and we should do much more.

12 Looking at all the pleadings, it appears to me that  
13 th Division has done enough. Whatever the precedent may be  
14 in criminal cases, you know, there's a Supreme Court,  
15 ruling. We are really bound by SEC rulings, and as the  
16 parties have acknowledged, the Commission had a ruling in  
17 the Jet case in June of '96 that said no fishing  
18 expeditions. And they pretty much reinforced that in a  
19 recent ruling entitled "Options Expressed."

20 So, basically, the Respondents' request with  
21 reference to see Brady and Jencks Act materials are denied.

22 The Respondents also request that the denial be  
23 certified for interlocutory review by the Commission.  
24 However, that will not be done. It will not move the  
25 completion of the hearing forwards, and the likelihood of

1 prevailing is not great.

2 Okay. Next, we get to the motion to change the  
3  
4 venue to Texas.

5 The Division is incorrect in saying that the  
6 Respondents' convenience should not be considered. However  
7 the Respondents' convenience is not the only thing that  
8 should be considered. It's that of all parties and all  
9 witnesses, and for that reason, the venue will not be  
10 changed from New York.

11 However, Mr. Brody, now that politeness has been  
12 settled, and will not be part of the hearing, originally the  
13 parties had estimated that this would take two weeks. Will  
14 it take less?

15 MR. BRODY: Yes. I believe it will take less time,  
16 your Honor.

17 JUDGE FOELAK: Will it take one week?

18 MR. BRODY: It's hard for me to estimate what the  
19 defense will be in this case, but it may take a little  
20 longer than one week, but I would be surprised if it took  
21 two weeks.

22 JUDGE FOELAK: I was just thinking that the first  
23 week is a four-day week, anyway.

24 We have the courtroom reserved for two weeks. We  
25 can start on the second week, but you don't think that is a

1 good idea?

2 MR. BRODY: If that's the only option that your  
3 Honor is giving us with respect to, you know, the parties'  
4  
5 joint request for an adjournment, then if that is the only  
6 option, then I think we would want to take advantage of that  
7 to give the Commission time to address the settlement  
8 proposal made that we've recommended, or that we are  
9 recommending. But I don't know if that addresses the needs  
10 of Respondents in this case, so they'll probably want to  
11 talk to that.

12 JUDGE FOELAK: Yes.

13 Okay, as I have pointed out before, and I have  
14 reiterated several times, that to go beyond mid-November is  
15 just a nonstarter.

16 You know, I appreciate how Respondents feel  
17 that -- well not feel, but that if this case had gone to a  
18 District Court, that there would not be the constraints, but  
19 there are.

20 Mr. Brody, with reference to your previous request  
21 of a three-week postponement because of your pending  
22 settlement --

23 MR. BRODY: Well, if I can give your Honor a little  
24 context, which might be helpful, and obviously, there is a  
25 limit to which we can discuss where we are in terms of the

1 Commission approving --

2 JUDGE FOELAK: Well, I understand that.

3 And my only remark is that if the Commission  
4 approves a settlement in three weeks, it would be a first.

5  
6 You know, one year is more the norm.

7 MR. BRODY: We are trying to expedite it as quickly  
8 as we can, because we have this pending hearing, which is  
9 why we are only requesting three weeks extension.

10 We thought that it could be resolved within that  
11 period of time, given the steps we are taking to expedite  
12 the review process, as well as to get on the first available  
13 Commission meeting.

14 That is why we felt the three weeks would be  
15 sufficient, because, in our view, if the Commission didn't  
16 approve this, didn't approve this settlement, then we would  
17 really be trying the same case a second time, and it's not  
18 like we can take advantage of the first witness' testimony  
19 since the New York Respondents will not have had the  
20 opportunity to cross-examine them.

21 So, that is why we were requesting the stay of the  
22 entire case, and not just the stay of the case against  
23 Belesis and John Thomas Financial.

24 JUDGE FOELAK: I understand what you're saying,  
25 and, you know, what you're saying is that it's a gamble to

1 go forwards.

2 Okay. So how long do you think it will take, the  
3 case against the current Respondent?

4 MR. BRODY: Because so much of the case was  
5 duplicative, I don't want to say it won't require the full  
6  
7 two weeks. I think it will require a couple of days less,  
8 but more than that, I wouldn't want to say, because I don't  
9 know if that is possible.

10 I mean, there are a lot of witnesses on our list,  
11 and we are trying to cut it down, and we know that there  
12 are, you know, that the Respondents have a number of  
13 witnesses on their list, too. So, it's hard to say.

14 JUDGE FOELAK: It can still start the second week,  
15 and we can hope that we can get the courtroom for a couple  
16 of days, you know, the following week.

17 MR. BRODY: Well, if I can make a suggestion, which  
18 is that since the case is going to be in New York, we have  
19 here in this office, we have hearing rooms, and we can get  
20 those hearing rooms for whatever dates we need,

21 If we didn't want to do it at 26 Federal Plaza, and  
22 we can do it for -- there are lots of reasons. We can give  
23 the Respondents their own caucus room for the entire -- as  
24 well.

25 There is some advantage to us doing the matter here



1 in our hearing room, as opposed to 26 Federal Plaza.

2 And we can pretty much guarantee that we can get  
3 the space for whenever we needed it.

4 JUDGE FOELAK: Well, anyway, we do have the 26  
5 Federal Plaza space, and it is policy to try and use that  
6 whenever possible.

7  
8 Okay. Let's see.

9 I wanted to mention, you know, in your reply you  
10 had made mention of certain potential expert witnesses, and  
11 I noticed, Respondents' counsel, that in your previous  
12 filing you described the previous witnesses and fact  
13 witnesses, and I am not sure why. (Inaudible.)

14 We can't really have somebody who is a fact witness  
15 be your expert witness. There could be a possible privilege  
16 and sequestration.

17 MS. COOK: Well your Honor, there were fact  
18 witnesses in that they were retained as experts and  
19 third-party experts to assist with accounting and valuation  
20 matters. They are experts with regards to factual matters  
21 within their knowledge.

22 You can have witnesses with mixed factual and  
23 expert testimony.

24 JUDGE FOELAK: Okay. So, basically Mr. Herrera is  
25 going to testify that he did certain evaluations and, for

1 example, that it met all industry standards and evaluations;  
2 is that correct?

3 MS. COOK: That's correct.

4 JUDGE FOELAK: Okay. Another thought that I was  
5 going to mention, you know, with reference -- in reference  
6 to travel, is that, you know, perhaps some of these people  
7 could testify remotely. Just a thought.

8

9 MS. COOK: Okay. Thank you.

10 MR. BRODY: We would have to figure -- that would,  
11 I think, take more resources than are available at 26  
12 Federal Plaza, and would you have to, you know, have a real  
13 sense in advance of who those people are, so we can make  
14 arrangements for wherever those people are that they get  
15 copies of the exhibits, and that is also a little bit of a  
16 difficulty.

17 JUDGE FOELAK: However, not insurmountable and  
18 theoretically, you know, we can all do it, after we've gone  
19 home to our various offices.

20 Anyway, it's a thought and certainly, it's not  
21 exactly known what the nature is of this testimony that  
22 would require all kinds of demonstrative -- we would be  
23 doing it by telephone, rather than by video. That's  
24 possible at 26 Federal Plaza.

25 Okay. Let's see.

1 I guess the parties are going to file and exchange  
2 their witness and exhibit lists on this coming Monday, the  
3 28th; is that correct?

4 MR. BRODY: That's correct.

5 JUDGE FOELAK: Okay. Does anyone have anything  
6 else?

7 MR. BRODY: So I'm clear, are we going to start the  
8 second week, or are we going to start the first week?

9  
10 JUDGE FOELAK: We are going to start the second  
11 week, and hope for the best as far as going into the week  
12 following that, and perhaps a week following that -- the  
13 week following that is the week of Thanksgiving, by the way.

14 MR. BRODY: Right. So, if we expect to start on  
15 the 22nd, we are now going to start on --

16 I'm sorry. If we were starting on the 12th and now  
17 we are going to start on the 18th?

18 JUDGE FOELAK: That is right

19 MR. BRODY: Okay.

20 JUDGE FOELAK: I think it would be advisable to try  
21 and -- okay. How far down can you compress  
22 your -- (inaudible).

23 MR. BRODY: Compress our what?

24 JUDGE FOELAK: Compress your case.

25 MR. BRODY: We'll try and compress it as much as we

1 can, but we'll also reach out to Respondents' counsel and  
2 see if we can perhaps stipulate to a couple of facts, to  
3 avoid needing to bring on witnesses, for example, to  
4 authenticate documents from certain people.

5 So perhaps we can do that, and that might cut down  
6 on some of it, as well.

7 JUDGE FOELAK: Okay. And if somehow it extends to  
8 more -- somehow if it's not wrapped up by the end of the  
9 fifth day, we can remain flexible as to whether to continue  
10  
11 it on the 25th and 26th, or, you know, maybe the first week  
12 of December, or maybe doing it remotely.

13 MR. BRODY: Like I said, if we can't get that room  
14 at 26 Federal Plaza for the week afterwards, not to beat a  
15 dead horse, but we can get a room here to do it, if we want  
16 to do it in person.

17 JUDGE FOELAK: Okay. We can remain flexible. So,  
18 we'll start on the 18th. How about 10:00?

19 MR. BRODY: Sure.

20 MS. COOK: I'm sorry, what time was that?

21 JUDGE FOELAK: 10:00. You can make it earlier if  
22 you want.

23 9:00?

24 MS. COOK: Just asking for clarification, because  
25 the phone cut out.

1 JUDGE FOELAK: Okay.

2 MR. BRODY: I think 10:00 is good, because we are  
3 going to have a lot of electronic material that we'll have  
4 to move.

5 So we'll need time to set up.

6 JUDGE FOELAK: In that location there is no set  
7 time that you have to leave. I'm not saying we want to go  
8 for twelve hours, but we won't have to leave at 5:00 or  
9 5:30.

10 MR. BRODY: Okay.

11

12 JUDGE FOELAK: Okay. Does anyone have anything  
13 else?

14 MS. COOK: Yes, your Honor.

15 Karen Cook.

16 Has the Court denied the motion for continuance?

17 JUDGE FOELAK: The Court has. Yes, I have, yes.

18 MS. COOK: Have you denied our interlocutory appeal  
19 request?

20 JUDGE FOELAK: I'll put out an Order memorializing  
21 this, so you will have it in writing, also.

22 MS. COOK: Okay.

23 Will the Court Reporter contact information be on  
24 that?

25 JUDGE FOELAK: No

1           You had better get the Court Reporter's contact  
2 information from the Court Reporter. I'm merely telling you  
3 that I'm putting out an Order.

4           MS. COOK: All right.

5           Can we get it now?

6           JUDGE FOELAK: Aside from the contact information,  
7 is there anything else?

8           MR. BRODY: Not from the Division's perspective,  
9 your Honor.

10          JUDGE FOELAK: Okay.

11          Miss Cook?

12

13          MS. COOK: Nothing, your Honor.

14          JUDGE FOELAK: Thank you.

15          In that case, the pre-hearing conference is closed.

16          Thank you for your participation.

17          (Time noted: 3:00 o'clock p.m.)

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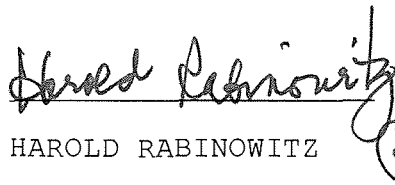

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UNITED STATES SECURITIES AND  
EXCHANGE COMMISSION  
REPORTER'S CERTIFICATE

I, HAROLD RABINOWITZ, Reporter, hereby certify that this transcript of 17 pages is a complete, true and accurate transcript of the testimony indicated, held on Thursday, October 24, 2013, at 3 World Financial Center, New York, New York, in the matter of John Thomas Capital Management Group.

I further certify that this proceeding was reported by me and that the transcript was prepared under my direction.


 10-28-13  
HAROLD RABINOWITZ  Date

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SCOPIST CERTIFICATE

I, JUDITH STEWARD, hereby certify that the transcript, consisting of 17 pages, is a complete, true and accurate transcript of the investigative hearing held on Thursday, October 24, 2013, at 3 World Financial Center, New York, New York, in the matter of John Thomas Capital Management Group.

Further certify that this proceeding was reported by Harold Rabinowitz, and that the transcript has been scoped by me.

Judith Steward  
Scopist 

10-28-13  
Date



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PROOFREADER'S CERTIFICATE

In the Matter of: John Thomas Capital Management  
File Number: 3-15255  
Date: Thursday, October 24, 2013  
Location: 3 World Financial Center,  
New York, New York

This is to certify that I, Judith Steward, do hereby swear and affirm that the attached proceedings before the United States Securities and Exchange Commission were held according to the record, and that this is the original complete, true and accurate transcript that has been compared to the reporting or recording accomplished at the hearing.

*Judith Steward*  
Judith Steward 

10-18-13  
Date