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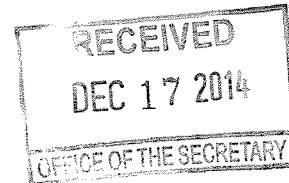
**UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING  
File No. 3-15945**

**In the Matter of**

**THOMAS A. NEELY, JR.,**

**Respondent.**



**DIVISION'S OPPOSITION TO RESPONDENT'S SECOND  
MOTION FOR EXTENSION OF TIME**

The Division of Enforcement ("Division"), pursuant to Rule of Practice 154 [17 C.F.R. § 201.154], hereby files this Opposition to Respondent Thomas A. Neely, Jr.'s ("Respondent") December 11, 2014 Motion for Extension of Time ("Motion"). In the Motion, Respondent seeks to have the hearing in this matter moved to February 23, 2015. Because another extension is not warranted, especially in light of the timeframe in which the Court must issue an Initial Decision, the Motion should be denied.

**BACKGROUND**

The Order Instituting Cease-And-Desist Proceedings in this case was issued on June 25, 2014.<sup>1</sup> The Division made the Rule 230 Production electronically in July 2014 at Respondent's request and for his convenience. At a Prehearing Conference held on July 30, 2014, the Court set the hearing in this matter to begin more than four months from that date, on December 8, 2014.

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<sup>1</sup> Respondent received service effective on June 30, 2014. 300 days from June 30, 2014 is Sunday, April 26, 2015, so the Rule 360 deadline falls on Monday, April 27, 2015.

On October 6, 2014, Respondent filed his first Motion for Extension of Time. Citing alleged deficiencies in the Rule 230 Production, Respondent sought to have the hearing moved to February 23, 2015, the same date sought in the instant Motion. During a Prehearing Conference on the first Motion for Extension of Time, the Court stated that the requested date in February 2015 was too far out, but gave Respondent some relief by moving the beginning of the hearing to January 12, 2015.

### **No Significant Document Production Delays Have Occurred**

Respondent's primary reason for seeking another schedule change is his claim that the Division's Rule 230 Production contained some corrupt images. None of the circumstances cited merits moving the hearing date.

- As the exhibits to Respondent's Motion show, when Respondent reported on October 29, 2014 that counsel could not properly view a particular loan file, the Division provided a replacement copy of the loan file via a secure internet portal *within two hours*. See Respondent's Exhibits 4 and 5.
- Similarly, when Respondent notified the Division on November 3, 2014 that additional files were corrupt, within five hours, the Division responded, indicating that replacement files would be sent by overnight delivery. See Respondent's Exhibits 7 and 8. Those files were delivered on November 4, 2014.
- With respect to the replacement documents sent by the Division to Respondent on November 20, 2014, the Court should note how those documents came to be reproduced. After the Division was notified that more than one file was corrupt, the Division, on its own initiative, re-reviewed the entire Rule 230 Production and identified other images

that were or were likely to be corrupt. Those documents – which had never been requested or identified by Respondent as corrupt – were the ones that were reproduced on November 20, 2014. See Respondent’s Exhibit 9. There is, therefore, no basis for claiming that the replacement of those files caused any delay.

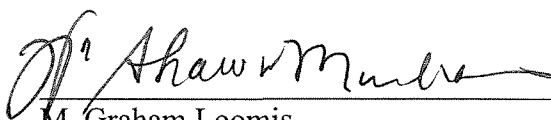
- Moreover, regarding Respondent’s claim that the Division did not timely provide the password for those files (which Respondent received on Friday November 21, 2014), the Division provided the password within 10 minutes of being alerted to the issue on Tuesday, November 25, 2014, only two business days after the files were delivered. See Respondent’s Exhibit 10.

Respondent also asserts that alleged delays relating to Respondent’s subpoenas to Ernst & Young and Regions Financial Corp. warrant an extension. That process is moving along in accordance with the Rules of Practice, however, and even if that were not true, no delay would be appropriate. While it is certainly Respondent’s right to ask the Court to subpoena additional documents from third parties, the documents sought here are not among the 1.5 million pages on which the Division based its claims. The underlying investigation in this case cast a very broad net, and it is difficult to understand how the outcome of a discovery battle between Respondent and third parties – over documents that neither Respondent nor the Division have ever seen – is so critical to Respondent’s defense that the hearing should be postponed. In addition, it is inconsistent for Respondent to argue that the file is so voluminous that he cannot review everything, yet also insist that additional unseen documents that would add to that volume are somehow necessary.

The Rules contemplate that, in cases involving a 300-day timeline, the hearing should be approximately four months from the Order Instituting Proceedings. Rule of Practice 360(a)(2) [17 C.F.R. § 201.360(a)(2)] We are well beyond that timeframe. Moreover, the size of the investigative file in this case is not unheard of, and, as reflected in his Motion, Respondent has six partners and twelve contact attorneys reviewing the file. Each time the Court has addressed the hearing date, the message has been clear that that starting in February was out of the question. The Court indicated that its own schedule would not allow further postponements, and counsel for the Division have subsequently made scheduling decisions in reliance on that statement. Timely resolution of this case requires that the hearing go forward as scheduled, as further disruptions to the calendar are unwarranted. Respondent's Motion should be denied.

Dated: December 15, 2014

Respectfully submitted,



M. Graham Loomis  
W. Shawn Murnahan  
Robert K. Gordon  
Attorneys for the Division of Enforcement  
Securities and Exchange Commission  
950 East Paces Ferry Road, N.E., Suite 900  
Atlanta, Georgia 30326-1382  
loomism@sec.gov  
murnahanw@sec.gov  
gordonr@sec.gov  
(404) 842-7669 (Murnahan)  
(703) 813-9364 (fax)

