

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 93393 / October 20, 2021

Admin. Proc. File Nos. 3-20239, 3-20242

In the Matters of

JOCELYN MURPHY
and
MICHAEL SEAN MURPHY

ORDER GRANTING MOTION FOR REVISED BRIEFING DATES WITH MODIFICATION

On March 5, 2021, the Securities and Exchange Commission (“Commission”) issued an Order Instituting Proceedings (“OIP”) pursuant to Section 15(b) of the Securities Exchange Act of 1934 against Jocelyn Murphy.¹ On March 12, 2021, the Commission issued an OIP pursuant to Exchange Act Section 15(b) against Michael Sean Murphy.² On May 7, 2021, the Commission issued an order consolidating the two proceedings.³

On July 16, 2021, the Division of Enforcement filed a motion for summary disposition against both Respondents that requested that the Commission bar them from the securities industry. On July 21, 2021, the Commission issued an order setting a briefing schedule that provided the parties with more time than the default schedule provided in Commission Rule of Practice 154(b) for the filing of opposition and reply briefs.⁴ Respondents’ opposition was due on August 16, 2021, and the Division’s reply was due by August 30, 2021.

Respondents did not file an opposition brief within the time provided. Instead, on October 12, 2021, Respondents requested that the Commission permit them to file an opposition to the Division’s motion for summary disposition by October 21, 2021, and permit the Division

¹ *Jocelyn Murphy*, Exchange Act Release No. 91270, 2021 WL 842614 (Mar. 5, 2021).

² *Michael Sean Murphy*, Exchange Act Release No. 91310, 2021 WL 950025 (Mar. 12, 2021).

³ *Jocelyn Murphy*, Exchange Act Release No. 91797, 2021 WL 1835414 (May 7, 2021).

⁴ *Jocelyn Murphy*, Exchange Act Release No. 92459, 2021 WL 3109828 (July 21, 2021); 17 C.F.R. § 201.154(b).

to file its reply brief by November 4, 2021.⁵ As grounds for this request, Respondents provided evidence showing that, in one of the two consolidated cases, the July 21, 2021 order was not served until October 7, 2021.⁶ The Division did not respond to Respondents' motion.

Under the circumstances, including the lack of any opposition, it is appropriate to provide the parties with more time to file the opposition and reply briefs as follows. Accordingly, IT IS ORDERED that Respondents' opposition to the motion for summary disposition is due by October 27, 2021; and the Division of Enforcement's reply is due by November 10, 2021.⁷

As stated in the July 21, 2021 order, motions for summary disposition may be made under Rule 250(b) after a respondent's answer has been filed and documents have been made available to the respondent for inspection and copying pursuant to Rule of Practice 230.⁸ Respondents have filed answers, and no party asserts that documents have not been made available pursuant to Rule 230.⁹ As also stated in the July 21, 2021 order, Rule of Practice 250(b) provides that summary disposition is appropriate if "there is no genuine issue with regard to any material fact and . . . the movant is entitled to summary disposition as a matter of law."¹⁰ The order stated further that an opposition to a motion for summary disposition should precisely

⁵ Respondents also requested that the prehearing conference be adjourned pending resolution of the motion for summary disposition and that a hearing officer be appointed. Those requests will be addressed by separate order. This order addresses Respondents' time-sensitive request for more time to oppose the Division's motion for summary disposition.

⁶ Respondents did not assert that service in the other consolidated case was untimely, aver that they did not receive the motion for summary disposition, or explain why they did not respond to it pursuant to the default schedule provided by the Rules of Practice.

⁷ Attention is called to Rules of Practice 150-153, 17 C.F.R. §§ 201.150-153, with respect to form and service, and Rule of Practice 250(e) and (f), 17 C.F.R. § 201.250(e) and (f), with respect to length limitations. *See also In re: Pending Admin. Proceedings*, Exchange Act Release No. 88415, 2020 WL 1322001, at *1 (Mar. 18, 2020) (stating that "pending further order of the Commission, all reasonable requests for extensions of time will not be disfavored as stated in Rule 161" (citing 17 C.F.R. § 201.161(b)(1)).

⁸ *Jocelyn Murphy*, 2021 WL 3109828, at *1 n.5 (citing 17 C.F.R. §§ 201.230, .250(b)).

⁹ *See id.* (stating that if documents had not been made available, the parties should notify the Commission and the ordered briefing schedule would be modified).

¹⁰ *Id.* at *1 (citing 17 C.F.R. § 201.250(b)).

specify in the brief the basis for that opposition, identify with particularity the material factual issues in dispute, and address relevant Commission precedent.¹¹

Pursuant to Rule of Practice 180(c), a party's failure to file a brief or to comply with this order may result in the Commission's determination of the matter at issue against that party, a finding of waiver, dismissal of the proceeding, or such other sanction as the Commission finds appropriate.¹²

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary

¹¹ *Id.* (citing *Peter Siris*, Exchange Act Release No. 71068, 2013 WL 6528874, at *11 & n.68 (Dec. 12, 2013) (discussing appropriateness of summary disposition in follow-on proceedings and providing citations), *petition denied*, 773 F.3d 89 (D.C. Cir. 2014); *Conrad P. Seghers*, Investment Advisers Act Release No. 2656, 2007 WL 2790633, at *4-6 (Sept. 26, 2007) (discussing unsuccessful attempt to oppose summary disposition), *petition denied*, 548 F.3d 129 (D.C. Cir. 2008)).

¹² 17 C.F.R. § 201.180(c).