

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 2764/June 3, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16217

In the Matter of

THRASOS TOMMY PETROU

ORDER DENYING REQUEST FOR
ADJOURNMENT

On October 27, 2014, the Securities and Exchange Commission (Commission) issued an Order Instituting Administrative and Cease-and-Desist Proceedings (OIP) against Respondent Thrasos Tommy Petrou (Petrou), pursuant to Section 21C of the Securities Exchange Act of 1934 (Exchange Act) and Section 203(f) of the Investment Advisers Act of 1940 (Advisers Act). The hearing in this matter is scheduled for June 8 and 9, 2015, in New York City.

On March 20, 2015, I granted in part and denied in part the motions for summary disposition filed by Petrou and the Division of Enforcement (Division) because there existed three genuine issues of material fact. *Thrasos Tommy Petrou*, Admin. Proc. Rulings Release No. 2446, 2015 SEC LEXIS 1027. After supplemental briefing, I found that at least two of the issues – Petrou’s state of mind and inability to pay – remained unresolvable by way of summary disposition. *Thrasos Tommy Petrou*, Admin. Proc. Rulings Release No. 2596, 2015 SEC LEXIS 1597 (Apr. 27, 2015). I identified potential hearing dates and ordered the parties to confer regarding the hearing date and prehearing schedule. *Id.* On May 8, 2015, the parties submitted a joint report proposing that the hearing take place on June 8 and 9, 2015, with witness and exhibit lists exchanged and filed on May 22, 2015, and I granted their request. *Thrasos Tommy Petrou*, Admin. Proc. Rulings Release No. 2650, 2015 SEC LEXIS 1790.

On June 2, 2015, my Office received from Petrou a Motion for an Adjournment of Hearing with Supporting Affirmation and Memorandum of Law (Motion), requesting that I postpone the hearing for at least two weeks from its scheduled dates or, in the alternative, bifurcate the hearing to address only Petrou’s state of mind during the scheduled hearing and hold a second hearing regarding inability to pay on or after June 22, 2015. The Motion represents that despite Petrou’s best efforts, Petrou has been unable to provide the Division with the exhibits it intends to use at the hearing regarding the issue of inability to pay. Motion at 2-3. In particular, the Motion represents that Petrou’s accountant is currently preparing a general ledger detailing Petrou’s use of profits earned in connection with his violations and his other income, assets, and liabilities; that the accountant has been identified as a witness for Petrou with

the intention that he testify at the hearing about the general ledger; and that the accountant is unable to complete the general ledger in time for the scheduled hearing. *Id.* at 3.

Later on June 2, 2015, the Division filed an Opposition to Petrou's Motion (Opposition), and Petrou submitted a Reply Affirmation (Reply). The Division's Opposition represents that it was Petrou who proposed the June 8, 2015, hearing date, and the Division consented in order to accommodate Petrou in spite of the Division's desire for an earlier date due to its pre-trial schedule in a federal district case currently pending in the Eastern District of New York. Opp. at 2-4. The Division states that granting Petrou's Motion will materially impact the preparation of that case for trial, scheduled to commence on July 20, 2015. *Id.* at 3-4. In his Reply, Petrou reiterates the claim that he and his accountant have worked diligently to prepare the general ledger and represents that he previously warned the Division that he was concerned about meeting the scheduling deadlines in this proceeding. Reply at 1-2.

Requests for postponements and adjournments are governed by Rule 161 of the Commission's Rules of Practice, which mandates that I adhere to a policy strongly disfavoring such requests, except in circumstances where the requesting party makes a strong showing that the denial of the request would substantially prejudice that party's case. 17 C.F.R. § 201.161(b)(1). Rule 161 further directs that I consider (i) the length of the proceeding to date; (ii) the number of postponements, adjournments, or extensions already granted; (iii) the stage of the proceeding at the time of the request; (iv) the impact of the request on my ability to complete the proceeding in the time specified by the Commission; and (v) any other such matters as justice may require. *Id.*

The OIP was issued over seven months ago. Because Petrou consented to a finding that he violated provisions of the Exchange Act and Advisers Act, the OIP specifically noted that these proceedings would focus solely on the determination of what disgorgement, prejudgment interest, and civil penalties, if any, Petrou should be ordered to pay. OIP at 5. Petrou has thus been on notice for many months that his financial condition would be a key element of this proceeding, and indeed, spent a substantial portion of his motion for summary disposition on that issue. Petrou provides no cogent explanation for why his accountant did not have time to prepare the general ledger, a document he claims is "fundamental to [his] defense," as part of the Wells process or in the seven months following the OIP's issuance. Motion at 3. His claim that as an individual of "modest means" it has taken him and his accountant "some time to compile the necessary documentation" fails to provide any logical excuse for his lack of preparation. Reply at 2. He also fails to demonstrate the importance of the general ledger in light of the multiple affidavits and hundreds of pages of documents detailing his current and historical financial condition that he has attached to prior filings and included on his exhibit list. For instance, Petrou stopped his violative conduct over three years ago, and the affidavits Petrou has already filed appear to explain his more recent, and therefore more relevant, "sources of any other income, assets and liabilities." OIP at 4; Motion at 3.

While no postponements or adjournments have previously been granted, the stage of the proceeding is advanced – dispositive motions have been briefed and ruled on, and the hearing is scheduled to begin in less than a week. Pursuant to Rule 360, my initial decision is due on August 28, 2015, and delaying the hearing on some or all of the remaining issues will likely

impair my ability to issue a decision in accordance with this deadline. *See* 17 C.F.R. § 201.360(a)(2); OIP at 6. In addition, the Division has not consented to either an adjournment or a bifurcation of the hearing; indeed, the Division argues that granting Petrou's Motion will substantially prejudice the Division in light of its obligations in a pending federal district court case. Motion at 1; Opp. at 4.

Accordingly, I find that Petrou has failed to make a showing that he will be substantially prejudiced by proceeding with the hearing as scheduled on June 8 and 9, 2015, and his request that the hearing be adjourned or bifurcated is DENIED.

SO ORDERED.

Cameron Elliot
Administrative Law Judge