

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 4601/February 13, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17651

In the Matter of

ADRIAN D. BEAMISH, CPA

ORDER GRANTING RENEWED
MOTIONS FOR ADDITIONAL
DEPOSITIONS AND RELATED RELIEF

On February 3, 2017, I denied without prejudice the parties' joint motion for each to take up to five depositions under Rule 233(a) but allowed the parties to make renewed motions, jointly or separately, by February 15. *Adrian D. Beamish, CPA*, Admin. Proc. Rulings Release No. 4581, 2017 SEC LEXIS 368. The parties separately made unopposed renewed motions on February 10, 2017.

The Division seeks leave to depose William Holder and John Riley, expert witnesses retained by Respondent. Div. Mot. at 5-7. Respondent seeks leave to depose Jean Yang, an accounting manager for "Burrill & Company and its related entities during the relevant period," as well as Bryant Fong, "a member of Fund III's General Partner." Resp't Mot. at 5-6; *see generally* OIP at 3. In the event that Yang "asserts her Fifth Amendment rights and does not count toward" Respondent's two additional depositions, Respondent alternatively seeks leave to depose a representative of BDO USA, LLP, which "performed the audit of Fund III for financial years 2013-2015." Resp't Mot. at 6-7. Respondent's motion further states that the parties agree that the deadline for fact depositions should be extended one week, to March 10, 2017. *Id.* at 7.

Both motions adequately address the concerns raised in my prior order and satisfy the specific requirements of Rule 233(a)(3)(ii). Beyond those specific requirements, "[t]he Commission has not elaborated on what constitutes 'compelling circumstances' or 'compelling need'" under Rule 233(a)(3)(ii), and I do not delineate a standard here. *RD Legal Capital, LLC*, Admin. Proc. Rulings Release No. 4499, 2017 SEC LEXIS 11, at *2 (ALJ Jan. 4, 2017). But in comparing the parties' proposed additional depositions to those granted in another proceeding, I find that a compelling need exists. *Cf. id.* at *3-4. Accordingly, both parties' motions for additional depositions are GRANTED. Respondent's request to extend the deadline for fact depositions to March 10, 2017, is also GRANTED.

Cameron Elliot
Administrative Law Judge