

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 4773 / April 26, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17387

In the Matter of

DONALD F. (“JAY”) LATHEN, JR.,
EDEN ARC CAPITAL MANAGEMENT, LLC, and
EDEN ARC CAPITAL ADVISORS, LLC

ORDER GRANTING EXTENSION

On April 18, 2017, Respondents requested a two-week extension to file their opening post-hearing brief, proposed findings of fact, and response to the Division of Enforcement’s proposed findings of fact. I granted them a one-week extension only. *Donald F. (“Jay”) Lathen, Jr.*, Admin Proc. Rulings Release No. 4756, 2017 SEC LEXIS 1167 (ALJ Apr. 19, 2017). On April 25, 2017, Respondents renewed their request that I provide them with an additional week to make their filing. The Division opposed Respondents’ request, but stated that if I grant Respondents an additional week, it wished to have two weeks after Respondents’ filing, instead of the one week currently provided in the post-hearing schedule, to file its reply.

Although I indicated in my April 19 order that I would not grant any further extensions, I have reconsidered and I will grant both parties’ requests. Given the length of the Division’s post-hearing filings and the legal complexity of this case, I believe that the parties should have the time they need to put forward their best arguments, and that denial of their requests “would substantially prejudice their case.” 17 C.F.R. § 201.161(b)(1). Subsequent deadlines dependent on Respondents’ initial filing will also be reasonably extended.

Accordingly, the Respondents’ and the Division’s requests are GRANTED IN PART and the post-hearing schedule is modified as follows:

- By May 5, 2017, Respondents shall file their opening post-hearing brief, proposed findings of fact, and response to the Division’s proposed findings of fact.
- By May 19, 2017, the Division shall file its response to Respondents’ proposed findings of fact, and may file its responsive post-hearing brief, if any. If Respondents pursue affirmative defenses in their opening brief and proposed findings of fact that were not addressed in the Division’s opening brief, the Division may file additional proposed findings of fact limited exclusively to affirmative defenses not addressed earlier.

- By May 26, 2017, Respondents may file a responsive post-hearing brief, if any, limited exclusively to their affirmative defenses. If the Division files additional proposed findings of fact on the affirmative defenses, Respondents may also file a response to those proposed findings.
- By May 31, 2017, Respondents may file an optional letter memorializing any constitutional objections to the proceeding.
- By June 2, 2017, the Division may file a letter responding to Respondents' constitutional objections.

In all other respects, the post-hearing order dated February 24, 2017, remains in effect. *See Donald F. ("Jay") Lathen, Jr.*, Admin. Proc. Rulings Release No. 4628, 2017 SEC LEXIS 575.

Jason S. Patil
Administrative Law Judge