

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 4805/May 17, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17813

In the Matter of

WINDSOR STREET CAPITAL, L.P.
(f/k/a MEYERS ASSOCIATES, L.P.) and
JOHN DAVID TELFER

ORDER ON MOTION

The Securities and Exchange Commission instituted this proceeding on January 25, 2017, with an order instituting proceedings (OIP) pursuant to Section 8A of the Securities Act of 1933, Sections 15(b) and 21C of the Securities Exchange Act of 1934, and Section 9(b) of the Investment Company Act of 1940. The Division of Enforcement has provided Respondents with information under the schedule ordered on March 1, 2017.¹ *See Windsor St. Capital, L.P.*, Admin. Proc. Rulings Release No. 4643, 2017 SEC LEXIS 635 (ALJ Mar. 1, 2017). The hearing is scheduled to begin on June 19, 2017. *Id.* On May 11, 2017, Windsor Street Capital, L.P., submitted a motion, with two exhibits, to postpone the hearing pursuant to Rule of Practice 161. Windsor represents that counsel has been focused on settlement negotiations and needs time to prepare for the hearing and one of two new co-counsel, David E. Robbins and Sam Silverstein, who submitted a notice of appearance on May 8, 2017, is unavailable because of a scheduling conflict.

The motion addresses the relevant factors set out in Rule 161: the “length of the proceeding to date is less than three and one half months from” the filing of the OIP; this is Windsor’s first request for a postponement; the prehearing schedule is only partially completed, it is more than thirty days before the scheduled hearing date, and the Division has indicated that it might want to take additional witness depositions; and a postponement of forty-five to sixty days will still allow the administrative law judge to begin the hearing “approximately four months (but not more than ten months) from service of the [OIP].” Mot. at 4-5; *see* 17 C.F.R. § 201.161(b)(1)(i)-(iv). Windsor represents that it has ceased the business practices that are alleged in the OIP, and while the Division does not consent to a postponement, it has indicated it would be flexible on the hearing date.

On May 15, the Division submitted a letter opposing any delay in the start of the hearing, arguing that “Windsor has not articulated a reasonable basis for the postponement and because the requested delay is potentially unfair to the Division.” Opp. at 1. If a postponement is granted, however, the Division stated it is available the week of June 26 and from July 19 to September 1. *Id.*

¹ Telfer need not comply with the procedural schedule based on my understanding that he has made an offer of settlement that the Division will accept and present to the Commission.

It noted that July 19-25 is problematic for its litigation team and witnesses due to previously scheduled obligations. *Id.* at 1-2.

On May 16, 2017, Windsor submitted a letter objecting to the Division's characterization of its reasons for a postponement as "dubious," stating that counsel initially requested that the hearing not be scheduled until at least the third week of June, and arguing that not postponing the hearing would be extremely damaging and prejudicial to Windsor. Regarding its availability for the week of June 26, counsel only noted the possibility of a personal scheduling conflict on one day that week, but cannot predict the specific date at this time.

Ruling

I am persuaded by the following. The OIP was issued three and a half months ago. The parties have known the hearing date since March 1. The Division, which has the burden of proof, has witnesses ready for the week of June 19, but is available the following week. At the prehearing conference, counsel for Windsor notified me that he expected the birth of a grandchild to occur on June 8 and would prefer not to schedule the hearing for that week or the following week, thus I scheduled the hearing to begin on June 19, 2017. Tr. 15.² Now, in addition to the birth of a grandchild, we have new counsel's son's wedding, a fortieth wedding anniversary, and an Alaskan cruise. Mot. Ex. B at 2. Finally, the allegations are serious and should be resolved and there are no substantive issues to be resolved before the hearing can begin.

Accordingly, I GRANT the motion IN PART and ORDER the following procedural schedule.

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| May 23, 2017: | If it has not already done so, the Division will provide Windsor with written direct testimony of its experts and the information described in Rule 222(b), 17 C.F.R. § 201.222(b). |
| May 30, 2017: | Windsor will provide the Division with a list of its witnesses, a list of its exhibits, and copies of its proposed exhibits. |
| June 9, 2017: | Windsor will provide the Division with written direct testimony of its experts and the information described in Rule 222(b), 17 C.F.R. § 201.222(b). |
| June 19, 2017: | Deadline for filing any prehearing motions. |
| June 21, 2017: | Prehearing briefs should be filed by both parties. |
| June 26, 2017: | Hearing beginning at 9:30 a.m. at Courtroom 238, Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York 10278 |

Brenda P. Murray
Chief Administrative Law Judge

² Transcript from the telephonic prehearing conference held on February 27, 2017.