

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

ADMINISTRATIVE PROCEEDINGS RULINGS

Release No. 4865 / June 13, 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 IN PART
RESPONDENTS’ MOTION TO FILE
FINANCIAL DOCUMENTS UNDER
SEAL AND ELECTRONICALLY

On May 31, 2017, I granted Respondents’ request to have Mr. Lathen’s financial disclosure form admitted into evidence, and directed Respondents to file it with the Office of the Secretary. *Donald F. (“Jay”) Lathen, Jr.*, Admin. Proc. Rulings Release No. 4840, 2017 SEC LEXIS 1601. On June 8, 2017, Respondents requested that I allow them to file electronically “52 separate supporting documents consisting of roughly 500 to 600 pages” requested by the Office of the Secretary. Respondents further request that, because the records are financial documents of a highly personal nature and inadvertent disclosure could be damaging to Mr. Lathen and his family, they be allowed to file them under seal.

I find that the harm resulting from disclosure of these financial records would likely outweigh any benefit, and therefore ORDER that they be filed under seal. *See* 17 C.F.R. § 201.322(b).

However, I DENY Respondents’ request to file electronically. In a March 2, 2017, order, I noted that the Rules of Practice do not prohibit non-paper filing and allowed the Division of Enforcement to file eleven hearing exhibits electronically because “requiring a party to print thousands [of] pages of data for a paper filing would be contrary to the requirement that I construe the Rules of Practice to secure the ‘inexpensive determination of every proceeding.’” *Donald F. (“Jay”) Lathen, Jr.*, Admin. Proc. Rulings Release No. 4646, 2017 SEC LEXIS 643, at *2 (quoting 17 C.F.R. § 201.103(a)). Additionally, several of the Division’s exhibits were spreadsheets thousands of pages long and not conveniently reproducible in paper format. Respondents’ documents, on the other hand, number no more than about 600 pages, and bank statements and tax returns are easily printed. Indeed, several recent post-hearing submissions in this proceeding have been of a similar length.

Jason S. Patil
Administrative Law Judge