

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

Administrative Proceedings Rulings  
Release No. 5558 / January 31, 2018

Administrative Proceeding  
File No. 3-18346

In the Matter of

**Cynthia Holder, CPA,  
Jeffrey Wada, CPA,  
David Middendorf, CPA,  
Thomas Whittle, CPA, and  
David Britt, CPA**

**Order Tolling Time  
to Commence Production  
of Investigative File**

Today, the Division of Enforcement submitted a motion requesting that I toll the time in which it “shall commence making” the investigative file available “for inspection and copying” while considering the pending motion to stay the entire proceeding. 17 C.F.R. § 230(d). The Division represents that each of the Respondents received a copy of the order instituting proceedings (OIP) between January 24 and January 29, 2018. The Division argues that if it must produce the investigative file today—that is, seven days after the earliest date a Respondent received the OIP—“it would at least partially moot” the motion to stay pending the parallel criminal case. Mot. 2.

I generally treat the date on which the final respondent receives a copy of the OIP as the date of service for all respondents. Even using January 29 as the date of service, however, would provide limited time to produce the investigative file after the motion to stay is resolved. I GRANT IN PART the Division’s motion and TOLL the time in which it must commence making the investigative file available to Respondents for inspection and copying for the period between when the motion to stay was filed, January 26, 2018, and when it is resolved. An additional five-day grace period is not necessary.

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Cameron Elliot  
Administrative Law Judge