

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 77163 / February 17, 2016

Admin. Proc. File No. 3-16293

In the Matter of the Application of
LAURIE BEBO, and JOHN BUONO, CPA

ORDER STRIKING
RESPONDENT'S "OFFER OF
PROOF"

On November 13, 2015, Laurie A. Bebo ("Respondent") filed an application for review of an administrative law judge's initial decision.¹ Respondent requested permission to file an opening brief of 45,000 words.² We granted the request in part, and allowed her to file an opening brief of no more than 21,000 words.³ This represented an increase of 7,000 words over the standard 14,000-word limit for opening briefs in Rule of Practice 450(c).⁴ On January 28, 2016, Respondent filed her opening brief.⁵ The following day, she filed a 43,251-word "offer of proof."⁶ On February 1, 2016 the Division of Enforcement filed a motion to strike the offer of proof.⁷ For the reasons stated below, we strike Respondent's filing and grant the Division's motion.

The "offer of proof" attempts to evade the word limits contained in our briefing order. Indeed, it is nothing more than a lengthier and more detailed version of her opening brief, and Respondent urges us to "accept th[e] offer of proof as her opening brief."⁸ Our order was clear that the Respondent could only file a 21,000 word opening brief, and she has now filed both an

¹ *Laurie Bebo and John Buono, CPA*, Initial Decision Rel. No. 893 (Oct. 2, 2015), 112 SEC Docket 10, 2015 WL 5769700.

² Pet. for Review at 1.

³ Order Granting Pet. for Review & Scheduling Brs. at 1, Release No. 76592, 112 SEC Docket 20, 2015 WL 8274202 (Dec. 8, 2015).

⁴ 17 C.F.R. §201.450(c).

⁵ Pet'r's Br. in Supp.

⁶ Pet'r's Offer of Proof.

⁷ Enforcement's Mot. to Strike Pet't's Offer of Proof.

⁸ Pet'r's Offer of Proof at 1.

opening brief of 21,000 words and a second 43,251 word opening brief styled as an “offer of proof.” Because the “offer of proof” is inconsistent with our Order, it is stricken.⁹

By her own admission, the “offer of proof” is also a motion to reconsider our initial briefing order. Respondent contends:

[T]his offer of proof[] . . . is necessitated by the Commission’s denial of [Respondent’s] request to file an opening brief in this matter not to exceed 45,000 words. . . . *Bebo requests that the Commission reconsider its decision to limit her opening brief to 21,000 words, accept this offer of proof as her opening brief, and modify the briefing order as appropriate.*¹⁰

Rule of Practice 154(c), provides that “[n]o motion (together with the brief in support of the motion), . . . shall exceed 7,000 words.”¹¹ As a motion for reconsideration, the offer of proof exceeds the word limitation for such motions by over six fold without permission. In any event, the “offer of proof” provides no persuasive reason that we should reconsider or change our briefing order. The motion for reconsideration embedded in the offer of proof is denied.

Accordingly, we do not accept Respondent’s “offer of proof” filing, grant the Division’s motion,¹² and strike the filing from the record. We also direct the Office of the Secretary to reject, pursuant to its existing delegated authority, any future filing from Respondent that fails to conform to the length limitations in our Orders or other requirements provided in the Rules of Practice.¹³

By the Commission.

Brent J. Fields
Secretary

⁹ In any event, our Rules of Practice do not contemplate the submission of offers of proof for appeals to the Commission. In the *hearing* context, Rule of Practice 321(b) permits a party to submit an “offer of proof” regarding “evidence [that] is excluded from the record.” 17 C.F.R. § 201.321(b). Even if Respondent had filed the “offer of proof” as part of her hearing, rather than her appeal, her document does not comply with Rule 321(b) because it does not illuminate evidence excluded from the record. Rather, it tracks the organization of Respondent’s opening brief and cites to publicly available sources, such as cases, statutes, and regulations.

¹⁰ Pet’r’s Offer of Proof at 1 (emphasis added).

¹¹ See Rule of Practice 154(c), 17 C.F.R. § 201.154(c).

¹² If the Division had not filed its motion to strike, we would have ordered Respondent’s “offer of proof” stricken from the record on our own initiative.

¹³ See 17 C.F.R. § 200.30-7.