

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 3774/April 8, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17180

In the Matter of

ELLIOT R. BERMAN, CPA and
BERMAN & COMPANY, P.A.

ORDER POSTPONING HEARING AND
DIRECTING THE PARTIES TO HOLD AN
INITIAL PREHEARING CONFERENCE

On March 25, 2016, the Securities and Exchange Commission issued an order instituting proceedings (OIP) against Respondents. A hearing is currently scheduled for April 28, 2016. On April 5, the Division of Enforcement filed an “agreed motion” to postpone the hearing and schedule a telephonic prehearing conference. The motion also represents that Respondents have waived their right to a hearing commencing between thirty and sixty days from service of the OIP. *See* OIP at 19; 15 U.S.C. § 78u-3(b).

I POSTPONE the hearing and direct the parties to hold an initial prehearing conference without the hearing officer by April 27, 2016, to discuss each numbered item in Rule of Practice 221(c), 17 C.F.R. § 201.221(c), including the date by which each item will be accomplished. By April 29, 2016, the parties shall file a joint prehearing conference statement, which addresses each numbered item in Rule 221(c), includes proposed due dates where applicable (the parties may denote that an item is “not applicable” in their filing), establishes the date the OIP was served on Respondents in accordance with Rule 141,¹ and proposes a procedural schedule that will result in a hearing commencing roughly four months from the date the OIP was served on Respondents. *See* 17 C.F.R. § 201.360(a)(2). The statement should also address a potential hearing location and how many days might be necessary to complete the hearing. Based on this prehearing conference statement, a subsequent prehearing conference with the hearing officer will be scheduled if appropriate. If the parties are unable to hold a prehearing conference by April 27, the Division shall notify my office before that date.

The parties should email courtesy copies of any filings in this proceeding in PDF text-searchable format to alj@sec.gov.

Jason S. Patil
Administrative Law Judge

¹ The motion states that counsel for Respondents was served with the OIP on March 25, 2016, but does not provide proof of service or represent that Respondents have agreed to this service date. When my office emailed Respondents’ counsel and the Division to confirm the service date, only the Division responded.