

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 3820/May 3, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17180

In the Matter of

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

SCHEDULING ORDER

On March 25, 2016, the Securities and Exchange Commission issued an order instituting proceedings (OIP) against Respondents. On April 8, I postponed the hearing in this matter and ordered the parties file a joint prehearing conference statement by April 29. *Elliot R. Berman, CPA*, Admin. Proc. Rulings Release No. 3774, 2016 SEC LEXIS 1302. On April 14, I granted Respondents' request to extend their answer deadline to May 13, 2016. *Elliot R. Berman, CPA*, Admin. Proc. Rulings Release No. 3784, 2016 SEC LEXIS 1376.

Consistent with my April 8 order, the parties filed a joint prehearing conference statement on April 28, which among other things, proposes a prehearing schedule. Based on the joint statement, I set the following procedural schedule:

- May 13, 2016: Respondents' answer is due.
- May 27, 2016: Respondents may file a motion for summary disposition.¹
- June 10, 2016: The Division may file a summary disposition opposition.
- June 17, 2016: Respondents may file a summary disposition reply.
- August 5, 2016: Expert reports are due.

Subpoenas for the production of documentary evidence are due. Parties are responsible for requesting and serving their own subpoenas. The subpoena forms to be used are online at <http://www.sec.gov/alj>.

¹ The joint statement indicates that the Division of Enforcement does not believe this case is amenable to resolution on summary disposition motions, but that Respondents intend to seek leave to file such a motion. To the extent such leave may be sought, I GRANT it in accordance with Rule of Practice 250(a), 17 C.F.R. § 201.250(a).

- August 12, 2016: Exhibit and witness lists are due.
- The parties shall exchange, but not file, copies of their pre-marked exhibits.
- The parties shall provide my office with, but not file, electronic courtesy copies of their pre-marked exhibits.
- Subpoenas requiring the attendance of witnesses at the hearing are due.
- August 19, 2016: Objections to witnesses and exhibits, if any, are due.
- Motions in limine, if any, are due.
- Motions made under Rule of Practice 231, 17 C.F.R. § 201.231, if any, are due.
- August 26, 2016: Oppositions to motions in limine, if any, are due.
- Stipulations, if any, are due. This deadline is without prejudice to the parties' right to reach subsequent stipulations pursuant to Rule of Practice 324, 17 C.F.R. § 201.324.
- Expert rebuttals, if any, are due.
- September 7, 2016: Prehearing briefs are due.
- September 9, 2016: A final prehearing conference shall be held.
- September 12, 2016: The hearing will begin at a time and location to be determined in the Miami-Fort Lauderdale area of Florida.

After the close of the parties' evidentiary presentation, I will establish a post-hearing schedule for the filing of briefs and exhibits. Witness lists shall include witnesses' names, occupations, addresses, and a brief summary of their expected testimony. 17 C.F.R. § 201.222(a)(4). Exhibit lists shall be emailed to my office at alj@sec.gov in Microsoft Excel or Word format and include exhibit numbers, a description of each exhibit, and Bates-stamp numbers, if any. Exhibits shall not be filed with the Office of the Secretary until after the hearing concludes. In addition to the required filing with the Office of the Secretary, electronic courtesy copies of filings should be emailed to alj@sec.gov in both PDF text-searchable format and, when possible, Microsoft Word format. Electronic copies of exhibits should not be combined into a single PDF file, but submitted as separate attachments.

Jason S. Patil
Administrative Law Judge