

ALJ

ADMINISTRATIVE PROCEEDING
FILE NO. 3-11465

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
July 19, 2004

SECURITIES & EXCHANGE COMMISSION
MAILED FOR SERVICE

JUL 20 2004

FIRST CLASS

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| In the Matter of | : | |
| | : | |
| PUBLIC FINANCE | : | |
| CONSULTANTS, INC., | : | ORDER |
| ROBERT D. FOWLER, | : | |
| DOLPHIN AND BRADBURY | : | |
| INCORPORATED, | : | |
| and ROBERT J. BRADBURY | : | |
| | : | |

The Securities and Exchange Commission (Commission) issued its Order Instituting Proceedings on April 26, 2004. Respondents filed their Answers on May 24, 2004. At a prehearing conference two days later, all parties agreed to commence the hearing in this matter on August 16, 2004, in Philadelphia, Pa.

On July 15, 2004, Arthur W. Lefco and Jay S. Rothman entered their appearances as counsel for Respondents Public Finance Consultants, Inc. (PFC) and Robert D. Fowler (Fowler). Joseph U. Metz, who represented PFC and Fowler during the underlying investigation and for the first three months of this proceeding, has not filed a notice withdrawing his appearance. See Rule 102(d)(4) of the Commission's Rules of Practice.

Newly appearing counsel requests that the hearing be postponed for sixty days to allow them adequate time to review and understand the file, interview the necessary witnesses, and locate appropriate expert witnesses. Counsel claims that PFC and Fowler will suffer substantial prejudice without a continuance. Counsel also asserts that a delay of sixty days will not prejudice any other party. There is no suggestion that Mr. Metz is ill, or that PFC and Fowler are dissatisfied with the representation they have received to date. In fact, PFC and Fowler have not offered any explanation for their decision to engage new counsel so close to the hearing date.

On July 16, 2004, the Division of Enforcement (Division) opposed the request for a continuance. The Division argues that PFC and Fowler have not shown "substantial prejudice," as required by Rule 161(b) of the Commission's Rules of Practice.

The motion for a sixty-day continuance is DENIED. First, there is no need for extra time to locate expert witnesses. PFC and Fowler were required to identify their expert witnesses on or before June 21, 2004. They did not do so. At a prehearing conference on June 23, 2004, PFC and Fowler confirmed that they would not be engaging any expert witnesses in this proceeding. Second, the need to interview fact witnesses does not warrant a continuance. On July 2, 2004, PFC and Fowler submitted their list of four proposed fact witnesses. PFC and Fowler have previously had access to the investigative transcripts of other potential witnesses. Third, the motion fails to address the impact of a continuance on the hearing officer's ability to complete the proceeding in the time specified by the Commission. See Rule 161(b)(1)(iv) of the Commission's Rules of Practice.

The hearing will commence as scheduled on August 16, 2004. All due dates set in the Revised Scheduling Order of June 8, 2004, remain in effect.

SO ORDERED.



James T. Kelly
Administrative Law Judge