

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 3749/March 30, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17172

In the Matter of

BARRY B. CLARE

ORDER POSTPONING HEARING
AND SCHEDULING PREHEARING
CONFERENCE

On March 15, 2016, the Securities and Exchange Commission issued an order instituting proceedings (OIP) against Respondent pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934, and Section 9(b) of the Investment Company Act of 1940. A hearing is currently scheduled for April 25, 2016.

On March 22, 2016, Respondent filed a waiver of service, which states that Respondent's counsel received the OIP via email on March 22 and, on behalf of Respondent, waived service pursuant to Rule of Practice 141(a)(4), 17 C.F.R. § 201.141(a)(4). I find that service was effective on March 22, 2016, and that the 300-day period for issuing an initial decision in this matter began to run on that date. Additionally, Respondent's answer is due April 11, 2016. OIP at 5; 17 C.F.R. § 201.220(b).

Also on March 22, the parties filed a joint motion to adjourn the hearing and schedule a prehearing conference. The motion is GRANTED. I POSTPONE the hearing currently scheduled for April 25, 2016, and schedule a telephonic prehearing conference for April 21, 2016, at 11:00 a.m. EDT.

Prior to the prehearing conference, the parties must confer and discuss the date for the hearing in this matter, the most convenient location for the hearing, the prehearing schedule, and the matters listed in Rule of Practice 221(c). *See* 17 C.F.R. § 201.221(c). In doing so, the parties should bear the following in mind. First, 5 U.S.C. § 554(b) and 17 C.F.R. § 201.200(c) provide guidance regarding the location of the hearing. Second, Respondent has a right to a hearing between thirty and sixty days after service of the OIP. 15 U.S.C. § 78u-3(b); *see* OIP at 4-5. If Respondent exercises that right, the hearing in this matter will commence on a date to be determined within that time period. Otherwise, given my schedule and Rule of Practice 360(a)(2), the hearing will most likely begin during the latter part of August. *See* 17 C.F.R. § 201.360(a)(2).

By April 18, 2016, the parties must by joint letter, filed consistent with 17 C.F.R. §§ 201.151-52:

- a) notify this office of the results of their discussion;
- b) notify this office if Respondent wishes to exercise his right to begin the hearing between thirty and sixty days of service of the OIP; and
- c) notify this office of the date they have agreed the hearing should begin.

The parties are asked to e-mail PDF text-searchable courtesy copies of any filings in this proceeding to alj@sec.gov.

James E. Grimes
Administrative Law Judge