

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 4879 / June 21, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17387

In the Matter of

DONALD F. (“JAY”) LATHEN, JR.,
EDEN ARC CAPITAL MANAGEMENT, LLC, and
EDEN ARC CAPITAL ADVISORS, LLC

ORDER ON RESPONDENTS’
AMENDED FILINGS

On June 8, 2017, Respondents submitted amended copies of its proposed findings of fact and its responses to the Division of Enforcement’s proposed findings of fact. Respondents indicate that the amendments provide additional citations to the record for the purpose of assisting me in preparing an initial decision. On June 9, the Division objected to Respondents’ amended filings, because in their opinion, they provide new substantive arguments, not just citations, and are an unauthorized extension of the briefing schedule. Respondents submitted a reply on June 19.

Respondents availed themselves of a two-week extension of time to complete their proposed findings of fact and their responses to the Division’s proposed findings. *See Donald F. (“Jay”) Lathen, Jr.*, Admin. Proc. Rulings Release No. 4773, 2017 SEC LEXIS 1244 (ALJ Apr. 26, 2017). Any citations to the record they wished to include should have been incorporated at that stage. What their amendments amount to now is a request for an extension and supplemental briefing, for which they should have submitted a motion demonstrating good cause. *See* 17 C.F.R. § 201.161(a)-(b). Nevertheless, since the additions are in fact just citations and limited contextualization of those citations that may assist me in preparing my initial decision, I will allow them.

In its June 9 objection, the Division already responded to what it perceives as new arguments in Respondents’ amendments. However, should the Division wish to file an additional response, it may do so by June 28. It shall be no longer than seven pages and limited to addressing whether Respondents’ new citations accurately reflect the record.

Jason S. Patil
Administrative Law Judge