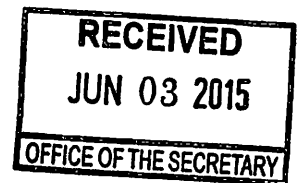


**HARD COPY**

**UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION**



**Administrative Proceeding  
File No. 3-16217**

---

**In the Matter of** :

**THRASOS TOMMY** :  
**PETROU,** :

**Respondent.** :

---

**MEMORANDUM IN OPPOSITION TO RESPONDENT'S  
REQUEST FOR AN ADJOURNMENT OF THE HEARING IN THIS PROCEEDING**

The Division of Enforcement herewith submits its opposition, pursuant to Commission Rule 161(b), to the June 2, 2015 motion of Respondents for an adjournment of the hearing in this matter.

**FACTS**

This proceeding was filed seven months ago, on October 27, 2014. Respondent's counsel had insisted to the Division even before that date that Respondent's principal "defense" would be his purported inability to pay an order of disgorgement and penalties, a position counsel then made known to the Court as well, no later than December 1, 2014, at the initial pre-hearing conference. This argument was then central to Respondent's summary disposition motion papers filed February 6, 2015, and a second round of briefing the Court ordered at the suggestion of Respondent's counsel, which concluded with the Court's March 20, 2015 Order that directed that this issue be resolved at a hearing.

Respondent has thus been on notice for at least seven months that he would need to prepare whatever exhibits or other financial information he believes relevant to his defense in this proceeding, and has had more than two months since March 20, 2015, when the Court denied Respondent's motion for a second time, to marshal that evidence (not one, as Respondent inaccurately insists (Respondent's Motion ¶ 15)). Respondent offers no explanation for why his financial and legal teams (Respondent's Motion ¶¶ 7-8) have been unable to complete the "general ledger" project they unilaterally undertook to prepare, and which, Respondent claims, will demonstrate his financial inability to pay disgorgement or penalties.

Nor does Respondent explain why he waited until six days before the start of the hearing to seek this adjournment. As Respondent acknowledges, he consented to the June 8 hearing date. (Respondent's Mot. ¶ 5.) Respondent now claims to have informed the Division counsel on May 15 that it would be "nearly impossible" to collect all of the exhibits necessary – not merely by agreed date to exchange exhibits, but even by the date of the hearing itself. (Respondent's Motion ¶ 5.) This is simply not the case: Respondent's counsel at no time advised the Division that it would be "nearly impossible" to collect its necessary evidence in advance of the hearing, much less the May 22 exchange date. Such a communication would have disclosed weeks ago that Respondent apparently had little or no intention of proceeding with the June 8 hearing, and would have prompted further action by the Division. Respondent, however, chose not to disclose to the Division the vanishingly small chance it would abide by its agreement on the hearing date – and chose not to disclose it to the Court as well, when he *twice* submitted requests (with no prior notice to the Division) for adjournments of the date to exchange exhibits.

Furthermore, the June 8 date was not simply "consented to" by Respondent, but proposed by Respondent in response to the Division's proposed May 26 hearing date. The Division

proposed the May 26 date in part because Division counsel is scheduled to commence trial in *SEC v. Nadel, et al.*, No. 11 Civ. 0125, in the United States District Court for the Eastern District of New York (the “Civil Action”) on July 20, 2015. Nevertheless, the Division consented to Respondent’s proposed June 8 hearing date to accommodate *Respondent’s* schedule even though that hearing date—along with the briefing schedule that will necessarily follow the hearing—was not optimal in view of the pre-trial schedule in the Civil Action.

**RESPONDENT’S MOTION SHOULD BE DENIED PURSUANT TO RULE 161(b)**

Commission Rule of Practice 161(b) provides that the Commission or the hearing officer should “adhere to a policy of strongly disfavoring such requests, except in circumstances where the requesting party makes a strong showing that the denial of the request or motion would substantially prejudice their case.” The factors to be considered are: (i) the length of the proceeding to date; (ii) the number of postponements, adjournments or extensions already granted; (iii) the stage of the proceedings at the time of the request; (iv) the impact of the request on the hearing officer’s ability to complete the proceeding in the time specified by the Commission; and (v) any other such matters as justice may require. Respondent’s Mot. ¶ 13, citing 17 C.F.R. § 201.161(b)(1). Respondent has failed to make the required showing for the relief he has requested.

First, as noted above, this proceeding is more than seven months old, and rather than seek to resolve it expeditiously, Respondent extended its length before now with a “supplementary” round of briefing on the issue of his financial condition, despite bringing very little new information to light. Indeed, two months have passed measured only from the Court’s second denial of Respondent’s motion for summary disposition on this issue.

Second, Respondent's motion has been submitted at the eleventh hour, despite the fact that Respondent apparently knew weeks ago that he would be seeking an adjournment, but chose not to disclose it to the Court or counsel.

Third, the requested adjournment will have a substantial, negative impact on the completion of this proceeding within the time specified by the Commission. The Division understands the Court's Initial Decision is due on or about September 1, 2015, 300 days from November 1, 2014, when Respondent was served in this action. *See* December 1, 2014 Order; Order Instituting Proceedings. With anticipated post-hearing briefing scheduling, the Division submits that the time for completion – already tight – will be substantially and negatively impacted.

Fourth, Respondent has not demonstrated any substantial prejudice he would suffer by holding the hearing on the date he chose. Respondent has had more than adequate time to prepare his defense, and in the absence of any cogent explanation as to why his materials are not ready (and Respondent does not offer one), Respondent cannot establish "substantial prejudice" merely by claiming he is not ready.


Finally, Respondent's motion, if granted, will substantially prejudice the Division. Division counsel has a heavy pre-trial schedule in the Civil Action, and an adjournment of the date will materially impact the preparation of that case for trial. Had Respondent made his motion when he claims to have first realized the June 8 date would be impracticable, at least some of these problems could have been ameliorated. Instead, Respondent has disingenuously characterized his late request as one seeking to avoid sparing the Division the prejudice of an untimely production of whatever materials Respondent wishes to offer after seven months of litigation at the hearing. But

that problem is one of Respondent's making, and the proper remedy is to proceed according to the schedule Respondent proposed, and limit him to the evidence he can timely produce.

Dated: New York, New York  
June 2, 2015

Respectfully submitted,

DIVISION OF ENFORCEMENT

By:   
Richard G. Primoff  
Karen M. Lee  
Securities and Exchange Commission  
New York Regional Office  
200 Vesey Street, 4<sup>th</sup> Floor  
New York, New York 10281  
Telephone: (212) 336-0148 (Primoff)


Attorneys for the Division of Enforcement

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

Administrative Proceeding  
File No. 3-16217

\_\_\_\_\_ :  
In the Matter of :  
: :  
: :

THRASOS TOMMY:  
PETROU, :

Respondent. :  
: :  
\_\_\_\_\_ :

CERTIFICATE OF SERVICE

I, Richard Primoff, certify that on the 2nd day of June, 2014, I served a true and correct copy of the foregoing Division of Enforcement's Memorandum in Opposition to Respondent's Request for an Adjournment of the Hearing in this Proceeding, by UPS Overnight Delivery Service and email on the Court and counsel for Respondent as follows:

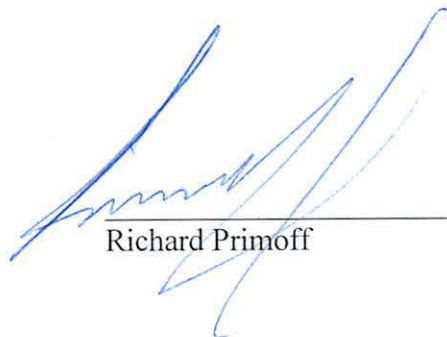
BY UPS OVERNIGHT DELIVERY SERVICE AND EMAIL

Andrew Rafalaf, Esq.  
Davidoff Hatcher & Citron LLP  
605 Third Avenue  
New York, NY 10158  
[akr@dhclegal.com](mailto:akr@dhclegal.com)  
Attorney for Respondents

BY UPS OVERNIGHT DELIVERY SERVICE AND EMAIL

The Honorable Cameron Elliot  
Administrative Law Judge  
U.S. Securities and Exchange Commission  
100 F Street, N.E., Mail Stop 2557  
Washington, DC 20549  
[ALJ@sec.gov](mailto:ALJ@sec.gov)

Dated: New York, New York  
June 2, 2015

  
\_\_\_\_\_  
Richard Primoff



**HARD COPY**



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
NEW YORK REGIONAL OFFICE  
200 VESEY STREET, SUITE 400  
NEW YORK, NEW YORK 10281-1022

WRITER'S DIRECT DIAL LINE  
RICHARD G. PRIMOFF  
TELEPHONE: (212) 336-0148  
FACSIMILE: (212) 336-1319  
PRIMOFFR@SEC.GOV

June 2, 2015

**VIA FAX (202-772-9324) and UPS OVERNIGHT DELIVERY SERVICE**

Mr. Brent J. Fields, Secretary  
Office of the Secretary  
Securities and Exchange Commission  
100 F. Street, N.E.  
Washington, D.C. 20549

**Re: In the Matter of Thrastos Tommy Petrou  
File No. 3-16217**

Dear Mr. Fields:

Enclosed please find for filing in the referenced proceeding a copy of the Division of Enforcement's Memorandum in Opposition to Respondent's Request for an Adjournment of the Hearing in this Proceeding. The original and three copies of the foregoing have also been sent to your attention by UPS overnight delivery under cover of this letter. Copies of the enclosed have been served today on Respondent's counsel, and the Court, by email and by UPS overnight delivery.

Respectfully submitted,

  
Richard G. Primoff

cc: The Hon. Cameron Elliot (By UPS and email)  
Andrew Rafalaf, Esq. (By UPS and email)

Enclosures