

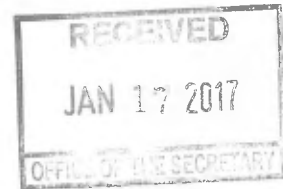
UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16937

In the Matter of

JAMES MICHAEL MURRAY,

Respondent.



DIVISION OF ENFORCEMENT'S MOTION TO DISMISS PETITIONER JAMES
MICHAEL MURRAY'S PETITION FOR REVIEW OF INITIAL DECISION

The Division of Enforcement (“Division”) hereby moves, pursuant to Commission Rule of Practice 180(c), to dismiss the Petition for Review of Initial Decision by Petitioner James Michael Murray for failure to file his opening brief in support of the petition by the December 23, 2016 deadline or thereafter.

Under Rule of Practice 180(c), 17 C.F.R. § 201.180(c), failure to make a required filing of a brief is grounds for dismissal, pursuant to Rule of Practice 155. *See Robert D. Tucker, No. 3-15735*, 2014 SEC LEXIS 1370 at *5 (Apr. 18, 2014) (dismissing review proceeding under Rule of Practice 180(c) for failure to make required filings). *See* 17 C.F.R. § 201.155 (providing for determination of proceeding against party). Under the facts here, dismissal of Petitioner Murray’s Petition for Review of Initial Decision is warranted.

The Initial Decision was issued May 10, 2016 and permanently barred Petitioner Murray from associating with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization. Initial Decision Release No. ID-1008 (May 10, 2016). As acknowledged in the Initial Decision, this was a follow-on proceeding based on Petitioner’s conviction in *United States v. Murray*, 12-cr-278 (N.D. Cal.), for wire fraud and related violations. *Id.* at 1.

On October 3, 2016, Petitioner filed a Motion for Review of Initial Decision. The motion was granted by Order dated October 24, 2016. This Order set a November 23, 2016 deadline for Petitioner Murray to file his opening brief in support of the petition for review. The Order further stated: **“Pursuant to Rule of Practice 180(c), failure to file a brief in support of the petition may result in dismissal of this review proceeding.”** (Emphasis added.) Petitioner Murray failed to meet this deadline, but requested a 60-day extension of time to file his supporting brief. On December 3, 2016, the Commission issued an Order extending the deadline by 30 days to

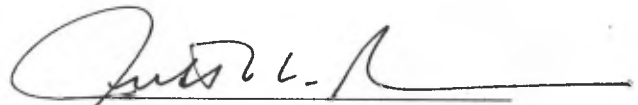
December 23, 2016, with the deadline for the Division's brief in opposition correspondingly extended to January 23, 2017.

The Commission's docket contains no entry indicating that Petitioner filed his supporting brief by the December 23, 2016 deadline or at any other time to the date of this motion. The Division has not been served with Petitioner's brief. Anderson Dec. ¶¶ 2-3. The brief is therefore 21 days late. During this period (and shortly after the filing deadline in this matter), on December 30, 2016, Petitioner nonetheless managed to file a notice of appeal of a United States District Court decision in a parallel action, *SEC v. Murray*, Case No. 12-cv-01288 (N.D. Cal.). Anderson Dec. ¶ 3 & Ex. A.

Accordingly, under the foregoing facts, the Division respectfully requests that Petitioner's Petition for Review of Initial Decision be dismissed with prejudice, pursuant to Rule of Practice 180(c). In the event, however, that Petitioner belatedly files his supporting brief and this motion is denied, the Division requests that it be granted an extension of 30 days from the date it receives a copy of Petitioner's brief in order to file its brief in opposition.

Dated: January 13, 2017

Respectfully submitted,



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