

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Rel. No. 63894 / February 11, 2011

Admin. Proc. File No. 3-14174

In the Matter of the Application of

THOMAS PRESTON OSBORN

For Review of Action Taken by

FINRA

ORDER EXTENDING
BRIEFING SCHEDULE

On January 3, 2011, the Commission received an application for review by Thomas Preston Osborn of action taken against him by the Financial Industry Regulatory Authority, Inc. ("FINRA"). As a result, the Commission issued an Order Scheduling Briefs on January 20, 2011, in which the Commission ordered that a brief in support of the application for review be filed by February 18, 2011, a brief in opposition be filed by March 21, 2011, and any reply brief be filed by April 4, 2011.

On February 3, 2011, FINRA filed a "Motion to Dismiss Thomas Preston Osborn's Application for Review and to Stay Briefing Schedule" with the Commission. In its motion, FINRA states that it and Osborn entered into a Letter of Acceptance, Waiver, and Consent ("AWC") on February 1, 2011, in which Osborn agreed to settle the matter for a sanction less than a bar. Because of the AWC, FINRA contends that "Osborn's application for review is moot" and thus requests that the Commission dismiss Osborn's application for review. FINRA also requests that the Commission stay briefing in this matter while its motion to dismiss is pending. Osborn has not filed an opposition to FINRA's motion, and FINRA states that "[c]ounsel for FINRA has spoken with Osborn and he does not oppose FINRA's motion."

We construe FINRA's request to be one for an extension of the briefing schedule pursuant to Commission Rule of Practice 161.¹ Under Commission Rule of Practice 161(b),² the factors the Commission must consider in determining whether to grant any extensions of time as relevant here are (i) the length of the proceeding to date, (ii) the number of postponements,

¹ 17 C.F.R. § 201.161.

² 17 C.F.R. § 201.161(b).

adjournments or extensions already granted, (iii) the stage of the proceedings at the time of the request, and (iv) any other such matters as justice may require.

FINRA requested an extension one month after Osborn filed his petition for review, and no prior extensions have occurred to date. Extending the briefing schedule in this matter would also promote administrative efficiency, since briefing would not be necessary if the Commission were to grant FINRA's motion to dismiss and, conversely, the proceeding would not be unduly delayed if the Commission were to deny FINRA's motion.

Accordingly, IT IS ORDERED that FINRA's request to extend the briefing schedule in this proceeding until the Commission rules on FINRA's motion to dismiss be, and it hereby is, granted.

For the Commission, by the Secretary, pursuant to delegated authority.

Elizabeth M. Murphy
Secretary