

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 70130 / August 7, 2013

INVESTMENT COMPANY ACT OF 1940
Release No. 30646 / August 7, 2013

Admin. Proc. File No. 3-14853

In the Matter of

OX TRADING, LLC,
OPTIONSXPRESS, INC., and
THOMAS E. STERN

ORDER GRANTING EXTENSION

I.

The Chief Administrative Law Judge, Brenda P. Murray, has moved, pursuant to Commission Rule of Practice 360(a)(3),¹ for an extension of time to issue the initial decision in this proceeding. For the reasons set forth below, we grant her motion.

On April 16, 2012, we issued an Order Instituting Administrative and Cease-and-Desist Proceedings against optionsXpress, Inc., a registered broker-dealer; Thomas E. Stern, chief financial officer of optionsXpress; and Jonathan I. Feldman, an optionsXpress customer (the "optionsXpress proceeding").² The optionsXpress proceeding OIP alleges, among other things, that optionsXpress willfully violated Rules 204 and 204T of Regulation SHO;³ that Stern caused and willfully aided and abetted these violations; that Feldman willfully violated Securities Act Section 17(a) and Exchange Act Section 10(b) and Rules 10b-5 and 10b-21;⁴ and that Stern and optionsXpress caused and willfully aided and abetted Feldman's violations.

¹ 17 C.F.R. § 201.360(a)(3).

² *optionsXpress, Inc.*, Exchange Act Release No. 66815, 2012 SEC LEXIS 1222 (Apr. 16, 2012).

³ 17 C.F.R. §§ 242.204 and 242.204T.

⁴ 15 U.S.C. § 77q(a); 15 U.S.C. § 78j(b); 17 C.F.R. §§ 240.10b-5 and 240.10b-21.

On April 19, 2012, we issued another Order Instituting Administrative and Cease-and-Desist Proceedings against OX Trading, LLC, an optionsXpress affiliate; optionsXpress; and Thomas E. Stern, chief financial officer of optionsXpress and chief financial officer, secretary, director, and chief compliance officer of OX Trading (the "OX Trading proceeding").⁵ The OX Trading proceeding OIP alleges that OX Trading was formed to "provide price improvement on orders from optionsXpress customers and to profit from those trades."⁶ It charges that OX Trading willfully violated Exchange Act Section 15(a), which makes it unlawful for any unregistered dealer to induce or attempt to induce any purchase or sale of a security, and Exchange Act Section 15(b)(8), which makes it unlawful to effect securities transactions unless such broker-dealer is a member of a registered national securities association or effects transactions solely on a national exchange of which it is a member.⁷ It also alleges that Stern and optionsXpress caused and willfully aided and abetted OX Trading's violations.

On January 16, 2013, Chief Administrative Law Judge Brenda P. Murray filed a motion stating that initial decisions for both proceedings were due on February 19, 2013 and requesting extensions pursuant to Commission Rule of Practice 360(a)(3). On May 1, 2013, we issued an order extending the time for both initial decisions to August 19, 2013.

On June 7, 2013, the Chief Law Judge issued a 105-page initial decision in the optionsXpress proceeding. The hearing in the optionsXpress proceeding ran for 17 days and generated a transcript of over 5,000 pages and over 300 exhibits.⁸ On July 1, 2013, the Chief Law Judge filed a motion requesting a second six-month extension for the OX Trading initial decision pursuant to Rule of Practice Rule 360(a)(3).

II.

We adopted Rules of Practice 360(a)(2) and 360(a)(3) to enhance the timely and efficient adjudication and disposition of Commission administrative proceedings by setting deadlines for administrative hearings.⁹ The rules further provide for extensions under certain circumstances, if supported by a motion from the Chief Administrative Law Judge and we determine that "additional time is necessary or appropriate in the public interest."¹⁰

In the July 1, 2013 motion, Chief Judge Murray notes that the OX Trading proceeding had been stayed pending the issuance of the 105-page optionsXpress initial decision on June 7,

⁵ *OX Trading, LLC*, Exchange Act Release No. 66831, 2012 SEC LEXIS 1251 (Apr. 19, 2012).

⁶ *Id.* at *3.

⁷ 15 U.S.C. §§ 78o(a) and 78o(b)(8).

⁸ Initial Decision Release No. 490, 2013 SEC LEXIS 1643, at *1 (June 7, 2013).

⁹ *See Adopting Release*, Securities Act Release No. 8240, 2003 SEC LEXIS 1404, at *2-3 (June 11, 2003).

¹⁰ 17 C.F.R. § 201.360(a)(3).

2013 and that the OX Trading hearing is now scheduled to begin on October 21, 2013. Her previous request noted the "size, complexity, and interrelationship of the two proceedings" and that the same counsel represent optionsXpress, Stern, and the Division of Enforcement, respectively, in both proceedings. Under the circumstances, it appears appropriate in the public interest to grant the Chief Administrative Law Judge's second extension request.

Accordingly, IT IS ORDERED that the deadline for filing the initial decision in this matter is extended to February 19, 2014.

By the Commission.

Elizabeth M. Murphy
Secretary