

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 71205 / December 30, 2013

ACCOUNTING AND AUDITING ENFORCEMENT ACT
Release No. 3524 / December 30, 2013

Admin. Proc. File No. 3-15168

In the Matter of

JOHN J. AESOPH, CPA, and
DARREN M. BENNETT, CPA

ORDER GRANTING
EXTENSION

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

On January 9, 2013, we issued an Order Instituting Administrative Proceedings ("OIP") against John J. Aesoph, CPA and Darren M. Bennett, CPA, auditors at KPMG, LLP.² The OIP alleges that Aesoph and Bennett repeatedly engaged in improper professional conduct, as defined in Section 4C of the Securities Exchange Act of 1934 and Rule 102(e)(1)(ii) of the Commission Rules of Practice,³ during their year-end 2008 audit of TierOne Corporation, a holding company for TierOne Bank (collectively, "TierOne"), by failing to subject TierOne's loan loss estimates to appropriate scrutiny.

The OIP directs the presiding law judge to issue an initial decision within 300 days of the date of service of the OIP. On November 26, 2013, Chief Judge Murray filed a motion stating that the initial decision is due on January 1, 2014, and requesting an extension pursuant to Commission Rule of Practice 360(a)(3).

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

¹ 17 C.F.R. § 201.360(a)(3).

² *John J. Aesoph, CPA*, Exchange Act Release No. 68605, 2013 WL 98717 (Jan. 9, 2013).

³ 15 U.S.C. § 78d-3 and 17 C.F.R. § 201.102(e)(1)(ii).

issuance of an initial decision.⁴ The rules further provide for deadline 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."⁵

In her motion, Chief Judge Murray states that it will not be possible for the presiding law judge to issue an initial decision by the due date. She notes that the hearing in this proceeding, which took place between October 7 and 11, 2013, and October 28 and 31, 2013, had been "postponed for over three months" because (i) the parties and the judge agreed to a delay because Bennett's long-time counsel was recovering "from a sudden medical condition;" and (ii) "uncertainty of a government shutdown in early October 2013." She also notes that the "nine-day hearing produced a record of over 2,300 pages of transcript and over 150 exhibits," and the post-hearing reply briefs are not due until December 19, 2013. Moreover, the presiding law judge is responsible for initial decisions in two proceedings with hearings that concluded in May and September 2013, one of which produced an extensive record. Under the circumstances, it is appropriate in the public interest to grant the Chief Administrative Law Judge's request and to extend the deadline for issuance of a decision in this matter.

Accordingly, IT IS ORDERED that the deadline for filing the initial decision in this proceeding is extended to July 1, 2014.

By the Commission.

Elizabeth M. Murphy
Secretary

⁴ See *Adopting Release*, Exchange Act Release No. 48018, 2003 WL 21354791, at *2 (June 11, 2003).

⁵ 17 C.F.R. § 201.360(a)(3).