

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934  
Release No. 82555 / January 19, 2018

Admin. Proc. File No. 3-17981

In the Matter of

SUNSHINE CAPITAL, INC. and  
JIMMY WAYNE ANDERSON

Petition filed: May 30, 2017  
Last brief received: July 5, 2017

ORDER DISMISSING PETITION TO TERMINATE TRADING SUSPENSION

We dismiss the petition filed by Sunshine Capital, Inc. and Jimmy Wayne Anderson to terminate the Commission's order suspending trading in Sunshine Capital's securities. The petition is untimely under Rule of Practice 550 because it was filed after the trading suspension's expiration.<sup>1</sup>

On April 11, 2017, we issued an order pursuant to Section 12(k)(1)(A) of the Securities Exchange Act of 1934 suspending trading in the securities of Sunshine Capital (SCNP / CIK No. 0000832637) for the period beginning April 12, 2017 and ending April 26, 2017.<sup>2</sup> More than a month later, on May 30, 2017, Sunshine Capital and Anderson, Sunshine Capital's Director of Regulatory Affairs, filed a petition to terminate the trading suspension.

On June 7, 2017, we issued an order directing the parties to address whether the petition should be dismissed as untimely.<sup>3</sup> We have on many occasions made clear that such a petition is

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<sup>1</sup> 17 C.F.R. § 201.550.

<sup>2</sup> *Sunshine Capital, Inc.*, Exchange Act Release No. 80435 (Apr. 11, 2017).

<sup>3</sup> *Sunshine Capital, Inc.*, Exchange Act Release No. 80874, 2017 WL 2461502 (June 7, 2017).

timely under Rule 550 *only* if it is filed while the trading suspension is still in effect.<sup>4</sup> As the Eleventh Circuit has recognized, insisting on compliance with the “deadline for submitting a petition advances important interests of efficiency and finality, and ensures a complete administrative record will be developed.”<sup>5</sup> Our June 7 order cautioned petitioners that their “failure to file a brief” addressing the timeliness of their Rule 550 petition could result in a “finding of waiver” or “dismissal of the proceeding.”<sup>6</sup> Petitioners did not respond.

Previously, we reserved the issue of “what, if any, circumstances would warrant Commission consideration of an otherwise untimely petition.”<sup>7</sup> We again have no occasion to decide the appropriate test for excusing an untimely Rule 550 petition because petitioners have not satisfied any potentially applicable standard and did not even attempt to provide an explanation for the late filing of their request.<sup>8</sup> The party seeking to excuse an untimely filing bears the burden of showing that it is entitled to such relief.<sup>9</sup> This is because that party will have better access to relevant information and will be in the “best position to overcome any skepticism arising out of the lateness of [its] challenge.”<sup>10</sup> Petitioners “failed to offer an acceptable excuse,

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<sup>4</sup> *Id.* at \*1 (citing *Accredited Business Consolidators, Corp.*, Exchange Act Release No. 73420, 2014 WL 5386875, at \*1 (Oct. 23, 2014), and *Global Green, Inc.*, Exchange Act Release No. 73855, 2014 WL 7184234, at \*1 (Dec. 16, 2014), *aff’d*, *Global Green, Inc. v. SEC*, 631 F. App’x 868 (11th Cir. 2016) (per curiam)); *see also* *Bravo Enters.*, Exchange Act Release No. 75775, 2015 WL 5047983, at \*5 & n.46 (Aug. 27, 2015).

<sup>5</sup> *Global Green, Inc.*, 631 F. App’x at 870; *see also* *Walter V. Gerasimowicz*, Exchange Act Release No. 72133, 2014 WL 1826641, at \*2 (May 8, 2014) (“strict compliance with filing deadlines facilitates finality and encourages parties to act timely in seeking relief”), *appeal dismissed*, DE #33, Summary Order, No. 14-2392 (2d Cir. Nov. 6, 2014).

<sup>6</sup> *Sunshine Capital, Inc.*, 2017 WL 2461502, at \*2 (citing Rule of Practice 180, 17 C.F.R. § 201.180).

<sup>7</sup> *Global Green, Inc.*, 2014 WL 7184234, at \*1 n.9.

<sup>8</sup> In another order also issued today, we likewise dismiss a late Rule 550 petition and there discuss these timeliness considerations in more detail. *See Helpeo, Inc.*, Exchange Act Release No. 82551, 2018 WL \_\_\_\_\_ (Jan. 19, 2018).

<sup>9</sup> *See, e.g., United States v. Hartsock*, 347 F.3d 1, 10 (1st Cir. 2003); *Boos v. Runyon*, 201 F.3d 178, 185 (2d Cir. 2000); *Phillips v. USPS*, 695 F.2d 1389, 1390 (Fed. Cir. 1982); *United States v. Lucas*, 597 F.2d 243, 245 (10th Cir. 1979).

<sup>10</sup> *See, e.g., Hartsock*, 347 F.3d at 10 (quotation marks omitted); *see also In re Canopy Fin. Inc.*, 708 F.3d 934, 937 (7th Cir. 2013) (“litigants need to supply those details” that might “excuse [their] failure to respond”).

or any excuse at all, for [their] failure” to file a timely Rule 550 petition.<sup>11</sup> We see no reason not to enforce the Rule 550 deadline and accordingly dismiss the untimely petition.<sup>12</sup>

By the Commission.

Brent J. Fields  
Secretary

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<sup>11</sup> *Park Corp. v. Lexington Ins. Co.*, 812 F.2d 894, 896 (4th Cir. 1987) (explaining that the party seeking relief from a missed deadline must “specif[y] any facts or circumstances that would justify relief”).

<sup>12</sup> We also dismiss the petition on the independent ground of petitioners’ non-compliance with our June 7 order. *See supra* note 6; Rule of Practice 180(c), 17 C.F.R. § 201.180(c); *accord Hubbard v. MSPB*, 605 F.3d 1363, 1366 (Fed. Cir. 2010) (holding that the “failure even to respond to the [agency’s] order directing [the petitioner] to file evidence and argument demonstrating that the appeal was timely filed or that good cause exists” warranted dismissal of appeal) (internal quotation marks omitted).