

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 85284 / March 11, 2019

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4029 / March 11, 2019

Admin. Proc. File No. 3-18994

In the Matter of

JOSEPH S. AMUNDSEN, CPA,
MICHAEL T. REMUS, CPA, AND
MICHAEL REMUS CPA.

ORDER

On February 8, 2019, the Commission issued an order (the “OIP”) instituting administrative and cease-and-desist proceedings pursuant to Sections 4C(a)(2) and (a)(3) and 21C of the Securities Exchange Act of 1934 and Rule 102(e)(1)(ii) and (iii) of the Commission’s Rules of Practice against Joseph S. Amundsen, CPA, Michael T. Remus, CPA, and Michael Remus CPA.¹ In compliance with the statutory provision governing cease-and-desist proceedings, the OIP specified that a “public hearing before the Commission for the purposes of taking evidence . . . shall be convened not earlier than 30 days and not later than 60 days” from service of the OIP.² The statute also provides that “an earlier or later date” for the hearing may be “set by the Commission with the consent of any respondent so served.”³

On March 5, 2019, respondents Michael T. Remus, CPA and Michael Remus CPA (“Remus Respondents”) filed a motion seeking to extend their time for filing an answer to the OIP to March 20, 2019. The Remus Respondents assert that “they were never properly served with” the OIP and that they should not be required to file an answer “in the midst of a genuine dispute over service.” They represent that the Division of Enforcement and the other respondent, Joseph S. Amundsen, CPA, “agree[] to an extension of time for the Remus Respondents to file their Answer but have not agreed as to the timing of the Hearing in this matter.” The Remus Respondents “contend that the Hearing should be held no later than sixty (60) days after the responsive pleadings are served and filed” but, according to them, the Division does not agree. The motion does not state Amundsen’s position on the timing of the hearing.

¹ Exchange Act Release No. 85081, 2019 WL 497277 (Feb. 8, 2019).

² *Id.* at *8.

³ 15 U.S.C. § 78u-3(b).

On March 7, 2019, the Division filed a response to the motion for an extension. The Division confirms that it “does not object” to the requested extension of time for the Remus Respondents to file their answer. The Division does, however, object to scheduling a date for the hearing until the respondents have filed answers and a prehearing conference has been conducted. Finally, the Division represents that Amundsen “has separately communicated . . . his consent that the hearing in this matter be held after the 60-day statutory deadline.”

Rule of Practice 161(a) authorizes the Commission to extend time limits upon a showing of good cause.⁴ In evaluating a request for an extension, Rule of Practice 161(b) provides that the Commission should consider the length of the proceeding to date, the number of extensions already granted, the stage of the proceedings, the impact of an adjournment on the ability to complete the proceeding in a timely fashion, and other such matters as justice may require.⁵

The Remus Respondents state that extending the time to file their answer “will not have a material impact on the ability to complete the proceeding in a timely fashion.” Based on the representations in the Remus Respondents’ motion and the Division’s response, it appears that although the parties have not agreed on the timing of the hearing and the Remus Respondents have not agreed to hold the hearing more than 60 days after the filing of respondents’ answers all respondents consent to the hearing being held after the 60-day statutory deadline from service of the OIP. As such, extending the Remus Respondents’ time to file their answer will not have a material impact on the ability to complete the proceeding in a timely fashion.

Accordingly, it is ORDERED that the motion is **CONDITIONALLY GRANTED**, and that the Remus Respondents’ time for filing an answer to the OIP is extended to March 20, 2019, unless Amundsen disputes the Remus Respondents’ representation regarding his agreement to an extension of time for answering the OIP or the Division’s representation regarding his consent to a later hearing date, and files an objection by March 18, 2019.

To date, Amundsen has not filed an answer to the OIP or sought an extension for doing so. According to the Division, Amundsen has “advised” that his answer is a “Claim for Disparagement” filed in the U.S. Court of Appeals for the Ninth Circuit on February 19, 2019. The document in question is not directed to the Commission and does not comply with Rule of Practice 220; among other things, it does not “specifically admit, deny, or state that the party does not have, and is unable to obtain, sufficient information to admit or deny each allegation” in the OIP.⁶ It generally asserts that there “have been no securities violations of any kind by Amundsen” and that it is “not a securities violation for someone who has accepted a settlement to have a family.” It is ORDERED that Amundsen file an answer in compliance with Rule of Practice 220 by March 18, 2019. If Amundsen fails to do so, he will be deemed to have filed an answer denying all of the allegations in the OIP.

⁴ 17 C.F.R. § 201.161(a).

⁵ 17 C.F.R. § 201.161(b).

⁶ 17 C.F.R. § 201.220(c).

It is FURTHER ORDERED that the parties shall conduct a prehearing conference pursuant to Rule of Practice 221 by April 3, 2019. The parties may meet in person or participate by telephone or other remote means. By April 5, 2019, they shall promptly file a statement reporting the parties' positions with respect to the matters listed in Rule of Practice 221(c) and advising the Commission of any agreements reached at said conference.⁷ The Commission will specify further procedures by subsequent order.

It is FURTHER ORDERED that the Commission's March 1, 2019 order is hereby vacated.⁸

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Acting Secretary

⁷ 17 C.F.R. § 201.221(c).

⁸ *Joseph S. Amundsen, CPA*, Exchange Act Release No. 85237, 2019 WL 995509 (Mar. 1, 2019).