

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 93911 / January 5, 2022

Admin. Proc. File Nos. 3-20239, 3-20242

In the Matters of  
  
JOCELYN MURPHY  
and  
MICHAEL SEAN MURPHY

ORDER DIRECTING ADDITIONAL BRIEFING

On March 5, 2021, the Securities and Exchange Commission (“Commission”) issued an Order Instituting Proceedings (“OIP”) pursuant to Section 15(b) of the Securities Exchange Act of 1934 against Jocelyn Murphy.<sup>1</sup> On March 12, 2021, the Commission issued an OIP pursuant to Exchange Act Section 15(b) against Michael Sean Murphy.<sup>2</sup> On April 6, 2021, Respondents filed answers to the OIPs. On May 7, 2021, the Commission issued an order consolidating the proceedings.<sup>3</sup>

On July 16, 2021, the Division of Enforcement filed a motion for summary disposition against both Respondents that requested that the Commission bar them from the securities industry. Rule of Practice 250(b) provides that a motion for summary disposition may be made after a respondent’s answer has been filed and documents have been made available to the respondent for inspection and copying pursuant to Rule of Practice 230.<sup>4</sup> After the Division filed its motion, a briefing schedule was established for the Division’s motion, which noted that Respondents had filed answers to the OIPs and requested that the parties notify the Commission if documents had not been made available to Respondents pursuant to Rule 230.<sup>5</sup>

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<sup>1</sup> *Jocelyn Murphy*, Exchange Act Release No. 91270, 2021 WL 842614 (Mar. 5, 2021).

<sup>2</sup> *Michael Sean Murphy*, Exchange Act Release No. 91310, 2021 WL 950025 (Mar. 12, 2021).

<sup>3</sup> *Jocelyn Murphy*, Exchange Act Release No. 91797, 2021 WL 1835414 (May 7, 2021).

<sup>4</sup> 17 C.F.R. §§ 201.230, .250(b).

<sup>5</sup> *See Jocelyn Murphy*, Exchange Act Release No. 92459, 2021 WL 3109828, at \*1 n.5 (July 21, 2021).

On October 20, 2021, a revised briefing schedule for the motion for summary disposition was issued.<sup>6</sup> On October 27, 2021, Respondents filed an opposition to the Division's motion in which they asserted that the Division's motion was premature because "no documents have been made available to Respondents for inspection and copying by the Division in these administrative proceedings pursuant to Rule 230 of the Commission's Rules of Practice." On November 9, 2021, the Division disputed this, filing a reply brief in which it stated that Respondents had received the non-privileged documents in the investigative file in 2019 and 2020 when the Division produced those documents to them in prior litigation. But the Division also stated that Respondents had sent it two hard drives on November 3, 2021, and that once it received them it would "load the previously produced investigative file and return the hard drives to Respondents." Given the Division's statements, the passage of time, and the lack of additional submissions from the parties, it appears that, at least by the date of this order, documents have been made available to Respondents for inspection and copying pursuant to Rule of Practice 230.

Under the particular circumstances at issue here, it is appropriate to provide Respondents an opportunity to present any additional arguments in opposition to the Division's motion that they may contend they were unable to make at the time they filed their opposition brief because of the timing of the Division's production pursuant to Rule of Practice 230, and to provide the Division an opportunity to respond to those arguments.

Accordingly, it is ORDERED that by February 2, 2022, Respondents shall file any additional brief of no more than 2,500 words opposing the Division of Enforcement's motion for summary disposition based on arguments that they contend they were not able to make earlier due to the timing of the Division's production to them and that by February 16, 2022, the Division of Enforcement may file an additional brief of no more than 2,500 words responding to any such brief that Respondents may file.

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

Vanessa A. Countryman  
Secretary

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<sup>6</sup> See *Jocelyn Murphy*, Exchange Act Release No. 93393, 2021 WL 4894888, at \*1 (Oct. 20, 2021).