

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 94158 / February 4, 2022

Admin. Proc. File No. 3-20550

In the Matter of  
  
CALMARE THERAPEUTICS INCORPORATED

ORDER GRANTING MOTION FOR EXTENSION OF TIME

On September 14, 2021, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Calmare Therapeutics Incorporated (“Respondent”), pursuant to Section 12(j) of the Securities Exchange Act of 1934.<sup>1</sup> On September 24, 2021, Respondent filed its answer. The parties held a prehearing conference on October 21, 2021, and then submitted separate statements regarding the prehearing conference.

On December 2, 2021, the Division filed a motion for summary disposition pursuant to Commission Rule of Practice 250(b) that requested that the Commission revoke the registration of Respondent’s securities.<sup>2</sup> On December 6, 2021, the Commission issued a scheduling order providing that the Respondent’s opposition was due by January 5, 2022, and the Division’s reply was due by January 19, 2022.<sup>3</sup> On January 3, 2022, Respondent filed a motion for an extension of time to oppose the Division’s motion for summary disposition.

In its motion, Respondent “request[ed] that the Commission allow an extension of time that enforces the parties’ original agreement that Calmare submit its expert disclosures by January 25, 2022, and thereafter establish a briefing schedule.” While taking no view as to the existence or validity of any agreement between the parties, we note that Respondent submitted

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<sup>1</sup> *Calmare Therapeutics Inc.*, Exchange Act Release No. 92977, 2021 WL 4202234 (Sept. 14, 2021).

<sup>2</sup> *See* 17 C.F.R. § 201.250(b) (providing that summary disposition is appropriate if “there is no genuine issue with regard to any material fact and . . . the movant is entitled to summary disposition as a matter of law”). Motions for summary disposition may be made under Rule 250(b) 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. *Id.*

<sup>3</sup> *Calmare Therapeutics Inc.*, Exchange Act Release No. 93724, 2021 WL 5811874 (Dec. 6, 2021).

its expert disclosures on January 25, 2022, and supplemented them on January 28, 2022.<sup>4</sup> Accordingly, Respondent's motion for an extension of time is GRANTED insofar as it sought an extension of time for Respondent to file its opposition to the Division's motion for summary disposition until after Respondent had submitted its expert disclosures.

We now extend the schedule for briefing on the Division's motion for summary disposition. This schedule again provides the parties with more time than generally provided for in Rule 154(b) for the filing of opposition and reply briefs.<sup>5</sup> Accordingly, IT IS ORDERED that Respondents' opposition is due by March 7, 2022 and the Division's reply is due by March 21, 2022.<sup>6</sup>

An opposition to a motion for summary disposition should precisely specify in the brief the basis for that opposition, identify with particularity the material factual issues in dispute, and address relevant commission precedent.<sup>7</sup> Pursuant to Rule of Practice 180(c), a party's failure to comply with this order may result in the Commission's determination of the matter at issue against that party, entry of a default, dismissal of the proceeding, or the prohibition of the introduction of evidence or the exclusion of testimony regarding the matter at issue.<sup>8</sup>

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

Vanessa A. Countryman  
Secretary

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<sup>4</sup> On February 2, 2022, the Division filed a motion to strike the proposed expert testimony from Respondent's witnesses.

<sup>5</sup> See 17 C.F.R. § 201.154(b) (providing that briefs in opposition to a motion shall be filed within five days after the service of the motion and reply briefs within three days after the service of the opposition).

<sup>6</sup> Attention is called to Rules of Practice 150-153, 17 C.F.R. §§ 201.150-153, with respect to form and service, and Rule of Practice 250(e) and (f), 17 C.F.R. § 250(e) and (f), with respect to length limitations. See also *In re: Pending Admin. Proceedings*, Exchange Act Release No. 88415, 2020 WL 1322001 (stating that "pending further order of the Commission, all reasonable requests for extensions of time will not be disfavored as stated in Rule 161" (citing 17 C.F.R. § 201.161(b)(1))).

<sup>7</sup> See, e.g., *United Dev. Funding III, L.P.*, Exchange Act Release No. 85197, 2019 WL 936699, at \*1-2 & nn.6-9 (Feb. 26, 2019) (discussing appropriateness of summary disposition in Section 12(j) proceeding); *Absolute Potential, Inc.*, Exchange Act Release No. 71866, 2014 WL 1338256, at \*5-8 (Apr. 4, 2014) (discussing types of factual disputes that may be relevant in ruling on summary disposition in Section 12(j) proceeding).

<sup>8</sup> 17 C.F.R. § 201.180(c).