

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9736 / March 9, 2015

INVESTMENT ADVISERS ACT OF 1940
Release No. 4041 / March 9, 2015

INVESTMENT COMPANY ACT OF 1940
Release No. 31500 / March 9, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-15574

In the Matter of
HARDING ADVISORY LLC and
WING F. CHAU

ORDER GRANTING IN PART
MOTION FOR EXTENSION OF
TIME AND DENYING MOTION TO
EXCEED WORD LIMIT

On February 2, 2015, Harding Advisory LLC, a registered investment adviser, and its principal, Wing F. Chau (collectively, "Respondents"), filed a timely petition for review of an initial decision, which found that Respondents violated Section 17(a) of the Securities Act of 1933 and Section 206 of the Investment Advisers Act of 1940.¹ The Division of Enforcement filed a timely cross petition for review.

On February 23, 2015, the Commission issued an order granting the parties' petitions for review and scheduling briefs. Pursuant to Rule of Practice 450(a),² the Commission ordered that the parties file opening briefs by March 25, 2015; opposition briefs by April 24, 2015; and any reply briefs by May 8, 2015.³ On March 2, 2015, Respondents filed the instant motion for an extension of those dates, asking that the parties be allowed to file opening briefs by May 1, 2015; opposition briefs by June 1, 2015; and any reply briefs by June 15, 2015. Respondents also ask to exceed the word limit set forth in the Commission's Rule of Practice 450(c).⁴ They base their motion on the supposed size and complexity of the case "as well as professional and personal

¹ *Harding Advisory LLC*, Initial Decision Release No. 734, 2015 WL 137642 (Jan. 12, 2015).

² 17 C.F.R. § 201.450(a) (setting standard for establishing dates in the briefing schedule).

³ *See Harding Advisory LLC*, Securities Act Release No. 9731, 2015 WL 755825, at *1 (Feb. 23, 2015).

⁴ 17 C.F.R. § 201.450(c).

scheduling conflicts, including counsels' move to a new law firm on February 9, 2015, and the upcoming wedding of one of the principal lawyers on the case."

The Division opposes Respondents' request. In doing so, the Division observes that the present briefing schedule gives Respondents seven weeks from the date of their petition for review in which to submit an opening brief. The Division argues that more time is unnecessary because Respondents' appeal "will largely be a rehash of issues already briefed and relate to a record that has already been the subject of extensive review." And if Respondents "truly believed that more time and length was necessary," the Division contends, "they could have included that request in their petition for review."

The Commission's order scheduling briefs in this matter states that "[r]equests for extensions of time to file briefs are disfavored."⁵ Rule of Practice 450(c) states similarly that "[m]otions to file briefs in excess of [the Rule 450(c) word] limitations are disfavored."⁶ Under the circumstances here, it does not appear that Respondents have provided sufficient justification to exceed the specified word limit, particularly given that the briefing order allows Respondents to file three briefs (an opening, opposition, and reply brief) rather than the usual two (opening and reply brief) contemplated by Rule of Practice 450(a).⁷ Respondents' request for an extensive delay in briefing also does not appear warranted. Nevertheless, it appears appropriate, given the conflicts identified, to grant a brief, one-week extension to the dates for filing opening briefs.

Accordingly, it is ORDERED that Respondents' motion for additional time in which to file briefs is granted to the extent that Respondents' and the Division's briefs in support of their petitions for review shall be filed by April 1, 2015, that the parties' briefs in opposition shall be filed by May 1, 2015, and that the parties shall file any reply briefs by May 15, 2015;

⁵ See *Harding Advisory LLC*, 2015 WL 755825, at *1 n.5.

⁶ 17 C.F.R. § 201.450(c).

⁷ Attention is called to Rule of Practice 450(c), 17 C.F.R. § 201.450(c), which states that, when calculating the length of parties' briefs, "[t]he number of words shall include pleadings incorporated by reference." The only exception to this calculation are those "pages containing the table of contents, table of authorities, and any addendum that consists *solely* of copies of applicable cases, pertinent legislative provisions or rules, and exhibits." *Id.* (emphasis added).

It is further ORDERED that Respondents' motion to exceed the word limit is denied.

For the Commission, by its Secretary, pursuant to delegated authority.

Brent J. Fields
Secretary