

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933

Release No. 9710 / January 26, 2015

SECURITIES EXCHANGE ACT OF 1934

Release No. 74139 / January 26, 2015

INVESTMENT ADVISERS ACT OF 1940

Release No. 4007 / January 26, 2015

INVESTMENT COMPANY ACT OF 1940

Release No. 31429 / January 26, 2015

Admin. Proc. File No. 3-15514

In the Matter of

DONALD J. ANTHONY, JR.,  
FRANK H. CHIAPPOINE,  
RICHARD D. FELDMANN,  
WILLIAM P. GAMELLO,  
ANDREW G. GUZZETTI,  
WILLIAM F. LEX,  
THOMAS E. LIVINGSTON,  
BRIAN T. MAYER,  
PHILIP S. RABINOVICH, and  
RYAN C. ROGERS

ORDER GRANTING  
SECOND MOTION FOR  
EXTENSION

Chief Administrative Law Judge Brenda P. Murray has moved, pursuant to Commission Rule of Practice 360(a)(3),<sup>1</sup> for an extension of thirty additional days to issue the initial decision in this proceeding.<sup>2</sup> As discussed below, we grant her motion.

<sup>1</sup> 17 C.F.R. § 201.360(a)(3).

<sup>2</sup> We previously granted an extension request in this proceeding. *Donald J. Anthony, Jr.*, Exchange Act Release No. 72788 (Aug. 7, 2014).

On September 23, 2013, we issued an Order Instituting Proceedings ("OIP") against ten persons associated with McGinn, Smith & Co., Inc. ("MS & Co." or the "Firm"), a former registered broker-dealer and investment adviser.<sup>3</sup> The OIP alleges, among other things, that nine of MS & Co.'s top-selling brokers ignored numerous red flags in selling millions of dollars of securities in private placement offerings created and controlled by the Firm's founders in violation of registration provisions.<sup>4</sup> It further alleges related violations of antifraud provisions<sup>5</sup> and supervisory failures.<sup>6</sup>

The OIP directed that an initial decision be issued within 300 days of the date of service of the OIP. On August 7, 2014, we granted the Chief Administrative Law Judge's first motion requesting an extension of time until January 26, 2015 to file the initial decision based in part on the length and complexity of the proceeding.<sup>7</sup> On December 16, 2014, Chief Judge Murray requested a second extension based on timing conflicts with initial decision deadlines for other pending complex matters in the Office of Administrative Law Judges.<sup>8</sup>

We adopted Rules of Practice 360(a)(2) and 360(a)(3) to enhance the timely and efficient adjudication and disposition of Commission administrative proceedings by setting deadlines for issuance of initial decisions.<sup>9</sup> The rules further provide for extensions under certain circumstances, if supported by a motion from the Chief Administrative Law Judge and we determine, as in this case, that "additional time is necessary or appropriate in the public interest."<sup>10</sup>

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<sup>3</sup> *Donald J. Anthony, Jr.*, Securities Exchange Act Release No. 70473, 2013 WL 5306694 (Sept. 23, 2013).

<sup>4</sup> Sections 5(a) and 5(c) of the Securities Act of 1933, 15 U.S.C. §§ 77e(a), 77e(c).

<sup>5</sup> Securities Act Section 17(a), 15 U.S.C. § 77q(a); Securities Exchange Act of 1934 Section 10(b), 15 U.S.C. § 78j(b) and Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5.

<sup>6</sup> Exchange Act Section 15(b)(4), (b)(6), 15 U.S.C. §§ 78o(b)(4), 78o(b)(6).

<sup>7</sup> *See note 2, infra.*

<sup>8</sup> Chief Judge Murray supports her request by stating "[i]t will be impossible to meet these other deadlines, keep up with normal case assignments, and meet the January 26, 2015, *Anthony* deadline."

<sup>9</sup> *See Adopting Release*, Exchange Act Release No. 48018, 2003 WL 21354791, at \*2 (June 11, 2003).

<sup>10</sup> 17 C.F.R. § 201.360(a)(3).

Accordingly, IT IS ORDERED that the deadline for filing the initial decision in this proceeding is extended to February 25, 2015.

By the Commission.

Brent J. Fields  
Secretary