

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940  
Release No. 4166 / August 11, 2015

INVESTMENT COMPANY ACT OF 1940  
Release No. 31749 / August 11, 2015

ADMINISTRATIVE PROCEEDING  
File No. 3-15519

In the Matter of

TIMBERVEST, LLC, JOEL BARTH  
SHAPIRO, WALTER WILLIAM ANTHONY  
BODEN, III, DONALD DAVID ZELL, JR., and  
GORDON JONES II

ORDER REQUESTING  
ADDITIONAL BRIEFING

On May 20, 2015, Respondents filed a Motion to Allow Submission of Additional Evidence and for Leave to Adduce Additional Evidence. They assert that additional evidence is needed to resolve their claim that the Commission's "administrative forum lacks impartiality." In support of their Motion, Respondents identify a May 6, 2015 newspaper article in which a former administrative law judge of the Commission alleges that she experienced pressure from the Chief ALJ to rule in favor of the Division of Enforcement during her tenure at the Commission.<sup>1</sup> Respondents acknowledge that the former ALJ "departed the Commission years before the hearing in this matter," which a different ALJ presided over. The Commission has deferred ruling on the Motion, which remains pending.<sup>2</sup>

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<sup>1</sup> Jean Eaglesham, *SEC Wins with In-House Judges*, THE WALL STREET JOURNAL (May 6, 2015).

<sup>2</sup> *Timbervest, LLC*, Investment Advisers Act Release No. 4103, 2015 WL 3507107, at \*1 at n.3 (June 4, 2015).

On August 7, 2015, the Inspector General of the U.S. Securities and Exchange Commission released an Interim Report of Investigation into allegations of bias with respect to the Commission's ALJs.<sup>3</sup>

It is ORDERED that Respondents may file a supplemental brief, not to exceed ten double-spaced pages, by August 18, 2015 addressing any matters that they believe may be pertinent in view of the Interim Report of Investigation, including whether official notice should be taken of the Interim Report and/or whether the Interim Report should be adduced as additional evidence.<sup>4</sup> The Division may file a response, not to exceed ten double-spaced pages, by August 25, 2015.

This order and all subsequent filings thereto shall be served forthwith by mail and by electronic mail. No requests for extension will be entertained and no other submissions will be permitted.

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

Brent J. Fields  
Secretary

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<sup>3</sup> Office of Inspector General, U.S. Securities and Exchange Commission, *Interim Report of Investigation*, Case #15-ALJ-0482-I (Aug. 7, 2015), available at <http://www.sec.gov/oig/reportspubs/oig-sec-interim-report-investigation-admin-law-judges.pdf>.

<sup>4</sup> See Rules of Practice 323 and 452, 17 C.F.R. §§ 201.323, 201.452. This order is not to be construed as expressing the Commission's views as to the disposition of Respondents' Motion, the materiality of the discovery sought therein, or the merits of Respondents' underlying claims or defenses.