

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 4658 / March 6, 2017

Admin. Proc. File No. 3-16937

In the Matter of

JAMES MICHAEL MURRAY

ORDER DISMISSING REVIEW PROCEEDING AND NOTICE OF FINALITY

On May 10, 2016, an administrative law judge issued an initial decision barring James Michael Murray from associating with any investment adviser, broker, dealer, municipal securities dealer, municipal adviser, transfer agent, or nationally recognized statistical rating organization following Murray's conviction for 16 counts of wire fraud, 4 counts of money laundering, 2 counts of aggravated identity theft, and a single count of contempt of court.¹ Murray, who is incarcerated, claimed he did not receive the initial decision until July 18, and filed a motion to correct manifest error on August 3 under our Rule of Practice 111(h).² The law judge denied Murray's motion as untimely in an order dated August 22, 2016.

On September 12, 2016, Murray deposited with prison authorities a petition for review of the initial decision. Our Office of the Secretary received it on October 3, 2016. Acting pursuant to delegated authority and Rule of Practice 411,³ our Office of the General Counsel issued an order granting the petition for review on October 24, 2016. That order directed Murray to file his opening brief in support of the petition for review by November 23, 2016. The order also reminded Murray that pursuant to Rule of Practice 180(c),⁴ "failure to file a brief in support of the petition may result in dismissal of this review proceeding."

Rather than file his brief by the November 23, 2016 deadline, Murray requested an extension of time. The Office of the Secretary granted him an additional 30 days, until December 23, 2016, in which to file his opening brief.

¹ *United States v. James Murray*, Case No. 12-cr-00278-EMC (N.D. Cal.).

² 17 C.F.R. § 201.111(h).

³ 17 C.F.R. § 201.411.

⁴ 17 C.F.R. § 201.180(c).

Murray has not filed that brief. On January 17, 2017, the Division of Enforcement filed a motion to dismiss Murray's petition for review. Murray had five days to respond to the Division's motion to dismiss under Rule of Practice 154(b),⁵ but he has not done so.

It appears that Murray has abandoned his appeal. Given the time that has elapsed, the Office of the Secretary should have by now received any brief that Murray timely deposited with the prison authorities for forwarding and filing. The Division's motion to dismiss also put Murray on notice that his opening brief was never received, yet he did not respond to that motion. And it appears that there is no obstacle to Murray diligently pursuing his appeal, because a person acting for Murray deposited with prison authorities on December 23, 2016—the same day as his deadline here—a notice of appeal in a parallel action against Murray in federal district court.⁶ Under the circumstances, it is appropriate to dismiss this appeal.⁷

Accordingly, it is ORDERED that this review proceeding be, and it hereby is, dismissed.

We also hereby give notice that the May 10, 2016 initial decision of the administrative law judge has become the final decision of the Commission with respect to James Michael Murray in accordance with Rule of Practice 360(a)(2).⁸ The order contained in that decision barring James Michael Murray from association with any investment adviser, broker, dealer, municipal securities dealer, municipal adviser, transfer agent, or nationally recognized statistical rating organization is hereby declared effective.

By the Commission.

Brent J. Fields
Secretary

⁵ 17 C.F.R. § 201.154(b).

⁶ See Notice of Appeal, Proof of Service, ECF No. 145 at 2, *SEC v. Murray*, No. 12-cv-1289 (N.D. Cal. filed Dec. 30, 2016).

⁷ See, e.g., *Adam Harrington a/k/a Adam Rukdeschel and Adam Harrington Rukdeschel*, Exchange Act Release No. 70149, 2013 WL 4027264 (Aug. 8, 2003).

⁸ 17 C.F.R. § 201.360(a)(2).