

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 85717 / April 25, 2019

ACCOUNTING AND AUDITING ENFORCEMENT  
Release No. 4044 / April 25, 2019

Admin. Proc. File No. 3-18994

In the Matter of

JOSEPH S. AMUNDSEN, CPA,  
MICHAEL T. REMUS, CPA, AND  
MICHAEL REMUS CPA.

ORDER

On February 8, 2019, the Commission issued an order (the “OIP”) instituting administrative and cease-and-desist proceedings pursuant to Sections 4C(a)(2) and (a)(3) and 21C of the Securities Exchange Act of 1934 and Rule 102(e)(1)(ii) and (iii) of the Commission’s Rules of Practice against Joseph S. Amundsen, CPA, Michael T. Remus, CPA, and Michael Remus CPA (collectively, Respondents).<sup>1</sup> In compliance with the statutory provision governing cease-and-desist proceedings, the OIP specified that a “public hearing before the Commission for the purposes of taking evidence . . . shall be convened not earlier than 30 days and not later than 60 days” from service of the OIP.<sup>2</sup> The statute also provides that “an earlier or later date” for the hearing may be “set by the Commission with the consent of any respondent so served.”<sup>3</sup>

Respondents were served with the OIP on February 11, 2019. Amundsen consented that the hearing be held after the 60-day statutory deadline, but has not proposed a specific date.<sup>4</sup> The other two respondents, Michael T. Remus, CPA, and Michael Remus CPA (the “Remus Respondents”), agreed with the Division of Enforcement that the hearing should begin on June 17, 2019. The Commission finds that it would serve the interests of justice and not result in

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<sup>1</sup> Exchange Act Release No. 85081, 2019 WL 497277 (Feb. 8, 2018).

<sup>2</sup> *Id.* at \*8.

<sup>3</sup> 15 U.S.C. § 78u-3(b).

<sup>4</sup> Amundsen waived any right to an earlier hearing by failing to timely dispute the Division of Enforcement’s representation that he separately communicated his “consent that the hearing in this matter be held after the 60-day statutory deadline.” *Joseph S. Amundsen, CPA*, Exchange Act Release No. 85284, 2019 WL 1116195, at \*1-2 (Mar. 11, 2019).

prejudice to any party to specify further procedures in this matter.<sup>5</sup> To the extent conflicting, the procedures specified in this order supersede those specified in the OIP.

Accordingly, IT IS ORDERED that a public hearing for purposes of taking evidence on the questions set forth in Section III of the OIP shall be convened before an Administrative Law Judge on June 17, 2019, as provided by Rule of Practice 110.<sup>6</sup> The Chief Administrative Law Judge shall by rotation to the extent practicable designate an ALJ to be the presiding hearing officer.<sup>7</sup> The presiding hearing officer shall specify the time and place of the hearing by further order. The presiding hearing officer shall exercise the full powers conferred by the Commission's Rules of Practice and the Administrative Procedure Act.<sup>8</sup>

Attention is called to Rule of Practice 151(b) and (c), providing that when, as here, the Commission has assigned a case to a hearing officer, all papers shall be filed with the Office of the Secretary (with a copy provided to the hearing officer) and that all motions, objections, or applications shall be directed to and decided by the presiding hearing officer.<sup>9</sup> This includes, without limitation, filings under Rules of Practice 210, 221, 222, 230, 231, 232, 233, and 250.<sup>10</sup> The parties should comply with the hearing officer's instructions regarding the provision of electronic courtesy copies.

IT IS FURTHER ORDERED that the proposed procedural schedule set forth in the joint report filed by the Division of Enforcement and the Remus Respondents on April 5, 2019 following their pre-hearing conference is adopted. Any request for modification of the schedule shall be directed to and decided by the presiding hearing officer. That schedule applies to Amundsen notwithstanding his refusal to participate in the pre-hearing conference.

Amundsen contends that this administrative proceeding "should wait until" there is a ruling in a separate civil action in the U.S. District Court for the Northern District of California, where there is a pending motion to find Amundsen in contempt of a 1983 injunction.<sup>11</sup> But Amundsen has not established—or even attempted to establish—that a stay of this proceeding is

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<sup>5</sup> Rule of Practice 100(c), 17 C.F.R. § 201.100(c).

<sup>6</sup> 17 C.F.R. § 201.110. The hearing officer shall have authority to give effect to an agreement by all respondents to a different hearing date, but absent such agreement the public hearing must commence by June 17, 2019.

<sup>7</sup> 17 C.F.R. § 200.30-10(a)(2).

<sup>8</sup> *See, e.g.*, Rule of Practice 111, 17 C.F.R. § 201.111; 5 U.S.C. § 556.

<sup>9</sup> 17 C.F.R. § 201.151(b)-(c). Any motion or other prehearing request currently pending before the Commission is referred to the hearing officer for disposition.

<sup>10</sup> 17 C.F.R. §§ 201.210, 221, 222, 230, 231, 232, 233, 250.

<sup>11</sup> *See* DE 111, Case No. 3:83-cv-00711-WHA (N.D. Cal. Feb. 8, 2019); DE 128, Case No. 3:83-cv-00711-WHA (N.D. Cal. Mar. 28, 2019).

warranted, and the Commission is not aware of any order from the district court suggesting or directing a stay of this administrative proceeding. As the Commission has repeatedly made clear, the instant proceeding is set before the Securities and Exchange Commission, and is separate from the cases or appeals in other jurisdictions in which Amundsen may also be a party.<sup>12</sup> Amundsen, like any party to a Commission administrative proceeding, is expected to comply with the deadlines and other requirements set forth in the Commission's Rules of Practice and the orders issued by the Commission or the hearing officer. A party that fails to appear at a hearing or conference of which the party has been notified, make a required filing, cure a deficient filing, respond to a dispositive motion, or otherwise defend the proceeding may be subject to sanctions, including the entry of a finding of default.<sup>13</sup>

IT IS FURTHER ORDERED that, pursuant to Rule of Practice 360(a)(2), the hearing officer shall issue an initial decision no later than 120 days from the occurrence of one of the following events: (A) The completion of post-hearing briefing in a proceeding where the public hearing has been completed; (B) Where the hearing officer has determined that no public hearing is necessary, upon completion of briefing on a motion pursuant to Rule of Practice 250;<sup>14</sup> or (C) The determination by the hearing officer that a party is deemed to be in default under Rule of Practice 155 and no public hearing is necessary.<sup>15</sup> This proceeding shall be deemed to be one under the 120-day timeframe specified in Rule of Practice 360(a)(2)(i) for the purposes of applying Rules of Practice 233 and 250.<sup>16</sup>

IT IS FURTHER ORDERED that the initial decision be issued on the basis of the record before the hearing officer, as defined by Rule of Practice 350,<sup>17</sup> and that the record index shall be prepared and certified in accordance with Rule of Practice 351.<sup>18</sup>

IT IS FURTHER ORDERED that, upon issuance of an initial decision, Rules of Practice 360(d), 410, and 411 shall govern further Commission consideration of this matter.<sup>19</sup>

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<sup>12</sup> See *Joseph S. Amundsen, CPA*, Exchange Act Release No. 85423, 2019 WL 1353778, at \*1-2 (Mar. 26, 2019); *Joseph S. Amundsen, CPA*, Exchange Act Release No. 85310, 2019 WL 1167740, at \*1 (Mar. 13, 2019); *Joseph S. Amundsen, CPA*, Exchange Act Release No. 85250, 2019 WL 1036154, at \*1 (Mar. 5, 2019).

<sup>13</sup> Rules of Practice 155, 180, 17 C.F.R. §§ 201.155, .180.

<sup>14</sup> 17 C.F.R. § 201.250.

<sup>15</sup> 17 C.F.R. § 201.155.

<sup>16</sup> 17 C.F.R. §§ 201.233, .250, .360(a)(2)(i).

<sup>17</sup> 17 C.F.R. § 201.350.

<sup>18</sup> 17 C.F.R. § 201.351.

<sup>19</sup> 17 C.F.R. §§ 201.360(d), 410, 411. Prior to issuance of an initial decision, interlocutory Commission review shall be governed by Rule of Practice 400. 17 C.F.R. § 201.400.

This order does not preclude the Commission from assigning the matter to the Commission itself or to any member of the Commission at any time.

By the Commission.

Vanessa A. Countryman  
Acting Secretary