

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C.

SECURITIES ACT OF 1933  
Rel. No. 8877A / December 19, 2007

SECURITIES EXCHANGE ACT OF 1934  
Rel. No. 56996A / December 19, 2007

INVESTMENT ADVISERS ACT OF 1940  
Rel. No.2684A / December 19, 2007

INVESTMENT COMPANY ACT OF 1940  
Rel. No.28079A / December 19, 2007

Admin. Proc. File No. 3-12386

In the Matter of  
WARREN LAMMERT,  
LARS SODERBERG,  
and  
LANCE NEWCOMB

CORRECTED  
ORDER GRANTING  
EXTENSION

The Chief Administrative Law Judge has moved, pursuant to Commission Rule of Practice 360(a)(3), 1/ for an extension of time for the law judge presiding over this proceeding to issue her initial decision. For the reasons set forth below, we have determined to grant the law judge's motion.

I.

On July 31, 2006, we issued an order instituting proceedings ("OIP") against Warren Lammert, a portfolio manager employed by Janus Capital Management, LLC ("Janus Capital Management"), an investment adviser, Lars Soderberg, an officer and director of Janus Capital Management, and Lance Newcomb, also an officer and director of Janus Capital Management. The OIP alleges that Respondents violated certain antifraud provisions of the federal securities laws or, in the alternative, willfully aided and abetted and caused Janus Capital Management's violation of certain antifraud provisions and certain affiliated transactions provisions of the federal securities laws. The OIP further alleges that these violations occurred in connection with Respondents' involvement, variously, in market timing, frequent trading, and late trading

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1/ 17 C.F.R. § 201.360(a)(3).

activity, which related to certain mutual funds managed by Janus Capital Management, pursuant to arrangements with broker-dealers Trautman Wasserman & Company, Inc. (“Trautman Wasserman”) and Brean Murray & Company, Inc. (“Brean Murray”). 2/

The OIP directed the presiding law judge to hold a public hearing to take evidence regarding the allegations and the appropriate sanctions. The OIP further specified that, pursuant to Commission Rule of Practice 360(a)(2), 3/ the presiding law judge should issue an initial decision in this proceeding no later than 300 days from the date of service of the OIP.

The hearing was scheduled to occur on February 20, 2007. However, the law judge stayed the proceeding from February 15, 2007 through July 6, 2007. 4/ Although the 300-day timeline was tolled pursuant to Commission Rules of Practice 210(c)(3) and 360(a)(2), 5/ the law judge ordered that discovery proceed without delay. 6/ During the stay, the parties disagreed about their respective discovery obligations and entitlements regarding an unexpectedly large volume of material associated with the investigative files of the Trautman Wasserman and Brean Murray proceedings. In response, the parties filed numerous motions with us and the law judge, seeking certain relief. The process of resolving the dispute involved the issuance of several orders over the course of many months, extended beyond the end of the stay, elevated the complexity of the proceeding, and protracted discovery.

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2/ Investigations of the two broker-dealers led to our issuance of an OIP against each, as well as various individual respondents. See Order Instituting Proceedings as to Trautman Wasserman & Co., Gregory O. Trautman, Samuel M. Wasserman, Mark Barbera, James A. Wilson, Jr., Jerome Snyder, and Forde Prigot, Admin. Proc. File No. 3-12559 (Feb. 5, 2007); Order Instituting Proceedings, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order as to Brean Murray & Co., Admin. Proc. File No. 3-11836 (Feb. 17, 2005).

3/ 17 C.F.R. § 201.360(a)(2).

4/ On February 14, 2007, the New York Attorney General (“NYAG”) had requested a stay of this proceeding pending the outcome of a criminal proceeding against James A. Wilson, Jr., a party in the Trautman Wasserman proceeding, that is alleged to be based on many of the same facts at issue in this proceeding. The law judge lifted the stay on July 6, 2007 shortly after resolution of that, and a related, criminal proceeding.

5/ 17 C.F.R. §§ 201.210(c)(3), 201.360(a)(2).

6/ See Order Granting Stay, Admin. Proc. File No. 3-12386 (Feb. 15, 2007).

The hearing in this proceeding occurred over several days in October and November 2007, and, according to the motion, resulted “in over 1,700 pages of transcripts and approximately 200 exhibits representing thousands of pages.”

The initial decision is due on December 17, 2007. On November 15, 2007, the Chief Administrative Law Judge filed a motion pursuant to Commission Rule of Practice 360(a)(3) 7/ requesting an extension of time of 130 days for the presiding law judge to issue such decision.

## II.

We adopted Rules of Practice 360(a)(2) and 360(a)(3) as part of an effort to enhance the timely and efficient adjudication and disposition of Commission administrative proceedings. 8/ At that time, we determined that the adoption of mandatory deadlines for completion of administrative hearings would enhance timely completion of the adjudication process. In adopting those guidelines, however, we recognized that a “‘one size fits all’ approach to timely disposition is not feasible.” 9/ We therefore established three different deadlines – 120, 210, or 300 days – depending on “the nature, complexity, and urgency of the subject matter, and with due regard for the public interest and the protection of investors.” 10/

We further provided for the granting of extensions to those deadlines under certain circumstances. If, during the proceeding, the presiding law judge decides that the proceeding cannot be concluded in the time specified in the OIP, Rule 360(a)(3) provides that the law judge may request an extension of the stated deadline. To obtain an extension, the law judge should consult with the Chief Administrative Law Judge. “Following such consultation, the Chief Administrative Law Judge may determine, in his or her discretion, to submit a motion to the Commission requesting an extension.” 11/ We find that the presiding law judge and the Chief Administrative Law Judge engaged in the proper procedural steps by having a consultation and submitting the motion to us in the appropriate manner.

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7/ 17 C.F.R. § 201.360(a)(3).

8/ See Adopting Release, Securities Act Rel. No. 8240 (June 11, 2003), 80 SEC Docket 1463.

9/ Id.

10/ 17 C.F.R. § 201.360(a)(2).

11/ 17 C.F.R. § 201.360(a)(3).

We have stated that the motion should “explain [] why circumstances require an extension and specify [] the length of the extension.” <sup>12/</sup> While we intend to grant extensions sparingly, we may authorize an extension on the basis of the Chief Administrative Law Judge’s motion if we determine that “additional time is necessary or appropriate in the public interest.” <sup>13/</sup> We have noted, however, that a heavy docket alone will not ordinarily be cause for an extension. <sup>14/</sup>

Here, the motion supports the extension request by stating that the initial decision cannot be issued within the specified time based on the following factors: “(1) the NYAG requested a stay of this proceeding on the eve of hearing; (2) due to the NYAG’s stay, the current case schedule conflicts with another complex case’s schedule; (3) the complexity of the current case; and (4) document discovery issues.” The motion states essentially that, as a result of the scheduling problems caused by the circumstances surrounding the eleventh-hour stay and the unanticipated complexity of and voluminous material related to discovery, the 137 of the 300 days that elapsed prior to the imposition of the stay have been rendered virtually meaningless and should be reinstated in order to afford the presiding law judge with sufficient time to properly adjudicate this proceeding. Otherwise, according to the motion, the presiding law judge “will have to file an Initial Decision less than one month following the conclusion of hearing and just days after the last post-hearing pleading is submitted.” <sup>15/</sup> The motion therefore requests that the presiding law judge be provided with 130 additional days (137 days “minus the seven days in which the Division has to make the investigative file available”) to issue her initial decision.

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<sup>12/</sup> See Laminaire Corp. (n/k/a Cavico Corp.), TAM Restaurants, Inc. (n/k/a Aerofoam Metals, Inc.), and Upside Development Inc. (n/k/a Amorocorp), Securities Exchange Act Rel. No. 56912 (Dec. 5, 2007), \_\_ SEC Docket \_\_; Raymond James Fin. Svcs., Inc., Securities Act Rel. No. 8597 (July 29, 2005), 85 SEC Docket 4318, 4320; Adopting Release, 80 SEC Docket at 1463.

<sup>13/</sup> 17 C.F.R. § 201.360(a)(3).

<sup>14/</sup> Laminaire Corp., Exchange Act Rel. No. 56912 (Dec. 5, 2007), \_\_ SEC Docket \_\_; Raymond James, 85 SEC Docket at 4320.

<sup>15/</sup> The motion does not specify on what date the last post-hearing pleading is due. However the Hearing Information Record provides that the final briefing is due on December 14, 2007. The record does not contain any further information on this point, such as a verbal order the law judge may have given at the conclusion of the hearing.

In light of the circumstances described above and the reasonableness of the requested extension, we have determined to grant the motion. We believe that it is appropriate to extend the deadline for issuance of the initial decision until 130 days from the date on which we issue the order herein.

Accordingly, IT IS ORDERED that the deadline for issuance of the initial decision in this matter be, and it hereby is, extended until April 28, 2008.

By the Commission.

Nancy M. Morris  
Secretary