

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Rel. No. 66387 / February 13, 2012

INVESTMENT ADVISERS ACT OF 1940
Rel. No. 3370 / February 13, 2012

INVESTMENT COMPANY ACT OF 1940
Rel. No. 29945 / February 13, 2012

Admin. Proc. File No. 3-14355

In the Matter of

DONALD L. KOCH and
KOCH ASSET MANAGEMENT LLC

ORDER GRANTING
EXTENSION

I.

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

On April 25, 2011, we issued an Order Instituting Administrative and Cease-and-Desist Proceedings ("OIP") against Donald L. Koch, President, Chief Compliance Officer, and founder of Koch Asset Management LLC ("Koch Asset Management"), a registered investment adviser. The OIP alleges that Koch and Koch Asset Management engaged in a scheme to "mark-the-close" of certain thinly-traded securities held in investment accounts of Koch Asset Management's clients, failed to seek "best execution" for their clients in breach of their fiduciary duty, failed to maintain communications related to the placement and execution of orders to purchase securities, and failed to implement policies and procedures reasonably designed to

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17 C.F.R. § 201.360(a)(3).

prevent or detect certain prohibited transactions. The OIP alleges that Koch and Koch Asset Management willfully violated the antifraud provisions of the Securities Exchange Act of 1934 and of the Investment Advisers Act of 1940. The OIP also alleges that Koch Asset Management violated, and Koch willfully aided and abetted and caused the firm's violations of, Advisers Act Section 206 and Rule 206(4)-7 thereunder, which require investment advisers to implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder. The OIP further alleges that Koch Asset Management violated, and Koch willfully aided and abetted and caused the firm's violations of, Advisers Act Section 204 and Rule 204-2(a)(7) thereunder, which require the maintenance of certain books and records.

The OIP directs the presiding law judge to hold a public hearing to take evidence regarding the allegations and the appropriate sanctions, and to issue an initial decision no later than 300 days from the date of service of the OIP, *i.e.*, by February 24, 2012. On January 23, 2012, Judge Murray filed a motion pursuant to Commission Rule of Practice 360(a)(3)² requesting an extension of time of ninety days 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,³ setting mandatory deadlines for completion of administrative hearings. We further provided for the granting of extensions to those deadlines under certain circumstances, if supported by a motion from the Chief Administrative Law Judge.⁴

Judge Murray supports her extension request by stating that the law judge assigned to this proceeding informed Judge Murray that "she will not be able to issue an Initial Decision by February 24, 2012, because the proceeding was stayed for seventy days for settlement negotiations." She further states that the "hearing concluded today [*i.e.*, January 23, 2012], and briefs have yet to be filed." It is Judge Murray's "best judgment that an Initial Decision cannot be issued by the February 24, 2012 deadline." Under the circumstances, it appears appropriate in the public interest to grant the Chief Law Judge's request and to extend the deadline for issuance of a decision in this matter.

² 17 C.F.R. § 201.360(a)(3).

³ *See Adopting Release*, Securities Act Rel. No. 8240 (June 11, 2003), 80 SEC Docket 1463.

⁴ 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." 17 C.F.R. § 201.360(a)(3).

Accordingly, IT IS ORDERED that the deadline for filing the initial decision in this matter be, and it hereby is, extended until May 24, 2012.

By the Commission.

Elizabeth M. Murphy
Secretary