

UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY

IN THE MATTER OF)
GENE ULRICH)
FORMER SENIOR VICE PRESIDENT AND)
SENIOR LOAN OFFICER)
)
SUSAN DIEHL MCCARTHY)
FORMER VICE PRESIDENT AND LOAN OFFICER)
)
SIX RIVERS NATIONAL BANK)
EUREKA, CALIFORNIA)

AA-EC-00-40

ORDER

This matter is before the Comptroller of the Currency on the Joint Motion of Respondents Gene Ulrich, former Senior Vice President and Senior loan Officer, and Susan Diehl McCarthy, former Vice President and Loan Officer, Six Rivers National Bank, Eureka, California (collectively, "Respondents"), for an extension of time in which to file exceptions to the Recommended Decision. Enforcement Counsel ("E&C") opposes the Motion.

For the reasons below, the Comptroller hereby ORDERS that the time for filing exceptions be extended until April 8, 2003.

I. PROCEDURAL BACKGROUND

On January 31, 2003, Administrative Law Judge Ann Z. Cook issued her Recommended Decision on the merits of the above-captioned matter. Pursuant to 12 C.F.R. Part 19, the OCC's

Rules of Practice and Procedure, exceptions to the Recommended Decision are due 30 days later, or March 3, 2003.¹

On February 10, 2003, counsel for Respondents filed the Motion, which requests that the deadline for filing exceptions be extended until April 28, 2003.² Respondents argue that the volume of the record, the length of time needed to produce the Recommended Decision, and the length of the Recommended Decision require an extended period of time to prepare exceptions.³ In addition, Respondents argue that their counsel have other commitments that would prevent the preparation of exceptions before March 3.⁴

On February 21, 2003, E&C filed a Response opposing the Motion. E&C argues that a party seeking a continuance of a trial must present a compelling reason, and the scheduling conflicts described in the Motion do not constitute a compelling reason, especially in view of alternative measures such as assigning other attorneys to draft exceptions.⁵ With respect to the volume of the record and length of the Recommended Decision, E&C notes that many of the ALJ's findings are based on testimony and admissions by Respondents, and that counsel for Respondents should already be familiar with the administrative record.⁶ Finally, E&C argues

¹ See 12 C.F.R. § 19.39(a). The 30-day period technically ends on March 2, which is a Sunday. Thus, the exceptions are due on the next business day. See 12 C.F.R. § 19.12(a).

² The Motion is not entirely consistent, and it is not clear whether Respondents request a deadline of April 14 or April 28. Compare Motion at 1 (requesting April 28 deadline) with Motion at 6 (April 14). The Comptroller assumes that Respondents seek an extension to April 28.

³ Motion at 2-4.

⁴ *Id.* at 4-5.

⁵ Response at 3-9. E&C notes that both Respondents are represented by large law firms. *Id.* at 7-8.

⁶ *Id.* at 8-14.

that an extension could potentially harm the banking system by allowing Respondents to continue to seek employment in the industry and to dissipate assets while this matter is pending.⁷

II. DISCUSSION

The Comptroller finds that an extension of eight weeks is unreasonable. Absent extreme circumstances, the Comptroller is reluctant to grant an extension of time that will almost triple the 30-day period currently provided in the regulation. Counsel have been aware for some time that a potential scheduling conflict existed. While the administrative record is voluminous, the 42-page Recommended Decision is not unduly lengthy.

Nevertheless, the Comptroller finds that it is appropriate to grant an extension of time. Under 12 C.F.R. § 19.13, Respondents must only show good cause for an extension and need not present a compelling reason. An extension to April 8 will ensure that Respondents have an adequate opportunity to respond to the Recommended Decision.

For the above reasons, IT IS HEREBY ORDERED that the time for filing exceptions in this matter be extended to April 8, 2003.

SO ORDERED this 27th day of February, 2003.

JOHN D. HAWKE, JR.
Comptroller of the Currency

⁷ *Id.* at 14-15.