

ADMINISTRATIVE PROCEEDING  
FILE NO. 3-12107

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
February 1, 2006

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In the Matter of :  
: ORDER ON DEFAULT  
NEIL FORMISANO :  
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I issued an Order Making Findings and Imposing Sanction by Default (Default Order) on January 20, 2006. The Default Order found that Neil Formisano (Formisano) was in default under the Securities and Exchange Commission's (Commission) Rules of Practice because he did not file an Answer to the allegations in the Order Instituting Proceedings; he failed to appear, in person or through a representative, at the prehearing conference on January 18, 2006, of which he had notice; and he failed to otherwise defend the proceeding. See 17 C.F.R. §§ 201.155(a), .220(f), .221(f).

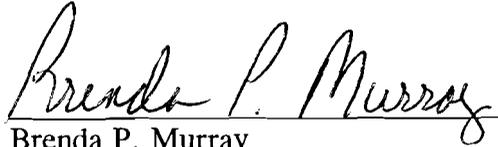
On January 30, 2006, I received a letter postmarked January 25, 2006, from Formisano. The five-sentence letter states that Formisano received documents related to the administrative proceeding the week prior to January 20, 2006, that he disagreed with the contents of the documents, and asks how the matter could be resolved. I will send copies of Formisano's letter to the Commission's Secretary, and to Elisabeth L. Goot, Esq., Division of Enforcement, Northeast Regional Office, Securities and Exchange Commission, 3 World Financial Center, New York, NY 10281.

At the present time, the administrative proceeding has been resolved by the Default Order that I issued on January 20, 2006. The Commission's Rules of Practice allow motions to set aside a default order. A motion to set aside a default order must meet the requirements of Rule 155(b). Rule 155(b), 17 C.F.R. § 201.155(b), provides that:

A motion to set aside a default shall be made within a reasonable time, state the reasons for the failure to appear or defend, and specify the nature of the proposed defense in the proceeding. In order to prevent injustice and on such conditions as may be appropriate, the hearing office, at any time prior to the filing of the initial decision, or the Commission, at any time, may for good cause shown set aside a default.

## RULING

I find that Formisano's letter postmarked January 25, 2006, is not a motion to set aside the Default Order because it does not meet the requirements of Rule 155(b) and "state the reasons for the failure to appear or defend, and specify the nature of the proposed defense in the proceeding."

A handwritten signature in cursive script that reads "Brenda P. Murray". The signature is written in black ink and is positioned above a horizontal line.

Brenda P. Murray  
Chief Administrative Law Judge