

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 4703/March 22, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17313

In the Matter of

WILLIAM TIRRELL

ORDER ON MOTION FOR IN CAMERA
REVIEW OF INTERVIEW NOTES

Respondent William Tirrell has asked that I review *in camera* notes from interviews conducted by the Division of Enforcement to see whether the notes constitute materials subject to disclosure under Rule of Practice 231, 17 C.F.R. § 201.231, which incorporates the Jencks Act, 18 U.S.C. § 3500. Tirrell argues that circumstances suggest that the Division possesses notes falling within the terms of Rule 231. He also notes that he is scheduled to depose individuals to whom these alleged notes pertain.

Considering the low threshold for invoking *in camera* review¹ and the upcoming depositions, I direct the following. By 5:00 p.m. Eastern, Friday, March 24, 2017, the Division shall either respond to Tirrell's motion or submit electronic versions of the requested notes for *in camera* review.

James E. Grimes
Administrative Law Judge

¹ See *United States v. Smith*, 31 F.3d 1294, 1302 (4th Cir. 1994) ("It is well-established, however, that a court may not deny a defendant's request for production under the Jencks Act based solely on the government's unsubstantiated assertions that it has not withheld any Jencks Act material, but is obligated to conduct an independent inquiry into the circumstances surrounding the creation of the materials sought, to determine whether they are in fact 'statements' of the witness under the Act."); *United States v. Allen*, 798 F.2d 985, 994 (7th Cir. 1986) ("[I]f the defendant claims that the documents he seeks are statements as defined by the Jencks Act, but the government says they are not, then the *presumption* should be that the district court should hold an *in camera* hearing and after reviewing the documents make a determination of what should be turned over to the defendant.").