

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 4758/April 19, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17550

In the Matter of :
:
TOD A. DITOMMASO, ESQ. : PREHEARING ORDER

The Securities and Exchange Commission instituted this proceeding with an Order Instituting Proceedings on September 16, 2016, pursuant to Section 8A of the Securities Act of 1933. The hearing, expected to last two to three hours, will be conducted by video conference, commencing at 12:00 noon EDT (9:00 a.m. PDT, 10:00 a.m. MDT) on May 10, 2017.¹ A prehearing conference, at which the Division of Enforcement and Respondent Tod A. DiTommaso, Esq., appeared, was held today.

DiTommaso plans to argue an inability to pay disgorgement, prejudgment interest, and a civil penalty pursuant to 17 C.F.R. § 201.630. If he makes such an argument, he must present evidence concerning this at the hearing. *See Terry T. Steen*, Securities Exchange Act of 1934 Release No. 40055, 1998 SEC LEXIS 1033, at *20-26 (June 1, 1998). He will provide a Form D-A (17 C.F.R. § 209.1) to the Division by May 3, 2017. When he sends it to the Division and when he offers it into evidence at the hearing, it will be received under seal and subject to a protective order pursuant to 17 C.F.R. § 201.322. Although the record in a public hearing is presumed to be public, the harm resulting from disclosure of DiTommaso's financial situation outweighs the benefits. *See* 17 C.F.R. § 201.322(b). Disclosure of financial information concerning an individual is presumed harmful. It is specifically limited in various statutes, for example, Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), and the Privacy Act, 5 U.S.C. § 552a. There is no benefit from disclosure in this case.

IT IS SO ORDERED.

/S/ Carol Fox Foelak
Carol Fox Foelak
Administrative Law Judge

¹ DiTommaso and the Division of Enforcement will appear at the Commission's San Francisco and Denver offices, respectively; and the undersigned will preside at headquarters. To facilitate viewing exhibits during the hearing, DiTommaso will send a copy of his exhibits to the Division by the end of this week, and the Division will prepare notebooks containing both parties' exhibits for participants.