

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

Administrative Proceedings Rulings  
Release No. 4972 / August 14, 2017

Administrative Proceeding  
File No. 3-18061

In the Matter of

**Retirement Surety LLC,  
Crescendo Financial LLC,  
Thomas Rose,  
David Leeman, and  
David Featherstone**

**Order Following  
Prehearing Conference**

On July 6, 2017, the Securities and Exchange Commission issued an order instituting proceedings (OIP) against Respondents pursuant to Section 8A of the Securities Act of 1933, Sections 15(b) and 21C of the Securities Exchange Act of 1934, and Section 9(b) of the Investment Company Act of 1940. I held a telephonic prehearing conference today at which counsel for the Division of Enforcement and counsel for Respondents appeared.

The parties agreed that Respondents were served with the OIP on July 11, 2017. Respondents' answers were thus timely submitted on July 26, 2017. In addition, Respondents waived their right to a hearing between thirty and sixty days after service of the OIP. *See* 15 U.S.C. § 78u-3(b). The Division represented that the parties have further agreed to a protective order, which will be submitted by joint motion, and that it is prepared to produce the investigative file as soon as the protective order is entered. Once it makes the investigative file available for inspection and copying, the Division should file a declaration confirming its compliance with Rule of Practice 230, 17 C.F.R. § 201.230.

The parties further represented that they have agreed in principle to a settlement with respect to all major terms except whether disgorgement, civil penalties, and prejudgment interest are appropriate against the individual Respondents—Thomas Rose, David Leeman, and David Featherstone—and whether those three Respondents have the ability to pay any such remedial

sanction. In light of the likely narrowing of the scope of this proceeding, the Division requested leave to file a motion for summary disposition under Rule of Practice 250(c), 17 C.F.R. § 201.250(c), regarding the appropriateness of the aforementioned sanctions. Anticipating that the Division will soon confirm that it has made the investigative file available and that the Commission will approve a partial settlement, I find good cause for allowing the parties to file motions for summary disposition, which will not delay the start of the hearing, if one is necessary. I set the following briefing schedule:

October 13, 2017: Motions for summary disposition are due.

November 3, 2017: Opposition briefs are due.

November 14, 2017: Reply briefs, if any, are due.

In addition to the required filing with the Office of the Secretary, electronic courtesy copies of the parties' submissions should be emailed to [alj@sec.gov](mailto:alj@sec.gov) in PDF text-searchable format. Electronic copies of exhibits should not be combined into a single PDF file, but sent as separate attachments.

I will determine whether it is necessary to hold a hearing after considering the parties' briefs. If necessary, the parties agreed that the hearing should be held on January 29 and 30, 2018, in Dallas, Texas, at a venue to be determined. The hearing will be extended if the scope of this proceeding is not narrowed by settlement.

Finally, the parties should be aware that the Office of Administrative Law Judges offers a settlement program in which a law judge other than me would preside over confidential settlement discussions. Should the parties wish to pursue this option, they may file a joint motion for an order designating a settlement judge.

SO ORDERED.

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Cameron Elliot  
Administrative Law Judge