

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

Administrative Proceedings Rulings
Release No. 5245 / November 30, 2017

Administrative Proceeding
File No. 3-18126

In the Matter of
Gerardo E. Reyes

**Order Setting Second
Prehearing Conference**

On August 22, 2017, the Securities and Exchange Commission issued an order instituting proceedings against Respondent pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940. This administrative proceeding is based on the criminal judgment in *United States v. Reyes*, No. 1:16-cr-20963 (S.D. Fla. June 27, 2017).

Respondent did not appear at a prehearing conference held on November 27, 2017.¹ The next day, I issued an order directing the Division of Enforcement to file a motion for default and sanctions setting out the relief it seeks and the evidence supporting its request. *Gerardo E. Reyes*, Admin. Proc. Rulings Release No. 5240, 2017 SEC LEXIS 3702, at *1-2.

Almost immediately after issuing the order, my office received an email from Respondent stating that he tried but was unable to participate in the prehearing conference. Respondent attached two copies of the fourth page of a signed offer of settlement.² Respondent's email states that the settlement is inaccurate and provides details of the purported mistakes.

¹ Respondent also has not filed an answer or responded to a show cause order I issued.

² I sent Respondent's email to the Office of the Secretary for inclusion in the record, but asked that the attached offer of settlement not be made part of the record.

I ORDER a new telephonic prehearing conference on Monday, December 4, 2017, at 10:00 a.m. Eastern. I remind Respondent that if he wishes to participate in the proceeding, he must—in addition to attending the prehearing conference—file an answer and, at the appropriate time, file a written response to any motion for summary disposition filed by the Division. At the prehearing conference, I will discuss the timing of such filings in light of the Commission’s order today allowing the submission of new evidence in all administrative proceedings. *Pending Admin. Proc.*, Exchange Act Release No. 82178, <https://www.sec.gov/litigation/opinions/2017/33-10440.pdf> (slip op. at 1-2).

Separate from formal participation in this proceeding, Respondent may also engage in settlement discussions with the Division. 17 C.F.R. § 201.240(a). However, unless the parties are willing to waive their rights to any later claim of bias or prejudgment on my part, I should not be included in any such discussions, and Respondent should not email any settlement papers to my office. *See* 17 C.F.R. § 201.240(c)(2). My office also offers a confidential settlement program in which a law judge other than me would preside over settlement discussions. Should the parties wish to pursue this option, they may file a joint motion for an order designating a settlement judge. *E.g.*, *Airtouch Commc’ns, Inc.*, Admin. Proc. Rulings Release No. 2253, 2015 SEC LEXIS 271 (ALJ Jan. 23, 2015).

Brenda P. Murray
Chief Administrative Law Judge