

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

Administrative Proceedings Rulings  
Release No. 5394 / December 15, 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 Ratifying Prior Actions  
and Protective Order**

I held a telephonic conference with the parties yesterday to discuss the status of this proceeding following remand under *Pending Administrative Proceedings*, Securities Act of 1933 Release No. 10440, 2017 SEC LEXIS 3724 (Nov. 30, 2017). The Division of Enforcement and Respondents Thomas Rose, David Leeman, and David Featherstone stated that they agreed that the Securities and Exchange Commission's November 30 order should not have an impact on this proceeding because the parties believe that none of my prior actions need to be revised. In response to my inquiries, the parties stated that they do not intend to file any new evidence or other materials. They did not object to my independent reconsideration of my prior actions without further input from any of them.

Accordingly, for good cause, I MODIFY the Commission's order to advance the deadline for the parties "to submit any new evidence the parties deem relevant to [my] reexamination of the record" to today. *Id.* at \*1-4. I have reviewed all of my prior written orders and oral rulings, and RATIFY all of the substantive and procedural actions that I took in this proceeding before the ratification of my appointment by the Commission on November 30, 2017. *Id.* at \*1-2; see *Wilkes-Barre Hosp. Co. v. NLRB*, 857 F.3d 364, 371-72 (D.C. Cir. 2017). To avoid any confusion, this ratification covers existing procedural deadlines, including the December 22, 2017, due date for the Division's reply in support of summary disposition and the January 29 and

30, 2018, dates for the hearing, if one is necessary. *See Retirement Surety LLC*, Admin. Proc. Rulings Release No. 5169, 2017 SEC LEXIS 3282, at \*1-2 (ALJ Oct. 12, 2017).

In addition, we discussed Respondents' motion for a protective order, requesting that I seal the appendix to their December 8, 2017, opposition to the Division's motion for summary disposition. The Division did not object to sealing the materials on pages 1-995, which consist of personal financial statements and similarly sensitive information. And Respondents agreed to withdraw their request that the materials on pages 996-1074 be sealed because they are not confidential or otherwise sensitive. I therefore GRANT IN PART Respondents' motion, and SEAL pages 1-995 of the appendix to Respondents' December 8 opposition, because the harm resulting from disclosure would outweigh the benefits of disclosure. *See* 17 C.F.R. § 201.322(b). All sealed documents in this proceeding shall be disclosed only to those persons identified in paragraph 2(d)(i)-(iv) and (vi)-(ix) of the previously entered protective order, on an as-needed basis in the course of the litigation, with reasonable precautions taken to ensure the confidentiality of the information. *See Retirement Surety LLC*, Admin. Proc. Rulings Release No. 4990, 2017 SEC LEXIS 2607, at \*3-4 (ALJ Aug. 23, 2017). Upon the motion of a party, the Commission or the presiding administrative law judge may authorize further disclosure to other persons.

Following the prehearing conference, my office received an inquiry from Respondents regarding whether they could obtain permission to file the appendix to their December 8 opposition by submitting a CD with an electronic copy of the document. Although I welcome electronic courtesy copies of filings, under the Rules of Practice, the parties must continue to file papers with the Office of the Secretary. *See* 17 C.F.R. §§ 201.151-152.

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Cameron Elliot  
Administrative Law Judge