

ADMINISTRATIVE PROCEEDING
FILE NO. 3-13712

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
March 25, 2010

In the Matter of :
MOISES PACHECO : ORDER DISCONTINUING HEARING
: :
: :
: :

The Securities and Exchange Commission (Commission) initiated this proceeding on December 11, 2009, pursuant to Section 203(f) of the Investment Advisers Act of 1940. The hearing has been postponed three times because the Division of Enforcement (Division) is unable to show service of the Order Instituting Proceedings (OIP) on the Respondent.

On January 20, 2010, the presiding Administrative Law Judge required the Division to show cause by March 22, 2010, why this proceeding should not be dismissed without prejudice, citing Richard Cannistraro, 53 S.E.C. 388 (1998), or that the Division consider filing a motion pursuant to 17 C.F.R. § 200.30-10(a)(8). In its Response, the Division stated that “Despite diligent efforts, the Division has been unable to serve Respondent Pacheco with the OIP and does not anticipate being able to do so absent some unexpected turn of events.” The Division does not object to dismissal without prejudice. The presiding Administrative Law Judge referred the matter to me.

Ruling

The Commission’s Rules of Practice provide that the Chief Administrative Law Judge may “grant motions of staff counsel to discontinue administrative proceedings as to a particular respondent who has died or cannot be found, or because of a mistake in the identity of a respondent named in the order for proceedings.” 17 C.F.R. § 200.30-10(a)(8).

Even though the Division has not made a formal motion, I find that more than three months of unsuccessful efforts to accomplish service on the Respondent and no prospect of doing so provide GOOD CAUSE and I ORDER that the proceeding is discontinued without prejudice.

Brenda P. Murray
Chief Administrative Law Judge