

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 3185/September 30, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16594

In the Matter of

EQUITY TRUST COMPANY

:
: ORDER

The Securities and Exchange Commission instituted this proceeding with an Order Instituting Proceedings (OIP) on June 16, 2015, pursuant to Section 8A of the Securities Act of 1933 (Securities Act). The hearing, expected to take up to ten hearing days, is scheduled to commence during the week of November 30, 2015, in Washington, D.C. The OIP alleges that Respondent Equity Trust Company was a cause of violations by Ephren Taylor and Randy Poulson of Sections 17(a)(2) and 17(a)(3) of the Securities Act.¹ Under consideration are Respondent's Motion for Additional Disclosure, submitted July 17, 2015, and responsive pleadings.

First, Respondent requests notes or memoranda of the Division of Enforcement's interviews of non-Equity Trust Company witnesses.² The Division argues that this material should be withheld as attorney work product, in accord with 17 C.F.R. § 201.230(b). Respondent urges that in order for it to be able to identify witnesses with testimony supporting its defense and to prepare to cross-examine the Division's witnesses, in fairness, the Division should be directed to produce the material. For the reason of fairness, the Division must produce the material, redacted of opinion, to Respondent by October 14, 2015. This date will ensure that the material is made available in sufficient time so as not to delay the cross-examination and lengthen the proceeding.³

¹ Taylor was convicted of attempt and conspiracy to commit mail fraud and was sentenced to 235 months of imprisonment and ordered to pay \$15,590,752.81 in restitution. *United States v. Taylor*, No. 1:14-cr-217 (N.D. Ga. Mar. 24, 2015), ECF No. 65. Poulson has entered a plea agreement to plead guilty to mail fraud and awaits acceptance of the plea and sentencing. *United States v. Poulson*, No. 1:14-cr-309 (D.N.J.), ECF Nos. 20, 21.

² The Division did not take investigative depositions of these individuals.

³ The Division cites *Morris J. Reiter*, Securities Exchange Act of 1934 Release No. 6108, 1959 SEC LEXIS 588 (Nov. 2, 1959), which is frequently cited in orders denying motions for more definite statement and is the leading Commission case on this topic. That case stands for the proposition that "appropriate notice of proceedings is given [in the OIP] when the respondent is

Additionally, Respondent requests Commission statements or guidance, if any, that show that self-directed individual retirement account (SDIRA) custodians were on notice of their purported duties under the securities laws and citations, if any, to other Commission enforcement actions or proceedings brought against SDIRA custodians. Apart from an “Investor Alert,” referenced by both parties, the Division, in essence, denies that any such statements, guidance, or citations exist.

Disclosure of the additional items that Respondent requests is covered in the August 26, 2015, Scheduling Order in this proceeding. *Equity Trust Co.*, Admin. Proc. Rulings Release No. 3069, 2015 SEC LEXIS 3481 (A.L.J. Aug. 26, 2015).

IT IS SO ORDERED.

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

sufficiently informed of the nature of the charges against him so that he may adequately prepare his defense and that he is not entitled to a disclosure of evidence.” *Id.* at *5. It is noted that the *Reiter* ruling occurred long before the Commission adopted the deadlines contained in 17 C.F.R. § 201.360. Thus, the Commission’s statement, “[s]hould it appear at the hearing that additional time is required to enable registrant to prepare his defense with respect to evidence introduced by the Division, he may, of course, apply for a continuance” should no longer be relied on. *Id.* at *6.