

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 3287/November 3, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16590

In the Matter of

BRIAN J. OURAND

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ORDER

The hearing in this proceeding is scheduled to commence on December 14, 2015. A previous order addressed Brian J. Ourand's defective request for subpoenas seeking the attendance of various persons to testify at the hearing. *Brian J. Ourand*, Admin. Proc. Rulings Release No. 3257, 2015 SEC LEXIS 4391 (A.L.J. Oct. 26, 2015). The defective request did not include a certificate of service showing that it had been served on the Division of Enforcement. *See* 17 C.F.R. 201.232(a) (Rule 232(a)).¹ *Id.* Further, the request did not "show the general relevance and reasonable scope of the testimony . . . sought." *See* Rule 232(b). *Id.* Also, some of the subpoenas were directed to entities without identifying an individual whose testimony was sought. *Id.*

On November 3, 2015, Ourand sent an email to an employee of the Office of Administrative Law Judges identifying some individuals associated with the entities to whom the original subpoenas were directed and describing the general relevance and reasonable scope of the testimony sought. There is no indication that Ourand sent a copy of the email to the Division or that he ever served his subpoena request on the Division.

Now that he has been able to identify individuals and describe the general relevance and reasonable scope of the testimony he seeks from them, Ourand must submit a subpoena request containing that information and attach subpoenas directed to those individuals.² The request must include a certificate of service showing that it has been served on the Division. Ourand is reminded that he must send a copy to the Division of any communication that he sends to any part of the Securities and Exchange Commission concerning this proceeding.

IT IS SO ORDERED.

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

¹ Pursuant to Rule 232(a), "[u]nless made on the record at a hearing, requests for issuance of a subpoena shall be made in writing and served on each party."

² Ourand is reminded of the provisions of Rule 232(d): "*Tender of Fees Required.* When a subpoena compelling the attendance of a person at a hearing . . . is issued at the instance of anyone other than an officer or agency of the United States, service is valid only if the subpoena is accompanied by a tender to the subpoenaed person of the fees for one day's attendance and mileage specified by [Rule 232(f)]."