

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

ADMINISTRATIVE PROCEEDINGS RULINGS

Release No. 3708/March 15, 2016

ADMINISTRATIVE PROCEEDING

File No. 3-16318

In the Matter of

MICHAEL W. CROW,
ALEXANDRE S. CLUG,
AURUM MINING, LLC,
PANAM TERRA, INC., AND
THE CORSAIR GROUP, INC.

ORDER GRANTING THE
DIVISION'S MOTION TO
CORRECT A MANIFEST ERROR
OF FACT

I issued an initial decision in this matter on February 8, 2016. *Michael W. Crow*, Initial Decision Release No. 953, 2016 SEC LEXIS 475. On February 18, 2016, the Division of Enforcement submitted a motion to correct a manifest error of fact pursuant to Rule 111(h), 17 C.F.R. § 201.111(h). Respondent Michael Crow submitted an opposition as well as his own motion (Opposition) on February 27, and the Division replied on March 9, 2016.

Division's Motion

In its motion, the Division argues that the following sentence on page 77 (*207) should be revised from:

From April 2013 to November 2014, Crow's fifteen known Peruvian personal and corporate accounts received almost \$1.7 million and S/.655,000 Peruvian soles.

to the following, with changes in bold:

From April 2013 to November 2014, Crow's fifteen known Peruvian personal and corporate accounts received almost \$1.7 million and S/.**1.77 million** Peruvian soles.^[1]

Motion at 2. The Division argues that the difference between these two sentences is material, reflecting a difference from \$1.9 million to \$2.3 million. *Id.*

¹ The Division notes that Division Exhibit 3A reflects that the total amount of Peruvian soles deposited into Crow's fifteen accounts was S/.1,769,002, rather than S/.655,000, and that S/.1,769,002 is approximately \$655,000. Motion at 1.

In response, Crow proposed the following language:

From April 2013 to November 2014 Crow's Peruvian personal and business accounts had gross deposits and bank transfers of \$ 1.7 million and S/1.77 Million Peruvian soles (appx \$ 550,000). However, this total of gross deposits includes inter bank transfers between Dollars and Soles from the related businesses, as well as deposits of \$ 1.35 million from secure loans made by 3 non related persons that were shareholders or Board members, and deposits of salary and expenses from Crow and his ex girlfriend during the period of time.

Opp. at 3. He argues that the statement regarding total deposits into the Peruvian bank accounts is incorrect "since it omits material information that is known and was presented at the hearing regarding the source of the deposits." *Id.* at 1. He states that "the deposits into Grupo Alta and related businesses totaling over \$ 1.35 million, were from secure documented notes" related to the construction of his independent mineral processing plant. *Id.* at 2; *see* Initial Decision at 45, *112. He further argues that the deposits into his fifteen accounts include his salary, home-related expenses, and deposits, and that "[a]ny implication that these deposits are unknown or are attributable to Crow for purposes of determining his financial situation are entirely misleading and false." Opp. at 2.

The Division objects to Crow's rewording of the Division's proposed correction to the initial decision, arguing that Crow "appears to concede that the minor correction requested by the Division is appropriate." Reply at 2. The Division notes that Crow's proposed addition regarding inter-bank transfers is inappropriate because as the initial decision already notes, "[t]hese numbers were calculated by adding up the total inflows from outside sources, i.e., all amounts derived from inter-company transfers (denoted by entries with redacted numbers) are excluded." Reply at 2; *see* Initial Decision at 77 n.25 (*207 n.25). With respect to Crow's proposed addition regarding the secure loans, the Division notes that "[t]his statement is not supported by any citation to the record, and it also is not tied to any specific statement in the Initial Decision." Reply at 2.

In response to Crow's contention that the initial decision "omits material information that is known and was presented at the hearing regarding the source of the deposits," Opp. at 1, the Division notes that Crow did not provide deposit slips, bank transfer slips, or other identifying information for any of his fifteen personal and corporate bank accounts, and he had "an additional opportunity to provide a list of transfers of cash in his Sworn Financial Statement and he failed to produce records," Reply at 3.

I agree with the Division. "A motion to correct is properly filed under this Rule only if the basis for the motion is a patent misstatement of fact in the initial decision." 17 C.F.R. § 201.111(h). The Division's motion correctly identifies a patent misstatement of fact and should be corrected. As noted by the Division, Crow's proposed additions are incorrect and unsupported by the record.

Crow's Motion

Crow first objects to the characterization that he did not provide bank statements. He states:

All statements were provided as well as tax returns. NO credit card statements were ever requested. Any and all Peru bank statements were already in the possession of

the Division as evinced by the work at the hearing and the details included herein. And Crow, even if he had access to these closed Peru bank accounts, could not have provided any new material information by providing these same bank accounts. This is why it was not requested of Crow.

Opp. at 2.

Crow also requests that any reference to his ex-girlfriend by name should be redacted because it “is prejudicial to her” and could “cause reputation issues to her upon any Google search of her name.” *Id.* at 2-3.

The Division argues that Crow fails to identify any misstatement of fact in the initial decision, instead repeating “several of his unsupported arguments from the hearing.” Reply at 1-2. With respect to Crow’s objection regarding whether he provided bank and other requested statements, the Division states that Crow did not in fact provide all bank statements and that what he provided was “limited.” *Id.* at 3. I agree with the Division and note that I found in the initial decision that Crow declined to provide a list of transfers; failed to provide monthly account statements for the last twelve months for any brokerage accounts, retirement plans, credit cards, or lines of credit as requested; and produced statements for only three of the fifteen personal and corporate bank accounts he controlled. Initial Decision at 77 (*206-07).

With respect to Crow’s request that his ex-girlfriend’s name be redacted from the initial decision, the Division notes that her name appears only once in the initial decision, and that it was Crow who brought her up in this case “[b]y combining his finances with hers, through a joint bank account and personal loans.” Reply at 4. Additionally, the Division notes that the Rules of Practice and protective order issued in this case do not require redaction and Crow has not raised this issue previously. *Id.* Inclusion of her name is not a misstatement of fact requiring correction and therefore Crow’s request is denied. Moreover, I disagree with Crow that leaving his ex-girlfriend’s name in the initial decision would be prejudicial. She is not a respondent in this proceeding, engaged in no wrongdoing, and apparently is no longer in a relationship with Crow. A Google search of her name does not even bring up the initial decision in the first fifteen pages of results.

I find that page 77 (*207) of the initial decision denotes the incorrect amount of Peruvian soles in Crow’s Peruvian bank accounts and therefore GRANT the Division’s motion. I accept the Division’s proposed revision and correct the above sentence in the initial decision as requested. For the reasons stated above, I DENY Crow’s motion.

Jason S. Patil
Administrative Law Judge