

MAR 12 2002

UNITED STATES OF AMERICA

CTFD. NO. _____

Before the
SECURITIES AND EXCHANGE COMMISSION
March 12, 2002

In the Matter of

:

:

CLARKE T. BLIZZARD and
RUDOLPH ABEL

:

ORDER ON BLIZZARD'S MOTION
FOR JENCKS ACT PRODUCTION

:

The hearing in this proceeding is scheduled to commence on April 2, 2002.¹ Respondents were associated with Shawmut Investment Advisers (SIA). They are charged with willfully aiding and abetting and causing violations of Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 through their alleged involvement in an alleged improper soft-dollar scheme.

Under consideration are (1) Respondent Clarke T. Blizzard's February 28, 2002, Motion to Produce Documents Pursuant to the Jencks Act; (2) the March 2 Opposition of the Division of Enforcement (Division); and (3) the Division's March 4 Supplement. The Division also forwarded documents to the undersigned for in camera review.

Blizzard states that the Division advised that it has correspondence, including a financial statement, from Christopher Roach, whom the Division expects to call as a witness to testify at the hearing. Blizzard moves that such documents and correspondence exchanged between the Division and Roach be produced as Jencks Act statements pursuant to 17 C.F.R. § 201.231 because, Blizzard argues, the materials pertain to Roach's direct testimony. The Division counters that all Jencks Act statements have been produced, either by the United States or by the Division. The Division identifies Roach's Jencks Act statements as Division Exhibits 110-113 and his proffer statements to the Federal Bureau of Investigation in June and July 2000. The Division states that the material that Blizzard requests relates to the Division's

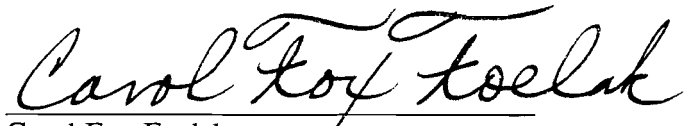
¹ The proceeding was originally captioned Michael J. Rothmeier, Clarke T. Blizzard, Rudolph Abel, Donald C. Berry, Christopher P. Roach, Craig Janutol, and East West Institutional Services, Inc. It ended on April 13, 2000, as to Respondents Rothmeier, Berry, and Janutol, who settled, when the Commission issued Orders Making Findings and Imposing Sanctions as to each of them. It ended on February 28, 2002, as to Respondents Roach and East West Institutional Services, Inc., who defaulted, when the undersigned entered an Order Making Findings and Imposing Sanctions by Default as to them.

unsuccessful settlement attempts with Roach, who was a Respondent in this proceeding and defaulted. It notes that letters from the Division to Roach, are not statements of Roach, and thus beyond the scope of 17 C.F.R. § 201.231. Further, Roach's side of the correspondence, consisting of financial forms, is unrelated to Roach's direct testimony. The Division forwarded the exchange of correspondence to the undersigned for in camera review.

The Division expects Roach to testify that he and Blizzard reached an agreement whereby Roach would assist Blizzard to obtain management of some union pension fund accounts for SIA in return for SIA's allocation of brokerage commissions to Roach and that they would conceal the agreement from the customers. The undersigned has examined the material and found that there are no Jencks Act statements. Roach's correspondence consists of financial forms and does not pertain to his anticipated direct testimony and is not relevant in any way to the charges against Blizzard.

In sum, the correspondence between the Division and Roach pertaining to the failed settlement includes no Jencks Act statements and is not subject to production under 17 C.F.R. § 201.231. The correspondence will be returned to the Division under separate cover.

IT IS SO ORDERED.

A handwritten signature in cursive script, reading "Carol Fox Foelak". The signature is written in black ink and is positioned above a horizontal line.

Carol Fox Foelak
Administrative Law Judge