

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 1279/March 4, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15680

In the Matter of	:	
	:	ORDER FOLLOWING PREHEARING
	:	CONFERENCE
EUGENE M. EGEBERG III, CPA	:	

On January 17, 2014, the Securities and Exchange Commission (Commission) issued an Order Instituting Administrative and Cease-and-Desist Proceedings (OIP) alleging that Eugene M. Egeberg III, CPA (Egeberg): (1) engaged in improper professional conduct within the meaning of Section 4C of the Securities Exchange Act of 1934 (Exchange Act), and Rule 102(e)(1)(iv)(B)(2) of the Commission's Rules of Practice; (2) engaged in improper professional conduct within the meaning of Rule 102(e)(1)(ii) of the Commission's Rules of Practice and willfully violated Exchange Act Section 10(b) and Exchange Act Rule 10b-5(b); and (3) willfully violated Rule 2-02(b)(1) of Regulation S-X. Egeberg filed an Answer to the OIP on February 6, 2014.

At a telephonic prehearing conference on February 18, 2014, the parties indicated that they would like to reach a settlement. Tr. 3.¹ It is taking some time for the Division of Enforcement (Division) to collect information about Egeberg's total assets to determine whether he is entitled to a partial waiver of the monetary elements of a settlement. Tr. 3, 5-6. If this proceeding cannot be resolved through settlement, the Division favors resolution by motion for summary disposition, and counsel for Egeberg agrees that summary disposition would be appropriate. Tr. 5-7; see 17 C.F.R. § 201.250(a).

During the prehearing conference, I stated that a second prehearing conference would be set for approximately thirty-five days from the first prehearing conference. Tr. 6-7. If the Division, at that time, has been unsuccessful in collecting all information necessary to move forward with a settlement, we will follow an expedited schedule for a motion for summary disposition. See 17 C.F.R. § 201.250. My experience is that Respondents often think settlement is a good idea until they learn the terms and the cost.

¹ Citation is to the prehearing conference transcript.

Order

I ORDER a second telephonic prehearing conference on March 21, 2014, at 10 a.m. EDT. If the parties are not ready by that date to state that they have agreed in principle to a settlement on all major terms, I GRANT the Division leave to file a motion for summary disposition by April 18, 2014; and ORDER that an opposition brief, if any, is due on May 2, 2014, and the Division's reply brief, if any, will due on May 9, 2014.

Brenda P. Murray
Chief Administrative Law Judge