

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 1973/November 3, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15918

In the Matter of

DENNIS J. MALOUF

ORDER AS TO ACA COMPLIANCE GROUP
HOLDINGS, LLC

On October 14, 2014, this Office issued a subpoena for documents to ACA Compliance Group Holdings, LLC (ACA). On October 27, 2014, ACA filed an Application to Quash the second category of documents the subpoena requests: training materials provided by ACA to its consultants, which it contends are “highly confidential and proprietary documents that form the basis for ACA Holdings’ core business” and “not reasonably calculated to lead to the discovery of evidence that would be admissible or probative” Motion at 1. On October 28, 2014, Respondent opposed the motion.

Respondent’s contention that the second category of documents sought by the subpoena is relevant is well taken. Opposition at 4-5. While a decision as to the admissibility of such documents is premature, Respondent makes a reasonable argument that the training materials address compliance issues that are being litigated in this proceeding. ACA’s claim that none of the evidence would be admissible or relevant is highly speculative, and an insufficient basis on which to deny Respondent’s request for documents to mount his defense.

ACA’s concerns about publicly releasing “confidential and proprietary” information appear reasonable. However, to alleviate that concern, ACA, upon consultation with the parties, is invited propose a mutually agreeable protective order that will ensure that the training materials are not publicly released. *See* 17 C.F.R. § 201.322. Although hearings are presumptively public, to the extent that a confidential, proprietary ACA training document is ultimately admitted into evidence, this Office will take appropriate steps to ensure that it is not made part of the public record.

Accordingly, it is ORDERED that ACA’s Application to Quash is DENIED.

It is also ORDERED that by November 6, 2014, following consultation with the parties, ACA file a proposed protective order to permit the production of the second category of

documents sought by the subpoena. The parties are ORDERED to confer promptly, and in good faith, with ACA in order to agree to such a protective order.

It is also ORDERED that by November 10, 2014, ACA produce the second category of documents sought by the subpoena to Respondent.

Jason S. Patil
Administrative Law Judge