

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 2015/November 13, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15918

In the Matter of
DENNIS J. MALOUF

ORDER REGARDING ALAN M.
WOLPER

On October 22, 2014, Respondent submitted the expert report of Mr. Alan M. Wolper. On October 29, 2014, the Division submitted a rebuttal report to the expert report of Mr. Wolper.

Also on October 29, 2014, the Division submitted a Motion in Limine to Exclude the Expert Testimony of Mr. Wolper (Motion in Limine). On November 10, 2014, Respondent opposed the motion.

On November 7, 2014, Respondent moved to permit Mr. Wolper to testify on or before November 21, 2014. Also on November 7, 2014, the Division opposed the motion.

The parties appear to dispute, in good faith, the relevant expertise of Mr. Wolper. The parties' examination of Mr. Wolper at the hearing, as well as their post-hearing filings in light of that testimony and other evidence adduced, will assist in clarifying and augmenting this dispute. The Division is of course entitled to question Mr. Wolper extensively concerning his relevant expertise, as well as with regard to his specific opinions in this matter. The Division's Motion in Limine is denied without prejudice to arguing in its post-hearing submissions, that all or some of Mr. Wolper's testimony should be disregarded in deciding this matter.

While the Division's concerns about the timing of Mr. Wolper's testimony are understandable, in order to ensure that his testimony is heard in a timely fashion, he will be permitted to testify on November 21, 2014, in the event that the Division has not concluded its presentation of its case by then.

It is ORDERED that the Division's Motion in Limine is DENIED WITHOUT PREJUDICE to raising the request in its post-hearing submissions

It is also ORDERED that Mr. Wolper will be permitted to testify on Friday, November 21, 2014.

Jason S. Patil
Administrative Law Judge