

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

ADMINISTRATIVE PROCEEDINGS RULINGS

Release No. 2059/November 28, 2014

ADMINISTRATIVE PROCEEDING

File No. 3-15918

In the Matter of

DENNIS J. MALOUF

POST-HEARING ORDER

The hearing in this administrative proceeding was held from November 17, 2014, through November 25, 2014. At the end of the hearing, I issued post-hearing instructions. This Order memorializes and supplements those instructions.

1. By December 8, 2014, the parties are responsible for filing paper copies of their respective exhibits, admitted and offered but not admitted, with the Commission's Office of the Secretary. *See* 17 C.F.R. §§ 201.350, .351. The parties should also provide my Office with electronic copies of the exhibits.
2. Also by December 8, 2014, each party must file a list of admitted exhibits and exhibits offered but not admitted. This exhibit list should specify the exhibit number; description of the exhibit; Bates-stamp numbers, if any; and page(s) in the hearing transcript on which the exhibit was offered and admitted, if applicable. The parties shall continue to strive in good faith to reach agreement on additional stipulations and agreement on legal principles that may be endorsed by the undersigned as findings of fact and conclusions of law. They are expected, beginning the first week of December, to continue the productive process of agreeing to facts and legal principles. In addition:
 - a. On December 18, 2014, the parties should file all proposed findings of fact and conclusions of law that they believe should be stipulated to.
 - b. Also on December 19, 2014, the hearing officer and parties will hold a telephonic conference, at a time to be determined, to discuss those filings in order to reach agreement on outstanding issues.
3. Stipulations or motions regarding transcript corrections shall be filed by December 22, 2014. *See* 17 C.F.R. § 201.302(c).
4. Any additional stipulations or agreements received by December 23, 2014, will be acted on expeditiously so that the parties can cite to them in their post-hearing briefs, proposed findings of fact, and conclusions of law. This deadline is without prejudice to the parties' right to reach subsequent stipulations pursuant to 17 C.F.R. § 201.324.

5. The parties shall file simultaneous opening post-hearing briefs by January 9, 2015. No opening post-hearing brief may exceed forty pages. While parties must generally make their initial filings within thirty days of the end of a hearing, given the voluminous transcript, intervening holidays, and the several hundred exhibits admitted into evidence, I find good cause that the extra days are necessary. *See* 17 C.F.R. § 201.340(c)(1). In addition:
 - a. Proposed findings of fact shall be numbered and must be supported by citations to specific portions of the record. Each citation shall be accompanied by quotation(s) of the key language that best supports the proposed finding. Each party is requested, but not required, to attach a timeline to its proposed findings of fact that identifies significant events.
 - b. Proposed conclusions of law shall be numbered and must be supported by citations to legal authority. Each citation shall be accompanied by quotation(s) of the key language of the legal authority that best supports the proposed conclusion.
 - c. The preceding requirements do not apply to findings of fact and conclusions of law already made by the undersigned at the hearing, for which a party may simply cite the pertinent finding or conclusion and the page(s) in the hearing transcript on which it was made. The parties' proposed findings of fact and conclusions of law are not subject to the fifty-page limit. However, the purpose of the parties' proposed findings of fact and conclusions of law is to adduce, but not argue, the facts and law that the undersigned should rely on to decide this proceeding. Any proposed findings of fact or conclusions of law that contain such argument will be stricken. By contrast, the post-hearing briefs should contain all arguments regarding the application of law to fact, and arguments regarding all disputed issues.
6. Any responsive post-hearing briefs are due by January 30, 2015, and must not exceed twenty pages each. Any response to a party's proposed findings of fact and conclusions of law shall be numbered, and must reflect those paragraphs as to which there is no dispute. A party's response to findings of fact and conclusions of law is not subject to the twenty-page limit, but shall be limited to a counterstatement of the factual finding or legal conclusion, specifically identifying the language that is disputed, and then supporting that counterstatement by citations and quotation(s) as described above.
7. A courtesy copy of the exhibit list should be submitted to alj@sec.gov in MS Excel or Word format. A courtesy copy of all post-hearing briefs, proposed findings of fact and conclusions of law, and responses thereto should be submitted as well.

Jason S. Patil
Administrative Law Judge