

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

ADMINISTRATIVE PROCEEDINGS RULINGS  
Release No. 2410 / March 11, 2015

ADMINISTRATIVE PROCEEDING  
File No. 3-16293

In the Matter of

LAURIE BEBO and  
JOHN BUONO, CPA

ORDER ON MOTION TO MODIFY  
SUBPOENA

The Securities and Exchange Commission (Commission) commenced this proceeding on December 3, 2014, with an Order Instituting Administrative and Cease-and-Desist Proceedings (OIP) pursuant to Securities Exchange Act of 1934 (Exchange Act) Sections 4C and 21C and Commission Rule of Practice 102(e).<sup>1</sup> The hearing in this proceeding is set to commence on April 20, 2015, in Milwaukee, Wisconsin.

On February 5, 2015, I signed a subpoena to produce documents directed to third-party Ventas, Inc. (the Ventas Subpoena). On March 3, 2015, Ventas timely moved to modify the subpoena, asking specifically that certain categories in the Ventas Subpoena be quashed: Ventas Subpoena Requests 1-3 and 6-14. On March 9, 2015, Respondent Laurie Bebo (Bebo) submitted a response to the Ventas Motion (Response). Briefing is therefore complete. *See* 17 C.F.R. § 201.232(e)(1).

**Requests 1-3**

Requests 1-3 relate to Old CaraVita, which was a tenant of Ventas before Assisted Living Concepts, Inc. (ALC), was a tenant of Ventas. Mot. at 4, 7; Response at 3-4 & n.2. When ALC became the new tenant of properties previously leased by Old CaraVita, a new lease agreement, between Ventas and ALC, was executed. Response at 7.

The materials Bebo seeks to obtain from Ventas have no relevance to this proceeding. How Ventas treated Old CaraVita in the course of their business relationship is not at issue, and Bebo is incorrect that it is a relevant line of argument that Ventas would have accepted the alleged way ALC, under Bebo's leadership, reported under the Ventas lease agreement – including by including ALC employees as tenants of facilities leased from Ventas. *See* OIP at 2;

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<sup>1</sup> The proceeding has ended as to Respondent John Buono, CPA. *Laurie Bebo*, Exchange Act Release No. 74177, 2015 SEC LEXIS 347 (Jan. 29, 2015).

Response at 3-4; Resp. Request for Issuance of Supp. Subpoena at 4 (dated Feb. 4, 2015) (Resp. Request). The OIP's charges of violations of Exchange Act Sections 10(b), 13(a), and 13(b), and related Exchange Act Rules, are concerned with alleged dishonest actions and statements by ALC, allegedly caused by Bebo, and not whether Ventas agreed with those statements. What might be relevant to Bebo's defense is evidence of Bebo's knowledge and understanding of what Ventas would or would not have accepted in terms of reporting.<sup>2</sup> Documents responsive to Requests 1-3 would not fall into this category of evidence; that evidence would instead be found in documents Bebo viewed and that have already been produced to her by ALC and/or Ventas – for example, emails between Bebo or other ALC employees and Ventas – and in the testimony of Bebo or her colleagues at ALC about what Ventas had indicated was acceptable reporting. *See* Motion at 3 (discussing Ventas' production to the Commission).

Requests 1-3 of the Ventas Subpoena are therefore stricken as irrelevant. If Bebo believes that either ALC or Ventas has specific documents that Bebo saw at the time of the events at issue in the OIP, but that she does not currently have in her possession, showing Ventas' sanctioning of the alleged reporting approach, Bebo may specifically ask for those documents.

### **Requests 6-12**

Requests 6-12 relate to Ventas' communications, agreements, and disputes with Ventas lessees, other than ALC. Bebo believes that materials responsive to these Requests are relevant because they might show that Ventas sanctioned the alleged approach ALC took for reporting residents of Ventas properties. Response 8-9; Resp. Request at 5-6. It is irrelevant what approach Ventas took as to lessees other than ALC; what is relevant is what Bebo understood Ventas' approach as to ALC to be. Evidence supporting that is found in documents that Bebo saw when she was with ALC; if such documents exist, they would have already been produced by ALC and/or Ventas. Further, Bebo can provide support for that theory through the testimony of Bebo or former ALC colleagues at the hearing. Requests 6-12 are therefore stricken as irrelevant.

### **Requests 13-14**

Request 13 relates to the location of Ventas-owned or operated senior housing communities, and Request 14 relates to the tenants of those communities. Bebo has withdrawn Request 13, but maintains that materials responsive to Request 14 are relevant as they support

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<sup>2</sup> According to Bebo, the Division must show that she did not believe that her allegedly false or misleading statements were accurate. Response at 2 (citing *Virginia Bankshares, Inc. v. Sandberg*, 501 U.S. 1083 (1991); *Fait v. Regions Fin. Corp.*, 655 F.3d 105 (2d Cir. 2011)). This overstates the Division's burden. Even if Bebo subjectively believed every statement in ALC's periodic filings attributable to her, she might still be held liable if the Division proves that she acted with "extreme recklessness," that is, where her departure from the standard of care was extreme and the danger of misleading investors was so obvious that she must have known of it. *John P. Flannery*, Securities Act of 1933 Release No. 9689, 2014 WL 7145625, at \*10 n.24 (Dec. 15, 2014).

her argument that ALC operated a small portion of Ventas-owned communities. Response at 5 n.3, 12, Ex. A. That argument, again, relates to her theory that Ventas sanctioned the alleged reporting approach. *See* Resp. Request at 6 (“this information goes to refute the implications of the OIP that Ventas either did not or would not have agreed to the practice utilized by ALC to meet the covenants.”). As discussed above, the only relevant aspect of that theory is Bebo’s knowledge or understanding of what Ventas sanctioned. The evidence she might present in support of that comes from documents she viewed – which she should already have, if they exist – and oral testimony at the hearing. Request 13 is stricken as moot, and Request 14 is stricken as irrelevant.

### **Order**

It is ordered that Ventas’ Motion to Modify Subpoena is GRANTED, and Requests 1-3 and 6-14 of the Ventas Subpoena are STRICKEN. If Bebo believes there are specific documents she received or saw, but that have not been produced to her, that would support her understanding or knowledge of Ventas’ reporting standards as to ALC, Bebo shall submit a subpoena request for those specific documents by March 26, 2015.

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Cameron Elliot  
Administrative Law Judge