

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

ADMINISTRATIVE PROCEEDINGS RULINGS  
Release No. 2578/April 23, 2015

ADMINISTRATIVE PROCEEDING  
File Nos. 3-16311, 3-16312

In the Matters of

RELIANCE FINANCIAL  
ADVISORS, LLC, TIMOTHY  
S. DEMBSKI AND WALTER F.  
GRENDA, JR.

SCOTT M. STEPHAN

ORDER REGARDING MOTIONS IN  
LIMINE

The Securities and Exchange Commission instituted these proceedings on December 10, 2014. A hearing is scheduled to begin on May 11, 2015.

On April 22, 2015, this Office received the Division of Enforcement's Motion and Memorandum of Law in Support of its Motion in Limine to Preclude Respondent Dembski from Calling Twenty Investor Witnesses (Motion). The Division argues that Dembski should not be permitted to call the twenty witnesses listed in his witness list to "(i) establish the undisputed fact that he gave his clients the misleading Prestige Fund PPM, and (ii) testify that, other than the statements in the PPM, Dembski never lied to them," on the basis that the testimony would be "irrelevant" and "unduly repetitious." Motion at 3, 5. Dembski's counsel opposes the Motion and responded by email, calling the Motion "silly."

The Division's Motion is GRANTED IN PART and DEFERRED IN PART. First, because the Division does not contest "[t]hat each Prestige Fund investor received a . . . Prestige Fund PPM," the parties need not call witnesses to testify to establish that fact. Motion at 3.

Second, with regard to the Division's objection to the sheer number of witnesses, to the extent that witness testimony becomes "unduly repetitious," I will limit it accordingly. *See* 17 C.F.R. § 201.320. However, I defer any ruling limiting witness testimony or excluding witnesses on this ground until I have had a meaningful opportunity to hear the testimony of at least some witnesses during hearing, because Dembski must be afforded the opportunity to present relevant testimony to defend against the allegations.

Third, I will defer ruling on the relevance of the witnesses' testimony until I hear it. The Order Instituting Proceedings (OIP) provides, in pertinent part, that "the Commission deems it necessary and appropriate in the public interest that public . . . proceedings be instituted to

determine: . . . [w]hether the allegations set forth in Section II [of the OIP] are true and . . . afford Respondents an opportunity to establish any defenses to such allegations.” OIP at 11.

Just as the Division has identified advisory client witnesses to call in its case, Dembski is entitled to call advisory client witnesses. Dembski might logically wish to present testimony from advisory clients addressing the following allegations from the OIP:

- “Dembski . . . made or used false and misleading statements to . . . advisory clients in order to create the false appearance that an investment in the Prestige Fund was less risky than it really was.” OIP at 2.
- “Dembski’s . . . advisory clients did not know Stephan and . . . had no reason to trust or invest with him.” OIP at 6.
- “Dembski . . . made . . . to . . . advisory clients and other investors or prospective investors in the Prestige Fund, a number of materially false and misleading statements in order to create the appearance that the Prestige Fund was a relatively safe, in-demand investment, overseen by professional money managers.” OIP at 6.
- Dembski’s clients “lacked investment acumen” or “were unsophisticated investors.” OIP at 2, 6.
- “Dembski led *certain* of his clients to believe (falsely) that he both created the Algorithm and monitored the Fund’s performance on a regular (sometimes daily) basis in order to comfort those investors that their risk of loss was limited.” OIP at 2 (emphasis added).
- “Dembski also created the false impression for *certain* of his clients that sophisticated institutional investors were interested in acquiring the Algorithm.” OIP at 2 (emphasis added).
- “Dembski . . . told *some* prospective investors that they could make upwards of 20% on their investment per year.” OIP at 6 (emphasis added).
- “Dembski . . . told *certain* clients that he would monitor the Prestige Fund regularly — to some, he even promised daily monitoring — to ensure that it remained a good investment.” OIP at 8 (emphasis added).

With regard to allegations that only relate to “certain” clients, I understand the Division’s position that even if Dembski proves that he made truthful statements to many clients, that does not prove that he did not make a false or misleading statement to a certain client. However, if Respondent determines that the Division presents selective testimony from former advisory clients that is not representative of the statements Dembski made to his clients, he may present the testimony of a more representative group of similarly situated clients in order to demonstrate that the allegations—though supported by testimony—are implausible.

In addition, in the event that liability is established, the testimony of at least some of the proffered witnesses would be relevant to the many factors informing what, if any, remedial action is appropriate and in the public interest. For the foregoing reasons, I will defer limiting the witnesses’ testimony on relevance grounds until the hearing.

SO ORDERED.

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Jason S. Patil  
Administrative Law Judge