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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 2606/April 29, 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 RESPONDENT DEMBSKI'S ADVICE OF COUNSEL DEFENSE AND OPPOSITION TO 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, at the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York, in Courtroom 1505.

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."

On April 23, 2015, I issued an order granting the motion in part and deferring in part. *Reliance Fin. Advisors, LLC*, Admin. Proc. Rulings Release No. 2578, 2015 SEC LEXIS 1525. First, I ordered that because the Division does not contest that each Prestige Fund investor received a Prestige Fund PPM, the parties need not call witnesses to testify to establish that fact. *Id.* at *1. Second, I ordered 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 at the hearing, once I have had a meaningful opportunity to hear the testimony of at least some witnesses. *Id.*; *see* 17 C.F.R. § 201.320. Third, I deferred ruling on the relevance of the witnesses' testimony until the hearing. *Reliance Fin. Advisors, LLC*, 2015 SEC LEXIS 1525, at *1-2.

On April 28, 2015, Dembski submitted a Memorandum in Opposition to the Division's Motion (Memorandum), noting that the Motion is premature. As noted above, I have already addressed the Division's Motion and laid out the procedure for ruling on the relevant issues at the hearing. Dembski further notes that he is not requesting a subpoena for any of his proposed witnesses because "[i]t is *never* wise litigation strategy for a respondent or defendant to invoke formal judicial process . . . to force a witness to attend a trial or hearing where, as here, some of those witnesses, if not all, are

prepared to assist him by voluntarily arriving at the hearing or trial to tell the truth." Memorandum at 3-4 (emphasis in original). I previously ordered that the parties shall have until the start of the final telephonic prehearing conference scheduled for May 4, 2015, at 10:00 a.m. EDT, to request the issuance of subpoenas. *Reliance Fin. Advisors, LLC*, Admin. Proc. Rulings Release No. 2557, 2015 SEC LEXIS 1430 (Apr. 17, 2015). To protect from any uncertainty regarding the willingness of a witness to testify voluntarily, the parties would be well advised to request subpoenas by this date.

Lastly, in a footnote, Dembski avers in the Memorandum that he "will also rely to a significant extent on the defense of reliance on advice of counsel." Memorandum at 2 n.2. With respect to proceeding with the advice of counsel defense (Defense), only to the extent that Dembski has not already done so, in advance of the May 4, 2015, prehearing conference, he shall:

1. Produce to the parties all documents reflecting that, with regard to the allegedly unlawful conduct in this case, he: (1) made a complete disclosure of the relevant facts of the intended conduct to counsel; (2) sought advice on the legality of the intended conduct; (3) received advice that the intended conduct was legal; and (4) relied in good faith on counsel's advice. *Rodney R. Schoemann*, Securities Act of 1933 Release No. 9076, 2009 SEC LEXIS 3939, at *46 & n.41 (Oct. 23, 2009) (citing *Zacharias v. SEC*, 569 F.3d 458, 467 (D.C. Cir. 2009)), *aff'd*, 398 F. App'x 603 (D.C. Cir. 2010) (per curiam). Any waiver of attorney-client privilege by Dembski, who holds the privilege, will be limited to the Defense, and not construed as a broader waiver of privilege.[1] To the extent that unrelated attorney-client communications appear in the same documents pertinent to the Defense, those other communications may be redacted in the version produced to the parties. However, the redacted and unredacted versions of any such documents shall be provided to this office for *in camera* review.

2. Provide written notification to the counsel, whose documents and testimony are relevant to the Defense, of Dembski's limited waiver of privilege with respect to the Defense in this proceeding.

3. Disclose to the parties the identity and contact information of such counsel.

Any subpoena requests by the parties for documents or witnesses arising from the preceding disclosures should issue no later than May 5, 2015.[2] To the extent any other respondent intends to assert this Defense, they must comply with the same requirements.

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Jason S. Patil
Administrative Law Judge

[1] I do not order Dembski to make such a limited waiver of attorney-client privilege, but, as a practical matter, if he chooses to proceed with the Defense, he should proceed in this way.

[2] Although this is only one day after the prehearing conference, I have every confidence that the parties can draft much of the pertinent documentation in advance.