

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 2906/July 7, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16318

In the Matter of

MICHAEL W. CROW,
ALEXANDRE S. CLUG,
AURUM MINING, LLC,
PANAMTERRA, INC., AND
THE CORSAIR GROUP, INC.

ORDER ON PENDING MOTIONS

A hearing in this proceeding is scheduled to begin on July 13, 2015. A telephonic prehearing conference was held on July 6, 2015, attended by counsel for the Division of Enforcement, Respondent Michael W. Crow appearing *pro se*, and counsel for the remaining Respondents (the Four Respondents, and collectively with Crow, Respondents). At the prehearing conference, I held oral argument and made rulings on several pending motions, which I memorialize below.

The Division objects to Respondents' proposed use of the statement of George Charles Cody Price, arguing that Respondents have not shown that Price is unavailable under Securities and Exchange Commission Rules of Practice 235(a). 17 C.F.R. § 201.235(a). At the prehearing conference, Crow explained that Price was available to testify at the hearing if Price's attorney consented. Accordingly, I DEFER ruling on the objection until the opening of the hearing, pending a determination of Price's availability to testify.

The Division also objects to Respondents' proposed use of the prior statements or investigative testimony of Steve Park, Henry Gewanter, Steven Ross, Angel Lana, and Peter Daubney, on the grounds that these witnesses will testify at the hearing. As Lana and Daubney will be testifying at the hearing, I will GRANT the Division's objection to their prior testimony once they are offered at the hearing. I DEFER ruling on the objection to Ross's prior statement until he is offered as a witness at the hearing. Park will be testifying at the hearing as an expert in some capacities, and therefore the Division's objection to his prior statement is DENIED. I discuss Gewanter below.

The Four Respondents have made a motion to rely on the prior statements of Gewanter and Chad Mooney, or, in the alternative, to allow them to testify telephonically. I strongly prefer

that Gewanter and Mooney testify telephonically; however, I will GRANT the request to admit their prior statements, with limited weight, if they are unavailable to testify in that manner. The Four Respondents also request that Arnold Ferolito be permitted to testify telephonically, and I GRANT this request.

The Four Respondents broadly object to Division evidence pertaining to: 1) Crow's bankruptcy and prior Commission actions; 2) the Lenco transactions; 3) any document or evidence outside the scope of the Order Instituting Proceedings (OIP); 4) evidence of mining techniques outside the scope of the mining approach of Aurum; 5) financial evidence from unqualified witnesses; and 6) evidence obtained by the Commission subsequent to the OIP. I DENY the objection to evidence relating to Crow's bankruptcy and will allow Respondents to designate any additional witnesses to respond to this issue at the hearing. I DENY the objection to evidence relating to prior Commission actions. I GRANT the objection to evidence related to the Lenco transactions, unless evidence at the hearing shows that these transactions are relevant. I DENY without prejudice the objection to documents or evidence outside of the scope of the OIP. I DENY the objection to evidence of mining techniques outside the scope of Aurum's mining approaches. I DENY without prejudice the objection to financial evidence from unqualified witnesses, and will allow Respondents to raise this objection again upon a showing at the hearing that the witness is unqualified. I DENY the objection to evidence obtained by the Commission subsequent to the OIP, though Respondents are of course permitted to dispute such evidence's relevance.

The Four Respondents also raise objections to specific documents on the grounds of hearsay, relevance, undue prejudice, privilege, best evidence rule, and failure to translate documents into English. I DENY objections to documents based on hearsay, best evidence rule, and undue prejudice, but without prejudice as to arguing the weight of such documents. I DEFER objections to documents based on relevance and authenticity until such evidence is offered at the hearing. I DENY objections to documents based on privilege without prejudice and will allow Respondents to raise such an objection at hearing if they can show that a specific document was disclosed inadvertently and that a timely request to return those documents was made. As for objections based on failure to translate, the Division represented that all of its exhibits have been translated; however, the Four Respondents disclosed that they have numerous untranslated exhibits that they may wish to introduce at the hearing. I DEFER objections to documents based on failure to translate until such documents are offered at the hearing, but will not admit any document that is not fully translated unless all parties agree to its admission. The Four Respondents also object to documents produced by Michelle MacCostelloe on the grounds that those documents were obtained illegally. I DENY this objection without prejudice and will allow Respondents to raise this objection as to particular documents if they can represent that the document was stolen.

Crow objects to the following documents: 1) all past litigation or consent decrees; 2) bank accounts and exhibits from unrelated businesses; and 3) privileged documents. He also argues that 1) the investigative file provided by the Division was not text-searchable; 2) the Division did not provide Brady material; and 3) that counsel for the Division has a personal vendetta against him. I DENY Crow's objection to the use of documents from past litigation or consent decrees, his objection to the use of bank accounts and exhibits from unrelated

businesses, his objection to the non-searchable investigative file, his objection on the basis of a personal vendetta by counsel for the Division, and his objection as to Brady material. As above, I DENY without prejudice Crow's objections on the basis of privilege, and will allow him to raise such an objection if he can show that a specific document was disclosed inadvertently and that a timely request to return those documents was made.

Several objections were made by the parties but not discussed at the prehearing conference. The Division objects to Respondents' use of unauthenticated spreadsheets, photographs, and videos. I DENY without prejudice this objection and will allow the Division to raise this objection after Respondents have had an opportunity to provide authenticating testimony as to these exhibits at the hearing. The Four Respondents object to the Division's calling of witnesses Alan Moran (as an expert), Richard Weisman, Peter Daubney (as an expert), Nandy Lelamy, and Sandra Yanez. I DENY these objections.

Crow has designated Park as his expert, but Park is also a fact witness with personal knowledge of some of the events underlying this proceeding. Fact witnesses are usually sequestered from the proceedings until they give their testimony, but sequestering Park until he gives his fact testimony in this instance might prevent him from properly serving his role as an expert and rebutting the Division's expert. Therefore in order to allow Park to sit in on the proceedings, I ORDER that his direct testimony as a fact witness will be given first, after the opening statements. His expert testimony, and the Division's cross-examination, can wait until later in the hearing if the parties so choose.

Finally, as many witnesses may be testifying telephonically at the hearing, the parties are ORDERED to cooperate to have these witnesses prepared to testify.

Jason S. Patil
Administrative Law Judge