

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

ADMINISTRATIVE PROCEEDINGS RULINGS  
Release No. 2907/July 8, 2015

ADMINISTRATIVE PROCEEDING  
File No. 3-16498

In the Matter of

RUSSELL C. SCHALK, JR.

ORDER FOLLOWING PREHEARING  
CONFERENCE

The Securities and Exchange Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings (OIP) in this matter on April 17, 2015. According to the OIP, Respondent submitted an Offer of Settlement, which the Commission determined to accept, and consented to disgorgement of \$1,472,959, prejudgment interest of \$280,271.55, and a third-tier civil penalty of \$1,600,000. OIP at 13. The OIP orders additional proceedings to determine Respondent's ability to pay.

A prehearing conference was held yesterday, attended by the Division of Enforcement and Mr. Schalk. Based on a declaration filed by the Division on July 6, 2015, I found that Mr. Schalk was served with the OIP on April 20, 2015.

Two recent requests received by my office from Mr. Schalk were also discussed: (1) a request for a protective order; and (2) a request for an extension. I reminded Mr. Schalk that future filings should be made in hard copy format to the Commission's Office of the Secretary, pursuant to Rules 151 and 152, 17 C.F.R. §§ 201.151, .152. Regarding the protective order, I found that Mr. Schalk's personally identifiable information, including items such as account numbers and social security number, should be protected from the public. Mr. Schalk will therefore be permitted to file his motion presenting his inability to pay claim and any associated exhibits with redactions of any personally identifiable information.<sup>1</sup> In its opposition, the Division shall also redact any of Mr. Schalk's personally identifiable information.

Mr. Schalk also requested an extension of the due date of his opening brief from July 28 to a date on or around August 15, 2015. For good cause shown, the revised briefing schedule is as follows:

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<sup>1</sup> Mr. Schalk is instructed to maintain the original, unredacted documents in his possession.

August 14, 2015:

Mr. Schalk's motion presenting evidence of his inability to pay is due. Mr. Schalk should include a financial disclosure statement, as described in Commission Rule of Practice 630, 17 C.F.R. § 201.630, and any other evidence or affidavits that support his claim. Mr. Schalk has the burden of proof to establish his inability to pay claim. *See Terry T. Steen*, Exchange Act Release No. 40055, 1998 SEC LEXIS 1033, at \*21 (June 1, 1998).

September 11, 2015:

The Division's opposition is due.

September 25, 2015:

Mr. Schalk's reply is due.

SO ORDERED.

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James E. Grimes  
Administrative Law Judge