

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

ADMINISTRATIVE PROCEEDINGS RULINGS  
Release No. 3292/November 3, 2015

ADMINISTRATIVE PROCEEDING  
File No. 3-16594

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In the Matter of

EQUITY TRUST COMPANY

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: ORDER

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The Securities and Exchange Commission instituted this proceeding with an Order Instituting Proceedings on June 16, 2015, pursuant to Section 8A of the Securities Act of 1933, and the hearing is scheduled to commence on December 1, 2015. Under consideration is the Division of Enforcement's motion to take testimony of Randy Poulson by deposition on November 18, 2015, pursuant to 17 C.F.R. § 201.233 (Rule 233). Respondent opposes this. The OIP alleges that Poulson was a key participant in the alleged conduct at issue in this proceeding, and both parties have subpoenaed him to testify. Currently, Poulson is scheduled to be sentenced in a related matter, *United States v. Poulson*, No. 1:14-cr-309 (D.N.J.), in which he has pleaded guilty to one count of mail fraud, on November 23, 2015. The Division recently learned that a continuation of the sentencing date is unlikely, contrary to its previous understanding, and it believes that Poulson may be remanded immediately on sentencing and thus, unavailable for the hearing, and potentially available for a deposition in prison only after surmounting logistical issues associated with the Bureau of Prisons and the facility where he may ultimately be incarcerated. Respondent believes that it is unlikely that Poulson will be remanded immediately, and that testimony provided shortly before sentencing might be skewed toward the prosecution. Respondent argues that Rule 233(b) requires that it be "likely" that a witness be unable to attend the hearing.

Poulson's whereabouts on and after December 1, 2015, are in the hands of the United States District Judge and the Bureau of Prisons, and their actions cannot be known or predicted with certainty by the parties or the undersigned. While it is certainly possible that he will be unable to attend the hearing, in which case securing his testimony by deposition will consume significant time and resources and delay the conclusion of this proceeding, it cannot be concluded that it is "likely," as required by Rule 233(b). Accordingly, the Division's motion must be denied.

IT IS SO ORDERED.

/S/ Carol Fox Foelak  
Carol Fox Foelak  
Administrative Law Judge