

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 3528/January 21, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-16836

In the Matter of

STEVEN J. MUEHLER,
ALTERNATIVE SECURITIES MARKETS
GROUP CORP., AND
BLUE COAST SECURITIES CORP., dba
GLOBALCROWDTV, INC., AND BLUE
COAST BANC

ORDER DENYING RESPONDENTS'
MOTION FOR SUMMARY DISPOSITION

Respondents moved for summary disposition under Rule of Practice 250 on three bases: constitutional challenges, the Division of Enforcement's compliance with Rule of Practice 230, and the merits. Thereafter, the Division submitted an opposition, and Respondents submitted their reply. Under the summary disposition standard, "[t]he facts of the pleadings of the party against whom the motion is made shall be taken as true" 17 C.F.R. § 201.250(a). "Typically, Commission proceedings that reach litigation involve basic disagreement as to material facts. Based on past experience, the circumstances when summary disposition prior to hearing could be appropriately sought or granted will be comparatively rare." Rules of Practice, Securities Exchange Act of 1934 Release No. 35833, 60 Fed. Reg. 32738, 32768 (June 23, 1995).

Commission precedent effectively forecloses Respondents' constitutional challenges at this stage. See *David F. Bandimere*, Securities Act of 1933 Release No. 9972, 2015 SEC LEXIS 4472, at *68-86 (Oct. 29, 2015); *Timbervest, LLC*, Investment Advisers Act of 1940 Release No. 4197, 2015 SEC LEXIS 3854, at *89-118 (Sept. 17, 2015); *Raymond J Lucia Cos.*, Exchange Act Release No. 75837, 2015 SEC LEXIS 3628, at *76-90 (Sept. 3, 2015); *Harding Advisory LLC*, Securities Act Release No. 9561, 2014 SEC LEXIS 4546, at *34, 35, n.46 (Mar. 14, 2014). Respondents' reply in support of their constitutional challenges is predicated exclusively upon *Duka v. SEC*, 15 Civ. 357, 2015 U.S. Dist. LEXIS 100999 (S.D.N.Y. Aug. 3, 2015), which decided a respondent's application to a federal district court for temporary injunctive relief of a Commission administrative proceeding. *Id.* at *8. Here, Respondents have not sought injunctive relief from such a tribunal, nor have they identified any controlling precedent that administrative proceedings should be disposed of summarily on such grounds. In addition, *Duka's* injunctive relief was limited to an Appointments Clause challenge that lends no support to Respondents'

other contentions. Respondents are nonetheless free to expand upon these arguments up until the post-trial briefing.

Rule of Practice 230 requires that certain documents be made available to Respondents for inspection and copying beginning no later than seven days after service of the order instituting proceedings (OIP). 17 C.F.R. § 201.230(d). Respondents acknowledge that “[u]pon receipt of the OIP, [Respondents] received an email from a Member of the United States Securities and Exchange Commission inviting [them] to the Los Angeles Offices of the Securities and Exchange Commission to copy any and all discovery documents.” Reply at 20. The parties agreed that the Division would provide Respondents a copy of the documents on a hard drive, and Respondents acknowledged they received the hard drive on or about October 15, 2015. *Id.* Respondents’ remaining contentions arise from the fact that they did not access the documents until early January despite acknowledging in mid-November that the Division’s Rule 230 production was complete. Additionally, Respondents chose not to raise the issue at the November 24, 2015, prehearing conference. While Respondents’ failure to access the documents before January is unfortunate, the Division is not at fault. However, in order to ensure that Respondents have additional time to identify and use any documents in the investigative file in their defense, I will favorably entertain Respondents’ requests to designate additional exhibits from the Division’s Rule 230 production up through the close of the hearing. Respondents’ date to file and serve their exhibit list remains unchanged.

While Respondents’ final claim is styled as a challenge to subject matter jurisdiction, since it is predicated on the contention that they did not violate any federal securities laws, I view it as a challenge to the merits of the allegations in the OIP. For purposes of summary disposition only, I must take as true the Division’s factual allegations in that document. 17 C.F.R. § 201.250(a). While Respondents dispute many of the material facts, whether Respondents’ contentions are true and the OIP must be dismissed, are issues that will be decided following a hearing on the merits.

As such, I DENY Respondents’ motion for summary disposition.

Jason S. Patil
Administrative Law Judge