

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 4333/November 8, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17104

In the Matter of

BIOELECTRONICS CORP.,
IBEX, LLC,
ST. JOHN'S, LLC,
ANDREW J. WHELAN,
KELLY A. WHELAN, CPA, and
ROBERT P. BEDWELL, CPA

ORDER REGARDING
EXHIBITS

A hearing was held in this proceeding from September 19 to September 23, 2016, as to all parties except for Robert P. Bedwell, CPA.¹ On October 28, 2016, the parties filed their joint exhibit list and exhibits. A couple of issues with the parties' exhibits and exhibit list have come to my attention: five Division of Enforcement exhibits not admitted at the hearing are described on the exhibit list as admitted; one admitted Division exhibit and four of Respondents' admitted exhibits were not filed with the Office of the Secretary; and two exhibits not offered by Respondents were filed with the Secretary.

Division Exhibits

Division Exhibits 107, 108, and 109 are the investigative transcripts of Richard Staelin, Andrew Whelan, and Mary Whelan, respectively. Tr. 73. I rejected these three exhibits at the start of the hearing, noting that "if the Division wishes to designate portions of their investigative testimony, [it] may do so." Tr. 73. The Division never designated any portions, though they did use the exhibits for impeachment purposes. *See, e.g.*, Tr. 363, 548-49, 1265-67.

Division Exhibit 124 is the declaration of Andrew J. Whelan and attached exhibits. During the hearing, the Division decided not to offer it into evidence based on my prior rulings, but used portions of the declaration for impeachment purposes. Tr. 82, 976-77.

Division Exhibits 138 and 138A are described in the parties' joint exhibit list as follows:

¹ The proceeding has ended as to Bedwell. *BioElectronics Corp.*, Securities Exchange Act of 1934 Release No. 79176, 2016 SEC LEXIS 4034 (Oct. 27, 2016).

- DX 138: Exhibits to Kelly Whelan Declaration
- DX 138A: Kelly Whelan Declaration (portions used for impeachment)

However, the Kelly Whelan declaration and exhibits to the declaration were filed as Division Exhibit 138. I admitted Division Exhibit 138 as the exhibits to the declaration “on the understanding that it does not include the declaration.” Tr. 560.

I ORDER that Division Exhibits 107, 108, 109, and 124 are REJECTED as separate exhibits. The portions of these transcripts and declaration used by the Division for impeachment purposes have already been elicited on the record. I FURTHER ORDER that Division Exhibit 138A, as described in the joint exhibit list, is REJECTED, and Kelly Whelan’s declaration be removed from Division Exhibit 138 and designated as Division Exhibit 138A.

These exhibits will remain on the record as offered not admitted.² As an additional note, Division Exhibits 54 and 104 will be treated as withdrawn. If the Division wants them to be treated as offered not admitted, it should resubmit these exhibits by November 14, 2016.

Division Exhibit 132 was admitted and included on the parties’ joint exhibit list, but was not filed with the Secretary. I ORDER the Division to file this exhibit by November 14, 2016.

Respondents Exhibits

Respondent Exhibits 1A, 1B, 20, and 184 were admitted and included on the parties’ joint exhibit list, but were not filed with the Secretary. I ORDER Respondents to file these exhibits by November 14, 2016.

Respondents filed Exhibits 1C and 1D, which are excerpts of other admitted exhibits, though they were never separately offered by Respondents. These exhibits are not a part of the hearing record.

Cameron Elliot
Administrative Law Judge

² Respondent Exhibits 169A, 170A, 171A, 172A, 175, 177, 179, and 195A-H are also on the record as offered not admitted.