

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 4718/March 29, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-16554

In the Matter of

GRAY FINANCIAL GROUP, INC.,
LAURENCE O. GRAY, and
ROBERT C. HUBBARD, IV

ORDER FOLLOWING PREHEARING
CONFERENCE AND DENYING PENDING
MOTIONS AS MOOT

On March 28, 2017, I held a telephonic prehearing conference to address the timetable for the hearing and other issues related to the recent substitution of counsel for Respondents.

At the prehearing conference, it was decided that the hearing would be held from September 11-15, 2017, in Atlanta, Georgia, at a location to be determined. I ORDERED the parties to submit a joint proposed prehearing schedule by April 7, 2017.

In light of Respondents' shift in litigation strategy, which contemplates raising an advice of counsel defense concerning their representation by Greenberg Traurig, LLP, in addition to the claims they already raised regarding Seward & Kissel, LLP, I suggested that the parties may wish to gather additional evidence, which could include taking a limited number of depositions as provided for in the Commission's revised Rules of Practice. *See* 17 C.F.R. § 201.233. Respondents were in favor of the proposal, and the Division of Enforcement represented that it would discuss the matter internally and report back within a couple days or in the joint proposed prehearing schedule. At that point, I will make a determination as to what I will allow.

Two pending motions were discussed: (1) the Division's motion to strike Respondents' exhibit list; and (2) the Division's motion in limine to strike the expert report of Linda D. Jellum. Because Respondents stated that they plan to submit a revised exhibit list and were likely to revise the Jellum expert report as well, both motions are DENIED AS MOOT. At the appropriate time, the Division may renew its objections or file new motions. Likewise, Respondents noted that they plan on revisiting the expert report of Philip Feigin. Therefore, the Division, which had also previously noted concerns with the Feigin report, will have the opportunity to file a motion later if its concerns have not been addressed.

Although not discussed at the prehearing conference, I had previously found that interview notes submitted by the Division for *in camera* review potentially contained Jencks Act

material. *See Gray Fin. Grp.*, Admin. Proc. Rulings Release No. 4550, 2017 SEC LEXIS 243 (ALJ Jan. 25, 2017). I had noted that whether disclosure would be required was to be discussed at a prehearing conference on January 31, 2017. *Id.* Although such a discussion never occurred, the parties are hereby informed that the matter will be taken up again at a prehearing conference closer to the hearing date.

Finally, since there is new counsel in this matter, I would like to make the parties aware that the Office of Administrative Law Judges offers a confidential settlement program in which a law judge other than myself would preside over settlement discussions. Should the parties wish to pursue this option, they may file a joint motion for an order designating a settlement judge.

Cameron Elliot
Administrative Law Judge