

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

Administrative Proceedings Rulings
Release No. 6912 / November 14, 2024

Administrative Proceeding
File No. 3-20828

In the Matter of

Gregory Lemelson¹

Scheduling Order

The parties held a prehearing conference on November 6, 2024, and submitted a joint report proposing a schedule and addressing other issues. The parties specified a date for the completion of deposition testimony, which I will include in the schedule. As the Commission directed that this proceeding follow the 75-day timeline under 17 C.F.R. § 201.360(a)(2), any request for a deposition subpoena must explain why the deposition meets the requirements of Rule 233(b), 17 C.F.R. § 201.233(b). *See* Order Convening Public Hearing, Investment Advisers Act of 1940 Release No. 6755 (Oct. 23, 2024), <https://www.sec.gov/files/litigation/opinions/2024/ia-6755.pdf>.

Based on the parties' proposal, I set the following procedural schedule:

January 6, 2025: The Division of Enforcement must make available to Respondent all documents specified in Rule 230, if it has not already done so. 17 C.F.R. § 201.230.

January 10, 2025: Deadline to submit to my office any requests for subpoenas requiring the production of documents. 17 C.F.R. § 201.232. A copy of the document subpoena

¹ Respondent intends to file a motion requesting that the caption of the proceeding be changed to his ecclesiastical name, Father Emmanuel Lemelson. Respondent may do so by December 9, 2024, and any response should be filed by December 16, 2024. An affidavit or other evidence supporting the request should accompany the motion. The parties should also address whether both names may be used in the caption, as was done in *SEC v. Lemelson*, 57 F.4th 17 (1st Cir. 2023).

form is available at https://www.sec.gov/files/alj/subpoena-produce_0.pdf.

January 31, 2025: Close of document discovery.

February 7, 2025: Deadline to submit to my office any requests for subpoenas to appear and testify at a deposition. A copy of the deposition subpoena form is available at <https://www.sec.gov/files/subpoena-to-appear-depos.pdf>.

February 28, 2025: Close of deposition discovery.

June 9, 2025: Submit to my office any requests for subpoenas requiring a person to appear and testify at the hearing. A copy of the appearance subpoena form is available at <https://www.sec.gov/files/subpoena-to-appear.pdf>.

Exchange witness lists, exhibit lists, and exhibits. Please send a courtesy copy of the lists to alj@sec.gov. Exhibits are not filed with the Office of the Secretary until the close of the hearing.

June 16, 2025: File motions in limine, including objections to exhibits and witnesses. I will not entertain a prehearing motion seeking to preemptively preclude hearing objections based on the failure to raise objections by this deadline. I may, however, consider the failure to raise an objection by this deadline in resolving objections at the hearing.

File stipulations, admissions of fact, and requests for official notice.

June 23, 2025: File oppositions to motions in limine and requests for official notice.

June 30, 2025: Final telephonic prehearing conference at 4:00 p.m. EDT.

July 7, 2025: Hearing begins at a location to be determined in the Boston area, Massachusetts. My office will secure a hearing location. The Division of Enforcement must

arrange for a court reporter. The hearing is expected to last three to five days.

The parties are reminded that all papers should be filed electronically with the Office of the Secretary as provided by Rules 151 and 152, 17 C.F.R. §§ 201.151, .152. The parties have agreed to serve each other by email. In addition, they are asked to email courtesy copies of filings to alj@sec.gov. Electronic copies of exhibits should not be combined into a single PDF file, but sent as separate attachments, and should be provided in text-searchable format whenever practicable.

Guidelines

I will follow the general guidelines described below during these proceedings. The parties should review what follows *and promptly raise any objections they may have to these guidelines*.

Subpoenas. A party's motion to quash a subpoena will be due within five business days of the submission of the subpoena for signing. Any opposition to the motion to quash will be due within five business days thereafter. A party moving to quash a subpoena to produce documents based on a claim of privilege must support its motion with a declaration and privilege log. *Accord Dorf & Stanton Commc'ns, Inc. v. Molson Breweries*, 100 F.3d 919, 923 (Fed. Cir. 1996); *Caudle v. District of Columbia*, 263 F.R.D. 29, 35 (D.D.C. 2009).

Witness Lists. Witness lists must include witnesses' names, occupations, city and state of residence, and a brief summary of their expected testimony. 17 C.F.R. § 201.222(a)(4). Home addresses should not be included in the filing. The party making the filing should promptly make complete witness information, including a witness's address, available to another party upon request.

Exhibits. The parties should confer and attempt to stipulate to the admissibility of exhibits. To avoid duplication of exhibits, the parties should identify joint exhibits. Exhibits are not filed with the Office of the Secretary until the close of the hearing at my instruction.

Exhibit lists. A comprehensive exhibit list prevents a party opponent from being surprised in the middle of the hearing. An exhibit list must not be excessively long, vague, or confusing to the point of prejudicing the opponent's ability to raise prehearing objections or to prepare its case. Exhibit lists shall be exchanged among the parties and should include all documents that a party expects to use in the hearing for any purpose. This includes documents that are relevant only for impeachment purposes or that may be subject to admissibility objections. Each party should serve its opponent with any

amendments to its exhibit list. Because I rely on the parties' exhibit lists, the parties should provide me with a paper copy of their final exhibit lists at the beginning of the hearing. Following the hearing, I will issue a separate order directing the parties to file a list of all exhibits—both admitted and offered but not admitted—together with citations to the record indicating when each exhibit was admitted.

A party may offer an exhibit not included on the exhibit list if good cause, for example the need to respond to unexpected testimony, can be shown.

Hearing schedule. The first day of the proceeding will begin at 10:00 a.m. Unless circumstances require a different schedule, we will begin each subsequent day at 9:00 a.m. Each day of the proceeding should last until at least 5:00 p.m. I generally take one break in the morning, lasting about fifteen minutes, and at least one break in the afternoon. I generally break for lunch around 12:30 p.m., for about one hour.

Witness examination.

- a. In general, the Division presents its case first because it has the burden of proof. Respondent then presents his case. If necessary, the parties may agree to proceed in some other order and may take witnesses out of order.
- b. If the Division calls a non-party witness that Respondent also wishes to call as a witness, Respondent's cross-examination of the witness may exceed the scope of what was covered by Division's direct examination of that same witness. This will avoid the need to recall a witness just so the witness can testify for Respondent's case.
- c. In general, cross-examination may be conducted by leading questions, even as to Division witnesses that Respondent wishes to call in his own case. If a Commission employee is called as a witness for Respondent, the Division may not ask leading questions on cross-examination.
- d. Avoid leading questions on direct examination. Leading questions during direct examination of a non-hostile witness are objectionable. Repeatedly having to rephrase leading questions slows down the hearing.

/s/ Jason S. Patil
Administrative Law Judge