

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



Administrative Proceeding
File No. 3-15215

In the Matter of

James S. Tagliaferri,

OPPOSITION TO MOTION

FOR SUMMARY DISPOSITION

Respondent.

RESPONDENT'S OPPOSITION TO DIVISION OF ENFORCEMENT'S
MOTION FOR SUMMARY DISPOSITION

In its order on Procedural Schedule, the Court directed Opposition Memoranda to be submitted by November 6, 2015. Respondent's Memorandum is submitted accordingly.

Respondent respectfully requests the Court make particular reference to his Answer to the OIP, including comments with regard to a Summary disposition.

Respondent believes a Summary Disposition is inappropriate at this time. However, if the Court decides in favor of a Summary Disposition, then a hearing should be held to determine Respondent's culpability and what specific sanctions, if any, should be imposed.

The Division's Motion for Summary dispositions should be denied for two reasons. First, I have been denied due process. Repeatedly, I have requested copies of the Division's entire investigative file. Before I was incarcerated, the Division "dragged its feet" and provided only partial access to the

file. Now subsequent to my incarceration and I am not able to receive electronic information, the Division refuses to provide information in "hard copy". It claims the file is too voluminous. It is frightening to think the Division is seeking to impose sanctions knowing full well a Respondent has not had an opportunity to review its investigative file in its entirety. Accordingly, inasmuch as I have been denied due process, I respectfully request the Court deny the Division's Motion for Summary Disposition. (With regard to denial of due process specifically related to a failure to provide access to an investigative file, I cite a recent well publicized "deflategate" case in the Southern District of New York (NFL v. Tom Brady) wherein Judge Berman dismissed the NFL's case against Mr. Brady, in part, because Defendant Brady was not able to review the investigative file.)

A second reason the Division's Motion for Summary Disposition should be denied is the incongruity between the Court's Order granting Division's Motion to Amend the OIP and then, declaring the criminal proceeding converted the OIP to a "follow-on" proceeding. Effectively, this enabled the Division to state, without opposition, the allegations made in its Amended OIP and the criminal proceeding were "substantially the same". Previously, the Court, in its Order granting the Division's

Motion to Amend its OIP, stated "Tagliaferri will have an opportunity to contest these allegations and their legal effect". The Court should stand by its ruling and give Respondent that opportunity by denying the Division's Motion for Summary Disposition. (The Court has not ruled as yet on Respondent's request for reconsideration of the Division's Motion to Amend its OIP and delete the phrase "on substantially the same allegations as in this case".)

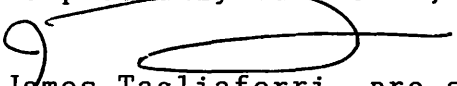
IF MOTION FOR SUMMARY DISPOSITION GRANTED....

.... Respondent should have an opportunity to present evidence to determine his degree of culpability. As I argued in my Answer to the OIP Memorandum dated October 13, 2015, a hearing should be scheduled at which evidence can be presented and evaluated. I cite again the Blinder, Robinson case (Blinder, Robinson & Co. v. SEC, 837 F. 2d 1099, 1108-09 (D.C. Cir.1988) referenced by this Court previously. The Blinder, Robinson case is replete with opinions by that Court stating the need to determine the degree of culpability of a respondent and a requirement of the SEC "to have before it a full set of facts necessary to determine whether sanctions should be imposed in the public interest". (I refer the Court to my Answer Memorandum dated October 13, 2015 in which I requested a hearing and included a witness list.)

CONCLUSION

For the reasons cited above, Respondent respectfully requests the Court deny the Division's Motion for Summary Disposition. It is simply inappropriate at this juncture. However, if the Court sees fit to grant the Division's Motion, then Respondent respectfully requests the opportunity to present witnesses at a hearing at which my degree of culpability can be determined.

Dated: November 6, 2015

Respectfully submitted,

James Tagliaferri, pro se
Respondent

[REDACTED]
Beaver, WV [REDACTED]
November 2, 2015



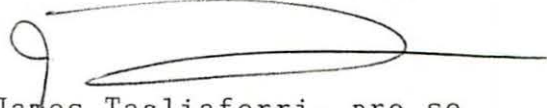
Brent J. Fields, Secretary
U.S. Securities & Exchange Commission
100 F Street N.E.
Washington, DC 20549-2557

Re: James S. Tagliaferri (Admin. Proc. File No. 3-15215)

Dear Mr. Fields:

Enclosed please find an original and three copies of Respondent's Opposition to the Division of Enforcement's Motion for Summary Disposition.

Respectfully submitted,


James Tagliaferri, pro se
Respondent

cc: Nancy A. Brown, Esq.
Senior Trial Counsel
Division of Enforcement