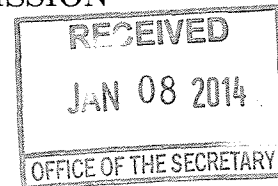


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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-15526



In the Matter of

GEORGE B. FRANZ, III

and

RUBY CORPORATION,

Respondents.

RESPONDENTS' MOTION FOR LEAVE TO
FILE MOTION FOR SUMMARY
DISPOSITION *INSTANTER* AND BRIEF IN
OPPOSITION TO DIVISION OF
ENFORCEMENT'S MOTION TO STRIKE

Now come the respondents, George B. Franz, III and Ruby Corporation (the "*Respondents*"), by and through counsel, and hereby file their Motion for Leave to File Motion for Summary Disposition *Instanter* and Brief in Opposition to the Division of Enforcement's (the "*Division*") Motion to Strike Respondents' Motion for Summary Disposition.

First, Respondents respectfully request that this Honorable Court grant them leave to file their Motion for Summary Disposition *Instanter*. Due to the multiple and overlapping proceedings involving Andrew J. Franz, George B. Franz, III, and Ruby Corporation, Ari H. Jaffe, counsel for Respondents, mistakenly believed that a deadline for dispositive motions had been set in this proceeding for December 31, 2013. In fact that deadline had been set in another of the SEC's cases, *Securities and Exchange Commission v. Andrew Franz*, United States District Court, Northern District of Ohio,

Case No. 5:12-cv-00642, a case that has been closed, but whose schedule still appeared upon counsel's docket. Counsel's error was unintentional and counsel apologizes.

Second, to the extent that the Division opposes Respondents' Motion based upon a concern about factual disputes between the parties, said concern is not appropriate grounds for a Motion to Strike. If the Division disputes the contents of Respondents' Motion for Summary Disposition, then the Division should properly do so through a substantive brief in opposition to the Motion, and not procedural end around the offending pleading.

Finally, Respondents state that their Motion for Summary Disposition is not intended to delay dates previously set in this matter.

Accordingly, Respondents pray for leave to file their Motion for Summary Disposition *Instante* pursuant to Rule 250(a) of the Commission's Rules of Practice.

Dated: January 7, 2014

Respectfully submitted,

KOHRMAN JACKSON & KRANTZ, P.L.L.



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