

Motion for Court re Feathers 3-15755

- (1) to Clarify as to 30, 75, or 120 Day Proceeding Under Rule 250**
- (2) To clarify as to any "good cause shown" by either of the parties in these proceedings**
- (3) Consideration that Respondent has been prevented from presenting facts essential to justify opposition to Enforcement's Motion**
- (4) Rule 323 Evidence and Official Notice**

Arguments, Theories, and Considerations

The initial law judge in these proceedings specified that certain attachments were to be included by Enforcement with their motion for summary disposition, due to Respondent's *pro se* status. Having now read these attachments in Enforcement's second submission of a motion for summary disposition, Respondent raises the following issues: Respondent is uncertain if these proceedings were considered 30, 75, or 120 day proceedings at their outset. It is evident by now, nine calendar months after the outset of these proceedings, that even if these were originally 30 or 75 day proceedings, they were miscategorized by the Commission or whomever party is responsible for categorizations with the Commission. Given this fact, these now logically can only be considered for the most expansive category, which is a 120 day proceeding. Therefore, according to Rule 250 (c), Enforcement appears to have failed to submit for leave of the hearing officer for their motion for summary disposition.

Still missing is evidentiary materials which would assist Respondent in justifying opposition to Enforcement's motion for summary disposition. These include documents that Respondent has requested from Enforcement, FDIC, and SBA. On that basis the time is not ripe for summary disposition motion hearings. Under Rule 250, Respondent requests that the court deny leave for Enforcement to file a motion for summary disposition. Respondent asks this court to take judicial notice, under Rule of Practice 323, of the "Stalker Report", which was a forensic accounting report performed under the direction of the criminal court of Hon. Lucy Koh. Because the Stalker Report was engaged AFTER adverse summary judgment against Respondent, and upon which Enforcement predicates these proceedings, the Stalker Report may not appear in the evidence in the record. In fact, both civil and criminal courts did not consider the Stalker Report for its findings, due to jurisdictional issues raised by those courts after the completion and submission of the Stalker Report. There is no logical, rational, or procedural basis for this court to not take notice of the Stalker Report, however, as part of these proceedings, and to do so now, on a timely basis.

As SEC, Enforcement – statistically speaking – rarely loses on its home court, especially to a *pro se* party, Respondent anticipates that the court will approve of Enforcement's motion for leave for summary disposition, and therefore will outline per Rule 250, and for the benefit of all parties and the public, "good cause shown".


Resy

Mark Feathers, *pro se*, Respondent 8-9-20