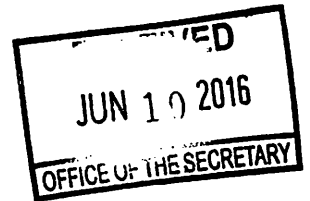


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING
File No. 3-17210

In the Matter of

PAUL LEON WHITE, II,

Respondent.

DIVISION OF ENFORCEMENT'S
MEMORANDUM OF LAW IN OPPOSITION TO
RESPONDENT'S MOTIONS SEEKING (1) AN EXTENSION OF TIME TO
ANSWER THE OIP; (2) THE DIVISION'S INVESTIGATIVE FILE; (3) TO
COMPEL THE DIVISION TO PRODUCE A LIST OF WITHHELD DOCUMENTS
PURSUANT TO RULE 230(c); (4) TO COMPEL THE DIVISION TO FILE A
PREHEARING SUBMISSION PURSUANT TO RULE 222; AND (5) TO RENEW
HIS REQUEST TO BE TREATED IN FORMA PAUPERIS

DIVISION OF ENFORCEMENT
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Securities and Exchange Commission
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200 Vesey Street, Suite 400
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June 9, 2016

INTRODUCTION

Respondent White has filed five motions and briefs, each dated May 24, 2016, seeking, inter alia, (1) a second extension of time to answer the OIP (“Resp. Answer Br.”); (2) access to the Division’s investigative file, including requiring the Division to print-out and provide him with certain documents in hard copy (“Resp. Inv. File Br.”); (3) to compel the Division to produce a list of documents withheld pursuant to Rule of Practice 230(c) (“Resp. Inv. File Br.”); (4) to compel the Division to file a prehearing submission pursuant to Rule of Practice 222 (“Resp. Prehearing Sub. Br.”); and (5) to proceed in forma pauperis (“Resp. Second Pauperis Br.”).¹ These motions—which are irrelevant, contradicted by law, or mooted by the Court’s prior rulings—serve as further evidence of White’s efforts to avoid filing a timely Answer to the OIP and instead to waste the Court’s time with irrelevant motion practice.² The Division, therefore, respectfully requests that the Court deny Respondent’s motions and preclude Respondent from making any additional filings until such time as he can demonstrate that he has timely filed an Answer.

¹ The Division has, to date, was served with copies of these motions today by U.S. Post. However, the ALJ’s office provided the Division with copies of these motions by email on June 7, 2016.

² To date, Respondent has submitted over 80 pages of briefing and other filings to the Court.

ARGUMENT

I. Respondent's Motion for a an Extension of Time to Answer Pleadings and Other Filings is Without Merit

In addition to seeking a second extension of time to answer the OIP, Respondent renews his request for a standing order giving him 30 days to respond to any “future pleadings.”³ (See Resp. Answer Br. at 4 (asking for 30 days “response time”).) The Court denied this request on May 13, 2016. (Order, May 13, 2016, at 2 (denying standing order to respond to pleadings and motions).) Respondent has not pointed to any new reason for such a blanket extension. (See Rule of Practice 161(b) (requests for extension are “strongly disfavor[ed]”).) Indeed, Respondent’s current pace of filings demonstrates that such a blanket extension is unnecessary.

II. White's Motion to Compel the Division to Produce Copies of Documents in its Investigative File is Moot and Otherwise Without Merit

A. Background

The Division has already made its investigative file available for inspection and copying to White as required by Rule of Practice 230. On April 19, 2016, the Division wrote to White that its non-privileged files “are available for your inspection and copying” and asked White to contact the Division “to arrange for inspection, copying or delivery of these documents.” (See Division’s Memorandum of Law, dated May 20, 2016, in opposition, *inter alia*, to Respondent’s Motion to Proceed in Forma Pauperis (“Div. May 20th Opp. Br.”), Ex. A at 1.) On May 16, 2016, White wrote the Division requesting

³ On June 8, 2016, the Court denied White’s motion for an extension of time to answer the OIP. (Order, June 8, 2016, at 2.) The Court further ordered White to show cause by June 22, 2016 as to why this proceeding should not be determined against him due to his failure to answer the OIP. (*Id.*) The Division, therefore, does not address the substance of White’s extension motion in this opposition brief.

privileged documents. (Id. at 5; id. at Ex. B at 1 (discussing White’s request for communications among the staff and with other law-enforcement agencies).) On May 19, 2016, the Division again wrote to White indicating that it could not produce the documents he specifically requested because they were privileged, but reiterated its prior offer to make available to him (or to his representative) electronic copies of the non-privileged portions of the investigative file at no cost to White. (Id. at 5-6; id. at Ex. C.) On May 26, 2016, the Court found that “the Division has complied with its obligation to produce its investigative file.” (Order, May 26, 2016, at 2.) The Court also denied White’s application to proceed in forma pauperis or to shift the costs of Respondent’s discovery to the Division. (Id.)

In his current motion, White requested that the Division send (1) electronic copies of its non-privileged investigative files to Lee Snead, Esq.; and (2) hard-copies of two cases to White. (See Resp. Inv. File Br. at 4-5.) On June 8, 2016, the Division sent print-outs of the requested cases to White. (See Letter from Alexander Janghorbani to Paul Leon White, II, June 8, 2016 (attached hereto as Ex. A).) On June 9, 2016—after confirming with Mr. Snead that he would accept delivery—the Division sent its non-privileged investigative file in electronic format to Mr. Snead. (See Letter from Alexander Janghorbani to Lee Snead, June 9, 2016, enclosing investigative files (attached hereto as Ex. B).)

B. White’s Request for the Investigative File is Moot

White requests that the Division send its “electronically-maintained file” to Lee Snead. (Resp. Inv. File Br. at 4-5.) This request is moot as the Division has sent the electronic files to Mr. Snead.

C. White's Request for Paper Copies of Certain Documents in the Investigative File is Without Merit

In addition to requesting the entire investigative file in electronic format (which the Division has complied with), White also seeks an order compelling the Division to print and produce hard copies of a sub-set of documents from the investigative file, including, inter alia, (1) communications with Respondent's clients, other governmental agencies, and third parties concerning Respondent or companies with which he was associated; (2) all subpoenas and written requests; (3) documents collected by the Division during the investigation; and (4) transcripts. (See Resp. Inv. File Br. at 2, 4.) As discussed above, the Division has already produced all non-privileged documents in electronic format to Respondent's representative. Moreover, for all the reasons set out in the Division's May 20th Opposition Brief, there is no basis—in either the Commission's Rules of Practice or federal law—to require the Division to shoulder the costs of printing out its files and, here, such cost-shifting would be prohibitively expensive. (See Div. May 20th Opp. Br. at 3-4, n.5.) In addition, while Rule 230 requires that the Division make available its non-privileged investigative file, the Rules do not required it to cull that file for specific documents at Respondent's request. Indeed, that Respondent waited over a month to request the non-privileged files suggests that he is more interested in creating delay, than in gaining access to the documents.

D. Respondent's Request for a Withheld Documents List Pursuant to Rule 230(c) is Moot

Respondent also seeks an order compelling the Division to produce a list of “any documents or categories of documents the SEC seeks to withhold from Respondent.” (Resp. Inv. File Br. at 3.) The Division produced just such a “List of Withheld Documents by Category Pursuant to Rule of Practice 230(c)” on April 19, 2016. (See Div. May 20th

Opp. Br. at 6, Ex. A (letter including withheld documents list).)⁴ Under Rule 230(c), identifying privileged documents “by category” is presumptively sufficient. (See Rule 230(c) (“When similar documents are withheld pursuant to paragraphs (b)(1)(i) through (b)(1)(iv) of this rule, those documents may be identified by category instead of by individual document”). Respondent has not provided any reason why the Division’s list of withheld documents by category is insufficient and his motion should, therefore, be denied.

III. The Court Should Deny Respondent’s Second Request to be Treated in Forma Pauperis

White has also submitted to the Court a letter, dated May 24, 2016, renewing his request for cost-shifting styled as a request to grant Respondent in forma pauperis status. (Resp. Second Pauperis Br. at 1.) The Court already denied this request on May 26, 2016. (Order, May 26, 2016, at 2.) Respondent cites no new authority for this request and the motion should, therefore, be denied.

IV. White’s Request to Compel the Division to Submit Prehearing Submissions is Premature

White requests that the Division be compelled, pursuant to Rule 222, to file (1) a prehearing brief; (2) documents it intends to introduce at the hearing; and (3) a list of witnesses. This request is premature. Rule 222 governs the format of “Prehearing Submissions.” As the Court noted at the May 13, 2016 prehearing conference, the parties will prepare for a hearing in the event that the Court denies the Division’s motion for summary disposition:

⁴ In that same April 20, 2016 letter, the Division also made additional disclosures to White pursuant to Rule of Practice 230(b)(2). (See Div. May 20th Opp. Br., Ex. A at 1-4.)

Mr. White, here's the thing -- here's the thing with a motion for Summary Disposition. If you demonstrate that the Division is not entitled to Summary Disposition, then we're going to have a hearing, and so that is why we -- that's why I set the schedule I have, so that there's time for us to have the hearing, if that's necessary.

(Tr. of Prehearing Conference, May 13, 2016, at 18:7-13 (emphasis added).) Should the Court grant the Division's motion, such prehearing submissions will not be necessary.

Therefore, Respondent's request is premature and can be revisited if a hearing is necessary.

V. Respondent's Reply Brief in Further Support of His Motion to Dismiss the OIP

Along with his others papers, dated May 24, 2016, Respondent also filed a reply brief in further support of his motion to dismiss the OIP and other relief. The Court already addressed all of the relief that Respondent seeks—including dismissal of the OIP and a confirmation that Rule 154(c) does not apply to pleadings—at the May 13, 2016 prehearing conference and in its Order, dated May 13, 2016. Respondent's current Reply Brief is, therefore, moot. (See Order, May 13, 2016, at 2.)

CONCLUSION

For the foregoing reasons, the Division respectfully requests that the Court deny Respondent's current motions and preclude Respondent from making any additional filings with the Court until such time as he can demonstrate that he has timely filed an Answer.

Dated: June 9, 2016
New York, New York

Respectfully submitted,



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DIVISION OF ENFORCEMENT



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June 8, 2016

By UPS

Paul Leon White, II

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

P.O. Box [REDACTED]

Dannemora, New York [REDACTED]

Re: In the Matter of Paul Leon White, II, Admin. Proc. File No. 3-17210

Dear Mr. White:

I represent the Division of Enforcement ("Division") in this matter. In your Motion for Availability of Documents for Inspection and Copying, dated May 24, 2016, you requested that the Division provide you with hard-copies of two cases: (1) In the Matter of Joseph P. Galluzzi, Exchange Act. Rel. 46405, 2002 WL 1941502 (Aug. 23, 2002); and (2) In the Matter of James S. Tagliaferri, ID Rel. No. 985, 2016 WL 1158233 (May. 23, 2016). The Division is not required to provide you with hard-copy documents or to bear the cost or burden of printing out legal authority for your convenience. However, as a courtesy I am attaching the cases you requested hereto.

Sincerely,

Alexander Janghorbani
Senior Trial Counsel

Enclosures

EXHIBIT B



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June 9, 2016

By UPS

Lee Snead, Esq.

██████████
Bellport, New York ██████████

Re: In the Matter of Paul Leon White, II, Admin. Proc. File No. 3-17210

Dear Mr. Snead:

Pursuant to our conversations of June 7 and 8, 2016, please find enclosed two hard drives and four discs containing the non-privileged documents collected in the Division of Enforcement's ("Division") investigation that led to the institution of this administrative proceeding.¹ The Division's electronically-maintained file consists of three universes of data:

- Vol.'s I-III: three discs containing Recommind files with approximately 90,000 pages of documents;
- Vol. IV: one disc containing certain transcripts of Mr. White's criminal trial, which the Division only recently received. This data has not been loaded to Recommind; and
- Vol.'s V-VI: two hard drives containing approximately 845 GB of data that Mr. White produced to the Securities and Exchange Commission. This data also has not been loaded to Recommind.

The files are encrypted with True Crypt.²

Sincerely,


Alexander Janghorbani
Senior Trial Counsel

Enclosures

cc: Paul Leon White, II (w/out enclosures)

¹ You informed me during our conversation that—while you are not representing Paul Leon White, II as an attorney in this matter—you are willing to accept delivery of the enclosed electronic media.

² The password for Vol.'s I-IV is Sec_NY-08412\$. The password for Vol.'s V-VI is TsCYZ\$Kp9w.

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-17210

In the Matter of

PAUL LEON WHITE, II,

Respondent.

Certificate of Service

I hereby certify that I served the Division of Enforcement's Memorandum of Law in Opposition to Respondent's Motion Seeking (1) an Extension of Time to Answer the OIP; (2) the Division's Investigative File; (3) to Compel the Division to Produce a List of Withheld Documents Pursuant to Rule 230(c); (4) to Compel the Division to File a Prehearing Submission Pursuant to Rule 222; and (5) to Renew His Request to be Treated in Forma Pauperis, dated June 9, 2016, and all exhibits attached thereto on this 9th day of June, 2016, on the below parties by the means indicated:

Paul Leon White

████████████████████
████████████████████
████████████████████
████████████████████: P.O. Box ██████, Zip ██████
Dannemora, New York ██████
(By UPS)

Brent Fields, Secretary
Office of the Secretary
U.S. Securities and Exchange Commission
100 F. Street, N.E.
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(By UPS (original and three copies))

The Honorable James E. Grimes
Administrative Law Judge
U.S. Securities and Exchange Commission
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Washington, DC 20549-2557
(By Email and UPS)



Alexander Janghorbani
Senior Trial Counsel