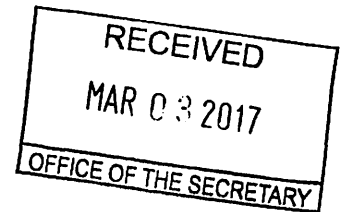




UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
NEW YORK REGIONAL OFFICE
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JUDITH WEINSTOCK
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March 2, 2017

By Email (alj@sec.gov)

The Honorable Jason S. Patil
Administrative Law Judge
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-2557

Re: In the Matter of Donald F. ("Jay") Lathen, Jr., Admin. Proc. File No. 3-17387

Dear Judge Patil:

We are writing to object to Respondents' arguments yesterday related to Respondents' Exhibits 1966, 1970, 1971, and 1972, documents produced to Respondents subsequent to the charged conduct in this case, and which were admitted for limited purpose. Respondents' arguments were impermissible, given the Court's ruling regarding those Exhibits.

In particular, this Court ruled that the documents could come in but "not to prove the truth of the assertions in the documents." (Tr. at 3703:22-23). The Court restricted their admission solely to show their impact on Respondents' mental state "at the time they received the material" if there was "ongoing conduct" at that time. (Tr. at 3704:2-5.) Because the documents were part of the investigative file, they were provided to Respondents in August 2016. Since no redemption requests were submitted post March 2016, there was no ongoing conduct, and therefore, their impact on Respondents' mental state is irrelevant. The only other potential relevant purpose the Court identified for those Exhibits was "understanding of [Mr. Lathen's] testimony with respect to facts like recognition of wrongfulness or a plan to continue with the conduct if during the time of the proceeding, he's receiving information or he receives information which suggests [Respondents'] conduct is legal." (Tr. at 3704:6-11). The Court further clarified that neither of those purposes "require information in the documents itself to be true." (Tr. at 3704:11-12.)

Because Respondents' arguments yesterday about those Exhibits related to the materiality of Respondents' false statements, which necessarily requires the statements in the Exhibits to be true, we request that the Court disregard those arguments. Indeed, any arguments related to these Exhibits that concern the truth of what was said in them should be disregarded.

Hon. Jason S. Patil

March 2, 2017
Page 2

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Judith Weinstock".

Judith Weinstock

cc: Harlan Protass, Esq.
Paul Hugel, Esq.
Christina Corcoran, Esq.
(via email)