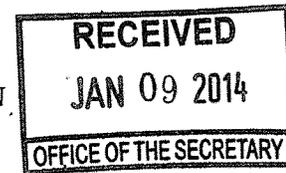


UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING  
File No. 3-15526

In the Matter of

GEORGE B. FRANZ III

and

RUBY CORPORATION

DIVISION OF ENFORCEMENT'S REPLY IN  
SUPPORT OF ITS MOTION TO STRIKE  
RESPONDENTS' DECEMBER 31, 2013 MOTION  
FOR SUMMARY DISPOSITION

The Division of Enforcement ("Division") hereby submits this Reply in support of its Motion to Strike the Respondents' December 31, 2013 Motion for Summary Disposition. This brief also opposes the Respondents' January 7, 2014 Motion for Leave to File Motion for Summary Disposition. The Respondents have still not yet provided any legitimate justification for moving for Summary Disposition at this time.

As stated previously, Summary Disposition is simply inappropriate given the numerous factual disputes between the parties. Under Rule 250(b), the Court will grant a Motion for Summary Disposition "if there is no genuine issue with regard to any material fact and the party making the motion is entitled to a summary disposition as a matter of law" (emphasis added). Here, the Respondents have denied the vast majority of the factual claims in the Order Instituting Proceedings ("OIP") both in their Answer and in their Motion for Summary Disposition. As a result, there are genuine issues with regard to numerous material facts in this case. Therefore there is simply no basis to move for Summary Disposition.

In order to obtain Summary Disposition, the Respondents would have to demonstrate that, even if all of the facts allege in the OIP are true, the Division still loses as a matter of law. Under Rule 250(a) all facts in the OIP are taken as true for the purposes of determining whether the Respondents are entitled to summary disposition as a matter of law. See *In re Becker*, Initial Decision Rel. No. 252, 2004 WL 1238256 at \*2 (June 3, 2004) ("The facts of the pleadings of the party against whom the motion is made shall be taken as true, except as modified by stipulations or admissions made by that party, by uncontested affidavits, or by facts officially noted pursuant to Rule 323 of the Commission's Rules of Practice.") (emphasis added). The Respondents' version of the facts – laid out in detail in their Motion – is therefore irrelevant. The Respondents barely reference the OIP, except to dispute its facts. Again, this is not permitted in a consideration for Summary Distribution brought by Respondents.

For the above reasons, the Division of Enforcement respectfully requests that this Court strike the Respondents' Motion for Summary Disposition.

Dated: January 8, 2014

Respectfully submitted,



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