

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-15918

In the Matter of

DENNIS J. MALOUF

Respondent.

**MOTION TO PERMIT RESPONDENT'S
EXPERT ALAN WOLPER TO TESTIFY ON
OR BEFORE NOVEMBER 21, 2014**

Respondent Dennis Malouf moves, pursuant to Rule 154 of the Commission's Rules of Practice, for an order permitting Respondent's expert witness Alan Wolper to testify at the hearing in this matter no later than November 21, 2014. In support of his motion, Respondent states as follows:

1. This matter was instituted on June 9, 2014. The original Order Setting Prehearing Schedule was entered July 22, 2014, and set the final hearing for November 3, 2014.
2. On September 24, 2014, the Order Redesignating Presiding Judge was entered appointing Administrative Law Judge Jason S. Patil to preside at the hearing in these proceedings. On September 29, 2014, a new Scheduling Order was entered which moved the final hearing from November 3, 2014, to November 17, 2014.
3. It was not previously anticipated that a portion of the hearing in this matter would take place during the week of the Thanksgiving holiday. However, the parties and Judge Patil have determined that the hearing is expected to continue into the week of November 24, 2014.
4. Respondent's expert Alan Wolper did not have any scheduling conflicts with the originally scheduled hearing dates beginning on November 3, 2014, nor does he have any conflict with the week of November 17, 2014. However, Mr. Wolper will be traveling with family for Thanksgiving from Sunday November 23, 2014, through Sunday, November 30, 2014, and will be unavailable to testify on behalf of Respondent during that time. Mr. Wolper's

family travel commitments had been scheduled substantially in advance of the date he was retained by Respondent in this matter and before this matter was even instituted.

5. Respondent has recently been advised by the Division that it does not expect to conclude the presentation of its case in chief until Friday, November 21, 2014. In the event the Division does not conclude its case in chief until late in the day on November 21, 2014, Respondent fears he will be denied an opportunity to call Mr. Wolper to testify on his behalf due to his unavailability the following week.

6. In light of Mr. Wolper's unavailability during the week of November 24, 2014, and the Division's representations that it will not conclude its case until November 21, 2014, Respondent requests permission to call Mr. Wolper as a witness no later than Friday, November 21, 2014, which may include calling him to testify prior to the conclusion of the Division's case.

7. Undersigned counsel has conferred with counsel for the Division seeking agreement that Respondent may call Mr. Wolper prior to the conclusion of the Division's case if the hearing schedule so requires, but the Division would not agree.

WHEREFORE, Respondent respectfully requests an order permitting Respondent's expert witness Alan Wolper to testify at the hearing in this matter no later than November 21, 2014.

Respectfully submitted,

Dated this 7th day of November, 2014



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ATTORNEYS FOR RESPONDENT DENNIS J. MALOUF


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have caused a copy of the foregoing to be served via U.S. Mail and/or e-mail (as indicated below) to the following this 7th day of November, 2014:

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