

**UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING
File No. 3-17020**

In the Matter of

DIANE DALMY, ESQ.,

Respondent.

REPLY IN SUPPORT OF DIANE DALMY'S MOTION TO LIFT TEMPORARY SUSPENSION

Diane Dalmy ("Dalmy"), through counsel, submits this reply supporting her motion for the Commission to lift its order of temporary suspension, stating as follows:

DISCUSSION

The Office of Litigation and Administrative Practice ("OLAP") misses the point. Dalmy does not ask the Commission to lift the suspension because she believes the *Zenergy* court will find she did not act willfully. Rather, Dalmy is asking the Commission to lift the suspension because it is improper to issue a suspension until the court has the opportunity to address the issue of willfulness in the first place.

The case has two phases, liability and remedies. The court found a violation. That is the liability portion. The Court will address the issue of willfulness when it issues its decision regarding remedies. The court stated specifically that the issue of good faith is irrelevant to the issue of liability. It is relevant only to remedies. It is therefore fundamentally unfair to impose a suspension when the issue of willfulness was never on the table. If the court issues a remedies decision that does not include a finding of no willfulness, then a suspension would be appropriate; not before then.

OLAP argues Dalmy's motion is akin to seeking a stay pending an appeal. Respectfully, that argument is absurd. Here, there is nothing to appeal. The court has not yet issued a decision that involves the issue of willfulness. Dalmy is not asking for a stay pending an appeal. She is asking to wait until there is a decision where the issue of willfulness can be considered.

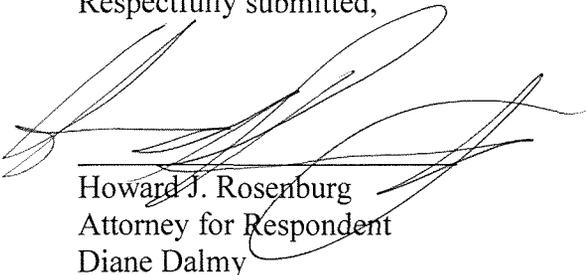
OLAP also notes Dalmy has not cited any cases. Dalmy suggests she is in a rare situation and that is why there are no cases cited. First, the violation of Section 5 is strict liability. There are very few cases where attorneys are charged only with a strict liability, i.e., a non-scienter based cause of action. Second, this is case where the suspension was obtained prior to a remedy being determined. The rare combination of an attorney charged with a non-scienter cause of action, and a suspension issued prior to a remedies determination is what leads to no cases cited. Indeed, OLAP does not cite to any cases in a similar set of circumstances that go the other way.

Finally, the issue of harm to Dalmy is apparent. It goes without saying that the suspension will, in large part, destroy her career.

CONCLUSION

A suspension at this time is premature. Dalmy asks that the decision on suspension be deferred until the *Zenergy* court has an opportunity to make a finding regarding willfulness in its remedies determination.

Respectfully submitted,



Howard J. Rosenberg
Attorney for Respondent
Diane Dalmy

Howard J. Rosenberg
Kopecky Schumacher Bleakley Rosenberg PC
203 N. LaSalle St. Suite 1620
Chicago, Illinois 60601
(312) 380-6631
hrosenburg@ksblegal.com

CERTIFICATE OF SERVICE

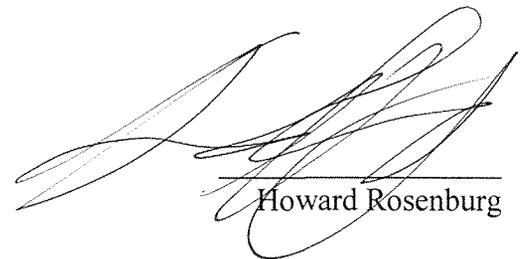
I certify that on January 13, 2016, I caused the preceding document to be served upon the following persons in the manner stated below:

Office of the Secretary
Securities & Exchange Commission
100 F Street NE
Mail Stop 1090-Room 10915
Washington, D.C. 20549
(By U.S. Mail and Facsimile, 202-772-9324)

Eric A. Reicher
U.S. Securities and Exchange Commission
100 F Street, NE, Mailstop 9612
Washington, DC 20549
(via email reichere@sec.gov)

Karen J. Shimp
U.S. Securities and Exchange Commission
100 F Street, NE, Mailstop 9612
Washington, DC 20549
(via email shimpk@sec.gov)

Thomas J. Karr
U.S. Securities and Exchange Commission
100 F Street, NE, Mailstop 9612
Washington, DC 20549
(via email karrt@sec.gov)



Howard Rosenberg