

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Rel. No. 68078 / October 22, 2012

Admin. Proc. File No. 3-14770

In the Matter of

AMS HOMECARE, INC.

ORDER DIRECTING THE FILING OF ADDITIONAL BRIEFS

AMS Homecare, Inc., a British Columbia corporation with stock registered with the Commission pursuant to § 12(g) of the Securities Exchange Act of 1934,<sup>1</sup> appeals from the initial decision of an administrative law judge.<sup>2</sup> The law judge revoked the company's registration based on her finding that it had violated § 13(a) of the Exchange Act,<sup>3</sup> and Rules 13a-1 and 13a-13 promulgated thereunder,<sup>4</sup> in that the Company failed to file any of its required periodic reports since October 17, 2007, when it filed an annual report for the period ended February 28, 2007. The law judge issued her initial decision without holding a hearing in the case and in the absence of any motion for summary disposition having been filed. The purpose of this order is to request that the parties address the procedural basis for the law judge's decision, as discussed further below.

The relevant chronology is as follows. On February 24, 2012, the Commission issued an Order Instituting Proceedings against AMS Homecare, which directed that a public hearing be held to determine, among other things, whether the company had violated the periodic reporting requirements of the federal securities laws.<sup>5</sup> After two prehearing conferences in which both AMS

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<sup>1</sup> 15 U.S.C. § 78l(g).

<sup>2</sup> *Amer. United Gold Corp., et al.*, Initial Decision Release No. 460, 2012 WL 2179124 (June 14, 2012).

<sup>3</sup> Exchange Act § 13(a), 15 U.S.C. § 78m(a), requires issuers of securities registered pursuant to Exchange Act § 12 to file periodic reports in accordance with Commission rules.

<sup>4</sup> Rule 13a-1, 17 C.F.R. § 240.13a-1, requires registrants to file annual reports, and Rule 13a-13, 17 C.F.R. § 240.13a-13, requires registrants to file quarterly reports.

<sup>5</sup> *Amer. United Gold Corp., et al.*, Securities Exchange Act Release No. 66456, 2012 WL 1028961, at \*2 (Feb. 24, 2012).

Homecare and the Division of Enforcement participated,<sup>6</sup> the law judge issued an initial decision finding that AMS Homecare had violated the reporting requirements, as alleged, and revoked its registration.

The Commission's Rules of Practice provide for the holding of a hearing before the issuance of an initial decision, except where a party has moved for summary disposition.<sup>7</sup> No such hearing was held, nor, as noted, did either party file a motion for summary disposition. Under the circumstances, the procedural basis for the law judge's determination to issue the initial decision at such an early stage in the proceeding is not entirely clear, and briefing on this issue would benefit the Commission's consideration of the appeal.

Accordingly, it is ORDERED that the parties are requested to file additional briefs regarding the procedural posture of the appeal, specifically addressing whether the Rules of Practice authorize issuance of an initial decision in the absence of a hearing or a motion for summary disposition and, consequently, whether the proceeding should be remanded for the purpose of conducting a hearing in the matter (during which motions for summary disposition may be made). Any such brief shall be filed within fourteen calendar days from the date of service of this order and shall not exceed 5,000 words.

For the Commission by the Office of the General Counsel, pursuant to delegated authority.

Elizabeth M. Murphy  
Secretary

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<sup>6</sup> See 17 C.F.R. § 201.221 (setting forth procedures applicable to prehearing conferences).

<sup>7</sup> See 17 C.F.R. § 201.250 (permitting either party in an administrative proceeding to file, after the respondent's answer to the OIP has been filed and before a hearing is held, a motion for summary disposition of allegations in the OIP stating that the law judge "may grant the motion for summary disposition if there is no genuine issue with respect to any material fact and the party making the motion is entitled to a summary disposition as a matter of law").