

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 622 / October 14, 2005

ADMINISTRATIVE PROCEEDING
FILE NO. 3-11692

In the Matter of	:	
	:	ORDER DENYING MOTION TO
RAYMOND JAMES FINANCIAL	:	CORRECT MANIFEST ERRORS
SERVICES, INC.,	:	OF FACT
J. STEPHEN PUTNAM, and	:	
DAVID LEE ULLOM	:	

Background

I issued an Initial Decision in this proceeding on September 15, 2005. Raymond James Financial Services, Inc. (Raymond James), filed a Motion to Correct Manifest Errors of Fact (Motion) on September 27, 2005, pursuant to Rule 111 of the Securities and Exchange Commission's (Commission) Rules of Practice. 17 C.F.R. § 201.111. The Motion alleges that the Initial Decision contains twenty-five manifest errors of fact.¹ The Division of Enforcement (Division) filed an Opposition to the Motion on October 4, 2005. Raymond James did not file a reply. 17 C.F.R. § 201.154(b).

Ruling

Rule 111(h) of the Commission's Rules of Practice allows a party to file a motion to correct a manifest error of fact within ten days of issuance of the Initial Decision and also provides that the administrative law judge shall rule on such a motion. 17 C.F.R. § 201.111(h). Rule 360 of the Commission's Rules of Practice provides that the filing of such a motion delays the effective date of the Initial Decision. 17 C.F.R. § 201.360(b)(2).

The Commission's Rules of Practice do not define the term "manifest error" and there is scant Commission case law on the issue. In one administrative proceeding, the term is defined as "[a]n error that is plain and indisputable, and that amounts to a complete disregard of the controlling law or the credible evidence in the record." Robert Cord Beatty, 84 SEC Docket

¹ It appears that the Motion was written using the internet version of the Initial Decision. Therefore, the page references in the Motion do not correspond to the pages in the hard copy of the Initial Decision. Paragraphs (Par.) 10 and 11 each propose two corrections so the number of alleged errors is twenty-seven, not twenty-five.

3331, 3334 (Feb. 10, 2005) (quoting Black's Law Dictionary 563 (7th ed. 1999)), final, 84 SEC Docket 4065 (Mar. 16, 2005). A manifest error of fact must be an error that could reasonably affect the outcome of a decision. See generally 11 Charles Allen Wright et al., Federal Practice and Procedure § 2810.1 (2d ed. 1995) (collecting cases).

The Motion describes six spelling and typographical errors. Specifically, Pars. 1, 6, 7, 18, 19, and 20 cover the following mistakes:

- Par. 1. Seth Rodner, not Seth Rosner, in APPEARANCES on page 1;
- Par. 6. Moss, not Morse, on page 20, footnote 23;
- Par. 7. Customer Accounts, not Customer Accountants, on page 23, second full paragraph, third line;
- Par. 18. 49114444, not 4911444, on page 37, first full paragraph;²
- Par. 19. May 2000, not May 2002, on page 54, paragraph number 15; and
- Par. 20. March 2000, not March or April 1999, on page 57, last paragraph, fourth sentence. March or April is correct but the year is 2000, not 1999.³

Pars. 4, 5, 9, 10, 11, 12, 16, 17, 23, and 24 are changes of nomenclature or suggested clarifications. Pars. 2, 8, 13, 14, 15, 21, and 25 challenge statements that, when read in context, accurately reflect what the record shows. Pars. 3 and 22 are critical of statements that reflect what is in the record. The Division does not object to proposed corrections at Pars. 1, 4-7, 9-12, 17-20, 23, and 25, which it characterizes as not substantive, and it argues that the remaining ten items should be denied.

The items identified by Raymond James come nowhere near what is necessary to be considered manifest errors of fact.⁴ None of the alleged errors are facts upon which a finding of liability was based or affected a conclusion reached in the Initial Decision. Accordingly, I DENY Raymond James Financial Services, Inc.'s Motion to Correct Manifest Errors of Fact.

Brenda P. Murray
Chief Administrative Law Judge

² The same typographical error is also on page 39 of the internet version of the Initial Decision and on page 41 of the hard copy.

³ The statement that the two compliance departments merged in March or April 2000 is at Tr. 1629, 2058, 2298, 2473, 2868.

⁴ Simultaneously with this Order, I will issue an errata to the Initial Decision correcting the six spelling and typographical errors.