

ADMINISTRATIVE PROCEEDING
FILE NO. 3-11832

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
March 28, 2005

In the Matter of :
: ORDER
EAGLETECH :
COMMUNICATIONS, INC. :

The Securities and Exchange Commission (SEC or Commission) initiated this proceeding on February 15, 2005, with an Order Instituting Proceedings (OIP). I find as a fact that Eagletech Communications, Inc. (Eagletech), received the OIP on February 26, 2005, and not on any earlier date (Eagletech e-mail to SEC of March 9, 2005). I further find that Eagletech's Answer was timely. As an affirmative defense, Eagletech alleges that its stock has been the subject of two separate criminal price manipulations: the first, by a group of pump-and-dump manipulators; and the second, by a group of naked short-sellers and others who have counterfeited its stock certificates. It acknowledges that the Commission has commenced an action against the alleged pump-and-dump manipulators, but asserts that the Commission has not taken appropriate action against the naked short-sellers and counterfeiters. Eagletech asserts that the present proceeding is retaliatory.

I held a telephonic prehearing conference today. Eagletech participated through Rodney E. Young, its president and chief executive officer. Counsel for the Division of Enforcement (Division) also participated. Eagletech advised that its proper service address is in care of Rodney E. Young, 7241 N.W. 6th Street, Plantation, Florida 33317. Eagletech's facsimile number is 954-583-3309. The Ft. Lauderdale, Florida, service address for Eagletech, as identified in the OIP, is no longer valid.

On March 24, 2005, Eagletech moved to debar certain Division attorneys from this proceeding. Eagletech also requested that the Commission refer evidence of criminal activity to the U.S. Department of Justice and the U.S. Secret Service, and it urged me to stay this proceeding until these agencies complete their criminal investigations. The Division explained its opposition to Eagletech's motion during the prehearing conference.

Eagletech's motion to debar certain Division attorneys is denied. Rule 180(a) of the Commission's Rules of Practice permits an Administrative Law Judge to exclude or suspend a person from a hearing, a conference, or a proceeding for contemptuous conduct, but not otherwise. The requirements of that Rule have not been satisfied here.

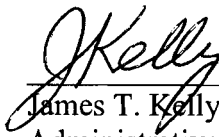
The Commission and the U.S. Department of Justice have already taken action with respect to some of the objectionable trading in Eagletech's securities. On the same day it initiated this administrative proceeding, the Commission filed a related civil injunctive action against seventeen individuals in U.S. District Court for the District of New Jersey. See SEC v. Labella, No. 05-CIV-852 (WGB) (D.N.J.). As a separate matter, the U.S. Attorney for the District of New Jersey obtained indictments against four individuals for criminal securities manipulation activities in January 2005. See United States v. Labella, No. 05-CR-87 (D.N.J.).

Eagletech argues that the Commission's and the U.S. Attorney's responses to its complaints have been insufficient. Eagletech may renew its argument in its opposition to the Division's motion for summary disposition. However, Eagletech will be required to provide the particulars of its accusations at that time, and to demonstrate the relevance of its affirmative defense to the narrow allegations in the OIP. Eagletech is forewarned that a respondent's burden to show an abuse of prosecutorial discretion is formidable. Cf. Barry C. Wilson, 52 S.E.C. 1070, 1074 (1996); Richard J. Puccio, 52 S.E.C. 1041, 1046 (1996).

Eagletech's motion for an open-ended stay of this proceeding is governed by Rule 161(b) of the Commission's Rules of Practice. The Commission has directed me to conclude this matter and issue an Initial Decision within 120 days from the February 26, 2005, delivery of the OIP, i.e., by June 27, 2005. Thirty of those 120 days have already expired. I thus deny Eagletech's motion for a stay. The issue of a stay would arguably be in a different posture if the U.S. Attorney or another governmental investigative body were to request it, or were to support Eagletech's request for a stay. See Rule 210(c)(3) of the Commission's Rules of Practice. Eagletech's motion for an open-ended stay is denied. If the U.S. Attorney or another governmental investigative body joins Eagletech's motion to stay, I will revisit this ruling.

The Division has informed Eagletech of the opportunity to inspect and copy its investigative file. At the prehearing conference, the Division requested leave to file a motion for summary disposition. Following a discussion, I granted that request. The parties then agreed on the following schedule:

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| April 15, 2005: | Division to file its motion for summary disposition; |
| May 3, 2005: | Eagletech to file its opposition to summary disposition; |
| May 10, 2005: | Division to file its optional reply; and |
| May 27, 2005: | Telephonic prehearing conference at 9:30 a.m. Eastern time, with the Division to initiate the call and obtain a court reporter. |


James T. Kelly
Administrative Law Judge