

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
October 6, 2005

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In the Matter of :  
: ORDER  
: PHILIP A. LEHMAN :  
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The Securities and Exchange Commission (Commission) issued its Order Instituting Proceedings on July 5, 2005. The hearing is scheduled to begin on October 31, 2005.

The Scheduling Order of August 15, 2005, required Respondent Philip A. Lehman (Lehman) to file and serve a list of his proposed witnesses no later than September 19, 2005. No such list has been received. I then required Lehman to show cause why he should not be barred from calling witnesses at the hearing (Order of September 27, 2005). No response to the Order to Show Cause has been received.

IT IS ORDERED THAT Lehman shall be barred from calling witnesses at the hearing. See Rules 180(b)-(c) of the Commission's Rules of Practice. Lehman will be allowed to testify in support of his claim of inability to pay financial sanctions, as long as the necessary supporting documents are in the hands of the Division of Enforcement (Division) by October 24, 2005.

The Scheduling Order of August 15, 2005, also required Lehman to file and serve a list of his proposed exhibits no later than September 30, 2005. No such list has been received. At a telephonic prehearing conference yesterday, I required Lehman to show cause why he should not be barred from introducing exhibits at the hearing. Lehman did not offer a valid explanation for his failure to file an exhibit list. Nor did he offer to cure his failure to file by a date certain.

IT IS FURTHER ORDERED THAT Lehman shall be barred from offering exhibits at the hearing. See Rules 180(b)-(c) of the Commission's Rules of Practice. Lehman will be allowed to introduce documents in support of his claim of inability to pay financial sanctions, as long as the documents are in the hands of the Division by October 24, 2005.

At the prehearing conference, I also granted the Division leave to file a motion for partial summary disposition on all liability issues and on all sanctioning issues other than the civil

monetary penalty issue. See Rule 250(a) of the Commission's Rules of Practice. If the Division elects to submit such a motion, it must be filed and served by October 14, 2005. Lehman may file an opposition to any such motion within the time permitted by the Rules of Practice.

  
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James T. Kelly  
Administrative Law Judge