

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
June 25, 2003

SECURITIES & EXCHANGE COMMISSION
MAILED FOR SERVICE

JUN 26 2003

In the Matter of :
:
JAMES F. GLAZA, : ORDER
D/B/A FALCON FINANCIAL :
SERVICES, INC. :
:
:

FIRST CLASS

The Securities and Exchange Commission (Commission) issued an Order Instituting Proceedings (OIP) in this matter on January 21, 2003. On February 18, 2003, Respondent James F. Glaza, d/b/a Falcon Financial Services, Inc. (Glaza), filed an Answer and a telephonic prehearing conference was subsequently held on March 10, 2003. During that conference, counsel for Glaza indicated that he would only be available to attend the hearing in July. See Transcript of prehearing conference, held on March 10, 2003, page 6. Shortly thereafter, and to accommodate counsel's schedule, the undersigned issued an Order setting the hearing for 9:30 a.m. MDT, July 7, 2003, in Denver, Colorado.

Currently pending is Glaza's Motion for a More Definite Statement and For Adjournment of Hearing Date (Motion), received June 23, 2003, and the Division of Enforcement's (Division) Response to the Motion (Response), received June 24, 2003.

The OIP alleges that while Glaza was acting as a registered representative associated with registered broker-dealers, he violated the registration and antifraud provisions of the federal securities laws. In particular, the OIP alleges that Glaza offered to sell and sold OnLine Power Supply, Inc. (OnLine) stock to the public when no registration statement was filed or in effect with respect to the sale of such stock, and no valid exemption from registration was available. In addition, the OIP alleges that Glaza made material misrepresentations or omissions of fact in the offer or sale, and in connection with the purchase or sale, of OnLine's securities. The OIP also alleges that Glaza's conduct as to the public offering and sale of OnLine stock constituted participation in a penny stock offering.

Glaza states that the OIP does not allege any specific fraudulent conduct on his part, but contains generalized and conclusory allegations of fraud which are insufficient to satisfy Rule 9(b) of the Federal Rules of Civil Procedure. The Federal Rules of Civil Procedure, however, do not govern the Commission's administrative proceedings.


Rule 200(b)(3) of the Commission's Rules of Practice, 17 C.F.R. § 201.200(b)(3), (Rule) requires the OIP to set forth the factual and legal basis alleged in sufficient detail so as to permit a specific response thereto. In addition, the Commission has consistently held that appropriate notice of proceedings is given when the respondent is sufficiently informed of the nature of the charges so that he may adequately prepare his defense, but that he is not entitled to disclosure of evidence. See Mutual Employees Trademart, Inc., 40 S.E.C. 128, 131 (1960). I find that the OIP complies with the Rule.

Rule 220(d) of the Commission's Rules of Practice, 17 C.F.R. § 201.220(d), allows a party to file a motion for a more definite statement with the answer. As the Division points out in its Response, Glaza did not file the instant motion along with his Answer; he filed it over five months later. No explanation has been given for the delay.

The Division has stated that the requested information is already within Glaza's possession because the Division has complied with Rule 230 of the Commission's Rules of Practice, 17 C.F.R. § 201.230, and has made its investigative files available for inspection. However, in its Response to the Motion, the Division represented that counsel for Glaza scheduled and cancelled several appointments to review those documents.

Respondent's Motion is untimely and the relief requested is DENIED. The hearing will commence as scheduled at 9:30 a.m. MDT, July 7, 2003, in Denver, Colorado.

SO ORDERED.


Robert G. Mahony
Administrative Law Judge