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ADMINISTRATIVE PROCEEDING
FILE NO. 3-10936

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
March 13, 2003

SECURITIES & EXCHANGE COMMISSION
MAILED FOR SERVICE

MAR 15 2003

In the Matter of

JEFFREY R. PATTERSON and
TERRANCE TURMAN

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ORDER

FD. NO. first class

The hearing in this proceeding is scheduled to commence April 21, 2003. On March 12, the Division of Enforcement (Division) moved to quash the February 28, 2003, subpoena duces tecum issued at Respondent Turman's request to Francis C. Brulenski, CPA, of Nihill & Riedley.¹

The subpoena requires the production of "reports, analyses, findings, conclusions and recommendations by Nihill Riedley (including any correspondence, attachments, exhibits, appendices), for the period October 2001 to the present, prepared in connection with the engagement of Nihill Riedley by the SEC and/or the BFS receiver to provide forensic, accounting or other professional services relating to the business of Bentley Financial Services and the Entrust Group." The Division intends to call Mr. Brulenski to testify as a "summary witness." By March 14, it will provide all Respondents with a summary of Mr. Brulenski's anticipated trial testimony and copies of the "summary" trial exhibits he prepared. The Division states that it has already made available all underlying documents on which his summaries are based and will provide separate copies of those underlying documents to Respondents with its proposed trial exhibits.

As described, the material prepared in connection with the SEC engagement is work product within the meaning of Hickman v. Taylor, 329 U.S. 495 (1947) and Federal Rule of Civil Procedure 26(b)(3). Thus, production of that material is unreasonable, oppressive and unduly burdensome within the meaning of 17 C.F.R. § 201.232(e)(2), and the subpoena will be modified to exclude its production. The Division does not otherwise have standing to request that the subpoena be quashed or modified. The subpoena is not directed to the Division, and the Division is not the owner, creator, or subject of the other documents to be produced. See 17 C.F.R. § 201.232(e)(1).

IT IS SO ORDERED.



Carol Fox Foelak
Administrative Law Judge

¹ Pursuant to 17 C.F.R. § 201.232(e)(1), "Any person to whom a subpoena is directed or who is an owner, creator or the subject of the documents that are to be produced pursuant to a subpoena may . . . request that the subpoena be quashed or modified."