

ADMINISTRATIVE PROCEEDING
FILE NO. 3-11084

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
October 3, 2003

10/3/2003
10:08 AM
10/3/2003

In the Matter of :
: ORDER
HARRISON SECURITIES, INC., :
FREDERICK C. BLUMER, :
and NEBRISSA SONG :
:
:
:

The hearing in this matter is scheduled to commence on October 14, 2003, in New York City. To this point, a New York attorney has ably represented all three Respondents.

Yesterday afternoon, I received a notice of appearance from a California attorney who has had no prior involvement in the case. The notice of appearance was filed on behalf of Respondents Harrison Securities, Inc. (Harrison), and Frederick C. Blumer (Blumer), but not on behalf of Respondent Nebrissa Song (Song). The notice was accompanied by a motion to continue the hearing for "at least" ninety days, so that the California attorney could begin to familiarize himself with the issues in the proceeding.

As grounds for the postponement, the California attorney stated as follows:

At [the first meeting between Blumer and the California attorney on September 24, 2003], Blumer advised me that his present counsel . . . had advised him of a potential conflict of interest and that he [Blumer] was no longer comfortable with [the New York attorney's] multiple representation of all respondents.

Affidavit of California attorney, ¶ 2 (emphasis added).

All of the respondents in this proceeding had previously been represented by [a New York attorney. That attorney] recently advised the moving Respondents that he believed that there was a significant risk of an actual conflict of interest as a result of his continued representation of all of the respondents in this proceeding. This potential conflict of interest stems from the fact that respondent Song is claiming that in meeting her responsibilities as FINOP for Harrison she relied upon information

supplied to her by the moving Respondents. In pursuing this defense on behalf of respondent Song, [the New York attorney] would not be free to advance any argument on behalf of the moving Respondents that ran counter to Ms. Song's defense. As a result of this, the moving Respondents do not believe that [the New York attorney] will be able to vigorously advocate their cause to the fullest extent possible.


Brief in Support of Motion to Postpone, at 1-2 (emphasis added).

Quite frankly, I do not yet have all the necessary facts to rule on the motion. The California attorney does not say just how "recently" Blumer learned of the perceived conflict of interest, nor does he say whether Blumer waived the perceived conflict of interest when he first learned of it. The artful use of the phrase "no longer comfortable" suggests that, at one time, Blumer was "comfortable" with the multiple representation. The record should be clear as to whether there was a significant time lapse between these events, and whether Blumer's current lack of comfort with the perceived conflict is a reason for postponing the hearing, or merely a pretext for doing so. The New York attorney may not be able to speak freely about these matters because of attorney-client privilege, but Blumer, as master of any such privilege, certainly can.

IT IS ORDERED THAT Respondent Frederick C. Blumer shall promptly file and serve an affidavit stating when he first learned of the potential conflict of interest, and further stating if he ever waived the potential conflict of interest.

No action will be taken on the California attorney's motion to continue until I have received Blumer's affidavit, and any response that the Division of Enforcement may wish to file.

In view of the limited time before the scheduled hearing, an attorney from this Office will read this Order to the parties by telephone.



James T. Kelly
Administrative Law Judge