

ALS

ADMINISTRATIVE PROCEEDING  
FILE NO. 3-11234

SECURITIES & EXCHANGE COMMISSION  
MAILED FOR SERVICE

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
January 7, 2004

JAN 07 2004

FIRST CLASS

---

In the Matter of	:	
	:	ORDER
MICHAEL B. RAWDIN,	:	
HARD ASSET MANAGEMENT, INC.,	:	
and DAVID COHEN	:	
	:	

---

On December 24, 2003, the Division of Enforcement (Division) filed a notice stating that it had submitted the original settlement offer of Respondents Michael B. Rawdin (Rawdin) and Hard Asset Management, Inc. (HAM), and a copy of the settlement offer of Respondent David Cohen (Cohen) to the Office of the Secretary for consideration by the Securities and Exchange Commission (Commission). According to the Division, Cohen provided a facsimile copy of his settlement offer on December 5, 2003, but he did not follow through by providing the signed original settlement offer and the original notarized financial disclosure statement, as required. The Division urged me to hold the status conference that had previously been scheduled for January 6, 2004.


I held the telephonic status conference yesterday, but only the Division, Rawdin, and HAM participated. The Division stated that it expects the Commission to consider the pending settlement offers in the near future. On the basis of that representation, I will postpone the hearing that is scheduled to begin on January 12, 2004.

At the status conference, the Division explained that Cohen still has not submitted his signed original settlement offer and his original notarized financial disclosure statement. The Division further explained that Cohen has not returned repeated telephone calls it has made to Cohen since mid-December. The Division's statements about Cohen are unchallenged. Cohen received proper notice of yesterday's status conference, but he failed to participate in the conference.

Although Cohen is subject to default for failing to participate in a prehearing conference of which he had proper notice, see Rule 155(a)(1) of the Commission's Rules of Practice, there is always a possibility that he may provide the Division with

the necessary paperwork before the Commission acts on the pending settlement offers. Accordingly, I will not issue a default order at this time.

A telephonic status conference will be held on February 3, 2004, at 2 p.m. Eastern time, if the proceeding is still pending. The Division shall promptly notify this Office if the Commission rejects one or more of the settlement offers before that date.

  
\_\_\_\_\_  
James T. Kelly  
Administrative Law Judge