

ADMINISTRATIVE PROCEEDING
FILE NO. 3-11462

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

SECURITIES & EXCHANGE COMMISSION
MAILED FOR SERVICE

JUL 08 2004

FIRST CLASS

In the Matter of :
:
IRA WEISS, and : ORDER FOLLOWING
L. ANDREW SHUPE II : PREHEARING CONFERENCE
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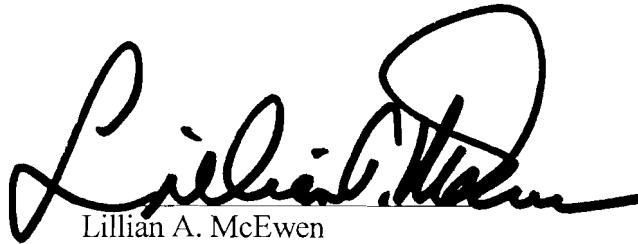
The Securities and Exchange Commission (Commission) instituted this proceeding on April 22, 2004. On June 25 and June 29, 2004, the Division of Enforcement (Division) filed two Motions In Limine to Preclude the Testimony of Certain Witnesses Identified by Respondent (Motions).

In its Motions, the Division requests that I preclude several witnesses for Respondent Ira Weiss (Weiss) for untimely disclosures of witness summaries; for insufficient descriptions in the witness summaries; for improper discussions of compensation with a fact witness; for improper conclusions of law by an expert; and for proposed testimony that the Division deems irrelevant and otherwise inadmissible. During the prehearing conference call held on July 2, 2004, the parties and I discussed these issues at length and the following was ordered. See 17 C.F.R. §§ 201.111(d), .221(e).

The Division and Respondent Weiss shall clarify witness summaries and exchange copies of the exhibits to ensure that counsel are aware of the substance of testimony and exhibits to be offered at the hearing. The parties agreed to exchange their witness summaries by July 6, 2004. Counsel for the parties will ensure that any expert witness to be called at the hearing is prepared to testify as to deviations from usual practices and will not testify as to any legal conclusions. The issue relating to Weiss's proposed witness Kay Thompson will be discussed and resolved by the parties or otherwise decided at the hearing. Any other witness who offers an opinion will be accepted only if he or she can qualify as an expert. All expert witnesses will be made available for interviews by opposing counsel before the hearing, at the convenience of counsel and the respective witnesses. At the hearing, character testimony will be allowed only if the witness is prepared to testify as to the reputation of either Respondent for good character. Any stipulations that may be agreed to by the parties in any regard are strongly encouraged. Lastly, in regard to Respondent L. Andrew Shupe II, the Division shall keep this Office apprised of any developments involving his offer of settlement now before the Commission.

Because the new deadlines and procedures discussed above should eliminate the prehearing problems, the Division's Motions are hereby DENIED. The hearing will begin as scheduled on Monday, July 12, 2004, at 9:00 a.m. EDT, in the U.S. Tax Courtroom, 11th Floor Room 1112, Moorhead Federal Building, 1000 Liberty Avenue in Pittsburgh, Pennsylvania.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Lillian A. McEwen". The signature is fluid and cursive, with a large loop at the end.

Lillian A. McEwen
Administrative Law Judge