

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 640 / April 30, 2008

ADMINISTRATIVE PROCEEDING
FILE NO. 3-12944

In the Matter of	:	
	:	ORDER DENYING SUBPOENA
STEVEN ALTMAN, ESQ.	:	
	:	
	:	

The Securities and Exchange Commission (Commission) issued an Order Instituting Proceedings (OIP) on January 30, 2008, pursuant to Section 4C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission's Rules of Practice. The hearing will begin on Monday, May 5, 2008. On April 25, 2008, at Altman's request, I issued a subpoena testificandum requiring Irving Einhorn (Einhorn) to be present to testify at the request of Altman. Both Altman and the Office of General Counsel list Einhorn as a prospective witness.

On April 29, 2008, I received a request from Steven Altman (Altman) for a subpoena duces tecum that would require Einhorn to bring with him to the hearing:

1. All time details and legal bills that Irving Einhorn and/or the Law Offices of Irving Einhorn rendered to clients in the proceeding entitled In the Matter of Harrison Securities Inc. et al., A.P. File No. 3-11084 (the "Harrison Proceeding").
2. To the extent not otherwise produced, all documents concerning or referring to oral communications between Irving Einhorn and Steven Altman, including time details, legal bills, entries thereon, and notes of conversations.

Ruling

Rule 232(b) of the Commission's Rules of Practice provides that the person being asked to sign the subpoena may refuse to issue the subpoena, if after considering all the circumstances, she determines that the subpoena or any of its terms is unreasonable oppressive, excessive in scope, or unduly burdensome.

The May 5, 2008, hearing in New York City was set at a telephonic prehearing conference on February 29, 2008. It is unreasonable, burdensome, and oppressive for Altman to request, three business days before the hearing begins, that Einhorn, who resides in California, bring to the hearing “all time details and legal bills,” and “all documents concerning or referring to oral communications between Irving Einhorn and Steven Altman, including time details, legal bills, entries thereon, and notes of conversations” when nothing new has occurred in the last thirty days. In addition, the first part of the subpoena is excessive in scope to the issue of whether Altman engaged in improper professional conduct by statements made to Einhorn concerning the testimony of a witness who he represented, who was called to testify by the Commission’s Division of Enforcement in the Harrison administrative proceeding.

For the reasons stated, I DENY the subpoena. I will make rulings as needed, if at the hearing Einhorn relies on or refers to documents that Altman has not seen or is unaware of.

Brenda P. Murray
Chief Administrative Law Judge