

UNITED STATES OF AMERICA

Before the

~~SECURITIES AND EXCHANGE COMMISSION~~ *1st class only*

SECURITIES AND EXCHANGE COMMISSION

February 19, 2003

In the Matter of :

LESLIE A. AROUH :


ORDER

The hearing in this proceeding is scheduled to commence March 17, 2003. Three prehearing conferences have been held. Prehearing dates were set with mutual agreement of the parties. Both parties indicated their intent to call expert witnesses. The prehearing dates included dates for expert reports that would serve as the experts' evidence in the parties' direct cases, to be supplemented as needed by additional direct testimony. The Division of Enforcement (Division) provided its lengthy expert report to Respondent several weeks ago. Respondent's expert report was due February 14.

On February 14 Respondent filed an expert disclosure pursuant to 17 C.F.R. § 201.222(b), which summarized the qualifications and background of its expert, James Ednie, and briefly indicated the topics on which he would testify. On February 18 the Division filed a motion requesting that the expert be disqualified or, in the alternative, that a short time limit be set for the production of the expert report. On February 19, Respondent opposed the Division's motion, referring to 17 C.F.R. § 201.222(b), and adding that its expert will not offer testimony on the pricing of the bonds at issue other than on the disparity between First Union's adjusted pricing on five bonds and First Union's acquisition cost of those bonds.

Reference to disclosure guidelines in 17 C.F.R. § 201.222(b) is inapposite. Expert witnesses and expert reports were addressed in the three prehearing conferences. It was clear that the parties were expected to provide expert reports that will be offered as evidence, to be fleshed out as needed by further direct testimony, and subject to cross examination. The Division provided such a report. If Respondent intends to call Mr. Ednie to testify as an expert, it must provide an expert report that summarizes his direct testimony. The parties are reminded that the expert reports serve not only to shorten the trial, but also to educate the undersigned on the parties' views of complex issues ahead of trial. Respondent's expert report must be provided by March 5.

IT IS SO ORDERED



Carol Fox Foelak
Administrative Law Judge