

ACJ

ADMINISTRATIVE PROCEEDING  
FILE NO. 3-11247

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
September 24, 2003

SECURITIES & EXCHANGE COMMISSION  
MAILED FOR SERVICE

SEP 25 2003

FIRST CLASS


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In the Matter of :  
 :  
STEVEN WISE and : ORDER ON MOTION  
LARRY VINDMAN :  
\_\_\_\_\_

The Securities and Exchange Commission (Commission) commenced this proceeding on September 5, 2003, with an Order Instituting Proceedings (OIP). The proceeding is stayed pending the resolution of a parallel criminal proceeding, United States v. Wise, 03-M-1356 (E.D.N.Y.). Steven Wise, Admin. Proc. No. 3-11247 (A.L.J. Sept. 16, 2003) (unpublished). Under consideration is the motion of the Division of Enforcement (Division), filed September 22, 2003, to amend the OIP pursuant to Rule 200(d)(2) of the Commission's Rules of Practice, 17 C.F.R. § 201.200(d)(2) (Rule 200(d)(2)). Under the circumstances of this case, it is unnecessary to wait for responsive pleadings before ruling on the Division's request.

The OIP charges an individual, identified as Larry Vindman, 24 years old, with wrongdoing and was served on Larry Vindman on September 11, 2003. The Division has now learned that the true first name of the individual identified as "Larry" is "Vladlen," and that Vladlen Vindman is 32 years old. Further, Vladlen Vindman's 24 year-old brother, Larry Vindman, resides with him, and Vladlen Vindman uses "Larry" as an alias. The Division learned this from the United States Attorney for the Eastern District of New York after Vladlen Vindman was arrested in the parallel criminal proceeding and identified himself as Vladlen Vindman, 32 years old. The Division requests that the OIP be amended by changing Respondent Vindman's identifying information to Vladlen "Larry" Vindman, 32 years old. The Division also requests that the amended OIP be served on Vladlen Vindman, reasoning that Larry Vindman may have received the original OIP.

The request to amend the OIP will be denied. The Division is, in effect, asking that the proceeding against Larry Vindman, 24 years old, be dismissed, and that charges against Vladlen "Larry" Vindman, 32 years old, be instituted. Such an amendment is beyond the powers that the Commission has delegated to the administrative law judge. Since the Commission has not delegated its authority to authorize OIPs to administrative law judges, they do not have authority to initiate new charges or to expand the scope of matters set down for hearing beyond the framework of the original OIP. See J. Stephen Stout, 52 S.E.C. 1162, 1163 n.2 (1996) (citing Comment (d) to Rule 200).

IT IS SO ORDERED.

  
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Carol Fox Foelak  
Administrative Law Judge