

ADMINISTRATIVE PROCEEDING  
FILE NO. 3-11330

SECURITIES AND EXCHANGE COMMISSION  
MAILED FOR SERVICE

DEC 09 2003

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
December 8, 2003

FIRST CLASS

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In the Matter of :  
: ORDER POSTPONING HEARING  
RITA J. McCONVILLE, : AND DECIDING MOTIONS  
and KEVIN M. HARRIS, C.P.A. :  
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**Background**

The Securities and Exchange Commission (“Commission”) instituted this proceeding pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(iii) of the Commission’s Rules of Practice, 17 C.F.R. § 201.102(e)(1)(iii). The Order Instituting Proceeding (“OIP”) charges that:

1. Respondent McConville violated Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13b2-1 and 13b2-2 thereunder, and caused Akorn, a Louisiana corporation, to violate Sections 13(a) and 13(b)(2) of the Exchange Act and Rules 12b-20 and 13a-1 thereunder; and
2. Respondent Harris willfully violated Rule 13b2-2 under the Exchange Act, and caused and willfully aided and abetted Akorn’s violations of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-13 thereunder.

On December 3, 2003, the Division of Enforcement (“Division”) moved to vacate the hearing set for December 22, 2003, and to hold a telephonic conference during the week following Sunday, January 25, 2004, a recommendation shared by all counsel. The Division’s Motion to Vacate Hearing Date and Set Pre-Hearing Conference refers to an agreement by all counsel for Respondents. Kent Knickmeyer of the law firm of Thompson Coburn LLP has told my office that the firm represents Respondent McConville and the firm received the OIP.

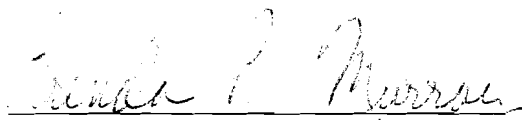
On December 4, 2003, counsel for Respondent Harris filed a Notice of Appearance, and an Answer and Motion for More Definite Statement.

## Rulings

I DENY the Motion for a More Definite Statement because the OIP satisfies the requirements of Rule 200(b)(3) in that it contains “a short and plain statement of the matters of fact and law to be considered and determined.” 17 C.F.R. § 201.200(b)(3); see also J. Logan & Co., 38 S.E.C. 827 (1959); M.J. Reiter Co., 39 S.E.C. 484 (1959); Charles M. Weber, 35 S.E.C. 79 (1953). I disagree with Respondent Harris’s contention that the OIP fails to specify the matters for which Respondent Harris is allegedly responsible and why.

I GRANT the request to postpone the hearing set for December 22, 2003, and I ORDER a telephonic prehearing conference to be held on Monday, January 5, 2004, at noon EST.

I reject the parties’ request that the first prehearing conference take place during the week following Sunday, January 25, 2004. First, the Commission does not favor delays. 17 C.F.R. § 201.161(b). Second, the OIP directs that an initial decision shall be issued in this proceeding three hundred days from the date of service of the OIP. Under the 300-day timeline, a hearing should begin approximately four months from the date the OIP is served or, in this situation, by March 18, 2004. 17 C.F.R. § 201.360. Postponing the first prehearing conference more than two months after service of the OIP does not bode well for compliance with the procedural schedule. Finally, if in fact this proceeding followed a two-year investigation, it needs to be concluded with some expedition.

  
Brenda P. Murray  
Chief Administrative Law Judge