

ADMINISTRATIVE PROCEEDING
FILE NO. 3-11330

DEC 19 2003

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
December 17, 2003

In the Matter of :
:
RITA J. McCONVILLE, : ORDER ON MOTION
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 and Rule 102(e)(1)(iii) of the Commission's Rules of Practice, on November 12, 2003. 17 C.F.R. § 201.102(e)(1)(iii). The Order Instituting Proceedings ("OIP") directed that I issue an initial decision no later than 300 days following service of the OIP. Both Respondent Harris and Respondent McConville's legal counsel were served on November 18, 2003. Respondent McConville was served on December 6, 2003.

On December 8, 2003, I postponed the hearing set for December 22, 2003, and ordered a prehearing conference on Monday, January 5, 2004, at noon EST. I also denied Respondent Harris's Motion for a More Definite Statement.

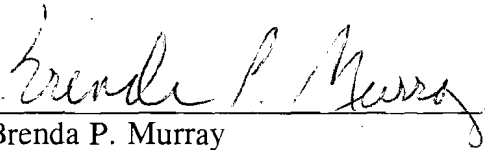
Pending Matter

On December 8, 2003, counsel for Respondent McConville filed (1) a notice of appearance, (2) a motion for a more definite and certain statement of charges ("Motion"), and (3) an Answer. The Motion charges, among other things, that the OIP is deficient in that it does not "state with particularity the time, place, manner and substance of each statement allegedly made by McConville in connection with the purchase or sale of a security," identify securities, or describe with particularity false or misleading statements.

The Division of Enforcement ("Division") filed a response to the Motion on December 15, 2003.

Rulings

I DENY the Motion because the OIP contains “a short and plain statement of the matters of fact and law to be considered and determined,” and thus complies with Rule 200(b)(3) of the Commission’s Rules of Practice, which does not require the specificity that the Motion claims is necessary. 17 C.F.R. § 201.200(b)(3); see also M.J. Reiter Co., 39 S.E.C. 484 (1959); J. Logan & Co., 38 S.E.C. 827 (1959); Charles M. Weber, 35 S.E.C. 79 (1953). In addition, Respondent McConville will learn more details from a review of the investigative record, which the Division must make available to her within seven days of service of the OIP. 17 C.F.R. § 201.230(d). Finally, I cannot reconcile the charge in the Motion that the OIP failed to identify statements made in connection with sales of securities with the allegation in the OIP that as chief financial officer Respondent McConville knew that the company failed to promptly and accurately record and reconcile remittances.



Brenda P. Murray
Chief Administrative Law Judge