

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 624/January 5, 2006

ADMINISTRATIVE PROCEEDING
FILE NO. 3-11813

In the Matter of	:	
	:	ORDER DENYING MOTION TO
MARKETXT, INC.,	:	CORRECT MANIFEST ERRORS
and IRFAN MOHAMMED AMANAT	:	OF FACT
	:	
	:	

On December 22, 2005, I issued an Initial Decision in this proceeding. The Division of Enforcement (Division) filed a Motion to Correct Manifest Errors of Fact in the Initial Decision on January 3, 2006, pursuant to Rule 111 of the Securities and Exchange Commission's (Commission) Rules of Practice. 17 C.F.R. § 201.111.

Rule 111(h) of the Commission's Rules of Practice allows a party to file a motion to correct manifest error of fact within ten days of issuance of the Initial Decision. 17 C.F.R. § 201.111(h). The Commission has noted that motions to correct manifest errors are properly filed "only if they contest a patent misstatement of fact in the initial decision." See Adoption of Amendments to the Rules of Practice and Related Provisions and Delegations of Authority of the Commission Release No. 34-52846 (Nov. 29, 2005).

Black's Law Dictionary defines a manifest error as "[a]n error that is plain and indisputable, and that amounts to a complete disregard of the controlling law or the credible evidence in the record." 563 (7th ed. 1999). For an error of fact to be a manifest error it must be an error that could reasonably affect the outcome of the decision. See Raymond James Financial Services, Inc., Admin. Proc. Ruling Release No. 622 (Oct. 14, 2005), final, Exchange Act Release No. 52810 (Nov. 21, 2005); Robert Cord Beatty, 84 SEC Docket 3331, 3334 (Feb. 10, 2005), final, 84 SEC Docket 4065 (Mar. 16, 2005); see also Word v. Croce, No. 01 Civ. 9614, 2004 U.S. Dist. LEXIS 3643 (Mar. 9, 2004) (stating that in a motion for reconsideration a manifest error of fact must be reasonably considered to alter the court's decision).

The Division alleges several manifest errors of fact. The findings of fact in the Initial Decision that the Division refers to, however, are ably supported by citations to evidence in the record and result from the Division's failure to sustain its burden of proof. The Division argues

that the record was misapprehended, interpreted, or construed incorrectly; it also, conversely, claims that the conclusions of law were incorrect. Thus, the Division's mere disagreement with the findings in the Initial Decision is a position more properly expressed in a petition for review of the Initial Decision. Accordingly, the Division of Enforcement's Motion to Correct Manifest Errors of Fact in the Initial Decision is hereby DENIED.

Lillian A. McEwen
Administrative Law Judge