

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 627/March 14, 2006

ADMINISTRATIVE PROCEEDING
FILE NO. 3-12156

In the Matter of :
 :
STEPHEN J. HORNING : RULING ON SUBPOENA AT
 : PREHEARING CONFERENCE
 :

I held a telephonic prehearing conference on March 13, 2006, to consider Stephen J. Horning's (Horning) request that I issue a subpoena to the Hon. Dennis A. Graham (Judge Graham), Colorado Court of Appeals, to testify at the hearing that will begin in Denver, Colorado, on April 24, 2006.

As a private attorney, Judge Graham represented Horning and Rocky Mountain Securities & Investments, Inc., in a number of instances. Horning wants to offer character testimony from Judge Graham. The parties could not agree to stipulate to Judge Graham's testimony because the Division of Enforcement wants to cross-examine Judge Graham should he be called to testify. Judge Graham told Counsel for Horning that an ethics opinion by a committee of the Colorado judiciary allows him to respond to the subpoena.

Ruling at Prehearing Conference

I was persuaded by the discussion at the prehearing conference that issuance of the subpoena was appropriate pursuant to Rule 232 of the Securities and Exchange Commission's Rules of Practice, 17 C.F.R. § 201.232. Accordingly, I issued the subpoena to the Hon. Dennis A. Graham, Colorado Court of Appeals.

Brenda P. Murray
Chief Administrative Law Judge