

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 2648/May 8, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16383

In the Matter of

CHARLES L. HILL, JR.

ORDER DENYING MOTION TO QUASH
SUBPOENA

At Mr. Hill's request, I issued subpoenas on April 9, 2015. Among the subpoenas was one directed to SunTrust Investment Services, Inc. As is relevant to this Order, the subpoena directed SunTrust to produce:

All documents and communications related to any evidence of, or allegations of, poor or unsatisfactory job performance, or failure to comply with SunTrust's internal policies or federal and state securities laws and regulations by representative Lynn Carter while in the employ of SunTrust, including but not limited to, performance evaluations, internal reprimands, investigations, disciplinary actions, customer complaints or notations in her personnel file.

SunTrust moved to quash the subpoena on April 29, 2015.¹ In its motion, SunTrust concedes that Ms. Carter "is the registered representative of [SunTrust] with whom [Mr. Hill] opened his account and placed orders through [SunTrust] to buy and sell" the stock that is at the heart of the proceeding against Mr. Hill. Mot. at 2. SunTrust argues that this request for

¹ SunTrust forwarded its motion and reply by email to my Office, the attorney-adviser in my office assigned to this matter, counsel for the Division of Enforcement, and counsel for Mr. Hill. SunTrust did not serve the Office of the Secretary as required by Commission Rule of Practice 151. See 17 C.F.R. § 201.151. My Office has forwarded SunTrust's filings to the Secretary for inclusion on the record. Because I am denying SunTrust's motion on the merits, I need not decide whether I should deny its motion based on its failure to properly serve the motion. Future third-party filings in this matter that do not comply with Rule 151 will be rejected.

documents is “unreasonable, oppressive, and unduly burdensome” because it concerns documents that have no connection to Mr. Hill or his securities transactions. *Id.*

According to SunTrust, no “law[,] . . . regulation, or . . . policy of” SunTrust is implicated by Ms. Carter’s execution of Mr. Hill’s securities trades. Mot. at 2. SunTrust also asserts that any information it uncovers after its search will be confidential, and thus not something it should be required to release. *Id.* at 3. Additionally, SunTrust believes that complying with the subpoena will be overly burdensome because it will necessarily have to examine “every transaction [Ms. Carter] executed, every document she prepared, every form she filled out, every communication with a client or potential client.” *Id.* It concludes that Mr. Hill “is just fishing.” *Id.* at 4.

Mr. Hill opposes SunTrust’s motion. He notes that the Division of Enforcement relies on Ms. Carter’s testimony. Opp’n at 1. Judging by the Division’s opposition to one of Mr. Hill’s motions for summary disposition, Mr. Hill is correct. *See* Division of Enforcement’s Opp’n to Respondent’s Mot. for Summ. Disposition at 3, 6-7, 11-13. Indeed, it appears the Division believes Mr. Hill lied to Ms. Carter when he purchased Radiant shares. *Id.* at 12-13.

Mr. Hill asserts that Ms. Carter’s investigative testimony is inconsistent with her contemporaneous documentation of Mr. Hill’s trades. Opp’n at 7. He also believes that Ms. Carter failed to comply with her superior’s instructions in regard to documenting his trades. *Id.* Mr. Hill argues that responding to his document request is not overly burdensome because he only seeks “readily available [documents] in Ms. Carter’s personnel file.” *Id.* He also asserts that the documents are relevant because they pertain to Ms. Carter’s credibility. *Id.* at 8.

Discussion

Subpoenas are governed by Rule of Practice 232, which requires me to quash a subpoena “[i]f compliance with the subpoena would be unreasonable, oppressive[,] or unduly burdensome.” 17 C.F.R. § 201.232(e)(2). Mr. Hill’s request is not “unreasonable, oppressive[,] or unduly burdensome.”

Mr. Hill has confirmed that he merely seeks documents from “Ms. Carter’s personnel file.” Opp’n at 7. Presumably, Ms. Carter’s personnel file is maintained in a single location or in an electronic file. Because SunTrust’s obligation to search its records for responsive documents is limited to Ms. Carter’s personnel file, satisfying Mr. Hill’s request cannot reasonably be described as an oppressive or burdensome endeavor.

Furthermore, the Commission has instructed its administrative law judges to be expansive in interpreting whether evidence is relevant. *See City of Anaheim*, Exchange Act Release No. 42140, 1999 SEC LEXIS 2421, at *4 & n.7 (Nov. 16, 1999). Mr. Hill has crossed this minimal threshold in demonstrating the potential relevance of the evidence he seeks. His request is therefore reasonable.

SunTrust has, however, raised a valid concern about protecting Ms. Carter’s confidential information. It may therefore prepare an appropriate protective order limiting the disclosure of

responsive documents to the participants in this matter and their employees and any expert who will testify about matters related to the responsive documents. The protective order should state that the order must be provided to anyone to whom the responsive documents are divulged.

SunTrust's motion to quash is DENIED. Within fourteen days SunTrust shall deliver documents responsive to Mr. Hill's request. Prior to delivering the documents, Sun Trust may submit an appropriate protective order for my signature in compliance with Commission Rule of Practice 322, 17 C.F.R. § 201.322.

James E. Grimes
Administrative Law Judge