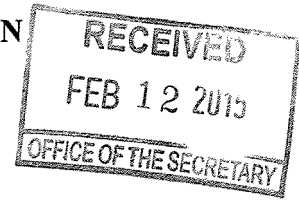


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-15945



In the Matter of

THOMAS A. NEELY, JR.,

Respondent.

**DIVISION OF ENFORCEMENT'S RESPONSE TO RESPONDENT'S DEMAND
FOR EARLY DISCLOSURE OF *JENCKS* MATERIAL AND FOR *GIGLIO* MATERIAL**

Respondent's demand for an Order directing the immediate production by the Division of *Jencks* and *Giglio* material should be denied as moot; Respondent's demand for *Giglio* material should be denied because it lacks merit and it is duplicative of his pending *Brady* motion.

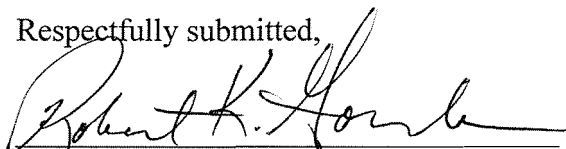
The Division has already produced to the Respondent all *Jencks* material in its possession for the witnesses on the Division's witness list. This includes investigative transcripts from the Federal Reserve Board's and the Division's investigations, deposition transcripts from private litigation, letters, emails, and other documents containing verbatim statements of potential witnesses. To the extent Respondent seeks the Division's attorney notes, the request should be denied because the notes are privileged work product and not witness "statements" within the meaning of *Jencks*. See *Palermo v. United States*, 360 U.S. 343, 352 (1959) (only statements which may properly be called the witness' own words are subject to *Jencks*; summaries of an oral statement which evidence substantial selection of material are not subject to disclosure).

The Respondent's demand for *Giglio* material is duplicative of the Respondent's previously filed *Brady* motion. The Division incorporates by reference the response that it filed on February 2, 2015. The Division also contemporaneously filed a *Brady* declaration and a privilege log describing categories of documents withheld from the Division's production. As it has already stated, the Division is aware of no documents that have been withheld by it that would otherwise come within the scope of Rule 230(b) of the Rules of Practice that contain material exculpatory evidence contrary to the doctrine of *Brady v. Maryland*, 373 U.S. 83, 87 (1963). The Division includes *Giglio v. United States*, 405 U.S. 150, 155 (1972), as being within the "doctrine of *Brady v. Maryland*."

Accordingly, for the reasons stated herein, and any for other reasons deemed appropriate by the Court, the Division respectfully requests that the Court deny the Respondent's demand for the immediate production of *Jencks* and *Giglio* material.

Dated: February 11, 2015

Respectfully submitted,



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