



from the Commission's Division of Enforcement ("Division") who are working on the investigation are assigned to the Washington, D.C. office; the documents relating to the investigation are stored in the Washington, D.C. office, and the subpoena served on McGraw-Hill was issued from and is returnable to Washington, D.C.

#### **RESPONDENT**

4. On information and belief, the McGraw-Hill Companies, Inc. has a principal place of business at 1221 Avenue of the Americas, New York, New York 10020. McGraw-Hill operates Platts, a self described "world leader in providing energy information." Platts has offices and transacts business in Houston, New York, and Washington D.C.

#### **THE ADMINISTRATIVE SUBPOENA**

5. On November 7, 2003, the Commission issued a formal order of investigation entitled "In the Matter of [Energy Company]" ("Order"), pursuant to Sections 6(c) and 8(a)(1) of the Act, 7 U.S.C. §§ 15 and 12(a)(1) (1994), designating Division staff members to subpoena witnesses and compel their attendance, administer oaths and affirmations, take evidence, and require the production of any books, papers, correspondence, memoranda, records and other tangible things relevant or material to an investigation being conducted pursuant to Sections 6(c) and 8(a)(1) of the Act.<sup>1</sup> See Declaration of Anthony M. Mansfield in Support of Application for an Order to Show Cause and an Order Requiring Compliance with Administrative Subpoena ¶ 4.

6. The Order authorized Division staff to issue subpoenas and take testimony for purposes of determining whether the Energy Company or any related person, firm or entity has

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<sup>1</sup> As discussed more fully in the accompanying Memorandum of Points and Authorities, the Commission is investigating potential violations by the Energy Company of the false reporting and anti-manipulation provisions of the Commodity Exchange Act. The investigation is non-public. The identity of the Energy Company therefore is disclosed only in the accompanying Declaration of Anthony M. Mansfield submitted herewith *under seal*.

engaged, is engaging, or is about to engage in acts or practices in violation of the Act or its regulations. *Id.*, *Exhibit 1*.

7. During the course of its investigation, the Division obtained documents and other records evidencing that natural gas traders at the Energy Company voluntarily reported information about natural gas transactions (“trade data”) to a company called Platts for use in compiling index prices. Platts is a division of McGraw-Hill. *Id.* at ¶ 7.

8. Based on the testimony of Energy Company traders and the Division’s own analysis of the Energy Company’s natural gas trading records, the Division has evidence that certain trade data Energy Company traders submitted to Platts was inaccurate. *Id.* at ¶ 9.

9. On April 15, 2005, pursuant to the Order, the Commission issued a subpoena *duces tecum* to McGraw-Hill seeking, *inter alia*, production of trade data Energy Company traders delivered to Platts, and McGraw-Hill’s documents concerning Platts’ use of that data in the indices which it calculates. The subpoena required McGraw-Hill to produce documents on April 28, 2005 at the Commission’s Washington, D.C. office. *Id.* at ¶ 14.

10. The documents the Commission seeks are directly relevant, *inter alia*, to determining the universe of trade data the Energy Company submitted to Platts, its accuracy, receipt by Platts, and how Platts used the information to compile its indices.

11. On April 28, 2005, McGraw-Hill filed with the Commission *The McGraw-Hill Companies, Inc.’s Responses and Objections to Subpoena Duces Tecum*. *Id.* at ¶ 15. McGraw-Hill refused to produce certain categories of responsive documents, invoking the qualified reporter’s privilege recognized in certain jurisdictions.

**RELIEF**

WHEREFORE, the Commission respectfully requests that this Court:

- (1) enter an Order to Show Cause requiring McGraw-Hill to appear before this Court on a date to be fixed and to show cause, if any, why it should not be compelled to comply with the subpoena served upon McGraw-Hill;
- (2) enter an Order requiring McGraw-Hill to comply with the Commission's subpoena and
- (3) grant such other and further relief as may be just and proper under the circumstances.

Dated: June 16, 2005  
Washington, D.C.

Respectfully submitted,



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Laura Gardy (Fl. Bar 523909)  
United States Commodity Futures  
Trading Commission  
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202.418.5000  
202.418.5523 (facsimile)

CERTIFICATE OF SERVICE

I, Anthony M. Mansfield, hereby certify that on June 16, 2005 I caused a copy of U.S. Commodity Futures Trading Commission's *Application for an Order to Show Cause and an Order Requiring Compliance with Administrative Subpoena* to be served by Federal Express on counsel for The McGraw-Hill Companies, Inc., Victor Kovner, Esq., Davis Wright Tremaine LLP, 1633 Broadway, New York, New York 10019.



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Anthony M. Mansfield