

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 4701/March 22, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17848

In the Matter of

JAMES P. GRIFFIN

ORDER

The Securities and Exchange Commission instituted this proceeding on February 16, 2017, with an order instituting proceedings (OIP), pursuant to Section 15(b) of the Securities Exchange Act of 1934, alleging that a civil complaint against James P. Griffin, *SEC v. Griffin*, No. 15-cv-0927 (N.D.N.Y.) (civil case), was stayed on February 2, 2016, pending disposition of *United States v. Griffin*, No. 15-cr-207 (N.D.N.Y.). OIP at 2. The OIP alleges further that on July 18, 2016, Griffin was found guilty on all twenty-three counts of the superseding indictment – ten counts of mail fraud, eight counts of wire fraud, and five counts of money laundering – and on December 16, 2016, Griffin was sentenced to sixty months imprisonment, followed by three years of supervised release, and ordered to pay restitution of \$2,153,530.93. *Id.* at 3. The court lifted the stay in the civil case on July 25, 2016, and the case remains pending as of March 21, 2017. *Id.*; civil case docket. On February 21, 2017, the OIP was signed for at the United States Penitentiary Canaan in Waymart, Pennsylvania (USP Canaan), where Griffin is incarcerated.

I postponed the hearing scheduled to begin on March 13, 2017, based on a March 7, 2017, communication from the Division of Enforcement, representing, among other things, that Griffin's unit manager at USP Canaan advised that Griffin would not participate in a teleconference on March 6, 2017. *James P. Griffin*, Admin. Proc. Rulings Release No. 4668, 2017 SEC LEXIS 716 (ALJ Mar. 9, 2017). I ordered a telephonic prehearing conference for Monday, March 27 at 2:00 p.m. EDT and directed the Division to check with Griffin's unit manager on Griffin's availability. *Id.*

On March 21, 2017, I received a handwritten letter from Griffin responding to the Division's March 7 communication. In it, Griffin states that he pleaded not guilty in his criminal trial, he is working with an attorney on an appeal, and this administrative proceeding should be continued until his appeal is resolved.

Order

The Commission's case law is consistent that an appeal of a criminal conviction is not a basis for continuing an administrative proceeding. *See William F. Lincoln*, Securities Exchange Act of 1934 Release No. 39629, 1998 WL 80228, at *3 (Feb. 9, 1998) (stating that nothing

prevents a bar to be entered if a criminal conviction is on appeal). Griffin's request to stay the proceeding is therefore DENIED.

To be clear, the telephonic prehearing conference will be held as scheduled on Monday, March 27, 2017 at 2:00 pm EDT. Griffin is on notice that if he does not answer the OIP or participate in the prehearing conference, he will be found in default. *See* 17 C.F.R. §§ 201.155(a), .220(f), .221(f). Because time is short, I will request that the Office of the Secretary send this order to Griffin via certified, registered, or express mail. *See* 17 C.F.R. § 201.141(a)(2)(i).

Brenda P. Murray
Chief Administrative Law Judge