

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 1575 / June 30, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15925

In the Matter of

MICHAEL S. STEINBERG

ORDER FOLLOWING PREHEARING
CONFERENCE

The Securities and Exchange Commission (Commission) issued an Order Instituting Proceedings (OIP) on June 11, 2014, alleging that Michael S. Steinberg (Steinberg) was convicted of one count of conspiracy to commit securities fraud and four counts of securities fraud in United States v. Steinberg, 1:12-cr-121 (RJS) (S.D.N.Y. Dec. 18, 2013). The OIP alleges further that Steinberg was sentenced to a prison term of three and a half years, followed by three years of supervised release, and was ordered to pay a fine of \$2 million and \$365,142.30 in criminal forfeiture. The Commission's Rules of Practice require Steinberg to answer the allegations in the OIP within twenty days of service of the OIP. OIP at 3; 17 C.F.R. § 201.220. Steinberg was served with the OIP, by delivery of the OIP to his counsel, on June 16, 2014. See 17 C.F.R. § 201.141.

I held a telephonic conference on June 26, 2014, at which Steinberg's counsel requested that this proceeding be adjourned for ninety days to allow for what he believes will be a favorable ruling from the U.S. Court of Appeals for the Second Circuit that would affect Steinberg's appeal. Counsel offered many reasons why, in these circumstances, delay would be the proper course of action, including the Division of Enforcement's (Division) actions in the related civil action, SEC v. Steinberg, 13-cv-2082 (S.D.N.Y.). The Division expressed opposition to any delay in this proceeding, disagreed on the likely outcome and timing of a decision by the Second Circuit, and requested leave to file a motion for summary disposition. See 17 C.F.R. § 201.250. The Division agreed to waive the requirement that Steinberg answer the OIP. OIP at 3; 17 C.F.R. § 201.220.

Order

The case precedent is that an administrative proceeding should proceed even though the conviction on which the proceeding is based is being appealed. If the underlying conviction is reversed, a party can petition to have any sanction imposed in this proceeding dismissed. See Jon Edelman, 52 S.E.C. 789, 790 (1996); Charles Phillip Elliott, 50 S.E.C. 1273, 1277 n.17 (1992), aff'd, 36 F.3d 86 (11th Cir. 1994); Gary L. Jackson, 48 S.E.C. 435, 438 n.3 (1986).

Accordingly, during the prehearing conference, I granted the Division leave to file a motion for summary disposition, and ORDERED the parties to follow this briefing schedule:

July 24, 2014: The Division will file a motion for summary disposition;

August 20, 2014: Steinberg will file an opposition; and

August 27, 2014: The Division will file a reply.

Further, I WAIVED the requirement that Steinberg file an answer.

Brenda P. Murray
Chief Administrative Law Judge