

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

ADMINISTRATIVE PROCEEDINGS RULINGS

Release No. 1860/September 30, 2014

ADMINISTRATIVE PROCEEDING

File No. 3-15928

In the Matter of

SIMING YANG

:

:

ORDER

The Securities and Exchange Commission (Commission) instituted this proceeding with an Order Instituting Proceedings (OIP) on June 12, 2014, as a follow-on proceeding based on *SEC v. Yang*, No. 12-cv-2473 (N.D. Ill. May 27, 2014), *appeal docketed* (7th Cir. July 24, 2014), in which Siming Yang (Yang), was enjoined against violations of the antifraud and reporting provisions of the federal securities laws. On September 18, 2014, the Division of Enforcement requested the Commission to amend the OIP. That request is pending.

Yang's motion, made orally at the September 5, 2014, prehearing conference, to stay the proceeding pending the outcome of his appeal was denied. *Siming Yang*, Admin. Proc. Rulings Release No. 1768, 2014 SEC LEXIS 3224 (A.L.J. Sept. 5, 2014). Yang has renewed his request for a stay in writing, in a motion to stay filed September 29, 2014. As the undersigned ruled previously, a motion to stay based on the pendency of an appeal must be denied. *See Joseph P. Galluzzi*, 55 S.E.C. 1110, 1116 n.21 (2002); *John Francis D'Acquisto*, 53 S.E.C. 440, 444 n.9 (1998). If he is successful in overturning his injunction, he can request the Commission to vacate any sanctions ordered in this proceeding (or to dismiss the proceeding, if it is still pending).¹

IT IS SO ORDERED.

/S/ Carol Fox Foelak

Carol Fox Foelak

Administrative Law Judge

¹ *See Jilaine H. Bauer, Esq.*, Securities Act Release No. 9464, 2013 SEC LEXIS 3132 (Oct. 8, 2013) (dismissing follow-on administrative proceeding after court of appeals, while petition for review was pending before Commission, reversed and remanded district court's judgment that was basis for OIP); *Richard L. Goble*, Exchange Act Release No. 68651, 2013 SEC LEXIS 129 (Jan. 14, 2013) (dismissing follow-on administrative proceeding after court of appeals, while petition for review was pending before Commission, vacated injunction that was basis for OIP); *Evelyn Litwok*, Investment Advisers Act of 1940 Release No. 3438, 2012 SEC LEXIS 2328 (July 25, 2012) (dismissing follow-on proceeding after court of appeals, while petition for review was pending before Commission, reversed certain convictions and vacated and remanded other convictions, all of which were basis for OIP); *Kenneth E. Mahaffy, Jr.*, Exchange Act Release No. 68462, 2012 SEC LEXIS 4020 (Dec. 18, 2012) (vacating bar issued in follow-on administrative proceeding where court of appeals, after Commission had issued bar order, vacated criminal conviction that was basis for proceeding).