

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDINGS RULING  
Release No. 678 / July 21, 2011

ADMINISTRATIVE PROCEEDING  
FILE NO. 3-14390

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In the Matter of	:	ORDER DENYING
	:	MOTION TO STAY
RICHARD L. GOBLE	:	

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The Securities and Exchange Commission (Commission) issued its Order Instituting Administrative Proceedings on May 16, 2011, pursuant to Section 15(b) of the Securities Exchange Act of 1934.

On June 17, 2011, Respondent submitted a Motion to Stay Proceeding (Motion), pending the outcome of Respondent's appeal of the underlying injunction. On June 24, 2011, the Division of Enforcement (Division) filed a Response to Richard Goble's Motion to Stay Proceedings, arguing that a pending appeal is not grounds for a stay and that a stay would contravene the Commission's policy of disfavoring postponements to its administrative proceedings. On June 28, 2011, Respondent filed his Reply to the Division of Enforcement's Response to Motion to Stay Proceedings, citing Herbert M. Campbell, II Esq., Initial Decision Release No. 266 (Oct. 27, 2004), 83 SEC Docket 4000, 4001, where the proceeding was stayed pending outcome of an appeal. Respondent also notes that the District Court broadly enjoined Respondent from not only violating the securities laws but from generally engaging "in the securities business," preventing the Respondent from violating the securities laws during the pendency of his appeal.

Respondent does not point to any Commission Rule to support his request for staying the proceeding.<sup>1</sup> Moreover, the Commission has often ruled that the pending appeal of an underlying judgment does not prevent the Commission from exercising its jurisdiction in a follow-on administrative proceeding. James E. Franklin, Exchange Act Release No. 56649 (Oct. 12, 2007), 91 SEC Docket 2708, 2714 n.15, 2718; Charles Phillip Elliott, Exchange Act Release No. 31202 (Sept. 17, 1992), 52 SEC Docket 2011, 2016-17, aff'd on other grounds, 36 F.3d 86

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<sup>1</sup> Commission Rules provide for the issuance of a stay of an administrative proceeding in the event of: (1) a settlement, 17 C.F.R. § 201.161(c)(2); and (2) a parallel criminal investigation, 17 C.F.R. § 201.210(c)(3).

(11th Cir. 1994).<sup>2</sup> Additionally, the Commission’s general policy is to disfavor delaying proceedings. See 17 C.F.R. § 201.161(b)(1). And, to overcome this policy, a party must make a “strong showing” that the “denial of the request . . . would substantially prejudice their case.” *Id.* Respondent, by referring to the expense of responding to the Division’s motion for summary disposition, confuses price and prejudice. See Black’s Law Dictionary, 1198 (7th ed. 1998) (defining prejudice as “[d]amage or detriment to one’s legal rights or claims”).

Campbell is inapposite for two reasons. First, it is not clear from the Campbell Initial Decision or the readily available public record pursuant to what rule or other authority the stay was granted. Here, neither of the two grounds for a stay has been satisfied. Second, at the time of the Campbell stay, the Office of Administrative Law Judges was not operating under hard deadlines to dispose of proceedings. Securities Act Release No. 33-8240 (June 11, 2003), 80 SEC Docket 1266 (announcing strict disposition deadlines). Therefore, Campbell has little bearing on this proceeding.

The District Court’s injunction also does not warrant a stay. The relevant statute states that the mere issuance of an injunction – without regard to its breadth – is (together with the public interest) sufficient basis for the Commission to seek and obtain sanctions. See 15 U.S.C. §78o(b)(6)(A). In fact, a broad injunction against “any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security” is specifically listed in the statute as a basis for the Commission to seek sanctions. 15 U.S.C. §78o(b)(4)(C).

Additionally, even if a sanction issued in this proceeding were to appear duplicative of the District Court’s injunction, the sanction may still be warranted. See Hunter Adams, et al., Exchange Act Release No. 51117 (Feb. 1, 2005), 84 SEC Docket 2928, 2929 n.6. Thus, a stay creates a real risk of prejudice to the Division, even though the District Court’s injunction arguably bars Respondent from engaging in the activities for which the Division seeks its own bar.

For the reasons stated, Respondent’s Motion is DENIED.



Cameron Elliot  
Administrative Law Judge

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<sup>2</sup> If the underlying injunction is vacated, Respondent may request the Commission to reconsider any sanctions imposed in this administrative proceeding. See Elliott, at 2017 n.17; Gary L. Jackson, 48 S.E.C. 435, 438 n.3 (1986).