

UNITED STATES OF AMERICA
Before The
SECURITIES AND EXCHANGE COMMISSION
April 15, 2022

ADMINISTRATIVE PROCEEDING

File No. 3-20808

In the Matter of the Application of
LEK SECURITIES CORPORATION

RESPONSE OF NSCC AND DTC TO LEK SECURITIES CORPORATION'S
SECOND SUPPLEMENT TO ITS MOTION TO STAY

National Securities Clearing Corporation (“NSCC”) and The Depository Trust Company (“DTC”) (collectively, as appropriate “DTCC”), submit this response to the *Second Supplement to Motion to Stay* (“Second Supplement”), served by Lek Securities Corporation (“Lek”) on April 12, 2022.

In the Second Supplement, Lek requests that the Commission stay the DTCC Hearing Panel’s April 6, 2022 decision charging certain costs associated with the Hearing to Lek. But the Second Supplement does not address any of the factors the Commission should consider when deciding whether Lek, as the movant, has carried its burden to grant the “extraordinary remedy” of a stay pending appeal.¹ The Commission considers four factors in determining whether to stay an SRO’s action: whether (1) the movant has established a strong likelihood of success on the merits; (2) the movant will suffer irreparable harm without a stay; (3) there is likelihood that another party will suffer substantial harm as a result of the stay; and (4) the stay is in the public interest.²

Lek’s entire argument that the charging of costs should be stayed is that “this sanction regarding payment of the Hearing Panel costs is a direct result of the DTCC Decision that LSC has requested the Commission to stay while the Commission considers LSC’s appeal.” Second Supplement at 1. Lek’s argument is, at best, just a rehashing of the argument in its Motion to Stay, filed on April 3, 2022, that it will be successful on the merits of its appeal. But for the reasons articulated in DTCC’s Opposition to Lek’s Motion to Stay, filed on April 8, 2022, Lek is not likely to be successful on its appeal.

¹ *Bloomberg L.P.*, Exchange Act Release No. 83755, 2018 WL 3640780, at *7 (July 31, 2018) (quoting *Nken v. Holder*, 556 U.S. 418, 432-34 (2009)).

² See Rule 401(d) of the Commission’s Rules of Practice, 17 C.F.R. § 201.401; *Order Denying Stay, In the Matter of the Application of International Power Group, Ltd. for Rev. of Action Taken by The Depository Trust Company*, Admin. Proc. File No. 3-13687 (Apr. 9, 2010) (decided Mar. 15, 2012), 2012 WL 892229, at *3.

The Second Supplement does not address the other three factors at all and thus should be denied.³

Most critically, Lek does not argue that it will be irreparably harmed by having to pay the costs of the Hearing. Nor can it—the only possible harm is monetary in nature, which poses no risk to Lek’s business or reputation that cannot be later remedied by a monetary award if in fact Lek were successful on appeal.

And, the interest of DTCC, its members and investors all favor the prompt payment of costs associated with the Hearing. The costs associated with the Hearing were charged to Lek in accordance with the NSCC and DTC Rules, to which Lek agreed to be bound when it accepted membership into the clearing agencies. Enforcing compliance with the clearing agencies’ Rules is one way NSCC and DTC implement their risk management function.

The Commission should deny Lek’s request in the Second Supplement to stay DTCC’s decision to charge costs associated with the Hearing to Lek.

³ *Order Denying Stay, In the Matter of the Application of Lek Securities Corporation for Review of Action Taken by the National Securities Clearing Corporation*, Admin. Proc. File No. 3-20643 (Nov. 1, 2021) (decided Nov. 23, 2021).

New York, New York
April 15, 2022

Respectfully submitted,

PROSKAUER ROSE LLP

By: Margaret A. Dale

Margaret A. Dale
Benjamin J. Catalano
Timothy E. Burroughs
11 Times Square
New York, New York 10036
(212) 969-3000
mdale@proskauer.com
bcatalano@proskauer.com
tburroughs@proskauer.com

James R. Anderson
One International Place
Boston, Massachusetts 02110
(617) 526-9600
jaanderson@proskauer.com

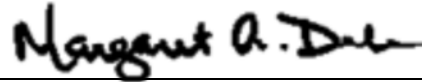
*Attorneys for National Securities Clearing
Corporation and The Depository Trust
Company*

CERTIFICATE OF SERVICE

Pursuant to Rule 151(d) of the Commission's Rules of Practice, on April 15, 2022, the undersigned caused a true and accurate copy of the foregoing document to be served by electronic mail on the following persons:

DTCC Corporate Secretary (corporatesecretary@dtcc.com)
Kevin J. Harnisch (kevin.harnish@nortonrosefulbright.com)
Ilana B. Sinkin (ilana.sinkin@nortonrosefulbright.com)
Mark D. Kotwick (kotwick@sewkis.com)
Paul B. Koepp (koepp@sewkis.com)
Julie J. Hong (hong@sewkis.com)
Anthony C.J. Nuland (nuland@sewkis.com)
Paul T. Clark (clark@sewkis.com)

Dated: April 15, 2022



Margaret A. Dale