

SECURITIES & EXCHANGE COMMISSION  
MAILED FOR SERVICE

ADMINISTRATIVE PROCEEDING  
FILE NO. 3-10624

NOV 27 2001

UNITED STATES OF AMERICA

Before the

TFD. NO. \_\_\_\_\_ SECURITIES AND EXCHANGE COMMISSION

November 27, 2001

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In the Matter of :  
:   
HUNTER ADAMS, GREGG ADAMS, :  
ALAN BERKUN, ROBERT LISNOFF, :  
JAMES L. BILA, LEONARD BILA, : STAY ORDER  
CHRISTIAN BLAKE, BRIAN CARROLL, :  
JOSEPH DIGIROLAMO, and JOSEPH :  
MANNINO :

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The Securities and Exchange Commission (Commission) commenced this proceeding on October 18, 2001. The hearing was scheduled to commence on December 3, 2001. Under consideration is the Application to Intervene and Motion to Stay, filed November 26, 2001, by the United States Attorney for the Eastern District of New York (U.S. Attorney). Under the circumstances of this case, it is unnecessary to wait for responsive pleadings before ruling on the stay request.

The U.S. Attorney seeks leave to participate for the purpose of requesting a stay of this proceeding during the pendency of a criminal prosecution arising out of the same facts at issue, pursuant to Rules 210(c) and (c)(3) of the Commission's Rules of Practice, 17 C.F.R. §§ 201.210(c) and (c)(3). Specifically, the U.S. Attorney requests a stay pending resolution of a parallel criminal proceeding captioned United States v. Jonathan Winston, et al., 00 CR 1248 (NGG) (E.D.N.Y.).

The U.S. Attorney notes that the original Winston indictment was unsealed on March 8, 2001, and a superseding indictment, on October 18, 2001, against Respondents and others who are not respondents in this administrative proceeding.<sup>1</sup> The criminal and administrative

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<sup>1</sup> The superseding indictment involved substantially the same individuals and conduct as the original indictment, occurring at a different broker-dealer with different securities. At the same time as the original, March 8, indictment, the Commission instituted Administrative Proceeding No. 3-10437 against many of the same individuals. The Presiding Judge stayed that proceeding. Hunter Adams, Admin. Proc. File No. 3-10437 (A.L.J. Apr. 12, 2001).

proceedings rest on the same alleged unlawful conduct including alleged securities fraud in the offer and sale of low-priced securities.

The U.S. Attorney argues that the criminal prosecution will be substantially prejudiced unless the administrative proceeding is stayed because of discovery issues, possible witness intimidation, and other issues. It states that a stay will not prejudice the parties to the administrative proceeding and that the Division of Enforcement does not object to a stay. The U.S. Attorney also argues that a stay will conserve adjudicative resources, suggesting that many of the factual and legal issues, witnesses, and evidentiary items are identical, such that resolution of the criminal case may moot the administrative proceeding.

The U.S. Attorney's request for a stay will be granted, consistent with Rule 210(c)(3), which provides that such a "motion for stay shall be favored." See A.S. Goldmen & Co., Inc., Admin. Proc. File No. 3-9933 (Sept. 1, 1999) (state indictment and ongoing investigation arising out of same or similar facts; Commission postponed administrative proceeding and required status reports); Pryor, McClendon, Counts & Co., Inc., Admin. Proc. File. No. 3-9884 (Sept. 30, 1999) (federal indictment arising out of same or similar facts; Commission postponed administrative proceeding and required a status report).<sup>2</sup> Additionally, Administrative Law Judges routinely grant such stays. See Michael J. Rothmeier, 72 SEC Docket 1471 (A.L.J. May 25, 2000). See also unpublished stay orders Hunter Adams, Admin. Proc. File No. 3-10437 (A.L.J. Apr. 12, 2001), William M. Stephens, Admin. Proc. File No. 3-10231 (July 25, 2000).

IT IS ORDERED that the U.S. Attorney's request for leave to participate for the purpose of requesting a stay IS GRANTED.

IT IS FURTHER ORDERED that this proceeding IS STAYED pending the prosecution of United States v. Jonathan Winston, et al., 00 CR 1248 (NGG) (E.D.N.Y.).

IT IS FURTHER ORDERED that the Division of Enforcement REPORT on March 1, 2002, and every ninety days thereafter, on the status of the prosecution in United States v. Jonathan Winston, et al., 00 CR 1248 (NGG) (E.D.N.Y.) and the continued appropriateness of staying this proceeding. A prehearing conference will be scheduled on December 2, 2002.



Carol Fox Foelak  
Administrative Law Judge

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<sup>2</sup> The Commission's Goldmen and Pryor, McClendon Orders are published as attachments in Michael J. Rothmeier, 72 SEC Docket 1471, 1473, 1481 (A.L.J. May 25, 2000).