

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

Administrative Proceedings Rulings  
Release No. 6765 / June 9, 2020

Administrative Proceeding  
File No. 3-15755

In the Matter of  
**Mark Feathers**

**Order Denying  
Motion for Stay**

Respondent Mark Feathers, moves for a 180-day stay so that he can file a constitutional challenge to this proceeding in the United States Court of Appeals for the Ninth Circuit. Feathers asserts that a constitutional challenge is appropriate because although I've set a summary disposition schedule, I have not set a prehearing schedule dealing with matters such as motions in limine and the exchange of witness and exhibit lists. He also finds fault with the reassignment of this proceeding, the correction of the transcript of the April 2020 telephonic conference, and my explanation that he must comply with the rules of practice in offering one of his proposed exhibits.<sup>1</sup>

As to the current schedule, follow-on proceedings such as this one are typically decided through summary disposition.<sup>2</sup> It is thus not yet necessary to

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<sup>1</sup> This proceeding was reassigned in April 2020, after "the previously assigned administrative law judge requested reassignment due to his case load." *Mark Feathers*, Admin. Proc. Release No. 6755, 2020 SEC LEXIS 1192, at \*2 (ALJ Apr. 28, 2020). During a telephonic conference and in an order following that conference, I explained to Feathers the requirements under the rules of practice that would govern admission of an exhibit he planned to offer. *See Feathers*, Admin. Proc. Release No. 6752, 2020 SEC LEXIS 1066, at \*2-3 (ALJ Apr. 17, 2020). I later issued an order correcting portions of the conference's transcript. *Feathers*, Admin. Proc. Release No. 6754, 2020 SEC LEXIS 1093 (ALJ Apr. 23, 2020).

<sup>2</sup> *Mitchell M. Maynard*, Investment Advisers Act of 1940 Release No. 2875, 2009 WL 1362796, at \*9 (May 15, 2009); *Cf. Kornman v. SEC*, 592 F.3d 173,

set a prehearing schedule. In the event that I deny summary disposition, I will set a prehearing schedule covering the matters to which Feathers refers.<sup>3</sup>

As to Feathers's other concerns, I've already explained why this proceeding was reassigned, the grammatical reasons for the transcript-correction order are self-evident, and my explanation of the rules with which Feathers must comply in offering an exhibit could only have benefitted him. Feathers unfounded suspicion of malign intent—without evidentiary support—is not a basis to stay this proceeding.

Feathers's stay motion is DENIED. Because Feathers has now filed multiple stay motions, the Division is informed that unless I request a response, it need not respond to any stay motion Feathers might file in the future.

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James E. Grimes  
Administrative Law Judge

Served by e-mail on all participants.

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181–83 (D.C. Cir. 2010) (holding that a statutory right to an “opportunity for [a] hearing” does not necessarily require an evidentiary hearing); Henry J. Friendly, “*Some Kind of Hearing*,” 123 U. Pa. L. Rev. 1267, 1281 (1975) (noting that a “hearing” may include a proceeding based on written, rather than oral, presentations).

<sup>3</sup> Cf. *Martin Shkreli*, Admin. Proc. Rulings Release No. 5635, 2018 SEC LEXIS 629 (ALJ Feb. 28, 2018) (setting prehearing schedule in follow-on proceeding after partial denial of summary disposition).