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

Administrative Proceedings Rulings
Release No. 6939 / May 28, 2025

Administrative Proceeding
File No. 3-20828

In the Matter of

Gregory Lemelson[1]

Order Denying Motion to Quash

Respondent Lemelson moved to quash a subpoena directing non-party Clear Street, LLC, to produce documents filed in a FINRA arbitration proceeding. The FINRA arbitration concerned a dispute between the Amvona Fund, a hedge fund managed by Respondent, and Clear Street. Respondent argues that this arbitration is a "patently irrelevant private and confidential matter[]" that is "wholly inappropriate" for discovery. Mot. to Quash at 3. Respondent also asserts that FINRA arbitrations are protected by strict confidentiality rules. *Id.* at 3–4. Finally, Respondent asks that the subpoena be held in abeyance until the District Court for the District of Columbia rules in the case challenging this proceeding and the District Court for the District of Massachusetts rules in the subpoena enforcement action. *Id.*

The Commission's Rules of Practice instruct the hearing officer to quash or modify a subpoena that would be "unreasonable, oppressive, unduly burdensome or would unduly delay the hearing." 17 C.F.R. § 201.232(e)(2). Because this subpoena is not unreasonable, and for the other reasons below, the motion to quash is denied.

The subpoena is not unreasonable.

Respondent argues that conduct in the FINRA arbitration is irrelevant because it post-dates the conduct that gave rise to this follow-on proceeding. As I explained in a previous order, conduct after a violation can be relevant:

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[1] Respondent goes by his ecclesiastical name, Father Emmanuel Lemelson.

> The Commission may consider conduct post-dating the order instituting proceedings in assessing sanctions in follow-on proceedings. *Tzemach David Netzer Korem*, Exchange Act Release No. 70044, 2013 WL 3864511, at *5 & n.39 (July 26, 2013); *see Robert Bruce Lohmann,* Exchange Act Release No. 48092, 2003 WL 21468604, at *5 & n.20 (June 26, 2003) (finding that matters "not charged in the OIP" may nevertheless be considered "in assessing sanctions"). In this proceeding, Respondent's post-injunction conduct is relevant to several of the public interest factors, including the sincerity of assurances against future misconduct, the recognition of misconduct, and opportunities for future violations.

Order on Subpoena Request, at 3, Admin. Proc. Rulings Release No. 6921 (Jan. 30, 2025), https://www.sec.gov/files/alj/aljorders/2025/ap-6921.pdf. The Division of Enforcement proffered that Respondent sent Clear Street employees "threatening and harassing emails" that were documented in the FINRA arbitration proceeding. Div. of Enforcement's Opp'n to Resp't's Mot. to Quash Subpoena, at 2 (Jan. 22, 2025). The Division's subpoena to probe this incident is not unreasonable.

The confidentiality of FINRA arbitration proceedings does not apply to disclosure to regulators.

Respondent argues that the subpoena seeks material that "is fully protected by the strict confidentiality firewalls that brokerage customers heavily rely upon when they participate in FINRA arbitration proceedings against their broker." Mot. to Quash at 3. FINRA guidance explains, however, that the confidentiality provisions "do not apply to the sharing of the documents with regulatory authorities" such as the Commission. FINRA, Confidentiality Provisions in Settlement Agreements and the Arbitration Discovery Process, Regulatory Notice 14-40 (Oct. 9, 2014), https://www.finra.org/rules-guidance/notices/14-40. FINRA's confidentiality requirements do not bar the subpoena request. If appropriate, Respondent, Clear Street, or the Amvona Fund may file a motion for a protective order to limit the disclosure of confidential information to the public. *See* 17 C.F.R. § 201.322(a).

The subpoena need not be held in abeyance.

Respondent argues that the subpoena should be held in abeyance as a matter of respect for the federal judiciary. Respondent has already twice asked the Commission to stay or postpone this proceeding because of the pending

federal court litigation, and the Commission has rejected that argument each time. *See* Order Denying Mot. for Stay of Proceedings, Investment Advisers Act of 1940 Release No. 6755, 2024 WL 4555152 (Oct. 23, 2024) (denying Respondent's motion for a stay dated September 20, 2024); Order Denying Resp't's Pet. For Interlocutory Review and Mot. to Stay, Advisers Act Release No. 6869, 2025 WL 987983 (Apr. 1, 2025) (denying Respondent's motion to stay dated March 26, 2025). Although this time Respondent has styled his request as one "to hold the subpoena in abeyance" rather than as a motion to stay the proceeding, the Commission's prior rulings show that it is unnecessary to pause the administrative proceeding while the district court cases are litigated.

Order

Respondent's motion to quash is denied.

/s/ Jason S. Patil
Administrative Law Judge