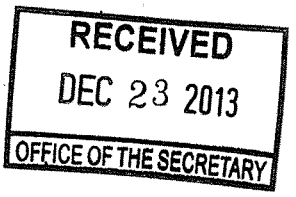
UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING
File No. 3-15580

In the matter of:

ANTHONY CHIASSON,

Respondent.

REPLY MEMORANDUM OF LAW IN FURTHER SUPPORT OF THE DIVISION OF ENFORCEMENT'S MOTION FOR SUMMARY DISPOSITION AGAINST RESPONDENT ANTHONY CHIASSON

DIVISION OF ENFORCEMENT
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Dated: December 20, 2013

In his response to the Division's Motion for Summary Disposition, respondent Anthony Chiasson ("Chiasson") does not dispute that the Division is entitled to a bar based on Chiasson's criminal conviction for insider trading and the related injunctions entered in the Commission's civil proceeding against him. Nor does Chiasson dispute that the appropriate bar is a permanent collateral industry bar. Moreover, Chiasson does not – because he cannot – seek to have this administrative proceeding stayed pending the outcome of Chiasson's appeal of his criminal conviction. *See* Anthony Chiasson's Memorandum of Points and Authorities in Response to the Division of Enforcement's Motion for Summary Disposition ("Response") at 1 n.1; *see also, e.g., In re James E. Franklin*, S.E.C. Rel. No. 56649, 2007 WL 2974200, at *4 n. 15 (Oct. 12, 2007) (pendency of an appeal does not affect injunction's status as a basis for a follow-on administrative proceeding); *In re Charles Phillip Elliott*, 50 S.E.C. 1273, S.E.C. Rel. No. 31202, 1992 WL 258850, at *3 (Sept. 17, 1992) (pending appeal of criminal conviction has no bearing on follow-on administrative proceeding based on that conviction; "Elliott's conviction has been established, and Elliott may not challenge its validity. The only issue is the import of the conviction for the public interest.").

Instead, Chiasson asks that a decision on this motion be deferred until the end of the 210-day period that the Court has for issuing an initial decision. Response at 7. There is, however, no sound reason for delaying the initial decision. The Commission has previously considered such a request and rejected it. *See Charles Phillip Elliott*, 1992 WL 258850, at *3 n. 15 ("At one point, Elliott argued that the Commission should withhold judgment pending the appeal of his conviction. However, we see no need to delay this proceeding until the outcome of his appeal."). Chiasson's assertion that "the Court's

deferral will not prejudice the Division or the public interest" is incorrect. Response at 6. As in any case, the Division and the public both have an interest in obtaining the appropriate legal remedy as expeditiously as possible, and a six-month delay of a remedy to which all parties agree the Division is entitled surely prejudices both the Division and the investing public. And that prejudice outweighs any inconvenience to Chiasson that will result if he wins his appeal and then seeks to lift a bar imposed in this proceeding.

Chiasson's additional arguments are similarly unavailing. First, he asserts that the Division has "mischaracterize[d] the facts" by contending that Chiasson has never acknowledged his wrongdoing. Response at 6. However, in the very next sentence, Chiasson demonstrates the flaw in this argument when he carefully notes that he "has acknowledged the reality of the jury verdict." *Id.* Acknowledging the existence of a jury verdict is a far cry from acknowledging and taking responsibility for one's actual wrongful conduct.

Second, Chiasson claims that the bar is unnecessary at this point because he is not currently working in the securities industry and is thus "effectively barred." *Id.* However, there is no legal impediment preventing him from reentering the industry – which is the entire point of this proceeding. Indeed, Chiasson's argument proves too much since his claim that he is "effectively barred" would still apply if Chiasson loses the appeal and his conviction is affirmed. Thus, he is essentially arguing that industry bars are unnecessary for anyone who has been convicted in a parallel criminal case – an argument that is clearly at odds with the Investment Advisers Act and decades of Commission precedent.

Finally, Chiasson's suggestion that a deferral of the initial decision "may allow for the Second Circuit to decide" his appeal before the issuance of the initial decision is

unpersuasive. *Id.* at 5. This proceeding was commenced on October 21, 2013, giving the Court until May 19, 2014 to issue its initial decision within the 210-day deadline. Briefing for the criminal appeal was just completed two days ago and no date has been set for oral argument. *See* Watkins Declaration in Further Support of Motion for Summary Disposition against Respondent Anthony Chiasson ("Watkins Decl.") Ex. 1 [docket in *U.S. v. Newman (Chiasson)*]. Using other recently-decided Second Circuit decisions in criminal insider trading cases as a guide, it would appear that the timeline for Chiasson's appeal will be longer than Chiasson hopes. *See, e.g.*, Watkins Decl. Ex. 2 [docket in *U.S. v. Gupta*] (oral argument on May 21, 2013, decision not yet issued nearly 7 months later); Ex. 3 [docket in *U.S. v. Rajaratnam*] (oral argument on October 25, 2012, decision issued on June 24, 2013, nearly 8 months later); Ex. 4 [docket in *U.S. v. Goffer*] (oral argument on March 11, 2013, decision issued on July 1, 2013, nearly 4 months later). The likelihood of a decision on Chiasson's appeal before the 210-day deadline expires is thus speculative at best, and the Division respectfully submits that the Court should decide the Division's motion without regard to the status of Chiasson's criminal appeal.

CONCLUSION

For the foregoing reasons, the Division respectfully requests that its motion for summary disposition be granted, and that an order issue permanently barring Chiasson from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

Dated: December 20, 2013.

Respectfully submitted,
DIVISION OF ENFORCEMENT

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