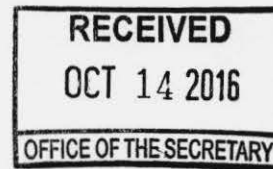


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**UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION**

ADMINISTRATIVE PROCEEDING
File No. 3-15617

In the Matter of
LARRY C. GROSSMAN
and GREGORY J. ADAMS,
Respondents.



MOTION FOR PARTIAL STAY OF MONETARY SANCTIONS PENDING APPEAL

Respondent Larry C. Grossman (“Grossman”), moves for a stay of the Monetary Sanctions (disgorgement and pre-judgment interest) entered against him in the Commission’s September 30, 2016, Opinion and Final Order, Release No. 10227 (“Final Order”) pending judicial review, because there is a strong likelihood that Grossman will succeed on the merits of his appeal as to the applicability of §2462’s five year of statute of limitations to disgorgement barring all monetary sanctions against Grossman.

DISCUSSION

1. The Commission considers the following factors in determining whether to grant a stay: (i) whether there is a strong likelihood that the moving party will succeed on the merits of its appeal; (ii) whether the moving party will suffer irreparable harm without a stay; (iii) whether any person will suffer substantial harm as a result of a stay; and (iv) whether a stay is likely to serve the public interest. *See In re Matter of Dennis J. Malouf*, Release No. 10202 (Aug. 31, 2016)(granting stay of monetary sanctions pending appeal despite respondent’s failure to fulfill this four-factor test).

2. The first two factors of this four-factor tests are the most critical, but each criterion is not accorded equal weight, where a higher probability of success on the merits could outweigh a lower

probability or absence of the remaining factors. See *In the Matter of the Application of Michael Earl McCune*, Release No. 77921 (May 25, 2016).

3. In fact, the Commission has granted the stay of monetary sanctions pending appeal where the respondent has failed to satisfy any of these factors. See *In re Matter of Dennis J. Malouf*, Release No. 10202 (Aug. 31, 2016); *In the Matter of Mohammed Riad and Keven Timothy Swanson*, Release No. 32174 (July 8, 2016); *Bernard E. Young*, Release No. 10116 (July 29, 2016); and *In the Matter of J.S. Oliver Capital Management, L.P. and IAN O. Mausner*, Release No. 10121 (Aug. 15, 2016).

4. In its Final Order, the Commission found that the security law violations committed by Grossman first accrued exclusively beyond §2462's five year statute of limitations.¹ Despite such finding, the Commission refused to accept the law within the Eleventh Circuit, *Securities and Exchange Commission v. Graham*, 823 F. 3d 1357 (11th Cir. 2016), holding that disgorgement is subject to §2462's five year statute of limitations.

5. Grossman will be appealing the Final Order to the Eleventh Circuit arguing that the Final Order's award of Monetary Sanctions is contrary to the law of the circuit, and such sanctions should be vacated.

6. Grossman has a strong likelihood of succeeding on the merits of his appeal, in light of the Eleventh Circuit's ruling, because the Eleventh Circuit is not required to give deference to the Commission's interpretation of §2462, and the Commission's refusal to follow the law within the Eleventh Circuit knowing that Grossman would appeal any adverse decision to such circuit

¹ Refusal to impose civil penalties against Grossman, because the Division's claims against Grossman accrued outside §2462's limitation period, and the Division's argument otherwise is without merit. (Final Order at pp. 17, 20).

amounts to willful nonacquiescence. *Bamidele v. I.N.S.*, 99 F.3d 557, 562 (3d Cir. 1996)(deference is not given to agency's interpretation of statute of limitations, because it is a matter within the peculiar expertise of the courts); *B & H Med., LLC v. United States*, 116 Fed. Cl. 671, 682 (3d Cir. 2014)(no deference to agency's interpretation of a particular statute that does not implicate agency's expertise in any meaningful way); *AKM LLC dba Volks Constructors v. Sec'y of Labor*, 675 F.3d 752, 768–69 (D.C. Cir. 2012); *Johnson v. U.S. R.R. Ret. Bd.*, 969 F.2d 1082, 1091-1092 (D.C. Cir. 1992)(intracircuit nonacquiescence occurs when an agency knows which court of appeals will review its action and yet refused to follow the ruling of the reviewing court, and if an agency believes that the circuit has misinterpreted the law, then it should correct the error before Congress or the Supreme Court); *Heartland Plymouth Court MI, LLC v. Nat'l Labor Relations Bd.*, 2016 WL 5485145 (D.C. Cir. Sept. 30, 2016)(“when a case's facts result in only two venue choices for the party appealing the adverse order, and one circuit's precedent is in agreement with the agency's legal interpretation while the other is adverse to it, the agency knows any appeal will be to the adverse circuit, and failure to follow the adverse circuit's law is willful nonacquiescence).

7. Grossman recognizes that the financial hardship of the Monetary Remedies do not rise to the level of irreparable harm, but the consequences of his inability to pay if the Commission sought to enforce the Monetary Sanctions, namely contempt and potential incarceration, is an irreparable harm that could be circumvented upon the issuance of a stay pending appeal.

CONCLUSION

Grossman has shown a strong likelihood of success on appeal, the most important factor in deciding whether to grant a stay of Monetary Sanctions in the Final Order, and well above other

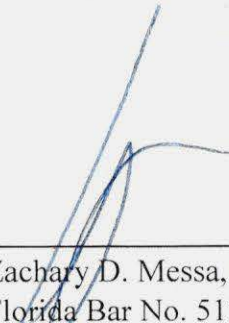
respondents' arguments requesting such a stay. As a result, Grossman requests that the Commission grant his Motion for Partial Stay pending the outcome of his appeal.

CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2016, an original and three (3) copies of the foregoing were sent Federal Express and fax (703-813-9793) to be filed with the Securities and Exchange Commission, Office of the Secretary, 100 F. Street, N.E., Washington D.C. 20549-9303, and that a true and correct copy of the foregoing has been served on the following persons entitled to notice as follows:

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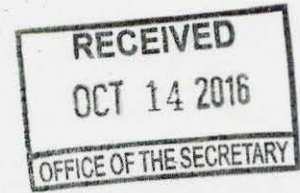
TAMPA ■ CLEARWATER ■ ST. PETERSBURG

October 13, 2016



VIA FEDERAL EXPRESS

Brent Fields, Secretary
Office of the Secretary
Securities and Exchange Commission
100 F. Street, N.E.
Washington, DC 20549-9303



**RE: In the Matter of Larry C. Grossman, et al.
AP File No. 3-15617**

Dear Mr. Fields:

Enclosed for filing in the above referenced administrative proceeding, please find an original and three copies of a Motion for Partial Stay of Monetary Sanctions Pending Appeal on behalf of Larry C. Grossman.

Thank you in advance for your assistance.

Respectfully submitted,

M. Jane Baron, Legal Assistant to
Zachary D. Messa

Enclosure:
Motion for Partial Stay of Monetary Sanctions Pending Appeal

cc:
Patrick R. Costello, Counsel for Division
Mark David Hunter, Counsel for Gregory Adams
Client