

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-15028

RECEIVED
DEC 12 2014
OFFICE OF THE SECRETARY

In the Matter of

SEWING YANG,

Respondent.

THE DIVISION OF ENFORCEMENT'S
RESPONSE IN OPPOSITION TO
SEWING YANG'S MOTION TO STAY

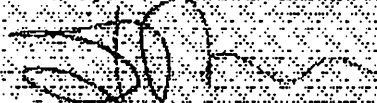
Respondent Sewing Yang asks this Court to stay these proceedings because he is appealing the
final verdict and permanent injunctions to the Seventh Circuit Court of Appeals that gave rise to this
proceeding. The Commission has repeatedly held that the pendency of an appeal is not a valid basis to
dismiss or postpone judgment in a follow-on administrative proceeding. See, e.g., *Richard L. Gable*,
AP File No. 3-14300, 2014 SEC LEXIS 2305, *2 (July 21, 2014) ("the Commission has often ruled
that the pending appeal of an underlying judgment does not prevent the Commission from exercising
its jurisdiction in a follow-on administrative proceeding") (citations omitted); *Conrad P. Saghers*, AP
File No. 3-12433, 2007 SEC LEXIS 2238, *10-11 (Sept. 25, 2007) ("it is well established that the
existence of an appeal of the District Court's decision does not affect the injunction's status as a basis
for administrative action."); *Jose P. Zolotare*, Exchange Act Release No. 55107 (Jan. 16, 2007), 89 SEC
Docket 2598, 2601 n. 4 ("[t]he pendency of an appeal does not preclude us from acting to protect the
public interest."); *Michael T. Sinden*, AP File No. 3-11229, 57 S.E.C. 890, 896-97 (Sept. 20, 2004)
("Unless and until it is vacated, the injunction entered against [respondent] is a valid basis for
administrative action.")

If Yang's appeal is ultimately successful, his remedy will be to seek reconsideration of any bar that may be imposed by the Commission. See *Jon Adelman*, Exchange Act Release No. 30095 (May 8, 1990), 32 S.E.C. 780, 790 ("If [Respondent] succeeds in having his conviction vacated, he can then apply to us for reconsideration of any sanctions imposed in the administrative proceeding."); *Elliot*, 30 S.E.C. 412, 414 n.17, C.R. *Richmond & Co.*, Exchange Act Release No. 12535 (June 10, 1976), 46 S.E.C. 412, 414 n.17 (same).

Thus, the pendency of Yang's appeal is not a valid basis to stay this proceeding. Accordingly, the Division respectfully requests that the Court deny Yang's motion to stay.

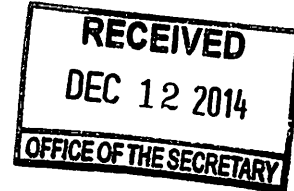
Dated: September 30, 2014

Respectfully submitted,



Jonathan B. Polish (Polish@sec.gov)
 Attorney for the Division of Enforcement
 U.S. Securities and Exchange Commission
 175 West Jackson Boulevard, Suite 900
 Chicago, Illinois 60604
 Phone: 312-353-7390
 Fax: 312-353-7398

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
100 F St. NE
Washington, D.C. 20549



FAX TRANSMITTAL

PLEASE DELIVER THE FOLLOWING PAGES TO:

Name: Secretary's Office

Organization:

Fax Number: [REDACTED]

Total Number of Pages, Including Cover Sheet:5

Date: 12/12/2014 4:57:40 PM

From:

Telephone Number: [REDACTED]

Fax Number:

If you do not receive all pages, please telephone the above number for assistance.

NOTE: THIS DOCUMENT MAY CONTAIN PRIVILEGED AND NONPUBLIC INFORMATION. IT IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE, AND OTHERS WHO SPECIFICALLY HAVE BEEN AUTHORIZED TO RECEIVE IT. If you are not the intended recipient of this facsimile, or the agent responsible for delivering it to the intended recipient, you hereby are notified that any review, dissemination, distribution, or copying of this communication strictly is prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original to the above address by regular postal service without making a copy. Thank you for your cooperation.

Pursuant to Rule 151(a) of the Commission's Rules of Practice, enclosed please find a copy of the Division of Enforcement's letter regarding the briefing schedule with respect to a motion for summary disposition in the above-captioned matter. An original is also being sent via UPS. We also have served the Respondent and sent a courtesy copy of the filing to Administrative Law Judge Foelak as indicated in the accompanying Certificate of Service.