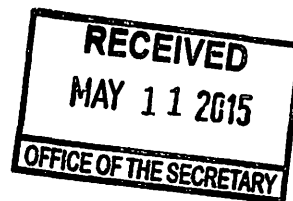


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING
File No. 3-16223

In the Matter of

SANDS BROTHERS ASSET
MANAGEMENT, LLC, STEVEN
SANDS, MARTIN SANDS AND
CHRISTOPHER KELLY,

Respondents.

**RESPONDENTS STEVEN SANDS AND MARTIN SANDS' RESPONSE TO DIVISION
OF ENFORCEMENT'S (1) MOTION FOR LEAVE TO FILE AN OPPOSITION TO
THE REQUEST OF SANDS BROTHERS ASSET MANAGEMENT, LLC FOR
INTERLOCUTORY REVIEW AND (2) OPPOSITION TO RESPONDENT'S
MOTION FOR A STAY OF PROCEEDINGS**

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Dated: May 8, 2015

Respondents Steven Sands (“S. Sands”) and Martin Sands (“M. Sands”) (collectively the “The Sands”), respectfully submit their response to the Division of Enforcement’s (the “Division”) (1) Motion for Leave to File an Opposition to the Request of Respondent Sands Brothers Asset Management, LLC (“SBAM”) for Interlocutory Review and (2) Opposition to Respondent’s Motion for a Stay of Proceedings (“Opposition”).

I. INTRODUCTION

The Division implies in its Opposition that if the Commission stays this proceeding with respect to claims that SBAM violated Rule 206(4)-2 under Section 206(4) of the Investment Advisers Act of 1940 (the “Custody Rule”), the Division should still be permitted to proceed with its claims against Respondents Christopher Kelly (“Kelly”) and The Sands for purportedly aiding, abetting, and causing SBAM’s alleged violation. However, severing the proceedings against SBAM from those against the other Respondents creates a serious risk of inconsistent results and would waste the resources of the Commission and the Respondents. Accordingly, the Division’s piecemeal approach to this case should be rejected and the Commission should stay this proceeding in its entirety.

II. BACKGROUND

On October 29, 2014, the Commission instituted these proceedings alleging that SBAM violated the Custody Rule. It further alleged that SBAM’s former Chief Compliance Officer, Kelly, and SBAM’s Co-Chief Executive Officers (The Sands), aided, abetted and caused SBAM’s Custody Rule violations. On February 25, 2015, the ALJ issued an Order to Show Cause why SBAM’s counsel, Martin H. Kaplan, Esq. and Gusrae Kaplan Nusbaum PLLC, should not be disqualified as counsel in this case. After SBAM, the Division, and Kelly submitted briefs addressing the Order to Show Cause, the ALJ, on April 7, 2015, issued an order (the “Order”) disqualifying Kaplan from representing SBAM in this proceeding. On April 13,

2015, SBAM filed a Request for Certification of Ruling for Interlocutory Review and to Stay the Proceedings (“Request for Certification”) with the ALJ. On April 22, 2015, after SBAM’s Request for Certification was fully briefed, the ALJ declined to certify his Order for interlocutory review and denied requests for a stay of the proceeding.

On April 29, 2015, SBAM filed its Requests for the Commission to Grant Interlocutory Review and to Stay the Proceedings (“Request for Interlocutory Review and Stay”). In its Request for Interlocutory Review and Stay, SBAM set forth substantial grounds in support of its requests that the Commission grant interlocutory review of the Order and stay these proceedings pending its consideration of SBAM’s request for interlocutory review. In response, the Division filed its Opposition of May 4, implying that even if the Commission stays this proceeding against SBAM, the Division should still be permitted to proceed with its claims against Respondents Kelly and The Sands.¹

III. ARGUMENT

The Proceeding Should be Stayed in its Entirety

This case should be stayed as to all parties for the reasons stated in SBAM’s Request for Interlocutory Review and Stay. If this case is stayed only as to SBAM and is allowed to proceed against the remaining Respondents as the Division suggests, there is a serious risk of inconsistent results. Proceeding in such a piecemeal fashion could require an ALJ to determine some Respondents’ liability, if any, for aiding, abetting, or causing SBAM’s purported violation of the Custody Rule before determining the scope of any liability by SBAM. The Division argues that such inconsistent results would not occur here by claiming that SBAM has already conceded

¹ See e.g. Opposition at 2 (“The Division Opposes a stay particularly of the proceedings against Respondents other than SBAM . . .”).

liability. *See* Opposition at 4. But even if SBAM has or will concede liability, the scope of that liability and the respective liabilities of Kelly and The Sands remain open questions

In addition, the Division's claim against SBAM for violating the Custody Rule and the Division's claims against the other Respondents for aiding, and abetting, and causing that alleged violation—as well as the parties' potential liabilities stemming from those claims — involve many of the same facts. Therefore, severing the claims against SBAM from those against the other Respondents would require the Commission and Respondents to waste resources litigating many of the same facts in different proceedings.

Accordingly, this proceeding should be stayed in its entirety as to all Respondents for the reasons set forth above and in SBAM's Request for Interlocutory Review and Stay.

Dated: May 8, 2015

Respectfully submitted,



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