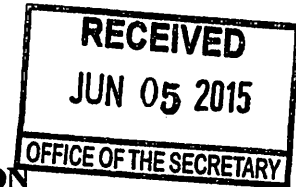


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING
File No. 3-16463

In the Matter of

AEGIS CAPITAL, LLC,
CIRCLE ONE WEALTH
MANAGEMENT, LLC,
DIANE W. LAMM,
STRATEGIC CONSULTING
ADVISORS, LLC, and
DAVID I. OSUNKWO,

Respondents.

DIVISION'S REPLY TO RESPONDENTS' OPPOSITION TO MOTION TO STAY

Pursuant to Commission Rule of Practice 154 [17 C.F.R. § 201.154], the Division of Enforcement ("Division") files this Reply to Respondents Strategic Consulting Advisors, LLC and David I. Osunkwo's ("Respondents") Opposition ("Resp. Opp.") to United States Attorney's Application to Intervene and Motion to Stay this Administrative Proceeding.

In the Division's view, it would be appropriate under Rule of Practice 210(c)(3) for the Court to grant the stay sought by the United States Attorney because, contrary to Respondents' claims, the facts set forth in the indictment against Respondent Lamm are intertwined with those alleged in the Order Instituting Proceedings. Respondents concede that "[t]he indictment alleges a fraudulent scheme whereby Lamm and an individual named John R. Lakian . . . defrauded investors in the Aegis Capital Fund, LLC . . ." Resp. Opp., p. 3. The Order Instituting Proceedings alleges that between 2009 and 2011, Respondents Lamm and Osunkwo worked together to cause violations by, among other entities, Aegis Capital, LLC. See OIP, ¶¶2; 9; 11;

17. Public records of the Commission show that Aegis Capital, LLC was affiliated with Aegis Capital Fund, LLC, a private investment fund that Aegis Capital, LLC recommended and sold to its advisory clients – 20% of whom were actually invested in Aegis Capital Fund, LLC. See Mar. 31, 2010 Aegis Capital, LLC Form ADV, Part 2, Schedule D, Item 7.B.¹ Respondent Lamm would undoubtedly be called to testify about her involvement with the Aegis entities. Mr. Laiken is also a likely witness whose name already appears in the record in multiple places, including the Court’s May 18, 2015 Order to Show Cause as to Aegis Capital, LLC and Circle One Wealth Management, LLC. Respondents’ claim that “there is no real factual overlap between the criminal and civil proceedings” is simply incorrect. To the contrary, it is hard to envision evidence at the hearing *not* being relevant to at least some aspect of the criminal case.

In addition, in a single instance near the end of Respondents’ Opposition, they also suggest that the hearing in this matter should “proceed as to Respondents Strategic Consulting and Osunkwo.” Resp. Opp., p. 7. While it is not clear whether Respondents are seeking to sever this case, the point is moot because a motion to sever would have to be brought pursuant to Rule 201(b) and made to the Commission itself. 17 C.F.R. § 201.201(b). In that context, the Commission has repeatedly stated that “considerations of adjudicatory economy carry great weight,” considerations which here auger against the duplicative consumption of court and staff resources inherent in trying similar issues twice. Michael Bresner, Admin. Proc. File No. 3-15015, Order Denying Motion of Michael Bresner to Sever Proceedings, p. 2 (Dec. 18, 2012).

Respondents also repeatedly admit they waived their right to a cease-and-desist hearing within 60 days after service, but purport to “retract” that waiver. The decision to waive that

¹ The Court may take official notice of Aegis Capital, LLC’s Forms ADV that were filed with the Commission. 17 C.F.R. § 201.323. The Division is happy to file or otherwise provide a copy for the Court’s review upon request.

requirement is not a conditional one, subject to subsequent unforeseen developments, and it would be inappropriate for the Court to allow Respondents to change their minds now. In any event, the Motion to Stay is already pending, and if granted by the Court, the stay would apply to the cease-and-desist portion of the Division's claims.

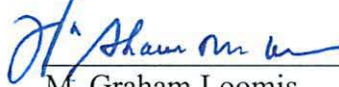
In sum, while the Division is not unsympathetic to the concerns raised by Respondents, “[t]he Commission has made it clear that administrative proceedings should not interfere with parallel criminal proceedings.” Paul A. Flynn, SEC Rel. No. 612, 2004 WL 943889 at *1 (Mar. 4, 2004). For this reason, Rule of Practice 210(c)(3) expressly states that motions brought by a United States Attorney's Office under Rule of Practice 210(c)(3) “shall be favored.”² 17 C.F.R. § 201.210(c)(3). Such motions are routinely granted. David M. Tannan, Esq., SEC Rel. No. 670, 2011 WL 9158332 at *2 (Apr. 8, 2011); Flynn, 2004 WL 943889 at *2; Hunter Adams, et al., SEC Rel. No. 597, 2001 WL 34013717 (Nov. 27, 2001); Michael J. Rothmeier, et al., SEC Rel. No. 593, 2000 WL 796128 at *1 (May 25, 2000) (citing unpublished Orders in A.S. Goldmen & Co., Inc., Order Postponing Proceedings, Admin. Proc. File No. 3-9933 (Sept. 1, 1999) and Pryor, McClendon, Counts & Co., Inc., Order Postponing Proceedings, Admin. Proc. File No. 3-9884 (Sept. 30, 1999), which are attached to 2000 WL 796128 beginning at *2).³ The Division believes that is the appropriate result in this case, and the Motion to Stay should be granted.

² Respondents cite several district court cases in their Opposition. None of those cases are on point, as they involve stays sought under the Federal Rules of Evidence, not Commission Rule of Practice 210(c)(3), which expressly favors such motions.

³ The requisite showing that the facts are sufficiently related to justify a stay is not high; in Tamman, Chief Judge Murray stated that the Court “accept[s] the U.S. Attorney's representation that staying the Administrative Proceeding during the pendency of criminal proceedings is in the public interest and STAY[s] the proceeding” 2011 WL 9158332 at *3.

Dated: June 4, 2015

Respectfully submitted,



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CERTIFICATE OF SERVICE

Undersigned Counsel for the Division of Enforcement hereby certifies that he has served a copy of this DIVISION'S REPLY TO RESPONDENTS' OPPOSITION TO MOTION TO STAY by electronic mail and by United Parcel Service addressed as follows:

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