

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

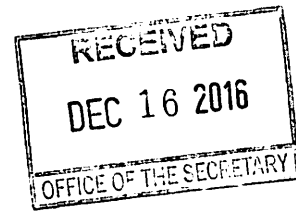
ADMINISTRATIVE PROCEEDING
File No. 3-17157

In the Matter of

STEVEN ZOERNACK
and
EQUITYSTAR
CAPITAL MANAGEMENT, LLC

UNITED STATES ATTORNEY'S
STATUS REPORT REGARDING
STAY OF ADMINISTRATIVE
PROCEEDING

Respondents.



STATUS REPORT

Pursuant to Rule 210(c)(3) of the United States Securities and Exchange Commission's ("Commission") Rules of Practice, on August 19, 2016, A. Lee Bentley, III, United States Attorney for the Middle District of Florida (the "United States Attorney"), through the undersigned Assistant United States Attorney, made an Application to Intervene in the above-captioned proceeding and moved for an Order staying the above-captioned proceeding. In support of its application, the United States Attorney submitted in substance that the Commission's pending administrative proceeding, commenced March 8, 2016, substantially overlapped with an ongoing criminal investigation being conducted by federal law enforcement in the Middle District of Florida and elsewhere. Neither the Division of Enforcement nor Respondents objected to the motion to stay.

On August 23, 2016, Administrative Law Judge Jason S. Patil granted the United States Attorney's application to intervene and stayed the proceeding pursuant to 17 C.F.C § 201.210(c)(3), finding that the stay was in the public interest. A telephonic prehearing conference was set for December 21, 2016, at 10:00 a.m. Eastern time to assess whether the stay should continue, with the provision that if the United States Attorney filed a status report by December 15, 2016, providing sufficient reasons for the stay's continuance, the prehearing conference would be canceled.

Since the stay in the above-captioned proceeding was entered, the United States Attorney, through the undersigned Assistant United States Attorney, has vigorously pursued the criminal investigation of Respondents while concurrently engaging in plea negotiations with Respondent Zoernack, who owned, controlled, and operated Respondent EquityStar Capital

Management LLC at all times material to the events at issue in both this proceeding and the ongoing criminal investigation in Florida.

After extensive discussion, Respondent Zoernack agreed in early December to waive indictment and plead guilty to an Information charging him with one count of conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 371. A Plea Agreement and Waiver of Indictment executed by Respondent Zoernack and his attorney was received by the United States Attorney on December 15, 2016.

The Plea Agreement, Information, and a Waiver of Indictment will be filed in United States District Court for the Middle District of Florida in early January, with a plea hearing to be held thereafter pursuant to Fed. R. Crim. P. 11. In the interim, however, the reasons for the stay set forth in the Court's order of August 29, 2016, continue to obtain—namely, the avoidance of prejudice to the criminal matter and the possible impairment of the effective presentation of evidence in the administrative proceeding. Because of the potential detriment to the civil and criminal proceedings should both proceed concurrently, the United States Attorney would respectfully request that the stay be continued until the criminal matter is resolved by Respondent Zoernack's guilty plea and the acceptance of that plea by the District Court. That resolution is expected within the next two months.

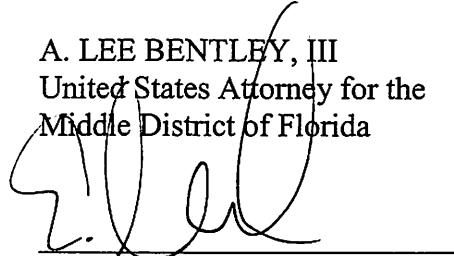
The United States has consulted with counsel for Respondents, and the parties agree to the facts set forth above.

Dated: Tampa, Florida
December 15, 2016

Respectfully Submitted,

A. LEE BENTLEY, III
United States Attorney for the
Middle District of Florida

By:



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CERTIFICATE OF SERVICE

I, Eric K. Gerard, certify that on the 15th day of December, 2016, I caused a true and correct copy of the United States Department of Justice's Status Report Regarding Stay of Administrative Proceeding, to be filed and served on the following by the delivery methods set forth below:

BY OVERNIGHT MAIL AND FACSIMILE:

Brent J. Fields, Secretary
Office of the Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Mail Stop 1090
Washington, D.C. 20549-2557
Facsimile: 202-772-9324

BY OVERNIGHT MAIL AND EMAIL:

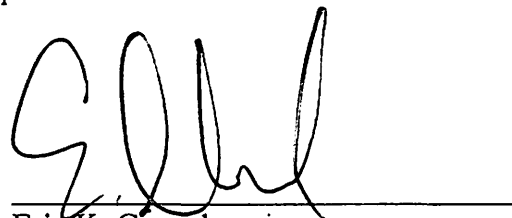
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BY EMAIL:

The Honorable Jason S. Patil
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A handwritten signature in black ink, appearing to read 'E. Gerard', written over a horizontal line.

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