

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

Administrative Proceeding
File No. 3-17228

In the Matter of

**David S. Hall, P.C. d/b/a The Hall
Group CPAs,
David S. Hall, CPA,
Michelle L. Helterbran Cochran, CPA,
and
Susan A. Cisneros,**

Respondents.

**JOINT MOTION
TO STAY PROCEEDINGS**

The Division of Enforcement (“DOE”) and Respondent Michelle L. Helterbran Cochran, CPA (“Respondent”) hereby jointly move for a stay of these proceedings.

Respondent sought to enjoin these proceedings in federal district court on the grounds that the statutory restrictions on the removal of Commission ALJs violated Article II of the United States Constitution. The district court denied this challenge for lack of subject-matter jurisdiction, ruling that district court jurisdiction was precluded by Section 25 of the Exchange Act, which vests exclusive review in the courts of appeals. The Fifth Circuit granted Cochran’s motion to stay the administrative proceedings pending disposition of her appeal of the district court’s ruling. After a panel initially affirmed that ruling, the en banc court reversed. On February 4, 2022, the Fifth Circuit issued its mandate to the district court to conduct further proceedings consistent with its opinion. On March 11, 2022, the Department of Justice, on behalf of the Commission and the other defendants, filed a petition for writ of certiorari from the Fifth Circuit’s en banc decision. The petitioners have requested that the Supreme Court hold that petition pending its decision in

another case, *Axon Enterprise, Inc. v. Federal Trade Commission*, No. 21-86, and then dispose of the petition as appropriate in light of that decision. Respondent Cochran has yet to brief her response to that petition, but agrees with the DOE that these administrative proceedings should be stayed.

The ALJ has the authority to stay this proceeding pursuant to Rules 111 and 161 of the Commission’s Rules of Practice (“ROP”). *See* ROP 111 (granting ALJs “authority to do all things necessary and appropriate to discharge his or her duties,” including “regulating the course of a proceeding”); ROP 161 (authorizing ALJs to grant extensions of time, postponements, and adjournments in furtherance of the efficient administration of justice); *see also In the Matter of Paul Free, CPA*, AP File No. 3-14629, 2012 WL 266986, *note 6 (Jan. 26, 2012).

In the interests of justice, and by the parties’ agreement, the parties now request that the ALJ stay the proceedings pending the Supreme Court’s ruling on the petition for certiorari. After the ruling on that petition, the parties will provide the ALJ notice of their respective positions on the continuation of the stay and/or the timing for the resumption of further proceedings in this matter.

Dated: March 24, 2022

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