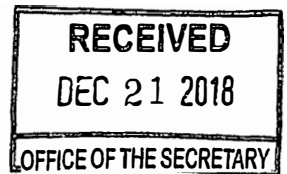


UNITED STATES OF AMERICA
Before The
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING

File No. 3-18867

In The Matter of
DANIEL JOSEPH TOUIZER,
Respondent.

RESPONDENT DANIEL JOSEPH TOUIZER'S
MOTION FOR STAY OF ADMINISTRATIVE
PROCEEDING PENDING OUTCOME OF HIS
APPEAL OF CRIMINAL CONVICTION AND
FINAL AMENDED JUDGMENT IN CRIMINAL
CASE 17-60286-CR-BLOOM

Pursuant to 17 C.F.R. Section 201.401, 17 C.F.R.
Section 201.154 and as specified below, Respondent DANIEL
JOSEPH TOUIZER ("Touizer" or the "Respondent"), appearing
on a pro se [unrepresented] basis, hereby respectfully
submits this instant Motion for Stay of Administrative
Proceeding [File No. 3-18867] pending the outcome of his
already filed Appeal of the Amended Judgment in a Criminal
Case, captioned as United States of America v. Daniel Joseph

Touizer; Case No. 17-60286-CR-Bloom (the "Criminal Case").

In support of this instant Motion, Touizer states as follows:

Relevant Background

1. On November 27, 2018, Touizer received from the Bureau of Prisons [REDACTED], at the [REDACTED] [REDACTED] in Miami, Florida (the "[REDACTED]") where Touizer is currently incarcerated pursuant to the above-described Criminal Case, a Registered/Certified U.S. Mail envelope from the U.S. Securities and Exchange Commission (the "SEC").

2. Such envelope contained a copy of the SEC's "Order Instituting Administrative Proceedings Pursuant To Section 15(b) of The Securities Exchange Act of 1934 And Notice of Hearing," dated October 12, 2018 (the "SEC Order").

3. Page 2 of such SEC Order highlights and also describes Touizer's "criminal conviction" and related judgment as a result of the Criminal Case against Touizer in the United States District Court for the Southern District of Florida (the "U.S. District Court"). It is abundantly clear from the SEC Order that the SEC's Administrative Proceeding, against Touizer, is relying on the criminal conviction

and judgment against Touizer in the Criminal Case against him in the U.S. District Court.

4. However, as cited above and as further described and explained below, Touizer has timely appealed the Criminal Case against him. On November 27, 2018, Touizer timely filed a Notice of Appeal of the final "Amended Judgment in a Criminal Case," entered against him on November 16, 2018 by the U.S. District Court. Please see Exhibit No. 1, attached herewith, for a true and correct copy of such timely filed Notice of Appeal with the U.S. District Court - and, as stamped by the Clerk of the U.S. District Court (Touizer's "Appeal").

5. Because a successful Appeal of the Criminal Case against him will ~~not~~ only exonerate Touizer but also extinguish the allegations set forth in Section II of the SEC Order against him, Touizer respectfully requests an immediate stay of the SEC's Administrative Proceedings against him while he litigates and pursues his Appeal of the Criminal Case.

6. Touizer's requested stay is limited to the period required for the resolution of his Appeal, which should not last longer than eleven (11) months from the date of this instant Motion. Further, as Touizer's Appeal will be in the public record, through "PACER," his Appeal can be readily monitored by the SEC as may be required.

Arguments

7. First, the SEC's Rules of Practice permit the requests and subsequent consideration for a stay of Administrative Proceedings, such as this instant request, pursuant to 17 C.F.R. Section 201.401 ("Section 201.401") See Section 201.401 - "Consideration of Stays."

8. Second, as highlighted above, because the SEC Order is materially premised on the allegations, conviction and judgment in Touizer's Criminal Case, the successful Appeal of said Criminal Case will either set the resulting Touizer conviction aside or limit and define the applicable facts of the SEC Order, thereby narrowing the issues to be litigated and addressed in the SEC Administrative Proceeding.

9. Third, as an incarcerated pro se defendant/respondent, Touizer has limited time and resources to litigate both the Appeal of the Criminal Case and the SEC Order. As a result, Touizer will be prejudiced by two separate cases alleging the same facts but forcing Touizer to defend himself against those same issues and allegations in two different forums - all while proceeding on a pro se basis and concurrently incarcerated.

10. Fourth, because Touizer continues to be incarcerated, he is not likely to escape addressing the SEC Order if his Appeal is unsuccessful.

11. In addition, in determining whether to issue a stay, the governing precedents direct the SEC to consider the following factors: "(1) Whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." See, for example, Hilton v. Braunskill, 481 U.S. 770, 776, 107 S. Ct. 2113, 95 L. Ed. 2d 724 (1987).

A. Likelihood of Success:

Because a successful Appeal of the Criminal Case will significantly and materially extinguish the allegations set out in the SEC Order, Touizer will be able to successfully defend himself against the SEC Order as a result of a prior determined Appeal of the conviction and judgment against him in the Criminal Case. Therefore, Touizer has a strong likelihood of success to defend against the SEC Order pursuant to a successful Appeal of the Criminal Case.

B. Irreparable Harm To Touizer:

First, the SEC Order against Touizer is an unfair result if he successfully appeals the Criminal Case, especially as the SEC Order is based on the same allegations as those in the Criminal Case.

Secondly, if the SEC enters an Order against Touizer prior to the resolution of his Criminal Case Appeal, he will have been unjustly and irreparably harmed in that he cannot pursue any future business opportunities pursuant to restrictions placed on him by the SEC despite subsequently being cleared of any allegations against him in the Criminal Case.

C. Substantial Injury To Other Parties:

The requested stay does nothing more than maintain the status quo existing prior to Touizer's Appeal. There is no appreciable harm to any party from issuing a stay, especially as Touizer will continue to be in prison while the Appeal is litigated and, therefore, not in a position to conduct any business nor solicit investors.

D. Public Interest:

An SEC administrative/restriction order against Touizer while an Appeal of the Criminal Case is still pending or successful fails to serve the public interest because any such SEC order is not viable and does not help investors, including because the SEC Order is based on the same facts and allegations contained in the Criminal Case. If Touizer's Appeal is successful, investors cannot rely on any such Criminal Case to recover losses from Touizer.

12. These above-cited criteria or interrelated factors are treated "somewhat like a sliding scale" and the Second Circuit Court of Appeals for instance has stated that "more of one excuses less of the other." See, for example, Thapa v. Gonzalez, 460 F.3d 323, 334 (2d Cir. 2006). Thus, the "necessary level or degree or possibility of success will vary according to the [] assessment" of the other factors. Id., 460 F.3d at 334 (internal quotation marks omitted).

13. Further, only some possibility of success on Touizer's Appeal is sufficient to justify a stay where "the balance of hardships tips decidedly in favor" of Touizer. Again, see Thapa at 336. Therefore, the more strongly the balance of harm tilts in favor of the moving party, the less "likelihood of success on an appeal need be shown." See Mohammed v. Reno, 309 F.3d 101 (2d Cir. 2002), for example.

14. Subsequently, due to the harm to Touizer without the requested stay, the relief requested by Touizer in this instant Motion is warranted. Again, because the SEC Order infers, draws or relies on Touizer's criminal conviction and judgment, any successful Appeal of the Criminal Case will clearly affect the stated allegations in Section II of the SEC Order. A successful Appeal will also cancel any cited criminal conviction in such SEC Order, and the reliance on such conviction by the Administrative Proceeding. Based on the above, even a small likelihood of success of Touizer's Appeal is sufficient for such requested stay.

Conclusion

WHEREFORE, based on the foregoing issues and stated arguments it is overtly clear that Touizer is entitled to the requested stay and that such stay is justified, especially in view of Touizer's pending Appeal in the Criminal Case. As a result, Touizer respectfully requests that this instant Motion is granted and that a Stay in the SEC's Administrative Proceeding against Touizer is entered for a minimum period of eleven (11) months; and, any further relief that is deemed just and proper.

Respectfully Submitted,

December 13, 2018

~~Daniel~~

~~DANIEL JOSEPH TOUIZER~~

Respondent, appearing pro se

Registration No. [REDACTED]

FDC-Miami, P. O. Box [REDACTED]

Miami, Florida [REDACTED]

Administrative Proceeding File No. 3-18867

U.S. Securities and Exchange Commission

In the Matter of Daniel Joseph Touizer, Respondent

"Respondent Daniel Joseph Touizer's Motion for Stay of Administrative Proceeding pending Outcome of his Appeal of Criminal Conviction and Final Amended Judgment in Criminal Case 17-60286-cr-Bloom"

EXHIBIT No. 1

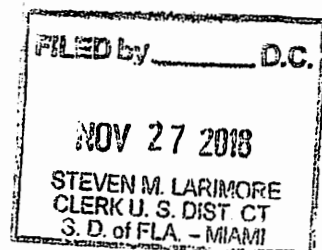
UNITED STATES DISTRICT COURT
for the
SOUTHERN DISTRICT OF FLORIDA

Case Number: 17-60286-CR-Bloom.

UNITED STATES OF AMERICA,
Plaintiff,

v.

DANIEL JOSEPH TOUZER,
Defendant.



NOTICE OF APPEAL

Notice is hereby given that Defendant DANIEL JOSEPH TOUZER ("Touzer" or the "Defendant"), appearing on a pro se basis, hereby respectfully appeals to the United States Court of Appeals for the Eleventh Circuit from the "Amended Judgment In A Criminal Case," entered against him on November 16, 2018, by the United States District Court for the Southern District of Florida in this instant action, and the said judgment is "final."

Respectfully Submitted,

November 26, 2018

~~J. I. [Redacted]~~

DANIEL JOSEPH TOUZER

Defendant - Appellant, appearing pro se

Registration No.: [Redacted]

[Redacted] FL

P.O. Box [Redacted]

Miami, Florida [Redacted]

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a pro se inmate confined to a Bureau of Prisons institution, and that today, November 26, 2018, I caused the foregoing Notice of Appeal to be delivered to the Clerk of the Court of the United States District Court for the Southern District of Florida, at the Wilkie D. Ferguson United States Courthouse, at 400 North Miami Avenue, Room 08N04, Miami, Florida 33128-7716 in order for said Notice of Appeal to be filed and docketed on the Court's CM/ECF System, which will then send a Notice of Electronic Filing to all persons and parties in this instant action.

~~J. I. [Redacted]~~

DANIEL JOSEPH TOUZER

Reg. No.: [Redacted]

[Redacted]

Case No.: 17-60286-CR-Bloom

United States of America v. Daniel Joseph Touizer

Notice of Appeal to November 16, 2018 Amended Judgment

EXHIBIT

A

UNITED STATES DISTRICT COURT
Southern District of Florida
Fort Lauderdale Division

UNITED STATES OF AMERICA
v.
DANIEL JOSEPH TOUIZER

AMENDED JUDGMENT IN A CRIMINAL CASE

Reason for amendment: restitution amount.
(See pages 5 & 6)

Case Number: **17-60286-CR-BLOOM-001**

USM Number: **16560-104**

Counsel For Defendant: **RONALD GAINOR**

Counsel For The United States: **ROGER CRUZ**

Court Reporter: **Yvette Hernandez**

The defendant pleaded guilty to count(s) 1 of the indictment.

The defendant is adjudicated guilty of these offenses:

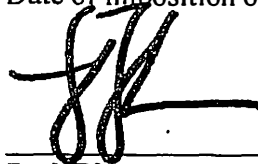
<u>TITLE & SECTION</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE ENDED</u>	<u>COUNT</u>
18 USC § 1349	Conspiracy to commit mail & wire fraud	11/2017	1

The defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

All remaining counts are dismissed on the motion of the government.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Date of Imposition of Amended Sentence: 11/15/2018



Beth Bloom
United States District Judge

Date: 11/15/2018

DEFENDANT: DANIEL JOSEPH TOUIZER
CASE NUMBER: 17-60286-CR-BLOOM-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **sixty-eight (68) months as to count one of the indictment.**

The court makes the following recommendations to the Bureau of Prisons: That the Defendant participate in the RDAP Program administered by the Bureau of Prisons and be designated to a facility in South Florida, preferably Miami due to his young baby living there.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

DEPUTY UNITED STATES MARSHAL

DEFENDANT: DANIEL JOSEPH TOUIZER

CASE NUMBER: 17-60286-CR-BLOOM-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **three (3) years**.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

The defendant shall cooperate in the collection of DNA as directed by the probation officer.

The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

1. The defendant shall not leave the judicial district without the permission of the court or probation officer;
2. The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first fifteen days of each month;
3. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. The defendant shall support his or her dependents and meet other family responsibilities;
5. The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. The defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
7. The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11. The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
12. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
13. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: DANIEL JOSEPH TOUIZER
CASE NUMBER: 17-60286-CR-BLOOM-001

SPECIAL CONDITIONS OF SUPERVISION

Association Restriction - The defendant is prohibited from associating with Saul Daniel Suster and John Kevin Reech while on supervised release.

Data Encryption Restriction - The defendant shall not possess or use any data encryption technique or program.

Employment Solicitation Restriction - The defendant shall not be engaged in any business that offers securities, investments, or business opportunities to the public. The defendant is further prohibited from engaging in telemarketing, direct mail, or national advertising campaigns for business purposes without the permission of the Court.

Financial Disclosure Requirement - The defendant shall provide complete access to financial information, including disclosure of all business and personal finances, to the U.S. Probation Officer.

No New Debt Restriction - The defendant shall not apply for, solicit or incur any further debt, included but not limited to loans, lines of credit or credit card charges, either as a principal or cosigner, as an individual or through any corporate entity, without first obtaining permission from the United States Probation Officer.

Permissible Computer Examination - The defendant shall submit to the U.S. Probation Officer conducting periodic unannounced examinations of the defendant's computer(s) equipment which may include retrieval and copying of all data from the computer(s) and any internal or external peripherals to ensure compliance with this condition and/or removal of such equipment for the purpose of conducting a more thorough inspection; and to have installed on the defendant's computer(s), at the defendant's expense, any hardware or software systems to monitor the defendant's computer use.

Permissible Search - The defendant shall submit to a search of his/her person or property conducted in a reasonable manner and at a reasonable time by the U.S. Probation Officer.

Related Concern Restriction - The defendant shall not own, operate, act as a consultant, be employed in, or participate in any manner, in any related concern during the period of supervision.

Self-Employment Restriction - The defendant shall obtain prior written approval from the Court before entering into any self-employment.

Unpaid Restitution, Fines, or Special Assessments - If the defendant has any unpaid amount of restitution, fines, or special assessments, the defendant shall notify the probation officer of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay.

Substance Abuse Treatment - The defendant shall participate in an approved treatment program for drug and/or alcohol abuse and abide by all supplemental conditions of treatment. Participation may include inpatient/outpatient treatment. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment.

DEFENDANT: DANIEL JOSEPH TOUIZER
CASE NUMBER: 17-60286-CR-BLOOM-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$100.00	\$0.00	\$1,810,000 as to Daniel Touzier \$6,857,713.93 Joint & several

The defendant must make restitution to the attached list of payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>NAME OF PAYEE</u>	<u>TOTAL LOSS*</u>	<u>RESTITUTION ORDERED</u>	<u>PRIORITY OR PERCENTAGE</u>
C/O USPO			

Restitution with Imprisonment - It is further ordered that the defendant shall pay restitution in the amount of \$1,810,000 During the period of incarceration, payment shall be made as follows: (1) if the defendant earns wages in a Federal Prison Industries (UNICOR) job, then the defendant must pay 50% of wages earned toward the financial obligations imposed by this Judgment in a Criminal Case; (2) if the defendant does not work in a UNICOR job, then the defendant must pay a minimum of \$25.00 per quarter toward the financial obligations imposed in this order. Upon release of incarceration, the defendant shall pay restitution at the rate of 10% of monthly gross earnings, until such time as the court may alter that payment schedule in the interests of justice. The U.S. Bureau of Prisons, U.S. Probation Office and U.S. Attorney's Office shall monitor the payment of restitution and report to the court any material change in the defendant's ability to pay. These payments do not preclude the government from using other assets or income of the defendant to satisfy the restitution obligations.

Restitution amount ordered pursuant to plea agreement is reserved

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

** Assessment due immediately unless otherwise ordered by the Court.

DEFENDANT: DANIEL JOSEPH TOUIZER
CASE NUMBER: 17-60286-CR-BLOOM-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A. Lump sum payment of \$100 due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

This assessment/fine/restitution is payable to the CLERK, UNITED STATES COURTS and is to be addressed to:

U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 08N09
MIAMI, FLORIDA 33128-7716

The assessment/fine/restitution is payable immediately. The U.S. Bureau of Prisons, U.S. Probation Office and the U.S. Attorney's Office are responsible for the enforcement of this order.

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

<u>CASE NUMBER</u> <u>DEFENDANT AND CO-DEFENDANT NAMES</u> <u>(INCLUDING DEFENDANT NUMBER)</u>	<u>TOTAL AMOUNT</u>	<u>JOINT AND SEVERAL</u> <u>AMOUNT</u>
17-60286-CR-BLOOM-01-Daniel Touizer 17-60286-CR-BLOOM-02-Saul Suster 17-60286-CR-BLOOM-03-John Kevin Reech	\$1,810,00.00 (owed by Defendant Touizer, solely)	\$6,857,713.93 (joint several amount as to all defendants)

The Government shall file a final order of forfeiture.

Restitution is owed jointly and severally by the defendant and co-defendants in the above case.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.