

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5520/ June 12, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19826

In the Matter of

LOUIS NAVELLIER and
NAVELLIER & ASSOCIATES, INC.

Respondents.

MOTION AND MEMORANDUM IN
SUPPORT OF RESPONDENTS’
ASSENTED-TO STAY INCLUDING
EXTENSION OF TIME TO FILE
ANSWER

Respondents hereby move for a stay of these proceedings, including, but not limited to, an extension and stay of filing an answer to the order instituting proceedings in this administrative proceeding.

The Commission instituted these proceedings based on a June 2, 2020 judgment issued by the United States District Court for the District of Massachusetts in the case *SEC v. Navellier & Associates, Inc., et al.* case No. 17-cv-11633-DJC. That Final Judgment included a grant of a permanent injunction against Respondents’ future “violations” of §§206(1) and (2) of the Investment Advisers Act.

The Commission used that erroneous Final Judgment and the injunction order therein as a basis for instituting these proceedings to “enforce” the Final Judgment (Order Instituting Administrative Proceedings, ¶ II B 4).

Respondents have appealed that erroneous Final Judgment to the First Circuit Court of Appeals (“First Circuit”).

On July 1, 2020 the First Circuit issued a temporary stay of enforcement of the Final Judgment, including enforcement of the injunction and thereby this Administrative Proceeding. A copy of the First Circuit temporary stay order is attached hereto as Exhibit 1.

Counsel for Respondents was preparing their Answer for filing today or tomorrow. Before the First Circuit stay, the answer was arguably due by July 2, 2020. In light of the First Circuit stay, Respondents' counsel believes these administrative proceedings, including the filing of answer, are stayed, and therefore the answer is not due by July 2, 2020. Therefore, Respondents request an order confirming the answer is not due on July 2, 2020 and that its filing is stayed.

Counsel for the Commission has agreed that in light of the First Circuit stay, the filing of the answer is stayed and not due on July 2, 2020 (Exhibit 2).

Respectfully submitted,

DATED: July 1, 2020

LAW OFFICES OF SAMUEL KORNHAUSER

By: /s/ Samuel Kornhauser

Samuel Kornhauser, Esq.

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed by email per Commission telephone instructions and emailed on this, July 1, 2020 to: Marc Jones- JonesMarc@SEC.gov per stipulation to counsel for the Commission

July 1, 2020

By: /s/ Dan Cowan
Dan Cowan

EXHIBIT 1

United States Court of Appeals For the First Circuit

No. 20-1581

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff - Appellee,

v.

NAVELLIER & ASSOCIATES, INC.; LOUIS NAVELLIER,

Defendants - Appellants.

Before

Torruella, Kayatta and Barron,
Circuit Judges.

ORDER OF COURT

Entered: July 1, 2020

Before the court is "Appellants' Emergency Motion for... Temporary Stay of Enforcement of Final Judgment Pending Decision by District Court on Motion for Temporary Stay." That motion is allowed insofar as the final judgment of the district court shall be stayed until such time as the district court has ruled on the motion for a stay of enforcement of the judgment pending before it. By this order, we express no view as to the merits of the pending motion, or as to any element of the proceedings below.

So ordered.

By the Court:

Maria R. Hamilton, Clerk

cc:

Hon. Denise Jefferson Casper
Robert Farrell, Clerk, United States District Court for the District of Massachusetts
Steven Joel Brooks
Samuel Kornhauser
Jennifer A. Cardello
Robert Bradley Baker
Donald Campbell Lockhart
William J. Donahue
Paul Gerard Alvarez
Marc Jonathan Jones
Rachel McKenzie

EXHIBIT 2

From: [Jones, Marc](#)
To: samuel.kornhauser@gmail.com
Cc: "[Samuel Kornhauser](#)"
Subject: SEC v. Navellier: Confidential Financial Information/Stay re: Administrative Proceeding
Date: Wednesday, July 1, 2020 11:27:20 AM

Sam,

I agree not to attach or otherwise disclose the materials you provide me until the court decides your motion to seal. However, pp. 8-9 of your stay brief discuss multiple assets that we believe can be used or borrowed against to secure a supersedeas bond. You have argued they may not. The SEC reserves the right to discuss/disclose the possible value of Mr. Navellier's houses (which is available publicly from sites such as Redfin) and to discuss the amount of disclosed assets in the aggregate, as part of our argument that the bond could be secured. Agreed?

On the AP, we do not object to you informing the ALJ of the decision and your postponement of the answer pending the district court ruling.

MJ

Marc J. Jones

Senior Trial Counsel
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From: samuel.kornhauser@gmail.com <samuel.kornhauser@gmail.com>
Sent: Wednesday, July 01, 2020 2:04 PM
To: Jones, Marc <JonesMarc@SEC.gov>
Cc: 'Samuel Kornhauser' <skornhauser@earthlink.net>
Subject: Confidential Financial Information/Stay re: Administrative Proceeding

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Marc,

With regard to the Navelliers' financial information, please provide me with representation/agreement by email confirming that the SEC will keep Mr. Navellier's and NAI's financial information confidential, and will not disclose it in any pleadings, pending a final determination with regard to our request to file financial information under seal. Without waiving confidentiality, I will send you the financial information after I receive your written assurance that it will not be disclosed by the SEC.

With regard to the administrative proceedings, I was in the process of preparing an answer for filing

today or tomorrow, however, in light of the First Circuit's temporary stay order, I believe that stays any further proceedings in the administrative proceedings, including my filing an answer. Please confirm that is your understanding. I will notify the SEC/hearing officer of the stay and our withholding of the filing of an answer in light of the First Circuit temporary stay order.

Sam