

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20249

In the Matter of

**WORLD TREE FINANCIAL,
LLC,**

Respondent.

DIVISION OF ENFORCEMENT’S RESPONSE TO
WORLD TREE FINANCIAL, LLC’S MOTION TO STAY

The Division of Enforcement (“Division”) hereby responds to World Tree Financial, LLC’s Motion to Stay Administrative Proceedings, filed on May 20, 2022, and respectfully submits that World Tree’s Motion to Stay should be denied.

The Commission issued Orders Instituting Proceedings (“OIP”) on March 22, 2021, pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940, against Wesley Kyle Perkins (“Perkins”) and World Tree Financial, LLC (“World Tree”) pursuant to Section 203(f) of the Advisers Act. Exch. Act Rels. 91378 and 91379 (Mar. 22, 2021). As set forth in the OIPs, both Perkins and World Tree had final judgments entered against them on January 15, 2021, in the civil action entitled *Securities and Exchange Commission v. World Tree Financial, LLC, et al.*, Civil Action Number 6:18-cv-01229-MJJ-CBW, in the United States District Court for the Western District of Louisiana. *Id.*

The OIPs alleged that the final judgments permanently enjoined Perkins and World Tree from future violations of Section 17(a) of the Securities Act of 1933,

Exchange Act Section 10(b) and Rule 10b-5, and Advisers Act Sections 206(1) and 206(2). *Id.* According to the OIPs, the complaint in the civil action alleged that, from March 2011 through September 2015, World Tree and Perkins, who was World Tree's principal, engaged in the following misconduct:

[They] disproportionately allocated unfavorable trades to two large accounts owned by a single client, while allocating favorable trades to accounts owned by [Perkins], his wife, and other World Tree clients. Accounts held by or associated with Perkins and his wife received ill-gotten gains of \$354,232 during the course of the scheme. In addition to cherry-picking, World Tree and Perkins made material misrepresentations in World Tree's Forms ADV, Part 2A. They misrepresented World Tree's allocation practices by concealing their cherry-picking, and falsely claimed that World Tree's principals and their families were prohibited from trading in the same securities as their clients.

Id.

The OIPs instituted administrative proceedings to determine whether the above allegations are true and whether any remedial action is in the public interest. *Id.* Perkins and World Tree, who are represented by the same counsel, filed answers to the OIPs on May 28, 2021. Now, nearly a full year later, and without meeting and conferring with the Division, both Perkins and World Tree have moved to stay these proceedings based upon an appeal that was already pending at the time that both Respondents filed their Answers. *See* Answers at page 1 (appeal pending since January 15, 2021).

Respondents do not point to any Commission Rule to support their motions to stay these proceedings.¹ Indeed, Respondents cite no authority whatsoever, merely arguing that a stay will not "prejudice or harm" the Commission or the public interest. Motion at p. 1. But the weight of authority is to the contrary. The stay requested by Respondents amounts to an "indefinite postponement," and the public interest "calls for a more certain conclusion of this matter." *In the Matter of Investors Financial Planning*,

¹ The Commission's Rules of Practice provide for the stay of an administrative proceeding in the event of: (1) a settlement, 17 C.F.R. § 201.161(c)(2); and (2) a parallel criminal investigation, 17 C.F.R. § 201.210(c)(3). Neither circumstance applies here.

Inc., et al., AP File No. 3-6071, 1981 SEC LEXIS 2377 (Dec. 28, 1981); *see also In the Matter of Robert E. Iles, Sr.*, AP File No. 3-7261, 1989 SEC LEXIS 5149 at *1 (Oct. 31, 1989).

Moreover, the Commission has often ruled that a pending appeal of an underlying judgment does not prevent the Commission from exercising its jurisdiction in a follow-on administrative proceeding. *In the Matter of Richard L. Goble*, AP File No. File No. 3-14390, 2011 SEC LEXIS 2505 at *1 (July 21, 2011); citing *James E. Franklin*, Exch. Act Rel. No. 56649 (Oct. 12, 2007), 91 SEC Docket 2708, 2714 n.15, 2718; *Charles Phillip Elliott*, Exch. Act Rel. No. 31202 (Sept. 17, 1992), 52 SEC Docket 2011, 2016-17, *aff'd on other grounds*, 36 F.3d 86 (11th Cir. 1994).²

Finally, the Commission's general policy is to disfavor delaying proceedings. *See* 17 C.F.R. § 201.161(b)(1). To overcome this policy, a party must make a “‘strong showing’ that the “denial of the request ... would substantially prejudice their case.” *Id.* No such showing has been made here.³ Respondents’ appeal has been briefed and proceeded through oral argument unimpeded. Motion at p. 1. If the underlying injunction is ultimately vacated, Respondents may request the Commission to reconsider any sanctions imposed in these administrative proceedings. *See Elliott*, 52 SEC Docket at 2017 n.17; *Gary L. Jackson*, 48 S.E.C. 435, 438 n.3 (1986).

² *See also In the Matter of Siming Yang*, AP File No. 3-15928, 2014 SEC LEXIS 3672 (Sept. 30, 2014); *In the Matter of Joseph P. Galluzzi*, 2002 SEC LEXIS 3423 n.21 (Aug. 23, 2002); *In the Matter of John Francis D'Acquisto*, 53 S.E.C. 440, 444 n.9 (1998); *In the Matter of Investors Financial Planning, Inc., et al.*, AP File No. 3-6071, 1981 SEC LEXIS 2377 (Dec. 28, 1981).

³ The cost of defense is not the same thing as prejudice. *Goble*, AP File No. File No. 3-14390, 2011 SEC LEXIS 2505 at *1 (July 21, 2011) (“Respondent, by referring to the expense of responding to the Division's motion for summary disposition, confuses price and prejudice.”)

For all the foregoing reasons, Respondents' Motions to Stay should be denied.

Respectfully submitted,

Dated: June 2, 2022

DIVISION OF ENFORCEMENT

A handwritten signature in blue ink, appearing to read "Lynn M. Dean".

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CERTIFICATE OF SERVICE
SERVICE LIST

Pursuant to Commission Rule of Practice 151 (17 C.F.R. § 201.151), I certify that
the:

DIVISION OF ENFORCEMENT'S RESPONSE TO MOTION TO STAY

was served on June 2, 2022 upon the following parties as follows:

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Dated: June 2, 2022



Lynn M. Dean