

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

IN THE MATTER OF

FR. EMMANUEL LEMELSON

Respondent.

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ADMINISTRATIVE PROCEEDING
FILE NO. 3-20828

**RESPONDENT’S MOTION TO STAY DISCOVERY PENDING DECISION ON
PETITION FOR INTERLOCUTORY REVIEW**

Respondent Lemelson respectfully submits this reply in further support of his motion to stay discovery pending the Commission’s decision on his application for interlocutory review. The Division says it is “highly unlikely” the Commission will grant interlocutory review, but there is no basis for this prediction. Apart from the novel constitutional and legal questions raised by the application, there is no obvious reason why the Commission would *decline* to address those questions in the first instance *now*, rather than having to defend its staff’s unreviewed positions before a federal court *later*. And the Commission need not fear an avalanche of requests for interlocutory review should it grant Lemelson’s application here. Unlike in years past, as best Lemelson can tell from the public record, his case is one of only a tiny handful currently pending before the Commission’s ALJs.

Equally baseless is the Division’s assurance that the outstanding subpoena “is not burdensome.” To the contrary, it demands production of more than four years’ worth of private and otherwise constitutionally protected communications and other documents, along with a continuing obligation to keep producing such information indefinitely, on a rolling basis, for the foreseeable future. And it requires each document production to adhere to the Commission’s

“Data Delivery Standards”—an 11-page, fine-print muddle of technical jargon that no ordinary person could possibly comply with, or even comprehend, without retaining the services of expensive, technologically savvy expert consultants. *See* SEC Data Delivery Standards, <https://www.sec.gov/files/sec-dds-july-2024.pdf>. In any event, it is not merely the burden of the subpoena that matters. Any governmental seizure of private papers—regardless of the method or the burden involved—is offensive unless it complies with the Fourth Amendment and Due Process.

Discovery should be stayed pending the Commission’s decision on whether to grant interlocutory review.

Respectfully submitted,

Fr. Emmanuel Lemelson

By his attorneys,

/s/ Douglas S. Brooks

Douglas S. Brooks

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Dated: March 12, 2025

CERTIFICATE OF SERVICE

I, Douglas S. Brooks, do hereby certify that I served the foregoing document on counsel for the Commission, Marc Jones, Esq. and Alfred Day, Esq., by email on March 12, 2025.

/s/ Douglas S. Brooks

Douglas S. Brooks