



below, denying Mr. Keener's motion to stay proceedings would substantially prejudice his case before the Commission, and the early stage of the proceedings provides further evidence that the administrative action should be stayed for good cause.

Mr. Keener filed his appeal to the District Court for the Southern District of Florida's final ruling on December 27, 2022. Only two weeks later the SEC served the Order Instituting Administrative Proceedings ("Order"). As a matter of judicial economy, it would be a waste of the Commission's limited resources to proceed with this follow-on administrative action, particularly when the appeal is in its infancy and, under the District Court's order, Mr. Keener is already enjoined from resuming his prior activities unless he registers as a broker or dealer under Section 15(b)(1) of the Securities Exchange Act of 1934. Going forward with the administrative proceedings when the merits of the injunction underlying the Order are under appeal would not be in the service of justice and would significantly prejudice Mr. Keener's case before the Commission.

Continuing with these proceedings at this time would also be arbitrary and capricious. The Administrative Procedure Act requires the Commission to make publicly available the "final votes" of the commissioners authorizing litigation, 5 U.S.C. § 522(a)(5), but the Commission refuses to publicly release "[v]otes," including the vote to authorize litigation against Mr. Keener, "that precede the final resolution of a matter" (including any appellate proceedings). <https://www.sec.gov/about/commission-votes>. The SEC cannot reasonably maintain that the federal-court litigation against Mr. Keener is final enough to institute the follow-on administrative proceedings in its Order, yet simultaneously maintain that the matter is sufficiently non-final for purposes of compliance with Section 552(a)(5). The Commission cannot have it both ways.

The early stage of the administrative proceeding also weighs in favor of granting a stay. The Order was mailed to Mr. Keener on January 10, 2023 and Mr. Keener is still within the 20-day time frame to file his answer. Indeed, the administrative proceedings have not even begun. No postponements or adjournments have been sought. And given the pendency of Mr. Keener's appeal before the Eleventh Circuit, it is in the interests of economy and justice that the proceedings be stayed in this initial phase.

In light of the foregoing, Mr. Keener has shown good cause to stay the proceedings until his appeal to the Eleventh Circuit has been considered.

Dated: January 27, 2023

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 27th day of January, 2023, pursuant to 17 C.F.R. § 201.150 and Section IV of the Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Notice of Hearing (“Order”), the foregoing Motion to Stay the Order has been filed electronically via the SEC’s eFAP system, and was served by email to the following:

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/s/ Christopher F. Regan

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