

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21790

In the Matter of

**ERIC CHRISTOPHER
CANNON,**

Respondent.

**DIVISION OF ENFORCEMENT'S OPPOSITION TO RESPONDENT'S
MOTION FOR AN ORDER DISMISSING OR STAYING THE PROCEEDINGS**

January 24, 2024

Donald W. Searles
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Division of Enforcement
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The Division of Enforcement (“Division”) opposes Respondent Eric Christopher Cannon’s (“Respondent”) motion for an order dismissing or staying the proceedings.

Respondent asserts that his motion is brought pursuant to Rule 250(a) of the Commission’s Rules of Practice, 17 C.F.R. § 201.250(a). Rule 250(a) provides that no later than 14 days after a respondent’s answer has been filed, any party may move for ruling on the pleadings on one or more claims or defenses, asserting that, even accepting all of the non-movant’s factual allegations as true and drawing all reasonable inferences in the non-moving party’s favor, the movant is entitled to a ruling as a matter of law. Other than quibbling with the OIP’s summary of the Commission’s complaint in *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, Civil Action Number 2:15-CV-02563-DDP-ASx (C.D. Cal.), Respondent does not challenge the fact that a final judgment has been entered against him enjoining him from future violations of Section 5 of the Securities Act of 1933 (“Securities Act”) and Section 15(a) of the Exchange Act of 1934 (“Exchange Act”).¹

Respondent’s motion is best treated as a motion for postponement or adjournment under Commission Rule of Practice 161, as it is entirely predicated on his pending Ninth Circuit appeal of the

¹ Respondent contends that the OIP falsely asserts that the Commission’s complaint alleged that he “effected transactions” in the form of fractionalized interests in life settlements and received transaction-based compensation in the form of commissions totaling \$485,000. Respondent is correct that the complaint does not use the phrase “effected transactions.” Rather, the complaint alleges that Respondent “by engaging in the conduct described above, used the mails and the means and instrumentalities of interstate commerce, *to effect transactions in*, or induct or attempt to induce the purchase or sale of securities, without registering [] with the Commission as a broker.” Dkt. No. 1, ¶ 115 (emphasis added). Respondent is also correct that the complaint does not allege that he received \$485,000 in commissions; rather, it alleges that he received \$658,000 in commissions (*id.*, ¶ 103), which Respondent admitted in his answer to the complaint. Dkt. No. 64, ¶ 103. Respondent is also correct that an amended final judgment was entered against him on December 12, 2023 (Dkt. No. 600) to correct the amount of disgorgement that was ordered in the final judgment entered against him on August 10, 2023 (Dkt. No. 561). None of this demonstrates that Respondent is entitled to a stay, much less a dismissal of the OIP as a matter of law under Rule 250(a).

district court’s judgment. *See Shreyans Desai*, Exchange Act Release No. 80129, 2017 SEC LEXIS 644, at *21, n. 42 (Mar. 1, 2019). Rule 161 provides that the Commission or the hearing officer “should adhere to the policy of strongly disfavoring [requests to extend time limits or grant postponements or adjournments], except in circumstances where the requesting party makes a strong showing that the denial of the request or motion would substantially prejudice their case.” Respondent has failed to make such a showing, as the existence of an appeal from the district court’s decision does not affect the injunction’s status as a basis for administrative action. *See Justin W. Keener*, Exchange Act Release No. 97192, 2023 SEC LEXIS 773, at *2 (Mar. 23, 2023) (“the injunction imposed on Respondent is a basis for this proceeding rather than a reason to stay it.”); *Thomas D. Melvin, CPA*, Exchange Act Release No. 75844, 2015 SEC LEXIS 3624, at *33, n. 52 (Sept. 4, 2015) (“as we have repeatedly held...the pendency of an appeal of a civil or criminal proceeding does not justify any delay in related ‘follow-on’ administrative proceedings.”) (collecting cases). Moreover, in the unlikely event the Ninth Circuit reverses the district court judgment, Respondent may seek to vacate any action based on that judgment. *Shreyans Desai*, at *21, n. 42; *Justin W. Keener*, at *3.² Therefore, because Respondent has not made the requisite showing under Rules 161 and 250(a), his motion to dismiss or stay these proceeding should be denied.³

DIVISION OF ENFORCEMENT

By its Attorneys:

Searles,
Donald W.

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Date: 2024.01.24
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Donald W. Searles
Kathryn C. Wanner

² Although Respondent makes no attempt to argue the purported merits of his pending appeal, it bears noting that the district court denied Respondent’s motion for a stay pending appeal, finding that he was unlikely to succeed on the merits. Dkt. No. 590.

³ Respondent also claims that he “will suffer greatly if he must expend time and resources to defend himself in the proceeding,” but does not mention that he is represented by counsel who is acting *pro bono*. *See* <https://www.icanlaw.org/cases>.

In the Matter of Eric Christopher Cannon
Administrative Proceeding File No. 3-21790
SERVICE LIST

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

**DIVISION OF ENFORCEMENT'S OPPOSITION TO
RESPONDENT'S MOTION TO STAY PROCEEDINGS**

was served on January 24, 2024, upon the following parties as follows:

Vanessa Countryman, Secretary
Securities and Exchange Commission
100 F. Street, N.E., Mail Stop 1090
Washington, DC 20549-1090

(By eFAP)

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(By electronic mail)

Dated: January 24, 2024

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