

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6091 / August 17, 2022

Admin. Proc. File No. 3-20828

In the Matter of

GREGORY LEMELSON

POSTPONEMENT ORDER

On April 20, 2022, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Gregory Lemelson, pursuant to Section 203(f) of the Investment Advisers Act of 1940, based on a federal district court’s entry of an injunction.¹ Lemelson filed his answer on May 11, 2022. The Division of Enforcement filed a motion for summary disposition on June 30, 2022, and briefing on that motion is now complete.²

On August 5, 2022, Lemelson filed a notice stating that, on August 4, the district court temporarily stayed its judgment for 30 days so that he could request relief from the First Circuit Court of Appeals. Lemelson’s notice requests that the Commission stay this administrative proceeding while the First Circuit considers his motion to stay the injunction pending his appeal.

We will consider Lemelson’s request as a request to postpone the proceeding under Rule of Practice 161(b).³ We find it appropriate to postpone this proceeding until after the expiration of the district court’s stay of the underlying injunction. However, as to Lemelson’s request that we postpone the proceeding until the First Circuit rules on his additional stay motion, we deny that request because Lemelson has not made “a strong showing that the denial of the request . . .

¹ *Gregory Lemelson*, Advisers Act Release No. 6000, 2022 WL 1184458 (Apr. 20, 2022).

² *See Gregory Lemelson*, Advisers Act Release No. 6054, 2022 WL 2218172 (June 21, 2022) (order scheduling briefs).

³ 17 C.F.R. § 201.161(b); *see also Donald Howard*, Exchange Act Release No. 94825, 2022 WL 1288208, at *1 (Apr. 29, 2022) (construing stay motion as postponement request). The Division argues that Lemelson’s stay request is made in an “Update” rather than a motion and therefore “provides no basis for a stay of this proceeding.” But the Division does not explain why Lemelson’s failure to label the request as a motion is dispositive.

would substantially prejudice [his] case.”⁴ And the pendency of an appeal of a civil judgment does not justify a delay in related follow-on administrative proceedings.⁵ Lemelson may request an additional postponement of this proceeding if the First Circuit grants his stay request.

Accordingly, it is ORDERED that this proceeding is postponed through September 6, 2022.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary

⁴ Rule of Practice 161(b)(1), 17 C.F.R. § 201.161(b)(1).

⁵ *See, e.g., Wesley Kyle Perkins*, Exchange Act Release No. 95353, 2022 WL 2903858, at *2 (July 22, 2022).