

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 97591 / May 25, 2023

Admin. Proc. File No. 3-21087

In the Matter of

DAMIAN OSTERTAG

ORDER GRANTING MOTION TO STAY

The Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) on September 15, 2022, pursuant to Section 15(b) of the Securities Exchange Act of 1934, against Damian Ostertag.¹ On February 8, 2023, we granted a request from the Division of Enforcement to stay the proceedings until April 5, 2023, to finalize a proposed settlement agreement.² On May 15, 2023, the Division filed a status report in which it represented that, although the parties reached a settlement in principle, the Division’s recommendation had not yet been sent to the Commission. The Division requested an additional three week stay in order for the Commission to consider the proposed settlement.

Rule of Practice 161(c)(2) governs stays pending Commission consideration of an offer of settlement only in administrative proceedings that have been set before a hearing officer.³ This proceeding was set before the Commission, so Rule 161(c)(2) does not apply; nevertheless, it appears appropriate to apply similar standards to this motion.

Accordingly, it is ORDERED that the motion is GRANTED and that this proceeding is stayed. The stay is contingent on the submission to the Commission of Ostertag’s signed offer of settlement and the Division’s accompanying recommendation no later than June 15, 2023. If this deadline is not met or if the Commission rejects the offer of settlement, the parties shall file a joint status report within 7 days of that event.

¹ *Damian Ostertag*, Exchange Act Release No. 95788, 2022 WL 4288943 (Sept. 15, 2022).

² *Damian Ostertag*, Exchange Act Release No. 96838, 2023 WL 1819098 (Feb. 8, 2023).

³ 17 C.F.R. § 201.161(c)(2).

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

Vanessa A. Countryman
Secretary