

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 98069 / August 7, 2023

ACCOUNTING AND AUDITING ENFORCEMENT  
Release No. 4436 / August 7, 2023

Admin. Proc. File No. 3- 21314

In the Matter of  
  
ALAN J. MARKOWITZ, CPA

ORDER POSTPONING PROCEEDING

On February 28, 2023, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Alan J. Markowitz, CPA, pursuant to Sections 4C and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission’s Rules of Practice.<sup>1</sup> On July 11, 2023, the Division of Enforcement filed an unopposed motion to stay the proceeding until thirty days after the Supreme Court of the United States issues its mandate in *SEC v. Jarkesy*.<sup>2</sup> The Division states that it is in the public interest to stay this proceeding pending the Supreme Court’s resolution of *Jarkesy* because Markowitz has filed a complaint for declaratory and injunctive relief against the Commission in the U.S. District Court for the Southern District of New York that seeks relief from the OIP and raises the same constitutional challenges that are now before the Supreme Court in *Jarkesy*.

We construe the Division’s motion as a request for postponement under Commission Rule of Practice 161.<sup>3</sup> Rule 161 authorizes postponements based on a consideration of, among other things, the length of the proceeding to date; the number of postponements, adjournments, or extensions already granted; the stage of the proceedings at the time of the request; and any

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<sup>1</sup> *Alan J. Markowitz, CPA*, Exchange Act Release No. 96995, 2023 WL 2299560 (February 28, 2023).

<sup>2</sup> No. 22-859, 2023 WL 4278448 (June 30, 2023) (cert. granted).

<sup>3</sup> 17 C.F.R. § 201.161; *see Francis V. Lorenzo*, Exchange Act Release No. 10460, 2018 WL 994316, at \*1 (Feb. 21, 2018) (construing motion for stay as request for postponement under Rule of Practice 161).

other such matters as justice may require. Here, this proceeding was instituted fewer than six months ago; we have not previously granted any postponements, adjournments, or extensions in this proceeding; and, as yet, no evidentiary hearings have been held. We conclude that a postponement of this proceeding is warranted. For the same reasons, we find that a postponement of more than 21 days is necessary.<sup>4</sup>

Accordingly, it is ORDERED that the motion is GRANTED and that this proceeding and any previously prescribed deadlines are postponed indefinitely. It is further ORDERED that no later than thirty days after the Supreme Court issues its mandate in *Jarkesy*, the parties shall file a status report discussing the impact of that decision on this proceeding, if any, and any other relevant matters.

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

Vanessa A. Countryman  
Secretary

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<sup>4</sup> See Rule of Practice 161(c)(1), 17 C.F.R. § 201.161(c)(1) (“Postponements . . . shall not exceed 21 days unless the Commission or the hearing officer states on the record or sets forth in a written order the reasons why a longer period of time is necessary.”).