

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 99858 / March 27, 2024

Admin. Proc. File No. 3-21790

In the Matter of
ERIC CHRISTOPHER CANNON

ORDER GRANTING MOTION TO AMEND ORDER INSTITUTING PROCEEDINGS AND
DENYING MOTION TO DISMISS OR STAY PROCEEDING

On October 31, 2023, the Securities and Exchange Commission issued an order instituting proceedings (“OIP”) against Eric Christopher Cannon pursuant to Section 15(b) of the Securities Exchange Act of 1934.¹ On January 15, 2024, Cannon filed an answer in which he alleged that the OIP misstates or mischaracterizes the allegations of the complaint (the “Complaint”) in the underlying federal civil litigation on which this follow-on proceeding is based and does not acknowledge the operative judgment in that action.

On January 19, 2024, Cannon filed a motion to dismiss or, in the alternative, stay this proceeding until a federal court resolves his appeal of the underlying civil injunctive action. In that motion, Cannon also again alleged that the OIP misstates or mischaracterizes the allegations in the Complaint. After the parties were ordered to address whether the OIP contained any errors,² the Division of Enforcement filed an unopposed motion to amend the OIP. We address each of these motions below.

I. We grant the Division’s unopposed motion to amend the OIP.

The Division moves to amend three aspects of the OIP that Cannon contends are errors. First, the Division seeks to amend the OIP to state that the Complaint alleges that Cannon used interstate commerce to “‘effect transactions in’ unregistered securities.” The current OIP states that the Complaint alleges that Cannon “‘effected transactions in” those securities. Second, the

¹ *Eric Christopher Cannon*, Exchange Act Release No. 98827, 2023 WL 7180201 (Oct. 31, 2023).

² *Eric Christopher Cannon*, Exchange Act Release No. 99434, 2024 WL 307046 (Jan. 26, 2024).

Division seeks to amend the OIP to delete any reference to the specific amount of transaction-based compensation that Cannon received. The OIP currently states that the Complaint alleges that Cannon received \$485,000 in commissions, but the Division acknowledges that amount is inconsistent with the Complaint, which alleges that Cannon received \$658,000 in commissions. Third, the Division seeks to amend the OIP to allege that an amended final judgment was entered against Cannon on December 12, 2023. That amended final judgment, the Division notes, was entered approximately six weeks after the OIP was issued to correct the amount of disgorgement that had initially been ordered against Cannon on August 10, 2023.

Rule of Practice 200(d)(1) provides that, “[u]pon motion by a party, the Commission may, at any time, amend an order instituting proceedings to include new matters of fact or law.”³ Such amendments to OIPs “should be freely granted, subject only to the consideration that other parties should not be surprised nor their rights prejudiced.”⁴ Amending the OIP in the manner sought by the Division does not prejudice or surprise Cannon since he is already aware of those facts.⁵ Indeed, the Division represents that Cannon does not oppose the Division’s motion and that he agrees that the amended language accurately summarizes the proceedings in the district court and the Complaint.

Accordingly, it is ORDERED that the Division’s motion to amend the OIP is granted. The amended OIP is attached to this order. Service of this order and the amended OIP shall be made consistent with Rule of Practice 141(a).⁶ After the service of the amended OIP, the Division shall promptly file with the Office of the Secretary a record of service consistent with Rule of Practice 141(a)(3).⁷ Cannon shall file an answer to the allegations contained in the amended OIP within 20 days of service of the amended OIP.

II. We deny Cannon’s motion to dismiss or stay the proceeding.

We deny as moot Cannon’s request to dismiss or stay the proceeding to the extent his motion relates to the alleged errors in the OIP. As noted, the Division’s unopposed motion to amend the OIP appears to address the concerns identified in Cannon’s motion, and the Division represents that Cannon agrees that the amended language accurately summarizes the proceedings in the district court and the Complaint.

³ 17 C.F.R. § 201.200(d)(1).

⁴ *Ronald Shane Flynn*, Exchange Act Release No. 99443, 2024 WL 360868, at *1 (Jan. 29, 2024) (internal quotation marks omitted).

⁵ *See Sergey Pustelnik*, Exchange Act Release No. 91399, 2021 WL 1139270, at *2 (Mar. 24, 2021) (finding no prejudice to respondent from amending an OIP to include reference to the entry of an amended judgment).

⁶ 17 C.F.R. § 201.141(a).

⁷ 17 C.F.R. § 201.141(a)(3).

We also deny Cannon’s request to dismiss or stay the proceeding to the extent it relates to Cannon’s pending appeal of the underlying civil injunction. In doing so, we construe Cannon’s request for a stay as one for postponement under Rule of Practice 161.⁸ That rule authorizes adjournments and postponements for “good cause shown.”⁹ But motions to postpone a proceeding are “strongly disfavor[ed]” unless the movant makes “a strong showing that the denial of the request or motion would substantially prejudice [his] case.”¹⁰ And Cannon has failed to make such a showing.

We have repeatedly held that the pending appeal of a civil or criminal proceeding does not justify a delay in a related follow-on administrative proceeding;¹¹ *a fortiori*, neither does the pendency of an appeal justify the outright dismissal of a such a proceeding. Although a respondent is entitled to appeal the underlying case against him, we have explained that such an appeal “does not alter the effect” of respondent’s having been found to have violated the securities laws or the court’s imposition of an injunction against him.¹² Because the public interest is advanced by promptly enforcing the securities laws, even while other proceedings are under way, we have thus held that it is not appropriate to grant an indefinite stay so that respondent can pursue other relief.¹³

⁸ 17 C.F.R. § 201.161; *see Francis V. Lorenzo*, Exchange Act Release No. 82755, 2018 WL 994316, at *1 (Feb. 21, 2018) (construing motion for stay as request for postponement under Rule of Practice 161).

⁹ 17 C.F.R. § 201.161(a).

¹⁰ *Id.* § 201.161(b). Although we ordered that “all reasonable requests for extensions of time will not be disfavored” with respect to the filing and service of papers, *Pending Administrative Proceedings*, Securities Act Release No. 10767, 2020 WL 1322001 (Mar. 18, 2020), that standard does not apply to requests such as this to adjourn or postpone the proceeding itself pending an appeal of the underlying suit. *See, e.g., Donald J. Fowler*, Exchange Act Release No. 89226, 2020 WL 3791560, at *1 n.10 (July 6, 2020) (denying motion to stay, postpone, or adjourn proceeding).

¹¹ *See, e.g., Shreyans Desai*, Exchange Act Release No. 80129, 2017 WL 782152, at *6 n.42 (Mar. 1, 2017) (denying request to stay or adjourn the proceeding until planned appeal was resolved); *Paul Free, CPA*, Exchange Act Release No. 66260, 2012 WL 266986, at *2 (Jan. 26, 2012) (same).

¹² *Ran H. Furman*, Exchange Act Release No. 65680, 2011 WL 5231425, at *2 (Nov. 3, 2011) (quoting *Daniel S. Lezak*, Exchange Act Release No. 50729, 2004 WL 2721400, at *2 & n.16 (Nov. 23, 2004)); *cf. Seghers v. SEC*, 548 F.3d 129, 136-37 (D.C. Cir. 2008) (holding that the Commission’s refusal to stay follow-on administrative proceeding during pendency of appeal from the district court’s underlying judgment did not deprive the respondent of due process).

¹³ *See, e.g., Anita Sgarro*, Exchange Act Release No. 97040, 2023 WL 2351154, at *2 (Mar. 3, 2023); *Daniel Joseph Touizer*, Exchange Act Release No. 85321, 2019 WL 1225724, at *2 (Mar. 14, 2019).

Cannon claims that the Commission “routinely stays administrative proceedings pending the outcome of related court proceedings,” where, as here, the proceeding was instituted less than a year ago, fact discovery is not closed, and no evidentiary hearings have been held. But Cannon cites only a single case to support his position: *Joshua Abrahams, CPA*.¹⁴ There, the Commission postponed the proceeding not because, as here, respondent was seeking a postponement pending his appeal of an underlying civil action, but because the parties had jointly requested a stay pending the Supreme Court’s consideration of *SEC v. Jarkesy*.¹⁵ And we have consistently denied motions where, like here, a respondent seeks to stay proceedings pending an appeal of underlying injunctions or convictions, even when the proceeding was at a comparably early stage of litigation.¹⁶

Cannon also contends that the Commission’s interest in prompt enforcement of the securities laws is diminished here because “the conduct alleged in the underlying federal complaint dates back over 13 years, and the Commission elected not to initiate this proceeding at any time during those 13 years.” But the injunction that provides the statutory predicate for this proceeding was entered approximately seven months ago, and the Commission instituted this proceeding less than three months after the district court first entered final judgment.¹⁷

Cannon further asserts that the Commission does not typically resolve follow-on administrative proceedings before the federal appellate process concludes, so a stay would not harm the public interest. But he again cites only one example of this—*Donald J. Fowler*—in which the Commission resolved the matter about two and half years after the Second Circuit affirmed the underlying civil judgment.¹⁸ But the Commission has also repeatedly resolved matters while an appeal of the underlying criminal or civil proceeding was still pending.¹⁹ And

¹⁴ Exchange Act Release No. 98122, 2023 WL 5203091 (Aug. 14, 2023).

¹⁵ No. 22-859, 2023 WL 4278448 (June 30, 2023) (cert. granted).

¹⁶ See, e.g., *Justin W. Keener*, Exchange Act Release No. 97192, 2023 WL 2631010, at *1 (Mar. 23, 2023) (denying motion to stay pending appeal where motion was filed 17 days after administrative proceeding was instituted); *Carl E. Dilley*, Exchange Act Release No. 96079, 2022 WL 9194055, at *1 (Oct. 12, 2022) (denying motion to stay pending appeal where motion was filed 19 days after administrative proceeding was instituted); *Micah J. Eldred*, Exchange Act Release No. 96083, 2022 WL 9195015, at *1 (Oct. 14, 2022) (denying motion to stay pending appeal where motion was filed 21 days after administrative proceeding was instituted); cf. *Free*, 2012 WL 266986, at *1-2 (denying motion to stay pending expiration of the time allowed for respondent to file the underlying appeal where motion was filed less than a month after administrative proceeding was instituted).

¹⁷ See Exchange Act Section 15(b)(4)(C), 15 U.S.C. § 78o(b)(4)(C).

¹⁸ See Exchange Act Release No. 99084, 2023 WL 8469512, at *2 (Dec. 5, 2023).

¹⁹ See, e.g., *Conrad P. Seghers*, Advisers Act Release No. 2656, 2007 WL 2790633, at *3-4 (Sept. 26, 2007) (noting pendency of Fifth Circuit appeal of underlying injunction), *petition denied*, 548 F.3d 129 (D.C. Cir. 2008); *James E. Franklin*, Exchange Act Release No. 56649, 2007 WL 2974200, at *3 & n.11 (Oct. 12, 2007) (noting pendency of Ninth Circuit appeal of

Cannon himself acknowledges that if he were to prevail on appeal, he could seek vacatur of any sanction imposed in this proceeding that was based upon the overturned judgment.²⁰ We thus find that Cannon has not made the necessary “strong showing that the denial of the request would substantially prejudice [his] case.”²¹

Accordingly, it is ORDERED that Cannon’s motion to dismiss or stay the proceeding is denied.²²

By the Commission.

Vanessa A. Countryman
Secretary

underlying injunction), *petition denied*, 285 F. App’x 761 (D.C. Cir. 2008); *Charles Phillip Elliott*, Exchange Act Release No. 31202, 50 S.E.C. 1273, 1992 WL 258850, at *1 (Sept. 17, 1992) (noting pendency of appeal of underlying criminal conviction), *aff’d*, 36 F.3d 86 (11th Cir. 1994); *cf. Eugenio Garcia Jimenez, Jr.*, Advisers Act Release No. 6482, 2023 WL 7731075, at *1 & n.2 (Nov. 14, 2023) (barring respondent only three months after the district court imposed a sentence for his underlying criminal conviction).

²⁰ See, e.g., *Seghers*, 2007 WL 2790633, at *3.

²¹ Rule of Practice 161(b), 17 C.F.R. § 201.161(b); see also, e.g., *FTC v. Standard Oil Co. of Cal.*, 449 U.S. 232, 244 (1980) (holding that the “expense and disruption of defending [oneself] in protracted adjudicatory proceedings” does not constitute irreparable injury).

²² Cannon also argues that the Commission’s Office of the General Counsel (“OGC”) may not decide his motion by delegated authority. But OGC does not have delegated authority to resolve motions to amend an OIP or dismiss a proceeding. See 17 C.F.R. § 200.30-14(j)(2). Our issuance of this order resolving all of the parties’ pending motions thus moots Cannon’s argument.

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING File
No. 3-21790

In the Matter of

**ERIC CHRISTOPHER
CANNON,**

Respondent.

**AMENDED ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 15(b) OF THE
SECURITIES EXCHANGE ACT OF 1934 AND
NOTICE OF HEARING**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against Eric Christopher Cannon (“Respondent” or “Cannon”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. From at least September 2010 through April 2015, Respondent was a sales agent with Pacific West Capital Group, Inc. (“Pacific West”), where he engaged in the sale of unregistered securities consisting of fractionalized interests in universal life insurance policies offered by Pacific West and the PWCG Trust. Respondent further acted as a broker for that securities offering without being registered as a broker or associated with a registered broker-dealer.

B. ENTRY OF THE INJUNCTION

2. On December 12, 2023, an amended final judgment was entered against Respondent, permanently enjoining him from future violations of Section 5 of the Securities Act of 1933 (“Securities Act”) and Section 15(a) of the Exchange Act, in the civil action entitled Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al., Civil Action Number 2:15-CV-02563-DDP-ASx, in the United States District Court for the Central District of California.

3. The Commission’s complaint alleged that from September 2010 to April 2015, Respondent sold unregistered securities, in the form of fractionalized interests in universal life insurance policies, or “life settlements,” offered by Pacific West and issued by the PWCG Trust, in violation of Section 5(a) and (c) of the Securities Act. The complaint further alleged that Respondent acted as a broker, by effecting transactions in securities for the accounts of others by soliciting investors, providing investors with disclosure documents, participating in taking investors’ orders, and receiving transaction-based compensation from the sales of life settlement securities to investors in the form of an 8% commission, without registering independently as a broker or being affiliated with any registered broker, in violation of Section 15(a) of the Exchange Act.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 15(b) of the Exchange Act.

IV.

IT IS ORDERED that a public hearing before the Commission for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed by further order of the Commission, pursuant to Rule 110 of the Commission’s Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220(b) of the Commission’s Rules of Practice, 17 C.F.R. § 201.220(b).

IT IS FURTHER ORDERED that the Division of Enforcement and Respondent shall conduct a prehearing conference pursuant to Rule 221 of the Commission’s Rules of Practice, 17

C.F.R. § 201.221, within fourteen (14) days of service of the Answer. The parties may meet in person or participate by telephone or other remote means; following the conference, they shall file a statement with the Office of the Secretary advising the Commission of any agreements reached at said conference. If a prehearing conference was not held, a statement shall be filed with the Office of the Secretary advising the Commission of that fact and of the efforts made to meet and confer.

If Respondent fails to file the directed Answer, or fails to appear at a hearing or conference after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310.

This Order shall be served forthwith upon Respondent by any means permitted by the Commission's Rules of Practice.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to service of paper copies, service to the Division of Enforcement of all opinions, orders, and decisions described in Rule 141, 17 C.F.R. § 201.141, and all papers described in Rule 150(a), 17 C.F.R. § 201.150(a), in these proceedings shall be by email to the attorneys who enter an appearance on behalf of the Division, and not by paper service.

Attention is called to Rule 151(a), (b) and (c) of the Commission's Rules of Practice, 17 C.F.R. § 201.151(a), (b) and (c), providing that when, as here, a proceeding is set before the Commission, all papers (including those listed in the following paragraph) shall be filed electronically in administrative proceedings using the Commission's Electronic Filings in Administrative Proceedings (eFAP) system access through the Commission's website, www.sec.gov, at <http://www.sec.gov/eFAP>. Respondent also must serve and accept service of documents electronically. All motions, objections, or applications will be decided by the Commission.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to filing with or disposition by a hearing officer, all filings, including those under Rules 210, 221, 222, 230, 231, 232, 233, and 250 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.210, 221, 222, 230, 231, 232, 233, and 250, shall be directed to and, as appropriate, decided by the Commission. This proceeding shall be deemed to be one under the 75-day timeframe specified in Rule of Practice 360(a)(2)(i), 17 C.F.R. § 201.360(a)(2)(i), for the purposes of applying Rules of Practice 233 and 250, 17 C.F.R. §§ 201.233 and 250.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that the Commission shall issue a decision on the basis of the record in this

proceeding, which shall consist of the items listed at Rule 350(a) of the Commission's Rules of Practice, 17 C.F.R. § 201.350(a), and any other document or item filed with the Office of the Secretary and accepted into the record by the Commission. The provisions of Rule 351 of the Commission's Rules of Practice, 17 C.F.R. § 201.351, relating to preparation and certification of a record index by the Office of the Secretary or the hearing officer are not applicable to this proceeding.

The Commission will issue a final order resolving the proceeding after one of the following: (A) The completion of post-hearing briefing in a proceeding where the public hearing has been completed; (B) The completion of briefing on a motion for a ruling on the pleadings or a motion for summary disposition pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250, where the Commission has determined that no public hearing is necessary; or (C) The determination that a party is deemed to be in default under Rule 155 of the Commission's Rules of Practice, 17 C.F.R. § 201.155, and no public hearing is necessary.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.