

UNITED STATES OF AMERICA
Before The
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16198

In the Matter of

GAETON S. DELLA PENNA,

Respondent.

MOTION FOR STAY OF PROCEEDINGS

Respondent Gaeton S. Della Penna, on advice of counsel appointed by the United States District Court for the Middle District of Florida (*United States v. Gaeton Della Penna*, Dkt. No. 8:14-cr-00203-T-17TBM (M.D. Fla.)) to represent him on parallel criminal charges, respectfully requests that these proceedings be stayed pending resolution of that criminal case. This request is based on the following:

1. Rule 161(b)(1) provides the authority for granting of postponements of proceedings when "the denial of the request or motion would substantially prejudice their case." Additionally, such a stay would be appropriate under *Afro-Lecon, Inc. v. United States*, 820 F.2d 1198 (C.A. Fed. 1987). This proceeding may be stayed "when the interests of justice seem to require such action, sometimes at the request of the prosecution, . . . sometimes at the request of the defense. *Id.* at 1202 (quoting *Securities and Exchange Commission v. Dresser Industries, Inc.*, 628 F.2d 1368 1375 (D.C. Cir.), cert. denied, 449 U.S. 993 (1980)).

2. The United States has returned an indictment alleging facts that parallel the subject matter of these administrative proceedings. My attorney in the criminal case has advised me that the government in my criminal prosecution can use any statements or defense I present in these administrative proceedings. I am therefore temporarily precluded from defending myself in this administrative action while this criminal case is pending.


3. In an Order issued in a parallel civil action filed by the Securities and Exchange Commission in the Middle District of Florida, *Securities and Exchange Commission v. Gaeton S. Della Penna*, Dkt. No. 8:14-cv-1203-T-30MAP (Doc 71) (M.D. Fla Sep. 24, 2014), the Court determined that it would "determine amounts of the disgorgement and civil penalty upon motion of the Commission to be made within 90

days of the date Della Penna is sentenced [in the companion criminal case]." *Id.*, Doc 71 at 6. (This Order was a default judgment based on my failure to respond to the civil complaint; the failure to respond was in compliance with advice of my prior (retained) criminal attorney.) It is therefore reasonable to assume that the District Court foresaw no prejudice to the government or investors by deferring disgorgement and civil penalties until the criminal case was concluded.

WHEREFORE, the Respondent, Gaeton S. Della Penna, acting Pro Se, respectfully requests that these administrative proceedings be stayed until the parallel criminal prosecution in the Middle District of Florida is concluded.



Gaeton S. Della Penna

Notary  01/08/2015
Florida Driver License
presented

