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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16463

In the Matter of

AEGIS CAPITAL, LLC,
CIRCLE ONE WEALTH
MANAGEMENT, LLC,
DIANE W. LAMM,
STRATEGIC CONSULTING
ADVISORS, LLC, and
DAVID I. OSUNKWO,

UNITED STATES ATTORNEY'S
APPLICATION TO INTERVENE AND
MOTION TO STAY THIS
ADMINISTRATIVE PROCEEDING

Respondents.

INTRODUCTION

Pursuant to Rule 210(c)(3) of the United States Securities and Exchange Commission's ("Commission") Rules of Practice, Kelly T. Currie, Acting United States Attorney for the Eastern District of New York (the "United States Attorney"), through the undersigned Assistant United States Attorney, makes this Application to Intervene in the above captioned proceeding and makes this motion for an Order staying this administrative proceeding pending the resolution of related criminal proceedings that are pending in the Eastern District of New York.

As grounds for this Application, the United States Attorney submits the following information:

1. The Securities and Exchange Commission instituted this administrative proceeding under an Order Instituting Proceedings ("OIP") on or about April 2, 2015. The Respondents were served with the OIP before the end of April 2015, and Rule 230 discovery has been made available.

2. Among other things, the OIP alleges the following:

- a. Respondent Diane W. Lamm served as the Chief Operating Officer for Aegis Capital LLC ("Aegis Capital") and Circle One Wealth Management, LLC ("Circle One") (collectively, "Registrants"), as well as Capital L Group, LLC ("Capital L"), Registrants' parent holding company, from October 2009 forward.
- b. Between January 2010 and December 2011, Lamm directly supervised Registrant's chief compliance officer, Respondent David I. Osunkwo.
- c. Lamm provided Osunkwo with information vastly overstating Aegis Capital's assets under management and its number of advisory accounts. Osunkwo included this false information in Aegis Capital's Form ADV for the December 31, 2009 year end, which was filed with the SEC on March 31, 2010; Lamm signed the form, certifying that that the false information she and Osunkwo provided was "true and correct."

- d. On March 31, 2011, Osunkwo filed Circle One's Form ADV for the December 31, 2010 year end, which also vastly overstated Circle One's assets under management and its number of advisory accounts. Among other things, when Osunkwo filed Circle One's Form ADV, he misrepresented that Circle One's Chief Investment Officer ("CIO") had certified its contents to be true and correct, and he forged the CIO's electronic signature on the filing.
- e. In addition, between 2009 and 2011, Aegis Capital's books and records were unsegregated and mixed together with those of other entities.
- f. Similarly, between 2010 and 2011, Circle One failed to keep books and records in a segregated fashion, but instead created and maintained such records in the name of Capital L.
- g. The records referenced in ¶¶ 2(e) and 2(f), above, included advisory specific trial balances, financial statements, internal working papers, journals, including cash receipts and disbursements, and other records of original entry forming the basis of entries into ledgers; general ledgers reflecting asset, liability reserve, capital, income and expense accounts; checkbooks, bank statements, cancelled checks and cash reconciliations; and bills or statements.

3. On February 3, 2015, a grand jury sitting in the Eastern District of New York returned an indictment ("the Indictment") charging Diane Lamm, along with John R. Lakian, who is listed on the OIP's service list as Aegis Capital's Director and Circle One's Director and Chairman, with two counts of conspiracy to commit securities and wire fraud, in violation of Title 18, United States Code, Section 371; two counts of securities fraud, in violation of 15 U.S.C. §§ 78j(b) and 78ff; and one count of bank fraud conspiracy, in violation of 18 U.S.C. § 1349. *United States v. Lakian & Lamm*, 15-CR-43 (FB) ("the Criminal Case"). A copy of the Indictment is attached hereto as Exhibit A.

4. Among other things, the Indictment alleges the following:
 - a. In or about and between December 2009 and July 2013, Lamm and Lakian, together with others, executed a scheme to defraud investors and potential investors in the Aegis Capital Fund, LLC ("Aegis Fund") through material misrepresentations and omissions.

- b. From approximately December 2009 through December 2011, Lamm and Lakian directed more than \$1,000,000 of investor funds from the Aegis Fund to entities owned and controlled by Lamm and Lakian.
- c. By way of example, Lakian and Lamm directed a \$120,000 payment from an investment that belonged to Aegis Fund investors to a bank account they established and controlled in the name of Circle One Group, LLC, and using those funds for, among other things, their personal use and business ventures. Lamm and Lakian subsequently concealed this \$120,000 from the investors to whom it belonged.
- d. In addition, between July 2010 and November 2011, Lamm and Lakian raised more than \$8,000,000 from Capital L investors by misrepresenting that they would use these funds to purchase and consolidate small- to mid-sized registered investment advisory firms. Contrary to these representations, Lamm and Lakian used a significant portion of the moneys raised for their personal use and business ventures.

5. In sum, the OIP and the Criminal Case contain substantial overlapping factual allegations: that Diane Lamm and others, in the years 2009 through 2011, engaged in misconduct in connection with Aegis Capital, Circle One entities, and Capital L, including making misrepresentations to parties – such as the SEC and investors – regarding these entities' assets. A portion of the proof at the trial of the Criminal Case will include the same witnesses, documents and other evidence that would likely be presented at the hearing in this administrative proceeding.

6. Lamm and Lakian were arrested and arraigned on the Indictment on February 4, 2015; they were released on bond on February 6, 2015; an initial status conference took place on March 27, 2015; and the second status conference, at which the government intends to request a trial date, will take place on June 19, 2015.

7. For the reasons described herein and in the accompanying Memorandum of Law, the continuation and disposition of this administrative proceeding will substantially prejudice the Criminal Case, hinder the criminal enforcement of the securities laws at issue, and

impair the ability of the parties to obtain all relevant evidence in this administrative proceeding. Moreover, the duration of a stay would be finite, and would not prejudice the Respondents.

8. The Enforcement Staff of the Commission and counsel for Lamm have informed the undersigned that they do not object to the entry of a stay in this administrative proceeding; counsel for Osunkwo and Strategic Consulting Advisors, LLC, have reserved their right to object to the instant application; and the United States Attorney has not been able to determine if Aegis Capital and Circle One are represented by counsel, and therefore cannot provide the position of those entities as to this application.

WHEREFORE, the United States Attorney seeks leave to intervene and respectfully requests an Order staying this administrative proceeding pending the disposition of the Criminal Case.

Dated: Brooklyn, New York
May 18, 2015

Respectfully submitted,

KELLY T. CURRIE
Acting United States Attorney
Eastern District of New York

By: /s/ Whitman G.S. Knapp
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