ORDER DENYING STAY IN LIGHT OF PENDING RECONSIDERATION MOTION

On October 30, 2015, the Commission issued an opinion finding ZPR Investment Management, Inc. (“ZPRIM”), and Max E. Zavanelli, ZPRIM’s former president and owner, liable for violations of the Investment Advisers Act of 1940 and imposing sanctions. The Commission found that ZPRIM made false or misleading claims of compliance with the Global Investment Performance Standards in magazine advertisements and newsletters and found Zavanelli liable for those statements. The Commission also found that ZPRIM made misrepresentations in two Morningstar reports. The Commission issued an order censuring ZPRIM and imposing an industry-wide bar on Zavanelli, a cease-and-desist order on each Respondent, a $250,000 civil money penalty against ZPRIM, and a $570,000 civil money penalty against Zavanelli.

On November 16, 2015, Respondents moved for reconsideration of the opinion and order. That motion is pending before the Commission. The following day, Respondents moved for a stay of sanctions imposed on them. The Division of Enforcement opposes Respondents’ stay motion.

2 Rule of Practice 470(b) generally requires that a “motion for reconsideration shall be filed within 10 days after service of the order complained of,” 17 C.F.R. § 201.470(b); Respondents obtained an extension of that deadline until November 16, 2015. ZPR Inv. Mgmt., Inc., Advisers Act Release No. 4260, 2015 WL 6777087 (Nov. 6, 2015).
Because Respondents’ motion for reconsideration remains pending, their stay motion is denied. A pending request for reconsideration renders agency action nonfinal. Because the Commission’s opinion is not final, “no stay [is] required.”

Accordingly, IT IS ORDERED that ZPR Investment Management, Inc., and Max E. Zavanelli’s motion for stay is denied.

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

Brent J. Fields
Secretary

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