

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 89937 / September 21, 2020

Admin. Proc. File No. 3-19798

In the Matter of  
  
SERGEY PUSTELNIK a/k/a  
SERGE PUSTELNIK,  
  
Respondent.

ORDER SUSPENDING BRIEFING SCHEDULE

On May 13, 2020, the Securities and Exchange Commission issued an order instituting proceedings (“OIP”) against Sergey Pustelnik a/k/a Serge Pustelnik (“Respondent”) pursuant to Section 15(b) of the Securities Exchange Act of 1934.<sup>1</sup> The OIP stated that, on April 14, 2020, a federal district court entered final judgment against Respondent permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933 and Sections 9(a)(2) and 10(b) of the Exchange Act and Rule 10b-5 thereunder. The final judgment also provided that Pustelnik was jointly and severally liable for disgorgement and prejudgment interest with certain other defendants and required him to pay a civil money penalty.

Respondent appealed the final judgment to the United States Court of Appeals for the Second Circuit. On July 24, 2020, the Commission filed a motion in the Second Circuit requesting a limited remand to the district court to address the impact on the remedies ordered, if any, of the Supreme Court’s decision in *Liu v. SEC*, 140 S. Ct. 1936 (2020).

On August 6, 2020, an Initial Scheduling Order was issued in this proceeding in response to a joint statement filed by Respondent and the Division of Enforcement indicating their intention to file certain motions.<sup>2</sup> The Initial Scheduling Order set briefing schedules for Respondent’s anticipated motion for adjournment and the Division’s anticipated motion for summary disposition. On August 16, 2020, Respondent filed a motion requesting that the Commission adjourn this proceeding “until there is finality” in the underlying civil action.

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<sup>1</sup> *Sergey Pustelnik a/k/a Serge Pustelnik*, Exchange Act Release No. 88862, 2020 WL 2502264 (May 13, 2020).

<sup>2</sup> *Sergey Pustelnik a/k/a Serge Pustelnik*, Exchange Act Release No. 89492, 2020 WL 4569080 (Aug. 6, 2020).

The motion for limited remand remains pending before the Second Circuit. Under the Initial Scheduling Order, the Division's motion for summary disposition must be filed by September 25, 2020, and Respondent must file any opposition to it by October 9, 2020. We find it appropriate to suspend this briefing schedule to allow us to consider the impact of the Second Circuit's resolution of the motion for limited remand on Respondent's motion for adjournment.

Accordingly, IT IS ORDERED that the briefing schedule for the Division of Enforcement's anticipated motion for summary disposition is suspended. The Commission will issue a further order after the Second Circuit rules on the motion for limited remand.

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

Vanessa A. Countryman  
Secretary