

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

Securities Exchange Act of 1934
Rel. No. 50595 / October 26, 2004

Admin. Proc. File No. 3-11627

In the Matter of the Application of

ROBERT J. PRAGER,
J. ALEXANDER SECURITIES, INC.,
and JAMES ALEXANDER

For Review of Disciplinary Action Taken by

NASD

ORDER GRANTING CLARIFICATION AND EXTENDING TIME FOR FILING BRIEFS

J. Alexander Securities, Inc. ("ALEX") and James Alexander ("Alexander" and, collectively with ALEX, the "Applicants") have filed a motion seeking "clarification and guidance" concerning the applicability of the automatic stay provision in 11 U.S.C. § 362(a)(1) to this appeal in light of ALEX's October 5, 2004 filing of a voluntary petition under Chapter 11 of the United States Bankruptcy Code. The motion asserts that, as a result of ALEX's bankruptcy filing, the Applicants believe that this proceeding is stayed as to ALEX, but they request "affirmation" that such is the case. The Applicants also request the Commission to stay the filing of Alexander's brief during the pendency of the automatic stay of this proceeding as to ALEX. 1/ The Applicants further request that, in the event Alexander is required to file a brief, an extension of time be granted. 2/

1/ The Applicants acknowledge that the automatic stay provision in 11 U.S.C. § 362 does not apply to Alexander.

2/ The Applicants represent that Prager does not oppose the request for a time extension. On October 22, 2004, NASD filed a brief stating that, while it does not oppose the request for a time extension, the automatic stay provision applicable to debtor ALEX does not protect non-debtors such as Alexander, and thus Alexander's appeal before the Commission should not be stayed.

As we have held under similar circumstances, ALEX's filing of a voluntary petition in bankruptcy "triggered an automatic stay of this proceeding as to" ALEX. 3/ That stay, as Alexander acknowledges, does not extend to Alexander. Nor are we persuaded to grant a stay of this proceeding as to Alexander based on his claims that he and the firm are "inextricably woven together as to the NASD findings in the August 16, 2004 NASD decision," and that "it would be a waste of time, redundant and uneconomical" to continue the proceedings as to him.

We have determined to grant Alexander a one-week extension of time to file a brief. While requests for such extensions are generally disfavored, 4/ granting Alexander an additional week at this stage would not introduce any unnecessary delay. 5/ Under the circumstances, we also have determined to grant Robert J. Prager, the other remaining respondent in this proceeding, and NASD an additional week to file their briefs.

We note that the Applicants assert that "Mr. Prager's matter is factually and legally distinct from that of Applicants and should be considered separate and apart from that of Applicants as a matter of fairness to Applicants." To the extent that the Applicants' assertion can be deemed a motion for severance, we will deny it because they have failed to satisfy the standards contained in the Commission's Rule of Practice 201(b). 6/

3/ Steven P. Sanders, 53 S.E.C. 889, 890 n.1 (1998). See also Franklin N. Wolf, 52 S.E.C. 517, 518 n.1 (1995).

4/ See Rule of Practice 161(b).

5/ We note that none of the other parties has opposed the request.

6/ Under Rule 201(b), a motion to sever must include a representation that a settlement offer is pending before the Commission or "otherwise show good cause." Applicants' motion has not made any such representation or otherwise shown good cause justifying a severance, apart from the blanket claim that "Prager's matter is factually and legally distinct" from theirs.

Accordingly, IT IS ORDERED that the times for filing briefs in this proceeding be, and they hereby are, extended as to all parties such that briefs in support of the applications for review shall be filed by November 4, 2004; a brief in opposition shall be filed by December 6, 2004; and any reply briefs shall be filed by December 20, 2004; and it is further

ORDERED that the request by J. Alexander Securities, Inc. and James Alexander for a severance be, and it hereby is, denied.

By the Commission.

Jonathan G. Katz
Secretary