

ADMINISTRATIVE PROCEEDING
FILE NO. 3-12579

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
March 20, 2008

In the Matter of :
:
KIRK S. WRIGHT : ORDER DENYING MOTION
: TO REINSTATE STAY OF
: PROCEEDING

The Securities and Exchange Commission (Commission) issued its Order Instituting Proceedings (OIP) on March 2, 2007, pursuant to Section 203(f) of the Investment Advisers Act of 1940. The Respondent, Kirk S. Wright (Wright), was served with the OIP on March 12, 2007. Wright asserts a general denial of the allegations in the OIP in a letter dated March 26, 2007, which I construe as an Answer. On April 17, 2007, the United States Attorney for the Northern District of Georgia (U.S. Attorney) filed a Motion to Intervene and to Stay Proceeding (Motion), pursuant to Rule 210(c)(3) of the Commission's Rules of Practice because of a pending parallel criminal proceeding. See 17 C.F.R. § 201.210(c)(3). The Motion was granted and the stay remained in effect until the Division of Enforcement (Division) was notified by the U.S. Attorney's office that the trial was set for May 6, 2008, and the U. S. Attorney no longer requested that the stay remain in place. The stay was lifted by Order on March 3, 2008. During a prehearing conference held February 29, 2008, I gave the Division leave to file for summary disposition.¹

On March 3, 2008, Wright submitted a Motion to Reinstate Stay of the Administrative Proceeding. As grounds for his request, Wright contends that he will be prejudiced by maintaining his defense of this proceeding while his criminal trial is occurring. The Commission's Rules of Practice provide two instances in which an administrative law judge can

¹ The prehearing conference was scheduled with the expectation that the Division and Wright would participate to schedule matters pertaining to the administrative proceeding. Shortly after the call began, Mr. Wright was asked to enter his appearance. (Prehearing Conf. Tr. of Feb. 29, 2008 at 4 (Tr. ___)). At that point, he could no longer be heard and it appeared to the Division counsel and the undersigned that he hung up. (Tr. 5). Later that day, the undersigned received notice from the Division, stating that Mr. Wright called collect to advise that he had been disconnected from the call and Mr. Wright wished to have the call reinstated. Wright also sent a "Notification That the Teleconference Was Disconnected" to me on February 29. (Wright letter dated Feb. 29, 2008). However, the Division's notice disclosed that the guard at the South Fulton County jail, where Wright is incarcerated, and who accompanied him to the telephone call, advised that Wright hung up during the prehearing conference.

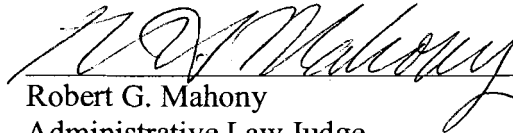
stay a proceeding. See 17 C.F.R. § 201.161(c)(2) (providing for a stay pending Commission consideration of a settlement offer) and 17 C.F.R. § 201.210(c)(3) (providing for a stay at the request of the Department of Justice, a U.S. Attorney, or a representative of any State prosecutorial authority). The Commission's Rules of Practice do not allow an administrative law judge to stay a proceeding at the request of a respondent. Accordingly, Wright's Motion to Reinstate Stay of the Administrative Proceeding is DENIED.

Additionally, the Division filed its Motion for Summary Disposition on March 6, 2008. Wright's response is currently due on March 28, 2008.

I am construing Wright's Motion to Reinstate Stay of the Administrative Proceeding as a request for an extension of time. See 17 C.F.R. § 201.161. Therefore, I extend the time available to Wright to file his response to the Division's Motion for Summary Disposition. Id. Wright's response is due by April 11, 2008. Any reply by the Division is due by April 18, 2008.

The parties are reminded that all filings of papers must be made with the Office of the Secretary pursuant to Rules 151-53 of the Commission's Rules of Practice.

SO ORDERED.


Robert G. Mahony
Administrative Law Judge