

ADMINISTRATIVE PROCEEDING
FILE NO. 3-11666

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
November 12, 2004

In the Matter of :
: **ORDER DENYING MOTION**
: **ROBERT CORD BEATTY**
:
:

The Securities and Exchange Commission (“Commission”) instituted this proceeding on September 15, 2004, pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”). I postponed the hearing set for October 26, 2004, because the Division of Enforcement (“Division”) was unable to serve the Order Instituting Proceedings (“OIP”) on Respondent Beatty. A prehearing conference is scheduled for November 22, 2004. On October 28, 2004, Respondent Beatty, appearing pro se, filed a Motion to Continue Administrative Proceedings, with attachments (“Motion”). Respondent Beatty requests that this administrative proceeding be continued until resolution of an appeal from a district court order enjoining him from future violations of Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Exchange Act and Rules 10b-5 and 13b2-2, thereunder, and from aiding and abetting future violations of Section 13(b)(2)(A) of the Exchange Act. SEC v. Autocorp Equities, Inc., Docket No. 2:98 CV 0562 (D.Utah Aug. 26, 2004).


In its Opposition to Pro Se Motion to Continue Administrative Proceeding (“Opposition”), filed on November 4, 2004, the Division contends that the Motion should be denied because: (1) this proceeding is not based solely on the permanent injunction;¹ (2) Respondent Beatty’s due process rights are protected because he will have an opportunity to be heard; (3) delays should be avoided because the alleged illegal acts occurred in 1993-94; and (4) Respondent Beatty is a recidivist in that he consented to the entry of an injunction in 1995

¹ The OIP calls for a determination whether, if the allegations are true, “it is appropriate and in the public interest to bar Respondent from participating in any offering of penny stock, including: acting as a promoter, finder, consultant, agent, or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock; or inducing or attempting to induce the purchase or sale of any penny stock.” See Johnson v. SEC, 87 F.3d 484 (D.C. Cir. 1996); see also Michael J. Markowski, 74 SEC Docket 1537, 1540-01 (2001).

in a case involving the sale of prime bank notes. SEC v. Beatty, 2:95 CV 08865S (D.Utah 1995). (Opposition, Exhibit B.)

RULING

I DENY the Motion because it is well settled that an appeal of an underlying civil or criminal determination is not grounds for delaying an administrative proceeding. Blinder, Robinson & Co. v. SEC, 837 F.2d 1099, 1104 n.6 (D.C. Cir.), cert. denied, 488 U.S. 869 (1988); William F. Lincoln, 53 S.E.C. 452, 456 (1998). In practice, the Commission orders remedial sanctions while appeals are taken and vacates the sanctions based on an application by a successful appellant. See John A. Mulheren, Jr., 50 SEC Docket 506 (1991).


Brenda P. Murray
Chief Administrative Law Judge