

UNITED STATES OF AMERICA
Before The
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-19719

In The Matter of	:	UNITED STATES' APPLICATION
Yaniv Avnon,	:	TO INTERVENE AND
Respondent.	:	MOTION TO STAY
	:	ADMINISTRATIVE
	:	PROCEEDINGS
	:	

INTRODUCTION

Pursuant to Rule 210(c)(3) of the United States Securities and Exchange Commission (“Commission”) Rules of Practice, Philip R. Sellinger, United States Attorney for the District of New Jersey (the “United States Attorney”), makes this Application to Intervene in the above-captioned proceeding and makes this motion for an Order staying the above-captioned proceeding pending the resolution of a parallel criminal action being pursued by the United States Attorney.

As ground for this application, the United States Attorney submits the following information:

1. The Commission instituted the subject administrative proceeding under an Order Instituting Proceedings (“OIP”) on February 28, 2020. The Commission was ordered to provide briefing by August 25, 2022

substantive briefing to further develop the evidentiary record to support the Commission's position that the Respondent should be barred from the. Specifically, the Commission was ordered to "include evidentiary support sufficient to make an individualized assessment of whether [the requested] sanctions are in the public interest." Release No. 95115 (June 16, 2022).

2. In the OIP, the SEC has alleged that, from at least 2013 to 2015, Avnon executed a fraud by stealing the money day traders entrusted to Nonko Trading, an online day trading platform, on the understanding that the traders would be able to use the money to buy and sell securities on the open market. Instead of depositing that money in trading accounts and setting up the traders so that they could execute market transactions, Avnon and others simply pocketed the money and set the unwitting traders up on demo accounts. Avnon has not appeared in this proceeding, nor has he responded in any way.
3. On or about May 10, 2017, a two-count Indictment returned by a federal grand jury sitting in the District of New Jersey was unsealed. The Indictment charges Avnon with criminal offenses relating to the fraudulent scheme set forth above. The United States Attorney submits that the OIP and the criminal case share common allegations and questions of law and fact. Indeed, the OIP and the criminal case focus

on precisely the same conduct, and the same witnesses, documents, and other evidence will be germane to both proceedings.

4. Therefore, continuation and disposition of the administrative proceeding will substantially prejudice the criminal prosecution and hinder the enforcement of the securities laws at issue. *See, e.g., In the Matter of Michael J. Rothmeier, et al.*, Stay Order, Admin. Proc. File No. 3-10007 (May 25, 2000) (citing *In the Matter of A.S. Goldman & Co.*, Order Postponing Proceedings at p.6, Admin. Proc. File No. 3-9933 (Sept. 1, 1999) (“Federal courts and the Commission had repeatedly recognized that civil or administrative proceedings may be stayed pending resolution of parallel criminal proceedings where justice requires.”). Should a stay be denied, certain individuals will be required to submit testimony or sworn affidavits for the Commission’s submission who could also be called as witnesses in subsequent criminal proceedings. The briefing will thus give Respondent a preview of certain witnesses’ testimony, and will result in the creation of multiple statements for the same witnesses. Because there is significant overlap between this administrative proceeding and the criminal case, the prejudice to the United States Attorney is manifest.
5. The Enforcement Staff of the Commission has informed the undersigned that it does not object to the entry of a stay in the

