UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20816

In the Matter of	:
	:
ANITA SGARRO,	:
Respondent.	:
	:
	:

DIVISION OF ENFORCEMENT'S OPPOSITION TO RESPONDENT'S SECOND MOTION TO STAY

Respondent Anita Sgarro's ("Respondent's") latest attempt to stay this matter pending resolution of her post-conviction motion(s) in a parallel criminal proceeding fares no better than her last one.[1] She raises four new arguments, but none justify indefinitely staying this proceeding as she proposes.

First, Respondent claims that the Division denied her access to documents she requested. Not so. The parties agreed early on to defer a schedule for discovery and briefing while Respondent considered the Division's settlement offer. *See* Joint Statement Regarding Prehearing Conference filed on May 19, 2022. After Respondent did not accept the offer by the deadline set forth in the Commission's November 8, 2022 Order, the Division notified Respondent on January 27, 2022 that its investigative file was available for inspection and copying. Respondent asked on January 30, 2023 to review and copy the file, and the Division provided her with an electronic copy of it that same day. Furthermore, there is nothing new in that production. It consists entirely of trial

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[1] Respondent moved for a stay on January 6, 2023, and the Division of Enforcement ("Division") filed its opposition thereto on January 27, 2023 ("Opposition"). The motion is pending.

exhibits and trial transcripts from Respondent's parallel criminal case,[2] and selected filings from that case and her appeal.[3]

Second, Respondent claims that she is "pursuing another procedure that may come first [*i.e.*, before she files her "2255" motion] while in touch with the Department of Justice." *See* Motion at p. 2. Third, she mentions that she "has been informed she may be entitled to a newly appointed attorney under all of these circumstances." *Id*. The meaning and import of these passing comments are unclear. What is apparent, however, is that they do not justify staying this proceeding. *See* 17 C.F.R. § 201.161 (requiring the party moving for a stay to make a "strong showing that the denial of the request or motion would substantially prejudice their case").

Fourth, Respondent insists that her "new evidence" motion (*i.e.*, to have her criminal case remanded from the appellate court to the district court so she could submit new evidence) has not been resolved. She argues that the district court merely denied the motion as moot because the case was remanded, but has not yet ruled on the new evidence, thus warranting a stay of this proceeding. Respondent conveniently omits, however, that she has not actually submitted new evidence for the district court's consideration.

For the foregoing reasons and those addressed in the Division's Opposition, the Division respectfully requests that the Commission deny Respondent's requested stay.

February 13, 2023   Respectfully submitted,

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[2] *United States v. Sizer, et al.*, Case No. 1:16-CR-20715 (S.D. Fla.).
[3] *United States v. Wheeler, et al.*, Case Nos. 17-15003; 17-15030; 17-15379 (11th Cir.).

OS Received 02/13/2023

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CERTIFICATE OF SERVICE

Pursuant to Rule 150 of the Commission's Rules of Practice, I hereby certify that on February

13, 2023, the foregoing was filed using the eFAP system, and that a true andcorrect copy of said

filing is being served via email on the following persons entitled to notice:

Via Email
Anita Sgarro
Email: anitasgarro33160@gmail.com

Moot,
Stephanie

Digitally signed by
Moot, Stephanie
Date: 2023.02.13
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Stephanie N. Moot
Senior Trial Counsel

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