

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21400

In the Matter of

**MICHAEL SZTROM and DAVID
SZTROM,**

Respondent.

JOINT REQUEST TO STAY PROCEEDINGS

The Division of Enforcement (“Division”) and Respondents Michael Sztrom and David Sztrom (“the Stzroms”) (collectively, “the Parties”), jointly stipulate to stay this proceeding.

On June 30, 2023, the United States Supreme Court granted the Commission's petition for a writ of certiorari in *SEC v. Jarkesy*, ---S. Ct.---, 2023 WL 4287448 (Mem) (Jun. 30, 2023). The petition raises three questions regarding the Commission's administrative proceedings:

- (a) Whether statutory provisions that empower the Commission to initiate and adjudicate administrative enforcement proceedings seeking civil penalties violate the Seventh Amendment;
- (b) Whether statutory provisions that authorize the Commission to choose to enforce the securities laws through an agency adjudication instead of filing a district court action violate the

nondelegation doctrine; and

(c) Whether Congress violated Article II by granting for-cause removal protection to administrative law judges (“ALJs”) in agencies whose heads enjoy for-cause removal protection.

For these reasons, the parties agree that a stay of all deadlines is warranted, pending any decision by the Supreme Court of the issues in *Jarkesy*, or further order of the Commission. In support, the parties state the below.

1. On May 2, 2023, the Commission issued an Order Instituting Proceedings pursuant to Section 4C of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 102(e) of the Commission's Rules of Practice (“OIP”) against Respondent. On May 25, 2023, the Respondent filed an Answer to the OIP.

2. On July 7, 2023, the parties filed a joint prehearing conference statement pursuant to Rule 221 of the Commission's Rules of Practice, 17 C.F.R. § 201.221, stipulating to a hearing date of January 16, 2024. The Commission entered the proposed case schedule on July 13, 2023.

3. On April 14, 2023, the Supreme Court issued its decision in *Axon Enter., Inc. v. FTC*, and *SEC v. Cochran*, 143 S. Ct. 890 (2023) ("*Cochran*"), holding that the statutory review schemes in the Exchange Act and the FTC Act, 15 U.S.C § 41 *et seq.*, do not displace a district court's federal-question jurisdiction to adjudicate certain constitutional claims.

4. On October 12, 2023, the parties completed briefing on the Division’s motion for summary disposition. A decision on that motion is pending.

5. On October 30, 2023, counsel for Respondents requested that the Division stipulate to stay proceedings pending the Supreme Court's disposition of *Jarkesy*. The Division consented to the request.

THEREFORE, the Division and Respondents, by and through their undersigned counsel, stipulate and agree that this proceeding be stayed until and including the earlier of 30 days after the Supreme Court decision in *Jarkesy* or July 31, 2024.

Respectfully submitted,

Dated: November 20, 2023

DIVISION OF ENFORCEMENT



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Dated: November 20, 2023

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CERTIFICATE OF SERVICE
SERVICE LIST

Pursuant to Commission Rule of Practice 151 (17 C.F.R. § 201.151), I certify that
the:

JOINT REQUEST TO STAY PROCEEDINGS

was served on November 20, 2023 upon the following parties as follows:

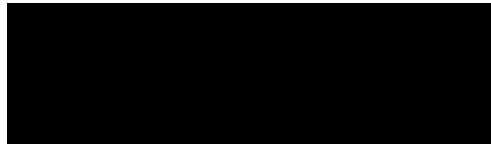
By eFAP

Vanessa Countryman, Secretary
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Lynn M. Dean