

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

v.

ANNE PRAMAGGIORE,

Defendant.

No. 23-cv-14252

Judge Franklin U. Valderrama

ORDER

Defendant Anne Pramaggiore (Pramaggiore) served as the Chief Executive Officer (CEO) of Commonwealth Edison Company (Commonwealth) and later served as the CEO of Exelon Utilities (Exelon). Pramaggiore was convicted on nine counts in a criminal case, including violating the federal programs bribery statute in connection with corruptly providing things of value to the then Speaker of the Illinois General Assembly, Michael Madigan (Madigan). The United States Securities and Exchange Commission (SEC) thereafter sued Pramaggiore, alleging that, in her capacities as CEO of Commonwealth and Exelon, she participated in and hid a fraudulent scheme to influence Madigan. R. 4, Am. Compl.¹ Since the SEC brought this action, Pramaggiore's sentencing in the criminal case has been stayed. R. 19, Def. Suppl. Auth. Before the Court is Pramaggiore's motion to stay these proceedings. R.

¹Citations to the docket are indicated by "R." followed by the docket number or filing name, and, where necessary, a page or paragraph citation.

11, Mot. Stay. The SEC opposes the stay. For the reasons that follow, the stay is granted.

Background

On May 2, 2023, Pramaggiore was convicted of nine counts, including several counts for violating the federal programs bribery statute for corruptly providing things of value to former Illinois House Speaker Michael Madigan. *See United States v. Pramaggiore, et al.*, 1:20-CR-812 Dkt. 251 (N.D. Ill. May 2, 2023). After her conviction, in June 2023, the Seventh Circuit held in *United States v. Snyder*, 71 F. 4th 555 (7th Cir. 2023) that the federal programs bribery statute requires a *quid pro quo*, which is contrary to jury instructions given in Pramaggiore's criminal proceeding.

On September 28, 2023, the SEC filed this action against Pramaggiore, generally alleging that she hid the underlying Madigan bribery scheme from investors in violation of federal securities laws. Am. Compl. Thereafter, Pramaggiore filed this motion to stay the proceedings. Mot. Stay.

The Supreme Court, acknowledging a circuit split on the underlying *quid pro quo* question in *Snyder*, granted certiorari to weigh in on the unsettled legal question. Consequently, on March 1, 2024, Judge Leinenweber, the trial judge in the criminal proceedings, postponed Pramaggiore's sentencing until after the Supreme Court's *Snyder* decision. Def. Suppl. Auth.

Legal Standard

A court has the inherent power to manage its docket “with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254–55 (1936). A court may stay a civil proceeding pending resolution of criminal proceedings “when the interests of justice” require it. *See United States v. Kordel*, 397 U.S. 1, 12 n.27 (1970). However, “the Constitution does not require a stay of civil proceedings pending the outcome of criminal proceedings.” *Admiral Ins. Co. v. Federal Sec., Inc.*, 1997 WL 695727, at *2 (N.D. Ill. Nov. 4, 1997).

Courts in this District consider six non-exhaustive factors to determine whether a stay should be granted: “(1) whether the civil and criminal proceedings involve the same subject matter; (2) whether the government has initiated both proceedings; (3) the posture of the criminal proceeding; (4) the effect on the public interest of granting or denying a stay; (5) the interest of Plaintiff in proceeding expeditiously, and the potential prejudice that Plaintiff may suffer from a delay; and (6) the burden that any particular aspect of the civil case may impose on Defendants if a stay is denied.” *Commodity Futures Trading Comm’n v. Nowak*, 2020 WL 3050225, at *3 (N.D. Ill. June 8, 2020) (citing *Salcedo v. City of Chi.*, 2010 WL 2721864, at *2 (N.D. Ill. July 8, 2010)).

Analysis

Pramaggiore contends that the factors warrant the issuance of a stay. *See generally* R. 12, Memo. Stay. The Court agrees and addresses each factor in turn.

1) Overlap of Subject Matter

Pramaggiore maintains that the overlap of subject matter weighs in favor of staying this proceeding because the SEC's allegations are premised on the charges against her in the parallel criminal proceeding, both of which concern "nearly identical evidence, facts, and time period." Memo. Stay at 7. The Court agrees.

Here, the SEC alleges that Pramaggiore violated federal securities laws by hiding "a fraudulent scheme to corruptly influence Michael Madigan." Am. Compl. ¶ 1. At its core, this proceeding involves whether Pramaggiore was engaged in or aware of bribery. *See generally* Am. Compl. Similarly, in the parallel criminal proceeding, Pramaggiore was convicted of violating and conspiring to violate the federal programs bribery statute, 18 U.S.C. § 666, for corruptly providing things of value to Michael Madigan with intent to influence or reward in connection with an exercise of his official duties. *See United States v. Pramaggiore, et al.*, 1:20-CR-812 Dkt. 251; *United States v. McClain*, 2023 WL 2403137, at *1 (N.D. Ill. Mar. 8, 2023). In short, this proceeding and the parallel criminal proceeding involve the same underlying conduct. Furthermore, and of note, the SEC brought this action after Pramaggiore's criminal conviction. R. 1, Compl. Therefore, considering the substantial subject matter overlap between proceedings, this factor weighs in favor of a stay. *Nowak*, 2020 WL 3050225, at *3.

2) The Government Initiated Both Proceedings

This proceeding and the parallel criminal proceeding were initiated by the Government (the United States Attorney's Office and the SEC), and, as Pramaggiore

argues, are wholly under the Government's control. Memo. Stay at 7; Am. Compl.; *United States v. Pramaggiore, et al.*, 1:20-CR-812 Dkt. 2 (N.D. Ill. Nov. 2, 2020); *McClain*, 2023 WL 2403137, at *1. Moreover, Pramaggiore underscores a related legitimate concern that courts in this District have recognized and considered under similar circumstances: "Absent a stay, prosecutors in the criminal case will have the opportunity to use liberal civil discovery in this case to gather evidence that it could use in a possible retrial." Memo. Stay at 7 (citing *Nowak*, 2020 WL 3050225, at *3 ("[T]he government initiat[ing] both proceedings . . . may be problematic if the prosecution is trying to use liberal civil discovery to augment its criminal case."); *Cruz v. Cty. of DuPage*, 1997 WL 370194, at *3 (N.D. Ill. June 27, 1997)). The Court also notes this concern. Accordingly, this factor weighs in favor of staying this action.

3) The Posture of the Criminal Case

At the heart of the parallel criminal proceeding is an unsettled legal question: whether § 666, the statute under which Pramaggiore was convicted, criminalizes gratuities in addition to bribes. Amid a circuit split, the Supreme Court is set to address this issue. *Snyder v. United States*, 2023 WL 8605740 (U.S. Dec. 13, 2023) (granting certiorari). Acknowledging the implications of the Supreme Court decision in *Snyder*, Judge Leineweber postponed sentencing in the parallel criminal proceeding. R. 19-1, Feb. 29, 2024 Hr'g Tr.

Against this backdrop, Pramaggiore argues that this factor weighs in favor of staying this civil case, as the posture here involves less than final criminal

proceedings and that moving forward with this action burdens her Fifth Amendment rights. Memo. Stay at 8. The Court agrees.

On balance, the Supreme Court’s resolution of the circuit split involving 18 U.S.C. § 666, which could result in Pramaggiore’s conviction being overturned, and Pramaggiore’s interest in maintaining her Fifth Amendment rights even if her conviction becomes final, weigh in favor of staying this proceeding. Memo. Stay at 8 (citing *SEC v. AmeriFirst Funding, Inc.*, 2008 WL 866065, at *4 (N.D. Tex. Mar. 17, 2008) (granting stay “until the criminal proceedings, including any appeals, are complete”); see *Hollinger Int’l, Inc. v. Hollinger Inc.*, 2008 WL 161683, at *2 (N.D. Ill. Jan. 16, 2008) (“[T]estimony offered in a related civil proceeding continues to have the potential to prejudice a defendant in connection with an appeal and a potential retrial.”)).

4) Public Interest

Pramaggiore argues that granting the stay would not impact public interest, noting that Pramaggiore, who is now unemployed, is in no position to make public statements to the market on behalf of an issuer of securities. Memo. Stay at 10. Further, Pramaggiore, having resigned from all boards, is also in no position to serve a publicly held company in the capacity the SEC flags so long as the criminal proceeding is ongoing. Conversely, as Pramaggiore notes, the public maintains an interest in conserving judicial resources and in the courts “getting it right.” R. 17, Reply at 9 (citing *Chagolla v. City of Chicago*, 529 F. Supp. 2d 941, 947 (N.D. Ill. 2008) (“The possibility that the orderly progress of the criminal cases and investigations—

particularly those involving the exact same incidents at issue in the present case—will be hindered by issues that could arise from ongoing civil discovery is significant enough to be worthy of consideration.”)). The Court agrees.

The public interest in this proceeding, the SEC asserts, stems from combating and deterring securities violations, and barring Pramaggiore from serving as an officer or director of a publicly held company. R. 15, Resp. at 10–11. To this point, “the public’s interest has been preserved in the criminal trial.” *Hollinger Int’l*, 2008 WL 161683, at *4. The public interest factor also weighs in favor of granting a stay.

5) Plaintiff’s Interest in Proceeding Expeditiously, and the Potential Prejudice that Plaintiff may Suffer from a Delay

Pramaggiore argues that the SEC will not be prejudiced if the Court grants the stay, pointing out that the SEC waited for years to bring this action. Memo. Stay at 10. The Court agrees. The SEC’s invocation of its interest in “expeditious civil litigation” rings hollow, as the SEC delayed bringing this action against Pramaggiore for years. Resp. at 9–10. Furthermore, the same rationale holds equal weight concerning the SEC’s contention that it would suffer prejudice from a “long stay.” *Id.* at 13. Pramaggiore’s reply to this argument is well taken: while the SEC claims to be prejudiced if the Court imposes the requested stay, it fails to articulate *how*. Reply at 7–8. Accordingly, on balance, this factor tips in favor of a stay.

6) Burden on Defendant if Stay is Denied

Pramaggiore insists that denying a stay would cause a significant burden. The Court agrees. Memo. Stay at 11–12. First, proceeding with this action jeopardizes Pramaggiore’s Fifth Amendment rights. *Id.* at 11. Broadly, whether or not

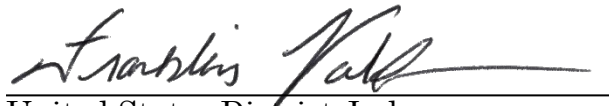
Pramaggiore avails herself of the constitutional protection against self-incrimination in this proceeding risks serious consequences for this proceeding, as well as the parallel criminal proceeding. And on balance, these consequences, including the risk of waiver, weigh in favor of staying this proceeding. *Hollinger Int'l*, 2008 WL 161683, at *3; *Brenner v. CFTC*, 338 F.3d 713, 717–18, 720 (7th Cir. 2003).

Second, proceeding puts Pramaggiore between a rock and a hard place, where she's forced to split her attention, time, and resources between this litigation and the parallel criminal proceeding. Memo. Stay at 10–11. The balance here, considering the consequences of denying a stay, is not close. “Given [her] present predicament, the [Pramaggiore] should be devoting [her] time, resources, and full attention to the criminal matter in an effort to avoid incarceration.” *SEC v. Salis*, 2016 WL 7239916, at *2 (N.D. Ind. Dec. 14, 2016).

Conclusion

For the foregoing reasons, Pramaggiore's motion to stay this proceeding [11] is granted. This proceeding is stayed until the parallel criminal proceedings, including any appeals or retrials, are complete.

Date: 4/11/2024


United States District Judge
Franklin U. Valderrama