



UNITED STATES  
**SECURITIES AND EXCHANGE COMMISSION**  
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August 8, 2019

**VIA ECF**

Hon. Michael A. Hammer  
United States Magistrate Judge  
United States District Court for the District of New Jersey  
Martin Luther King Building & U.S. Courthouse  
50 Walnut Street Room 4015  
Newark, NJ 07101

Re: *SEC v. RVPlus, Inc. and Cary Lee Peterson*, Docket No. 2:16-cv-01428-MCA-MAH

Dear Judge Hammer:

Pursuant to the Court's Text Orders dated July 26, 2019, Plaintiff Securities and Exchange Commission (the "Commission") respectfully submits this status report. As described in more detail below, discovery in this civil securities fraud action is currently stayed until the resolution of the related criminal proceedings against Defendant Cary Lee Peterson ("Peterson"), whose appeal of his criminal conviction is still pending and who appears *pro se* in this Commission action. Neither defendant joins in this report for the reasons set forth below.

As background, the Commission filed its Complaint in this action on March 14, 2016 and served it on defendants Peterson and RVPlus, Inc. promptly thereafter. (Doc. Nos. 1, 5 & 6.) The Complaint alleges that RVPlus, a microcap company that issued publicly-traded stock, and Peterson, its chief executive officer, defrauded investors by issuing false filings and press releases touting lucrative but wholly fictitious business deals, including contracts purportedly worth almost \$2 billion with foreign governments. (Doc. No. 1.) The Complaint alleges that Peterson thereby engaged in securities fraud and, for other reasons alleged in the Complaint, also violated certain securities registration requirements. (*Id.*) On May 18, 2016, the Clerk's Office docketed Peterson's Answer to the Complaint. (Doc. No. 7.) RVPlus has not answered or otherwise appeared.

Separately, on May 10, 2016, a grand jury in this District returned a three-count indictment against Peterson for conduct that was substantially the same as the conduct alleged in the Commission's Complaint. (Doc. No. 18-1 at 3.) The indictment charged Peterson with two counts of making false statements in corporate filings with the Commission and one count of securities fraud. (Doc. No. 18-1 at 2-3.) On September 29, 2016, the United States Attorney's Office for the District of New Jersey (the "U.S. Attorney's Office") filed a motion to intervene and stay discovery in the Commission's civil action given the related criminal proceedings. (Doc. No. 18.) Later that day, Peterson made clear that he, too, sought a stay of the Commission's action "pending resolution of a criminal proceeding." (Doc. Nos. 20 & 20-1.) On November 2, 2016, Magistrate Judge Cathy Waldor granted the U.S. Attorney's

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Office's unopposed motion and stayed discovery in this civil action "pending the criminal proceedings, including any trial therein." (Doc. No. 23.)

On May 23, 2018, in the criminal proceeding, a jury convicted Peterson of two counts of submitting false financial information as the chief executive of a publicly-traded company and one count of securities fraud. (Doc. No. 26.) On December 20, 2018, Judge Thompson sentenced Peterson to 52 months in prison. (Doc. No. 29.) On January 9, 2019, Peterson filed a notice of appeal (Doc. No. 29), and his criminal appeal is pending, as the online docket for his appeal reflects (Docket No. 19-1093).

Meanwhile, during the stay of this action, Peterson has submitted three letters purporting to seek various relief, including a subpoena *duces tecum* and dismissal and severance of this action ostensibly under Federal Rule of Civil Procedure 15. (Doc. Nos. 27, 30 & 32.) The Clerk's Office did not docket any of these letters as motions. Shortly after Peterson submitted his latest letter, the undersigned Commission counsel confirmed with Judge Walls' Chambers that the letter was not being treated as a motion.

Going forward, if the United States Court of Appeals for the Third Circuit affirms Peterson's criminal conviction and the stay in this action is then lifted, the Commission intends to move for summary judgment against Peterson based at least partly on collateral estoppel. The Commission also intends to move for a default judgment against RVPlus after the stay is lifted.

Defendants RVPlus and Peterson do not join in this status report. The Commission sent Peterson a draft of this letter last week by overnight delivery and asked him to let the Commission know whether he joined in the report or proposed alternative or additional language. The Commission has not received any response from Peterson to date. The Commission has also tried repeatedly to contact Peterson's prison facility by telephone but has not been able to speak to Peterson. As for RVPlus, it has not answered or appeared in this action, as described above.

Respectfully submitted,

s/ Preethi Krishnamurthy

Preethi Krishnamurthy  
Senior Trial Counsel

cc: Defendant Cary Lee Peterson (by UPS overnight delivery)  
Assistant U.S. Attorney Ari B. Fontecchio (by ECF and email)