

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDINGS RULINGS  
Release No. 4514/January 10, 2017

ADMINISTRATIVE PROCEEDING  
File No. 3-17651

In the Matter of

ADRIAN D. BEAMISH, CPA

ORDER

On November 28, 2016, Respondent filed his answer. On December 7, 2016, Respondent submitted a motion for judgment on the pleadings pursuant to Rule 250(a). On December 27, 2016, the United States Court of Appeals for the Tenth Circuit held that the administrative law judges of the Securities and Exchange Commission are inferior officers and therefore must be appointed in accordance with the Appointments Clause of the Constitution. *See Bandimere v. SEC*, No. 15-9586, 2016 WL 7439007, at \*6-15 (10th Cir.). On January 6, 2017, I issued an order denying Respondent's motion for judgment on the pleadings. *See Adrian D. Beamish, CPA*, Admin. Proc. Rulings Release No. 4504, 2017 SEC LEXIS 47.

On January 9, 2017, Respondent submitted a "Notice" in which he "respectfully requests the Court's guidance on the appropriate procedural mechanism to employ to secure his right to challenge the proceeding based on the *Bandimere* decision." Notice at 1. It is my intention to provide both parties with a reasonable opportunity to prove at the hearing what they have pled. As to Respondent, this includes a reasonable opportunity to present evidence and post-hearing argument pertaining to his Fourteenth Affirmative Defense: that "the Commission's Administrative Law Judges lack authority to conduct the proceedings herein." Answer at 14. If either party seeks a ruling on the applicability of the Appointments Clause prior to issuance of the initial decision, it should file a request for leave to file a motion for summary disposition on that issue, or another appropriate motion.

SO ORDERED.

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Cameron Elliot  
Administrative Law Judge