

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

ADMINISTRATIVE PROCEEDINGS RULINGS  
Release No. 5386/December 15, 2017

ADMINISTRATIVE PROCEEDING  
File No. 3-18129

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In the Matter of

BRIAN MICHAEL BERGER

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ORDER

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The Securities and Exchange Commission instituted this proceeding with an Order Instituting Proceedings on August 22, 2017, pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940. On October 25, 2017, an Initial Decision Making Findings and Imposing Sanction by Default barred Brian Michael Berger from the securities industry. *Brian Michael Berger*, Initial Decision Release No. 1203, 2017 SEC LEXIS 3399 (A.L.J.).

The parties' attention is directed to the Commission's November 30, 2017, order concerning administrative proceedings. *Pending Admin. Proc.*, Securities Act of 1933 Release No. 10440, 2017 SEC LEXIS 3724 (Remand Order). The Remand Order ratifies the appointment of the undersigned as an Administrative Law Judge and directs her to "[r]econsider the record, including all substantive and procedural actions taken by an administrative law judge" in proceedings, such as this one, pending before the Commission in which she has issued an initial decision. Examination of the record discloses that the Chief Administrative Law Judge has ratified her designation of the undersigned as the presiding administrative law judge in this proceeding.<sup>1</sup> Pursuant to the Remand Order, any party may submit any new evidence relevant to the undersigned's reexamination of the record by January 5, 2018. If a party submits new evidence, the other party may comment on it by January 19, 2018.

IT IS SO ORDERED.

/S/ Carol Fox Foelak

Carol Fox Foelak

Administrative Law Judge

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<sup>1</sup> See *Brian Michael Berger*, Admin. Proc. Rulings Release No. 4992, 2017 SEC LEXIS 2595 (C.A.L.J. Aug. 23, 2017); *Pending Admin. Proc.*, Admin. Proc. Rulings Release No. 5247, 2017 SEC LEXIS 3780 (C.A.L.J. Dec. 4, 2017) (designating, and ratifying the designation of, the undersigned).