

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

Administrative Proceedings Rulings  
Release No. 5405 / December 19, 2017

Administrative Proceeding  
File No. 3-15783

In the Matter of  
  
**Clayton T. Marshall**

**Order Regarding  
the Securities and Exchange  
Commission's Order on  
Pending Administrative  
Proceedings**

On March 11, 2014, the Securities and Exchange Commission issued an order instituting proceedings (OIP) directing that an administrative law judge conduct a hearing on the issue of what, if any, civil penalties are in the public interest following the entry of a final judgment against the last remaining defendant in *SEC v. AgFeed Industries, Inc.*, No. 3:14-cv-0663 (M.D. Tenn.). Final judgments remain outstanding as to several foreign defendants. *See Order, AgFeed*, No. 3:14-cv-0663 (M.D. Tenn. Aug. 2, 2017), ECF No. 200.

In light of the decision in *Bandimere v. SEC*, 844 F.3d 1168 (10th Cir. 2016), *reh'g and reh'g en banc denied*, 855 F.3d 1128 (10th Cir. 2017), *petition for cert. filed*, No. 17-475 (U.S. Sept. 29, 2017), the Commission on May 22, 2017, stayed all proceedings assigned to an administrative law judge in which a respondent had the option to seek review in the Tenth Circuit court. *Pending Admin. Proc.*, Securities Act of 1933 Release No. 10365, 2017 SEC LEXIS 1494. This proceeding is one of those stayed administrative proceedings. *See Clayton T. Marshall*, Admin. Proc. Rulings Release No. 4823, 2017 SEC LEXIS 1510 (ALJ May 23, 2017).

On November 30, 2017, the Commission lifted the stay imposed by its May 22, 2017, order and directed that administrative law judges in pending cases: (1) reconsider the record in the proceeding, including all substantive and procedural rulings; (2) allow the parties to file any new evidence that they deem relevant to the reexamination of the record by January 5, 2018; (3) determine whether to revise or ratify prior rulings; and (4) issue by February 16, 2018, an order on ratification. *Pending Admin. Proc.*, Securities

Act Release No. 10440, 2017 SEC LEXIS 3724, <https://www.sec.gov/litigation/opinions/2017/33-10440.pdf>. The only ruling I have made in this proceeding is to designate myself the presiding judge, which I have already ratified. *Pending Admin. Proc.*, Admin. Proc. Rulings Release No. 5247, 2017 SEC LEXIS 3780 (ALJ Dec. 4, 2017); *Clayton T. Marshall*, Admin. Proc. Rulings Release No. 1298, 2014 SEC LEXIS 889 (ALJ Mar. 12, 2014). Thus, no further reconsideration of the record is necessary.

This proceeding will resume once all final judgments have been entered in the district court action. I ORDER the parties to notify this office within five business days of entry of final judgment against the last remaining defendant in the civil case. Upon such notification, I will schedule a prehearing conference at which the parties should be prepared to propose a schedule consistent with the OIP. *See* OIP at 6; 17 C.F.R. § 201.221(c).

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Brenda P. Murray  
Chief Administrative Law Judge