

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

Administrative Proceedings Rulings
Release No. 5539 / January 26, 2018

Administrative Proceeding
File No. 3-16182

In the Matter of

**Paul Edward “Ed” Lloyd, Jr.,
CPA**

**Order Ratifying in Part and
Revising in Part Prior Actions**

The Securities and Exchange Commission remanded this case to me following the issuance of an initial decision. *See Pending Admin. Proc.*, Securities Act of 1933 Release No. 10440, 2017 WL 5969234 (Nov. 30, 2017). Consistent with the Commission’s remand order, the parties were given the opportunity to submit new evidence by January 5, 2018, that they deemed relevant to my reexamination of the record, as well as opening and responsive briefs. *See Paul Edward “Ed” Lloyd, Jr., CPA*, Admin. Proc. Rulings Release No. 5370, 2017 SEC LEXIS 4041 (ALJ Dec. 12, 2017). Respondent submitted an opening brief, but no new evidence, and the Division of Enforcement submitted an opening letter and responsive brief (also with no new evidence) urging that I ratify the previous actions in this proceeding, while reserving its right to petition for review of any such ratified actions. Both parties had originally filed petitions for review of the initial decision.

Respondent’s points are largely duplicative of the points he raised in post-hearing briefing and in briefing his motion to correct manifest errors of fact. I have considered all his present points, as directed by the November 30 order, and the ones I previously considered are as unpersuasive now as they were originally. Those points Respondent previously raised, but which I had not previously considered because they were legal arguments presented as alleged errors of fact, include “errors of fact” now numbered 7 through 12. *See Resp. Br.* at 15-20. These points are meritless and do not warrant comment.

I have also considered the points Respondent has raised regarding due process and sanctions. *See Resp. Br.* at 23-32. These, too, are generally

meritless, but two points warrant discussion. First, Respondent renews his claim that I was biased against him. *See* Resp. Br. at 23-27. Since the initial decision issued, however, the Commission has twice “rejected the argument that [I am] biased against Respondents as a class or otherwise lack[] impartiality.”¹ *Harding Advisory LLC*, Securities Act Release No. 10277, 2017 WL 66592, at *17 (Jan. 6, 2017), *pet. filed*, No. 17-1070 (D.C. Cir. Mar. 6, 2017); *see Timbervest, LLC*, Investment Advisers Act of 1940 Release No. 4197, 2015 WL 5472520, at *22 n.128 (Sep. 17, 2015) (citing Office of Inspector Gen., SEC, *Interim Report of Investigation*, Case #15-ALJ-0482-I (Aug. 7, 2015), *available at* <https://www.sec.gov/files/oig-sec-interim-report-investigation-admin-law-judges.pdf>), *pet. filed*, No. 15-1416 (D.C. Cir. Nov. 13, 2015); *see also* Office of Inspector Gen., SEC, *Report of Investigation*, Case #15-ALJ-0482-I (Jan. 21, 2016), *available at* <https://www.sec.gov/files/Final%20Report%20of%20Investigation.pdf>. I was impartial and disinterested when I presided over this proceeding originally, I continue to be impartial and disinterested, and if I were not, I would recuse myself.

Second, Respondent argues that the cease and desist order imposed in the initial decision is overbroad, because Respondent was found to have violated only Section 206(4) of the Advisers Act, but he was ordered to cease and desist from violating Section 206 as a whole. *See* Resp. Br. at 27-29. Respondent has identified no cases directly addressing this issue, nor have I found any. The Commission itself has at times imposed cease and desist orders broader than the proven violations. *E.g.*, *Harding Advisory*, 2017 WL 66592, at *11, *13, *21 (finding a violation only of Securities Act Section 17(a)(2), but ordering Respondents to cease and desist from violating Section 17(a) as a whole). Nonetheless, it is my “detached and considered judgment” that the cease and desist order should be narrowed. *Advanced Disposal Servs. E., Inc. v. NLRB*, 820 F.3d 592, 602-03 (3d Cir. 2016). Therefore, the initial decision is REVISED to order Respondent to cease and desist only from committing violations and future violations of Advisers Act Section 206(4).

I have otherwise scrutinized the record in accordance with the November 30 order, and I have determined that no actions of mine or of any other administrative law judge in connection this proceeding, including those of the administrative law judge originally assigned to it, need to be further revised.

¹ In both cases, as in this case, the Division disagreed with some of my rulings and filed cross-petitions for review, even though respondents accused me of pro-Division bias. *See Harding Advisory*, 2017 WL 66592, at *1 (noting cross-petition for review); *Timbervest*, 2015 WL 5472520, at *1 (same).

Therefore, upon reconsideration of the record, I RATIFY all prior actions taken by an administrative law judge in this proceeding, except as noted above.² This ratification includes my determination, on the eve of the hearing, that it would have “prejudice[d] the Respondent[] unduly” to reverse the original presiding administrative law judge’s determination that the interests at issue were not securities. Prehr’g Tr. 5-6 (Mar. 16, 2015); *see Paul Edward “Ed” Lloyd, Jr., CPA*, Admin. Proc. Rulings Release No. 2366, 2015 SEC LEXIS 767, at *5, *15 (ALJ Feb. 27, 2015). The process contemplated by the Commission’s November 30 order is complete.

Cameron Elliot
Administrative Law Judge

² My designation as the presiding administrative law judge in this proceeding has already been ratified. *Pending Admin. Proc.*, Admin. Proc. Rulings Release No. 5247, 2017 SEC LEXIS 3780 (ALJ Dec. 4, 2017).