

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

Administrative Proceedings Rulings  
Release No. 5615 / February 16, 2018

Administrative Proceeding  
File No. 3-16293

In the Matter of

**Laurie Bebo and  
John Buono, CPA**

**Order Ratifying 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, Respondent Laurie Bebo<sup>1</sup> was given the opportunity to submit by January 26, 2018, new evidence that she deemed relevant to my reexamination of the record, as well as a brief. *See Laurie Bebo*, Admin. Proc. Rulings Release No. 5381, 2017 SEC LEXIS 4082 (ALJ Dec. 14, 2017). The Division of Enforcement was given the opportunity to submit a responsive brief by February 16, 2018. *Id.* Respondent submitted an opening brief, but no new evidence, and the Division of Enforcement submitted a letter and proposed order urging me to ratify the previous actions in this proceeding and a responsive brief addressing Respondent's arguments.

Bebo argues that the Commission's ratification of my appointment as an administrative law judge was improper and that the procedure for removing administrative law judges violates the Constitution. Bebo Br. at 5-10 & n.2. But my appointment as the result of the Commission's hiring process has been ratified by the Commission, "thereby resolving any Appointments Clause claims" in this proceeding. *Pending Admin. Proc.*, 2017 WL 5969234,

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<sup>1</sup> The proceeding settled as to Respondent John Buono, CPA. *Laurie Bebo*, Securities Exchange Act of 1934 Release No. 74177, 2015 SEC LEXIS 347 (Jan. 29, 2015).

at \*2. And the removal restrictions on Commission administrative law judges are not unconstitutional because, among other considerations, “every one of their decisions can be revisited in the course of [the Commission’s] *de novo* review.” *Timbervest, LLC*, Investment Advisers Act of 1940 Release No. 4197, 2015 WL 5472520, at \*26-28 (Sept. 17, 2015), *pet. filed*, No. 15-1416 (D.C. Cir. Nov. 13, 2015). Indeed, the Commission’s *de novo* review will by itself seemingly resolve any Appointments Clause claims, because it will afford Bebo “all the possibility for relief” that she would have received from a properly appointed administrative law judge. *Intercollegiate Broad. Sys., Inc. v. Copyright Royalty Bd.*, 796 F.3d 111, 120 (D.C. Cir. 2015); 17 C.F.R. § 201.411; *see Ryder v. United States*, 515 U.S. 177, 186-88 (1995). Put another way, there is nothing I can do that the Commission cannot undo in its review of my decision.

Bebo raises other points, three of which merit discussion. First, I reject Bebo’s contention that the order instituting the present proceedings (OIP) was “legally invalid” because it “purport[ed] to assign the matter to admittedly unconstitutional ALJs.” Bebo Br. at 4. As the Division correctly points out, designating an administrative law judge is only one of the Commission’s actions in the OIP, and even if it was improper, “the act of doing so in no way compromises the validity of the Commission’s decision to initiate the proceedings themselves.” Div. Br. at 5; *see* 17 C.F.R. § 201.110 (allowing the Commission to preside over administrative proceedings). Any such invalidity, even assuming it existed in the first place, has in any event been cured by the Commission’s ratification of my appointment. *Pending Admin. Proc.*, 2017 WL 5969234, at \*1-2.

Second, because the OIP was valid, Bebo’s arguments that a new OIP must be issued but cannot because such an action would be time-barred under 28 U.S.C. § 2462 do not carry any weight. Rather, review of the case continues, and the limitations period remains tolled until the Commission issues a final agency action. And again, that final agency action will involve a *de novo* review of the entire record, including an opportunity for supplemental briefing regarding ratification. *E.g., Timothy W. Carnahan*, Securities Act Release No. 10457, 2018 SEC LEXIS 396 (Feb. 8, 2018) (establishing a briefing schedule to address “any matters that [the parties] deem pertinent in light of the ALJ’s ratification order”).

Third, the cases Bebo cites in arguing that “the remedy in an adjudicatory context cannot entail after-the-fact ratification” are inapposite, because although they required new hearings where a judicial tribunal was improperly constituted in some fashion, those cases did not involve (as in this proceeding) ratification before final agency action, nor did they even address ratification at all. *See* Bebo Br. at 2-4.

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 need to be revised. In particular, I have not revised the initial decision's monetary sanctions. Although Bebo has submitted evidence to the Commission regarding inability to pay, that evidence was not in the record before me and neither party has requested I consider it.

Therefore, upon reconsideration of the record, I RATIFY all prior actions taken by an administrative law judge in this proceeding.<sup>2</sup> The process contemplated by the Commission's November 30 order is complete.

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Cameron Elliot  
Administrative Law Judge

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<sup>2</sup> 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).