

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

ADMINISTRATIVE PROCEEDINGS RULINGS  
Release No. 5650/March 16, 2018

ADMINISTRATIVE PROCEEDING  
File No. 3-17828

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In the Matter of :  
:   
ROSALIND HERMAN : ORDER

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The Securities and Exchange Commission instituted this proceeding on February 7, 2017, pursuant to Section 203(f) of the Investment Advisers Act of 1940. The proceeding is a follow-on proceeding based on *United States v. Herman*, No. 1:12-cr-10015 (D. Mass. Aug. 1, 2016), ECF Nos. 299-300, *aff'd*, 848 F.3d 55 (1st Cir. 2017), *cert. denied*, 137 S. Ct. 1603 (2017), in which Rosalind Herman was convicted of securities and wire fraud and other crimes. The Division of Enforcement filed a motion for summary disposition pursuant to 17 C.F.R. § 201.250(b) on July 20, 2017. The motion for summary disposition is now fully briefed in accordance with an extended briefing schedule arising from logistical difficulties associated with Respondent Herman's incarceration. *See Rosalind Herman*, Admin. Proc. Rulings Release No. 5239, 2017 SEC LEXIS 3695 (A.L.J. Nov. 27, 2017).

In a submission dated March 2, 2018, titled "Motion for Assistance of Counsel at Administrative Proceedings," Respondent Herman requests the undersigned to appoint counsel to assist her in this proceeding. The request will be denied; the Commission does not appoint counsel to represent respondents in administrative proceedings.

Respondent Herman cites *Jenkins v. McKeithen*, 395 U.S. 411 (1969), but it is unclear how this precedent supports her contention that she has a constitutional right to appointed counsel. To the contrary, it is well established that there is no such right in a Commission administrative proceeding, and the Commission does not appoint counsel to represent respondents. *See Boruski v. S.E.C.*, 340 F.2d 991, 992 (2d Cir. 1965) ("We know of no requirement that counsel be appointed in these administrative proceedings. The [Commission] orders [revoking respondent's broker-dealer registration and denying his application for investment registration], although serious in their effect, are not criminal judgments."); *Norman Pollisky*, Exchange Act Release No. 8381, 1968 SEC LEXIS 243, at \*24 (Aug. 13, 1968); *see also Robert G. Bard*, Admin. Proc. Rulings Release No. 1616, 2014 SEC LEXIS 2525 (A.L.J. July 16, 2014); *A.S. Goldmen & Co.*, Initial Decisions Release No. 231, 2003 SEC LEXIS 3301, at \*6 (C.A.L.J. June 27, 2003); *William F. Lincoln*, Admin. Proc. Rulings Release No. 512, 1996 SEC LEXIS 1612, at \*1-2 (C.A.L.J. June 12, 1996); *Robert E. Iles*, Admin. Proc. Rulings Release No. 356, 1989 SEC LEXIS 5149, at \*4-5 (C.A.L.J. Oct. 31, 1989).

IT IS SO ORDERED.

/S/ Carol Fox Foelak  
Carol Fox Foelak  
Administrative Law Judge