
On November 30, 2017, the Commission ratified the appointment of the undersigned as an Administrative Law Judge and directed her to “[r]econsider the record” and “[d]etermine . . . whether to ratify or revise . . . all prior actions” in proceedings such as this one. Pending Admin. Proc., Securities Act of 1933 Release No. 10440, 2017 SEC LEXIS 3724. The parties were invited to “submit any new evidence [they deem] relevant to the [undersigned’s] reexamination of the record.” Spring Hill Capital Mkts., Admin. Proc. Rulings Release Nos. 5400, 2017 SEC LEXIS 4140 (A.L.J. Dec. 18, 2017); 5630, 2018 SEC LEXIS 596 (A.L.J. Feb. 26, 2018). Submissions were made: by Respondents on January 5 and March 23, 2018; and by the Division of Enforcement on January 5, January 19, and April 20, 2018. The submissions addressed legal issues related to disgorgement, in particular, the effect of Kokesh v. SEC, 137 S. Ct. 1635 (2017) (holding that disgorgement is a penalty subject to the five-year statute of limitations set forth in 28 U.S.C. § 2462). The Division acknowledges that disgorgement should omit gains outside the limitations period; the parties differ as to the amount, if any, of gains subject to disgorgement.


In light of this development, any scheduled dates in this proceeding are postponed sine die, and no procedural dates will be scheduled while the stay is operative.

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