

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

ADMINISTRATIVE PROCEEDINGS RULINGS

Release No. 6496/March 14, 2019

ADMINISTRATIVE PROCEEDING

File No. 3-16795

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In the Matter of :  
: :  
JOSEPH J. FOX : PREHEARING ORDER

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The Securities and Exchange Commission instituted this proceeding with an Order Instituting Proceedings (OIP), pursuant to Section 8A of the Securities Act of 1933 and Section 15(b) of the Securities Exchange Act of 1934 on September 8, 2015. The OIP embodied a partial settlement and ordered additional proceedings to determine what, if any, non-financial remedial sanctions pursuant to Section 15(b) of the Exchange Act are in the public interest. The OIP included extensive findings of facts concerning Respondent Joseph J. Fox's conduct and specified, at ¶ V., that Respondent "will be precluded from arguing that he did not violate the federal securities laws as described in this [OIP]" and "the findings of this [OIP] shall be accepted as and deemed true by the hearing officer."<sup>1</sup> A prehearing conference was held today. Anne C. McKinley and Jedediah B. Forkner appeared on behalf of the Division of Enforcement, and Respondent appeared *pro se*.

Previously, the parties made separate proposals for the conduct of further proceedings. Respondent proposed that the proceedings "be conducted solely through in-person testimony at public hearings," and the Division of Enforcement proposed that the matter be resolved by summary disposition. The proceeding will be resolved through motion[s] for summary disposition and responsive pleadings supplemented by a video or in-person hearing in Washington, D.C., at which Respondent may testify and the parties may offer oral argument.

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<sup>1</sup> Following an April 25, 2016, Initial Decision, the Commission imposed associational bars on Respondent, with the right to re-apply after five years. See *Joseph J. Fox*, Initial Decision Release No. 1004, 2016 SEC LEXIS 1515 (Apr. 25, 2016), *opinion of the Commission*, Securities Act Release No. 10328, 2017 SEC LEXIS 969 (Mar. 24, 2017), *petition for reconsideration pending*. On August 22, 2018, in light of *Lucia v. SEC*, 138 S. Ct. 2044 (2018), the Commission ordered a new hearing in each pending proceeding, including this one, before an administrative law judge who had not previously participated in the proceeding, unless the parties expressly agreed to alternative procedures, including agreeing that the proceeding remain with the previous presiding administrative law judge. *Pending Admin. Proc.*, Securities Act Release No. 10536, 2018 SEC LEXIS 2058, at \*2-3. Accordingly, the proceeding was reassigned to the undersigned. *Pending Admin. Proc.*, Admin. Proc. Rulings Release No. 5955, 2018 SEC LEXIS 2264 (C.A.L.J. Sept. 12, 2018).

The following schedule was adopted with the agreement of the parties:

March 28, 2019	Subpoena requests <sup>2</sup>
April 18, 2019	Motion[s] for summary disposition
May 20, 2019	Opposition[s]
May 31, 2019	Repl[y/ies]
TBD	Date of oral hearing

IT IS SO ORDERED.

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

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<sup>2</sup> The subpoena form is found at: <https://www.sec.gov/alj/subpoena-to-produce.pdf>.