

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

Administrative Proceedings Rulings
Release No. 5532 / January 25, 2018

Administrative Proceeding
File No. 3-17674

In the Matter of
Alexander Kon

**Order Ratifying Actions
and Denying Motion for Stay**

Consistent with the Commission's November 30, 2017, order, the parties were given the opportunity to submit new evidence that they deemed relevant to my reexamination of the record, as well as opening and responsive briefs. *See Pending Admin. Proc.*, Securities Act of 1933 Release No. 10440, 2017 SEC LEXIS 3724 (Nov. 30, 2017); *Alexander Kon*, Admin Proc. Rulings Release No. 5391, 2017 SEC LEXIS 4112 (ALJ Dec. 15, 2017). The Division of Enforcement timely filed a brief, with no new evidence, urging me to ratify all prior actions by an administrative law judge. Respondent did not timely file either a brief or new evidence, but did submit a motion to stay the proceeding on January 24, 2018.

Upon reconsideration of the record, I find nothing that requires revision. Therefore, I RATIFY all prior actions taken by an administrative law judge in this proceeding.¹ The process contemplated by the Commission's November 30 order is complete.

Respondent's motion for stay, which is based on the United States Supreme Court's review of an Appointments Clause challenge in *Lucia v. SEC*, 868 F.3d 1021 (D.C. Cir. 2017), *cert. granted*, 2018 WL 386565 (U.S. Jan. 12, 2018) (No. 17-130), is DENIED. My appointment has been ratified by the Commission, "thereby resolving any Appointments Clause claims" in

¹ 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).

this proceeding. *Pending Admin. Proc.*, 2017 SEC LEXIS 3724 at *4-5. The Supreme Court's consideration of *Lucia* may affect those final agency actions pending before United States Courts of Appeals, but it will not directly affect this proceeding.

Cameron Elliot
Administrative Law Judge