

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

ADMINISTRATIVE PROCEEDINGS RULINGS

Release No. 5602/February 15, 2018

ADMINISTRATIVE PROCEEDING

File No. 3-17828

In the Matter of :
:
:
ROSALIND HERMAN : ORDER

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) (summarizing a series of logistical difficulties, permitting Respondent Herman to submit additional exhibits to her opposition by December 1, 2017, and extending the Division's time for reply to December 15, 2017). Specifically, Respondent Herman filed her opposition in three submissions: (1) dated October 27, 2017, received November 6, 2017, and including Exhibits A through L; (2) received November 21, 2017 and including Exhibits A through HH; and (3) dated December 12 (or 15), 2017, received December 27, 2017, and including Exhibits II through WW. The Division's reply, dated December 20, 2017, was received December 22, 2017. In a January 19, 2018, filing the Division stated that it did not intend to file a further reply to Respondent's December 12 submission, which it received on December 21.

The undersigned has completed the reexamination of the record as ordered by the Commission's November 30, 2017, order concerning administrative proceedings. *Pending Admin. Proc.*, Securities Act of 1933 Release No. 10440, 2017 SEC LEXIS 3724 (Remand Order). As the parties were previously notified, the Remand Order ratified the appointment of the undersigned as an Administrative Law Judge and directed her to "[r]econsider the record, including all substantive and procedural actions taken by an administrative law judge" and "[d]etermine . . . whether to ratify or revise . . . all prior actions" in pending proceedings. *Id.* at *3; *see Rosalind Herman*, Admin. Proc. Rulings Release No. 5410, 2017 SEC LEXIS 4157 (A.L.J. Dec. 19, 2017).

As required by the Remand Order, the parties were invited to “submit any new evidence [they deem] relevant to the [undersigned’s] reexamination of the record” by January 5, 2018. *Id.* This date was extended to February 2, 2018, at Respondent Herman’s request. *Rosalind Herman*, Admin. Proc. Rulings Release No. 5537, 2018 SEC LEXIS 276 (A.L.J. Jan. 26, 2018). She was reminded that she had been invited to submit “new evidence” relevant to the undersigned’s reexamination of “all substantive and procedural actions taken by an administrative law judge” in this proceeding and that, as of November 30, 2017, and, to date, only procedural actions – setting and postponing dates for filing motions and responsive pleadings – had been taken by an administrative law judge in this proceeding.¹ *Id.* Neither party submitted such new evidence.²

The undersigned has reconsidered the record and determined to ratify “all prior actions” that she took prior to November 30, 2017.³ The process required by the Remand Order has been completed.

IT IS SO ORDERED.

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

¹ By letter dated January 31, 2018, Respondent Herman requested an extension of the February 2 date for her response, expressing a concern that her December submission that included Exhibits II through WW had not been received. The undersigned understands this extension request to refer to Respondent Herman’s opposition to the motion for summary disposition and not to the submission of “new evidence” relevant to the undersigned’s reexamination of procedural actions, which consisted only of setting and postponing dates for filing motions and responsive pleadings. The request is moot as the December submission including Exhibits II through WW had actually been received.

² The Division of Enforcement filed a letter generally urging ratification.

³ Previously, the Chief Administrative Law Judge ratified her designation of the undersigned as the presiding administrative law judge in this proceeding. *Rosalind Herman*, Admin. Proc. Rulings Release No. 4593, 2017 SEC LEXIS 418 (C.A.L.J. Feb. 8, 2017); *Pending Admin. Proc.*, Admin. Proc. Rulings Release No. 5247, 2017 SEC LEXIS 3780 (C.A.L.J. Dec. 4, 2017).