

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

Administrative Proceedings Rulings
Release No. 5608 / February 15, 2018

Administrative Proceeding
File Nos. 3-18175 and 3-18236

In the Matters of

**Daryl G. Bank and
Bobby D. Jones**

Order Ratifying Prior Actions

On November 30, 2017, the Securities and Exchange Commission issued an order ratifying my appointment as an administrative law judge and requiring me to reconsider all procedural and substantive actions I took in this proceeding. *Pending Admin. Proc.*, Securities Act of 1933 Release No. 10440, 2017 SEC LEXIS 3724, at *1-2. The parties were given the opportunity to submit new evidence that they deemed relevant to my reexamination of the record. *Daryl G. Bank, LLC*, Admin. Proc. Rulings Release No. 5314, 2017 SEC LEXIS 3925 (ALJ Dec 7, 2017).¹

The Division of Enforcement submitted a motion requesting that I ratify my prior actions. Respondent Bobby D. Jones did not submit new evidence, but submitted a motion stating that because he has appealed the underlying civil judgment on which this follow-on proceeding is based, ratification would be premature and may cause him irreparable harm.

However, it is well-established that an administrative proceeding may continue despite the appeal or potential reconsideration of an underlying civil or criminal matter. *See Jon Edelman*, File No. 3-8950, 1996 SEC LEXIS 3560, at *2 (May 6, 1996); *Charles Phillip Elliott*, Exchange Act Release No. 31202, 1992 SEC LEXIS 2334, at *11 n.15 (Sept. 17, 1992). If Jones is

¹ This proceeding has ended as to Daryl G. Bank. *Daryl G. Bank*, Securities Exchange Act of 1934 Release No. 82711, 2018 SEC LEXIS 463 (Feb. 14, 2018).

successful in reversing the underlying judgment, he can petition to have any bar or other sanction that may be imposed in this proceeding lifted (or to have this proceeding dismissed, if it is still pending). *See Charles Phillip Elliott*, 1992 SEC LEXIS 2334, at *11 n.17; *Gary L. Jackson*, Accounting and Auditing Enforcement Release No. 85, 1986 SEC LEXIS 2230, at *7 n.3 (Jan. 21, 1986). *See also, e.g., Richard L. Goble*, Exchange Act Release No. 68651, 2013 SEC LEXIS 129 (Jan. 14, 2013) (dismissing follow-on administrative proceeding after court of appeals, while petition for review was pending before Commission, vacated injunction that was basis for OIP).

Moreover, it is of note that the only actions taken in this proceeding as to Jones were: (1) my appointment as the presiding judge in this proceeding, which has already been ratified, *Pending Admin. Proc.*, Admin. Proc. Rulings Release No. 5247, 2017 SEC LEXIS 3780 (ALJ Dec. 4, 2017); (2) the consolidation of the action against him with that of Bank, who has now settled, *Daryl G. Bank*, Admin. Proc. Rulings Release No. 5179, 2017 SEC LEXIS 3305 (ALJ Oct. 16, 2017); and (3) a finding that because Jones answered, he was deemed to have been properly served—which I made after the Commission ratified my appointment. *Daryl G. Bank*, 2017 SEC LEXIS 3925, at *2. For all of these reasons, Jones has not shown that ratification of my prior actions as to him is premature or would cause him harm.

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

Jason S. Patil
Administrative Law Judge