

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

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ADMINISTRATIVE PROCEEDING
File No. 3-15255

In the Matter of :
:
JOHN THOMAS CAPITAL MANAGEMENT :
GROUP, LLC, d/b/a PATRIOT 28, LLC, and :
:
GEORGE R. JARKESY JR., :
:
Respondents. :
:

**THE DIVISION OF ENFORCEMENT’S RESPONSE TO RESPONDENTS’ MOTION
TO VACATE REMAND FOR COMMISSION ADJUDICATION OF PETITIONS
FOR REVIEW AND FOR THE ISSUANCE OF A FINAL ORDER**

The Division of Enforcement (“Division”) submits the following response to the Motion to Vacate Remand for Commission Adjudication of Petitions for Review and for the Issuance of a Final Order (“Motion to Vacate”) filed by Respondents George R. Jarquesy Jr. and John Thomas Capital Management Group, LLC d/b/a/ Patriot 28, LLC (collectively “Respondents”).

While the Division does not join Respondents’ motion because the Division strongly disagrees with much of the Respondents’ argument in support of its request, the Division does not oppose Respondents’ efforts to have the Commission proceed on the original Initial Decision and briefing before the Commission on the original cross-petitions for review. The Division believes that the Commission may do so by vacating, solely as to Respondents, the remand for further proceedings contained in its August 22, 2018 order, and thereby reinstating the Initial Decision. The Division takes this position only in light of Respondents’ “express[]” and

“knowing” waiver agreeing to “forfeit and forego, to the fullest extent permitted by applicable law, any and all claims, in [this] administrative proceeding . . . and in any subsequent appeal of this Matter, that [ALJ] Foelak was not properly appointed under the Appointments Clause of the United States Constitution,” as well as Respondents’ commitment to “withdraw any Appointments Clause claims in Respondents’ pending petition for review.” Again, it is only under these precise circumstances that the Division agrees that the Commission can and should proceed to decide this matter on the original briefing before the Commission.

Respectfully Submitted,



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