

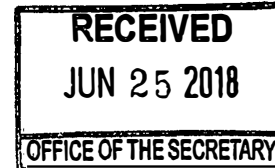
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June 21, 2018

VIA FACSIMILIE AND FEDERAL EXPRESS

Mr. Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F. Street N.E.
Mail Stop 1090
Washington D.C. 20549



Re: Administrative Proceedings File No. 3-15514
In the Matter of Donald J. Anthony, Jr., et al.

Dear Mr. Fields:

I represent Thomas Livingston in the above-referenced proceeding. I write to join in the letter brief filed on June 21, 2018 by counsel for Philip Rabinovich and Brian Mayer concerning the impact of the Supreme Court's decision in *Lucia v. SEC*, 585 U.S. ____ (2018).

Mr. Livingston has also contested the validity of ALJ Murray's appointment and objected to the reexamination and ratification of her own initial decision, which was made when ALJ Murray was not constitutionally appointed. This process is clearly contrary to the Court's decision in *Lucia*.

Just like in *Lucia*, ALJ Murray, even if later constitutionally appointed, heard Livingston's case and issued an initial decision prior to being appointed. As the Court held, the later appointment of that same ALJ cannot cure the constitutional violations because the original ALJ "cannot be expected to consider the matter as though he had not adjudicated it before." *Lucia*, slip op. at 12. Therefore, *Lucia* requires that Mr. Livingston be granted a new, full evidentiary hearing before a different ALJ or the Commission itself. However, as set forth in Rabinovich and Mayer's letter brief, the entire proceeding must be dismissed with prejudice because it is time barred under 28 U.S.C. § 2462. Indeed, the last sale by Mr. Livingston of any securities at issue in the Division's case occurred more than 9 years ago and approximately 90% of the sales occurred prior to 2008. Among other concerns, it is not realistic that investors will credibly remember the circumstances of their purchases that occurred more than a decade ago.

We appreciate the Commission's attention to these matters. This letter is being filed by fax with the original and three copies being sent via overnight delivery.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. G. Nielsen', written in a cursive style.

Matthew G. Nielsen

c:

David Stoeling, Esq.
(by Federal Express and e-mail)

All Respondents' counsel
(by Federal Express and e-mail)

CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2018, I filed this document with the Office of the Secretary of the Commission via facsimile and contemporaneously sent via Federal Express the original and three copies and served the document as follows:

Via Federal Express and E-mail

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