

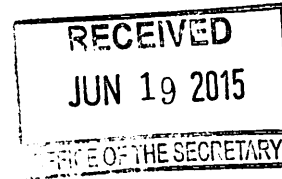
UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16178

In the Matter of

Gregory T. Bolan, Jr. and
Joseph C. Ruggieri,

Respondents.



Respondent Ruggieri's Reply to the Division's Response to his Constitutional Objection

On May 28, 2015, the Court issued an Order stating that it would consider Respondent Joseph C. Ruggieri's objections to the Administrative Proceeding. While preserving the following objections, Mr. Ruggieri respectfully requests that this Court decide the case on its merits in order to fully vindicate him:

1. The Administrative Proceeding violated the Appointments Clause. The Supreme Court has held that the SEC Commissioners, themselves, collectively hold the power to appoint "inferior Officers" within the meaning of the Clause. *See Free Enterprise Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477, 512-13 (2010). Yet the Commissioners have not appointed the SEC ALJs, a defect specific to the SEC's ALJ program. *See Hill v. SEC*, No. 15-cv-1801 (N.D. Ga. June 8, 2015) (ECF No. 28) (granting preliminary injunction).¹

2. The proceeding violated Article II of the Constitution because two layers of protection protect ALJs. In *Free Enterprise Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477, 512-13 (2010), the Supreme Court held that Officers of the United States — charged with executing the

¹ As ALJ Grimes found in his May 14, 2015 Order in *Hill* (AP File No. 3-16383), this Court similarly may find that it lacks the authority to rule on the Constitutional challenges set forth.

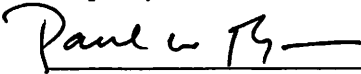
laws, a power vested by the Constitution solely in the President — may not be separated from Presidential supervision and removal by more than one layer of tenure protection. SEC ALJs enjoy at least two, and likely more, layers of tenure protection, and hearings before them therefore violate Article II and are unconstitutional.

3. Congress's delegation of authority to the SEC to pursue cases before ALJs violates the delegation doctrine in Article I of the Constitution.

4. The administrative proceeding violated Mr. Ruggieri's right to a jury trial.

Dated: New York, New York
June 18, 2015

Serpe Ryan LLP

By:  _____

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June 18, 2015

BY FEDERAL EXPRESS

Brent J. Fields, Secretary
Office of the Secretary
Securities and Exchange Commission
100 F Street N.E., Mail Stop 3628
Washington, DC 20549



Re: *In the Matter of Gregory T. Bolan, Jr. and Joseph C. Ruggieri,*
AP File No. 3-16178

Dear Mr. Fields:

Please find enclosed Respondent Joseph C. Ruggieri's Reply Memorandum to the Division of Enforcement's Response to his Constitutional Objection. In accordance with Rule of Practice 152(d), I submit for filing an original and three copies.

Respectfully,

A handwritten signature in blue ink that reads "Paul W. Ryan" with a horizontal line extending to the right.

Paul W. Ryan

cc: The Honorable Jason S. Patil (by email to ALJ@sec.gov)
Sandeep Satwalekar, Division of Enforcement (by email)