

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16293

In the Matter of

LAURIE BEBO, and
JOHN BUONO, CPA

Respondents.

RESPONDENT LAURIE BEBO'S
SUPPLEMENTAL PETITION FOR
REVIEW OF THE ALJ'S ORDER
RATIFYING ACTIONS

Pursuant to Commission Rules of Practice 410-11, Respondent Laurie A. Bebo, by and through her counsel, Reinhart Boerner Van Deuren s.c., hereby respectfully petitions the Securities and Exchange Commission (the "Commission") for review of the February 16, 2018 Order Ratifying Actions rendered by Administrative Law Judge Cameron Elliot ("ALJ"). Bebo seeks review under Rule of Practice 411(b)(2) of the numerous prejudicial errors of law identified in this petition and the further violation of her constitutional rights resulting from the Commission's unconstitutional ratification process. These issues should be joined with the issues identified in Bebo's Petition for Review of the Initial Decision filed with the Commission on November 13, 2015 (which issues have been briefed by the parties), although the Commission should, pursuant to Rule 450, order additional briefing on the issues raised in this Supplemental Petition for Review of the ALJ's Order Ratifying Actions. *See, e.g. Timothy W. Carnahan, Securities Act Rel. No. 10457 (Feb. 8, 2018).*

ARGUMENT

For years, the Commission opposed Bebo's and other respondents' arguments that ALJ's overseeing Commission adjudications of alleged violations of federal securities laws were inferior officers that were hired contrary to the Appointments Clause of Article II, Section 2 of

the United States Constitution. On November 29, 2017 the government reversed its position in a filing with the United States Supreme Court in *Raymond J. Lucia, et al. v. SEC*, No. 17-130. There, the United States acknowledged that Commission ALJ's were inferior officers subject the Appointments Clause.¹

The following day, the Commission issued an order in this administrative proceeding stating that "in its capacity as head of a department, [it] hereby ratifies the agency's prior appointment of Chief Administrative Law Judge Brenda Murray and Administrative Law Judges Carol Fox Foelak, Cameron Elliot, James E. Grimes, and Jason S. Patil." *In re Pending Admin. Proceedings*, Securities Act Rel. No. 10440 at 1. It also instructed the ALJ presiding over this proceeding to "[r]econsider the record, including all substantive and procedural actions taken" and to determine "whether to ratify or revise in any respect" any of the prior actions taken by this Court in this case. *Id.*

Bebo participated in the remand proceeding solely to assert her position that the ALJ never had any constitutional or legal authority to preside over Bebo's proceeding and that the Commission's Order provided him with no constitutional or legal authority to preside over the ratification scheme proposed by the Commission.²

In her January 25, 2018 brief submitted to the ALJ, Bebo demonstrated that (1) well-established United States Supreme Court precedent provides that the appropriate remedy where an unlawful or unconstitutional judge has presided over an administrative proceeding is a new proceeding, if it would not be time-barred. Ratification is not legally viable under the

¹ On January 12, 2018, the Supreme Court granted *certiorari* in the *Lucia* case. Oral argument is currently scheduled to take place on April 23, 2018.

² This, of course, is in addition to all of the other constitutional infirmities, factual error, and legal error that Bebo has identified in prior submissions to the ALJ and Commission in this administrative proceeding, which Bebo does not waive by filing this Supplemental Petition for Review or otherwise continuing to participate in these proceedings.

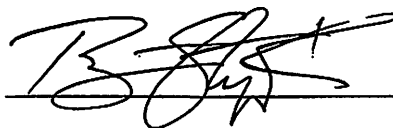
circumstances here. And because any new proceeding would be time-barred, this case should be dismissed (or at a minimum must start over in front of a different, constitutionally appointed officer if somehow not time-barred); (2) the Commission's purported "fix," actually fixes nothing because, on its face, it purports to ratify the "agency's prior appointment" of Commission ALJs, which indisputably never occurred in the first place; and (3) the government's admission that Commission ALJs are inferior officers under Article II necessarily requires a finding that they continue to be unconstitutional under the Supreme Court's decision in *Free Enterprise Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477 (2010).

The ALJ rejected each of these arguments. In doing so, the ALJ reached erroneous conclusions of law. Moreover, the Order Ratifying Actions purports to ratify "all prior actions" taken by the ALJ in the proceeding, which is *ultra vires* and a legal impossibility because it would ratify the prior decision refusing to dismiss the case because of the ALJ's unconstitutional hiring. Bebo hereby requests that the Commission grant her petition to review the issues presented above in her challenges to the constitutional and legal viability of the Commission's ratification scheme.

Dated this 8th day of March, 2018.

REINHART BOERNER VAN DEUREN S.C.
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CERTIFICATE OF SERVICE


Ryan S. Stippich of Reinhart Boerner Van Deuren s.c. certifies that on March 8, 2018, he caused a true and correct copy of Respondent Laurie Bebo's Supplemental Petition for Review of the ALJ's Order Ratifying Actions to be served on the following by e-mail and United States mail:

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Dated this 8th day of March, 2018.

REINHART BOERNER VAN DEUREN S.C.
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