



Heidi E. VonderHeide
Attorney

DIRECT 312.658.6512
DIRECT FAX 312.658.6513
EMAIL hvonderheide@ulmer.com

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VIA EMAIL AND FAX

Honorable Brenda Murray
Chief Administrative Law Judge
Office of Administrative Law Judges
Securities and Exchange Commission
100 F Street, NE, Mail Stop 2557
Washington, DC 20549
Fax: 202-777-1031
Email: alj@sec.gov

**Re: In the Matter of James A. Winkelmann, Sr. and Blue Ocean Portfolios
(AP File No. 3-17253)**

Dear Chief Judge Murray:

I write on behalf of the Respondents in this matter, James A. Winkelmann and Blue Ocean Portfolios, LLC ("Respondents"). Pursuant to the Notice and Order from your office dated August 22, 2018, please be advised that Respondents hereby request to use alternative procedures to resolve this dispute instead of the *Lucia* procedures set forth in the Order. The Division of Enforcement ("Division") consents to Respondents' request. Because the agreed-upon procedure corresponds to the unique procedural posture of this dispute, a brief history of the case is provided.

At the time the Commission entered its November 30, 2017 order, this case was pending before the Commission on the parties' cross-appeal of the Initial Decision entered by the Honorable Judge Patil on March 20, 2017. As a result of the Commission's November 30, 2017 order, the case was remanded to Judge Patil. While on remand, and pursuant to that same order, Respondents directed to Judge Patil's attention additional evidence that they had presented to the Commission in support of their petition for review. After receiving the parties' briefs, on February 14, 2018 Judge Patil entered an order extending the deadline to issue an order on ratification to April 13, 2018 for the stated reason that "the parties' filings raise issues that will take time to resolve." No order was ever entered. On June 27, 2018, this case was stayed pending the Supreme Court's consideration of *Lucia v. SEC* and remained stayed until the Commission's order of August 22, 2018 followed by your Order of August 23, 2018.

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Pursuant to your August 23, 2018 Order, Respondents elect to proceed before Judge Patil, who presided over this matter before the Supreme Court decided *Lucia*. The case can resume where it left off and the matter be re-submitted to Judge Patil on the record already established (including the new evidence submitted to the Commission and again on remand). The Division consents to Respondents' request. Because the parties have

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agreed that no further evidence, testimony, argument or briefing before Judge Patil is required, the matter can be re-submitted to Judge Patil without further proceedings.

Respondents, in electing to proceed by alternative procedure, recognize that, according to *Lucia*, Respondents are entitled to a "new hearing" before "another ALJ (or the Commission itself)." 138 S. Ct. 2044, 2055 (2018). Respondents knowingly and voluntarily waive any claim or entitlement to such a new hearing before another ALJ or the Commission itself. Respondents instead knowingly and voluntarily elect to proceed before Judge Patil. Additionally, Respondents knowingly and voluntarily waive any and all challenges to this administrative proceeding (including any and all orders that may be issued during or at the conclusion of those proceedings, whether before an ALJ, the Commission, or a federal court) based upon any alleged or actual defect in the appointment or removal protections of Judge Patil.

If you have any questions, please contact me at any time. Counsel for the Division is copied on this communication.

Yours very truly,



Heidi E. VonderHeide

cc: Benjamin J. Hanauer (via email only at HanauerB@sec.gov)