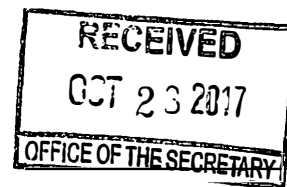


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**UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING
File No. 3-17950**

In the Matter of

David Pruitt, CPA,

Respondent.

**DIVISION OF ENFORCEMENT'S OPPOSITION TO
RESPONDENT'S MOTION TO CERTIFY FOR INTERLOCUTORY REVIEW**

Respondent's motion for certification should be denied. There is no substantial ground for difference of opinion as to the Commission's interpretation of the Appointments Clause: The Commission has consistently adhered to its position that Administrative Law Judges are employees not subject to the Appointments Clause's requirements, *see* U.S. Const. art. II, §2, cl. 2. *See, e.g., Bennett Grp. Fin. Servs., LLC & Dawn J. Bennett*, Securities Act Release No. 10331, 2017 WL 1176053, at *5 (Mar. 30, 2017), *pet. filed* (10th Cir. No. 17-9524). The Commission is entitled to continue to proceed with the system of adjudication that it has used for generations to determine, for instance, whether respondents like Mr. Pruitt have engaged in conduct that would indicate an unfitness to appear before the Commission.

Respondent's request for a stay pending interlocutory review likewise has no merit. He offers no reason for why a stay is warranted apart from his general complaint—which has been rejected by the Commission—that Administrative Law Judges are officers rather than employees. And the Commission has rejected stay requests in similar circumstances. *See In the*

Matter of Lynn Tilton et al., Admin. Proc. File No. 3-16462 (July 28, 2017), at
<https://www.sec.gov/litigation/opinions/2017/ia-4735.pdf>.

Respondent's motion should thus be denied in all respects.

Dated: October 20, 2017
New York, New York

DIVISION OF ENFORCEMENT

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