

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-18414

In the Matter of

Eugene Terracciano,

Respondent



PARTIES' JOINT AGREEMENT ON ALTERNATIVE PROCEDURES

The Division of Enforcement ("Division"), by counsel, and Respondent Eugene Terracciano ("Terracciano"), by his counsel, (collectively the "Parties") hereby submit this express agreement regarding alternative procedures for resolving this matter pursuant to the Commission's Order of August 22, 2018 in *In re Pending Administrative Proceedings*.

The Commission instituted these proceedings on March 28, 2018, and on the same day, the case was assigned to Administrative Law Judge ("ALJ") Carol Fox Foelak and the hearing was set for April 30, 2018. No hearing was held. During the prehearing conference, ALJ Foelak granted the Parties' joint request for a stay of the case pending Commission consideration of Terracciano's Offer of Settlement. On July 6, 2018, the Commission accepted Terracciano's Offer of Settlement, in which he consented to the issuance of an order finding that he willfully aided and abetted and caused Aegis Capital Corporation's violations of Section 17(a) of the Securities Exchange Act of 1934 and Rule 17a-8 thereunder; ordering him to pay a civil penalty in the amount of \$20,000; and

ordering continued proceedings on the record in which an ALJ will determine what, if any, remedial action is appropriate in the public interest. Pursuant to Terracciano's Offer of Settlement and the Commission's July 6, 2018 Order Making Findings, Imposing Sanctions and a Cease-and-Desist Order, and Ordering Continuation of Proceedings, Terracciano waived—with the exception of the lone remaining issue to be determined, concerning what if any remedial action is appropriate in the public interest—the rights specified in Commission Rule of Practice 240(c)(4), including but not limited to all hearings, proceedings before (and an initial decision by) a hearing officer, and judicial review by any court.

The Parties hereby expressly agree as follows:

1. The case will go forward with and before ALJ Carol Fox Foelak, who presided over these proceedings before the Supreme Court decided *Lucia v. SEC*, 138 S. Ct. 2044 (2018). Although no hearing was previously held, Terracciano knowingly and voluntarily waives any claim or entitlement to a new hearing before another ALJ or the Commission itself, pursuant to *Lucia*. Terracciano knowingly and voluntarily elects to proceed before ALJ Foelak.
2. Terracciano and the Division also agree that the representations and undertakings contained in Terracciano's Offer of Settlement, which was accepted by the Commission on July 6, 2018, will govern the remainder of these proceedings. Review of the resulting initial decision will proceed according to the Commission's Rules of Practice, including Rule 410. Terracciano knowingly and voluntarily waives any and all challenges to these administrative proceedings or any and all orders that may be issued during or

at the conclusion of these proceedings, whether before an ALJ, the Commission, or any court, based upon any alleged or actual defect in the appointment of ALJ Foelak.

Dated: September 7, 2018

Respectfully submitted,



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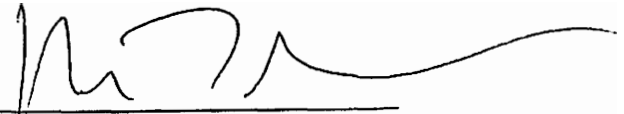
CERTIFICATE OF SERVICE

I hereby certify that true copies of the Parties' Joint Agreement on Alternative Procedures were served on the following on this 7th day of September, 2018, in the manner indicated below:

By Email:

The Honorable Brenda P. Murray
Chief Administrative Law Judge
Securities and Exchange Commission
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Washington, DC 20549-2557
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The Honorable Carol Fox Foelak
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