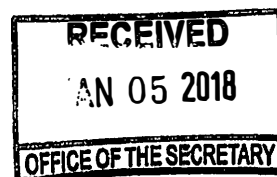




UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Boston Regional Office
33 Arch St., 24th Floor
Boston, MA 02110-1424
Telecopier: (617) 573-4590



DIVISION OF ENFORCEMENT

Kathleen Shields
Senior Trial Counsel
Shieldska@sec.gov
(617) 573-8904

January 3, 2018

SENT BY OVERNIGHT DELIVERY

The Honorable Carol Foelak
Office of Administrative Law Judges
Securities and Exchange Commission
100 F Street, N.E., Mail Stop 2585
Washington, D.C. 20549-2557

Re: *In the Matter of Rosalind Herman*, AP File No. 3-17828

Dear the Honorable Judge Foelak:

In connection with the above-referenced administrative proceedings, the following sets forth the Division of Enforcement's ("Division") view of the issue of ratification of your prior orders, and attaches a proposed Order. This letter responds to your Honor's Order issued on December 19, 2017.

On November 30, 2017, the Commission issued an order ratifying the prior appointment of its administrative law judges to preside over administrative proceedings. *See In re: Pending Administrative Proceedings*, Securities Act Release No. 10440 (Nov. 30, 2017). As applied to this proceeding, the order directs the administrative law judge to determine, based on a de novo reconsideration of the full administrative record, whether to ratify or revise in any respect all prior actions taken by any administrative law judge during the course of this proceeding. *Id.* at 1-2.

It is well established that subsequent ratification of an earlier decision rendered by an unconstitutionally appointed officer remedies any alleged harm or prejudice caused by the violation. *See Doolin Sec. Sav. Bank, F.S.B. v. Office of Thrift Supervision*, 139 F.3d 203, 213-14 (D.C. Cir. 1998); *FEC v. Legi-Tech, Inc.*, 75 F.3d 704, 707-09 (D.C. Cir. 1996). And that principle applies whether or not the ratifying authority is the same person who made the initial decision, so long as "the ratifier has the authority to take the action to be ratified," and, "with full knowledge of the decision to be ratified," makes a "detached and considered affirmation of th[at] earlier decision." *Advanced Disposal Services East, Inc. v. NLRB*, 820 F.3d 592, 602-03 (3d Cir. 2016).

Accordingly, to implement this remedy, the administrative law judge should conduct a de novo review of the administrative record, engage in an independent evaluation of the merits through the exercise of detached and considered judgment, and then determine whether prior actions should be ratified and thereby affirmed. This process ensures "that the ratifier does not blindly affirm the earlier decision without due consideration." *Advanced Disposal Services East*, 820 F.3d at 602-03.

The Division submits that the previous decisions issued by an administrative law judge in this proceeding were well-founded and respectfully requests that they be ratified. To that end, the Division attaches a proposed draft order to this letter.

A copy of this letter has been filed with the Office of the Secretary and served on the Respondent Mrs. Herman. If you have any questions, you may contact me at 617-573-8904.

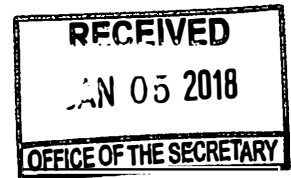
Sincerely,

A handwritten signature in cursive script that reads "Kathleen Shields".

Kathleen Shields
Senior Trial Counsel

Enclosure: Proposed Order, Certificate of Service
CC: Office of the Secretary
Rosalind Herman

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING
File Nos. 3-17828

In the Matter of

ROSALIND HERMAN

Respondent.

[PROPOSED]
ORDER FOLLOWING REMAND

After a de novo review and reexamination of the record in these proceedings, I have reached the independent decision to ratify and affirm all prior actions made by an administrative law judge in these proceedings. This decision to ratify and affirm is based on my detached and considered judgment after an independent evaluation of the merits.

Carol Fox Foelak
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that true copies of the Division of Enforcement's January 3, 2018 letter to Judge Foelak and its Proposed Order Following Remand were served on the following on this third day of January, 2018 in the manner indicated below:

By Overnight Mail:

Brent J. Fields, Secretary
Office of the Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Judge Carol Foelak
Office of Administrative Law Judges
Securities and Exchange Commission
100 F Street, NE, Mail Stop 2585
Washington, DC 20549

By First Class Mail:

Rosalind Herman
Register No. [REDACTED]
[REDACTED]
[REDACTED]
Danbury, CT [REDACTED]

Kathleen Shields
Kathleen Shields