

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10536 / August 22, 2018

SECURITIES EXCHANGE ACT OF 1934
Release No. 83907 / August 22, 2018

INVESTMENT ADVISERS ACT OF 1940
Release No. 4993 / August 22, 2018

INVESTMENT COMPANY ACT OF 1940
Release No. 33211 / August 22, 2018

In re:
Pending Administrative Proceedings

ORDER

On November 30, 2017, we ratified the appointments of Chief Administrative Law Judge Brenda Murray and Administrative Law Judges Carol Fox Foelak, Cameron Elliot, James E. Grimes, and Jason S. Patil to the office of administrative law judge in the Securities and Exchange Commission.¹ In an abundance of caution and for avoidance of doubt, we today reiterate our approval of their appointments as our own under the Constitution.

In light of the Supreme Court's decision in *Lucia v. SEC*,² we previously stayed any pending administrative proceeding initiated by an order instituting proceedings that commenced the proceeding and set it for hearing before an ALJ, including any such proceeding currently pending before the Commission.³ We now find it prudent to allow the stay to expire effective today, August 22, 2018.

With respect to any such proceeding currently pending before an ALJ or the Commission, we order that respondents be provided with the opportunity for a new hearing before an ALJ who did not previously participate in the matter. We remand all proceedings currently pending before the Commission to the Office of Administrative Law Judges for this purpose and vacate any

¹ *Order*, Exchange Act Release No. 82178, 2017 WL 5969234 (Nov. 30, 2017); *see also SEC Ratifies Appointment of Administrative Law Judges*, <https://www.sec.gov/news/press-release/2017-215> (Nov. 30, 2017).

² 138 S. Ct. 2044 (2018).

³ *Order*, Exchange Act Release No. 83675, 2018 WL 3494802 (July 20, 2018); *Order*, Exchange Act Release No. 83495, 2018 WL 3193858 (June 21, 2018).

prior opinion we have issued in the matter. A list of matters is attached as Exhibit A. In these matters, as well as the matters currently pending before an ALJ, we direct the conduct of further proceedings consistent with this order and the Court's decision in *Lucia v. SEC*. The ALJs are directed to notify the parties in the cases pending before them of this order.

Any pending deadlines in each administrative proceeding currently pending before an ALJ or remanded to the Office of Administrative Law Judges, as described above, are hereby vacated and superseded by the procedures and deadlines set forth in this order. In each such proceeding, absent express agreement by the parties regarding alternative procedures, the Chief Administrative Law Judge shall by rotation to the extent practicable designate an ALJ who did not previously participate in the matter to be the presiding hearing officer.⁴ Any agreement by the parties regarding alternative procedures shall be submitted to the Chief Administrative Law Judge by September 7, 2018. In all cases, assignments shall be made no later than September 21, 2018.

The assigned ALJ shall exercise the full powers conferred by the Commission's Rules of Practice and the Administrative Procedure Act and shall not give weight to or otherwise presume the correctness of any prior opinions, orders, or rulings issued in the matter.⁵ Within 21 days of being assigned to the proceeding, the ALJ shall issue an order directing the parties to submit proposals for the conduct of further proceedings. After considering the parties' submissions, the ALJ shall hold a new hearing and prepare an initial decision; but if a party fails to submit a proposal, the ALJ may enter a default against that party pursuant to Rule of Practice 155 or impose another appropriate sanction under Rule of Practice 180.⁶

The Rules of Practice as amended on July 13, 2016 shall govern all pending proceedings,⁷ unless the presiding ALJ determines, after giving the parties notice and an

⁴ 17 C.F.R. § 200.30-10(a)(2).

⁵ *E.g.*, Rule of Practice 111, 17 C.F.R. § 201.111; 5 U.S.C. § 556.

⁶ 17 C.F.R. §§ 201.155, .180.

⁷ In proceedings instituted before the effective date of the amended Rules of Practice, the Commission directed the ALJ to issue an initial decision within 120, 210, or 300 days of service of the OIP; for purposes of applying the amended Rules of Practice to such proceedings, they shall be deemed proceedings under the 30-, 75-, or 120-day timeframes, respectively, as specified in Rule of Practice 360(a)(2). In all proceedings, the ALJ shall compute the deadlines for scheduling a hearing and issuing an initial decision as specified in amended Rule of Practice 360(a)(2) from the date the proceeding is assigned to a hearing officer pursuant to this order, rather than the date of service of the relevant order instituting proceedings. The deadlines stated in this order confer no procedural or substantive rights on any party, and the presiding ALJ may, for good cause shown, modify any of them, including the date by which the initial decision must be issued. This grant of authority allowing the presiding ALJ to modify the deadlines stated in

(footnote continued . . .)

opportunity to be heard, that application of a particular amended rule in a proceeding instituted prior to their effective date would not be just and practicable or otherwise would work a manifest injustice under the circumstances of that case, in which case the former rule applies.

This order does not preclude the Commission from assigning any proceeding to the Commission itself or to any member of the Commission at any time.

By the Commission.

Brent J. Fields
Secretary

(. . . continued)

this order supersedes the provisions in Rule of Practice 360(a)(3)(i) and (ii) governing the circumstances under which the deadlines to issue initial decisions may be extended.

Exhibit A

A.C. Simmonds, et al., File No. 3-17999
Accelerated Acquisition XVII, et al., File No. 3-18146
Aervision Holdings, Inc., et al., File No. 3-18199
Affirmative Insurance Holdings, Inc., Armada Oil, Inc., and Chuma Holdings, Inc.,
File No. 3-18378
AFN, Inc., et al., File No. 3-17743
Alexandre S. Clug, File No. 3-16318
Altovida Inc., et al., File No. 3-18104
American Magna Corp., et al., File No. 3-18105
American-Swiss Capital, Inc., et al., File No. 3-18156
Andrew Stitt, File No. 3-17621
Anthony C. Zufelt, File No. 3-17907
ARX Gold Corporation, File No. 3-18185
Atomic Paintball, Inc., et al., File No. 3-17991
Aurios, Inc., et al., File No. 3-18092
Axesstel, Inc., File No. 3-17941
Axiom Oil & Gas Corp., et al., File No. 3-18096
Balqon Corporation, et al., File No. 3-18095
Baltia Air Lines, Inc., Graphite Corp., and 24Holdings, Inc., File No. 3-18472
Barbara Duka, File No. 3-16349
Bioelectronics Corp., Ibex, LLC, St. John's, LLC, Andrew J. Whelan, and Kelly A. Whelan,
File No. 3-17104
BioPharma Manufacturing Solutions Inc., et al., File No. 3-18148
Biovest International, Inc., et al., File No. 3-17935
Bluforest, Inc., File No. 3-17558
Bohai Pharmaceuticals Group Inc., File No. 3-18151
BOLDFACE Group, Inc., et al., File No. 3-18103
Brian Michael Berger, File No. 3-18129
Canso Enterprises Ltd., et al., File Nos. 3-17984, 17985, 17986, 17987, 17988, 17989
CellCyte Genetics Corp., File No. 3-18141
Century Acquisition Corp. and Eastern Acquisition Corp., File No. 3-18162
Chile Mining Technologies Inc., File No. 3-18174
China Du Kang Co., Ltd., File No. 3-18106
China Fruits Corp., et al., File No. 3-18017
China Greenstar Corporation, et al., File No. 3-18097
China Hefeng Rescue Equipment, Inc., et al., File No. 3-18179
Christopher M. Gibson, File No. 3-17184
Cibolan Gold Corporation, File No. 3-18077
Circle Star Energy Corp. and Energy Holdings International, Inc., File No. 3-18142
CNK Global, Inc. (a/k/a American Life Holding Co., Inc.), File No. 3-18082
Cono Italiano, Inc., et al., File No. 3-18177
Core Resource Management, Inc., et al., File No. 3-18079
Creator Capital Ltd., File No. 3-18189
David F. Bandimere, File No. 3-15124
Dearborn Bancorp, Inc., File No. 3-18223

dELiA*s Inc. and Global Energy, Inc., File No. 3-18037
Demitrios Hallas, File No. 3-18229
Diane Dalmy, File No. 3-16339
Digital Brand Media & Marketing Group, Inc., File No. 3-17990
e.Digital Corp., and Liberty Coal Energy Corp., File No. 3-18475
Edward M. Daspin, File No. 3-16509
Energy Edge Technologies Corp. and Focus Gold Corp., File No. 3-18038
Engage Eco Solutions, Inc., et al., File No. 3-18191
Evolucia, Inc. and OSL Holdings, Inc., File No. 3-18014
E-Waste Systems, Inc., File No. 3-18107
Frank Chiappone, Andrew G. Guzzetti, William F. Lex, Thomas E. Livingston, Brian T. Mayer,
and Philip S. Rabinovich, File No. 3-15514
Fu Lu Cai Productions Ltd. and Heavy Earth Resources, Inc., File No. 3-18173
Gamzio Mobile, Inc., File No. 3-18170
Gary C. Snisky, File No. 3-17645
GC China Turbine Corp., File No. 3-16604
Geoglobal Resources, Inc. and USA Synthetic Fuel Corp., File No. 3-18153
Gerardo E. Reyes, File No. 3-18126
GL Capital Partners, LLC and GL Investment Services, LLC, File No. 3-17818 and 17819
GO EZ Corporation, et al., File No. 3-18204
Gregory Reyftmann, File No. 3-17959
GS Enviroservices, Inc., et al., File No. 3-17977
Guardian 8 Holdings, et al., File No. 3-18221
Hall Tees, Inc., et al., File No. 3-18155
Hampshire Group, Limited, File No. 3-18201
Hedgebrook, JayHawk Energy, Inc., and Rubicon Financial, Inc., File No. 3-18484
Hui Feng and Law Offices of Feng & Associates, P.C., File No. 3-18209
Hydrogen Future Corporation, et al., File No. 3-18220
HydroPhi Technologies Group, Inc., et al., File No. 3-18208
Ibex Advanced Mortgage Technology, Inc., File No. 3-18047
Icon Vapor, Inc., et al., File No. 3-18210
IMK GROUP, INC., et al., File No. 3-18203
Immunoclin Corp. et al., File No. 3-18190
Infinity Real Estate Holdings Corporation, et al., File No. 3-18217
Intellicell Biosciences, Inc., File No. 3-17990
J.S. Oliver Capital Management, L.P., File No. 3-15446
James A. Winkelmann and Blue Ocean Portfolios, File No. 3-17253
James E. Cohen and Joseph A. Corazzi, File No. 3-15974
James P. Griffin, File No. 3-17848
Jeffrey D. Smith, Joseph Carswell, and Michael W. Fullard, File No. 3-18271
Jeffrey Gainer, File No. 3-18130
Joe Lawler, File No. 3-17650
John Austin Gibson, Jr., File No. 3-17856
John J. Aesoph, CPA and Darren M. Bennett, CPA, File No. 3-15168
John Thomas Capital Management, L.P., and George R. Jarquesy, Jr., File No. 3-15255
Joseph J. Fox, File No. 3-16795

Joseph Vitale, File No. 3-18252
JuQun, Inc., et al., File No. 3-18193
KollagenX Corp., et al., File No. 3-18207
Kun De International Holdings, Inc., and Sutor Technology Group Limited, File No. 3-18169
Kung Fu Dragon Group Limited, File No. 3-18091
Laurie Bebo, File No. 3-16293
Lawrence E. Penn, III, File No. 3-18288
Louis V. Schooler, File No. 3-17115
Mackenzie Taylor Minerals, Inc., et al., File No. 3-18149
MarilynJean Interactive Inc., File No. 3-18445
Mark Megalli, File No. 3-18250
Medicus Homecare Inc., File No. 3-18081
Michelle L. Helterbran Cochran, CPA, File No. 3-17228
Montalvo Spirits, Inc., et al., File No. 3-18078
Neurologix, Inc., et al., File No. 3-18180
New Media Insight Group, Inc. and Pacific Sands, Inc., et al., File No. 3-18206
New Western Energy Corp. and Primco Management, Inc., File No. 3-18007
New York Sub Co., File No. 3-18038
Next Galaxy Corp. and Novamex Energy, Inc., File No. 3-18219
Patric Ken Baccam a/k/a Khanh Sengpraseuth, File No. 3-18276
Paul Edward (“Ed”) Lloyd, Jr., CPA, File No. 3-16182
Penny Auction Solutions, Inc., et al., File No. 3-18202
Raymond J. Lucia Companies, Inc. and Raymond J. Lucia, Sr., File No. 3-15006
Retirement Surety LLC, Crescendo Financial LLC, Thomas Rose, David Leeman, and David
Featherstone, File No. 3-18061
Rosalind Herman, File No. 3-17828
Roy Dekel, File No. 3-17751
Saving2Retire, LLC and Marian P. Young, File No. 3-17352
Sean P. Finn and M. Dwyer LLC, File No. 3-17693
Shervin Neman and Neman Financial, Inc., File No. 3-17699
Spring Hill Capital Markets, LLC, Spring Hill Capital Partners, LLC, Spring Hill Capital
Holdings, LLC, and Kevin D. White, File No. 3-16353
StationDigital Corp., File No. 3-18004
Talman Harris and Victor Alfaya, File No. 3-17874
Timothy W. Carnahan and CYIOS Corporation, File No. 3-16386
Tintic Gold Mining Company, File No. 3-18157
Tod A. Ditommaso, File No. 3-17550
Vortronix Technologies, Inc., File No. 3-18023
Warren D. Nadel, File No. 3-17883
William D. Bucci, File No. 3-17888