

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Administrative Proceedings Rulings
Release No. 5544 / January 26, 2018

Administrative Proceeding
File No. 3-17228

In the Matter of

**David S. Hall, P.C. d/b/a The Hall
Group CPAs,
David S. Hall, CPA,
Michelle L. Helterbran Cochran,
CPA, and
Susan A. Cisneros**

Order Ratifying Actions

The Securities and Exchange Commission remanded this case to me following the issuance of an initial decision. *See Pending Admin. Proc.*, Securities Act of 1933 Release No. 10440, 2017 SEC LEXIS 3724 (Nov. 30, 2017). Consistent with the Commission's remand order, the remaining parties were given the opportunity to submit new evidence that they deemed relevant to my reexamination of the record, as well as opening and responsive briefs.¹ *See David S. Hall, P.C.*, Admin Proc. Rulings Release No. 5412, 2017 SEC LEXIS 4163 (ALJ Dec. 20, 2017). Respondent Michelle L. Helterbran Cochran, CPA, submitted opening and responsive briefs, but no new evidence, and the Division of Enforcement submitted an opening letter and responsive brief (also with no new evidence) urging that I ratify the previous actions in this proceeding.

Helterbran renews a number of points regarding the merits of the initial decision that she previously raised in her post-hearing briefs. *See Resp. Br.* at 6-8. I have considered all these points, as directed by the November 30 order, and they are as unpersuasive now as they were originally. The only new points Helterbran raises regarding the merits of the initial decision

¹ The remaining parties are the Division of Enforcement and Michele L. Helterbran Cochran, CPA. *See Pending Admin. Proc.*, 2017 SEC LEXIS 3724, at *8.

pertain to the medical condition and in-hearing questioning of Respondent Susan A. Cisneros. *See* Helterbran Br. at 6. Helterbran cites no testimony or other evidence on the subject, however, and her points therefore present no basis for revising the initial decision.

Helterbran also presents several issues unrelated to the merits, some of which warrant discussion. She argues that the Commission’s ratification of my appointment as an administrative law judge was improper and that the procedure for removing administrative law judges violates the Constitution. Helterbran Br. at 2-4. Commission administrative law judges have in the past been hired by Commission personnel, not by the United States Office of Personnel Management, as Helterbran contends. *See Bandimere v. SEC*, 844 F.3d 1168, 1176 (10th Cir. 2016) (“Agencies hire ALJs through a merit-selection process administered by the Office of Personnel Management . . .”), *pet. for cert. filed*, No. 17-475 (Sept. 29, 2017). My appointment as the result of this hiring process has been ratified by the Commission, “thereby resolving any Appointments Clause claims” in this proceeding. *Pending Admin. Proc.*, 2017 SEC LEXIS 3724, at *4-5. Contrary to Helterbran’s argument, the dual for-cause removal restrictions on Commission administrative law judges are not unconstitutional. *See Timbervest, LLC*, Investment Advisers Act of 1940 Release No. 4197, 2015 WL 5472520, at *26-28 (Sept. 17, 2015), *pet. filed*, No. 15-1416 (D.C. Cir. Nov. 13, 2015). Lastly, “self-ratification” by a properly appointed officer is permissible, and although it requires a “detached and considered judgment” based on an “independent evaluation of the merits”—the standard I have applied here—it does not require “start[ing] at the beginning of the process” and itemizing every action taken, as Helterbran suggests. *Wilkes-Barre Hosp. Co. LLC v. NLRB*, 857 F.3d 364, 371-72 (D.C. Cir. 2017)); *see* Helterbran Br. at 4.

I have otherwise scrutinized the record in accordance with the November 30 order, and I have determined that no actions of mine or of any other administrative law judge in connection this proceeding need to be revised. Therefore, upon reconsideration of the record, I RATIFY all prior actions taken by an administrative law judge in this proceeding.² The process contemplated by the Commission’s November 30 order is complete.

Cameron Elliot
Administrative Law Judge

² My designation as the presiding administrative law judge in this proceeding has already been ratified. *Pending Admin. Proc.*, Admin. Proc. Rulings Release No. 5247, 2017 SEC LEXIS 3780 (ALJ Dec. 4, 2017).