UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

)
In re:)   **RATIFICATION AND**
Pending Administrative Proceedings   )   **RECONSIDERATION**
)   **ORDER**

On November 29, 2017, the Solicitor General on behalf of the United States submitted a brief in *Raymond J. Lucia and Raymond J. Lucia Companies, Inc. v. Securities and Exchange Commission* (No. 17-130) in which the Solicitor General agreed with the petitioners that the U.S. Supreme Court should decide whether administrative law judges of the Securities and Exchange Commission ("SEC") are Inferior Officers under the Appointments Clause, U.S. Const. art. II, § 2, cl. 2. The Solicitor General took the position that SEC administrative law judges are Inferior Officers for purposes of the Appointments Clause but recommended that the Supreme Court appoint an amicus curiae to defend the contrary judgment of the Court of Appeals for the District of Columbia Circuit.

The Commission employs no administrative law judges. The Commission does employ a Judgment Officer, but makes no determination about whether the Judgment Officer is akin to an SEC administrative law judge for purposes of the Appointments Clause. Nevertheless, the Commission—in its capacity as head of a department—hereby ratifies the agency's prior appointment of Judgment Officer Kavita Kumar Puri.

In addition, the Commission orders the Judgment Officer, in proceedings now pending before her, to undertake the following actions in each of those proceedings:

• Reconsider the record, including all substantive and procedural actions taken;

• Issue an order granting parties until April 25, 2018, to submit any new evidence the parties deem relevant to the Judgment Officer's reexamination of the record;

• Determine, based on such reconsideration, whether to ratify or revise in any respect all prior actions taken by the Judgment Officer in the proceeding; and

• By June 8, 2018, issue an order in each case stating that the Judgment Officer has completed the reconsideration ordered above and setting forth a determination regarding ratification.

The Commission hereby tolls the time periods in Part 12 of the Commission's Regulations until the Judgment Officer issues the order on ratification. The Judgment Officer is directed to notify the parties in the cases pending before them of this order.

In matters pending before the Commission in which the Judgment Officer has issued a decision, the Commission hereby remands such matters to the Judgment Officer. A list of matters is attached as Exhibit A to this Order. The Judgment Officer is ordered to undertake the following actions in each of those proceedings:

• Reconsider the record, including all substantive and procedural actions taken by the Judgment Officer;

• Issue an order granting parties until April 25, 2018, to submit any new evidence the parties deem relevant to the Judgment Officer's reexamination of the record;

• Determine, based on such reconsideration, whether to ratify or revise in any respect all prior actions taken by the Judgment Officer in the proceeding; and

• By June 8, 2018, issue an order in each case stating that the Judgment Officer has completed the reconsideration ordered above and setting forth the determination regarding ratification.

The Judgment Officer may, for good cause shown, modify these deadlines, including the date by which the Judgment Officer's order on ratification is to be issued.

IT IS SO ORDERED.

By the Commission (Chairman GIANCARLO and Commissioners QUINTENZ and BEHNAM).

Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission

Dated: April 6, 2018

Exhibit A
to the Commission's Ratification and Reconsideration Order

- *Ronald S. Draper v. Main Street Trading, Incorporated, Wedbush Securities, Incorporated, KCG Americas LLC, and Patrick J. Flynn,* **No. 16-R003**

- *Suntex Corporation v. Jacob Michael Hinkle, John William Sendlosky, and Trade Station Securities, Incorporated,* **No. 16-R006**