

[Securities Regulation Daily Wrap Up, ENFORCEMENT—SEC to review ALJ's insider trading 'personal benefit' decision, \(Dec. 16, 2015\)](#)

Securities Regulation Daily Wrap Up

[Click to open document in a browser](#)

By [Kevin Kulling, J.D.](#)

The SEC will review an ALJ's initial decision dismissing administrative proceedings against a former trader at Wells Fargo Securities after the ALJ found that the Division of Enforcement did not meet its burden in the insider trading case of establishing that the tipper provided inside information for “personal benefit” (*In the Matter of Joseph C. Ruggieri*, [Release No. 33-9985](#), December 10, 2015).

Insider trading allegations. The case involves fraud allegations against Joseph C. Ruggieri, who allegedly received inside information from Gregory Bolan, a former Wells Fargo research analyst. Following a 12- day hearing, the ALJ held that although the Division established that Ruggieri traded on tips, it did not satisfy its burden of establishing that Bolan tipped Ruggieri for a personal benefit within the meaning of *Dirks v. SEC* and *United States v. Newman*. Accordingly, the ALJ dismissed the proceeding.

Bolan allegedly tipped Ruggieri of forthcoming ratings changes regarding six stocks before they were made public. Ruggieri then allegedly used the tips to profitably trade in those stocks in a Wells Fargo institutional account, ahead of those ratings changes.

The Division filed a petition for review of the initial decision on October 5, 2015, asserting that the law judge erred in finding that Bolan did not tip Ruggieri for a personal benefit. The Division argues that the ALJ misapplied *Newman* and *Dirks* and drew impermissible inferences.

Ruggieri filed a cross petition seeking review of the law judge's finding that Ruggieri was tipped about inside information and traded based on those tips. Ruggieri also sought summary affirmance of the ALJ decision, which was denied. The Commission said that under the Rules of Practice, it “will decline to grant summary affirmance upon a reasonable showing that the [decision](#) embodies an exercise of discretion or decision of law or policy that is important and that the Commission should review.”

Important matters of public interest. The Commission said that summary affirmance was not appropriate because the appeal raises issues “as to which we have an interest in articulating our views and important matters of public interest, including insider trading law and the personal benefit requirement.” The Commission concluded that its consideration of the record and the arguments would benefit from going through the normal appellate process rather than the abbreviated process involved with a summary affirmance.

Ruggieri argued that summary affirmance was appropriate because the initial decision rested on a straightforward application of the facts to the well settled insider trading law and that there was no need for the Commission to consider additional oral or written argument.

The Division disagreed, asserting that the conclusions in *Newman* are unquestionably important to the developing law on personal benefit and that the commission should review the initial decision because no administrative law judge has applied or interpreted *Newman* before.

The release is [No. 33-9985](#).

Companies: Wells Fargo Securities, LLC

LitigationEnforcement: Enforcement FraudManipulation