

## S.E.C. Upholds Dismissal of Wells Fargo Insider Trading Case

The Securities and Exchange Commission has upheld the dismissal of an administrative case against a former Wells Fargo trader after two commissioners split on whether the evidence proved he had engaged in insider trading.

The ruling came in an appeal by the commission's enforcement division of an administrative law judge's 2015 ruling dismissing the case against the former analyst, Joseph C. Ruggieri, who was accused of trading on tips supplied by a Wells Fargo analyst.

It was a rare loss for the S.E.C.'s enforcement division in a case pursued through an internal administrative proceeding. Critics have called such fast-tracked proceedings unfair to defendants, some of whom have challenged the system in court.

**Silvia L. Serpe**, a lawyer for Mr. Ruggieri at the law firm Serpe Ryan, said in a statement on Saturday that Mr. Ruggieri's lawyers told the enforcement division three years ago that it was "way off the mark charging Mr. Ruggieri."

"Now, for the second time on their home turf, the commission has agreed with us," she said.

The S.E.C. did not respond to a request for comment.

The S.E.C. asserted that Mr. Ruggieri, a health care stock trader at Wells Fargo in New York, traded in 2010 and 2011 on tips about six ratings changes made by Gregory T. Bolan Jr., the analyst, for companies that included Athenahealth and the Bruker Corporation.

After a trial, Jason S. Patil, an administrative law judge, ruled that the enforcement division had established that Mr. Ruggieri had traded on information supplied by Mr. Bolan four times, which allowed Wells Fargo to earn \$75,000.

But Judge Patil ruled that the enforcement division had failed to prove that Mr. Bolan had received anything in exchange for the information, as required by a 2014 federal appeals court ruling. (That ruling was partly supplanted by a United States Supreme Court decision in December 2016.)



Silvia Serpe, Partner, Serpe Ryan LLP

In the S.E.C.'s ruling, which was made on Thursday, the two commissioners deciding the case deadlocked on a different issue — whether Mr. Ruggieri had placed his trades while aware of nonpublic information.

Commissioner Kara M. Stein, a Democrat, said she thought the enforcement division had proved that Mr. Ruggieri did just that.

Commissioner Michael S. Piowar, a Republican, disagreed, saying the division had not established that Mr. Bolan had tipped Mr. Ruggieri.

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- Silvia L. Serpe, Partner  
Serpe Ryan LLP

Jay Clayton, the S.E.C. chairman, did not participate in the decision. He took office in May, after the appeal was pending.

Mr. Bolan was charged in 2014 but settled the case for \$75,000 without admitting to or denying the accusations.