

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 17-1070**September Term, 2018****SEC-3-15574****Filed On:** September 19, 2018

Harding Advisory LLC and Wing F. Chau,

Petitioners

v.

Securities and Exchange Commission,

Respondent

BEFORE: Henderson, Millett, and Wilkins, Circuit Judges

ORDER

Upon consideration of the motion to remand, the response thereto, and the reply; the motion to set aside the Securities and Exchange Commission's decision and order entered on January 6, 2017, the response thereto, and the reply; and the Rule 28(j) letters, it is

ORDERED that the motion to remand be granted and the motion to set aside be granted in part. The Commission's decision and order is set aside and this case is remanded to the agency for a new hearing either before another Administrative Law Judge or before the Commission, in accordance with Lucia v. SEC, 138 S. Ct. 2044 (2018). Petitioners' motion to set aside is otherwise denied. Petitioners' argument that the language concerning remand to the Commission in Lucia is dicta "carries no weight" because "carefully considered language of the Supreme Court, even if technically dictum, generally must be treated as authoritative." Sierra Club v. EPA, 322 F.3d 718, 724 (D.C. Cir. 2003).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam