

# New York District Court Preliminarily Enjoins SEC Administrative Proceeding

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We blogged last week about a New York federal court's decision in *Duka v. SEC* conditionally sustaining a facial challenge to an administrative enforcement proceeding conducted by Administrative Law Judges ("ALJs") of the Securities and Exchange Commission. In that case, Judge Richard M. Berman, of the Southern District of New York, held that SEC ALJs are "inferior officers" of the United States for purposes of the U.S. Constitution's Appointments Clause and that the ALJs at issue had not been appointed by the SEC Commissioners, in seeming violation of that constitutional provision. However, the court gave the SEC seven days to cure the defect "by having the SEC Commissioners issue an appointment or preside over the matter themselves"... [Continue Reading](#)