

Press Coverage | July 13, 2023

SEC Faces Murky Future on In-House Enforcement Cases

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[Jay A. Dubow](#)

Jay Dubow, co-leader of Troutman Pepper's Securities Investigations + Enforcement Practice Group, was quoted in the July 13, 2023 *Pensions & Investments* article, "[SEC Faces Murky Future on In-House Enforcement Cases.](#)"

"What's looming is the possibility of losing the ability for (the SEC) to use the administrative process for its enforcement actions or have it severely limited," said Jay A. Dubow, Philadelphia-based partner at Troutman Pepper Hamilton Sanders LLP who co-leads the firm's securities investigations and enforcement practice group. He noted that administrative process is typically quicker and less burdensome for the SEC when compared to enforcement proceedings in federal court.

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The SEC began investigating George R. Jarkesy Jr. in 2011 after he selected Patriot28 as the investment adviser for two hedge funds he managed. The SEC alleged that Mr. Jarkesy and Patriot28 committed securities fraud and in 2013 instituted an administrative enforcement action against the two parties before an administrative law judge. Mr. Jarkesy subsequently sued the SEC arguing that the agency's structure and administrative enforcement powers violated the Constitution, according to a [Troutman Pepper client alert](#).

The lawsuit has now found its way to the Supreme Court and could impact not just the SEC, but all federal agencies that use ALJs, including the Federal Trade Commission and Commodity Futures Trading Commission, according to Mr. Dubow.

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Added Mr. Dubow: "The consensus is that the court's going to rule against the SEC."

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