

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 10-1214

September Term 2011

SEC-3-12988

Filed On: February 10, 2012

Luis M. Cespedes,  
Petitioner

v.

Securities and Exchange Commission,  
Respondent

## PETITION FOR REVIEW OF AN ORDER OF THE SECURITIES AND EXCHANGE COMMISSION

**BEFORE:** Rogers, Brown, and Griffith, Circuit Judges

### J U D G M E N T

This petition for review of an order of the Securities and Exchange Commission was considered on the briefs and appendices filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

**ORDERED AND ADJUDGED** that the petition for review be denied. Petitioner argues that the Commission improperly considered evidence of taped telephone conversations between petitioner and a customer. Even if that evidence were disregarded, however, the record contains “substantial evidence” in support of the Commission’s decision. Steadman v. SEC, 450 U.S. 91, 96 n.12 (1981). All of petitioner’s remaining arguments were not raised before the Commission prior to the limited remand of this case. See West Virginia v. EPA, 362 F.3d 861, 871-72 (D.C. Cir. 2004) (matters not raised in initial administrative proceeding cannot be raised for the first time on remand if the agency does not reopen the issue). Petitioner made no argument why the court should consider his belated arguments.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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

**FOR THE COURT:**  
Mark J. Langer, Clerk

**By:** /s/  
Jennifer M. Clark  
Deputy Clerk/LD