

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

KALSHIEX LLC,

Plaintiff,

v.

COMMODITY FUTURES TRADING
COMMISSION,

Defendant.

No. 23-cv-03257-JMC

**Plaintiff's Notice of
Supplemental Authority**

Plaintiff writes to give notice of the Supreme Court's decision today in *Loper Bright Enterprises v. Raimondo*, No. 22-451 (U.S. June 28, 2024) (Exh. A, "Op."), which overruled the doctrine of *Chevron* deference. The Court held that matters of statutory interpretation must be resolved *de novo*, without deferring to the agency's interpretation. Op. at 15, 21. In short, courts reviewing agency action "must exercise their independent judgment in deciding whether an agency has acted within its statutory authority, as the APA requires." Op. at 35.

In this case, that means the Court must determine whether the best reading of the Commodity Exchange Act is that event contracts hinging on control of Congress are contracts that "involve ... unlawful activity" or "involve ... gaming." 7 U.S.C. 7a-2(c)(5)(C)(i). For all of the reasons set forth in Kalshi's briefs and at oral argument, the answer is clearly no, and the Commission can no longer expect the Court to defer to its contrary, idiosyncratic interpretations. *Contra* ECF No. 30 at 19–20 (Defendant outlining *Chevron* analysis); ECF No. 37 at 11 (Defendant suggesting that the Court should defer to its interpretations, citing *Chevron*).

Dated: June 28, 2024

Respectfully submitted,

/s/ Yaakov M. Roth

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