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IN THE UNITED STATES DISTRICT COURT	
IN AND FOR THE DISTRICT OF UTAH	
COMMODITY FUTURES TRADING COMMISSION, Plaintiff, v. RUST RARE COIN, et al., Defendants.	2:18-cv-00892-TC JOSHUA RUST’S REPLY IN SUPPORT OF MOTION TO STAY Honorable Judge Tena Campbell

Defendant Joshua Daniel Rust (“Josh Rust”) respectfully responds to Plaintiffs’ Response to Defendants’ Motion to Stay Civil Cases Pending Outcome of Criminal Proceedings. The Court should grant a stay pending the outcoming of litigation and deny Plaintiffs’ requests to limit the stay to six months because 1) Defendants have a compelling interest in protecting their Constitutional Rights, 2) the scope and duration of the stay are narrowly tailored to minimize prejudice to Plaintiffs and protect Defendants’ Constitutional Rights, 3) limiting the stay to six

months infringes on the rights of Defendants, 4) and any prejudice to Plaintiffs is minimal. Once the stay is lifted, the Court should order that the parties' discovery obligations are mutual.

ARGUMENT

Plaintiffs ignore and neglect to address any of the balancing test factors articulated in the Motion, nor do Plaintiffs cite authority to support their position. Defendants have been cooperative and assisted the Receiver in fulfilling its duties, having spent a number of hours at the Coin Shop. Granting the Receiver unfettered discovery exposes Defendants to prejudice and violation of their Constitutional Rights.

The Stay is Limited in Scope and Duration

Defendants have narrowly tailored the stay in scope and duration. Defendants only seek a stay of the claims against them, not the entire civil case. Defendants do not seek to stay the litigation against the Receiver's taking actions related to the property or litigation involving others. The proposed stay allows for the Receiver to carry out its duties, but its discovery should be limited in accordance with the stay of the claims against Defendants so as not to infringe on their rights. Plaintiffs' argument that the stay could extend "indefinitely" is exaggerated and pure speculation. At a minimum, the statutes of limitation place a clear durational limit on the stay.

Prejudice to Plaintiffs is Minimal

Plaintiffs are unable to articulate the prejudicial effect of a stay beyond their ability to pursue discovery. Prejudice to Plaintiffs is diminished by the fact that they can continue to pursue discovery, so long as it does not infringe on the rights of Defendants. The stay is limited in scope and does not prevent Plaintiffs from pursuing litigation involving others. Moreover,

Plaintiffs have already conducted an extensive pre-suit investigation in conjunction with the FBI and have gathered an unknown amount of evidence.

A Six-Month Limit on the Stay Infringes on the Rights of Defendants

There is no basis for lifting the stay after an arbitrary six months as requested by Plaintiffs. Defendants' Constitutional Rights outweigh the minimal prejudice to Plaintiffs. The Constitution does not place time limits on the protection of an individual's rights. The limited scope of the stay allows Plaintiffs to continue their efforts.

Plaintiffs' Authority to Determine Violations of the Preliminary Injunction Should be Denied

Plaintiffs' request that the Court grant regulatory authority or third-party discovery to determine whether any Defendant is violating the Preliminary Injunctions is completely void of any limitations to its scope and should be denied to prevent any infringement of Defendants' rights.

Commencing Discovery Following Lifting of the Stay

In accordance with mutual discovery obligations, plaintiffs are obligated to produce evidence that supports their position and, typically, their discovery obligations arise prior to those of defendants. Following lifting of the stay, Plaintiffs should be ordered to serve their initial disclosures within fourteen days. Defendants should only be available for deposition by Plaintiffs after Plaintiffs have produced their initial disclosures.

Plaintiffs represented that they served their Initial Disclosures under Rule 26(a) on Defendants, but that is only partially accurate. Plaintiffs served a pleading, but they have not yet produced a single document to Defendants. On January 7, 2019, Defendant Josh Rust served discovery requests on Plaintiffs, and Plaintiffs have stated that they do not intend to respond to discovery until this motion has been decided. Plaintiffs should be ordered to serve their answers

and any objections to Defendants' discovery requests within thirty days of the lifting of the stay in accordance with Rules 33 and 34.

CONCLUSION

For all the reasons set forth herein and in the Motion to Stay, Josh Rust respectfully requests that the Court grant the Motion to Stay and deny Plaintiffs' request for its unlimited regulatory authority and Receiver's unlimited discovery.

RESPECTFULLY SUBMITTED this 12th day of February, 2019.

DEISS LAW PC

/s/ Andrew G. Deiss
Andrew G. Deiss
Attorney for Joshua Daniel Rust

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of February, 2019, I caused a true and correct copy of the foregoing **JOSHUA RUST'S REPLY IN SUPPORT OF MOTION TO STAY** to be served upon all counsel of record via e-file notification.

/s/ Megan Murri