

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CASE NO.: 8:20-cv-00394-MSS-SPF

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

KINETIC INVESTMENT GROUP, LLC et al.,

Defendants and Relief Defendants.

DEFENDANT WILLIAMS' UNOPPOSED THIRD MOTION
TO MODIFY FREEZE ORDER

Defendant MICHAEL SCOTT WILLIAMS (“Defendant”), pursuant to the Magistrate’s Order dated January 28, 2021 [D.E. 173], moves to modify the *Court’s Order Granting Plaintiff Securities and Exchange Commission’s Emergency Motion for Asset Freeze and Other Relief* dated March 6, 2020 (“Freeze Order”) [D.E. 33] to unfreeze and release \$17,160 to pay Defendant’s attorneys’ fees during the five-month period of time running from August 29, 2020 through January 27, 2021. In support of his Motion, Defendant states as follows:

1. On September 9, 2020, Defendant filed his *Second Motion to Modify the Asset Freeze Order to Defend This Case* (“Second Motion”) [D.E. 135], requesting to unfreeze \$214,500 to pay his attorneys’ fees to defend this case

during the nine-month period from August 29, 2020 through June 30, 2021 (*i.e.*, two months before the start of the trial term).

2. On January 28, 2021, the Magistrate granted Defendant's Second Motion in part. [D.E. 173]. The Magistrate ruled that the Freeze Order should be modified to make \$64,500 available to pay for Defendant's attorneys' fees during the three-month period of time running from January 28, 2021 through April 28, 2021. [D.E. 173 at 4]. In addition, the Magistrate permitted Defendant to file a motion to release funds to pay the attorneys' fees he incurred during the period from August 29, 2020 through January 27, 2021 (*i.e.*, the period during which Defendant's Second Motion was pending and unresolved). [D.E. 173 at 4 n.3].

3. During the period running from August 29, 2020 through January 27, 2021, Defendant's undersigned counsel billed a total of 48 hours defending this case.

4. The Court has previously approved the reduced hourly rate of \$357.50/hour for each of Defendant's two attorneys, Jon A. Jacobson, Esq. and Timothy W. Schultz, Esq. [D.E. 104; D.E. 123; D.E. 173; D.E. 180].

5. As a result, Defendant incurred a total of \$17,160 in attorneys' fees (*i.e.*, 48 hours x \$357.50/hour) during the five-month period of time running from August 29, 2020 through January 27, 2021. Copies of Defendant's counsel's invoices evidencing their hourly rate, the work they performed, and the

number of hours they billed performing each task are attached hereto as **Exhibits A and B**.

6. On April 30, 2021, Defendant provided copies of his counsel's invoices to Plaintiff and the Receiver.

7. Plaintiff and the Receiver do not oppose the relief sought by this Motion.

WHEREFORE, Defendant respectfully requests that the Court enter an Order modifying the Asset Freeze Order [D.E. 33] to unfreeze \$17,160 from the funds held by the Receiver in escrow at ServisFirst Bank (Account No. XXXXXX-0920) and directing the Receiver to pay those unfrozen funds to Defendant's undersigned counsel within three days.

**LOCAL RULE 3.01(g) CERTIFICATE OF GOOD FAITH
CONFERENCE**

I HEREBY CERTIFY that, in accordance with Middle District Local Rule 3.01(g), the undersigned has conferred with counsel for Plaintiff and the Receiver both of whom do not oppose the relief requested.

Respectfully Submitted,

By: /s/ Timothy W. Schulz
Timothy W. Schulz, Esq., FBN 073024
TIMOTHY W. SCHULZ, P.A.
224 Datura Street, Suite 815
West Palm Beach, Florida 33401
Telephone: (561) 659-1167
Facsimile: (561) 659-1168
Email: schulzt@twslegal.com
Email: e-service@twslegal.com
Co-Trial Counsel for Defendant

By: /s/ Jon A. Jacobson
Jon A. Jacobson, Esq., FBN 155748
JACOBSON LAW P.A.
224 Datura St., Suite 812
West Palm Beach, FL 33401
Telephone: (561) 880-8900
Facsimile: (561) 880-8910
Email: jjacobson@jlpa.com
Email: e-service@jlpa.com
Co-Trial Counsel for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 6, 2021, the foregoing document was filed with the Clerk of the Court using the CM/ECF system and served on all counsel of record.

By: /s/ Timothy W. Schulz

By: /s/ Jon A. Jacobson

TIMOTHY W. SCHULZ, P.A.

224 Datura Street
Suite 815
West Palm Beach, Florida 33401

STATEMENT

Phone: 561-659-1167 • Fax: 561-659-1168

Federal ID No. 20-3898727

E-mail: schulzt@twslegal.com

A Litigation Law Firm

PRIVILEGED & CONFIDENTIAL

Williams, Michael

Re: SEC Complaint

Statement Date: 04/30/2021
Statement No. 5555
Account No. 199.02
Page No. 1

Payments received after 04/30/2021 are not included on this statement.

Fees

			Rate	Hours
09/25/2020	TWS	review e-mail from J. Maglich	357.50	0.10
10/07/2020	TWS	review M. Williams' proposed motion for leave to file a reply (.1)	357.50	0.10
10/15/2020	TWS	review and edit reply to SEC's opposition to payment of legal fees	357.50	0.80
10/21/2020	TWS	work with attorney in PR regarding HOA outstanding fees.	357.50	0.20
01/04/2021	TWS	review outstanding invoices from E-hounds; draft e-mail communication to counsel for SEC and Receiver regarding payment of invoices.	357.50	0.20
01/08/2021	TWS	work on drafting motion for extension of discovery deadline.	357.50	2.10
01/12/2021	TWS	review emails from SEC and Receiver regarding proposed order on payment of eHounds; draft proposed order for payment of eHounds' invoices; work on drafting motion for extension of time to complete discovery	357.50	1.00
01/13/2021	TWS	review suggested changes to order allowing payment of E-Hounds' invoices; telephone conference with Judge's chambers; work on drafting and filing motion for entry of order for payment of E-Hounds' invoices.	357.50	1.40
01/14/2021	TWS	work on drafting and revising motion for extension of discovery deadline; draft email to counsel for SEC regarding the motion for extension	357.50	1.20

To ensure proper credit, please include account number and statement date on remittance checks. Thank you.

Williams, Michael
 Account No. 199.02
 RE: SEC Complaint

Statement Date: 04/30/2021
 Statement No. 5555
 Page No. 2

			Rate	Hours	
01/20/2021	TWS	work on preparing materials for telephone conference with S. Moot regarding motion for extension of time.	357.50	0.10	
		For Current Services Rendered		<u>7.20</u>	<u>2,574.00</u>

		Recapitulation		
<u>Timekeeper</u>		<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Timothy W. Schulz		7.20	\$357.50	\$2,574.00

Total Current Work 2,574.00

Balance Due \$2,574.00



JACOBSON LAW P.A.

February 11, 2021

Mark A. Kornfeld
c/o Jordan D. Maglich, Esq.
Quarles & Brady LLP
101 E. Kennedy Blvd., Suite 3400
Tampa, FL 33602

Re: *SEC v. Kinetic Inv. Group, LLC, et al.*, Case No. 8:20-cv-00394

Dear Mark A. Kornfeld:

Enclosed is invoice 10198, which covers Jacobson Law P.A.'s services from 8/29/2020 to 1/27/2021. This invoice, dated 2/11/2021, is for \$14,586.00. Your total balance, including past charges, is \$14,586.00. Prompt payment of your total balance is appreciated.

Billing Summary

Total for services rendered	\$14,586.00
Total expenses	\$0.00
Total interest and finance charges	\$0.00
Total payments and other transactions	(\$19,519.50)
Total previous balance	\$19,519.50
Balance Due	\$14,586.00

Thank you for your confidence in our work and our commitment to serving you.

If you have questions, please call us at 561-880-8900.

Very truly yours,

Jon A. Jacobson
Enclosure



JACOBSON LAW P.A.

Invoice submitted to:

February 11, 2021

Mark A. Kornfeld
 c/o Jordan D. Maglich, Esq.
 Quarles & Brady LLP
 101 E. Kennedy Blvd., Suite 3400
 Tampa, FL 33602

In Reference To: *SEC v. Kinetic Inv. Group, LLC, et al.*, Case No. 8:20-cv-00394

Invoice # 10198

Professional Services

			<u>Hrs/Rate</u>	<u>Amount</u>
8/29/2020	JAJ	Review file; review pleadings; prepare new litigation budget.	1.40 357.50/hr	500.50
8/31/2020	JAJ	Revise and edit new litigation budget.	0.50 357.50/hr	178.75
	JAJ	Draft correspondence to attorneys C. Nestor and S.Moot re: New litigation budget.	0.40 357.50/hr	143.00
9/1/2020	JAJ	Review correspondence from attorney S.Moot re: New litigation budget; draft correspondence to attorney S. Moot.	0.10 357.50/hr	35.75
9/2/2020	JAJ	Review correspondence from attorney S.Moot re: New litigation budget.	0.10 357.50/hr	35.75
9/7/2020	JAJ	Review correspondence from M. Williams re: Case status/strategy; draft correspondence to M. Williams; talk to M. Williams.	0.30 357.50/hr	107.25
9/9/2020	JAJ	Draft, finalize, and file Second Motion to Modify Asset Freeze Order.	3.50 357.50/hr	1,251.25
9/11/2020	JAJ	Review correspondence from M. Williams re: Case status/strategy; draft correspondence to M. Williams.	0.20 357.50/hr	71.50
9/17/2020	JAJ	Review correspondence from attorney M. Bellafronto re: Fogarty Stipulation; review correspondence from attorney C. Nestor re: Fogarty Stipulation; draft correspondence to attorney M. Bellafronto.	0.10 357.50/hr	35.75
	JAJ	Talk to M. Williams re: Fogarty Stipulation	0.20 357.50/hr	71.50
9/18/2020	JAJ	Review correspondence from attorney J. Maglich re: Receiver's Proposed Motions to Liquidate Less than \$5k, to employ PR Legal Counsel, to Obtain Valuation of ISX; review file.	0.20 357.50/hr	71.50

Mark A. Kornfeld

Page 2

			<u>Hrs/Rate</u>	<u>Amount</u>
9/18/2020	JAJ	Review and analyze Order Granting Fogarty Motion; review and analyze SEC's Notice of Issuance of Subpoenas.	0.10 357.50/hr	35.75
9/21/2020	JAJ	Draft correspondence to M. Williams re: Receiver's proposed motions; talk to M. Williams.	0.20 357.50/hr	71.50
	JAJ	Draft correspondence to attorney J. Maglich re: Receiver's proposed motions; review correspondence from attorney J. Maglich.	0.10 357.50/hr	35.75
9/22/2020	JAJ	Draft correspondence to M. Williams re: Receiver's proposed motions; talk to M. Williams.	0.30 357.50/hr	107.25
	JAJ	Review and analyze SEC Opposition to Second Motion to Modify Asset Freeze Order; review and analyze Receiver's Response to Second Motion to Modify Asset Freeze Order.	0.40 357.50/hr	143.00
9/30/2020	JAJ	Review correspondence from attorney J. Maglich re: Fogarty settlement; talk to attorney J. Maglich; draft correspondence to attorney J. Maglich.	0.20 357.50/hr	71.50
	JAJ	Review correspondence from M. Williams re: Case status; draft correspondence to M. Williams re: Case status, Fogarty settlement; talk to M. Williams.	0.40 357.50/hr	143.00
	JAJ	Review and analyze Receiver's Motion to Approve Fogarty Settlement.	0.20 357.50/hr	71.50
10/6/2020	JAJ	Draft correspondence to attorneys C. Nestor, S. Moot, and J. Maglich re: Motion to File Reply in Support of Second Motion to Modify Asset Freeze Order; talk to attorney M. Maglich's office; review correspondence from attorney J. Maglich; review correspondence from attorney S. Moot.	0.20 357.50/hr	71.50
	JAJ	Draft Motion for Leave to File Reply in Support of Second Motion to Modify Asset Freeze Order.	0.90 357.50/hr	321.75
	JAJ	Research Local Rules re: Reply briefs.	0.40 357.50/hr	143.00
10/7/2020	JAJ	Revise, finalize, and file Motion for Leave to File Reply in Support of Second Motion to Modify Asset Freeze Order.	0.40 357.50/hr	143.00
	JAJ	Draft correspondence to M. Williams re: Case status, strategy; review correspondence from M. Williams; talk to M. Williams.	0.20 357.50/hr	71.50
10/8/2020	JAJ	Review Order granting Motion for Leave to File Reply in Support of Second Motion to Modify Asset Freeze Order.	0.10 357.50/hr	35.75
10/14/2020	JAJ	Research SEC disgorgement.	0.40 357.50/hr	143.00

Mark A. Kornfeld			Page 3	
			<u>Hrs/Rate</u>	
			<u>Amount</u>	
10/14/2020	JAJ	Draft Reply in Support of Second Motion to Modify Asset Freeze Order.	2.70 357.50/hr	965.25
10/15/2020	JAJ	Draft, finalize, and file Reply in Support of Second Motion to Modify Asset Freeze Order.	1.20 357.50/hr	429.00
	JAJ	Draft correspondence to M. Williams re: Reply in Support of Second Motion to Modify Asset Freeze Order; talk to M. Williams.	0.20 357.50/hr	71.50
10/16/2020	JAJ	Review correspondence from attorney S. Moot re: Sur-Reply to Second Motion to Modify Asset Freeze Order; draft correspondence to attorney S. Moot.	0.10 357.50/hr	35.75
10/20/2020	JAJ	Review and analyze Order granting Motion for Leave to File Sur-Reply to Second Motion to Modify Asset Freeze Order.	0.10 357.50/hr	35.75
	JAJ	Review correspondence from attorney J. Maglich re: Receiver's proposed motions; review correspondence from attorney S. Moot re: Receiver's proposed motions; draft correspondence to attorney J. Maglich.	0.10 357.50/hr	35.75
10/21/2020	JAJ	Review and analyze Receiver's Motion to Liquidate Certain Property and Items of \$5k or Less Value.	0.10 357.50/hr	35.75
10/22/2020	JAJ	Review and analyze Receiver's Motion to Employ PR Legal Counsel	0.10 357.50/hr	35.75
10/27/2020	JAJ	Review and analyze SEC's Sur-Reply to Second Motion to Modify Asset Freeze Order.	0.30 357.50/hr	107.25
10/28/2020	JAJ	Review and analyze Receiver's Notice of Issuance of Subpoena.	0.10 357.50/hr	35.75
10/30/2020	JAJ	Review and analyze Receiver's Third Interim Report.	0.60 357.50/hr	214.50
11/5/2020	JAJ	Review and analyze Order granting Permanent Injunction Against Kinetic Group and Relief Defendants; review and analyze Order granting Fogarty Settlement; review and analyze Order granting Receiver's Motion to Liquidate \$5k or Less; review and analyze Receiver's Motion to Employ PR Legal Counsel; review and analyze Receiver's Motion to Establish Procedure to Administer Claims; review file.	0.30 357.50/hr	107.25
11/6/2020	JAJ	Draft correspondence to M. Williams re: Orders, case status; review correspondence from M. Williams.	0.20 357.50/hr	71.50
	JAJ	Review and analyze Judgment in favor of SEC and against Relief Defendants.	0.10 357.50/hr	35.75
11/16/2020	JAJ	Review correspondence from attorney J. Maglich re: Receiver's Fee Application; draft correspondence to attorney J. Maglich.	0.20 357.50/hr	71.50

Mark A. Kornfeld			Page	4
			<u>Hrs/Rate</u>	<u>Amount</u>
11/16/2020	JAJ	Draft correspondence to M. Williams re: Receiver's Fee Application; review correspondence from M. Williams; talk to M. Williams.	0.30 357.50/hr	107.25
	JAJ	Review and analyze Receiver's Third Fee Application.	0.30 357.50/hr	107.25
12/8/2020	JAJ	Talk to attorney J. Maglich re: Receiver's change of counsel and request to inspect Condos.	0.30 357.50/hr	107.25
12/10/2020	JAJ	Talk to M. Williams re: Case status; Receiver's Fee Application, Receiver's request to inspect Condos.	0.40 357.50/hr	143.00
12/17/2020	JAJ	Review and analyze Order granting Receiver's Third Fee Application.	0.20 357.50/hr	71.50
12/28/2020	JAJ	Review and analyze Receiver's Notice of Claim Bar Date; review and analyze SEC's First Set of Interrogatories to M. Williams, First Request for Admissions to M. Williams, and First Request for Production to M. Williams; review file.	0.40 357.50/hr	143.00
1/4/2021	JAJ	Review correspondence from attorney S. Moot re: M. Williams deposition; draft correspondence to attorney S. Moot.	0.10 357.50/hr	35.75
1/5/2021	JAJ	Draft correspondence to attorney S. Moot re: M. Williams deposition; review correspondence from attorney S. Moot.	0.10 357.50/hr	35.75
	JAJ	Draft correspondence to M. Williams re: SEC's discovery requests, deposition; review correspondence from M. Williams.	0.20 357.50/hr	71.50
1/6/2021	JAJ	Review correspondence from attorney S. Moot re: M. Williams deposition.	0.10 357.50/hr	35.75
1/7/2021	JAJ	Draft response to SEC's Interrogatories; draft response to SEC's Request for Admissions; draft response to SEC's Request for Documents.	3.30 357.50/hr	1,179.75
1/8/2021	JAJ	Talk to M. Williams re: SEC's Interrogatories, Request for Admissions, Request for Documents, deposition; draft correspondence to M. Williams.	2.30 357.50/hr	822.25
	JAJ	Draft response to SEC's Interrogatories; draft response to SEC's Request for Admissions; draft response to SEC's Request for Documents.	1.60 357.50/hr	572.00
	JAJ	Notice of taking M. Williams' deposition.	0.10 357.50/hr	35.75
1/11/2021	JAJ	Review correspondence from attorney J. Maglich re: Condo inspection; draft correspondence to attorney J. Maglich.	0.10 357.50/hr	35.75
1/12/2021	JAJ	Draft correspondence to attorney J. Maglich re: Condo inspection; review correspondence from attorney J. Maglich.	0.10 357.50/hr	35.75

Mark A. Kornfeld			Page	5
			<u>Hrs/Rate</u>	<u>Amount</u>
1/13/2021	JAJ	Review correspondence from attorney S. Moot re: M. Williams deposition test; draft correspondence to attorney S. Moot.	0.10 357.50/hr	35.75
	JAJ	Draft and serve Second Set of Interrogatories to SEC.	0.50 357.50/hr	178.75
1/15/2021	JAJ	Review correspondence from M. Williams re: Responses to SEC's discovery requests, depositions; draft correspondence to M. Williams.	0.20 357.50/hr	71.50
1/19/2021	JAJ	Review correspondence from M. Williams re: Responses to SEC's discovery requests, depositions; draft correspondence to M. Williams.	0.10 357.50/hr	35.75
1/20/2021	JAJ	Draft correspondence to M. Williams re: Responses to SEC's discovery requests; review correspondence from M. Williams.	0.20 357.50/hr	71.50
	JAJ	Draft response to SEC's Interrogatories; draft response to SEC's Request for Admissions; draft response to SEC's Request for Documents.	2.50 357.50/hr	893.75
1/21/2021	JAJ	Talk to attorney S. Moot re: Motion to Extend Discovery Deadlines; draft correspondence to attorney S. Moot.	0.30 357.50/hr	107.25
	JAJ	Review correspondence from M. Williams re: Responses to SEC's discovery requests, depositions; draft correspondence to M. Williams; talk to M. Williams.	1.80 357.50/hr	643.50
	JAJ	Revise Motion to Extend Discovery Deadlines.	0.60 357.50/hr	214.50
1/22/2021	JAJ	Review correspondence from attorney S. Moot re: Motion to Extend Discovery Deadlines; review correspondence from attorney J. Maglich re: Motion to Extend Discovery Deadlines; draft correspondence to attorney S. Moot.	0.10 357.50/hr	35.75
	JAJ	Revise, finalize, and file Motion to Extend Discovery Deadlines.	0.30 357.50/hr	107.25
	JAJ	Review correspondence from M. Williams re: Responses to SEC's discovery requests.	0.30 357.50/hr	107.25
1/25/2021	JAJ	Draft response to SEC's Interrogatories; draft response to SEC's Request for Admissions; draft response to SEC's Request for Documents.	1.10 357.50/hr	393.25
	JAJ	Draft correspondence to M. Williams re: Responses to SEC's discovery requests; talk to M. Williams.	1.40 357.50/hr	500.50
1/26/2021	JAJ	Review and analyze Order referring to Magistrate Second Motion to Modify Asset Freeze Order; review and analyze SEC's Opposition to Motion to Extend Discovery Deadlines; review file.	0.30 357.50/hr	107.25

Mark A. Kornfeld

Page 6

			<u>Hrs/Rate</u>	<u>Amount</u>
1/26/2021	JAJ	Review correspondence from M. Williams re: Responses to SEC's discovery requests; draft correpondence to M. Williams.	0.20 357.50/hr	71.50
	JAJ	Revise and edit response to SEC's Interrogatories; revise and edit response to SEC's Request for Admissions; revise and edit response to SEC's Request for Documents.	1.50 357.50/hr	536.25
1/27/2021	JAJ	Review correspondence from attorney J. Maglich re: Receiver's Motion to Sell Bank Building, condo inspection; draft correspondence to attorney J. Maglich; review correspondence from attorney S. Moot re: Deposition Stipulation; draft correspondence to attorney S. Moot.	0.20 357.50/hr	71.50
	JAJ	Draft correspondence to M. Williams re: Receiver's Motion to Sell Bank Building, condo inspection, responses to SEC discovery requests; review correspondence from M. Williams; talk to M. Williams.	0.40 357.50/hr	143.00
	JAJ	Revise, finalize and serve response to SEC's Interrogatories; revise, finalize and serve response to SEC's Request for Admissions; revise, finalize, and serve response to SEC's Request for Documents.	0.90 357.50/hr	321.75
		For professional services rendered	40.80	\$14,586.00
		Previous balance		\$19,519.50
		Total payments		(\$16,641.63)
		Total write-offs		(\$2,877.87)
		Balance due		<u><u>\$14,586.00</u></u>