

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,

DEFENDANT'S MOTION FOR LEAVE TO FILE A SUR-REPLY

Defendant MICHAEL SCOTT WILLIAMS (“**Defendant**”) moves for leave to file a six-page (not including the signature blocks and Certificate of Service) sur-reply in response to *Receiver’s Reply in Response to Defendant Michael Scott Williams’ Opposition to the Receiver’s “Motion to Approve Private Sale”* [D.E. 281] (“**Reply**”) within seven days of the Court granting this Motion and states as follows:

1. The Receiver has raised in its Reply new arguments that were never presented in *Receiver’s Motion for Approval of the (1) Private Sale of Puerto Rico Real Properties and Parking Spaces; and (2) Proposed Publication, Marketing, and Overbid Procedures Associated with the Sale of the Real Properties* (“**Motion for Approval**”) [D.E. 275].

2. Specifically, the Receiver now argues in its Reply that the Condos are the property of the Receivership Estates;¹ that Defendant's objections are irrelevant because Defendant transferred title to the Condos to the Receiver; and that any equitable concerns are irrelevant because the Receiver's actions are limited only by the Court's Order appointing it.

3. In addition, the Receiver also now invokes in its Reply statements (many of which are unsupported) contained in other pleadings notwithstanding that those statements and other pleadings were never cited (nor even adopted by reference) in the Receiver's original Motion for Approval.

4. Because the Receiver has only raised these arguments and issues for the first time in its Reply, Defendant has never had an opportunity to respond to them.

5. Accordingly, Defendant respectfully moves for leave to submit a brief sur-reply to address these new arguments and issues so that the Court will have a more complete understanding of the issues before it.

WHEREFORE, Defendant respectfully moves for leave to file a six-page (not including the signature blocks and Certificate of Service) sur-reply within seven days of the Court's Order to respond to the Receiver's new arguments.

¹ In its Motion for Approval, the Receiver argued only that the Condos were purchased with funds that were "traceable to investor deposits," which argument Defendant addressed in *Defendant's Response to the Receiver's Motion for Approval to Sell Defendant's Condos* ("Response") [D.E. 277].

Respectfully Submitted,

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LOCAL RULE 3.01(g) CERTIFICATION

I HEREBY CERTIFY that undersigned counsel has conferred with counsel for the Receiver and the SEC in a good faith effort to resolve the issues raised by this Motion. Counsel for the Receiver and the SEC have informed Defendant's counsel that the Receiver and the SEC take no position as to the relief sought by this Motion.

By: /s/ Jon A. Jacobson

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 4, 2022, 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/ Jon A. Jacobson