

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

COMMODITY FUTURES TRADING COMMISSION,

Plaintiff,

v.

My Big Coin Pay, Inc., My Big Coin, Inc., Randall
Crater, Mark Gillespie, John Roche, and Michael
Kruger,

Defendants,

Kimberly Renee Benge, Kimberly Renee Benge d/b/a
Greystone Advertisement a/k/a Greystone Advertiset,
Barbara Crater Meeks, Erica Crater, Greystone, LLC,
Greystone Technology, LLC,

Relief Defendants.

Case No. 18-CV-10077-RWZ

**NOTICE OF INTENT TO RESPOND TO DEFENDANT CRATER AND RELIEF
DEFENDANTS' MOTION FOR LEAVE TO FILE A REPLY BRIEF**

Plaintiff Commodity Futures Trading Commission (“Commission”) hereby gives notice that it intends to oppose Defendant Randall Crater and all Relief Defendants’ (collectively, “Moving Defendants”) motion for leave to file a reply brief in support of Moving Defendants’ motion to dismiss the amended complaint (“Motion to Dismiss”). Recognizing that their Motion to Dismiss is doomed, Moving Defendants have now asked this Court to bend the Local Rules, granting them twenty more pages in the form of a reply brief to respond to an argument that they failed to anticipate but is nevertheless supported by, among other authorities, *CFTC v. McDonnell*, 287 F. Supp. 3d 213, 228 (E.D.N.Y. 2018) (Weinstein, J.) (“Virtual currencies are ‘goods[.]’”—the case the Commission gave notice of to the Court and Moving Defendants well before the Motion to Dismiss was filed. *See* Notice of Suppl. Authorities, Mar. 8, 2018, ECF

No. 37. As will be shown in the Commission's forthcoming opposition, the motion should be denied as unnecessary, prejudicial, and contrary to the Local Rules. Moreover, Moving Defendants have once again flouted their obligations under Local Rule 7.1(a)(2) to confer and attempt in good faith to resolve or narrow the issue. Well aware that counsel for the Commission was out of the office on Friday afternoon—the day before the Memorial Day holiday weekend—and despite having counsel's cell phone number, Moving Defendants went ahead and filed their motion less than four hours after first attempting to contact counsel via email. That is not conferring or attempting in good faith to resolve or narrow the issue at hand, and accordingly violates Local Rule 7.1(a).¹

Dated: May 29, 2018

Respectfully submitted,

By: /s/ Jonah E. McCarthy

Traci L. Rodriguez

Jonah E. McCarthy (Va. Bar No. 68415)

Paul G. Hayeck, Deputy Director (Mass. Bar No. 554815)

COMMODITY FUTURES TRADING COMMISSION

1155 21st Street, N.W.

Washington, D.C. 20581

(202) 418-5515 (McCarthy direct)

jmccarthy@cftc.gov (McCarthy email)

Attorneys for Plaintiff

¹ This is not the first time counsel has disregarded their obligations under L.R. 7.1(a)(2). Prior to filing the Motion to Dismiss, counsel waited a mere sixteen minutes from their first attempt to confer before filing their motion.

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on May 29, 2018.

/s/ Jonah E. McCarthy

Jonah E. McCarthy

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COMMISSION**

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Washington, D.C. 20581

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jmccarthy@cftc.gov (McCarthy email)

Attorney for Plaintiff