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For Relief Defendants BusinessRadio Network, L.P. D/B/A BizRadio (“BizRadio”) and Daniel Frishberg Financial Services, Inc. D/B/A DFFS Capital Management, Inc. (“DFFS”):

Robert D. Axelrod
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2. List the cases related to this one that are pending in any state or federal court with the case number and court, and state how they are related.

None.

3. Briefly describe what this case is about.

The Commission alleges that Defendant Albert F. Kaleta engaged in a fraudulent securities offering through his company, Defendant Kaleta Capital Management, Inc. (“KCM”) Through this offering, the Defendants raised approximately \$10 million from approximately 50 investors. From the proceeds of the Defendants’ fraudulent scheme, Relief Defendants BizRadio and DFFS collectively received millions of dollars to which they do not have a legitimate claim.

The Commission filed this lawsuit seeking, among other things, orders enjoining further violations by the Defendants and requiring them to disgorge all ill-gotten gains. Thus far, the Court has granted the Commission injunctive relief against the Defendants and has ordered them to pay disgorgement and civil penalties in amounts to be determined later upon motion of the Commission. The Court has also issued an order placing Defendant KCM into a receivership administered by attorney Thomas L. Taylor of Houston. The Commission seeks an order requiring the Relief Defendants to disgorge all scheme proceeds they received to which they have no legitimate claim.

4. Specify the allegation of federal jurisdiction.

The Court has jurisdiction over this action under Section 22(a) of the Securities Act of 1933 [15 U.S.C. § 77v(a)], Section 27 of the Securities Exchange Act of 1934 [15 U.S.C. §§ 78aa], and Section 214 of the Investment Advisers Act of 1940 [15 U.S.C. § 80b-14].

5. Name the parties who disagree with the plaintiff's jurisdictional allegations and state their reasons.

None.

6. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.

None.

7. List anticipated interventions.

None.

8. Describe class-action issues.

None.

9. State whether each party represents that it has made the initial disclosures required by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures.

The parties have not made the initial disclosures required by Rule 26(a). The Commission and the Relief Defendants agree to provide such disclosures reciprocally upon 14-day's notice by either party.

10. Describe the proposed agreed discovery plan, including:

a. responses to all the matters raised in Rule 26(f), including any agreements (and disputes) concerning electronic discovery;

None.

b. when and to whom the plaintiff anticipates it may send interrogatories;

Defendant Albert F. Kaleta
Daniel Frishberg
All current and former officers and directors of the Relief Defendants.

c. when and to whom the defendant anticipates it may send interrogatories;

Defendant Albert F. Kaleta

d. of whom and by when the plaintiff anticipates taking oral depositions;

Defendant Albert F. Kaleta

Daniel Frishberg
All current and former officers and directors of the Relief Defendants.

The Plaintiff anticipates taking the aforementioned depositions by August 31, 2010.

e. of whom and by when the defendant anticipates taking oral depositions;

Defendant Albert F. Kaleta

The Relief Defendants anticipates taking the aforementioned deposition by August 31, 2010.

f. (i) the date experts for plaintiff (or party with the burden of proof on an issue) will be designated and their reports provided to opposing party;

June 30, 2010.

(ii) the date experts for defendant will be designated and their reports provided to opposing party;

June 30, 2010.

g. list of expert depositions the plaintiff (or party with the burden of proof on an issue) anticipates taking and their anticipated completion date (see Rule 26(a)(2)(B) (expert report)); and

Presently none.

h. list of expert depositions the defendant (or opposing party) anticipates taking and their anticipated completion date (see Rule 26(a)(2)(B) (expert report));

Presently none.

11. If the parties are not agreed on a part of the discovery plan, describe the separate views and proposals of each party.

There are no such disagreements.

12. Specify the discovery beyond initial disclosures that has been undertaken to date.

None.

13. State the date the planned discovery can reasonably be completed.

August 31, 2010.

14. Describe the possibilities for a prompt settlement or resolution of the case that were discussed in the Rule 26(f) meeting.

Counsel for the Plaintiff has been in settlement discussions with counsel for the Relief Defendants. These parties presently consider settlement very likely.

15. Describe what each party has done or agreed to do to bring about a prompt resolution of this dispute.

See 14.

16. From the attorneys' discussion with their client(s), state the alternative dispute resolution techniques that are reasonably suitable.

Presently, the parties consider ADR unnecessary in light of the tenor of current settlement talks. Should these talks break down, the parties are open to considering any appropriate ADR method.

17. Magistrate judges may now hear jury and non-jury trials. Indicate the parties' joint position on a trial before a magistrate judge.

The parties do not oppose trial before a magistrate judge.

18. State whether a jury demand has been made and if it was made on time.

The parties have not made jury demand.

19. Specify the number of hours it will take to try this case (including jury selection, presentation of evidence, counsel's opening statements and argument, and charging the jury).

12 hours.

20. List pending motions that could be ruled on at the initial pretrial conference.

None.

21. List other pending motions.

None.

22. Indicate other matters peculiar to this case, including but not limited to traditional and electronic discovery issues, that deserves the special attention of the court at the conference.

None.

23. Certify that all parties have filed Disclosure of Interested Persons as directed in the Order for Conference and Disclosure of Interested Persons, listing the date of filing for original and any amendments.

The Commission has filed such disclosure. (Dkt. No. 5). The Relief Defendants have not yet filed such disclosure. Legal counsel for Relief Defendants is in the process of registering with the Case Management/Electronic Case Files (CM/ECF) in order to make electronic filings. The Relief Defendants hereby represent that they are unaware of any interested persons beyond those described in Dkt. No. 5.

24. List the names, bar numbers, addresses, email addresses, and telephone numbers of all counsel.

For the Plaintiff:

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s/Timothy S. McCole

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Date: February 18, 2010

s/Robert D. Axelrod

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Counsel for Relief Defendants BusinessRadio
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and Daniel Frishberg Financial Services, Inc.
D/B/A DFFS Capital Management, Inc. (“DFFS”)

Date: February 18, 2010

CERTIFICATE OF SERVICE

I hereby certify that on February 18, 2010, I provided a copy of the foregoing document to the following parties:

Thomas Deon Warner deon@warnerandassociates.com
Counsel for Defendant Albert Fase Kaleta and Kaleta Capital Management, Inc.

Robert Axelrod rdaxel@asklawhou.com
Counsel for Relief Defendants BusinessRadio Network, L.P., d/b/a Bizradio and Daniel Frishberg Financial Services d/b/a DFFS Capital Management, Inc.

s/Timothy S. McCole
Timothy S. McCole