

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

_____	:	
SECURITIES AND EXCHANGE COMMISSION,	:	
	:	
<b>Plaintiff</b>	:	
	:	
v.	:	Civil Action No.: 4:09-cv-3674
	:	ECF
ALBERT FASE KALETA and KALETA	:	
CAPITAL MANAGEMENT, INC.,	:	
	:	
<b>Defendants,</b>	:	
	:	
<b>and</b>	:	
	:	
BUSINESSRADIO NETWORK, L.P. d/b/a	:	
BIZRADIO and DANIEL FRISHBERG	:	
FINANCIAL SERVICES, INC. d/b/a DFFS	:	
CAPITAL MANAGEMENT, INC.,	:	
	:	
<b>Relief Defendants,</b>	:	
<b>Solely for the Purposes of</b>	:	
<b>Equitable Relief.</b>	:	
_____	:	

ORIGINAL ANSWER OF  
BUSINESSRADIO NETWORK, L.P. d/b/a BIZRADIO and  
DANIEL FRISHBERG FINANCIAL SERVICES, INC.  
d/b/a DFFS CAPITAL MANAGEMENT, INC.

TO THE UNITED STATES DISTRICT JUDGE OF SAID COURT:

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”) (collectively, the “Relief Defendants”) file this Original Answer in response to the various claims made in Plaintiff’s Complaint (the “Complaint”):

### **Summary**

1. Relief Defendants admit that Defendant Kaleta Capital Management, Inc. (“KCM”) loaned money to BizRadio and DFFS, but are without knowledge or information sufficient to form a belief as to the truth of the exact amount loaned. Relief Defendants deny that BizRadio and DFFS are “financially precarious” entities that have “no reasonable prospect of prospect of repaying the loans.” Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 1.

2. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2.

3. Relief Defendants deny that disgorgement from Relief Defendants is proper for the purposes of equitable relief. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 3.

### **Jurisdiction and Venue**

4. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4.

5. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5.

6. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6.

### **Parties**

7. Relief Defendants admit the allegations contained in Paragraph 7.

8. Relief Defendants admit allegations contained in Paragraph 8.

9. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9.

10. Relief Defendants admit that BizRadio is a Texas limited partnership, but deny that BizRadio is a “private-equity fund.”

11. Relief Defendants deny that DFFS has an office in Dallas, Texas. Relief Defendants admit the remaining allegations contained in Paragraph 11.

#### **Statement of Facts**

12. Relief Defendants deny that Albert Fase Kaleta “controlled BizRadio.” Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 12.

13. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13.

14. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14.

15. Relief Defendants admit that KCM loaned money to BizRadio and DFFS, but are without knowledge or information sufficient to form a belief as to the truth of the exact amount loaned. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 15.

16. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16.

17. Relief Defendants deny any impropriety in the manner in which BizRadio made interest payments on outstanding promissory notes held by KCM. Relief

Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 17.

### **FIRST CLAIM**

#### **(Violations of Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5)**

18. In response to Paragraph 18, Relief Defendants repeat and incorporate their responses to Paragraphs 1 through 17 above by reference as if set forth verbatim.

19. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19.

20. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20.

21. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21.

22. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22.

### **SECOND CLAIM**

#### **(Violations of Section 17(a) of the Securities Act)**

23. In response to Paragraph 23, Relief Defendants repeat and incorporate their responses to Paragraphs 1 through 17 above by reference as if set forth verbatim.

24. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24.

25. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25.

26. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26.

### **THIRD CLAIM**

#### **(Violations of Section 206 of the Advisers Act)**

27. In response to Paragraph 27, Relief Defendants repeat and incorporate their responses to Paragraphs 1 through 17 above by reference as if set forth verbatim.

28. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28.

29. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29.

30. Relief Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 30.

### **FOURTH CLAIM**

#### **(Unjust Enrichment (Against Relief Defendants))**

31. In response to Paragraph 31, Relief Defendants repeat and incorporate their responses to Paragraphs 1 through 17 above by reference as if set forth verbatim.

32. Relief Defendants deny the allegations contained in Paragraph 32.

33. Relief Defendants deny the allegations contained in Paragraph 33.

### **PRAYER**

For these reasons, Relief Defendants ask this Court to enter judgment denying the relief sought against them by Plaintiff pursuant to Paragraph 38 of Plaintiff's Complaint, and ask this Court to award Relief Defendants legal costs in accordance with applicable federal law provided for the benefit of defendants and relief defendants unjustly accused.

Dated: April 1, 2010

Respectfully submitted,

s/Robert D. Axelrod

ROBERT D. AXELROD

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CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2010, I sent a copy of the foregoing document by Federal Express, mail or e-mail to the following parties:

United States Securities and Exchange Commission  
c/o Timothy S. McCole  
Burnett Plaza, Suite 1900  
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Kaleta Capital Management, Inc.*

s/Robert D. Axelrod

Robert D. Axelrod