

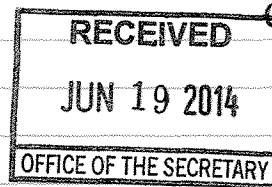
ORIGINAL

Received

JUN 19 2014

ADMINISTRATIVE PROCEEDING - FILE NO. 3-15887

IN THE MATTER OF BLAYNE S. DAVIS,  
RESPONDENT.



Office of Administrative  
Law Judges

Respondent's Answer to Commission's Complaint and Request for Dismissal

Comes now, Blayne S. Davis hereinafter referred to as the "Respondent" files this answer to the "Securities and Exchange Commission" ("Commission")'s allegations whereby the Commission asserts, "in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to section 15(b) of the Securities Exchange Act of 1934..." (see complaint p 61). In the SEC's haste to obtain a default judgment and declare victory they have overlooked critical facts. For the following reasons, Respondent asks this court to dismiss the complaint, and at a minimum, stay the proceedings.

ARGUMENT

(1) - THE COMMISSION ALLEGES THAT, "FROM 2005 THROUGH AT LEAST OCTOBER 2006, DAVIS ACTED AS A BROKER WITH RESPECT TO THE OFFER AND SALE OF SECURITIES." (Complaint p 61). THERE ARE TWO DISTINCT ISSUES THAT ARISE FROM THE ALLEGATIONS CRAFTED IN AMBIGUITY. FIRST, AS A PROCEDURAL MATTER THE COMMISSION DID NOT ASSERT JURISDICTION AT ANYTIME DURING THE COURSE OF THE INITIAL INVESTIGATION (2006-2007) OR DURING THE TRIAL OF THE MATTER. IT APPEARS THIS IS NO MORE THAN THE COMMISSION TROLLING THE COURT DOCKETS LOOKING FOR CASES THAT ALIEN WIRE FRAUD AND TRYING TO PILE ON PUNISHMENT. BECAUSE THE MATTER WAS NOT PREVIOUSLY STAYED OR PRESERVED BY THE COMMISSION, THE ALLEGATIONS ARE MORE THAN NINE YEARS OLD, AND AS THE COMMISSION POINTED OUT, "... A FEDERAL JURY IN THE MIDDLE DISTRICT OF FLORIDA..." (Complaint p 62) (emphasis added), THE ACTION IS BARRED BY THE STATUTE OF LIMITATIONS, AND THE SEC HAS FILED ~~KNOWING~~ KNOWING THIS OBVIOUS DEFECT. SECONDLY, THE ~~SEC~~ COMMISSION CLAIMS THAT RESPONDENT ACTED AS A "BROKER" BUT FAILS TO IDENTIFY THE BROKER TO WHOM RESPONDENT WAS EMPLOYED OR THE LEGAL PROVISIONS THAT NECESSITATE SUCH REGISTRATION WITH THE COMMISSION. IN SHORT, THE ACTION IS BARRED BY THE STATUTE OF LIMITATIONS OR AT MINIMUM, INSUFFICIENTLY PLEAD.

<sup>1</sup> RESPONDENT IS CURRENTLY IN THE CUSTODY OF U.S. MARSHALL AND LACKS THE LEGAL RESOURCES TO PROPERLY ANSWER WITH CASE LAW OR TYPEWRITER.


(2) THE COMMISSION HAS CONVENIENTLY FORGOT TO ADVISE THE COURT THAT RESPONDENT'S CONVICTION AND SENTENCE IS UNDER COLLATERAL ATTACK BY A SECTION 2255 MOTION CURRENTLY PENDING IN THE UNITED STATES DISTRICT COURT. IN THAT MOTION, RESPONDENT HAS INCLUDED EXHIBITS DETAILING FULL COMPENSATION TO ALLEGED VICTIMS TWO AND MANY YEARS PRIOR TO INDICTMENT, AND THE JURISDICTIONAL ISSUES THAT PLAGUE THE CONVICTION. IT IS ALSO IMPORTANT TO POINT OUT THAT RESPONDENT WAS ACQUITTED OF TWO COUNTS AND THE RESTITUTION ORDER MUST BE VACATED IN ACCORDANCE TO MVRA, WHICH STATE THAT "ACTUAL" LOSSES MUST BE SUSTAINED. IN SHORT, WITH THE CONVICTION STILL PENDING APPEAL, IT WOULD BE PREMATURE AND A WASTE OF JUDICIAL RESOURCES TO HOLD A HEARING THAT EXCLUSIVELY RELIES ON THAT CONVICTION TO ADMIT OR CONTEMPLATE THE IMPOSITION OF ADDITIONAL SANCTIONS AND FINES.

(3) THE COMMISSION HAS IN A VERY CONCLUSORY FASHION ALLEGED RESPONDENT RAN AN INVESTMENT PROGRAM NINE YEARS EARLIER BUT HAS FAILED TO SHOW THE IMPLICATION OF THE "COMMISSION'S" JURISDICTION, IMPROPERLY RELIES ON CHARGES THAT HAVE BEEN PREVIOUSLY REJECTED BY A JURY, AND HAS OTHERWISE SELECTIVELY "LUT AND PASTE" FROM A CRIMINAL COMPLAINT WHICH DOES NOT REFLECT THE CURRENT DISPOSITION OF THE MATTER.

### CONCLUSION

THE "COMMISSION'S" ATTEMPT TO SECURE ADDITIONAL PUNISHMENT FOR A CONVICTION UNDER APPEAL IS AT BEST OVER-REACHING AND AT WORSE DISINGENOUS. NOT ONLY IS THE ACTION TIME BARRED, BUT THE "COMMISSION" HAS NEVER CONTEMPLATED PREVIOUS INVOLVEMENT AND HAS NOT SHOWN PRESERVATION OTHERWISE OF THE ISSUES AND CLAIMS. FURTHERMORE, THE "COMMISSION" HAS NOT DEMONSTRATED HOW THESE "INVESTMENT CONTRACTS" (COMPLAINT P6.2) FALL WITHIN REGISTRATION REQUIREMENTS.

GIVEN ALL THE REASONS SET FORTH, RESPONDENT BLAYNES. DAVIS ASKS THIS COURT TO DISMISS THE COMPLAINT OR GRANT SUCH OTHER RELIEF AVAILABLE TO RESPONDENT.

Respectfully Submitted,   
BLAYNES. DAVIS

June 9, 2014