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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

BLOCKVEST, LLC, et al.,

Defendants.

Case No.: 18cv2287-GPC (MSB)

**REPORT AND RECOMMENDATION FOR
ORDER GRANTING PLAINTIFF’S MOTION
FOR TERMINATING SANCTIONS
[ECF No. 93]**

Pending before the Court is Plaintiff’s Securities and Exchange Commission’s “Motion for Terminating Sanctions” [ECF No. 93], Defendants’ Opposition [ECF No. 99], and Plaintiff’s Reply in support of its motion for terminating sanction [ECF No. 102]. This Report and Recommendation is submitted to the United States District Judge Gonzalo P. Curiel pursuant to 28 U.S.C. § 636(b) and Civil Local Rule 72.1(c) of the United States District Court for the Southern District of California. For the reasons set forth below, the Court **RECOMMENDS** that Plaintiff’s motion for terminating sanctions be **GRANTED**.

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I. RELEVANT FACTUAL AND PROCEDURAL BACKGROUND

On October 3, 2018, Plaintiff Securities and Exchange Commission (“SEC”) filed a Complaint against Defendants Blockvest, LLC (“Blockvest”) and Reginald Buddy Ringgold, III a/k/a Rasool Abdul Rahim El (“Ringgold”). (Compl., ECF No. 1.) Plaintiff states that Defendant Blockvest, a limited liability company, and Defendant Ringgold, Blockvest’s founder and principal, offer and sell unregistered securities in the form of digital assets called “BLVs,” and seeks to stop investment fraud involving an initial coin offering (“ICO”)¹ by Defendants. (See id.; see also id. at 2, 4-5.) The Complaint further alleges that Blockvest claims to be the “first [U.S.] **licensed and regulated** tokenized crypto currency exchange and index fund,” that it has already raised more than \$2.5 million in pre-ICO sales of its BLVs, and it will raise \$100 million during its ICO to fund Blockvest’s digital asset-related financial products and services. (Id. at 2.) Plaintiff contends that Defendants falsely claim that their ICO has been “registered” and “approved” by the SEC and other regulators, and that Defendants have partnered with and are audited by Deloitte Touche Tohmatsu Limited. (Id.) Plaintiff further alleges that Defendants created a fictitious regulatory agency, the Blockchain Exchange Commission (“BEC”), in order to create legitimacy and an impression that their investment is safe. (Id.)

Plaintiff claims that Defendants do not have the required regulatory approvals and the established business relationships they claim to have, because the BLV offering is not

¹ An ICO is a fundraising event where an entity offers participants a unique digital coin, token, or digital asset in exchange for consideration, frequently in the form of virtual currency, such as Bitcoin and Ether, or fiat currency. (Id. at 7.) Digital assets issued in an ICO entitle their holders to certain rights related to a venture underlying the ICO, including rights to profits, shares of assets, use of certain services provided by the issuer, and voting rights. (Id. at 7-8.) Digital assets may also be listed on online trading platforms, and are tradable for virtual or fiat currencies. (Id. at 8.) ICOs are typically announced and promoted through public online channels. (Id.) Generally, to participate, investors are required to transfer funds to the issuer’s address, online wallet, or other account. (Id.) After the completion of the ICO, the issuer distributes its unique digital assets (“tokens”) to the participants’ unique addresses on the blockchain. (Id.)

1 “U.S. SEC approved,” nor is it approved by any other U.S. financial regulator, the BEC is
2 not affiliated with the SEC, and Blockvest is not affiliated with the name-brand
3 companies whose logos appear in its marketing materials. (Id. at 2-3.) Plaintiff
4 contends that investors’ assets therefore lack the safety and protections that
5 Defendants are falsely portraying in their scheme to raise money through Blockvest’s
6 planned ICO and ongoing pre-sales. (Id. at 3.)

7 Plaintiff asserts the following five causes of action: (1) fraud in connection with
8 the purchase or sale of securities, in violation of Section 10(b) of the Securities Exchange
9 Act of 1934 (“Exchange Act”) and Rule 10b-5(b); (2) fraud in connection with the
10 purchase or sale of securities, in violation of Section 10(b) of the Exchange Act and Rules
11 10b-5(a) and 10b-5(c); (3) fraud in the offer or sale of securities, in violation of Section
12 17(a)(2) of the Securities Act of 1933 (“Securities Act”); (4) fraud in the offer or sale of
13 securities, in violation of Sections 17(a)(1) and 17(a)(3) of the Securities Act; and
14 (5) unregistered offer and sale of securities, in violation of Sections 5(a) and 5(c) of the
15 Securities Act. (Id. at 2, 24-28.) Plaintiff’s Complaint seeks an order temporarily,
16 preliminarily and permanently enjoining Defendants from violating the federal securities
17 laws, and enjoining Defendant Ringgold from participating in an offer or sale of digital or
18 other securities, or making misrepresentations regarding regulatory approval in
19 connection with such offerings; a temporary restraining order and a preliminary
20 injunction freezing Defendants’ assets, requiring accounting from each Defendant, and
21 prohibiting destruction of documents; disgorgement of Defendants’ ill-gotten gains; and
22 payment of civil monetary penalties. (Id. at 3, 29-30.)

23 On October 3, 2018, Plaintiff also filed an *ex parte* application for a temporary
24 restraining order (“TRO”). (ECF No. 3.) On October 5, 2018, District Judge Curiel
25 granted Plaintiff’s *ex parte* application for a TRO, freezing assets, prohibiting destruction
26 of documents, granting expedited discovery, and requiring an accounting. (ECF Nos. 5 &
27 6.) The District Judge found that Plaintiff had made a *prima facie* showing based on

1 and its ICO, that BLV tokens were “securities.” (ECF No. 5 at 8-9.) The District Judge also
2 issued an “Order to Show Cause Re Preliminary Injunction and Orders: (1) Freezing
3 Assets; (2) Prohibiting the Destruction of Documents; (3) Granting Expedited Discovery;
4 and (4) Requiring Accountings” and set a hearing for October 18, 2018. (ECF No. 6 at 12-
5 13.) The District Judge subsequently granted the parties’ two joint motions to extend
6 the TRO and the hearing on the order to show cause until November 16, 2018. (ECF Nos.
7 15 & 17.)

8 In support of their opposition to Plaintiff’s motion for a preliminary injunction, on
9 November 13, 2018, Defendants filed investor declarations, which included declarations
10 from Chris Russell [ECF No. 32-6 at 67-68], Quintin Dorsey [ECF No. 32-8 at 6], and
11 Jacqueline Wartanian [ECF No. 32-8 at 4]; and on November 20, 2020—a declaration
12 from Amanda Vaculik [ECF No. 40-2 at 2]. On November 16, 2018, District Judge Curiel
13 held a hearing on Plaintiff’s motion for a preliminary injunction [ECF No. 37], and on
14 November 27, 2018—issued an order denying Plaintiff’s motion [ECF No. 41]. The order
15 cited, among other documents, investor declarations that Defendants filed in support of
16 their opposition to Plaintiff’s motion for a preliminary injunction. (See ECF No. 41.) The
17 District Judge concluded that in light of the evidence presented by Defendants, there
18 were disputed factual issues as to the nature of investments offered to the alleged
19 investors, and without full discovery, the Court could not determine “whether the BLV
20 token offered to the 32 test investors was a ‘security’” and “whether the 17 individuals
21 who invested in Rosegold purchased ‘securities’ as defined under the federal securities
22 law.” (Id. at 13-14.) The District Judge also found that Plaintiff failed to show a
23 reasonable likelihood that Defendants would repeat their violations because “it is
24 disputed whether there have been past violations.” (Id. at 15-16.)

25 Defendants filed an Answer on December 14, 2018. (ECF No. 43.) On
26 December 17, 2018, Plaintiff moved for partial reconsideration of the District Court’s
27 November 27, 2018 order. (ECF No. 44.)

1 On February 14, 2019, the District Judge granted in part Plaintiff's motion and
2 preliminarily enjoined Defendants' violations of the antifraud provisions of the
3 Securities Act. (ECF No. 61.) In the order, the District Judge cited Defendants' evidence
4 concerning the Rosegold investors and testers to conclude that there was a factual
5 dispute about whether those individuals purchased securities. (Id. at 13-14.) The
6 District Judge "denie[d] Plaintiff's motion for reconsideration as to the offers or
7 promises made to the 32 test investors and 17 individual investors." (Id. at 14.)

8 On December 27, 2018, Corrigan & Morris LLP, moved to withdraw as counsel for
9 Defendants Blockvest and Ringgold. (ECF No. 47.) District Judge Curiel granted defense
10 counsel's request to withdraw as counsel on February 14, 2019, and gave Defendants
11 until March 15, 2019, to obtain substitute counsel. (ECF No. 62.) In the order, Judge
12 Curiel noted that as a limited liability corporation, Defendant Blockvest could not
13 proceed in federal court without counsel, and expressly cautioned Blockvest "that if it
14 fails to obtain new counsel and have counsel file a notice of appearance, it may be
15 subject to default proceedings." (Id. at 3-4.) On March 18, 2019, Judge Curiel granted
16 Defendants' *ex parte* request for additional time to obtain counsel and continued the
17 deadline until March 29, 2019. (ECF No. 64.) To date, no counsel has entered an
18 appearance on behalf of Defendants. (See Docket.)

19 On February 11, 2019, this Court held an Early Neutral Evaluation Conference, and
20 on April 22, 2019—a follow-up Settlement Conference. (ECF Nos. 59 & 71.) On April 24,
21 2019, the Court issued a scheduling order that set, among other deadlines,
22 September 9, 2019, as the deadline for fact discovery, December 26, 2019, as the
23 deadline for expert discovery, and January 27, 2020, as the deadline to file pretrial
24 motions. (ECF No. 72 at 1, 3.)

25 On January 10, 2020, Plaintiff filed the instant *ex parte* motion for terminating
26 sanctions, which was referred to this Court. (ECF Nos. 93 & 94.) On January 24, 2020,
27 Plaintiff filed a motion for summary judgement, which is currently pending before the

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