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8   UNITED STATES DISTRICT COURT

9   SOUTHERN DISTRICT OF CALIFORNIA

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11   SECURITIES AND EXCHANGE   Case No.: 18CV2287-GPB(MSB)
     COMMISSION,
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                                            ORDER ADOPTING REPORT AND
13   Plaintiff,   **RECOMMENDATION AND**
                                            GRANTING PLAINTIFF'S MOTION
14   v.   **FOR TERMINATING SANCTIONS**
                                            AS TO DEFENDANT RINGGOLD
15   BLOCKVEST, LLC and REGINALD
     BUDDY RINGGOLD, III a/k/a RASOOL
16   ABDUL RAHIM EL,   **[Dkt. No. 93.]**

17   Defendants.

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19   Before the Court is Plaintiff Securities and Exchange Commission's ("SEC" or

20   "Plaintiff") motion for terminating sanctions seeking entry of default judgment against

21   Defendants Blockvest LLC and Reginald Buddy Ringgold (collectively "Defendants") on

22   all claims in the complaint. (Dkt. No. 93.) Defendant Reginald Buddy Ringgold III

23   ("Ringgold" or "Defendant") filed an opposition and the SEC filed its reply. (Dkt. Nos.

24   99, 102.)

25   On April 20, 2020, pursuant to 28 U.S.C. § 636(b)(1), the Honorable Michael S.

26   Berg, United States Magistrate Judge ("Magistrate Judge"), submitted a Report and

27   Recommendation ("R&R") to this Court recommending that terminating sanctions be

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1   imposed and default judgment entered against Defendants. (Dkt. No. 113.) Ringgold

2   filed an objection to the R&R and the SEC filed a reply. (Dkt. No. 1115, 116.)

3   The motion raises three questions: (1) whether Defendants submitted false

4   declarations to defend against the SEC's case; (2) if so, were false declarations submitted

5   willfully; and (3) if so, whether a terminating sanction is the appropriate remedy for

6   presenting the false declarations in this litigation. The Court finds that the evidence

7   establishes that Defendants willfully filed false declarations to defend against the SEC

8   allegations, and, in so doing, willfully deceived the Court and adversely affected the

9   administration of justice. For the reasons stated below, the Court ADOPTS the R&R and

10 GRANTS the SEC's motion for terminating sanctions as to Defendant Ringgold.

Procedural Background

12   On October 3, 2018, the SEC filed a Complaint against Defendants Blockvest,

13 LLC ("Blockvest") and Reginald Buddy Ringgold, III a/k/a Rasool Abdul Rahim El

14 ("Ringgold" or "Defendant") alleging violations of Section 10(b) of the Securities

15 Exchange Act of 1934 ("Exchange Act") and Rule 10b-5(b); violations under Section

16 10(b) of the Exchange Act and Rule 10b-5(a) and Rule 10b-5(c); fraud in violation of

17 Section 17(a)(2) of the Securities Act of 1933 ("Securities Act"); fraud in violation of

18 Sections 17(a)(1) and 17(a)(3) of the Securities Act; and violations of Sections 5(a) and

19 5(c) of the Securities Act for the offer and sale of unregistered securities. (Dkt. No. 1,

20 Compl.) Plaintiff also concurrently filed an *ex parte* motion for temporary restraining

21 order seeking to halt Defendants' fraudulent conduct and freezing their assets, prohibiting

22 the destruction of documents, seeking expedited discovery and an accounting of

23 Defendants' assets. (Dkt. No. 3.) On October 5, 2018, the Court granted Plaintiff's ex

24 parte motion for temporary restraining order. (Dkt. Nos. 5, 6.) In compliance with the

25 temporary restraining order, Defendants filed Ringgold's Declaration of Accounting on

26 October 26, 2018, and a First Supplemental Declaration of Ringgold on November 2,

27 2018. (Dkt. Nos. 18, 21.) Defendants also filed a response to the order to show cause on

28 November 2, 2018. (Dkt. Nos. 23, 24, 25.) On November 7, 2018, Plaintiff filed a reply.

1   (Dkt. Nos. 27, 28.) A hearing on the order to show cause was held on November 16,

2   2018, (Dkt. No. 37), and on November 27, 2018, the Court denied a preliminary

3   injunction. (Dkt. No. 41.)

4   On December 17, 2018, the SEC filed a motion for reconsideration. (Dkt. No. 44.)

5   Subsequently, defense counsel filed a motion to withdraw as counsel on December 27,

6   2018, and, among other things, cited attempts by defendants to file documents without

7   counsel's knowledge or signature. (Dkt. No. 47 at 5-6.) On February 14, 2019, the Court

8   granted Plaintiff's motion for partial reconsideration of the denial of a preliminary

9   injunction against Defendants for future violations of Section 17(a) of the Securities Act

10   and issued an order preliminarily enjoining Defendants from violating Section 17(a).

11   (Dkt. No. 61.) However, relying on the declarations filed by Defendants, the Court found

12   disputed issues of fact precluded the issuance of a preliminary injunction as to the 32 test

13   investors and 17 individual investors. On the same day, the Court also granted defense

14   counsel's motion to withdraw as counsel. (Dkt. No. 62.) Although Blockvest, as an

15   LLC, was given leave to obtain substitute counsel until March 29, 2019, (Dkt. No. 64), it

16   has not retained counsel.[1] Defendant Ringgold has been proceeding without counsel

17   since his counsel's withdrawal.

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20   [1] The SEC has not sought default proceedings against Blockvest. Blockvest LLC was dissolved in
     Wyoming as of March 19, 2019. *See*

21   https://wyobiz.wyo.gov/Business/FilingDetails.aspx?eFNum=2331060110190691821491662302031061
     93101100185208 (last visited 5/13/20). According to Ringgold, because it has no interests, no assets, no

22   bank account, no EIN or TIN or employees, Blockvest does not need any representation and can answer
     on its own. Further, citing California law, Ringgold argues that because Blockvest, as a dissolved LLC,

23   has no assets or shareholders, it does not need to respond. (Dkt. No. 99-1 at 5.) Despite its dissolution,
     Plaintiff seeks terminating sanctions against Blockvest LLC without providing legal authority as to its

24   capacity to be sued. Under Federal Rule of Civil Procedure 17(b), the capacity to sue or be sued in
     federal court is determined by the law under which the corporation was organized. Fed. R. Civ. P.

25   17(b). Whether an LLC is treated the same as a corporation is also subject to state law. *See First*

26   *American Mortg. Inc. v. First Home Builders of Fla*, Civil Action No. 10–CV–0824–RBJ–MEH, 2011
     WL 4963924, at *12 (D. Colo. 2011) (while Michigan law gives limited liability companies "all powers

27   granted to corporations", such a provision is not provided in Colorado law). Ringgold's reliance on
     California law is misplaced. Also, because the SEC has not provided legal authority whether Blockvest

28   LLC can be sued in its capacity as a dissolved LLC, the Court declines to address the motion as it

Factual Background

The Complaint alleges that Defendants offered and sold alleged unregistered securities in the form of digital assets called BLV's through an initial coin offering ("ICO"). (Dkt. No. 1, Compl. ¶¶ 1-4, 6.) According to the Complaint, Blockvest conducted pre-sales of BLVs in March 2018 in several stages: 1) a private sale (with a 50% bonus) that ran through April 30, 2018; 2) a "pre-sale" (with a 20% bonus) from July 1, 2018 through October 6, 2018; and 3) the $100 million ICO launch on December 1, 2018. (*Id.* ¶ 30.) According to the SEC, Blockvest and Ringgold falsely claim their ICO has been "registered" and/or "approved" by the SEC, the Commodity Futures Trading Commission ("CFTC") and the National Futures Association ("NFA"), when in fact, it has not. (*Id.* ¶¶ 77-88.) Defendants further falsely assert they are "partnered" with and "audited by" Deloitte Touche Tohmatsu Limited ("Deloitte) but that is also not true. (*Id.* ¶¶ 89-93.) Finally, in order to create legitimacy and an impression that their investment is safe, Defendants created a fictitious regulatory agency, the Blockchain Exchange Commission ("BEC"), creating its own fake government seal, logo, and mission statement that are nearly identical to the SEC's seal, logo and mission statement. (*Id.* ¶¶ 112-28.)

In response, Ringgold asserted that there had not been any actual investors in Blockvest's sale of digital "BLV" tokens. Instead, Defendants claimed that dozens of "friends and family" paid money: (1) to an affiliated entity without expecting to receive Blockvest tokens (the "Rosegold investors"), or (2) to help develop the Blockvest platform without expecting to receive real tokens (the "testers"). Ringgold declared that Blockvest had never sold any tokens to the public and had only one investor, Rosegold Investments LLP, ("Rosegold") which is run by him and in which he has invested more than $175,000 of his own money. (Dkt. No. 24, Ringgold Decl. ¶ 5.) During the testing

concerns Blockvest. However, if legally supported, the SEC may seek default proceedings against Blockvest.

1   and development phase prior to the anticipated ICO, 32 testers put a total of less than

2    $10,000 of Bitcoin and Ethereum onto the Blockvest Exchange. (*Id.* ¶ 6.) Ringgold

3   further claimed that the BLV tokens were only designed for testing the platform and no

4   tokens were released to the 32 testing participants. (*Id.*) In addition, 17 individuals

5   loaned or invested money in Rosegold Investments who are Ringgold's friends and

6   family and Michael Sheppard's, Blockvest's CFO, friends and family. (*Id.* ¶ 12.) These

7   investors loaned Ringgold or Sheppard money personally and they in turn, invested the

8   money into Rosegold as their personal investment. (*Id.* ¶ 11.) Declarations from nine

9   individuals affirm they did not buy BLV tokens or rely on any of the representations the

10   SEC has alleged were false. (*Id.* ¶ 13; Dkt. No. 24-2, Ringgold Decl., Ex. 2.) Each of the

11   individuals declared under oath that they did not rely on any specific representation when

12   investing. (Dkt. No. 24, Ringgold Decl. ¶ 13.)

13   At the preliminary injunction stage, Defendants solely challenged the SEC's claims

14   arguing that the test BLV tokens were not "securities". Under the *Howey*[2] test defining a

15   security, the Court, relying on Ringgold's declaration and nine investor declarations,

16   concluded there was a disputed issue of fact whether the BLV token offered and sold to

17   the 32 testers was a "security" and whether the 17 identified individuals who invested in

18   Rosegold purchased "securities." (Dkt. No. 41 at 13-14.)

19   On November 13, 2018, Defendants filed the declarations of Christopher Russell

20   ("Russell"), Jacquelin Wartanian ("Wartanian"), Quintin Dorsey ("Dorsey"), and

21   Amanda Vaculik ("Vaculik") in opposition to the motion for preliminary injunction.

22   (Dkt. Nos. 32-6; 32-8; 40-2.)

23   During discovery, it was revealed that the declaration of Russell was forged,

24   misrepresentations were made in Wartanian's declaration, and false statements were

25   _____

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27   [2] *SEC v. W.J. Howey Co.*, 328 U.S. 293, 298-99 (1946). *Howey*'s three-part test requires "(1) an investment of money (2) in a common enterprise (3) with an expectation of profits produced by the efforts of others." *SEC v. Rubera*, 350 F.3d 1084, 1090 (9th Cir. 2003) (internal quotation marks

28   omitted).

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