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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff,
v.
JAMES MICHAEL MURRAY,
Defendant.
and
EVENT TRADING GP, LLC
Relief Defendant.

Case No. 12-cv-01288-EMC

STIPULATION RE FURTHER
PROCEEDINGS RE RELIEF DEFENDANT
EVENT TRADING GP, LLC

1 WHEREAS on February 3, 2017, this Court issued an Order Denying Intervenor Joseph
2 Gianluca de Francisci’s Motion to Intervene (Dkt. 156) and directed plaintiff Securities and
3 Exchange Commission (“Commission”) and Relief Defendant Event Trading GP, LLC (“Event
4 Trading”) to meet and confer about the means to resolve the dispute over the ownership of the frozen
5 assets in the Event Trading accounts at Interactive Brokers, and thereafter to submit the result of the
6 meet and confer to the Court by February 9, 2017;

7 WHEREAS counsel for the parties have met and conferred and have reached agreement on
8 the matters set forth below except as otherwise specified;

- 9 1. The parties agree to submit the dispute for resolution by the Court by means of a
10 proceeding without a jury in which the parties would file written submissions of facts
11 and proposed conclusions of law under Rule 52 of the Federal Rules of Civil
12 Procedure, with argument on the motion, if any, to be set at the Court’s convenience
13 after the close of briefing;
- 14 2. The parties agree that prior to the date set for the Commission’s opening submission to
15 the Court, the Commission shall be entitled to conduct the depositions under oath of
16 the two witnesses proposed by Event Trading: Joseph Gianluca de Francisci
17 (“Gianluca de Francisci”) and Giovanni de Francisci, as set forth below;
- 18 3. The parties agree that Relief Defendant Event Trading shall produce to the
19 Commission all documents on which it intends to rely in this proceeding no later than
20 14 days before the date of the deposition of Giovanni de Francisci;
- 21 4. The parties agree that the deposition under oath of Giovanni de Francisci shall take
22 place before the deposition of Gianluca de Francisci on a mutually agreed date and
23 time during the week of March 13, 2017 at the Commission’s office in San Francisco,
24 California;
- 25 5. The parties could not agree on the procedure for conducting the deposition of Gianluca
26 de Francisci. Counsel for the Commission has proposed that Gianluca de Francisci, as
27 a witness with a claimed interest in the Event Trading proceeds, appear for deposition
28 in the Commission’s office in San Francisco, where this case is being litigated.

1 Counsel for Gianluca de Francisci (who also represents Event Trading) represented
2 that his client is an Italian citizen who resides in Monaco and that he does not want to
3 travel to San Francisco for a deposition, citing his age (in his 70s), although counsel
4 was not aware of any specific medical limitations. Counsel proposed that the
5 deposition instead be conducted in the American Consulate in Marseilles, France and
6 would agree that the deposition could be conducted remotely via videoconference and
7 could be videotaped. Counsel further represented that an interpreter will be required.

8 6. As an agency of the federal government, the Commission is required to adhere to
9 governing treaties and agreements concerning its conduct of depositions in France.
10 Counsel for the Commission has been advised by the Commission's Office of
11 International Affairs that the deposition of Gianluca de Francisci in France must be
12 conducted under the Hague Evidence Convention with the permission of the French
13 Central Authority. The procedural requirements are complex. Initially, a commission
14 must be issued by a court in the United States. The U.S. Embassy or Consulate must
15 have documentation for the proposed deposition at least 45 days prior to the deposition
16 and French translations in order to request permission of the French Central Authority.
17 Thereafter, the Embassy or Consulate must give notice of the date and time of the
18 deposition to the French Ministry of Justice and provide 15 days' notice of the
19 deposition to the parties. The deposition must be held on Embassy or Consulate
20 premises. It is not known whether it would be possible to arrange and schedule a
21 videoconference and a videotaped deposition with the Consulate, particularly given
22 the nine-hour time difference between California and France.

23 7. In view of the above, the Commission proposed to compromise by holding the
24 deposition at its New York Regional Office. Counsel for Gianluca de Francisci has
25 been unable to reach Mr. de Francisci with this offer, but represented that Giovanni de
26 Francisci believes travel to the United States would be unacceptable. Counsel for
27 Gianluca de Francisci proposed potential alternative locations in Europe, specifically
28 in Switzerland and Italy. The Commission's Office of International Affairs has

1 advised that similar procedural issues would apply in Switzerland, with the additional
2 impediment that a deposition under oath may not be possible. A deposition in Italy
3 would not be permitted under Italian law because Mr. de Francisci does not reside
4 there.

5 8. Accordingly, while the parties expect to continue discussions, they agree that setting
6 the location and time of the deposition of Gianluca de Francisci may require the
7 Court's intervention and further agree to appear for a status conference to resolve this
8 issue, as the Court deems necessary.

9 9. The parties agree that the Commission shall file its opening brief with proposed facts
10 and conclusions of law thirty days after the conclusion of the depositions of Giovanni
11 de Francisci and Gianluca de Francisci, whichever is later.

12 10. The parties agree that Relief Defendant Event Trading shall have thirty days from the
13 date the Commission's brief is filed to file its proposed facts and conclusions of law.

14 11. The parties agree that the Commission shall have 14 days from the date Event
15 Trading's brief is filed to submit its brief in reply.

16 NOW, THEREFORE, the parties stipulate and agree and ask the Court to adopt as its Order

17 that:

18 1. The dispute over the ownership of the frozen assets of Relief Defendant Event Trading
19 shall be resolved by means of a proceeding without a jury in which the parties shall
20 file written submissions of facts and proposed conclusions of law under Rule 52 of the
21 Federal Rules of Civil Procedure, with argument on the motion, if any, to be set at the
22 Court's convenience after the close of briefing, as set forth below.

23 2. Relief Defendant Event Trading shall produce to the Commission all documents on
24 which it intends to rely in this proceeding no later than 14 days before the date of the
25 deposition of Giovanni de Francisci.

26 3. The Commission shall be entitled to conduct the deposition under oath of Giovanni de
27 Francisci on a mutually agreed date and time during the week of March 13, 2017 at the
28 Commission's office in San Francisco, California.

- 1 4. The Commission shall be entitled to conduct the deposition under oath of Gianluca de
2 Francisci following the deposition of Giovanni de Francisci at a location and time to
3 be set by the Court after conferring with the parties.
- 4 5. The Commission shall file its opening brief with proposed facts and conclusions of
5 law thirty days after the conclusion of the depositions of Giovanni de Francisci and
6 Gianluca de Francisci, whichever is later.
- 7 6. Relief Defendant Event Trading shall have thirty days from the date the Commission's
8 brief is filed to file its brief with proposed facts and conclusions of law.
- 9 7. The Commission shall have 14 days from the date Event Trading's brief is filed to file
10 its brief in reply.
- 11 8. The Court shall schedule a hearing on the motion on a date convenient for the Court
12 following the close of briefing.
- 13

14 DATED: February 9, 2017

DATED: February 9, 2017

15 /s/Judith L. Anderson

/s/ Lowell Lee Carson, Jr.

16 Judith L. Anderson
17 Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION

Lowell Lee Carson, Jr.
Attorney for Relief Defendant
EVENT TRADING GP, LLC

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20 PURSUANT TO STIPULATION, IT IS SO ORDERED. A Further CMC is set for
21 Thursday 2/16/17 at 10:30 a.m.

22 DATED: 2/13/17

