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 9 ENERGY CORPORATION OF AMERICA

10 [Name and Address of Additional  
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12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA  
 14 SAN FRANCISCO DIVISION

15 RUSSIAN HILL CAPITAL, L.P.,  
 16 Plaintiff,  
 17 vs.  
 18 ENERGY CORPORATION OF AMERICA  
 19 and DOES 1-10,  
 20 Defendants.

Case No. 3:15-cv-02554-HSG

**STIPULATION AND ORDER TO  
 POSTPONE INITIAL CASE  
 MANAGEMENT CONFERENCE AND  
 RELATED DATES**

Before the Hon. Haywood S. Gilliam, Jr.

21 WHEREAS, Plaintiff Russian Hill Capital, L.P. (“Russian Hill”) commenced this action  
 22 by filing its Complaint For: (1) Fraud [and] (2) Misrepresentation of Facts – Cal Corp Code §  
 23 25501(the “Complaint”) on May 5, 2014 in the Superior Court of the State of California, County  
 24 of San Francisco;

25 WHEREAS, Russian Hill served the Complaint on Defendant Energy Corporation of  
 26 America (“ECA”) on May 14, 2015;

27 WHEREAS, ECA removed the action to this Court on June 9, 2015, with ECA’s filing of  
 28 its Notice of Removal;

WHEREAS, on June 16, 2015, ECA filed a motion to dismiss the Complaint;

WHEREAS, on July 7, 2015, Russian Hill elected not to oppose ECA’s motion to dismiss

STIP. & ~~PROPOSED~~ ORDER TO POSTPONE  
 INITIAL CASE MANAGEMENT CONFERENCE

CASE NO. 3:15-cv-02554- HSG

1 and instead exercised its right under Fed. R. Civ. P. 15(a)(1)(B) to amend its pleading by filing its  
2 First Amended Complaint For: (1) Fraud, (2) Misrepresentation of Facts – Cal Corp Code §  
3 25501, [and] (3) Violation of Section 14(e) of the Exchange Act (the “First Amended  
4 Complaint”);

5 WHEREAS, ECA filed a motion to dismiss directed to the First Amended Complaint (the  
6 “Motion”);

7 WHEREAS, briefing on the Motion is continuing, and a hearing on the Motion is  
8 scheduled for the Court’s regular law-and-motion calendar on Thursday, September 24, 2015;

9 WHEREAS, an initial case management conference was scheduled in this matter when it  
10 was first filed and is currently on calendar for Tuesday, September 8, 2015;

11 WHEREAS, in light of the procedural posture of the case, the parties believe that it would  
12 be more efficient to postpone the initial case management conference and related proceedings  
13 (including the dates contemplated by the Initial Case Management Scheduling Order, the  
14 preparation of an initial case management conference statement and initial disclosures and meet-  
15 and-confer obligations under Fed. R. Civ. P. 26) until after the Court’s disposition of the Motion;

16 THEREFORE, subject to the Court’s approval, the parties agree as follows:

17 **STIPULATION**

18 1. The Case Management Conference currently scheduled in this action for  
19 September 8, 2015, is vacated, together with all associated dates set out in the Initial Case  
20 Management Scheduling Order and deadlines for the filing of a case management conference  
21 statement, initial disclosures and meet-and-confer discussions under Fed. R. Civ. P. 26. In  
22 addition, the parties are excused for now from filing an ADR Certification or to meet-and-confer  
23 to select an ADR process.

24 2. Within ten days of the Court’s disposition of the Motion, the parties will propose  
25 to the Court a schedule for an initial case management conference and related dates (including  
26 initial disclosures and timing for meet-and-confer discussions to select an alternative dispute  
27 resolution process), which proposed schedule can and should take into account the timing of any  
28 further proceedings that may be necessary in light of the Court’s disposition of the Motion. For

1 example, should the Court grant the Motion with leave to amend and Russian Hill indicates an  
2 intention to amend its pleading, the parties' proposed schedule may contemplate a delay in an  
3 initial case management conference until after the further amendment to the complaint or  
4 disposition of a new motion to dismiss that hypothetical amended complaint.

5 3. The Clerk's Notice concerning compliance with the Court's local ADR-related  
6 rules dated August 19, 2015, is also vacated pending the Court's resolution of the Motion.

7  
8 Dated: August 20, 2015

VINSON & ELKINS LLP

9  
10 By: /s/ Michael L. Charlson  
Michael L. Charlson

11 Attorneys for Defendant  
12 ENERGY CORPORATION OF AMERICA

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19 Attorneys for Plaintiff  
20 RUSSIAN HILL CAPITAL, LP

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**ORDER**

Pursuant to stipulation of the parties and good causing appearing, IT IS SO ORDERED. The initial Case Management Conference currently scheduled for September 8, 2015, together with related dates for filing of a case management conference statement and for initial disclosures and meet-and-confer discussions under Fed. R. Civ. P. 26, are postponed pending the Court's resolution of Defendant's pending motion to dismiss. The Clerk's Notice concerning compliance with the Court's local ADR-related rules dated August 19, 2015, is also vacated pending the Court's resolution of the Motion.

Dated: August 21, 2015

  
United States District Judge

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**ATTESTATION OF ELECTRONIC FILING**

I, Michael L. Charlson, am the ECF User whose ID and password are being used to file this STIPULATION AND [PROPOSED] ORDER TO POSTPONE INITIAL CASE MANAGEMENT CONFERENCE AND RELATED DATES. I hereby attest that counsel whose e-signatures appear above have concurred with this filing.

Dated: August 20, 2015  
VINSON & ELKINS LLP  
By: /s/ Michael L. Charlson  
Michael L. Charlson  
Attorneys for Defendant  
ENERGY CORPORATION OF AMERICA

**CERTIFICATE OF SERVICE**

The undersigned certifies that on August 20, 2015, the foregoing document was electronically filed with the Clerk of the Court for the UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA, using Court's Electronic Case Filing (ECF) system. The ECF system routinely sends a "Notice of Electronic Filing" to all attorneys of record who have consented to accept this notice as service of this document by electronic means.

Dated: August 20, 2015  
VINSON & ELKINS LLP  
By: /s/ Michael L. Charlson  
Michael L. Charlson  
Attorneys for Defendant  
ENERGY CORPORATION OF AMERICA