

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
MARK CUBAN,)	
)	
Plaintiff,)	
)	
v.)	Case: 1:09-cv-00996
)	Assigned: Walton, Reggie B.
SECURITIES AND EXCHANGE)	Description: FOIA/Privacy Act
COMMISSION,)	
)	
Defendant.)	
_____)	

**SEC’S UNOPPOSED MOTION FOR EXTENSION OF TIME OF THE JULY 1, 2011
COURT ORDERED DEADLINES**

Defendant, the United States Securities and Exchange Commission (“SEC” or the “Commission”), by and through the undersigned counsel hereby moves for additional time of two weeks to file its revised motion for partial summary judgment and supporting evidence pursuant to this Court’s Order of July 1, 2011 and to extend all other deadlines in that Order as requested below. Good cause exists to grant this motion.

1. On July 1 , 2011, this Court entered an Opinion and Order granting in part and denying in part Defendant’s Motion for Reconsideration. The Court also ordered Defendant to file a new motion for summary judgment and a revised *Vaughn* Index by September 29, 2011. Pursuant to that Order, Plaintiff’s response to the SEC’s new motion for partial summary judgment and cross motion for summary judgment are due by November 14, 2011, and Defendant’s opposition to Plaintiff’s cross motion for summary judgment and reply in support of its own motion for summary judgment are due by December 14, 2011.

2. In light of recent events in litigation between a former employee and the SEC, the

Commission is revisiting its decision to withhold under Exemption 6 of the FOIA documents responsive to Plaintiff's FOIA requests that contain information that now may be available to the public. The SEC expects that it will be producing additional documents due to this development, but it needs more time to review and conduct its FOIA analysis.

3. In addition, the Commission will shortly be releasing an investigative report from its Office of Inspector General (OIG) concerning allegations made by Mark Cuban that may impact the Commission's FOIA analysis of certain documents at issue in this case and lead to production of those documents. The Commission, however, is still in the process of deciding what, if any, portions of that report are protected from disclosure.

4. As a result of both of these developments, the Commission requests an extension of two weeks within which to file its revised Motion for Partial Summary Judgment and revised *Vaughn* Index pursuant to this Court's Order of July 1, 2011.

5. On September 14, 2011, Commission counsel conferred with Plaintiff's counsel, Lyle Roberts, and explained that given the new circumstances, the Commission was requesting additional time until October 13, 2011 to file its new partial motion for summary judgment and revised *Vaughn* Index and for similar extensions of time of two weeks on the other deadlines pursuant to this Court's Order of July 1, 2011. Plaintiff's counsel has informed the Commission that his client will not oppose this motion.

6. Accordingly, the Commission requests an extension of time on the current scheduling deadlines of this Court's July 1, 2011 Order as follows: Defendant's motion for partial summary judgment and revised *Vaughn* Index until October 13, 2011; Plaintiff's opposition to Defendant's motion and the filing of his cross motion until November 28, 2011; Defendant's reply to Plaintiff's

response of its motion and opposition to Plaintiff's cross motion until December 28, 2011.

7. There is good cause to grant this motion. For the foregoing reasons, the SEC respectfully requests that it be afforded an extension of the deadline for filing its revised motion for partial summary judgment and revised *Vaughn* Index until and including October 13, 2011 and to extend all the remaining deadlines as requested above. Some of the responsive documents at issue may no longer be exempt under FOIA and may be produced as a result of the above-referenced recent developments, narrowing the documents still in dispute in this matter.

Respectfully submitted,

/s/ *Juanita C. Hernández*

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Dated: September 16, 2011

Attorneys for Defendant

CERTIFICATE OF CONFERENCE

I certify that on September 14, 2011, I as counsel for Defendant Securities and Exchange Commission conferred by telephone with Lyle Roberts as counsel for Plaintiff Mark Cuban concerning the filing of this motion for extension of time. Counsel for Plaintiff does not oppose this Motion for extension of time.

/s/ Juanita C. Hernandez
Juanita C. Hernández

CERTIFICATE OF SERVICE

On September 16, 2011, I electronically submitted the foregoing document with the clerk of the court for the United States District Court for the District of Columbia, using the electronic case filing system of the Court. I hereby certify that I have served all counsel of record electronically.

/s/ Juanita C. Hernandez
Juanita C. Hernández

