

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CASE NO. 8:20-cv-325-T-35AEP

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

BRIAN DAVISON, et al.,

Defendants.

**JOINT NOTICE REQUESTING ENTRY OF AGREED REPORT AND
RECOMMENDATION EXTENDING AND MODIFYING ASSET FREEZE**

Plaintiff Securities and Exchange Commission and Defendant Barry Rybicki jointly file this Notice advising the Court of their agreement on Rybicki's Renewed Motion to Modify Asset Freeze (D.E. 532). On April 12, 2022, United States Magistrate Judge Anthony Porcelli heard the motion and directed Rybicki's counsel to submit an amended budget to the Court *in camera* and share it with counsel for the Receiver and the SEC, and then scheduled another hearing for May 9, 2022 to address the Motion after considering the amended budget. The SEC and Rybicki have since come to an agreement to resolve the issue of the carve-out and respectfully request the Court enter a Report and Recommendation recommending that \$75,000 of the funds assigned by Rybicki to the Receiver be carved-out for the payment of fees as requested in Rybicki's Renewed Motion to Modify.¹ As the Court indicated in its Report and Recommendation recommending that the Receiver's Fifth Quarterly Fee Application be granted (D.E. 320), the SEC's agreement on this issue bears great weight in determining the reasonableness of the fees and costs to be awarded by the Court. *See S.E.C. v. Byers*, 590 F. Supp. 2d 637, 644 (S.D.N.Y. 2008). Accordingly, the SEC

¹ The Receiver remains opposed to Rybicki's Renewed Motion.

and Rybicki request that the Court issue a Report and Recommendation recommending that \$75,000 of the funds assigned by Rybicki to the Receiver be carved-out for the payment of fees as requested in Rybicki's Renewed Motion to Modify, which will moot the need for the May 9 hearing.

SUBMITTED: May 6, 2022

Respectfully submitted,

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