

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
CASE NO. 8:20-cv-325-T-35AEP**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

BRIAN DAVISON et al.,

Defendants.

**PLAINTIFF’S JOINDER IN OPPOSITION TO DAVISON’S MOTION TO
ALTER OR AMEND FINAL JUDGEMENT**

Plaintiff Securities and Exchange Commission (“Commission”) hereby joins and adopts the Receiver’s Opposition to Davison’s Motion to Alter or Amend Final Judgment (DE 612). The Final Judgment in this matter entered against Brian Davison should not be altered or amended for the reasons cited in the Receiver’s Opposition. In addition, the Commission states as follows:

1. Davison’s motion surrounds issues of whether he satisfied the terms of the Final Judgment entered against him. To wit, whether he disgorged certain valuable coins as set forth in specific detail in the Final Judgment. Davison admits that he did not give the Receiver the coins as detailed in the Final Judgment. Instead, Davison gave the Receiver other coins claiming he mistook silver coins for platinum ones when negotiating the settlement. Thus, the question before the Court is how to correct Davison’s failure to turn over the coins based on what he now asserts was his

mistake as to what coins he actually possessed. The parties agree that the error may be corrected by Davison paying the difference in value between the coins or by the Court otherwise relieving Davison of the obligation to turn over the platinum coins (they just disagree as to which of these solutions should be implemented). Neither solution, however, should lead to an amendment of the Final Judgment.

2. Fed.R.Civ.P. 60(a) allows corrections to an Order based on clerical mistakes, oversights or omissions. Here, there was no clerical mistake, oversight or omission that would fall under Rule 60. This is not an instance of a typo. Instead, the terms of the final judgment and the items to be turned over to the Receiver to satisfy the disgorgement were specifically negotiated and reviewed for months before the settlement was announced and the Final Judgment was entered by Court. Here, the Final Judgment correctly sets forth the parties' agreement. Thus, the Final Judgment's language should remain undisturbed.

3. Nor are there sufficient grounds for relief from the Final Judgment under Rule 60(b)(5) as the Judgment has not been satisfied. Davison admits that he has not turned over the coins he agreed to turnover as specifically detailed in the Final Judgment. The Final Judgment calls for specific performance and does not allow substitutions of one non-monetary asset for another. Thus, the only suitable substitution to satisfy the Final Judgment is the monetary value of the item for which Davison no longer has but which he previously agreed to turn over to the Receiver. Davison should not be permitted to unilaterally rewrite the terms of the settlement in his favor more than a year after it was entered. Indeed, had the Plaintiff known that

the platinum coins would not be turned over to the Receiver, it would have insisted on a turnover of additional items or cash before agreeing to the settlement.

Based on the foregoing and the reasons detailed in the Receiver's Opposition to Davison's Motion, the SEC requests that the Court deny Davison's Motion to Alter or Amend the Judgment.

Dated: August 12, 2022

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 12, 2022, I electronically filed the foregoing document via the Court's CM/ECF electronic filing system, which provides notice to all counsel of record.

BY: /s/ Alise Johnson