

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 18-cv-61991-BLOOM/Valle**

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

v.

**1 GLOBAL CAPITAL LLC, and  
CARL RUDERMAN,**

**Defendants, and**

**1 WEST CAPITAL LLC,  
BRIGHT SMILE FINANCING, LLC,  
BRR BLOCK INC.,  
DIGI SOUTH LLC,  
GANADOR ENTERPRISES, LLC,  
MEDIA PAY LLC,  
PAY NOW DIRECT LLC, and  
RUDERMAN FAMILY TRUST,**

**Relief Defendants.**

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**PLAINTIFF'S RESPONSE TO WESTERN ALLIANCE BANK'S VERIFIED MOTION  
TO OFFSET CASH COLLATERAL TO RECOVER ATTORNEYS' FEES AND COSTS**

Plaintiff Securities and Exchange Commission files this response to third-party Western Alliance Bank's Verified Motion to Offset Cash Collateral to Recover Attorneys' Fees and Costs ("Motion") (DE 181) to join in the Receiver's opposition (DE 186) to the Motion and to urge the Court not to allow this dispute to deplete funds needed to repay defrauded investors. The Bank should not get a windfall of more than \$300,000 in attorneys' fees at the direct expense of defrauded 1 Global investors, which is exactly what will happen if the Court grants the Bank's Motion. The most likely recipients of recoveries by the Receiver are the 1 Global investors, since 1 Global directly funded the Receivership entities. The Commission is concerned that the litigation

between the Bank and the Receiver over Bright Smile funds has already cost investors money, and the Bank should not be able to further deplete available funds for defrauded investors.

The Commission also notes that the Receiver intends to file his own motion for attorneys' fees, and that litigation over both motions could entail a scheduling order, discovery, and an evidentiary hearing (where the Bank has requested that the Court hear expert testimony) – still further depleting funds for investors. Before allowing both parties to embark on a time-consuming and potentially expensive litigation over attorneys' fees, the Commission asks the Court (if it is not going to deny the Bank's Motion) to send both parties to mediation, potentially in front of a Magistrate Judge. Such a mediation could be limited to a few participants, would not require extensive submissions or preparation, and could save a significant amount of money for investors if the Receiver and the Bank can reach a reasonable agreement.

May 15, 2019

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on May 15, 2019, the foregoing document was filed electronically with the Clerk of Court using CM/ECF system and served via CM/ECF.