

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No.: 19-cv-02594-RM-SKC

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MEDIATRIX CAPITAL INC., *et al.*,

Defendants,

and

MEDIATRIX CAPITAL FUND LTD., *et al.*,

Relief Defendants.

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**MOTION TO MODIFY ASSET FREEZE TO PERMIT THE TRANSFER  
OF FUNDS, INCLUDING CERTAIN DISPUTED FUNDS, FROM EQUITI UK  
TO THE RECEIVER**

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Plaintiff Securities and Exchange Commission (“SEC”) respectfully submits this Motion to Modify Asset Freeze to Permit the Transfer of Funds, Including Certain Disputed Funds, from Equiti UK Capital Limited (“Equiti UK”) to the Receiver (“Motion”).

**Certification of Conferral under Colorado Local Rule 7.1(a)**

Counsel for the SEC has conferred with counsel for Non-parties Equiti UK and Equiti Armenia CJSC (“Equiti AM,” and together with Equiti UK “Equiti”), who consent to the requested relief and are filing a Consent to Relief Sought in the SEC’s Motion to Modify Asset Freeze substantially concurrently herewith. The Court appointed Receiver also does not oppose

the relief requested. SEC counsel also conferred with counsel for Defendants and Relief Defendants who do not consent to the requested relief.

### **BACKGROUND AND REQUESTED RELIEF**

Equiti UK currently holds \$12,939,858.47 in account(s) in the name of Defendant Blue Isle Markets Inc. (St. Vincent & the Grenadines) (“Blue Isle”). Blue Isle also holds account(s) at Equiti AM with a negative balance of \$3,513,446.82. On June 25, 2020, the Court, having reviewed ECF Nos. 41-44, 48, 50, 51, 53, and 93, entered its Order Requiring Equiti UK Limited and Equiti Armenia CJSC to Close All Open Blue Isle Positions (“Order”). ECF No. 134. The Order required

Equiti Capital UK Limited (United Kingdom) and its affiliate Equiti Armenia CJSC (Armenia), as well as any and all persons or entities controlled by, controlling, under common control with, or otherwise affiliated with either or both of the foregoing entities holding and/or controlling accounts and/or assets subject to the Court’s Stipulation and Order Granting an Asset Freeze, Preliminary Injunction, and Other Relief (ECF No. 38) (“Order”), to forthwith and at prevailing market rates liquidate and convert to U.S. Dollars all foreign currencies and precious metals (together with any and all other instruments, contracts and/or assets now and/or at the time of the Order held in such accounts) and further to preserve and hold such U.S. dollar balances in such respective accounts in accordance with the Order.

Order at 2.

Equiti asserts that it has a contractual right to use funds held in Blue Isle’s Equiti UK account to offset the loss in Blue Isle’s Equiti AM account.. Defendants and the SEC have disputed this right to offset. In order to resolve this dispute the SEC, with Equiti’s consent, and without objection from the Receiver, but with Defendants objecting, request a modification to the Court’s Stipulation and Order Granting an Asset Freeze, Preliminary Injunction, and Other Relief (ECF No. 38). Specifically the SEC requests that the Court enter an order directing Equiti

to transfer to the Court appointed substitute receiver, Mark Conlan of Gibbons P.C., the \$12,939,858.47 held in Blue Isle's Equiti UK account, less an amount equal to one-half of the \$3,513,446.82 negative balance in Blue Isle's Equiti AM account. In other words, the SEC requests an order modifying ECF No. 38 to permit the transfer of \$11,183,135.06 (\$12,939,858.47 – 1,756,723.41) to the Receiver.

Equiti's consent to the SEC's request is conditioned on the Court further ordering that the remaining \$1,756,723.41 held in Blue Isle's Equiti UK account may be released from the Court's asset freeze to Equiti. This request would resolve the claims between Equiti and the SEC regarding the frozen funds. Neither the SEC nor the Receiver object.

Respectfully submitted this 15<sup>th</sup> day of December, 2021.

*s/ Stephen C. McKenna*  
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### Certificate of Service

I hereby certify that on December 15, 2021, I caused the foregoing to be electronically filed by using the CM/ECF system. I further certify that a copy of the foregoing was served upon the following counsel of record via the Court's CM/ECF system:

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