

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

CASE NO. 16-CV-21301-GAYLES

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ARIEL QUIROS, et al.,

Defendants, and

JAY CONSTRUCTION MANAGEMENT, INC., et al.,

Relief Defendants.

**PLAINTIFF'S UNOPPOSED MOTION TO MODIFY ASSET FREEZE TO ALLOW
TRANSFER OF FROZEN FUNDS AND REAL PROPERTY TO SATISFY
DEFENDANT ARIEL QUIROS' DISGORGEMENT AMOUNTS**

Plaintiff Securities and Exchange Commission moves the Court to modify the asset freeze on Defendant Ariel Quiros (DE 11, 238) for the limited purpose of allowing the transfer of: (1) real property owned by Quiros or corporations he controls; and (2) frozen funds from certain Citibank accounts to the Court-appointed Receiver. The transfers will be to satisfy Quiros' disgorgement obligations under the Final Judgment the Court entered against him. As described in more detail below, the transfers are contemplated in the Final Judgment, which lists specific properties and cash that Quiros must disgorge.

The Commission filed this action in April 2016, alleging, among other things, that Quiros and numerous corporate defendants violated the anti-fraud provisions of the federal securities laws. As part of emergency relief the Commission requested, the Court imposed a freeze on all assets in which Quiros held a direct or indirect interest. DE 11. The court continued the asset freeze in its preliminary injunction order. DE 238.

As a result of a day-long mediation, the Commission staff and Quiros agreed on a proposed settlement of the case against him in November. DE 428. After the five SEC Commissioners approved the settlement, the Court granted the Commission’s motion to enter a Final Judgment against Quiros. DE 447, 450. The Final Judgment, among other things, holds Quiros liable for \$81,344,166 in disgorgement. DE 450 at 1. To satisfy that liability, Quiros is required to disgorge a specific list of real properties as well as cash in certain Citibank accounts. *Id.* at 2. Specifically, the Final Judgment lists the following properties and cash to be disgorged:

Bank Accounts (The amount listed below in each account)

Citibank Account ending in 2336	\$ 286
Citibank Account ending in 3359	\$ 41,958
Citibank Account ending in 3362	\$ 60,125
Citibank Account ending in 3375	\$ 5,373
Citibank Account ending in 7382	\$ 9,000
Citibank Account ending in 6412	\$ 1,807
Citibank Account ending in 5662	\$ 14,224
Citibank Account ending in 7081	\$ 5,000
Total	\$137,773

Real Property

Quiros entire interest in Jay Peak Resort
 Burke Mountain Resort
 Quiros Land 199 Acres
 Cross Road 4 Acres
 River Bank 15 Acres
 Jay Ranches
 Bogner Property
 White House
 Setai Condominium
 Jay Peak Resort Unit V417 A/B
 Bella Vista
 Cross Road J
 Trump Place Condominium
 Renaissance Property
 Heavens Bench
 Village Land

Address/Description

830 Jay Peak Road, Jay, Vermont
 Q-Burke Mountain, Burke, Vermont
 Cross Rd. Revoir Flats Rd., Jay, Vermont
 Cross Rd. Revoir Flats Rd., Jay, Vermont
 Revoir Flats Rd. Rte. 105, Jay, Vermont
 261 Revoir Flats Rd. TH4, Jay, Vermont
 172 Bogner Drive, Newport, Vermont
 986 Lake Road, Newport, Vermont
 400 5th Avenue, New York, New York
 Jay Peak Resort VC 417, Bldg. 11, Jay, Vt.
 Cross Road TH 1, Troy, Vermont
 Cross Road J, Jay, Vermont
 220 Riverside Drive, New York, New York
 Downtown Newport, Vermont
 2266 Darling Hill Road, Burke, Vermont
 1645 Cross Road, Troy, Vermont

Because the asset freeze remains in effect until Quiros satisfies his disgorgement obligations (DE 450 at 3-4), the Commission now moves the Court to modify the asset freeze to allow the transfer of the specific amounts from the Citibank accounts as well as for Quiros to transfer the specific real property set forth above to the Receiver. The Final Judgment specifies that all disgorgement payments and transfers are to be made to the Receiver for the benefit of defrauded investors. DE 450 at 2. The attached proposed order directs Citibank to cooperate with the Receiver in making the transfers (the Final Judgment already directs Quiros to cooperate with any property transfers). The attached proposed order also makes clear that the asset freeze is being modified solely for the purposed of making the transfers described in this motion, and that the asset freeze remains in effect for all other purposes, including on any amounts remaining in the Citibank accounts listed above.

Certificate Of Conferral

Pursuant to Local Rule 7.1(a)(3), the Commission conferred with attorneys for Quiros, the Receiver, and Citibank, all of whom do not oppose this motion. The Commission did not consult with attorneys for Defendant William Stenger, as the relief requested does not affect him.

Respectfully submitted,

February 26, 2018

By: s/Robert K. Levenson
Robert K. Levenson, Esq.
Senior Trial Counsel
Florida Bar No. 0089771
Direct Dial: (305) 982-6341
Email: levensonr@sec.gov

Christopher E. Martin, Esq.
Senior Trial Counsel
SD Fla. Bar No. A5500747
Direct Dial: (305) 982-6386
Email: martinc@sec.gov

Attorneys for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
801 Brickell Avenue, Suite 1800
Miami, Florida 33131
Telephone: (305) 982-6300
Facsimile: (305) 536-4154

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on February 26, 2018, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/Robert K. Levenson
Robert K. Levenson, Esq.

SERVICE LIST

SEC v. Ariel Quiros, et al.
Case No. 16-CV-21301-GAYLES

Jonathan S. Robbins, Esq.
AKERMAN LLP
Las Olas Centre II, Suite 1600
350 East Las Olas Blvd.
Fort Lauderdale, FL 33301-2229
Telephone: (954) 463-2700
Facsimile: (954) 463-2224
Email: jonathan.robbsins@akerman.com
Counsel for Court-appointed Receiver

Joseph Rebak, Esq.
Naim S. Surgeon, Esq.
AKERMAN LLP

Three Brickell City Centre
98 Southeast Seventh St., Suite 1100
Miami, Florida 33131
Telephone: (305) 374-5600
Facsimile: (305) 349-4654
Email: joseph.rebak@akerman.com
naim.surgeon@akerman.com
Counsel for Court-appointed Receiver

Jeffrey C. Schneider, Esq.
LEVINE KELLOGG LEHMAN
SCHNEIDER + GROSSMAN LLP
Miami Center, 22nd Floor
201 South Biscayne Blvd.
Miami, Florida 33131
Telephone: (305) 403.8788
Facsimile: (305) 403.8789
Email: jcs@klsg.com
Co-Counsel for the Receiver

Roberto Martinez, Esq.
Stephanie Anne Casey, Esq.
Colson Hicks Eidson
255 Alhambra Circle, Penthouse
Coral Gables, FL 33134
Telephone: (305) 476-7400
Email: bob@colson.com
Email: scasey@colson.com
Counsel for Defendant William Stenger

Melissa D. Visconti, Esq.
Melanie E. Damian, Esq.
DAMIAN & VALORI LLP
1000 Brickell Avenue, Suite 1020
Miami, Florida 33131
Telephone: (305) 371-3960
Facsimile: (305) 371-3965
Email: mvisconti@dvlp.com
mdamian@dvlp.com
Counsel for Defendant Ariel Quiros

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-CV-21301-GAYLES

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ARIEL QUIROS, et al.,

Defendants, and

JAY CONSTRUCTION MANAGEMENT, INC., et al.,

Relief Defendants.

**ORDER ON PLAINTIFF'S UNOPPOSED MOTION TO MODIFY ASSET FREEZE TO
ALLOW TRANSFER OF FROZEN FUNDS AND REAL PROPERTY TO SATISFY
DEFENDANT ARIEL QUIROS' DISGORGEMENT AMOUNTS**

THIS MATTER is before the Court on Plaintiff's Unopposed Motion To Modify Asset Freeze To Allow Transfer Of Frozen Funds And Real Property To Satisfy Defendant Ariel Quiros' Disgorgement Amounts (DE ____). Having reviewed the motion and the record, and noting that the motion is unopposed, it is:

ORDERED AND ADJUDGED that the motion is **GRANTED**. The asset freeze the Court entered against Quiros (DE 11 and 238) is modified solely to allow transfer of the following amounts from the specific Citibank accounts and the specific real property listed below to the Court-appointed Receiver in satisfaction of Quiros' disgorgement obligations:

Bank Accounts (The amount listed below in each account)

Citibank Account ending in 2336	\$ 286
Citibank Account ending in 3359	\$ 41,958
Citibank Account ending in 3362	\$ 60,125
Citibank Account ending in 3375	\$ 5,373
Citibank Account ending in 7382	\$ 9,000
Citibank Account ending in 6412	\$ 1,807

Citibank Account ending in 5662	\$ 14,224
Citibank Account ending in 7081	\$ 5,000

Citibank is directed to cooperate with the Receiver in transferring the listed amounts to the Receiver.

<u>Real Property</u>	<u>Address/Description</u>
Quiros entire interest in Jay Peak Resort	830 Jay Peak Road, Jay, Vermont
Burke Mountain Resort	Q-Burke Mountain, Burke, Vermont
Quiros Land 199 Acres	Cross Rd. Revoir Flats Rd., Jay, Vermont
Cross Road 4 Acres	Cross Rd. Revoir Flats Rd., Jay, Vermont
River Bank 15 Acres	Revoir Flats Rd. Rte. 105, Jay, Vermont
Jay Ranches	261 Revoir Flats Rd. TH4, Jay, Vermont
Bogner Property	172 Bogner Drive, Newport, Vermont
White House	986 Lake Road, Newport, Vermont
Setai Condominium	400 5 th Avenue, New York, New York
Jay Peak Resort Unit V417 A/B	Jay Peak Resort VC 417, Bldg. 11, Jay, Vt.
Bella Vista	Cross Road TH 1, Troy, Vermont
Cross Road J	Cross Road J, Jay, Vermont
Trump Place Condominium	220 Riverside Drive, New York, New York
Renaissance Property	Downtown Newport, Vermont
Heavens Bench	2266 Darling Hill Road, Burke, Vermont
Village Land	1645 Cross Road, Troy, Vermont

IT IS FURTHER ORDERED AND ADJUDGED that the asset freeze remains in full force and effect for all other purposes, including on any amounts remaining in the Citibank accounts listed above, pending further order of the Court, and without prejudice to the right of any party to move for further modification of the asset freeze and the right of any other party to oppose it.

DONE AND ORDERED in Chambers in Miami, Florida, this ____ day of _____, 2018.

THE HON. DARRIN P. GAYLES
UNITED STATES DISTRICT JUDGE

Copies: Counsel and parties of record