

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

MARK CUBAN,

Defendant.

Civil Action No.: 3-08-CV-2050-D (SAF)

**PLAINTIFF SECURITIES AND EXCHANGE COMMISSION’S
MOTION TO COMPEL RESPONSES TO
INTERROGATORIES AND PRODUCTION OF DOCUMENTS**

Plaintiff Securities and Exchange Commission (“Commission” or “SEC”) respectfully moves for an Order, pursuant to Rule 37(a)(1) of the Federal Rules of Civil Procedure and the Court’s March 18, 2010 Order, compelling Defendant Mark Cuban (“Cuban”) to provide full, accurate and complete answers and produce, or identify as privileged with appropriate factual and legal basis, all responsive documents required by the Commission’s Interrogatories and Documents Requests, including, but not limited to:

- (i) Identify any and all documents responsive to the Requests that Cuban has withheld on the basis of an assertion of privilege;
- (ii) Identify any and all information responsive to the Interrogatories and produce any and all documents responsive to the Requests that Cuban has withheld on the basis of his unilateral determination of relevance;

- (iii) Identify any and all communications responsive to Interrogatories Nos. 1-3 and produce any and all documents related to same in accordance with Instruction F contained in the Requests;
- (iv) Produce all documents concerning Cuban's newly raised claims of purported bad faith.

Conference Between Parties

Pursuant to LR 7.1(a), the parties conferred in a good faith effort concerning the issues raised in this motion on March 24, 2010, but were unable to reach a resolution on the issues raised herein.

Conclusion

The SEC respectfully requests that the Court enter an order providing the following relief:

- (i) Ordering Cuban to identify any and all documents withheld on the basis of an assertion of privilege;
- (ii) Overruling Cuban's objection based on his unilateral determination of relevance and ordering Cuban to produce any and all responsive, non-privileged documents;
- (iii) Ordering Cuban to identify any and all communications responsive to Interrogatories Nos. 1-3 and to produce any and all non-privileged documents related to same;
- (iv) Ordering Cuban to produce all documents concerning Cuban's newly raised claims of purported bad faith.

Dated: March 29, 2010

Respectfully submitted,

**SECURITIES AND EXCHANGE
COMMISSION**

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CERTIFICATE OF CONFERENCE

I certify that on March 24, 2010, counsel for the Securities and Exchange Commission (“SEC”) spoke via telephone with counsel for Mark Cuban (“Cuban”) concerning Cuban’s responses to the SEC’s discovery requests. Counsel for the SEC and counsel for Cuban also

exchanged correspondence and documents in accordance with their discussions in an effort to clarify and narrow the issues raised in this motion.

/s/Thomas J. Karr

Thomas J. Karr

CERTIFICATE OF SERVICE

On March 29, 2010, I electronically submitted the SEC's Motion to Compel with the Clerk of Court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/Thomas J. Karr

Thomas J. Karr