

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

-v.-

REGINALD (“REGGIE”) MIDDLETON,
VERITASEUM, INC., and VERITASEUM,
LLC,

Defendants.

Case No. 19-cv-04625 (WFK)

DECLARATION OF DAVID L. KORNBLAU

I, David L. Kornblau, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a partner with the law firm Covington & Burling LLP. I am lead counsel for the defendants in this action.

2. I submit this declaration in opposition to the SEC’s Emergency Application for a Temporary Restraining Order Freezing Assets and Granting Other Relief, dated August 12, 2019.

The SEC Staff Reneged on Their Commitment to Give Defendants a Meaningful Opportunity to Rebut Their Fraud Allegations During a Two-Year Investigation

3. The SEC staff commenced an investigation of Mr. Middleton and Veritaseum approximately two years ago. Mr. Middleton and Veritaseum produced to the SEC staff voluminous documents and information in response to multiple subpoenas and dozens of informal requests. Mr. Middleton also gave sworn testimony in five different full-day sessions. Two other individuals who worked for Veritaseum also testified.

4. Beginning last summer, I repeatedly asked the SEC staff to give us an opportunity to address informally any statements that the staff believed might be evidence of fraud. I asked the SEC staff not to wait until the end of the investigation and give us only a short time to respond. The SEC staff agreed, and indicated that they would provide us with a list of items to respond to.

5. The SEC staff never provided us with the promised list.

6. Instead, a year later, on July 30, 2019, the SEC staff sent us a Wells notice, which stated that they had made a preliminary determination to recommend that the Commission file an enforcement action against Mr. Middleton and Veritaseum, and listed the statutory violations that could be alleged in the action. In a telephone call the same day, I asked the staff to identify the evidence of fraud that they were relying on. The staff said that, in their view, the evidence of manipulative intent “speaks for itself” and generally described the topics of the allegedly fraudulent statements, but refused to identify any specific evidence. The staff said that we should look for the evidence ourselves in the transcripts of the testimony that Mr. Middleton had given on five days (for roughly 35 hours or more) over the course of the investigation.

7. Although the SEC staff took two *years* to conduct their investigation, which was still continuing, they gave us only two *weeks* to provide a written response to vague allegations of wrongdoing. We declined.

Rebuttal of the SEC’s Claim That Mr. Middleton Had Dissipated Assets

8. At 10:12 a.m. on Friday, August 2, 2019, SEC attorney Victor Suthammanont sent me an email requesting that Veritaseum and Mr. Middleton enter a written agreement not to move or convert any Ethereum (“ETH”), a cryptocurrency, without notice to the staff. Mr. Suthammanont said the SEC staff would need an answer from my client as quickly as possible.

He said that they would like to speak to me that day if possible, and that they would be available after 11 a.m.

9. I replied by email 20 minutes later, and we arranged to speak at 12:30 p.m. In that call, in relevant part, Mr. Suthammanont and SEC attorney Jorge Tenreiro repeated the request in Mr. Suthammanont's email. I asked them for the basis of the request. They stated, in substance, that on Tuesday or Wednesday of that week, the SEC had observed a transfer of around 10,000 units of ETH (worth approximately \$2 million) from a Veritaseum digital wallet, a small portion of which was then converted to U.S. dollars on a digital exchange. They also noted that the transfer had occurred after the SEC staff had recently sent me a Wells notice. I said I would look into the transfer and get back to them.

10. I called the SEC attorneys back a short time later, and explained, in substance, my understanding that the transfer they observed was not a dissipation of assets; rather, it was merely the funding of Veritaseum's ongoing business operations and was in line with previous similar transfers for the same purpose. I also noted that Mr. Middleton expected that Veritaseum's legal expenses would increase as a result of the Wells notice.

11. Regarding the prior transfers, I pointed out to the SEC attorneys that Mr. Middleton had transferred from the same digital wallet approximately the same amount (9,880 ETH) on February 15, 2019, and exactly the same amount (10,000 ETH) on June 2, 2018. I further explained that I understood that, for security reasons, Mr. Middleton's practice was to make only occasional transfers from that wallet (which held a large quantity of ETH and could be analogized to a savings account) to other digital wallets and accounts used for day-to-day business expenses (which could be analogized to checking accounts). All of these transfers were

fully visible in detail on the blockchain to the SEC and anyone else with the Veritaseum wallet address and an internet connection.

12. Nonetheless, in an effort to allay any concern about potential dissipation of assets, I informed the SEC staff that Mr. Middleton would be willing to inform them of digital asset transfers exceeding the equivalent of \$600,000 in a calendar month, based on Mr. Middleton's estimate of Veritaseum's monthly operational expenses, including anticipated higher legal fees.

13. In the same call or another call later the same day (Friday, August 2), the SEC lawyers asked me to provide them with an estimated budget showing Veritaseum's expected monthly expenses. I agreed to provide that information on the following Monday.

Rebuttal of the SEC's Claim that Veritaseum's Ongoing Business Was Inconsistent with Mr. Middleton's Representations to Token Buyers

14. At 2:29 p.m. on Monday, August 5, 2019, I emailed to the SEC lawyers a list of Veritaseum's anticipated approximate monthly expenses, which totaled approximately \$647,000.

15. At 3:21 p.m., Mr. Suthammanont sent me an email asking for an explanation of a line item of approximately \$135,000, for "FX/Currency/Value store engine." I explained that that expense category was for purchases of precious metals for "tokenization." (I understand that, until Veritaseum's assets were frozen, the company offered for sale digital tokens representing blockchain-based interests in gold and other precious metals.)

16. At 5:24 p.m., Mr. Suthammanont told me by email that SEC staff had "serious concerns about the proposed level of spending, which does not seem to be [sic] appropriate use of investor funds in light of what was told to investors." In his email, Mr. Suthammanont asked to arrange a call with me that evening to learn more details about the "proposed spending" and hear a "more reasonable proposal."

17. At 5:24 p.m., I proposed to speak at 8 p.m. (I could not speak to them earlier because I was in transit). I also asked the SEC lawyers by email what representation Mr. Middleton had made that would prevent him from expanding his business and creating additional utility for Veritaseum digital token holders.

18. At 6:04 p.m., Mr. Suthammanont replied by email, “As to your question, and not limiting ourselves to this one example, Mr. Middleton described the use of the assets in VERI0001000-155946. We do not see how the spending below aligns with those representations.”

19. The document referred to by Mr. Suthammanont, attached as Exhibit A, describes a large number of planned uses for Veritaseum tokens, including “Gold exposure pool” and “Buy 1 yr. \$50k of Gold exposure, paying with \$50k of Silver exposure contract.” The document also notes, “All transactions and assets take place through the blockchain...”

20. Around 8 p.m., I spoke to Mr. Suthammanont, Mr. Tenreiro, and their supervisor, John Enright. I pointed out to them that the document cited by Mr. Suthammanont (which they said had been made available to Veritaseum token purchasers in 2017) accurately described the blockchain-based precious metals business that Veritaseum had developed and was then operating. The SEC lawyers seemed surprised by the content of the document they had cited to me, which contradicted their allegation that Veritaseum’s spending did not “align” with representations Mr. Middleton had made to Veri purchasers.

21. Towards the conclusion of the call, Mr. Enright asked me if Mr. Middleton was willing to propose a reduction in Veritaseum’s anticipated spending level. I said I didn’t see how that was appropriate, since Mr. Middleton had given the SEC an estimate of the spending needed to operate an ongoing business, including anticipated increased legal expenses resulting from

their Wells notice. Nonetheless, I told the SEC attorneys that I would consult with Mr. Middleton if they proposed a lower spending notification threshold. Mr. Enright replied that they would not do so.

The SEC's Filing of an Asset Freeze Application Based on a Non-Existent "Emergency"

22. Late in the morning of Monday, August 12, 2019, Mr. Enright and Mr. Tenreiro notified me by telephone that the SEC was in the process of filing an enforcement action against Mr. Middleton and Veritaseum and seeking an emergency temporary restraining order to prevent the future dissipation of assets.

23. I proceeded to the courthouse. Around 2 p.m., Mr. Tenreiro and Mr. Suthammanont handed me a copies of the SEC's complaint and motion papers, which were approximately 3 inches thick. I read them as quickly as I could.

24. Later that afternoon, both sides appeared before the Honorable LaShann DeArcy Hall, sitting as Miscellaneous Judge. I was permitted to make oral arguments, but Judge Hall denied my request to file a written response to the SEC's application the following day. At 6:10 p.m., Judge Hall issued a temporary restraining order freezing Veritaseum's assets, but declined the SEC's request to order a freeze of Mr. Middleton's personal assets.

Additional Exhibit

25. I have attached as Exhibit B a copy of the SEC's Responses and Objections to Defendants' First Set of Interrogatories to Plaintiff, dated August 17, 2019.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 19, 2019

s/ David L. Kornblau

David L. Kornblau

Exhibit A

Veritaseum

Legend

Beta phase, functional on public blockchain for years but needs work, ie. scaling, stability, UX, security audit, reporting engine, etc.

Conceptual phase

Native Blockchain Token used to purchase Veritas (ie. BTC, ETH)

Ve tokens – used as the universal key to gain access to...

Veritaseum Legacy Asset Exposure Pools

S&P 500 Index exposure pool

Gold exposure pool

Multi-strategy Hedge Fund Index exposure pool

Veritaseum P2P OTC Direct Contracts

(already built, needs further development)

Buy 3 month \$30k Northwest Brent crude oil exposure for \$30k USD, contract 2x leverage multiplier

Buy 1 yr, \$50k of Gold exposure, paying with \$50k of Silver exposure contract

Sell \$1k of exposure of Intel for \$1k exposure to Qualcomm for \$100 for 18 months

Tools Needed to Create Bespoke Asset Exposure Pools

JP Morgan creates regulated long/short tech fund

Hedge Funds create tokens to facilitate instant LP liquidity

Real Estate Developer creates digitized future cashflow pools

Templates Needed to Create Bespoke P2P Value Exchange Smart Contracts

Samsung creates P2P Letter of Credit on shipment of 1000 Galaxy S8+ units to Best Buy, with autonomous geolocation awareness – WITHOUT A BANK

A NYC real estate developer & London property hedge fund agree to swap 2 year future cash flows for their marquis holdings, thru blockchain

ARAMCO creates native Dinar contracts in bid to create its own commodity basket based reserves to gain independence from USD

Veritaseum consulting and advisory services as capacity permits. Unlimited access to research.

Ve token conversion & liquidity engine provides liquidity in and out of various tokens, regardless of native blockchain. We are aiming to provide a Ve.USD token that closely tracks the USD, devoid of blockchain native volatility & are redeemable for USD. Ve can be used simply to gain access to these software pools, or as the actual funding token as well. This has not been built as of yet, and still in the conceptual phase.

All transactions and assets take place through the blockchain, and exchange the blockchain for opposing counterparties. The result is, as long as the blockchain itself is resolute, counterparty and credit risk is eliminated. Furthermore, no users of these pools or the platform is exposed to Veritaseum's balance sheet in anyway whatsoever.

Asset pool construction and composition will be open-sourced (unless individual entities wish to create their own private pools, ie. banks or funds or even Veritaseum itself), and the development, software engineering and financial engineering community are welcomed to participate in the creation of the P2P economy.

Open sourced pools will not have any fees or expenses other than what it takes to keep them operational. Custom, Veritaseum-written P2P contracts may have fees attached.

Exhibit B

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-- against --

REGINALD (“REGGIE”) MIDDLETON,
VERITASEUM, INC., and VERITASEUM, LLC,

Defendants.

19 Civ. 4625 (WFK)

ECF Case

**PLAINTIFF SECURITIES AND EXCHANGE COMMISSION’S
RESPONSES AND OBJECTIONS TO DEFENDANTS’
FIRST SET OF INTERROGATORIES TO PLAINTIFF**

Pursuant to Federal Rules of Civil Procedure (“Federal Rules”) 26 and 33, and the Local Civil Rules of the United States District Court for the Southern and Eastern Districts of New York (“Local Rules”), Plaintiff Securities and Exchange Commission (“Commission”) hereby responds to Defendants Reginald (“Reggie”) Middleton, Veritaseum, Inc., and Veritaseum, LLC’s (“Defendants”) First Set of Interrogatories to Plaintiff (“Interrogatories”). The Commission’s responses and objections to the Interrogatories are made to the best of its present knowledge, information, or belief. These responses and objections are made without prejudice to the Commission’s right to revise or supplement its responses and objections as appropriate and to rely upon and produce witnesses or evidence at trial or at any hearing or other proceeding. The Commission does not waive any applicable privilege or protection by providing these responses.

DEFINITIONS USED IN THE RESPONSES AND OBJECTIONS

1. The “Investigation” means the Commission staff’s investigation captioned *In the Matter of Veritaseum, Inc.* (File No. NY-9755).

2. The “Litigation” means the instant Commission civil enforcement action.

3. “Non-privileged” means not protected by any privilege or protection, including without limitation the attorney-client privilege, the work product doctrine, the deliberative process privilege, or the law enforcement privilege.

GENERAL OBJECTIONS

1. The Commission objects to the definition of “SEC” to the extent that it purports to include within its scope divisions and persons not directly involved in the Investigation and Litigation. To the extent that the Interrogatories seek documents obtained or created by divisions and employees of the Commission other than those directly involved in the Investigation and Litigation, the Commission objects to those Interrogatories on the grounds that they seek information that is both not relevant to any party’s claim or defense and not proportional to the needs of the case. The Commission will produce only that Non-privileged information within the possession, custody or control of the divisions and employees of the Commission directly involved in the Investigation and Litigation.

2. The General Objection above is incorporated into the Specific Responses and Objections below to the Interrogatories.

SPECIFIC RESPONSES AND OBJECTIONS

Interrogatory No. 1

For each written and non-written communication between the SEC (on the one hand) and the Jamaica Stock Exchange or the Jamaican government (on the other hand) concerning any Veritaseum Entity or Reginald Middleton, from January 1, 2017 to the present, identify (a) all of the participants (including titles), (b) the date and time of the communication, and (c) the content of the communication.

Response

The Commission objects to Interrogatory No. 1 on the following grounds: it seeks information (1) that is neither relevant nor proportional to the needs of the case; (2) that is not “reasonable” for purposes of expedited discovery under Part VII of the Order; and (3) that is privileged and protected, including without limitation by the work product doctrine, and for which no privilege has been waived, pursuant to Section 24(f)(1) of the Securities Exchange Act of 1934, 15 U.S.C. § 78x(f)(1). In response to Interrogatory No. 1, notwithstanding and without waiving these objections and the Specific Objection, the Commission avers that between October 25, 2017, and November 8, 2017, Mickael Moore of the Commission’s Office of International Affairs and Angela Bailey and Marlene J. Street exchange at least five emails or written communications. In addition, Jorge G. Tenreiro and Valerie Szczepanik of the Commission’s Division of Enforcement, participated with Mr. Moore in a telephonic conversation with members of the Jamaican Stock Exchange on or around that time.

Dated: New York, New York
August 17, 2019

SECURITIES AND EXCHANGE COMMISSION

By: /s/ Victor Suthammanont
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Karen Willenken

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