

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

- against -

TELEGRAM GROUP INC. and TON ISSUER INC.,

Defendants.

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: 19 Civ. 9439 (PKC)
:
: ECF Case
:
: STIPULATION AND
: [PROPOSED] CONSENT
: ORDER
:
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WHEREAS on October 11, 2019, Plaintiff Securities and Exchange Commission (the “SEC”) commenced this action by filing a Complaint and filed an application for a temporary restraining order and order granting other expedited relief and for a preliminary injunction and other interim relief, and supporting papers, including a memorandum of law, declarations, and exhibits (together, the “Application”);

WHEREAS on October 11, 2019, the Court entered an Order to Show Cause granting the temporary restraining order; ordering the expedited relief sought in the SEC’s Application; and requiring that Defendants Telegram Group Inc. and TON Issuer Inc (“Defendants”) show cause why the interim relief the SEC sought in its Application should not be granted (the “OSC”);

WHEREAS, Defendants have determined that they will not offer, sell, deliver, or distribute any of the “Grams” as defined in the “Purchase Agreements for Grams” (“Purchase Agreements”) at least until the Hearing (as defined below);

WHEREAS, Defendants have entered a general appearance, without waiving any rights or defenses, including any rights to raise any jurisdictional defenses;

NOW, THEREFORE, UPON THE CONSENT OF THE PARTIES:

I.

IT IS ORDERED that Defendants shall not offer, sell, deliver, or distribute “Grams” to any person or entity, until the conclusion of the hearing scheduled by the Court for February 18 and 19, 2020 (“Hearing”), except upon further order of the Court or agreement of the parties. At the Hearing, any party may move the Court for the continuation or dissolution of this Order.

II.

IT IS FURTHER ORDERED that either party may conduct expedited discovery as ordered by Paragraph IV of the OSC without the requirement of a meeting pursuant to Fed. R. Civ. P. 26(f), and without regard to the time limitations of Fed. R. Civ. P. 30, 31, 33, and 34 including serving discovery requests on third parties pursuant to this Paragraph II. The party to whom a discovery request is directed must respond in writing within (14) calendar days of being served by email to undersigned counsel, and that all discovery requests already served pursuant to Paragraph IV of the OSC shall continue in effect and shall be governed by the modified deadlines set forth in this Paragraph II. The parties reserve all rights to object to any discovery requests served pursuant to this Paragraph II.

IT IS FURTHER ORDERED that, notwithstanding any otherwise applicable rule or order, any discovery disputes that the parties are unable to resolve after meeting and conferring in good faith shall be handled in accordance with Rule 3.B of the Court’s Individual Rules of Practice, except that:

- (a) The party seeking relief from the Court shall file a letter brief not to exceed five (5) pages, excluding any accompanying exhibits or affidavits, with this Court;

- (b) No later than three business days after that filing, the party opposing the relief sought under Paragraph II(a) shall file a letter brief not to exceed five (5) pages, excluding any accompanying exhibits;
- (c) No further replies shall be permitted absent permission of the Court;
- (d) The parties shall make themselves available for a telephonic or in-person conference before this Court within 24 hours after the filing of the opposition under Paragraph II(b).

III.

IT IS FURTHER ORDERED that Defendants shall promptly provide the SEC with notice of any amendments to the Purchase Agreements within two days following such amendments, along with a copy of the amendments.

IV.

IT IS FURTHER ORDERED that the parties, and any person or entity acting at the direction or on behalf of either or both of them, shall take all reasonable steps not to destroy, alter, or conceal any documents, books, and records, that are in their possession, custody, or control and are relevant to the allegations in the Complaint.

V.

IT IS FURTHER ORDERED that the parties shall abide by the following briefing schedule in advance of the Hearing:

- (a) All opening briefs on any motions for summary judgment under Rule 56 of the Federal Rules of Civil Procedure, and any briefs in response to the SEC's pending Application, shall be filed and served no later than January 3, 2020;

- (b) Any briefs in response to any motion brought under the terms of Paragraph V(a) of this Order and any reply brief in support of the SEC's pending Application shall be filed and served no later than January 17, 2020;
- (c) Any reply briefs in further support of any motion brought under the terms of Paragraph V(a) of this Order shall be filed and served no later than January 27, 2020;
- (d) The parties shall exchange a list of witnesses whom they expect to testify at the Hearing by affidavit or otherwise no later than January 3, 2020, but the parties may continue to engage in discovery as to those witnesses after that date.

VI.

IT IS FURTHER ORDERED that this Order shall be, and is, binding upon the parties and each of their respective agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by any means authorized by Paragraph V of the OSC, and that Defendants shall not oppose the enforcement of this Order on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure.

VII.

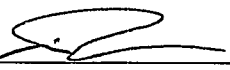
Nothing in this stipulation shall be construed as affecting any party's rights to assert any claims or defenses, to constitute a waiver of any party's right to a trial by Jury, as precluding the parties from objecting to the scope or nature of any discovery sought or seeking to modify, on consent or by order of the Court, or any of the deadlines or orders set forth in this Order.

STIPULATED AND AGREED TO:

Date: 10/18/19

By: 
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SO ORDERED

Dated: _____, 2019
New York, New York

HON. P. KEVIN CASTEL
UNITED STATES DISTRICT JUDGE