

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

SECURITIES AND EXCHANGE
COMMISSION

v.

TRENDON T. SHAVERS AND
BITCOIN SAVINGS AND TRUST

CIVIL ACTION NO. 4:13cv416
(Judge Clark/Judge Mazzant)

ORDER DENYING MOTION TO STRIKE OR IN THE ALTERNATIVE STAY

The Securities and Exchange Commission (the “Commission” or “Government”) filed an Emergency Motion to Strike Defendants’ Motion for Reconsideration of Court Opinion DOC 23 Regarding Subject-Matter Jurisdiction and Renewed Rule 12(b)(1) Motion (DOC 46) or, in the Alternative, for Stay recorded in the docket as DOC 49, filed June 6, 2014. Defendants Trendon T. Shavers and Bitcoin Savings and Trust (“Defendants”), through counsel, filed a memorandum in opposition filed June 8, 2014. Upon review of the motions and the record, the requested relief by the Commission is denied. A Federal Rule of Procedure Rule 12(b)(1) is procedural and can be heard at any point during the pendency of a case without regard to a default status. *Capron v. Van Noorden*, 2 Cranch 126, 2 L.Ed. 229 (1804); *Den Norske Stats Oljeselskap As v. HeereMac V.O.F.*, 241 F.3d 420, 424 (5th Cir.2001), *cert. denied*, 534 U.S. 1127, 122 S.Ct. 1059, 151 L.Ed.2d 967 (2002); *Barrera–Montenegro v. United States*, 74 F.3d 657, 659 (5th Cir.1996)); *accord Ramming*, 281 F.3d at 161; *Robinson v. TCI/US West Communications Inc.*, 117 F.3d 900, 904 (5th Cir.1997); *McAllister v. FDIC*, 87 F.3d 762, 765 (5th Cir.1996).

Defendants raised an issue regarding the Government's failure to confer prior to filing its motion and that Defendants would have stipulated to a stay if requested. The requirement to confer prior to filing motions is expressly stated in the Local Rules and intended to avoid unnecessary work and expense for the Court and the parties. The Government is advised to adhere to the Local Rules and confer prior to filing needless motions. The Government may be subject to discipline per Local Rule AT-3 and AT-2 if such activity continues.

The Government's requested relief is denied. Responsive filings to DOC 46 are due in accordance with Local Rule CV-6(e).

IT IS SO ORDERED