

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

DENIS MARC AUDET, *et al.*,

Plaintiffs,

v.

HOMERO JOSHUA GARZA, *et al.*,

Defendants.

Case No. 3:16-CV-00940-MPS

September 27, 2016

**DEFENDANT STUART A. FRASER'S  
MOTION TO DISMISS THE COMPLAINT**

Defendant STUART A. FRASER (“Fraser”) hereby moves to dismiss the Complaint as against him filed on June 15, 2016 in this action by Plaintiffs DENIS MARC AUDET, MICHAEL PFEIFFER, DEAN ALLEN SHINNERS AND JASON VARGAS, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED. In this action, Plaintiffs seek damages from Fraser pursuant to Section 20(a) of the Securities Exchange Act of 1934 (15 U.S.C. § 78t(a)), Section 36b-29(c) of the Connecticut Uniform Securities Act (C.G.S. § 36b-29(c)), and aiding and abetting common law fraud under Connecticut law stemming from an alleged scheme to defraud investors by Defendant HOMERO JOSHUA GARZA (“Garza”) and the Defendant companies, GAW MINERS, LLC and ZENMINER, LLC (with GAW Miners, LLC, the “Companies”). Pursuant to Rules 8(a), 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure, Defendant Fraser seeks relief on the following grounds:

1. Plaintiffs have not pled sufficiently or with the requisite particularity that Fraser  
(a) had control of a primary violator (Garza and/or the Companies) or (b) was a

culpable participant in the alleged primary violations. As such, all of the claims against Fraser must be dismissed pursuant to Rules 8(a), 9(b) and 12(b)(2) of the Federal Rules of Civil Procedure for failure to state a claim.

2. In the alternative, if Plaintiffs' federal claim against Fraser is dismissed, the Court may decline to exercise supplemental jurisdiction over the remaining state law claims and dismiss Plaintiffs' state law claims pursuant to 28 U.S.C. Section 1367(c)(3).

WHEREFORE, Fraser respectfully requests that his motion to dismiss be granted, and that the Complaint be dismissed as against him with prejudice.

DEFENDANT STUART A. FRASER

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*Attorneys for Defendant Stuart A. Fraser*

CERTIFICATE OF SERVICE

I hereby certify that on September 27, 2016, a copy of the foregoing was filed electronically [and served by mail on anyone unable to accept electronic filing]. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system [or by mail to anyone unable to accept electronic filing]. Parties may access this filing through the Court's system.

s/ Sarah L. Cave  
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