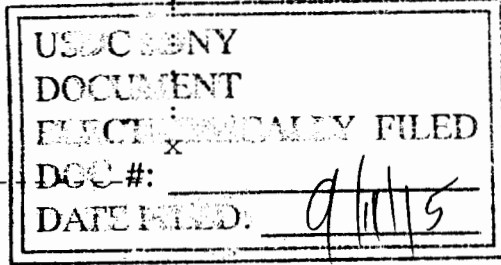


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
SECURITIES AND EXCHANGE COMMISSION, :  
 :  
 : Plaintiff, : 14 Civ. 4644 (JSR)  
 :  
 : -v- : ORDER

DARYL M. PAYTON, and  
BENJAMIN DURANT, III,  
  
Defendants.



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JED S. RAKOFF, U.S.D.J.

On August 14, 2015, defendants Daryl Payton and Benjamin Durant moved for summary judgment in their favor pursuant to Fed. R. Civ. P. 56(a). The Government responded on August 24, 2015, the defendants replied on August 31, 2015, and the Court heard oral argument on September 8, 2015. After considering the parties' submissions and statements at oral argument, defendants' summary judgment motion is hereby denied. However, the Court takes cognizance of the fact that some of the issues the motion presents are a much closer call in light of United States v. Newman, 773 F.3d 438 (2d Cir. 2014), than they would have been otherwise, and that the Department of Justice is now seeking certiorari in Newman. Accordingly, if any of the parties here would like to adjourn the trial of this case until after that certiorari petition is resolved, the Court, contrary to its normal practice, is willing to entertain such an application, provided it is made, in writing, no later than

September 14, 2015. Otherwise, the trial will proceed as scheduled beginning on September 21, 2015.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'Jed S. Rakoff', written in a cursive style.

JED S. RAKOFF, U.S.D.J.

Dated: New York, New York  
September 10, 2015