

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 20-CV-81205-RAR

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**COMPLETE BUSINESS SOLUTIONS
GROUP, INC. d/b/a PAR FUNDING, et al.,**

Defendants.

OMNIBUS ORDER

THIS CAUSE comes before the Court on Defendants’ Motion to Discharge the Receiver [ECF No. 649] (“Motion to Discharge Receiver”) and Defendants’ Motion to Dismiss the Amended Complaint Due to Misconduct by the Securities and Exchange Commission and Related Constitutional Violations [ECF No. 663] (“Motion to Dismiss”). The Court has carefully reviewed the parties’ written submissions and held a hearing on these motions on August 25, 2021 (“Hearing”). For the reasons stated on the record, it is hereby

ORDERED AND ADJUDGED as follows:

1. The Motion to Discharge Receiver [ECF No. 649] is **DENIED**. As discussed at the Hearing, there is no indication in the record that the Receiver has abdicated his duties. Further, given the procedural posture of this case and the fact that trial is scheduled to begin in less than four months, the Court finds that altering the receivership at this juncture is not in the best interest of the investors and other stakeholders in this case.

2. The Motion to Dismiss [ECF No. 663] is **DENIED**. Although the Court has discretion to impose sanctions on any party engaging in misconduct under Federal Rule of Civil

Procedure 41(b), “[d]ismissal of a case with prejudice is considered a sanction of last resort, applicable only in extreme circumstances.” *Zocaras v. Castro*, 465 F.3d 479, 483 (11th Cir. 2006) (citation omitted). A dismissal under Rule 41(b) is only appropriate “where there is a clear record of willful contempt” and lesser sanctions would not suffice. *Gratton v. Great Am. Commc’ns*, 178 F.3d 1373, 1374 (11th Cir. 1999) (citation and internal quotation marks omitted). As discussed at the Hearing, the evidence presented in support of the Motion to Dismiss does not reveal conduct by Plaintiff rising to the level of willful contempt. Dismissal of this action under Rule 41(b) is therefore unwarranted.

3. By **September 21, 2021**, the parties shall conduct an informal settlement conference for a minimum of two (2) hours. A representative with settlement authority must attend the informal settlement conference or be available telephonically. The Receiver and his counsel shall also participate in the informal settlement conference. In addition to discussing potential settlement, the parties may also use the allotted time to discuss proposals related to the operation of Par Funding and the completion of any additional financial audits concerning Par Funding. The parties shall file a Joint Notice of Compliance and Status Report certifying compliance with this Order and provide a report on the status of discussions by **September 22, 2021**.

DONE AND ORDERED in Fort Lauderdale, Florida this 27th day of August, 2021.



RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE