

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
Case No. 9:20-cv-81205-RAR
Civil Division

SECURITIES & EXCHANGE
COMMISSION,

Plaintiff

v.

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

Defendant

**DEFENDANT, MICHAEL C. FURMAN'S MOTION FOR
RECONSIDERATION OF ORDER DENYING MOTIONS IN LIMINE AS
MOOT AND IN THE ALTERNATIVE RENEWED MOTION IN LIMINE**

The Defendant, MICHAEL C. FURMAN ("FURMAN"), by and through undersigned counsel, pursuant to Local Rule 7.1, hereby requests, pursuant to Fed. R. Civ. P. 60 requests that the Court reconsider its order denying Defendants, Joseph W. LaForte, Lisa McElhone and Joseph Cole Barleta's Omnibus Motion in Limine as Moot [ECF No. 1019], and in support thereof states:

1. On or about November 28, 2021, the Court entered an Order denying Defendants' LaForte, Lisa McElhone, and Berleta's Omnibus Motion in Limine as moot. [ECF No. 1019]
2. However, there were issues raised in the foregoing motion that still apply to all Defendant Furman. As a result, the Court incorrectly denied the Motion as moot.
3. As a result, Furman maintains that the denial of the foregoing Motion as moot was procedurally improper, and requests that Court reconsider its prior orders denying the foregoing Motions as moot.

4. There is no prejudice in considering the foregoing arguments, which should still have been properly before the Court, as motions in limine are generally preliminary rulings, and the failure to file them does not otherwise waive any rights to address that issue.

5. Moreover, there is significant prejudice in allowing Bradley Sharpe, and James Klenk to testify since the Court previously prohibited Defendants from taking their depositions.

6. To the extent that the Court is not willing to reconsider the foregoing Orders, Furman respectfully requests that the Court preclude Bradley Sharpe, and James Klenk from testifying. The Court has previously ruled that the Bradley Sharp cannot be deposed, such that the prejudice to Defendant cannot be avoided. And, Sharp, and Klenk as agents of the Receiver, have the status of officer of the Court, such that they enjoys judicial immunity and cannot be witnesses in the trial. *See* [ECF No. 926 at 9]. They also have no firsthand knowledge of the facts and circumstances of the instant case.

7. Similarly, and although the SEC should be precluded pursuant to Fed. R. Evid. 401, 403 and 404(a) from introducing evidence concerning the alleged repayment of noteholders during the financial turmoil brought on by the Covid-19 pandemic. As set forth in LaForte's motion, the foregoing issue is not relevant to the instant case and would likely mislead the jury. The fact that people who had already invested in various funds received returns, under certain circumstances has nothing to do with the underlying claims of the SEC which are that Furman was engaged in the sale of unregistered securities, failed to disclose Par Funding's due diligence, and otherwise allegedly failed to disclose the true nature of the New Jersey regulations.

8. Furman otherwise adopts and incorporates by reference the arguments in the Omnibus Motion in Limine.

WHEREFORE Defendant, Michael Furman respectfully requests that the Court enter an Order: (i) Granting the Motion; (ii) Reconsidering the Order denying as moot the Omnibus Order; (iii) Precluding Bradley Sharp and James Klenk from testifying; (iv) Prohibiting the SEC from introducing evidence of the 2020 repayment of loans; and (v) Granting such further relief as the Court deems just and proper.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(3)

I HEREBY CERTIFY that counsel for the Movant has conferred with all parties or non-parties who may be affected by the relief sought in this Motion in a good faith effort to resolve the issue and Plaintiff does not consent to the relief sought. However the SEC is unlikely to consent to the relief sought as it did not previously consent to the relief set forth in the Omnibus Motion.

Respectfully Submitted,

MILLENNIAL LAW, INC.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this **18th** day of October, 2021, the foregoing was filed using the Court's CM/ECF system which will send notice of electronic filing to all counsel of record.

By: s/ Zachary P. Hyman
Zachary P. Hyman