

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 20-CV-81205-Ruiz/Reinhart

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

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

Defendants.

_____/

**ORDER ON DEFENDANT MICHAEL FURMAN'S REQUEST TO TAKE
DEPOSITIONS**

On June 10, 2022, I set a discovery hearing for June 15, 2022, to address a pending discovery dispute between the Receiver and Defendant Michael Furman. ECF No. 1263. On June 13, 2022, the parties submitted their joint discovery memorandum outlining their dispute. *See* ECF No. 1267. At the conclusion of the discovery hearing, I took the matter under advisement for further review of the record. ECF No. 1270. I have reviewed the parties' filings and all exhibits attached thereto as well as the record in full. I am fully advised and this matter is now ripe for decision.

This case was set for trial before Judge Ruiz in December 2021. Prior to trial, many of the Defendants consented to Judgments as to liability and did not proceed to trial. *See e.g.*, ECF Nos. 996-2, 1001-2, 1002-2, 1003-2, 1016-1. The consents contained

a provision allowing for the parties to the consent to take discovery, including discovery from appropriate non-parties, in connection with the SEC's motion for disgorgement and/or civil penalties. *See e.g.*, ECF No. 996-2 at 3. Mr. Furman did not enter into any such consent and instead proceeded to a jury trial after which the jury returned a verdict in favor of the SEC and against Mr. Furman on all counts. ECF Nos. 1101, 1103. On May 20, 2022, the SEC filed its Amended Omnibus Motion for Final Judgments Against Defendants Michael Furman, Joseph Cole Barleta, Joseph LaForte, and Lisa McElhone (the "Amended Motion"). ECF No. 1252.

In preparing his response to the Amended Motion, Mr. Furman now seeks the opportunity to depose the Receiver, Yale Bogen, and/or Bradley Sharp (the Receiver's consultants at Development Specialists, Inc.). ECF No. 1267 at 2 ("In connection with the preparation of his response to the SEC's Amended Motion, Furman requested an opportunity to depose Yale Bogen, who worked with Bradley Sharp and DSI and assisted Mr. Sharp in the preparation of his testimony and the analysis that supported Mr. Sharp's testimony."). The SEC argues that Mr. Furman should not be permitted to take the requested depositions because "(a) the Receiver and his professionals are immune from this discovery pursuant to the quasi-judicial immunity afforded to court-appointed receivers and their agents; (b) the discovery cutoff date in this case has long since passed; and (c) the depositions would serve no proper purpose related to the remaining issues pending before the Court." ECF No. 1267 at 4.

The District Court set the deadline for completing all discovery for September 10, 2021. *See* ECF No. 521. Relevant to this discussion, Mr. Cole Barleta, Mr. LaForte, and Ms. McElhone, by way of their respective consents, were authorized to take additional discovery outside of the Court's deadline in connection to the Amended Motion. Since Mr. Furman did not enter into a consent, no such provision extending him additional discovery was agreed to by the parties or the Court. I have reviewed the record in this case, including the transcript from the Motion Hearing held before Judge Ruiz on May 19, 2022 (ECF No. 1272), and find no reference to the Court granting Mr. Furman additional time for discovery related to the SEC's Amended Motion. Any mention of additional discovery made at the hearing was in reference to the Defendants who entered into consents and were permitted, based on those consents, to take discovery during the disgorgement phase. Furthermore, to the extent Mr. Furman's request is an *ore tenus* motion for leave to reopen discovery, I do not have authority from the District Court to extend discovery deadlines.

Given that the discovery deadline has passed, and I do not have the authority to extend that deadline, Mr. Furman's request to depose the Receiver, Yale Bogen, and Bradley Sharp is **DENIED**. This Order is, however, without prejudice to Mr. Furman seeking leave to extend the discovery deadline from the District Court.

DONE AND ORDERED in Chambers this 21st day of June 2022, at West Palm Beach in the Southern District of Florida.

A handwritten signature in black ink, appearing to read "Bruce Reinhart". The signature is written in a cursive style with a horizontal line underneath it.

BRUCE REINHART
UNITED STATES MAGISTRATE JUDGE