

**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.

**ORDER TO SHOW CAUSE WHY JOSEPH COLE BARLETA SHOULD NOT BE HELD
IN CONTEMPT FOR NONCOMPLIANCE WITH THE COURT'S ORDER GRANTING
RECEIVER'S MOTION TO COMPEL [ECF NO. 1222]**

THIS CAUSE comes before the Court upon the Receiver's Motion for an Order to Show Cause Why Defendant Joseph Cole Barleta Should Not Be Held in Contempt ("Motion"), filed on April 25, 2023. *See* [ECF No. 1552]. The Court having reviewed the Motion and the record in this matter, and being otherwise fully advised, it is hereby

ORDERED AND ADJUDGED that the Motion is **GRANTED** as set forth herein.

A party may initiate contempt proceedings by filing a motion requesting the court to issue an order to show cause why a party should not be held in civil contempt. *Newman v. State of Ala.*, 683 F.2d 1312, 1318 (11th Cir. 1982). "If the court finds that the conduct as alleged would violate the prior order, it enters an order requiring [the party] to show cause why [the party] should not be held in contempt and conducts a hearing on the matter." *Mercer v. Mitchell*, 908 F.2d 763, 768 (11th Cir. 1990).

On April 29, 2022, the Court ordered Defendant Joseph Cole Barleta to produce copies of all documents within Cole's possession, custody, or control containing information relating to ten categories of assets in which Cole may have a personal or business interest. *See* Order on Motion to Compel [ECF No. 1222]. Cole attempted to appeal this Order numerous times and was denied at every turn. *See* Mot. at 3. On October 24, 2022, the Court entered a Final Judgment against Cole in the total amount of \$12,140,150.32. [ECF No. 1434]. Cole appealed the Final Judgment and Order on Motion to Compel to the Eleventh Circuit on November 9, 2022. [ECF No. 1439]. Cole sought a stay of the Orders, but both this Court and the Eleventh Circuit denied those attempts. *See* Mot. at 3–4. The Receiver alleges that he has attempted multiple times to obtain the documents from Cole, but Cole, through counsel, has refused to produce the documents. *Id.* at 4.

On April 17, 2023, during a recent status conference, [ECF No. 1547], the Receiver indicated that he would potentially be filing the instant Motion, *id.* Cole argued as his purported justification for refusing to turn over these records that the Amended Order Appointing Receiver, [ECF No. 141], pursuant to which the Receiver initially requested the records that are the subject of the Motion to Compel, as well as the Court's Order on Motion to Compel, should no longer be enforceable or hold any legal effect, Mot. at 4. Cole argued that, because a Final Judgment has been entered against him, and the SEC (not the Receiver) holds and is responsible for collecting on that Final Judgment, he did not believe that the Receiver had any right to seek these records. *Id.*

The Court made clear during the status conference that it would likely reject Cole's argument about the enforceability of the Amended Order Appointing Receiver and the Order on Motion to Compel but would reserve ruling on whether Cole's failure to turn over the documents

constituted willful noncompliance with the Court's Order on Motion to Compel. *Id.* Cole has still not produced the documents. *Id.*

Accordingly, considering the allegations and evidence presented by the Receiver regarding the aforementioned violations of this Court's prior Order, it is hereby

ORDERED AND ADJUDGED as follows:

1. The Motion [ECF No. 1552] is **GRANTED**.
2. Defendant Joseph Cole Barleta shall show cause as to why he should not be held in civil contempt for violating the Order on Motion to Compel [ECF No. 1222] by filing a written response to the Receiver's Motion on or before **May 12, 2023**. The Receiver shall file any response **on or before May 26, 2023**.
3. The Court will hold an evidentiary hearing on the Motion on **Monday, June 5, 2023 at 10:00 A.M.** The hearing will take place in Courtroom 11-2 of the Wilkie D. Ferguson, Jr. United States Courthouse, 400 North Miami Avenue, Miami, Florida 33128.

DONE AND ORDERED in Miami, Florida, this 25th day of April, 2023.



RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE