

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

**CASE NO. 20-CV-81205-RAR**

**SECURITIES AND EXCHANGE  
COMMISSION,**

Plaintiff,

vs.

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

Defendants.

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**CAMAPLAN’S RESPONSE AND OBJECTION  
TO THE RECEIVER’S CLAIM DETERMINATION AND  
MOTION TO EXTEND DEADLINE TO FILE OBJECTIONS BY TWO WEEKS**

Pursuant to the Court’s April 23, 2024 Order Setting Briefing Schedule for Claim Determination [ECF No. 1845] (“Scheduling Order”), CamaPlan submits its response and objection to the Receiver’s claim determination and seeks an extension of the deadline to file responses and objections to the Receiver’s claim determination by two weeks to May 21, 2024.

**I. Introduction and Background**

CamaPlan is the administrator and custodian of self-directed IRA accounts in which individual retail investors (the “Accountholders”) invested in Complete Business Solutions Group, Inc. d/b/a Par Funding (“Par Funding”) via various investment funds. Accordingly, the Receiver allowed CamaPlan to submit a bulk claim on behalf of the Accountholders in the claims process. See Receiver’s Motion to (1) Approve Proposed Treatment of Claims and (2) for Determination of Ponzi Scheme [ECF No 1843] at 12, 26 (“Claims Motion”). In the Claims Motion, the Receiver explains that the claim amounts were calculated using the “net investment” method, which takes

the total cash invested minus the amount of cash received by each investor, regardless of whether it was principal or interest. *Id.* at 4, 12.

On April 23, 2023, the Court entered its Scheduling Order providing that any claimants with objections to the Receiver's determination of their claim be submitted by May 7, 2024. The Scheduling Order makes no reference to the Receiver's request for the Court to determine that Par Funding was a Ponzi scheme.

CamaPlan raises two issues with respect to the Claims Motion: (1) the net investment calculation should only be used if and when it is determined that Par Funding was a Ponzi scheme; and (2) CamaPlan respectfully requests that the Court extend the briefing schedule by two weeks, to May 21, 2024, to allow the Accountholders sufficient time to consult with independent counsel.<sup>1</sup>

## **II. Using the Net Investment Method is Improper Absent a Finding that Par Funding is a Ponzi Scheme**

CamaPlan has not hired forensic accountants to analyze Par Funding's financial records and therefore does not take a position as to whether Par Funding was a Ponzi scheme; however, CamaPlan objects to using the net investment method where the Court has not made such determination.

The net investment method is a claims calculation method developed to calculate claims in Ponzi schemes as a way to avoid legitimizing the fraud. *See In re Bernard L. Madoff Inv. Sec. LLC*, 424 B.R. 122, 140 (Bankr. S.D.N.Y. 2010), *aff'd*, 654 F.3d 229 (2d Cir. 2011) ("The Net Investment Method harmonizes the definition of Net Equity with these avoidance provisions by

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<sup>1</sup> The Receiver's Claims Motion also addresses the concerns raised by certain CamaPlan Accountholders who invested in the Multi-Strategy Funds and ABFP Income Fund 2. *See id.* at 26, 28. Because these Accountholders' investments were split between non-Par Funding investment funds separate and Par Funding, the Accountholders believe that the non-Par Funding investment should be carved out and treated separately from the Par Funding-related claims and reiterate their objection to not treating them separately.

similarly discrediting transfers of purely fictitious amounts and unwinding, rather than legitimizing, the fraudulent scheme.”); *In re New Times Sec. Servs., Inc.*, 463 F.3d 125, 130 (2d Cir. 2006) (finding net investment method appropriate to avoid basing recovery on “imaginary securities” and “fictitious paper profits”).

However, without imaginary securities and fictitious profits which are the hallmark of a Ponzi scheme, the justification for the net investment method falls flat. *See Beacon Assocs. Mgmt. Corp. v. Beacon Assocs. LLC I*, 725 F. Supp. 2d 451, 464 (S.D.N.Y. 2010) (“Although it may well be true . . . that in Ponzi scheme cases ‘equity and practicality favor the Net Investment method,’ the present case is distinguishable because Beacon itself was not a Ponzi scheme.” (citing *In re Bernard L. Madoff Inv. Sec. LLC*, 424 B.R. at 124-25)). For example, the *Beacon* Court rejected using the net investment method to calculate claims because, “while application of the Valuation Method allows Madoff-related ‘fictitious profits’ to inflate member interests, application of the Net Investment Method would strip investors of legitimate gains from Beacon’s significant non-Madoff investments.” *Id.*

It appears from the record that the Court has yet to determine whether Par Funding is a Ponzi scheme. In fact, the Court’s prior orders are inconsistent with such a finding. *See, e.g.*, Order Granting in Part Plaintiff’s Amended Omnibus Motion for Final Judgment [ECF No. 1432, at 21] (allowing Par Funding’s founders to deduct Par Funding’s legitimate business expenses from the disgorgement award upon finding that a portion of Par Funding was a lawful business)<sup>2</sup>; Paperless

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<sup>2</sup> The undersigned recognizes that the existence of some legitimate business is not necessarily inconsistent with a finding that the enterprise as a whole operated as a Ponzi scheme. In fact, it is the undersigned’s experience that most Ponzi schemes do conduct some degree of legitimate business and it is the overall unprofitability of the enterprise requiring the use of money raised from new investors to pay the promised returns to older investors that is the relevant inquiry in determining the existence of a Ponzi scheme.

Order [ECF No. 1251] (denying certain defendants' motions to strike Ponzi scheme allegations but requiring SEC to remove such allegations from the final judgments).

With that, CamaPlan takes no position as to whether Par Funding is a Ponzi scheme and has no objection to the Receiver's use of the net investment method should the Court find that it is in fact a Ponzi scheme. However, unless and until the Court makes the determination happens, CamaPlan objects to the Receiver's use of the net investment method and the Accountholders should not have any interest they have collected affect the recovery of their principal investment and interest thereon. Additionally, as discussed below in Section III, individual Accountholders may feel differently about the ponzi scheme determination and should be afforded the opportunity to discuss with independent counsel in the event they wish to voice an individualized objection.

**III. CAMAPLAN'S MOTION TO EXTEND DEADLINE TO FILE OBJECTIONS TO RECEIVER'S CLAIMS MOTION BY TWO WEEKS**

While CamaPlan submitted a "bulk" claim and objection on behalf of Accountholders to streamline the claims process, CamaPlan asks that the Accountholders be given the opportunity to consult with independent counsel regarding any individual objections they may have to the Claims Motion. CamaPlan has served as an aggregated voice for Accountholders for efficiency purposes, but the Claims Motion presents a juncture where there may be different or conflicting interests among Accountholders who may wish to respond to the use of the net investment method, the prospect of clawback claims, the Ponzi scheme determination as explained in Section II above, or some combination thereof. Accordingly, CamaPlan respectfully requests that the Court extend the deadline set in the briefing schedule by two weeks to May 21, 2024, so that the individual Accountholders are afforded due process and have time to retain independent counsel.

WHEREFORE, CamaPlan respectfully requests that this Court enter an order granting this Motion to Extend Deadline to File Objections to the Receiver's Claims Motion by Two Weeks,

making the deadline to file objections May 21, 2024, and any such other relief that this Court deems just and proper.

**LOCAL RULE 7.1 CERTIFICATION OF COUNSEL**

Pursuant to Local Rule 7.1, CamaPlan’s counsel conferred with counsel for the Securities and Exchange Commission (“SEC”) and counsel for the Receiver. The SEC has no objection to the relief sought. The Receiver has indicated that he understands and appreciates CamaPlan’s rationale for requesting an additional two weeks, but is also concerned about delaying the resolution of the Claims Motion. As such, the Receiver takes no position on the requested relief.

Dated: May 6, 2024

Respectfully submitted,

/s/ Michael I. Goldberg

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the forgoing was served on May 6, 2024, via the Court’s notice of electronic filing on all CM/ECF registered users entitled to notice in this case.

/s/ Katherine A. Johnson

Attorney