

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.

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JOINT SCHEDULING REPORT

Counsel for the Parties participated in a scheduling conference and submit the following:

(A) THE LIKELIHOOD OF SETTLEMENT

Plaintiff Securities and Exchange Commission (the “Commission”) is continuing settlement discussions with Defendants Dean Vagnozzi and John Gissas, and anticipates a settlement will be reached with respect to some or all of the Defendants. The Receiver will likely consent to the causes of action against the Receivership Entities. If any settlements occur, the Commission will immediately notify the Court.

(B) LIKELIHOOD OF APPEARANCE IN THE ACTION OF ADDITIONAL PARTIES

It is not likely that additional parties will appear in this action, but we will be in a better position to assess that during discovery.

(C) PROPOSED LIMITS ON THE TIME

TO JOIN OTHER PARTIES AND TO AMEND THE PLEADINGS

None of the Defendants have responded to the Complaint at this time. The parties propose that the deadline for amending pleadings and joining parties be two weeks after the last order on any motion to dismiss and if none is filed, then two weeks after the last Answer is filed.

TO FILE PRE-TRIAL MOTIONS

The Commission requests the trial period beginning June 28, 2021, and therefore proposes that summary judgment motions be due by Friday, March 5, 2021 and motions *in limine* be due Friday, May 14, 2021. The Defendants request the trial period beginning October 25, 2021, and therefore propose that summary judgment motions be due by Friday, August 13, 2021, and that motions *in limine* be due by Friday, September 17, 2021. The Receiver is not expected to present a defense at trial and therefore does not have any preference on the trial schedule.

TO COMPLETE DISCOVERY

Based on the proposed June 28, 2021 trial date and March 5, 2021 proposed summary judgment deadline, the Commission proposes that discovery conclude by February 26, 2021. Based on Defendants' proposed October 25, 2021 trial date and August 13, 2021 summary judgment deadline, the Defendants request that discovery conclude by July 23, 2021. The Receiver takes no position on the litigation discovery, as the Court's Order authorizes the Receiver to seek discovery outside of the litigation discovery period.

(D) PROPOSALS FOR THE FORMULATION AND SIMPLIFICATION OF ISSUES, INCLUDING THE ELIMINATION OF FRIVOLOUS CLAIMS OR DEFENSES, AND THE NUMBER AND TIMING OF MOTIONS FOR SUMMARY JUDGMENT OR PARTIAL SUMMARY JUDGMENT

The Commission proposes that the Defendants file a joint summary judgment motion since they share the same causes of action. While Mr. Gissas is not charged with all of the violations of which his co-defendants are charged, all charges against Mr. Gissas are also charged against each of his co-defendants. The Commission also proposes that the Court limit discovery on frivolous defenses, including accounting matters the Defendants have already told this Court and the Commission they intend to raise, both through their filings and during conferrals. The accounting matters the Defendants have raised are not defenses to any claim against them, and will result in

unnecessary litigation. This case is a simple case of misrepresentations and omissions, and unregistered securities offerings. While the Defendants have repeatedly stated they wish to prove their companies were successful and were not Ponzi schemes, even assuming this true it is not a defense to any claim the Commission has charged against any Defendant.

The Defendants are committed to making every effort to streamline the issues in the case but have no specific proposals at this time. The Defendants do request that they be allowed to file individual motions for summary judgment without being forced to file one joint motion with other defendants. While individual defendants may be charged with the same causes of action as other defendants, the applicable facts and circumstances are anticipated to differ significantly. The Defendants also oppose the Court limiting any defenses. The Defendants are entitled to take discovery and pursue any relevant defenses. The Defendants also believe that not only are accounting-related matters concerning to the Receivership Entities *not* frivolous, but that to the contrary they are necessary to understanding how these entities operated and contextualizing and rebutting the Commission's allegations. As such, and given the liberal discovery standard under the Federal Rules, the Defendants believe that limiting discovery on these matters would ultimately prejudice Defendants' ability to prepare their respective defenses. In any event, the Defendants have yet to even assert any defenses in this case, and the issue of whether to limit discovery on this or any other issue is premature and should be revisited, if at all, at the appropriate juncture.

(E) THE NECESSITY OR DESIRABILITY OF AMENDMENTS TO THE PLEADINGS

None of the Defendants have responded to the Complaint. Therefore, we are not aware of the necessity to amend the pleadings at this time and do not anticipate that it will be necessary. However, if the Commission deems it necessary, a motion will be filed with the Court.

(F) THE POSSIBILITY OF OBTAINING ADMISSIONS OF FACT AND OF DOCUMENTS, ELECTRONICALLY STORED INFORMATION OR THINGS WHICH WILL AVOID UNNECESSARY PROOF, STIPULATIONS REGARDING

AUTHENTICITY, ELECTRONICALLY STORED INFORMATION OR THINGS, AND THE NEED FOR ADVANCE RULINGS ON ADMISSIBILITY OF EVIDENCE

The Commission has sought admissions from certain of the Defendants, with limited success, and will seek requests for admissions from all Defendants once discovery commences. The parties anticipate stipulating to the authenticity of documents, and the Receiver will stipulate to the authenticity of all corporate documents in his possession. The Commission does not anticipate requiring advance rulings from the Court on the admissibility of evidence.

(G) SUGGESTIONS FOR THE AVOIDANCE OF UNNECESSARY PROOF AND OF CUMULATIVE EVIDENCE

The parties will endeavor to streamline evidence to avoid unnecessary proof and cumulative evidence, and will endeavor to stipulate to and file a notice of undisputed facts in advance of trial.

(H) SUGGESTIONS ON THE ADVISABILITY OF REFERRING MATTERS TO A MAGISTRATE JUDGE OR MASTER

The parties suggest that matters be referred to the Magistrate Judge as the Local Rules provide, and have not at this time consented to a trial by the Magistrate Judge.

(I) A PRELIMINARY ESTIMATE OF THE TIME REQUIRED FOR TRIAL

The parties estimate that the trial will last two to three weeks.

(J) REQUESTED DATE OR DATES FOR CONFERENCES BEFORE TRIAL, A FINAL PRETRIAL CONFERENCE, AND TRIAL

The Commission suggests a trial date in June 2021, and has no requested dates for the conference before trial or the pretrial conference. The Defendants suggest a trial date in September 2021, and have no requested dates for the conference before trial or the pretrial conference.

(K) ANY ISSUES ABOUT: (I) DISCLOSURE, DISCOVERY, OR PRESERVATION OF ELECTRONICALLY STORED INFORMATION, INCLUDING THE FORM OR FORMS IN WHICH IT SHOULD BE PRODUCED; (II) CLAIMS OF PRIVILEGE OR OF PROTECTION AS TRIAL-PREPARATION MATERIALS, INCLUDING -- IF THE

PARTIES AGREE ON A PROCEDURE TO ASSERT THOSE CLAIMS AFTER PRODUCTION -- WHETHER TO ASK THE COURT TO INCLUDE THEIR AGREEMENT IN AN ORDER UNDER FEDERAL RULE OF EVIDENCE 502; AND (III) WHEN THE PARTIES HAVE AGREED TO USE THE ESI CHECKLIST AVAILABLE ON THE COURT'S WEBSITE (WWW.FLSD.USCOURTS.GOV), MATTERS ENUMERATED ON THE ESI CHECKLIST

The parties are not aware of any such issues at this time.

(L) ANY OTHER INFORMATION THAT MIGHT BE HELPFUL TO THE COURT IN SETTING THE CASE FOR STATUS OR PRETRIAL CONFERENCE

The parties are unaware of any additional information at this time.

September 15, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served this 15th day of September 2020 via cm-ecf on all defense counsel in this case.

s/ Amie Riggle Berlin
Amie Riggle Berlin