SEC's Retreat From 'Ponzi Scheme' Label Raises New Questions About Par Funding Case

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Was Philadelphia-based merchant cash advance company Par Funding truly a Ponzi scheme — or did federal regulators introduce that characterization only after key defendants had waived their right to challenge the allegation before a jury?

Black Star News continues to review court documents in the case, and that question is now moving to the center of renewed scrutiny surrounding the collapse of Par Funding, formally known as Complete Business Solutions Group (CBSG), and the sweeping receivership that has controlled the company for nearly six years.

Former CEO Joseph LaForte, currently serving a 15½-year federal prison sentence, and his attorneys argue that the Securities and Exchange Commission fundamentally altered the nature of the case in April 2022 when it characterized Par Funding as a "Ponzi scheme" in an omnibus motion for final judgments — despite never making that allegation in either its original complaint or amended complaint.

A Google search reveals reference to Par Funding as a Ponzi scheme in numerous media accounts.

Yet, the SEC now appears notably more restrained.

When Black Star News contacted the agency on May 18, 2026 regarding objections by LaForte and his attorneys to the Ponzi characterization, an SEC spokesperson responded: "…in our complaint we never refer to this case as a

Ponzi scheme so we would take issue if you refer to it as such in any context attributed to the SEC."

That statement was technically accurate. Neither the SEC's original complaint nor its amended complaint explicitly alleged that Par Funding operated as a Ponzi scheme.

Yet the SEC repeatedly used the term in its April 15, 2022 omnibus motion against LaForte, his wife Lisa McElhone, and Par Funding executive Joseph Cole Barletta.

The motion made at least a dozen references to a Ponzi scheme in describing Par Funding's operations or in comparing the company to other notorious fraud cases.

"Par Funding operated as a Ponzi scheme, as it used investor money to pay purported investment returns to individual and Agent Fund investors," the SEC stated in the filing.

Elsewhere, the agency argued that "McElhone and LaForte operated Par Funding as a Ponzi scheme," asserting that investor funds were used to pay prior investors and sustain the enterprise.

The filing also compared the proposed penalties against Par Funding executives to the sanctions imposed against Robert Shapiro in the Woodbridge case, where the SEC alleged operation of a $1.2 billion Ponzi scheme.

"The penalties are also consistent with a $100 million penalty imposed against the individual defendant, Robert Shapiro, in SEC v. Woodbridge," the SEC wrote. "Given the scope of the fraud, the duration, scienter, egregiousness of the violations, and the massive investor losses, $50 million penalties are more than justified in this case."

The SEC ultimately sought $100 million in combined penalties against LaForte and McElhone, along with more than $237 million in disgorgement and prejudgment interest.

LaForte and his co-defendants responded forcefully less than three weeks later.

In a May 4, 2022 motion filed in the Southern District of Florida, the defendants asked the court to strike the Ponzi allegations from the SEC's omnibus filing. Alternatively, they sought permission to withdraw from the consent agreements they had signed, arguing that they had waived their jury trial rights based on allegations contained in the amended complaint — allegations that never included claims of a Ponzi scheme.

"After settling this case with a no-admit no-deny consent judgment, in which defendants agreed not to contest the allegations of the amended complaint for the purpose of the final judgment motion only, the SEC has violated the letter, intent, and spirit of the agreement and has made salacious and scandalous allegations that the defendants were operating a Ponzi scheme," the motion stated.

The filing further alleged that the SEC had engaged in what the defendants described as a "bait-and-switch" tactic.

"The SEC has engaged in a bait-and-switch on the parties bifurcated settlement that should not be countenanced by a court of equity or any court for that matter," the motion argued.

Representing LaForte in the challenge were attorneys David L. Ferguson of Kopelowitz Ostrow Ferguson Weiselberg Gilbert and Alejandro O. Soto of Fridman Fels & Soto PLLC. McElhone was represented by James M. Kaplan of Kaplan Zeena LLP, while Barletta was represented by Bettina Schein.

The motion argued that the SEC's new characterization had devastating consequences far beyond the courtroom.

"The allegations that were only made after the defendants waived their right to jury trial on liability, are interposed for the improper purpose of unduly influencing the court, the investor community at large, and the court of public opinion," the filing stated.

The defendants further contended that had the SEC genuinely believed Par Funding was a Ponzi scheme, it should have pleaded those allegations from the outset and allowed the claims to be tested at trial.

“Had the SEC truly believed Par Funding was a Ponzi scheme, it should have pled such allegations and given the defendants their due process rights to challenge such allegations at a trial,” the motion stated.

At the heart of the dispute is a broader and increasingly consequential factual question: whether Par Funding’s business model more closely resembled a classic Ponzi operation such as Bernard Madoff’s fraud, or whether it was instead a functioning merchant cash advance enterprise generating substantial real-world revenue.

The distinction is critical.

Madoff’s operation collapsed because the underlying investment activity was largely fictitious. Investor repayments depended overwhelmingly on new investor funds rather than legitimate business operations.

By contrast, a later GAAP-based forensic analysis known as the Glick Report concluded that CBSG was engaged in actual merchant cash advance transactions involving thousands of businesses nationwide and generated substantial revenue from merchant receivables.

“DSI erroneously alleges CBSG was a Ponzi Scheme,” the report stated, criticizing earlier financial analyses relied upon by the court-appointed receiver.

According to the report, “a forensic analysis of the QuickBooks/Bank/ACH accounts, from 2012 through 2019, demonstrates that cash flows from merchants were sufficient to cover principal and interest payments made to investors.”

The report further argued that Development Specialists Inc. (DSI), whose analysis heavily influenced the receivership’s early narrative, improperly relied on cash-flow analysis rather than accrual-based accounting principles required under Generally Accepted Accounting Principles (GAAP).

“A forensic analysis of CBSG data using an accrual basis method of accounting reveals that CBSG was profitable, earning hundreds of millions of dollars in top-line revenue that was ignored by DSI,” the report concluded.

Those findings have intensified scrutiny because the receivership itself has continued recovering substantial sums years after the company ceased originating new merchant cash advances.

According to quarterly reports filed by receiver Ryan Stumphauzer, the estate had reportedly repaid nearly $200 million to investors while continuing to collect substantial receivables.

LaForte and his attorneys argue that those continuing recoveries are fundamentally inconsistent with the collapse dynamics of a traditional Ponzi scheme.

They also point to the receivership's own fees, which court filings show have approached roughly $30 million.

Critics of the receivership contend those fees are excessive, particularly given that most investor recoveries have occurred through ongoing collections from merchant receivables rather than liquidation of a collapsed fraudulent shell.

Questions surrounding the Ponzi designation continue to shape the receivership itself.

In a Jan. 30, 2026 letter to receiver Stumphauzer, Yale Scott Bogen, senior managing director at Development Specialists Inc., wrote that because "the court has determined that CBSG operated a Ponzi scheme," clawback claims could be pursued against so-called "net winners" — investors who recovered more than their original investments.

Yet even as that designation continues guiding aspects of the receivership, federal regulators now appear reluctant to publicly embrace the label.

When asked about the discrepancy between the SEC's complaints and its later omnibus motion, an SEC spokesperson declined further comment.

Meanwhile, LaForte's attorneys maintain that the distinction is not semantic but foundational.

“The defendants did not agree, and never would have agreed, to accept the unpled and unproven allegations of a Ponzi scheme,” their 2022 motion stated.

The filing warned that permitting the SEC to introduce such allegations after defendants waived trial rights effectively amounted to a constructive amendment of the complaint without affording adequate discovery or an opportunity for a jury determination.

“Par Funding was not a Ponzi scheme, and the SEC complaint, even after amendment, never alleged it was,” the motion stated. “This court should not permit the SEC to ambush the defendants by inserting unpled and unproven liability allegations into the case after the defendants agreed to bifurcated settlements and entered the consent.”

Judge Rodolfo A. Ruiz II who is presiding over the case in the Southern District of Florida, denied the motion.

The controversy now raises broader institutional questions extending beyond Par Funding itself: whether regulators and receivers can revisit earlier assumptions when later evidence complicates the original narrative — and whether labels carrying the extraordinary stigma of a “Ponzi scheme” should be imposed without ever being formally pleaded and tested at trial.