Two Systems of Justice: How Liberal Operatives Protected a Fraudster Until President Trump's Task Force Delivered Justice

Nothing illustrates the rot of the two-tiered administrative state quite like the long-running assault on Par Funding. On one side stands a cabal of entrenched bureaucrats, an unaccountable court receiver, and an overzealous SEC that coddled, shielded, and financially rewarded a self-interested defaulter. On the other side stands Donald J. Trump and his uncompromising federal fraud task force, which brought real law enforcement back to the table and secured a federal indictment in an unrelated case against the very same individual for bilking American taxpayers during the height of the COVID-19 pandemic.

The contrast could not be clearer: liberal insiders protect and enrich fraudsters so long as they target the establishment's political enemies, while strong leadership holds criminals accountable under the law.

The Evidence Was in Plain Sight on July 28, 2021

For years, court-appointed bureaucrats and the SEC insisted their sudden emergency crackdown was a righteous crusade. But the Par Funding defense team knew the truth from the beginning. They exposed the entire scheme in official court filings years ago.

Docket Entry 663, filed on July 28, 2021, laid bare the choreography between defaulting merchant Kara DiPietro and attorney Shane Heskin:

EXHIBIT A: Excerpt from Par Funding Docket Entry 663 (Filed July 28, 2021)

It is especially important for our readers to understand who these characters are. Defense counsel explains their roles and the history perfectly in this filing. Keep in mind this was filed on the docket July 28, 2021 (over 5 years ago)! Kara DiPietro was indicted for PPP fraud in October 2026. Defense counsel predicted that DiPietro was a fraudster over 5 years ago and needed thirteen million reasons to lie!

After Failing in His Private Crusade Against Par and Other MCAs, Shane Heskin and Kara DiPietro Shop This Case to Multiple Law Enforcement Agencies, All of Whom Reject It, But the S.E.C. Accepts It Without Doing Due Diligence

Shane Heskin, Esq. ("Heskin"), a partner at White & Williams in Philadelphia, has developed a practice of erroneously claiming that merchant cash advance ("MCA") contracts are illegal and/or in violation of state or federal law.[1] (Declaration of Norman Valz, dated August 11, 2020, ¶¶ 14-16, 1) ("Valz. Decl.") Attached as Exhibit 2. CBSG (also herein "Par") has been Heskin's primary target. Over the past four years, Heskin filed at least 25 merchant actions against Par.[2]

In such litigation, Heskin has alleged RICO claims and attempted class actions asserting that his clients should be allowed to avoid their contractual payment obligations to Par and other MCA businesses. (Valz. Decl. ¶¶ 16-19; Deposition of Brett Berman, Esq., June 8, 2021, Attached, as Exhibit 3 at T. 10:19-24, 12:18-25, and 239:7-16) None of these efforts were successful. (*Id.*) To Par's knowledge, Heskin has never prevailed on the merits in any MCA case and certainly never prevailed against Par. (*Id.*) And, Heskin's unsuccessful litigation has spawned abundant precedent in numerous jurisdictions that MCA contracts are valid and enforceable.[3]

In a particularly significant defeat, just four days before the SEC filed its Complaint on July 26, 2020, Heskin was effectively precluded from further efforts to attack MCA contracts in the U.S. District Court in the Eastern District of Pennsylvania when the court ruled that a confession of judgment filed in state court that has not been stricken or reopened remains a final state court judgment for the purposes of the *Rooker-Feldman* doctrine. *CBSG v. Sunrooms America, Inc., et al,* 474 F. Supp. 3d 693, 696 (ED Pa., July 22, 2020).

But more fundamentally, Heskin's ill-conceived and failed lawsuits ignored state laws clearly favorable to Par's business model, like Pennsylvania law, which is incorporated through choice of law

---

[1] *See, e.g.,* written testimony of Shane R. Heskin, Partner, White and Williams LLP, before the United States House of Representatives Committee on Small Business "Crushed by Confessions of Judgment: The Small Business Story," June 26, 2019. https:\\docs.house.gov/meetings/SM/SM00/20190626/109720/HHRG-116-SM00-Wstate-HeskinsS-2019026.pdf.

[2] Dockets from Heskin's various unsuccessful cases are attached as Composite Exhibit 1

[3] *See, e.g., CBSG v. Boreal Water Collection Inc.,* No. 17062692, 2017 WL 5652572, at *2 (Pa.Com.Pl. Nov. 02, 2017) ("Here, it is clear that the transaction between the parties was not a loan."); and *CBSG vs. Pearce Timber et al.*, Phila. Common Pleas 180105060 ("The forum selection clause in the instant commercial contract it's not so unfair as to deprive defendants of an opportunity to be heard; nor is it fraudulent or against public policy.")

provisions in Par's MCA contracts.[4] Courts across the country have recognized MCA contracts as valid and have denied claims that such contracts were unlawful or constituted usurious loans.[5]

Kara DiPietro ("DiPietro") is a Heskin client. Her company, HMC, is a substantial kitchen remodeling business. With Par's assistance, in 2018 Ms. DiPietro started her own MCA funding business, Kinetic Capital, through which she provides cash advances to merchants. *See* Emails, attached as Exhibit 5.

In early 2018, DiPietro approached Par for funding.[6] Par conducted underwriting and provided $868,942 to her company on February 15, 2018. *See* Feb. 15, 2018, HMC Factoring Agreement, Exhibit 7. All told, Par funded DiPietro's company approximately $26 million. *See* Deposition of Josh Persing, dated March 12, 2020, attached as Exhibit 8 at T. 363-366. DiPietro used the cash Par advanced to expand her business and engage in a large number of interior design projects on which she made significant profits.

DiPietro was thrilled with the funding. In email correspondence with Par at the time, she repeatedly thanked the company. She even created and gave to Joseph LaForte a "Book of Gratitude" she made for him, expressing her appreciation for Par and its efforts on her behalf. In it, she stated:

> For your birthday HMC wanted to give you the gift of gratitude. The pages that follow are a collection of projects HMC completed in 2018. You and everyone at CBSG have played an integral role to HMC's successes. Please consider this book as a show of gratitude from me and everyone at HMC. We look forward to building more success in 2019.

DiPietro's Book of Gratitude, Exhibit 9. As late as April 2, 2019, DiPietro sent an email to LaForte saying, "HMC is stronger than we have ever been. I know that it is 90% because of you & PAR Funding." *See* Exhibit 10.

---

[4] *See Gur v. Nadav*, 178 A.3d 851, 857 (Pa. Super. Ct. 2018) (recognizing that business loans are exempted from Pennsylvania's Usury Law). And, even if the factoring agreements constituted loans (they have not been so held by any court), they would qualify as "business loans" that do not violate Pennsylvania's Usury Law. *See* 41 Pa. Stat. Ann. § 201(b)(3). Other states' laws are similar. *See, e.g.*, Md. Code Ann., Com. Law § 12-103(e)(1) ("A lender may charge interest at any rate if the loan is . . . [a] loan made to a corporation"); *see, e.g.*, Tex. Fin. Code § 306.103(b) ("For the purposes of this chapter, the parties' characterization of an account purchase transaction as a purchase is conclusive that the account purchase transaction is not a transaction for the use, forbearance, or detention of money.")

[5] *See* various decisions on the legality of MCAs, attached as composite exhibit 4.

[6] DiPietro suggests in her declaration that she knew Joe LaForte as "Joe Mack" or "Joe Macki." (DiPietro Decl. at ¶ 3). However, documents produced in discovery prove that Kara DiPietro knew full well that the individual she was speaking to was named Joe LaForte. Exhibit 6.

However, in the spring of 2019, DiPietro failed to make payments on an approximately $11 million debt to Par, $3 million of which was principal. *See* Deposition of Joseph Cole Barletta, attached as Exhibit 11 at T. 46-47, 68; See also Exhibit 8 at T. 363-366; *see also* Exhibit 12. This failure to make payments triggered charges Par was entitled to collect from DiPietro's bank accounts. Exhibit 13. When negotiation proved fruitless, Par directed its outside law firm, Fox Rothschild, to enforce the contract by filing DiPietro's Confession of Judgment ("COJ"), which it did on May 14, 2019.

Rather than pay Par under the MCA contract, DiPietro tried various means to avoid her obligations. First, she made a false claim to the local police that Joseph LaForte threatened her during a negotiation meeting. At the same time, on or about May 20-21, 2019, DiPietro filed complaints about Par with the Federal Trade Commission *See* Exhibit 14, and the U.S. Postal Service *See* Exhibit 15. The local police, the FTC, and the U.S. Postal Service did not take Ms. DiPietro's bait.

On May 22, 2019, still on her campaign to pocket Par's money, DiPietro sent a lengthy email to the Philadelphia Police Department (the "PPD") making false allegations against Joseph LaForte and Par. In her email to the PPD, she claimed to have also notified numerous other agencies. *See* Exhibit 16. Later that same day, a PPD Detective notified DiPietro that, "it was determined that this is not a criminal case and should be handled in civil court." *See* Exhibit 17.

As early as May 31, 2019, if not earlier, DiPietro retained Heskin. On July 26, 2019, HMC filed a lawsuit against Par (*HMC, Inc. v. CBSG*, No. 19-cv-03285-JS (E.D. PA)).[7] Thereafter, (at least as early as September 2019),[8] DiPietro, turned to the SEC by corresponding with a SEC Senior Counsel, Linda Schmidt. Apparently, the SEC never questioned her credibility, bias, or financial motives and did nothing to corroborate her allegations. For over a year, with no notice to Par whatsoever, DiPietro, along with Heskin, engaged in extensive correspondence with the SEC in which DiPietro falsely positioned herself as a victim of Par. In her correspondence with the SEC, DiPietro fabricated numerous allegations in an effort to spur the SEC into taking action against Par - and thereby relieving DiPietro of her contractual obligations. Their correspondence includes hundreds of

[7] A year later, when the Receiver was appointed in late July 2020, this action was just concluding discovery.

[8] On August 27, 2020, Ms. DiPietro forwarded her law enforcement emails to the SEC investigator. We have reason to believe that Ms. DiPietro began corresponding with the SEC investigator at least as early as September 18, 2019.

emails and an untold number of phone calls.[9] Heskin is copied on and a participant in many of DiPietro's voluminous email communications with the SEC.

As just one outlandish example, DiPietro writes to the SEC that "CBSG is not in the MCA business. They are not in the factoring business. Their intentions are not to fund small businesses. They are just pretending to be a cash advance business. It's an act." (*See id.*) This coming from a merchant who received approximately $26,000,000.00 in advances from Par! DiPietro then calls Fox Rothchild "an accomplice." She tells the SEC one real fact, however: ConvergeHub – That should tell you all you need" *See* Exhibit 18. Having been a customer of Par and an MCA funder herself, DiPietro knew that Par engaged in very substantial underwriting and that Par's underwriting data was stored on ConvergeHub. After the Receiver was appointed, DiPietro sought the SEC's assistance in having the Receiver make her multi-million-dollar debt to Par go away. *See* Exhibit 19.

The SEC never once contacted Par or its counsel and apparently did no due diligence into DiPietro's claims about Par and did not consider Heskin's possible financial motive and his prior failures in the civil cases against Par. Nor is there any suggestion that the SEC realized that the Declarants were biased because they had massive financial motives to bring down Par; or was aware that DiPietro owed Par and thereby its noteholders more than $11,000,000 when it listened to her false claims.

Against a backdrop of legal losses, Heskin, along with his client and sidekick DiPietro, built this case for the Commission. Their obvious motivation and bias, which should have sounded multiple alarm bells at the SEC, apparently did not even cause the SEC to perform the slightest due diligence to verify their claims. Had the SEC done so, this case should never have been brought, or at the very least, emergency injunctive relief, a TRO and, thereafter, Preliminary Injunction should not have been sought be the SEC or entered by the Court.

The SEC Delegated Its Investigation to Heskin and Relies on His Clients' Biased and False Merchant Affidavits, "Expert" Report, and Private Investigator, Without Any Apparent Scrutiny and Without Performing Its Own Investigation

Foundational to the SEC's civil action and its purported justification for emergency relief for a Receivership, TRO, and Asset Freeze, was the allegation that Par falsely claimed that it conducted robust underwriting. The claimed misrepresentations about Par's underwriting span fully 31 paragraphs of the original 58-page Complaint and purportedly provided key evidence of Defendants'

[9] In addition to the emails attached as exhibits to this motion, there are hundreds more on the joint investigation between Heskin, DiPietro, the SEC, and FBI.

alleged securities law violations. (DE #1 ¶¶ 154-185, Section G(1), entitled: "False Claims about Par Funding's Rigorous Underwriting Process.") The SEC asserted that its claims about the quality of the underwriting were at the "core of the investment" allegations and a "key selling point." (DE#244 at 49). These claims were essential to the Complaint and to the Court granting emergency *ex parte* relief and appointing the Receiver. Heskin's merchant client declarations were the foundation of these claims. As the SEC made crystal clear, "you will see that in every investor (sic)[10] declaration we have provided, this misrepresentation occurs either with respect to the onsite inspections or with respect to the underwriting… it was lackluster... this is undisputed evidence that appears in declarations we obtained from merchants who stated this." (August 18, 2020, Preliminary Injunction Hearing Vol. I, DE# 244, 49-51). The Court later confirmed that the diligence of Par's underwriting was "really the thrust of the SEC's enforcement action." (August 17, 2020, Status Conference, DE# 193 30-31).

Of the 14 merchants whose sworn declarations were proffered by the SEC, all of them were represented by Heskin in prior or then active litigation.[11] Based on the uniform template of the merchant declarations and other information and documents finally obtained in discovery, including emails between Heskin and the SEC, it is clear that Heskin drafted the declarations for all of the merchants. Thus, Heskin and his merchant clients supplied every one of the 14 declarations for the SEC's complaint, *all of which were drafted over a one-week period between July 7 and July 14, 2020 – just days before the SEC filed its Complaint. See* Email chain between the SEC, Heskin, and Heskin clients attached as exhibit 23.

The declarations requested by the SEC and provided by Heskin from his financially motivated merchant clients are replete with demonstrable falsities. For example, the Heskin Merchant Declarations include the following falsities, among others: That Par did not perform an onsite inspection; that Par did not do a background check; and Par did not request accounts receivable information or account statements, as set forth in the chart and back-up exhibits attached hereto as Composite Exhibit "22." The SEC should have considered the obvious bias, scrutinized the Heskin Merchant Declarations, and/or done its own investigation, using its broad subpoena powers, instead of relying on Heskin and his faulty legal contentions (loans/interest rates/usury) and false facts. No

[10] Given that the SEC misspoke and accidentally called the declarations "investor declarations" rather than "merchant declarations," it is unclear whether the Court was further persuaded that there were misrepresentations made to investors. The truth is none of these declarations came from investors, but rather from biased and self-interested merchants.

[11] The dockets of Heskin's cases for the merchants he represented who signed declarations in this case are attached as composite exhibit 20.

doubt, many of the false representations to this Court led to the raid of Par's offices, LaForte and Lisa McElhone's home, and the *ex parte* installation of the Receiver. Furthermore, the SEC acknowledges that Par had received a number of subpoenas from different state regulatory bodies and Par always cooperated. Thus, there was no legitimate reason to believe the Defendants would not have cooperated with or would have absconded from the SEC.

Instead of examining the actual available financial data or using it broad subpoena powers, the SEC pursued its claims of insufficient underwriting by relying on the sworn declarations of fourteen (14) of the approximately *7,600* various merchants[12] who had received funding from Par. All fourteen declarants were preexisting Heskin clients, *see supra* at n. 10.[13] Moreover, the surrounding circumstances described herein and the declarations themselves suggest that Heskin hand-picked and represented all fourteen of these declarants. The fourteen declarations bear the hallmarks of a single draftsman, tracking nearly identical language, all signed days before the Complaint was filed, with occasional blank fields suggesting both uniformity and haste. Just days before this case was filed, Heskin sent a mass email to a number of merchants asking them to quickly respond to a number of yes or no questions regarding Par's underwriting on their funding requests. *See* Exhibit 23. These questions formed the basis for the template for the 14 Merchant Declarations. The haste with which Heskin and the SEC demanded these declarations be turned around quickly is borne out in their sloppiness. These cookie cutter declarations use identical statements and, in some instances, are incomplete and include blank lines,[14] but rather than reject these declarations, scrutinize them, or rely on its own efforts and work product, the SEC filed them with this Court.

In addition to containing falsities, the Heskin merchant declarations are neither a representative nor credible sampling of merchants. They constitute a mere .018% of Par's 7,600 merchant clients. Obviously, they are hardly random. Heskin and these merchants had a significant financial interest in the SEC's civil action and the appointment of a Receiver.[15] Thirteen of the 14

[12] Par funded approximately 7,600 merchants, via 17,000 different deals, and there were approximately 3,000 deals in the portfolio at the time the SEC caused the Court to order the Receivership.

[13] Of the fourteen merchants, three of them proffered declarations to support claims by the SEC other than the underwriting claims. These three clients are Kara DiPietro (HMC Decl.); Christine Rainwater (Quantico Decl.); and Michelle Rago (Woodside Decl.). (Also, prepared by Heskin)

[14] *See* Exhibit 21 at p. 6 Decl. of Julie Caricato at ¶3; and at p. 18 Decl. of Bruce McNider at ¶3.

[15] In addition to escaping their debts under the MCA contracts, Heskin and his declarants may have also sought a financial reward as whistleblowers under 15 U.S.C. § 78u-6 (a) (6). The Defense has served document demands to confirm this fact. Documents pursuant to those demands, if they exist,

merchants, all except Fleetwood Services that had an ill-conceived class action case pending, owed large outstanding balances to Par when they signed their sworn declarations.[16] They stood to gain massive financial benefit from the Receiver's liquidation of Par and his discretion to forgive some or all of their outstanding debts, at the expense of and huge detriment to Par and the investors. It appears their gambit may pay off because the Receiver's billing filed in this case show that he and his agent DSI have spent significant time negotiating a "Global Settlement" for Heskin's merchant clients. *See* Exhibit 25 Receiver billing entries related to global settlement. Since he was losing miserably in court over and over, the only hope Heskin had of getting his merchant clients out of their obligations to repay Par was to get a governmental agency to take the bait. After being rejected by local law enforcement, the FTC, the U.S. Postal Service, Heskin and DiPietro found a buyer in the SEC.

But the SEC did not just rely on merchant affidavits from Heskin clients, it actively relied upon Heskin and his clients to perform the SEC's investigation, contrary to the SEC's own guidelines. Pursuant to Section 3.1.4 of the SEC Enforcement Manual, government employees are apprised:

> When staff is aware that a private entity is investigating conduct that is the same or related to the conduct involved in the staff's investigation, staff should keep the following guidelines in mind:
>
> > • In fact and appearance, the SEC and the private entity's investigations should be parallel and should not be conducted jointly. Staff should make investigative decisions independent of any parallel investigation that is being conducted by a private entity.
> >
> > • Do not take any investigative step principally for the benefit of the private entity's investigation or suggest investigative steps to the private entity.
> >
> > • In SEC investigations in which a witness has asserted or indicated an intention to assert the Fifth Amendment in testimony, do not suggest any line of questioning to the private entity conducting a parallel investigation, and do not provide to the private entity any document or other evidence for use in questioning a witness other than pursuant to an approved access request.

---

have not yet been produced. And it appears that the SEC has withheld emails documenting its initial contacts with Heskin and Kara DiPietro.

[16] *See* Exhibit 24, a chart reflecting the outstanding balances owed by each of Heskin's seventeen clients who submitted declarations in support of the Complaint.

SEC Enforcement Manual[17] at 34. "Agencies must respect their own procedural rules and regulations." *Gonzalez v. Reno*, 212 F.3d 1338, 1349 (11th Cir. 2000) (*citing Morton v. Ruiz*, 415 U.S. 199, 234, 94 S. Ct. 1055, 1074 (1974) (*Hall v. Schweiker*, 660 F.2d 116, 119 (5th Cir.1981)).

Remarkably, Heskin and DiPietro were in regular contact with the SEC and FBI simultaneously both before and after this action was filed. They went beyond merely providing information within their personal knowledge and purported to investigate all different aspects of Par's business for the agencies and repeatedly sent their research to the SEC and FBI. *See* Exhibit 26. Perhaps most egregiously, on June 30, 2020, Heskin took the deposition of Defendant Joe Cole in a merchant civil action. In that deposition, Heskin asks numerous questions that were unrelated to any possible merchant concerns and beyond the proper scope of the deposition as ordered by the Court. Specifically, Heskin asked questions related to representations made to investors about topics outside the scope of the court order on permissible areas of inquiry for this deposition including topics such as: Par's default rate, other companies owned by defendants, LME Trust assets and ownership, investors, office addresses, LaForte's role in Par, the CLA Audit, CBS liabilities and assets, where McElhone lives and the address of her business Lacquer Lounge, COJ's, use of reloads, ABF owned by Vagnozzi, usury laws, investor disclosures, Laforte's statements about equity in the company, Joe Cole's partner Bill Broomly. These questions and topics were irrelevant to Heskin's lawsuit on behalf of his merchant client, but they were key to the SEC's case filed approximately three weeks after the deposition took place, which Heskin obviously knew about when he took the deposition. Three days after the deposition, Heskin forwarded the transcript to the SEC and the FBI in the same email. *See* Exhibit 11.

This conduct implicates the Defendants' constitutional rights because Heskin and DiPetro became arms of the government. "A nexus of state action exists between a private entity and the state when the state exercises coercive power, is entwined in the management or control of the private actor, or provides the private actor with *significant encouragement*, either overt or covert, or when the private actor operates as a *willful participant in joint activity* with the State or its agents, is controlled by an agency of the State, has been delegated a public function by the state, or is *entwined with governmental policies.*" *United States v. Stein*, 541 F.3d 130, 147 (2d Cir. 2008) (emphasis in original). "The appropriate remedy for a constitutional violation is one that as much as possible restores the defendant to the circumstances that would have existed had there been no constitutional error." *United States v. Stein*,

[17] Available at https://www.sec.gov/divisions/enforce/enforcementmanual.pdf.

541 F.3d 130, 135 (2d Cir. 2008). In the event that the SEC has impinged upon the defendants' constitutional rights in filing the complaint and amending the complaint, the defendants would be restored to the circumstances that would have existed in the absence of a constitutional error via dismissal of the case. *See Stein*, 541 F.3d at 135.

The evidence shows that the SEC not only used and accepted the help of Heskin, DiPietro and his merchant clients - all with obvious bias and financial motive - to form and build its case, it deputized Heskin and DiPietro as *de facto* co-counsel and paralegal. As one example, the Defendants filed the declaration of Norm Valz, (DE 132-1), in which Mr. Valz soundly debunked Heskin's contention that Par's advances are "loans' that charge usurious rates of "interest," a false claim parroted by the SEC in its Complaint and TRO Motion. Incredibly, the SEC sent the Valz Declaration to Heskin soliciting his response. Heskin then drafted a page-long comfort email to the SEC attempting (unsuccessfully) to rebut the Valz Declaration. *See* Comfort Email, attached as exhibit 27. Heskin even offered to draft a counter-declaration. *Id.*

This vignette is disturbing because it shows that the SEC did no independent legal research or analysis of whether MCA contracts are lawful and enforceable throughout the United States, notwithstanding the dozens of published decisions making that absolutely clear, and the existence of an entire MCA industry. Rather, the SEC delegated its legal analysis to Heskin – an attorney who lost every MCA case he brought against Par. As a result, the SEC's Complaint included specious mischaracterizations of the MCA agreements as "loans" and criticized their terms. These are precisely the failed claims that Heskin made in his lawsuits. The SEC's delegation here is astounding and profoundly irregular.

The SEC, itself an investigative body and agency of the United States federal government that comes to the courts clothed in the authority of having conducted its own investigation prior to filing suit, alleged as fact knowingly or provably false allegations that benefited Heskin. First, Heskin hired his own private investigator to attend and video record an investor presentation put on by Dean Vagnozzi. *See* Letter from Ed Horder of Reehl Investigations, attached as exhibit 28. After the investigator attended the presentation, he sent a letter to Heskin stating: "The device used for recording the event was a 'Anysun AS820 Night Vision Camera' designed to look like the latest key fob. The device was given to "White & Williams" for sound and video and returned to the investigator." *Id.* The SEC relied upon Heskin's recording of this presentation 14 times in the TRO Motion for Temporary Restraining Order. (DE# 14).

Furthermore, as explained below, the SEC adopted Heskin's defective "default rate" analysis without its own scrutiny, even drafting declaration regarding this theory while Heskin was still explaining the theory to the SEC. Essentially, the SEC deputized Heskin as an investigator in violation of the state actor doctrine.

A private entity's conduct may be constrained where it is "fairly attributable" to the government, which has been held to mean that there is a "sufficiently close nexus between the State and the challenged action of the regulated entity." *D.L. Cromwell Invs., Inc. v. NASD Regulation, Inc.*, 279 F.3d 155, 161 (2d Cir. 2002).

The test for such a nexus was established in *Blum v. Yaretsky*, 457 U.S. 991, 1004-05 (1982):

> That nexus exists either (1) where the state "has exercised coercive power [over a private decision] or has provided such significant encouragement, either overt or covert, that the choice must in law be deemed to be that of the State"; or (2) where "the private entity has exercised powers that are 'traditionally the exclusive prerogative of the State.'"

Under this standard- with the false affidavits and use of depositions to illicit improper discovery, the egregious actions certainly fall into prohibited conduct. *See generally Stein*, 541 F.3d at *passim*; *United States v. Connolly*, No, 16-CR-0370, 2019 WL 2120523, at *11 (S.D.N.Y. May 02, 2019); *Focus on the Family v. Pinellas Suncoast Transit Auth.*, 344 F.3d 1263, 1279 (11th Cir. 2003).

Because the SEC built this case on improper discovery by deputizing Heskin and DiPietro as SEC investigators, this case should be dismissed for the constitutional violations. As bad as the SEC's delegation to Heskin is, the evidence shows that the claims placed before the Court to obtain emergency relief were false.

The SEC Obtained the TRO, Asset Freeze, and Receivership by Providing False Material Allegations to the Court That Were Not and Are Not Supported by Existing Fact or Law

The SEC misled the Court in its Complaint (DE 1)[18] and its Emergency *Ex Parte* Motion for Temporary Restraining Order (DE 14) (the "TRO Motion"). Specifically, as discussed in detail below, the SEC mislead the Court by: a) falsely alleging that Par's merchant cash advances are loans and usurious interest was charged on such loans, sometimes as high as 400% and half the time in excess 95% interest, which was and is not supported by existing fact or law and is contrary to existing law

[18] Although the SEC filed an Amended Complaint, Defendants refer to the original complaint here because those were the representations made to the Court at the time of the *ex-parte* proceedings and when the Receiver was installed. The misrepresentations in the original complaint were not corrected in the Amended Complaint.

Laforte's attorneys knew that this was a fraud on the court choreographed by Shane Heskin and Kara DiPietro. Now DiPietro is indicted by the feds for PPP loan fraud and bankruptcy fraud while she was defrauding the SEC into believing her false narrative in tandem.

Instead of the SEC conducting its own investigation, Amie 'Rigged It' Riggle Berlin and Linda Schmidt took her and Heskin's sham narrative and filed a TRO that was fraudulent. The defense knew this years ago.

The defense called it out chapter and verse. They warned the court that DiPietro was fabricating stories, sending hundreds of misleading emails to regulators, and weaponizing the SEC's Miami Regional Office simply to avoid paying Par Funding the commercial funds she rightfully owed.

Yet inside the liberal apparatus, those warnings were brushed aside. Why? Because DiPietro's accusations fit the administrative state's pre-packaged narrative.

The Liberal Playbook: Coddle, Forgive, and Enrich
Under the court-appointed receivership, standard rules of accountability were turned upside down. Rather than recovering money for the estate, the bureaucracy treated DiPietro and her legal counsel like favored insiders:

Wiping Away $13 Million: The court-appointed receiver absolved DiPietro of an estimated $13 million in commercial debt obligations owed back to the estate, handing an admitted defaulter a massive, unearned reprieve.

A $490,000 Payday: Shane Heskin, the attorney who worked alongside DiPietro to bring these baseless claims to the SEC received a staggering $490,000 disbursement sanctioned directly from estate funds.

Rewarding the Scheme: Instead of demanding an audit of DiPietro's business affairs or scrutinizing Heskin's financial incentives, the liberal legal machine rewarded them.
To the administrative elite, bad faith and missing money were non-issues provided the actors served the primary agenda of dismantling Par Funding.

The Reckoning: Trump's Task Force Takes Down the Real Criminals
While the SEC and the receiver were busy coddling DiPietro, what was she actually doing? She was allegedly stealing millions directly from hard-working American taxpayers.
While patriotic small-business owners were being crushed by government lockdowns and fighting to keep their families fed, DiPietro was submitting more than 20 fraudulent applications seeking over $7.5 million in Paycheck Protection Program relief, ultimately

pocketing more than $2.5 million from the U.S. Treasury in addition to the $13 million she stole from Par Funding with full Receiver assistance.

For years, the legacy bureaucracy looked the other way. It took the fearless commitment of Donald J. Trump and his federal fraud task force to finally end the protection racket. Under real executive leadership that refuses to tolerate two tiers of justice, federal prosecutors secured a six-count indictment against Kara DiPietro for bank fraud.

The Divide: How the Two Sides Handled the Fraudster

The Liberal Machine (SEC & Court Receiver):
-Swallowed an unverified narrative wholesale without basic due diligence.
-Wiped away an estimated $13 million in commercial debt obligations owed back to the estate.
-Disbursed a lucrative $490,000 payday directly to Shane Heskin who "acted" as DiPietro's attorney. Heskin did not know that DiPietro was stealing money from the PPP while assisting with the investigation against Par Funding??? Is that how she paid her legal fees to him??? Through the PPP relief program???
-Weaponized government emergency powers against private lenders while shielding an active defaulter.

President Trump's Federal Fraud Task Force:
-Launched a serious forensic investigation into fraudulent pandemic filings.
-Refused to tolerate theft from struggling American taxpayers and demanded full accountability.
-Hit Kara DiPietro with a federal six-count indictment for bank fraud.
-Restored genuine rule of law by putting real criminals in the crosshairs instead of protecting them.

The defendants exposed this fraud on July 28, 2021. They were ignored by the very bureaucrats whose job it was to uphold the law. Today, the house of cards has collapsed, and the real fraudsters are finally facing the justice they spent years trying to escape.