

This lawsuit represents unbridled fraud and bad faith actions of the SEC, abuse of power, and jurisdictional issues. The defendants in this SEC complaint were specialty mortgage funds engaged in commercial real estate secured lending and loan servicing to small businesses under federal U.S. Small Business Administration (“SBA”) licensing, and their manager, Small Business Capital Corp, and its founder and controlling shareholder, Mark Feathers. The defendants, at the time of their surprise seizure and injunction from a *sealed ex parte prima facie* action of SEC, reported to five or more federal and state agencies including the SBA, California Department of Real Estate, California Department of Corporations (Securities Division) and California Department of Financial Institutions (bank regulator), and Federal Deposit Insurance Corporation. In all of their prior histories of almost one decade’s time, the defendants were never advised by any of their Counsel or public accountants, by SEC, or by any other federal or state agencies that they reported to that they would, could, or might be subject to SEC regulations, oversight, or compliance matters.

Prior to this lawsuit, the defendants were in good standing with all of their state and federal regulatory agencies. This was a surprise injunction and receivership placed onto the defendants in June of 2012. As will be demonstrated herein, this appeal will demonstrate that this lawsuit was rigged from the beginning by SEC’s causing of an unconstitutional seizure of the defendant’s assets, which was allowed or assisted in part or in whole by the bias caused by SEC’s employment of the word “Ponzi” and its affects thereafter, and by SEC’s knowing employment of false and fraudulent financial illustrations in its complaint, which it submitted under seal, *ex parte*, and *prima facie* so as to hide the falsity of its complaint illustrations from the defendants before their assets were seized, and which caused the defendant’s actual fund member distributions to be overstated, knowingly by SEC and its licensed public accountants, by 54% and therefore allow SEC to fraudulently state that the defendants depended on “new member capital” for their distributions, and SEC’s false and fraudulent request for a particular individual, Thomas Seaman, to be named by the court as the receiver, while SEC labeled him as “licensed CPA” in their request for his appointment when he is not a licensed CPA at all, and thereby placing this person with a bias to SEC’s cause to be in a position to control all of the assets and reporting of all of the defendants, and that Seaman does almost no work other than SEC referred work, for which he earns millions and millions of dollars and would be biased to their cause, therefore, and that he would also have reason, therefore, to provide substantial barriers to *pro se* defendants from being able to thereafter access the books and records of the defendants all held by the receiver from June of 2012 and thereafter, and that all of these reasons have caused the defendants to not be able to obtain any legal counsel, never mind “qualified” legal counsel, and caused the defendants to not be able to properly argue the facts in this lawsuit, and the merits of the defenses of the defendants.

In addition to these questions as to proper jurisdiction of SEC in these matters, and bias that SEC has brought to the court through its use of the word Ponzi, and its unconstitutional seizure of the assets of the defendants which have prevented their being able to properly engage qualified counsel, and to use their own resources in these matters for any purpose whatsoever, it will be shown that SEC has employed the process of switching race horses in this lawsuit, between the time of the complaint and its accusations, and those accusation which it presented as being the basis for its lawsuit in its request for summary judgment, and which not only represented major changes in its complaint and allegations, which by itself should have been cause for dismissal of this lawsuit, but also left the defendants with little or no time to provide a reply to those matters outlined in SEC’s request for summary judgment, and which was also further hindered by SEC introducing to the Court admin motion after admin motion during this same period of, all to harass the defendant and impede the defendants and many of which were either dismissed by the Court outright (i.e., SEC’s request for evidentiary sanctions against Feathers), or, once approval was gained from the Court (i.e., for a limited deposition of Natalie Feathers), canceled without explanation thereafter by SEC, and all of which these actions also prevented the defendants from being able to provide the Court with detailed and organized evidentiary answers to refute SEC’s allegations.