

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JAMES SCHRECK, JAMES GOUGEON,
JAMES GOUGEON, and KING HIGH
GARAGE, INC.,

Plaintiffs,

v.

NEWSHOLME FINANCIAL CENTER LLC,
NEWSHOLME FINANCIAL SERVICES, INC.
MVP FINANCIAL LLC, SCOTT NEWSHOLME,
individually, and JOSEPH DEFALCO, individually,

Defendants.

Civ. Action No. 17-1177-BRM-LHG

MEMORANDUM ORDER

Before this Court are: (1) a Motion to Dismiss by Defendants Newsholme Financial Services, Inc. and the Estate of John Newsholme (collectively, the “Newsholme Defendants”) to dismiss Plaintiffs James Schreck, James Gougeon, and King High Garage, Inc.’s (collectively, “Plaintiffs”) claims against them pursuant to Federal Rule of Civil Procedure 12(b)(6) (ECF No. 16); and (2) Defendant Guy Tirondola’s (“Tirondola”) Motion to Dismiss Plaintiffs’ claims against him pursuant to Federal Rule of Civil Procedure 12(b)(6) (ECF No. 17). In response to both Motions, Plaintiffs filed their First Amended Complaint. (ECF No. 18.) Pursuant to Federal Rule of Civil Procedure 78(b), the Court did not hear oral argument. For the reasons set forth herein, both Motions are moot and are, therefore, **ADMINISTRATIVELY TERMINATED**.

On February 21, 2017, Plaintiff filed the Complaint in this action, asserting a variety of claims against several defendants, including John Newsholme, Newsholme Financial Services,

and Tirondola, arising from an alleged Ponzi scheme. (ECF No. 1.) On April 20, 2017, the Newsholme Defendants filed their Motion to Dismiss. (ECF No. 16.) On April 21, Tirondola filed his Motion to Dismiss. (ECF No. 17.)

The Newsholme Defendants argue the Complaint is devoid of any specific allegations against either John Newsholme or Newsholme Financial Services. (*Id.* at 1.) Further, the Newsholme Defendants note John Newsholme died on August 2, 2016, and therefore the proper party would be the Estate of John Newsholme. Finally, the Newsholme Defendants argue Newsholme Financial Services was a distinct entity from Defendant Newsholme Financial Center, which is operated by John Newsholme's estranged brother, Defendant Scott Newsholme. (*Id.* at 2.) The Newsholme Defendants argue the claims against them should be dismissed, as all of the allegations in the Complaint concern Defendants Newsholme Financial Center and Scott Newsholme. (*Id.*)

On May 1, 2017, Plaintiffs filed their Amended Complaint, in which they do not assert any claims against the John Newsholme or the Estate of John Newsholme. (ECF No. 18.) On September 11, 2017, Newsholme Financial Services filed an Answer jointly with Defendants Scott Newsholme, Newsholme Financial Center, and MVP Financial LLC. (ECF No. 45.) As there are no claims pending against the Estate of John Newsholme, and as Newsholme Financial Services has filed an Answer, the Newsholme Defendants' Motion to Dismiss is moot and should be administratively terminated.

On June 23, 2017, Plaintiffs submitted a Stipulation of Dismissal without prejudice as against Tirondola (ECF No. 34), which the Court entered on June 26, 2017 (ECF No. 35). As Tirondola has been dismissed from the case, his Motion to Dismiss is moot and should be administratively terminated.

Accordingly,

IT IS on this 25th day of January 2018,

ORDERED that the Motions to Dismiss (ECF No. 16, 17) be **ADMINISTRATIVELY TERMINATED** as moot.

/s/ Brian R. Martinotti
HON. BRIAN R. MARTINOTTI
UNITED STATES DISTRICT JUDGE