

BFA Defeats Defendants' Motion to Dismiss in Enochian Securities Litigation

On June 28, 2024, Judge John W. Holcomb of the United States District Court for the Central District of California denied Defendant Enochian's Motion to Dismiss in its entirety from the bench after hearing oral argument.

The litigation alleges that from January 17, 2018 through June 27, 2022, Enochian and its senior management misrepresented the qualifications of Serhat Gumrukcu, the Company's founder and "Inventor." Defendants repeatedly represented Gumrukcu as a medical doctor and world-class disease researcher to the public and based the Company's entire business model on his purported HIV cure. In truth, Gumrukcu was not a doctor, not a medical researcher, and had a long history of fraudulent business dealings and criminal activity. Gumrukcu is currently imprisoned and awaiting trial on murder charges stemming from allegations that he paid a hitman to kill a former business associate to prevent the associate from derailing Gumrukcu's work with Enochian.

In their motion to dismiss, Defendants argued that Plaintiff had failed to allege that the Defendants' made their false statements with knowledge or deliberate recklessness.

In briefing and at oral argument, Plaintiff persuaded the Court that the complaint sufficiently alleged that Defendants acted with the requisite intent. Plaintiff argued that Defendants repeatedly made false statements about Gumrukcu -- who Defendants told investors was key to Enochian's success and whose research accounted for 88% of the Enochian's total assets -- despite repeated red flags that Gumrukcu was not a doctor. These red flags came from internal sources, such as Enochian's former CEO and CFO, both of whom were terminated after raising concerns about Gumrukcu, and external sources, such as media reports that the Defendants repeatedly dismissed. Plaintiff also argued that Defendants admitted that they knew Gumrukcu was a convicted felon, but chose not to disclose that to investors because it would undermine confidence in Gumrukcu and his science.

At the hearing, Judge Holcomb commended counsel for "excellent briefing [and] argument" and said he "wish[ed] all lawyers were as skilled and prepared as you are."

The case will now proceed to discovery.