IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 24-12376

JAMES L. KOUTOULAS,

Appellant

v.

SECURITIES AND EXCHANGE COMMISSION,

Appellee

On Appeal from the United States District Court
for the Southern District of Florida, No. 1:23-cv-22345-JEM

APPELLANT'S UNOPPOSED MOTION TO DISMISS APPEAL AS MOOT, VACATE JUDGMENT BELOW, AND REMAND CASE FOR DISMISSAL

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Counsel for Appellant James L. Koutoulas

CERTIFICATE OF INTERESTED PERSONS

Appellant James L. Koutoulas, through undersigned counsel, submits this Certificate of Interested Persons in accordance with 11th Cir. R. 26.1-2, and lists the following entities/persons as interested parties in the above-styled proceeding:

1. Koutoulas, James L. – Appellant;
2. Loomis, M. Graham – Counsel for Appellee SEC;
3. Matro, Daniel E. – Counsel for Appellee SEC;
4. Murnahan, W. Shawn – Counsel for Appellee SEC;
5. Smith, Gregory Stuart – Counsel for Appellant James L. Koutoulas;
6. Stephenson, Austin B. – Counsel for Appellee SEC;
7. United States Securities and Exchange Commission – Appellee

Appellant, James Koutoulas, with the consent of the SEC, hereby respectfully files this unopposed motion to dismiss this appeal as moot, vacate the judgment below, and remand the case for dismissal, stating as follows:

1. This appeal was filed after the District Court issued an Order refusing to quash a subpoena *duces tecum* that had been issued to Appellant by the United States Securities and Exchange Commission (SEC), arising from Appellant's activities involving a meme coin known as "LGBcoin."

2. Appellant timely appealed to this Court on various grounds, including that the SEC's subpoena failed to meet the threshold standards of *United States v. Morton Salt*, 338 U.S. 632 (1950), due to a failure to even allege in good faith that "LGBcoin" is a security before it issued an administrative subpoena to Appellant.

3. Appellant also moved this Court to stay the subpoena's enforcement during the pendency of this appeal – a request this Court denied. Appellant thereafter started complying with the subpoena by producing requested documents, including by providing all permissible discovery from *De Ford v. Koutoulas*, Case No. 6:22-cv-00652-PGB-DCI (M.D. Fla.) and *LetsGoBrandon.com Foundation v. NASCAR*, Case No. 23-cv-002831 (11th Cir. Ct. for Miami-Dade County, FL).

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4. Recently, however, the SEC advised Appellant that it has concluded its investigation without alleging that LGBcoin is a security, and that it will not recommend any enforcement action against Appellant or LGBcoin. *See* Exhibit A.

5. Because the relief sought by Appellant—preventing further enforcement of the SEC's subpoena—appears no longer necessary, and because the SEC's investigation has now admittedly concluded without any action, there is now **no longer a live case or controversy** for this Court to resolve.

6. Accordingly, the parties agree the appeal is moot, and accordingly, Appellant respectfully requests that this Court dismiss this appeal, vacate the Order of the District Court now under appeal, and promptly remand this case with instructions for the District Court to promptly dismiss the case as moot. *See BankWest, Inc. v. Baker*, 446 F.3d 1358, 1368 (11th Cir. 2006).

7. Counsel for the SEC advises the SEC consents to the requests herein.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court should dismiss this appeal as moot, vacate the judgment below, and remand this case with instructions to the District Court to dismiss this case as moot.

This 25th day of March, 2025.

Respectfully submitted,

__/s/_Gregory S. Smith_____
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Counsel for Appellant James L. Koutoulas

CERTIFICATE OF COMPLIANCE WITH TYPEFACE AND LENGTH LIMITATIONS

This Motion's format is Microsoft Word, 14-point, Times New Roman font. Exclusive of the Certificate of Interested Persons, this Certificate of Compliance, and the Certificate of Service, this Motion contains 389 words.

I understand that a material misrepresentation can result in the Court's striking the motion and imposing sanctions. If the Court so directs, I will provide an electronic version of the Motion and/or a copy of the word or line print-out.

/s/ Gregory S. Smith

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Appellant's Unopposed Motion to Dismiss Appeal as Moot, Vacate Judgment Below, and Remand Case for Dismissal is being served automatically, via the Court's ECF system, on all counsel of record.

This 25th day of March, 2025.

/s/ Gregory S. Smith
Gregory S. Smith
Counsel for Appellant

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
950 EAST PACES FERRY ROAD, N.E., SUITE 900
ATLANTA, GA 30326-1382

ATLANTA
REGIONAL OFFICE

March 10, 2025

VIA EMAIL
James L. Koutoulas, Esq.
james@koutoulaslaw.com

Re: In the Matter of LGB Tokens (A-04010)

Dear Mr. Koutoulas:

We have concluded the investigation as to you, James L. Koutoulas. Based on the information we have as of this date, we do not intend to recommend an enforcement action by the Commission against you. We are providing this notice under the guidelines set out in the final paragraph of Securities Act Release No. 5310, which states in part that the notice "must in no way be construed as indicating that the party has been exonerated or that no action may ultimately result from the staff's investigation." (The full text of Release No. 5310 can be found at: http://www.sec.gov/divisions/enforce/wells-release.pdf.)

Sincerely,

Peter J. Diskin

Peter J. Diskin
Assistant Regional Director
Division of Enforcement
(404) 842-7631
diskinp@sec.gov

cc:
Antonina (Nina) Mangiola, Esq. , Ruddy Gregory, PLLC (via email)