

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 20-CV-81205-RAR**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

COMPLETE BUSINESS SOLUTIONS  
GROUP, INC. d/b/a PAR FUNDING, *et al.*,

Defendants.

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**RECEIVER RYAN K. STUMPHAUZER’S MOTION TO COMPEL THE PRODUCTION  
OF OPINION LETTERS AND COMPLIANCE MATERIALS FROM LAW FIRMS**

Ryan K. Stumphauzer, Esq., Court-Appointed Receiver (“Receiver”), hereby files this Motion to Compel Opinion Letters and Compliance Materials from Law Firms (the “Motion”). In support of this Motion, the Receiver states as follows:

1. Certain of the Defendants, in opposing the Receiver’s efforts to gain access to company information and hire an expert to facilitate ongoing operations, have assured the Court that Complete Business Solutions Group, Inc. d/b/a Par Funding’s (“CBSG”)<sup>1</sup> employees and outside law firms possessed all of the expertise needed to help the Receiver. Indeed, these Defendants advised the Court that “[s]ince its founding, CBSG has consistently utilized excellent

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<sup>1</sup> “The Receiver has learned through several of the employee interviews he has conducted thus far that most of the employees acting on behalf of CBSG were actually employees of Full Spectrum Processing, Inc. (“Full Spectrum”). For the purpose of this Motion, the Receiver is seeking information pertaining not only to CBSG, but also to Full Spectrum.

counsel to identify and address compliance issues.” (Defendants’ Joint Memorandum to the Court, ECF No. 84 (“Defendants’ Joint Memorandum”) at 3 (filed August 4, 2020).)<sup>2</sup>

2. The Receiver, in light of these representations and in the interests of quickly harnessing an understanding of these issues, has requested that CBSG’s outside counsel provide it with copies of these materials to the extent that they are readily accessible and easily retrievable. Copies of the multiple requests are attached as Exhibits 2, 4, and 7.

3. On at least two instances in the last week, outside counsel refused to respond, explaining to the Receiver that they have been instructed by one or more Defendants to assert privilege against the Receiver. Other outside counsel has ignored the Receiver’s requests.

4. The Receiver respectfully requests that the Court enter an Order compelling the cooperation of outside counsel and ordering them to turn over the requested materials.

### **BACKGROUND**

5. In their filings, certain Defendants have identified the specific law firms that they have retained to “identify and address” legal and compliance issues relating to the Receivership Entities. (Defendants’ Joint Memorandum at 3-5.) These Defendants listed for the Court the specific law firms retained and at times provided the exact date(s) of certain legal opinions. For example, these Defendants explained:

- a. “Importantly, Offit Kurman issued an opinion letter, dated April 25, 2014, on the legality of the funding business under Pennsylvania law and the purchase and sale of future receivables agreement.” (*Id.* at 3.)
- b. “In July 2016, an expert business and securities lawyer at DLA Piper reviewed and edited the Notes. DLA Piper added the language that, ‘This note has not

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<sup>2</sup> The Joint Memorandum was filed on behalf of Complete Business Solutions Group, Inc. d/b/a Par Funding, Full Spectrum Processing, Inc., Lisa McElhone, Joseph Cole Barleta and Joseph W. LaForte, and Relief Defendant L.M.E 2017 Family Trust (the “Objecting Defendants”).

been registered under the securities act of 1933...’ making clear to creditors that the notes were debt instruments and not securities.” (*Id.* at 4.)

- c. “In December 2017, CBSG retained noted securities regulation expert, Philip Rutledge. Mr. Rutledge has a national reputation in securities regulation and was instrumental in shaping various provisions of significant US financial services legislation . . . . Mr. Rutledge was empowered to make any changes in CBSG’s business structure in order to address any regulatory concerns. For example, to improve CBSG’s compliance, Mr. Rutledge introduced a note purchase agreement and began changing the business structure so that CBSG would not be involved with soliciting and raising capital from creditors. He also registered CBSG in Pennsylvania under SEC 503b for its non-principal debt instruments. In January 2019, CBSG counsel reviewed and filed all state registrations needed for CBSG’s current creditors.” (*Id.* at 4.)
- d. “In February 2020, CBSG engaged Fox Rothschild LLP to take over the function of serving as primary counsel to assist the company in dealing with litigation concerning defaults by merchants, which included handling existing and new litigation in Philadelphia (as all of the CBSG agreements have Philadelphia venue provisions). Fox Rothschild also was engaged to defend against litigation (albeit meritless) brought by a select group of merchants that instituted litigation by and through one Philadelphia law firm that engaged in a pattern of abusive and aggressive litigation surrounding the merchant defaults.” (*Id.* at 5.)
- e. “In early March, Haynes Boone, and key lawyers from that firm with substantial SEC and regulatory experience, were engaged to review and defend against issues raised by the Texas Securities Commission.” (*Id.* at 5.)

6. In this same Joint Memorandum, the Objecting Defendants said any efforts by the SEC or the Receiver to move forward without understanding of the advice and compliance issues already vetted by the companies’ officers and their counsel would be wasteful and harmful. (*See generally id.* at 3-5, 12-13.) These Defendants warned that “the SEC’s plan, to install a new company (DSI) to start anew on extraordinarily detailed work in which CBSG’s employees are expert, is a complete waste of time and money and totally unworkable. It is also totally unnecessary.” (*Id.* at 12.) The Objecting Defendants also warned the Court and the Receiver about the consequences if an expert was hired to “start anew,” explaining that such a decision would “without doubt, result in the demise of CBSG and the loss of over 100 jobs in Pennsylvania, not

to mention severe injury to investors and merchants who have long relied on CBSG's operations.”  
(*Id.* at 12.)

7. The Receiver took these warnings seriously.

8. **First**, it renewed its requests for witness interviews and information from the individual Defendants and their agents. The Objecting Defendants denied these requests and asserted privilege against the Receiver. Counsel for Defendant Lisa McElhone responded with a letter to Receiver's counsel on August 6, 2020 (two days after Defendants' Joint Memorandum was filed) stating that “as President of CBSG, and as an officer and director of CBSG, she asserts privilege on behalf of CBSG, herself, its officers, directors and employees, to each and every communication by, between or amongst any and all counsel for CBSG and Ms. McElhone and/or its other officers, directors and employees, and considers all such communications to be subject to and protected by the attorney-client privilege and/or the work-product privilege.” (*See* Exhibit 1.) Counsel took the position that it was the Receiver's burden, with respect to any of the communications relating to any of the legal and compliance issues identified in the Joint Memorandum, to provide to the Objecting Defendants' counsel “the disputed communication before it is reviewed by anyone in your office, reviewed by any third party or reviewed by anyone outside your office.” (*Id.* (emphasis in original).)

9. **Second**, in the Receiver's continuing efforts to seek company information about ongoing operational issues, it sought clarification from Fox Rothschild, who had been company counsel prior to the Receiver's appointment, on its role. (*See, e.g.*, Joint Reply to the Receiver's Response, ECF No. 115 (“Defendants' Reply”) at 5 (filed August 9, 2020) (“Whom better [than Fox Rothschild] for the Receiver to consult with on the questions of the current litigation around the country (involving hundreds of cases), and the various state laws and rules than the excellent

lawyers who have been full-time prosecuting and defending these cases –successfully, we might add – for the last six months.”.) Fox Rothschild responded by filing a notice explaining that it was continuing on in the case, but as “Independent Counsel” for CBSG and Full Spectrum. (*See* Fox Rothschild’s Notice of Independent Counsel’s Continuing Role for the Companies’ (ECF No. 100).) Fox Rothschild took the position that the receivership Order in place at the time did not “allow the Receiver to control the attorney-client privilege.” (*Id.* at 5-6.) It subsequently advised that they would continue to act pursuant to “Defendant’s right to have independent counsel continue to represent their companies.” (ECF No. 107 at 2.) In this independent role, none of the legal and compliance advice compiled by Fox Rothschild has been shared with the Receiver.

10. **Third**, as the Receiver waited for the cooperation on legal issues that the Objecting Defendants had suggested would be forthcoming in their Joint Memorandum, he sought to address the Objecting Defendants’ warnings regarding operational issues by filing an Expedited Motion to Approve Retained Professional. (ECF No. 101.) The Objecting Defendants opposed that Motion. (ECF No. 106.)

11. All of the Receiver’s efforts described in paragraphs 7-10, *supra*, were taken within two days of the filing of Defendants Joint Memorandum, by Thursday, August 6, 2020.<sup>3</sup>

12. It became clear to the Receiver by that weekend that no cooperation would be forthcoming. Thus, his counsel prepared to reach out directly to the law firms identified in the Defendants’ Joint Memorandum to seek the information outlined by the Objecting Defendants.

13. On Monday, August 10, 2020, the Receiver sent letters to all of the law firms identified in the Defendants’ Joint Memorandum requesting copies “any opinion letters, formal

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<sup>3</sup> On August 7, 2020, the SEC separately filed an Expedited Motion to Amend Receivership Order that outlined related issues regarding ongoing participation by former counsel for the Receivership Entities. (ECF No. 105.)

memoranda (internal or otherwise), analysis, or correspondence relating to the Legal Issues” outlined in Defendants’ Joint Memorandum. (*See* Exhibit 2.)<sup>4</sup> The Receiver made clear that his need for this information was urgent but that his intent was not to cause any burden to the recipients. The Receiver thus specified: “I am asking only that you send materials relating to the Legal Issues that are readily accessible or available electronically in your files involving your representation of CBSG.” (*Id.* at 2.) Responses were requested by Wednesday, August 12, 2020.

14. Two of the Law Firms told the Receiver that they had been instructed by certain of the Objecting Defendants to assert privilege and not respond to the Receiver’s Request:

- a. Counsel for Bybel Rutledge explained Receiver’s counsel that he had been instructed to assert privilege. He wrote separately to explain, “Mr. Rutledge and his firm are willing to cooperate and assist Mr. Stumphauzer to the best of their ability; however, the information requested is subject to the attorney-client privilege or attorney work product. Absent a waiver by the holder of the privilege, they are unable to provide the information requested.” (Exhibit 5; *see infra* at note 4 regarding the more recent cooperation of counsel for Bybel Rutledge.)
- b. Counsel for Eckert Seamans responded on August 12, 2020 by identifying an internal memorandum relating to Regulation D of the securities laws, but explained that the memorandum “is subject to both the attorney-client and work product privileges. Because the attorney client privilege has not been waived, we are not in a position to produce it.” (Exhibit 6.)

Several others did not respond at all.

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<sup>4</sup> The Receiver also sent this letter to Eckert Seamans through its counsel, Catherine Recker, Esq., of the law firm of Welsh & Recker. Ms. Recker responded to the Receiver’s letter to clarify that Eckert Seamans represented “Dean Vagnozzi and his various entities,” not CBSG. (*See* Exhibit 3.) She did, however, provide a copy of a legal opinion that Normal M. Valz, Esq., issued to CBSG and later shared with an Eckert Seamans attorney. Upon receiving Ms. Recker’s response, the Receivers’ counsel sent another letter requesting that Eckert Seamans provide copies of any legal analysis performed on behalf of A Better Financial Plan (“ABFP”). (*See* Exhibit 4.) For purposes of the relief sought in this Motion, Mr. Vagnozzi is included within the defined term of “Objecting Defendants.” Eckert Seamans, collectively with the other law firms referenced in the Defendants’ Joint Memorandum, are collectively referred to as the “Law Firms.”

15. On August 13, 2020, the Court entered its Amended Order Appointing Receiver. (ECF No. 141.) With respect to the contested issues of privilege that had been presented to the Court by the SEC (ECF No. 105), Independent Counsel Fox Rothschild (ECF No. 107), the Objecting Defendants (ECF No. 132), and the Receiver (ECF No. 133), the Court held “[t]he Receiver hereby holds, and is therefore empowered to waive, all privileges, including the attorney-client privilege, held by all Receivership Entities.” (ECF No. 141 at ¶ 44.)

16. Based on the Court’s Order, the Receiver sent another letter to the Law Firms on August 14, 2020, citing the language from the Court’s Amended Order Appointing Receiver, and renewing his request for the materials referenced in Defendants’ Joint Memorandum. The Receiver, after noting the Objecting Defendants’ prior calls for urgent action, noted that “[y]our failure to turn over legal opinions . . . has now delayed our efforts by several days.” (Exhibit 7.) Accordingly, the Receiver urged the law firms to respond the same day, August 14, 2020, with “readily accessible” work product. *Id.*

17. Later that day, Receiver’s counsel was informed that at least one Defendant, Mr. Dean Vagnozzi, was continuing to assert privilege of the documents. (*See* Exhibit 8 (“I write in response your letter of today’s date. Brian Miller, Esq., counsel to Dean Vagnozzi, has asserted privilege over the document that I identified in my letter dated August 12, 2020, and has directed us not to produce it at this time.”).<sup>5</sup>

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<sup>5</sup> Counsel for Bybel Rutledge, after the Amended Order Appointing Receiver was entered, delivered several files to the Receiver. Therefore, the Receiver is not seeking any relief against Mr. Rutledge and thanks its counsel for his courtesy, professionalism, and cooperation. The Receiver’s counsel is evaluating the materials produced and will continue to work productively with counsel for Bybel Rutledge if they believe any information is missing.

18. The law firm of Fox Rothschild has indicated that it had limited involvement and, thus, has limited records related to these legal issues, but intends to cooperate with and assist the Receiver by producing those documents to the Receiver. To date, however, the firm has not committed to a date when it will provide all the requested materials to the Receiver. In addition, a new attorney who has just recently appeared as co-counsel for The L.M.E. 2017 Family Trust sent an email to the Receiver and his counsel immediately prior to the filing of this Motion and, thereafter, had a phone conference with the Receiver's counsel to discuss this issue, along with various other outstanding issues. The Receiver and his counsel have agreed to continue the conversation with co-counsel for the Trust in the hope of making progress on the many outstanding issues that currently exist. Given the importance of obtaining these materials from the Law Firms, and given that the relief sought in this Motion also relates to parties other than The L.M.E. 2017 Family Trust, the Receiver did not believe it was appropriate to delay the filing of this Motion.<sup>6</sup>

### **MEMORANDUM OF LAW**

#### **A. Legal Standard**

19. The jurisdiction of a Court presiding over an SEC enforcement proceeding extends to third parties in possession of information subject to the enforcement proceeding. *See Securities and Exchange Commission v. The Infinity Group Co., et al.*, 27 F. Supp. 2d 559, 561-64 (E.D. Pa. 1998); *S.E.C. v. Ryan*, 747 F.Supp.2d 355 (N.D. N.Y. 2010) (granting motion to compel production from law firm); *Securities and Exchange Commission v. Levine*, No. 09-80135-mc-Hurley/Hopkins, 2009 WL 10712514 (S.D. Fla. May 5, 2009) (same).

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<sup>6</sup> The Receiver is not seeking any relief through this Motion with respect to Defendants Perry Abbonizio, Michael Furman, or John Gissas and his entities.

**B. The Law Firms Should be Compelled to Provide the Information Requested in the Receiver's Letter**

20. The Court's Amended Order Appointing Receiver directs and empowers the Receiver "to investigate the manner in which the financial and business affairs of the Receivership were conducted." (ECF No. 141 at ¶ 43.) The Order holds that, in this respect, "[t]he Receiver hereby holds, and is therefore empowered to waive, all privileges, including the attorney-client privilege, held by all Receivership Entities." (ECF No. 141 at ¶ 44.)

21. The Objecting Defendants have refused to provide the information requested by the Receiver and, at least in some instances, have instructed the Law Firms not to provide that information. The Receiver is awaiting response from counsel representing some of these Objecting Defendants as to the directions they have provided to the Law Firms.

22. The Receiver, as detailed in its recent Emergency Motion filed with the Court (ECF No. 155), is also seeking information relating to participation by one or more of the Objecting Defendants with respect ongoing access and use of Receivership Entity information, including as it relates to the August 14, 2020 submission by one of the Objecting Defendants of a declaration reflecting the use of such information. (*See* ECF No. 148 at Ex. Q.)

23. The Receiver is also presenting investigating the retention or use by one or more of a company known as The MC Group Ltd. (and potentially attorneys that have not appeared in this case) to solicit investors, and to encourage them to write emails to the Court, the SEC Trial Attorney, and the Receiver to oppose the receivership and/or to intervene.

24. As to the Law Firms who have ignored the Receiver's requests or object to these requests, the Receiver is now begrudgingly and regrettably asking the Court to intervene. The Receiver's efforts have been delayed for several days, and the Receiver's team has spent countless hours drafting motions, letters and e-mails to obtain the information he needs, information that is

squarely contemplated as being voluntarily provided by the Objecting Defendants in the Court's Amended Order Appointing Receiver. (ECF No. 141.)

25. The Receiver is increasingly concerned that some of the Objecting Defendants will not voluntarily provide the information sought here (or, if they do, it will not be turned over in a timely manner), especially in light of recent concerns the Receiver raised with the Court relating to manipulation of company records. The Receiver has redoubled its focus on the critical task of preserving Receivership Entity information and protecting the interest of the investors, and doing so without burdening the Court with serial motions. In this regard, contemporaneous with this filing, the Receiver's counsel will send copies of this Motion to all of the Law Firms and will notify the Court immediately if the Law Firms explain that the Objecting Defendants' objections have been withdrawn.

#### **CONCLUSION**

For the foregoing reasons, the Receiver respectfully requests that the Court enter an Order compelling the Law Firms to produce the materials sought by the Receiver in its letter to the Law Firms (*see* Exhibit A), and for such other and further relief to which he may be entitled.

#### **CERTIFICATION REGARDING PRE-FILING CONFERENCE**

The undersigned counsel has conferred with all counsel of record in this matter and the Law Firms regarding the relief sought through this motion and certifies that: (a) Fox Rothschild has indicated that it intends to cooperate with the Receiver and will produce the limited responsive documents it is in possession of regarding these issues, but has not committed to a date when it will provide all of the requested materials to the Receiver; (b) new co-counsel for The L.M.E. 2017 Family Trust emailed and spoke with the Receiver's counsel moments before the filing of this motion to discuss various outstanding issues and agreed to continue the conversation in the hope

of making progress on the many outstanding issues that currently exist (the Receiver notes that he has previously exchanged correspondence with counsel for the Trust and Ms. McElhone, the grantor of the trust, and they have repeatedly asserted privilege objections and concerns that an individual privilege may still apply over these documents); and (c) with the exception of Fox Rothschild and Byler Rutledge, the other Law Firms have not agreed to produce the requested materials.

Dated: August 16, 2020

Respectfully Submitted,

**STUMPHAUZER FOSLID SLOMAN  
ROSS & KOLAYA, PLLC**  
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By: /s/ Timothy A. Kolaya  
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*Co-Counsel for Receiver*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on August 16, 2020, I electronically filed the foregoing document with the clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Timothy A. Kolaya

TIMOTHY A. KOLAYA

# **EXHIBIT 1**

**ALAN S. FUTERFAS**

ATTORNEY AT LAW

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BETTINA SCHEIN  
OF COUNSEL

August 6, 2020

Gaetan J. Alfano, Esq. (via email)  
Pietragallo Gordon Alfano Bosick & Raspanti, LLP  
1818 Market Street, suite 3402  
Philadelphia, PA 19103

*Re: The Securities and Exchange Commission v. Complete Business Solutions Group, Inc., d/b/a Par Funding, Lisa McElhone, et. al., 20-cv-81205 SD Florida (RAR)*

Dear Mr. Alfano:

This firm represents Lisa McElhone in the above-referenced matter and in any related inquiries or investigations. I am in receipt of various emails from your office and will respond to them in due course, hopefully later today. In the mean-time, this letter, however, concerns attorney client privileged information, including emails, draft documents, legal opinions and conclusions, and all other manner of attorney client correspondence and communications that your office, its agents, affiliates, employees and contractors, may have obtained or otherwise are in possession of by virtue of your engagement and activities as Receiver in the above-captioned matter.

We understand that various lawyers and law firms were engaged by CBSG and/or its affiliates and subsidiaries and related entities from approximately 2012 through August 6, 2020. You must by now be aware that there are hundreds if not thousands of litigations across the country, in many of which individuals associated, affiliated or employed by CBSG and/or by affiliated, subsidiary or related entities are represented by counsel.

Please be advised that as President of CBSG, and as an officer and director of CBSG, she asserts privilege on behalf of CBSG, herself, its officers, directors and employees, to each and every communication by, between or amongst any and all counsel for CBSG and Ms. McElhone and/or its other officers, directors and employees, and considers all such communications to be subject to and protected by the attorney-client privilege and/or the work-product privilege.

**ALAN S. FUTERFAS**

Please be advised that as an officer and director of any other entity, Ms. McElhone asserts privilege on behalf of herself, its officers, directors and employees, to each and every communication by, between or amongst any and all counsel for such entity and Ms. McElhone and/or its other officers, directors and employees, and considers all such communications to be subject to and protected by the attorney-client privilege and/or the work-product privilege.

Please be further advised that in her individual capacity, Ms. McElhone asserts privilege to each and every communication by, between or amongst any and all counsel whom have represented her and considers all such communications to be subject to and protected by the attorney-client privilege and/or the work-product privilege.

To the extent your office asserts that any communication by, between or amongst any lawyer, paralegal or anyone working on behalf of a lawyer or law firm and Ms. McElhone and/or CBSG or any other entity and/or any of its officers, directors and employees, is not subject to the attorney-client or work-product privileges, we request an opportunity to review the disputed communication before it is reviewed by anyone in your office, reviewed by any third party or reviewed by anyone outside your office, so that we may litigate the applicability of the privilege before a federal Magistrate or Judge or Special Master, if one is appointed.

We further request that to the extent your firm or its staff, agents, affiliates, employees and contractors or anyone else acting at your direction come across any attorney or law firm communications, that all such persons be directed to immediately segregate those communications into an unrelated protected file, unviewed by anyone, until all such attorney client privilege communications issues can be resolved by federal Magistrate or Judge or Special Master, if one is appointed.

Please note that this letter does not in any way limit our ability to request additional or other relief, and we may join in the applications or motions submitted by other interested parties.

Very truly yours,



Alan S. Futerfas

# **EXHIBIT 2**



**Ryan K. Stumphauzer**

Telephone: 305. 614. 1401

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August 10, 2020

**VIA E-MAIL**

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**Re: *SEC v. Complete Business Solutions Group, Inc. d/b/a Par Funding* (“CBSG”),  
*et al.*, No. 20-CIV-81205 (S.D. Fla. filed July 24, 2020)**

Dear Counsel:

On July 27, 2020, the Honorable Rodolfo A. Ruiz in the United States District Court for the Southern District of Florida appointed me as Receiver in the above-referenced case. Various Defendants, in their submissions to the Court, have stated that “[s]ince its founding, CBSG has consistently utilized excellent counsel to identify and address compliance issues.” (Defendants’ Joint Memorandum to the Court, ECF No. 85 (“Defendants’ Memorandum”) at 3 (filed August 4, 2020); *see also* Joint Reply to the Receiver’s Response, ECF No. 115 (“Defendants’ Reply”) at 5 (filed August 9, 2020) (“Whom better for the Receiver to consult with on the questions of the current litigation around the country (involving hundreds of cases), and the various state laws and rules than the excellent lawyers who have been full-time prosecuting and defending these cases – successfully, we might add – for the last six months.”). Each of the recipients of this letter (“you”) have been identified as counsel retained by CBSG to provide legal advice relating to its business. (*See* Defendants’ Memorandum at 3-5.)

Mr. Joseph A. DeMaria, *et al.*

August 9, 2020

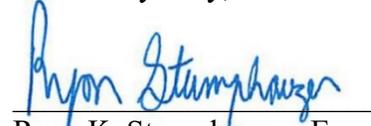
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These Defendants have stated to the Court that your firm advised CBSG on, among other things, its “MCA business” and “risks associated with the MCA business,” “the legality of the funding business,” “the purchase and sale of future receivables agreement[s],” “initial promissory note/security agreement[s],” “note purchase agreement[s],” “non-principal debt instruments,” “defaults by merchants,” “issues raised by the Texas Securities Commission,” and “note restructure[s]” relating to an “Exchange offer” (collectively, the “Legal Issues”). (Defendants’ Memorandum at 3-4; *see also* Defendants’ Reply at 5 (“Attorneys from Fox Rothschild know the applicable state law and regulation and have successfully prosecuted and defended CBSG in courts all over the country.”).)

I am, therefore, writing to request that you immediately send to my counsel, Gaetan Alfano ([gja@pietragallo.com](mailto:gja@pietragallo.com)) and Timothy Kolaya ([tkolaya@sflaw.com](mailto:tkolaya@sflaw.com)), any opinion letters, formal memoranda (internal or otherwise), analysis, or correspondence relating to the Legal Issues. Please note that I am not requesting that any of you perform an exhaustive search or collection of materials that may be relevant to the Legal Issues or the legal advice provided to CBSG. I am asking only that you send materials relating to the Legal Issues that are readily accessible or available electronically in your files involving your representation of CBSG.

Please contact my counsel if you are unable to respond to this letter with these materials by Wednesday, August 12, 2020.

Yours very truly,



Ryan K. Stumphauzer, Esq.

cc: Timothy A. Kolaya, Counsel for Receiver ([tkolaya@sflaw.com](mailto:tkolaya@sflaw.com))  
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# **EXHIBIT 3**



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August 10, 2020

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Timothy A. Kolaya, Esquire  
Stumphauzer Foslio Sloman Ross & Kolaya  
Two S. Biscayne Boulevard, Suite 1600  
Miami, FL 33131

*Re: SEC v. Complete Business Solutions Group, d/b/a par Funding ("CBSG"), et al.,  
No. 20 CIV-81205 (S.D. Fla filed July 24, 2020)*

Dear Messrs. Alfano and Kolaya:

I write in response to the letter dated today, from Ryan K. Stumphauzer, Esq., the Receiver in the above-referenced matter. John W. Pauciulo, Esq. did not represent Complete Business Solutions Group Defendants and is not identified in the Defendants' Joint Memoranda filed with the Court on August 4, 2020 and August 9, 2020.

Nevertheless, in response to the Receiver's request for any opinion letters, I attach a legal opinion authored by Norman M. Valz, Esquire, received by Mr. Pauciulo as part of due diligence provided by CBSG.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Catherine M. Recker".

Catherine M. Recker

Attachment

# **EXHIBIT 4**



**Ryan K. Stumphauzer**  
Telephone: 305. 614. 1401  
[rstumphauzer@sflslaw.com](mailto:rstumphauzer@sflslaw.com)

August 11, 2020

**VIA E-MAIL**

John W. Pauciulo, Esq.  
ECKERT SEAMANS  
c/o Catherine M. Recker, Esq.  
Welsh & Recker, P.C.  
306 Walnut Street  
Philadelphia, PA 19106  
[cmrecker@welshrecker.com](mailto:cmrecker@welshrecker.com)

**Re: *SEC v. Complete Business Solutions Group, Inc. d/b/a Par Funding* (“CBSG”),  
*et al.*, No. 20-CIV-81205 (S.D. Fla. filed July 24, 2020)**

Dear Ms. Recker:

We are in receipt of your letter dated August 10, 2020, in which you, on behalf of your clients John W. Pauciulo, Esq. and Eckert Seamans (“your clients”), responded to the Receiver’s letter dated August 10, 2020 (“Receiver’s Letter”). In the Receiver’s Letter, I indicated that certain Defendants in the litigation have stated to the Court that your clients advised CBSG on various “Legal Issues.”<sup>1</sup> I also requested that you provide us copies of any opinion letters, formal memoranda (internal or otherwise), analysis, or correspondence relating to the “Legal Issues.” Thank you for forwarding us a copy of the legal opinion from Norman M. Valz, Esquire to CBSG dated April 15, 2016.

As you indicated in your email to Gaetan Alfano and Doug Rosenblum on Saturday, August 8, 2020, your clients have represented “Dean Vagnozzi and his various entities.”<sup>2</sup> To the extent I was not clear in the Receiver’s Letter, I request that you also send to my counsel, Gaetan Alfano ([gja@pietragallo.com](mailto:gja@pietragallo.com)) and Timothy Kolaya ([tkolaya@sflslaw.com](mailto:tkolaya@sflslaw.com)), any opinion letters, formal memoranda (internal or otherwise), analysis, or correspondence relating to the Legal Issues

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<sup>1</sup> The Legal Issues were described as, among other things, CBSG’s “MCA business” and “risks associated with the MCA business,” “the legality of the funding business,” “the purchase and sale of future receivables agreement[s],” “initial promissory note/security agreement[s],” “note purchase agreement[s],” “non-principal debt instruments,” “defaults by merchants,” “issues raised by the Texas Securities Commission,” and “note restructure[s]” relating to an “Exchange offer.”

<sup>2</sup> The Receivership Entities in this matter include several of Mr. Vagnozzi’s entities, including ABetterFinancialPlan.com LLC d/b/a A Better Financial Plan; ABFP Management Company, LLC f/k/a Pillar Life Settlement Management Company, LLC; ABFP Income Fund, LLC; and ABFP Income Fund 2, L.P (the “ABFP Entities”). In addition, ABFP Management Company, LLC serves as the manager of several other funds that Mr. Vagnozzi’s “various entities” created for the purpose of raising funds for investment into CBSG. My duties under the Receivership Order apply not only to the ABFP Entities, but also to these “various entities” that are “subsidiaries, successors, and assigns” of the ABFP Entities.

Catherine M. Recker, Esq.

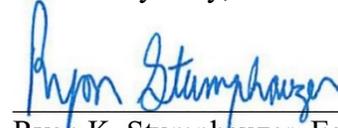
August 11, 2020

Page 2

that your clients performed for or on behalf of, or provided to, the ABFP Entities and these other “various entities.”

Please contact my counsel if you are unable to provide this additional material by Wednesday, August 12, 2020.

Yours very truly,



Ryan K. Stumphauzer, Esq.

cc: Timothy A. Kolaya, Counsel for Receiver ([tkolaya@sflaw.com](mailto:tkolaya@sflaw.com))  
Gaetan J. Alfano, Counsel for Receiver ([gja@pietragallo.com](mailto:gja@pietragallo.com))  
Douglas Rosenblum, Counsel for Receiver ([dkr@pietragallo.com](mailto:dkr@pietragallo.com))

# **EXHIBIT 5**

1099 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20001-4412

JENNER & BLOCK LLP

August 10, 2020

**VIA EMAIL**

Gaetan J. Alfano  
Pietragallo Gordon Alfano Bosick  
& Raspanti, LLP  
1818 Market Street, Suite 3402  
Philadelphia, PA 19103

Thomas Newkirk  
Tel +1 202 639 6099  
Cell +1 301 312 9070  
Fax +1 202 639 6066  
TNewkirk@jenner.com

Timothy A. Kolaya  
Stumphauzer Foslio Sloman Ross  
& Kolaya, PLLC  
Two S. Biscayne Blvd., Suite 1600  
Miami, FL 33131

**Re: *SEC v. Complete Business Solutions Group, Inc. d/b/a Par Funding ("CBSG"), et al., No. 20-CIV-81205 (S.D. Fla. filed July 24, 2020)***

Dear Messrs. Alfano and Kolaya:

I represent Bybel Rutledge LLP and am responding to the letter dated August 10, 2020, from your client, Mr. Stumphauzer, to Mr. Rutledge in connection with the above-referenced matter. I want to assure you that Mr. Rutledge and his firm are willing to cooperate and assist Mr. Stumphauzer to the best of their ability; however, the information requested is subject to the attorney-client privilege or attorney work product. Absent a waiver by the holder of the privilege, they are unable to provide the information requested.

Please let me know if you have any questions.

Sincerely yours,

/s/ Thomas C. Newkirk

Thomas C. Newkirk

TCN:lmf

# **EXHIBIT 6**



CATHERINE M. RECKER

306 WALNUT STREET  
PHILADELPHIA, PENNSYLVANIA 19106  
OFFICE 215.972.6430  
CMRECKER@WELSHRECKER.COM  
WWW.WELSHRECKER.COM

August 12, 2020

VIA EMAIL

Gaetan J. Alfano, Esquire  
Pietragallo Gordon Alfano  
Bosick & Raspanti, LLP  
1818 Market Street, Suite 3402  
Philadelphia, PA 19103  
[gja@pietragallo.com](mailto:gja@pietragallo.com)

Timothy A. Kolaya, Esquire  
Stumphauzer Foslino Sloman Ross & Kolaya  
Two S. Biscayne Boulevard, Suite 1600  
Miami, FL 33131  
[tkolaya@sfsllaw.com](mailto:tkolaya@sfsllaw.com)

*Re: SEC v. Complete Business Solutions Group, d/b/a par Funding ("CBSG"), et al.,  
No. 20 CIV-81205 (S.D. Fla filed July 24, 2020)*

Dear Messrs. Alfano and Kolaya:

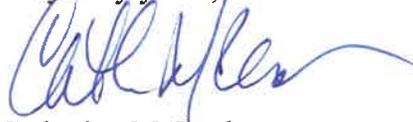
I write in response to the letters dated August 9 and August 11, 2020 (the "Letters"), from Ryan K. Stumphauzer, Esq., the Receiver in the above-referenced matter, requesting that we send readily accessible materials that may be relevant to the Legal Issues (as defined in the Letters) or the legal advice provided to CBSG. While my clients John W. Pauciulo, Esq. and Eckert Seamans represent Dean Vagnozzi and his various entities, as described in my correspondence with you dated August 8, 2020, the representation of many of those entities is unrelated to the issues in the above-referenced matter and those entities are not properly identified by the Receiver as "subsidiaries, successors, and assigns" of ABFP. Moreover, the precise scope of the Receivership is still unclear to me, and it is my understanding that there is ongoing litigation regarding its terms.

Nevertheless, after a review of my clients' files for documents responsive to your request, an internal memorandum was located that may be responsive. The internal memorandum is dated February 23, 2018, and it is from Shari Maynard, a lawyer with Eckert Seamans, to John Pauciulo with the subject line "Regulation D: Financial Disclosures under Section 502(b)."

Messrs. Gaetan J. Alfano and Timothy A. Kolaya  
August 12, 2020  
Page 2

However, this memorandum is subject to both the attorney-client and work product privileges. Because the attorney client privilege has not been waived, we are not in a position to produce it.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Catherine M. Recker", with a long, sweeping flourish extending to the right.

Catherine M. Recker

# **EXHIBIT 7**



**Ryan K. Stumphauzer**  
Telephone: 305. 614. 1401  
[rstumphauzer@sfsflaw.com](mailto:rstumphauzer@sfsflaw.com)

August 14, 2020

**VIA E-MAIL**

Joseph A. DeMaria, B.C.S.  
Robert F. Elgidely  
Brett Berman  
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John W. Pauciulo, Esq.  
ECKERT SEAMANS  
c/o Catherine M. Recker  
Welsh & Recker, P.C.  
306 Walnut Street  
Philadelphia, PA 19106  
[cmrecker@welshrecker.com](mailto:cmrecker@welshrecker.com)

**Re: *SEC v. Complete Business Solutions Group, Inc. d/b/a Par Funding* (“CBSG”),  
*et al.*, No. 20-CIV-81205 (S.D. Fla. filed July 24, 2020)**

Dear Counsel:

I write to follow up on my letter from August 10, 2020, in which I requested each of the recipients of this letter to provide to my counsel all opinion letters, formal memoranda (internal or otherwise), analysis, or correspondence relating to the “Legal Issues,” as defined in that letter. In response, my counsel received several objections to this request on the basis that certain of the individual Defendants and the Relief Defendant in this litigation had taken the position that they controlled the attorney-client privilege with respect to the requested documents. My counsel was further advised that certain of the recipients of the letter would not provide the requested documents until such time as the Court issued an Order making it clear that the Receiver is the owner of the privilege.

Mr. Joseph A. DeMaria, *et al.*

August 14, 2020

Page 2

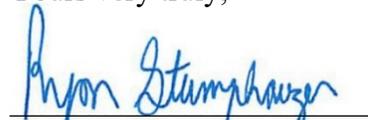
Enclosed is a copy of the Court's Amended Order Appointing Receiver entered on August 13, 2020. Paragraph 44 of this Order provides:

44. The Receiver hereby holds, and is therefore empowered to waive, all privileges, including the attorney-client privilege, held by all entity Receivership Entities.

Based on the clear language in the Amended Order Appointing Receiver, I request that you retract any prior objections on this issue and immediately provide the requested documents to my counsel, Gaetan Alfano ([gja@pietragallo.com](mailto:gja@pietragallo.com)) and Timothy Kolaya ([tkolaya@sflaw.com](mailto:tkolaya@sflaw.com)).

Counsel for the individual Defendants and the Relief Defendant have repeatedly represented to the Court and to the Receiver that time is of the essence and that it is critical to resume the ACH collection process immediately to avoid financial catastrophe. Your failure to turn over legal opinions concerning the Legal Issues—which include vital topics such as the “MCA business” and “risks associated with the MCA business,” “the legality of the funding business,” “the purchase and sale of future receivables agreement[s],” and “defaults by merchants”—has now delayed our efforts by several days. Accordingly, please provide these documents to my counsel by no later than the close of business today, August 14, 2020, so that we may avoid the need to address this issue with the Court.

Yours very truly,



Ryan K. Stumphauzer, Esq.

Enclosure

cc: Timothy A. Kolaya, Counsel for Receiver ([tkolaya@sflaw.com](mailto:tkolaya@sflaw.com))  
Gaetan J. Alfano, Counsel for Receiver ([gja@pietragallo.com](mailto:gja@pietragallo.com))  
Douglas Rosenblum, Counsel for Receiver ([dkr@pietragallo.com](mailto:dkr@pietragallo.com))  
Joel Hirschhorn, GrayRobinson, P.A. ([joel.hirschhorn@gray-robinson.com](mailto:joel.hirschhorn@gray-robinson.com))  
Alan S. Futerfas, Law Offices of Alan S. Futerfas ([asfuterfas@futerfaslaw.com](mailto:asfuterfas@futerfaslaw.com))  
James R. Froccaro Jr., Esq. ([jrfesq61@aol.com](mailto:jrfesq61@aol.com))  
Bettina Schein, Law Offices of Bettina Schein ([bschein@bettinascheinlaw.com](mailto:bschein@bettinascheinlaw.com))

# **EXHIBIT 8**



CATHERINE M. RECKER

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CMRECKER@WELSHRECKER.COM  
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August 14, 2020

VIA EMAIL

Gaetan J. Alfano, Esquire  
Pietragallo Gordon Alfano  
Bosick & Raspanti, LLP  
1818 Market Street, Suite 3402  
Philadelphia, PA 19103  
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Timothy A. Kolaya, Esquire  
Stumphauzer Foslio Sloman Ross & Kolaya  
Two S. Biscayne Boulevard, Suite 1600  
Miami, FL 33131  
[tkolaya@sflslaw.com](mailto:tkolaya@sflslaw.com)

*Re: SEC v. Complete Business Solutions Group, d/b/a par Funding ("CBSG"), et al.,  
No. 20 CIV-81205 (S.D. Fla filed July 24, 2020)*

Dear Messrs. Alfano and Kolaya:

I write in response your letter of today's date. Brian Miller, Esq., counsel to Dean Vagnozzi, has asserted privilege over the document that I identified in my letter dated August 12, 2020, and has directed us not to produce it at this time.

I would like to draw your attention to another issue. I attach a Litigation Hold Notice related to "Potential Litigation involving Joe and Jill Wolfskill and RAZR MCA Fund, LLC, ABFP Management Company, LLC, Dean Parker and Davis Parker."

Very truly yours,

A handwritten signature in blue ink, appearing to read "Catherine M. Recker".

Catherine M. Recker

Attachment

# MATTHEW L. BENSON, P.C.

1330 POST OAK BLVD., SUITE 1225  
HOUSTON, TEXAS 77056  
WWW.MLBCC.COM  
TELEPHONE: 713-961-8020  
FACSIMILE: 713-961-8022

August 13, 2020

Eckert Seamons  
Attn: John W. Pauciulo and Shari Maynard  
Two Liberty Place  
22<sup>nd</sup> Floor  
50 South 16<sup>th</sup> Street  
Philadelphia, PA 19102

Via Facsimile: 215-851-8383  
emails: [smaynard@eckertseamans.com](mailto:smaynard@eckertseamans.com)  
[JPauciulo@eckertseamans.com](mailto:JPauciulo@eckertseamans.com)  
and CMRRR: 4317 2264

Re: Potential Litigation involving Joe and Jill Wolfskill and RAZR MCA Fund, LLC, ABFP Management Company, LLC, Dean Parker and Davis Parker

## LITIGATION HOLD NOTICE

Dear Mr. Pauciulo and Ms. Maynard:

This letter is to inform you about potential litigation in connection with the investments made by my clients, (Joe and Jill Wolfskill and their related CamalPlan FBO IRS's) with RAZR MCA Fund, LLC on or about May 10, 2019 as well as the promissory notes and subscription agreements related thereto (the "Dispute") and the legal obligations of RAZR MCA Fund, LLC, ABFP Management Company, LLC, Dean Parker and Davis Parker (collectively the RAZR Parties") to preserve documents related in any way to the Dispute. If you do not represent all of the RAZR Parties, please advise and I will communicate with them directly.

Demand is made on the RAZR Parties to preserve documents, data, and information relating to the Dispute as provided in this Letter. These obligations will remain in effect until the RAZR Parties receive a subsequent written notice that this Litigation Hold has been updated, modified, or released.

### 1. Important Definitions:

Applicable law requires preservation of all documents and data relating to the Dispute from all sources. Documents and data should be interpreted broadly and is not limited to hard copy documents. It also includes audio recordings, videotape, email, instant messages, word processing documents, spreadsheets, databases, calendars, telephone logs, internet usage files, and all other electronic information created, received, and/or maintained by the RAZR Parties on their computer systems. Sources include all hard copy and electronic files, computer hard drives, removable media (e.g., CDs and DVDs), laptops, iPhones or other smart phones, backup tapes, backup media, and anywhere else hard copy or electronic data is or could be stored. Note that this list is not exhaustive and is provided only by way of example. If any of the RAZR Parties use a home computer or personal laptop to perform work on behalf of the RAZR Parties, they should preserve any relevant information from that computer. If a personal email account is used to send work-related emails, those emails should also be preserved.

The RAZR Parties  
August 13, 2020  
Page 2 of 3

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2. What Must Be Preserved:

Documents and data include those that mention or discuss any of the following subjects from May 1, 2018 through the present:

Communications of the RAZR Parties with any Defendants or employees of Defendants named in the following:

Case No. 20-CIV-81205-RAR; Securities and Exchange Commission vs. Complete Business Solutions Group, Inc. d/b/a PAR Funding, Full Spectrum Processing, Inc., Abetterfinancialplan.com LLC d/b/a A Better Financial Plan, ABFP Management Company, LLC f/k/a Pillar Life Settlement Management Company, LLC, ABFP Income Fund, LLC, ABFP income Fund 2, L.P., United Fidelis Group Corp., Fidelis Financial Planning, LLC, Retirement Evolution Group, LLC, Retirement Evolution Income Fund, LLC f/k/a RE Income Fund, LLC, RE Income Fund 2, LLC, Lisa McElhone, Joseph Cole Barleta a/k/a Joe Cole, Joseph W. LaForte a/k/a Joe Mack a/k/a Joe Macki a/k/a Joe McElhone, Perry S. Abbonizio, Dean J. Vagnozzi, Michael C. Furman and John Gissas; pending in the United States District Court, Southern District of Florida regarding investments or potential investments made or to be made by Joe and/or Jill Wolfskill relevant to the Dispute or any other similarly situated investor.

Communications between Joe and/or Jill Wolfskill and the RAZR Parties.

**THE RAZR PARTIES SHOULD NOT DISCARD ANY DOCUMENTS (INCLUDING ELECTRONIC DOCUMENTS) RELATING TO ANY OF THESE TOPICS.** This request applies to documents currently in their possession, as well as those that may be created or received after the date of this Letter.

3. Special Considerations for the Preservation of Electronically Stored Information (ESI):

The RAZR Parties should take every reasonable step to preserve relevant ESI until further notice.

The RAZR Parties should preserve all ESI related to the Dispute and suspend the deletion, overwriting, or any other possible destruction of relevant electronic documents and data. Automatic data-destruction protocols also must be suspended.

4. Suspension of Document Destruction Policies:

The RAZR Parties should suspend any routine business practice likely to alter or destroy the documents, data, and information described herein until further notice.

The RAZR Parties  
August 13, 2020  
Page 3 of 3

---

Thank you for your cooperation and prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Benson", written in a cursive style.

Matthew L. Benson, P.C.

cc: Joe and Jill Wolfskill via email