

**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.

**RECEIVER RYAN K. STUMPHAUZER'S INTERIM
STATUS REPORT DATED AUGUST 20, 2020**

Ryan K. Stumphauzer, Esq., Court-Appointed Receiver (“Receiver”) of Defendants Complete Business Solutions Group, Inc. d/b/a Par Funding (“Par Funding”); Full Spectrum Processing, Inc. (“Full Spectrum”); 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; RE Income Fund LLC; and RE Income Fund 2 LLC (collectively, the “Receivership Entities”), by and through undersigned counsel, hereby files this Interim Status Report dated August 20, 2020.

A. Website / Communications with Interested Parties

The Receiver established a website, available at ParFundingReceivership.com, containing key court documents, information, and updates regarding these proceedings. The website went live on Monday, August 16, 2020. Between Monday August 16, 2020, and Thursday, August 20, 2020,

there have been more than 2,394 visitors to the website and 10,774 pageviews. The Receiver will continue to update this website with court filings, news and updates, reports from the Receiver, answers to frequently asked questions, important dates and deadlines (including Zoom or telephone dial-in information for hearings before the Court), and other pertinent information.

The Receiver has also established a toll-free telephone number (844-631-7722) and email address (receiver@parfundingreceivership.com) for inquires and questions from employees of the Receivership Entities, investors, merchants, administrators of agent funds, and other interested parties. The Receiver has delivered several different letters to investors and employees of certain of the Receivership Entities through this email account. These letters are also available on the Receiver's website.

Since the Receiver first provided public notice of the existence of this email address on Tuesday, August 18, 2020, the Receiver has sent and received more than 200 individual emails from this account in connection with specific inquiries from interested parties. The overwhelming majority of these communications are with investors. Prior to then and continuing through the present, the Receiver and the Receiver's counsel have received and responded to hundreds of additional telephone calls, voicemail messages, emails, and other inquiries from various interested parties that were directed to the Receiver through his law firm's contact information.

B. Efforts of the Receiver and DSI in Connection with Resuming Operations

On August 9, 2020, the Court granted a Motion from the Receiver to engage Development Specialists, Inc. ("DSI") as a financial analyst and operations consultant (ECF No. 116). Immediately upon the entry of this Order, the Receiver began to discuss with DSI the feasibility of developing a plan for the ongoing operations of the Receivership Entities. The DSI team has

been onsite at the Par Funding and Full Spectrum offices this entire week, assessing the financial records and operations of the companies, and exploring these opportunities to resume operations.

The Receiver has reached out directly to many former employees and has also sent letters by email to the known personal email addresses and by U.S. Mail to the home mailing addresses for former employees of Par Funding and Full Spectrum. Through these letters, the Receiver has provided these employees with information about these proceedings and requested them to contact the Receiver for the purpose of arranging interviews. Many former employees have responded to these letters. The Receiver's counsel and DSI have already interviewed several of the employees and are continuing to schedule additional interviews with these former employees.

Based on the information it has obtained thus far, DSI has developed and provided the Receiver with a recommended staffing plan for the resumption of operations and anticipates that the Receiver could possibly rehire employees in the Systems, Accounting, and Information Technology areas beginning as early as next week. DSI also anticipates that the Receiver could hire back, as early as next week, employees in the ACH Processing and Collection areas, but only after the Receiver is assured of the legality of the merchant cash advance business of these Receivership Entities based on, among other things, receiving all former attorney work product on this issue. Further discussion on this issue is addressed in Section C, below.

Attached as Exhibit 1 is a copy of the current draft of DSI's proposed staffing plan. As the Receiver and DSI continue to interview former Full Spectrum / Par Funding employees, gain additional access to the records and systems of these businesses, and better understand the immediate availability of funds to pay for these operations, the Receiver will continue to update the Court and other interested parties on the status of these efforts.

C. Update on the Receiver's Motion to Compel Work Product from Law Firms

On Sunday, August 16, 2020, the Receiver filed a Motion to Compel the Production of Opinion Letters and Compliance Materials from Law Firms (the "Motion to Compel") (ECF No. 160). The Court referred this Motion to Compel to United States Magistrate Judge Bruce E. Reinhart. (ECF No. 165). During the preliminary injunction hearing on August 18, 2020, the Court acknowledged the importance of resolving the issues raised in the Motion to Compel, given the interest all parties have expressed in the possibility of the Receiver resuming operations of the Receivership Entities.

In the Motion to Compel, the Receiver detailed the various legal opinions, memoranda, and analysis that several specifically-identified law firms provided to the Receivership Entities, as referenced in Defendant's Joint Memorandum to the Court (ECF No. 84) (the "Joint Memorandum"). The Receiver and his counsel have been in contact with each of those law firms, as well as counsel for several of the individual Defendants, to obtain these materials. To date, the Receiver has received the following materials:

(1) a production of 15 documents from Bybel Rutledge, through its counsel at Jenner & Block, consisting of emails, memoranda, and a Consent Agreement and Order in connection with an administrative proceeding brought by the Commonwealth of Pennsylvania Department of Banking and Securities and an Emergency Cease and Desist Order issued by the Texas Securities State Securities Board;

(2) a production of 165 pages from counsel for The LME 2017 Family Trust, including some of the specific materials the individual Defendants identified in the Joint Memorandum; and

(3) a production of 887 emails and attachments from Fox Rothschild, through its counsel at Shutts & Bowen, received at 5:30 pm on August 20, 2020.¹

The Receiver has not yet received any documents through his requests to Offit Kurman, HaynesBoone, or DLA Piper, but the Receiver's counsel has been in communication with DLA Piper's general counsel's office, and has been told that a production will be forthcoming soon, possibly as early as Friday, August 21, 2020.

The Receiver has not received any documents from Eckert Seamans. Counsel for Eckert Seamans initially refused to turn over documents to the Receiver on the basis that a privilege applies over these documents and has not been waived. Since that time, Dean Vagnozzi's counsel has indicated that Mr. Vagnozzi claims a common interest / joint privilege in the legal work Eckert Seamans performed for the A Better Financial Plan entities, and that these documents should only be produced to the Receiver if the Receiver agrees that the Receiver may not waive this privilege without Mr. Vagnozzi's consent. The parties continue to meet and confer on this issue, but have not reached an agreement.

One of the categories of legal opinions and memoranda the Receiver has been requesting involves the legality of Par Funding's underlying merchant cash advance business. The Receiver now has the Offit Kurman memorandum from 2014 regarding "the legality of the funding business under Pennsylvania law," as referenced in the Joint Memorandum. The Receiver has not, however, received any memoranda or opinions regarding the "legality of the funding business" under the laws of any other states. The Receiver does note that courts in Pennsylvania have applied

¹ As the Receiver's counsel indicated to the Court during the preliminary injunction hearing on August 18, 2020, Fox Rothschild also emailed to the Receiver's Counsel on Sunday August 16, 2020, a copy of Offit Kurman opinion from April 25, 2014, which was referenced in the Joint Memorandum, and a few trial court opinions and briefs from litigation matters involving Par Funding's merchant cash agreements.

Pennsylvania law and upheld Par Funding's merchant cash advance agreements as valid and enforceable agreements, and determined that they are not subject to Pennsylvania usury law.

Another court, however, has indicated that conflicts of law principles could dictate the application of other states' laws based on public policy concerns. In light of the current caselaw and lack of any legal memoranda or opinions from these law firms that provided legal work for the Receivership Entities, the Receiver intends to continue to explore the possibility of moving forward with resuming operations, with the understanding that Par Funding's merchant cash advance agreements have been upheld as valid under Pennsylvania law, but may need to be analyzed on a case-by-case basis if it is determined that the laws of another state might apply based on a conflicts-of-law analysis.

D. Other Pending Issues

i. Aida Lau

In preparing his Emergency Motion to Enjoin Access to Complete Business Solutions Group, Inc. d/b/a Par Funding and Full Spectrum Processing, Inc.'s Electronically-Stored Information, and for an Order to Show to Cause as to Former Receivership Entity Employees that Violated this Court's Receivership Order (ECF No. 155), the Receiver discovered that former Par Funding / Full Spectrum employee Aida Lau had downloaded over 95,000 documents from the G Suite platform of Par Funding and Full Spectrum, including data about the Receivership Entities, following entry of the initial Receivership Order, and continuing through August 12, 2020.

The Receiver's counsel interviewed Ms. Lau on Monday, August 17, 2020. During her interview, Ms. Lau stated that she had deleted the downloaded materials at some time over the weekend of August 14-16, 2020. She further stated that the download had occurred inadvertently due to an automatic synchronization of her laptop and her Gmail account.

The only materials that Ms. Lau admitted to manually downloading were three checks, one drawn on and then voided from an Eagle 6 account, and two others drawn on and voided from certain accounts of Defendant Lisa McElhone. Following Ms. Lau's interview on August 17, the Receiver's IT consultant analyzed Ms. Lau's activity in the Par Funding and Full Spectrum G Suite database. The IT consultant has concluded that Ms. Lau's statement was false in that she manually downloaded the more than 95,000 documents, and it was not an inadvertent, automatic synchronization as she claimed. On August 19, 2020, Ms. Lau provided her laptop to the Receiver for forensic imaging. On August 19, Ms. Lau also agreed to a further interview with the Receiver, which was set for August 20, 2020, at 2:00 p.m. On the morning of August 20, 2020, however, Ms. Lau informed the Receiver that she had retained counsel. Counsel for Ms. Lau has postponed the interview due to his unavailability.

ii. Joseph Cole

As discussed with the Court previously, the Receiver learned that Defendant Joseph Cole had possession of a personal laptop that contained copies of the Receivership Entities' data. Mr. Cole agreed to provide his personal laptop to the Receiver for forensic imaging pursuant to an agreement under which the Receiver's forensic consultant would make a copy of any business data of the Receivership Entities and provide it to the Receiver's counsel, and thereafter the consultant will permanently delete this business data from the laptop and return it to Mr. Cole.

iii. Bank Accounts

On August 17, 2020, counsel for Mr. Cole informed the Receiver that a Chase Bank account had been closed and that Chase had issued a check to Par Funding for \$322,914.91. The Receiver was unaware of the existence of this check. When the Receiver raised his concern about the whereabouts of the check following the injunction hearing on August 18, 2020, counsel for

Mr. Cole stated that the check had been mailed to Par Funding. Counsel for The LME 2017 Family Trust subsequently informed the Receiver that Ms. McElhone actually had possession of the check. The Trust's counsel arranged to deliver the check to the Receiver's counsel, who received the check on August 19, 2020.

WHEREFORE, Ryan K. Stumphauzer, as Court-Appointed Receiver, by and through his undersigned counsel, respectfully files this Interim Status Report dated August 20, 2020.

Dated: August 20, 2020

Respectfully Submitted,

**STUMPHAUZER FOSLID SLOMAN
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Co-Counsel for Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 20, 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”



VIA EMAIL (rstumphauzer@sflaw.com)

August 20, 2020

Mr. Ryan Stumphauzer
Receiver
c/o Stumphauzer, Foslio, Sloman, Ross & Kolaya PLLC
2 South Biscayne Boulevard
Suite 1600
Miami, Florida 33131

Dear Mr. Stumphauzer:

Over the past several days, my staff and I have developed a plan to restart limited operations at Full Spectrum Processing, Inc. (“FSP”) in order to maintain the portfolio of merchant cash advances made by Complete Business Solutions Group, Inc. d/b/a Par Funding (“Par”) and related MCA providers. To this end, we held multiple discussions with former employees of FSP. Through these discussions, we have created a general framework of key operating activities, essential employees and a draft budget.

Since the operations will be limited at this time, the critical operating activities will be focused on collections, accounting and IT. Subject to further guidance from you, we envision the day-to-day functions of each department would be as follows:

- **Accounting:**
 - Schedule the daily and other periodic ACH transactions.
 - Review daily processing reports and provide an analysis of the collections and returns.
 - Coordinate with Collections Department regarding returned payments and merchants’ balances.
 - Record all activity in the accounting system.
 - Prepare the bank reconciliations including the outstanding bank reconciliations (2019 only about 80% complete; 2020 not done).
 - Process periodic accounts payable and payroll.
 - Oversee insurance matters and employee benefits.
 - Manage the back office processes for non-Par accounts including the real estate.
 - Support special projects as needed.

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Mr. Ryan Stumphauzer
August 20, 2020
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- **Collections:**
 - Contact each of the approximately 2600 merchants to discuss the receivership and inform them that payments will restart and establish the payment start date and payment schedule in accordance with the original MCA agreement.
 - Review outstanding, delinquent merchant accounts on a daily basis.
 - Negotiate payoffs for delinquent accounts, as needed.
 - Work with legal counsel with respect to delinquent and bankruptcy-related accounts.

- **Information Technology:**
 - Support staff with general computer issues.
 - Gather, collect and secure all IT equipment not in use.
 - Support Receiver and Receiver's IT personnel to evaluate the systems as needed.

Given these activities, we have developed a preliminary staffing model and with key personnel. As of this point, we estimate employee-related costs of approximately \$160 thousand a month. There would be additional costs for rent, office maintenance, software licenses, utilities, and other general office expenses. Each department manager will be supervised by DSI.

We currently contemplate that the staff will be employed by FSP. We would continue to use the current payroll system and tax ID number. Wages earned pre- and post-receivership would be reported on one W-2 at the end of the year. Employees would be also be given current medical, health and welfare insurance and other employee benefits except for 401(k). We propose terminating the 401(k) plan and have this done by the end of the year.

We also would like to have employees work at the 3rd Street office rather than separating between the two offices. At this time, we would not want employees working remotely but may be open to a schedule whereby employees work at the office part time and remotely part time.

Given the structure and staffing detailed above, a preliminary draft budget is attached for your consideration. Please note that currently we do not have visibility into the non-payroll operating expenses. As a result, the attached budget includes only preliminary estimates.

Lastly, we believe that the unpaid salary from the last pay period through August 13, 2020 for all non-insider employees should be paid. We estimate this cost to be approximately \$190 thousand including unfunded payroll checks issued prior to July 24, 2020. In addition, we would request that all employees return company-issued assets (mostly laptops).

Mr. Ryan Stumphauzer

August 20, 2020

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George, Yale and I look are available to discuss this staffing model with you should you need more information or clarification.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bradley D. Sharp', enclosed in a thin black rectangular border.

Bradley D. Sharp
President & CEO

Copy to: Mr. Yale S. Bogen (DSI)
Mr. Timothy Kolaya (SFSRK)
Mr. George E. Shoup, III (DSI)

CONFIDENTIAL

Complete Business Solutions Group, Inc. d/b/a Par Funding, et al.
 PRELIMINARY DRAFT - 13 Week Operations Budget
 (in 000's)

	28-Aug-20	04-Sep-20	11-Sep-20	18-Sep-20	25-Sep-20	02-Oct-20	09-Oct-20	16-Oct-20	23-Oct-20	30-Oct-20	06-Nov-20	13-Nov-20	20-Nov-20	13 Week Total
For the week ended														
OPERATING DISBURSEMENTS														
Salary and Benefits														
Salary and Wages		60		60		60		60		60		60		\$360
Commissions / Collections				20				20				20		\$60
Employee Benefits and Employer Taxes		10		10		10		10		10		10		\$60
Total Salaries and Benefits	\$0	\$70	\$0	\$90	\$0	\$70	\$0	\$90	\$0	\$70	\$0	\$90	\$0	\$480
Other Operating Disbursements														
Bank / Processing Fees											\$20			\$60
Insurance		20				20					20			\$60
Equipment Leases	5				5				5				5	\$20
Professional : Legal Collections	10	10	10	10	10	10	10	10	10	10	10	10	10	\$130
Rent	TBD					TBD					TBD			\$0
Repairs & Maintenance	TBD					TBD					TBD			\$0
Software & Licenses	TBD					TBD					TBD			\$0
Telecommunications	25				25				25				25	\$100
Deposits - Telecom	25				25				25				25	\$25
Utilities	25				25				25				25	\$100
Deposits - Utilities	25				25				25				25	\$25
IT Support & Equip	20				20				20				20	\$60
Other Operating Expenses	5	5	5	5	5	5	5	5	5	5	5	5	5	\$65
Total Other Operating Disbursements	\$140	\$35	\$15	\$35	\$90	\$35	\$15	\$35	\$70	\$35	\$55	\$15	\$70	\$645
TOTAL OPERATING DISBURSEMENTS	\$140	\$105	\$15	\$125	\$90	\$105	\$15	\$125	\$70	\$105	\$55	\$105	\$70	\$1,125
NON-OPERATING DISBURSEMENTS														
Pre-ReceiverShip Expenses														
Wages 7/27 - 8/14 & ER taxes		180												\$180
Pre-ReceiverShip Payroll (unfunded checks)		10												\$10
Pre-ReceiverShip Benefit Plan Costs		30												\$30
Total Pre-ReceiverShip Expenses	\$ -	\$ 220	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 220
TOTAL NON-OPERATING DISBURSEMENTS	\$ -	\$ 220	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 220
TOTAL DISBURSEMENTS	\$ 140	\$ 325	\$ 15	\$ 125	\$ 90	\$ 105	\$ 15	\$ 125	\$ 70	\$ 105	\$ 55	\$ 105	\$ 70	\$ 1,345

Footnote: All non-payroll operating disbursements are based on estimates. Historical information has not been made available.