

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
CASE NO.: 20-CIV-81205-RAR

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

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

Defendants, and

L.M.E. 2017 FAMILY TRUST,

Relief Defendant.

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**RECEIVER, RYAN K. STUMPHAUZER’S EXPEDITED MOTION TO LIFT  
LITIGATION INJUNCTION AS TO CERTAIN GARNISHMENT PROCEEDINGS**

**Basis for expedited relief:**

Pursuant to Local Rule 7.1(d), the Receiver seeks relief on an expedited basis because the Receiver has concluded that certain actions need to be taken immediately in order to vacate writs of garnishment and prevent collection efforts that should not be proceeding with respect to certain merchants—some of whom have had their bank accounts frozen as a result of these writs—that have either satisfied or reached agreement regarding these amounts, or otherwise sought bankruptcy relief, as further described in this motion. These actions cannot be completed without lifting the Litigation Injunction.

Ryan K. Stumphauzer, Esq., Court-Appointed Receiver (“Receiver”) of Defendants 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; RE Income Fund LLC; and RE Income Fund 2 LLC (the “Receivership Entities”), by and through undersigned counsel, and pursuant to L.R. 7.1(d)(2), hereby files this Emergency Motion to Lift Litigation Injunction as to Certain Garnishment Proceedings and states as follows:

1. The Receiver hereby moves this Court to further modify the Order Granting the Security and Exchange Commission’s Motion for Appointment of Receiver [ECF No. 36] (“Order Appointing Receiver”), entered on July 27, 2020, and the Order granting Security and Exchange Commission’s Urgent Motion to Amend Order Appointing Receiver to Include Litigation Injunction [ECF No. 56] (“Order Entering Litigation Injunction”), entered July 31, 2020.

2. This modification is sought in order to allow certain pre-receivership garnishment proceedings currently pending in the Court of Common Pleas of Philadelphia County, Pennsylvania to be opened for the limited purpose of either: (1) vacating the current writs of garnishment because of a subsequent agreement or satisfaction of the underlying debt; or (2) vacating the current writs of garnishment because of a subsequent bankruptcy of the merchant, which would prohibit the execution on the writs pursuant to the U.S. Bankruptcy Code. *See* 11 U.S.C. § 362 and 11 U.S.C. § 1322.

3. On July 27, the Court entered an Order appointing Ryan K. Stumphauzer as the Receiver over the corporate Defendants [ECF No. 36].

4. As set forth in the Commission’s Complaint and Motion for Temporary Restraining Order, Par Funding is a party to a significant number of lawsuits. The Receiver, who was appointed July 27, 2020, is reviewing these as well as other lawsuits to which the Receivership Entities are parties.

5. As part of that review, the Receiver has become aware of a number of actions previously filed in the Court of Common Pleas of Philadelphia County, Pennsylvania against

merchants (and/or guarantors) who had defaulted under a Merchant Cash Advance Agreement with Complete Business Solutions Group, Inc. d/b/a Par Funding. The Agreement allowed for the confession of judgment for any amounts unpaid.

6. In certain of these actions, CBSG and/or Par, through the law firm of Fox Rothschild, obtained Writs of Garnishment. The Writs of Garnishment were not served by the Philadelphia County Sheriff's Office at the time, due to the impact of the COVID-19 pandemic and were subject to a multi-month stay of execution in the Court of Common Pleas (the "Execution Stay").

7. The Receiver has been informed and provided with documents evidencing that a number of the merchants have satisfied their obligations under the Merchant Cash Advance Agreements or modified their agreements with CBSG and/or Par after the Writs were initially filed and delivered to the sheriff prior to the COVID-19 pandemic. A complete list of the actions that were satisfied or resolved by further agreement are set forth in Exhibit 1 hereto.

8. In addition, during this intervening time of Court and sheriff shutdowns caused by the COVID-19 pandemic, some of the merchants filed for protection under the U.S. Bankruptcy Code pursuant to Chapters 7, 11 or 13. A complete list of the actions in which the merchant filed for bankruptcy protection are set forth in Exhibit 2 hereto.

9. Following the lifting of the Execution Stay in the Court of Common Pleas, and prior to the Receiver's appointment, the Sheriff recently served the writs that had been with the Sheriff from prior to the COVID-19 pandemic. As a result, the affected merchants have had various bank accounts frozen. In the bankruptcy cases, the garnishments issued from months ago prior to the COVID-19 pandemic were just recently served by the Philadelphia Sheriff even though there was an automatic stay from the later filed bankruptcy actions.

10. Due to the Litigation Injunction, the parties in the actions identified in Exhibit 1 cannot file the necessary documents with the Court to demonstrate satisfaction of the confessed judgments to vacate the writs of garnishment, and to allow for the cases to be discontinued and the actions closed.

11. With respect to the actions identified in Exhibit 2, the Litigation Injunction prevents the Receiver from taking action to prevent collection efforts in a possible violation of the Bankruptcy Code's automatic stay provisions and in order to assure those matters are addressed in their respective Bankruptcy Courts.

12. "The Court should lift the stay if there is good reason to do so, but part of the purpose of the stay against litigation is to preserve the assets for the benefit of creditors and investors while the Receiver investigates claims; requiring the Receiver to monitor and engage in litigation early on in the receivership would deplete the assets of [the Receivership Entities]." *SEC v. Onix Capital, LLC*, Case No. 16-cv-24678, 2017 WL 6728814 (S.D. Fla. July 24, 2017) (adopted by District Court Judge Cooke, 2017 WL 6728773 and denying motion to lift stay and file bankruptcy petitions). *See SEC v. Stanford Int'l. Bank Ltd.*, 424 Fed.Appx. 338, 341-42 (S.D.N.Y. 2008), *aff'd*, 609 F.3d 87 (2d Cir. 2010) (holding that the receivership was still in its early stages and thus maintaining the stay against litigation was appropriate where Receiver had been in place for one year and was tasked with investigating the fraudulent scheme at issue); *U.S. v. Acorn Tech. Fund, L.P.*, 429 F.3d 428, 443 (3d Cir. 2005) ("[T]he purpose of imposing a stay of litigation is clear. A receiver must be given a chance to do the important job of marshaling and untangling a company's assets without being forced into court by every investor or claimant.").

13. Lifting the stay to allow for the actions in Exhibit 1 to be resolved is proper as it preserves the assets in the estate for the benefit of creditors, and because the writs of execution

must be dissolved for those merchants that have satisfied the confessions of judgment or entered into new agreements following the issuance of the writs prior to the COVID-19 pandemic, but prior to service of the writs months later by the Philadelphia Sheriff.

14. Moreover, any action to collect on the writs of garnishment for the actions identified in Exhibit 2 could possibly subject the estate to a claim of a violation of the automatic stay provision of 11 U.S.C. §362(a), which would further deplete the assets of the estate.

15. The Receiver is requesting this relief on an expedited basis.

WHEREFORE, Ryan K. Stumphauzer, as Court-Appointed Receiver, by and through his undersigned counsel, respectfully requests this Honorable Court to grant the expedited motion and lift the Litigation Injunction on a limited basis for certain garnishment proceedings. A proposed order for the Court's consideration is attached as Exhibit 3.

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

The undersigned counsel has spoken with counsel for the Securities and Exchange Commission. The Commission does not oppose the relief sought. On August 6, 2020, the undersigned counsel emailed all other counsel of record and advised of the Receiver's intention to seek the relief requested in this Motion, asking any party who opposed the relief to advise the undersigned counsel by the close of business on August 7, 2020. As of the filing of this Motion, no parties have responded that they oppose the requested relief. Due to the urgent nature of the relief sought herein, undersigned counsel felt it necessary to file this motion without further delay and will file a Notice of the position of any other parties in the event they indicate their opposition to this requested relief.

Dated: August 7, 2020

Respectfully Submitted,

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*Co-Counsel for Receiver*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on August 7, 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**

1. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Dennis Hunt/ Exteriors R Us LLC*, Docket No. 200101360, in the Court of Common Pleas of Philadelphia County, Pennsylvania. Modification Agreement dated May 8, 2020.
2. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. American Goal Construction, Inc. d/b/a American Goal Construction*, Docket No. 200301010, in the Court of Common Pleas of Philadelphia County, Pennsylvania. Settlement Agreement dated April 3, 2020.
3. *Complete Business Solutions Group, Inc. v. Thassos, Inc. d/b/a Thassos an Authentic Greek Restaurant and Nikolaos Fatouros*, Docket No. 200201631, in the Court of Common Pleas of Philadelphia County, Pennsylvania. Agreement dated February 21, 2020.
4. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Reliance Medical Centers*, Docket No. 200301283, in the Court of Common Pleas of Philadelphia County, Pennsylvania. Modification Agreement dated May 21, 2020.
5. *Complete Business Solutions Group, Inc., d/b/a Par Funding/Richard James & Associates v. New Vegetarian Palate Inc. and Richard Wong*, Docket No. 200200029, in the Court of Common Pleas of Philadelphia County, Pennsylvania. Confidential Release and Settlement Agreement dated July 15, 2020,
6. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Road Service One*, Docket No. 200301738, in the Court of Common Pleas of Philadelphia County, Pennsylvania. Restructured Agreement dated March 5, 2020,
7. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Definitive Staffing Solutions Inc. d/b/a Definitive Staffing Solutions*, No. 200301730, in the Court of Common Pleas of Philadelphia County, Pennsylvania. Modification Agreement dated July 8, 2020.
8. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. AA&E Hauling, LLC*, Docket No. 200202915, in the Court of Common Pleas of Philadelphia County, Pennsylvania. Satisfied on July 2, 2020.
9. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Credit Now, LLC and Victor Gess*, Docket No. 20070332, in the Court of Common Pleas of Philadelphia County, Pennsylvania. Stay issued July 30, 2020.

**EXHIBIT 2**

1. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Glenns Cleaning Service, LLC.*, Docket No. 200202920, in the Court of Common Pleas of Philadelphia County, Pennsylvania. Chapter 11 case filed in the Southern District of Indian at Case No. 20-702-AKM-11V on March 11, 2020.
2. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. JR Capital LLC d/b/a JR Capital and Jeffery Helm*, Docket No. 200300092 in the Court of Common Pleas of Philadelphia County, Pennsylvania. Chapter 13 case filed in the Eastern District of Michigan at Case No. 20-44522-mar on March 27, 2020.
3. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Acme Holdings of N.Y., Inc. et ano.*, Docket No. 200300459, in the Court of Common Pleas of Philadelphia County, Pennsylvania. Chapter 11 case filed in the Western District of New York at Case No. 1:20-bk-10204 on February 5, 2020.
4. *Complete Business Solutions Group, Inc. v. Madame Paulette LIC LLC d/b/a Madame Paulette LIC and John Mahdessian*, Docket No. 200101676, in the Court of Common Pleas of Philadelphia County, Pennsylvania. Chapter 11 case filed in the Eastern District of New York at Case No. 1-20-40714-cec on February 4, 2020.
5. *Complete Business Solutions Group, Inc. v. Randy P. Snider d/b/a Randy Snider Drywall*, Docket No. 200202665, in the Court of Common Pleas of Philadelphia County, Pennsylvania. Chapter 7 case filed in the Central District of California at Case No. 8-20-bk-11136-SC. Discharged on July 27, 2020.
6. *Complete Business Solutions Group, Inc. v. Momentum Trans, Inc. d/b/a Momentum Trans and Mohamed Hussein Sayed-Mohamed.*, Docket No. 200300409, in the Court of Common Pleas of Philadelphia County, Pennsylvania. Chapter 7 case filed in the Middle District of Florida at Case No. 6-20-bk-01919-KJ on April 6, 2020.

**EXHIBIT 3**

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

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

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,

Defendants, and

L.M.E. 2017 FAMILY TRUST,

Relief Defendant.

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**[PROPOSED] ORDER OF COURT GRANTING THE RECEIVER’S EMERGENCY  
MOTION TO LIFT LITIGATION INJUNCTION  
AS TO CERTAIN GARNISHMENT PROCEEDINGS**

**THIS CAUSE** comes before the Court upon the Receiver’s Emergency Motion to lift Litigation Injunction as to Certain Garnishment Proceedings [ECF No. \_\_\_] (“Motion”), filed on August 7, 2020. In the Motion, the Receiver seeks modify the Order granting Security and Exchange Commission’s Urgent Motion to Amend Order Appointing Receiver to Include Litigation Injunction [ECF No. 56] (“Order Entering Litigation Injunction”), entered July 31, 2020, so as to lift the Litigation Injunction for certain garnishment matters currently pending in the Court of Common Pleas of Philadelphia County, Pennsylvania to be opened for the limited purpose of either: (1) vacating the current writs of garnishment because of a subsequent agreement or satisfaction of the underlying debt; or (2) vacating the current writs of garnishment because of a subsequent bankruptcy of the merchant, which would prohibit the execution on the writs pursuant to the U.S. Bankruptcy Code.

The Receiver has made a sufficient and proper showing in support of the relief requested.

Accordingly, it is hereby

**ORDERED AND ADJUDGED** that Receiver’s Emergency Motion to lift Litigation Injunction as to Certain Garnishment Proceedings [ECF No. \_\_\_] is **GRANTED**. The Litigation Injunction set forth in the Order Entering Litigation Injunction [ECF No. 56] is hereby lifted in the following matters and solely for the purpose as described in the Motion:

1. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Dennis Hunt/ Exteriors R Us LLC*, Docket No. 200101360, in the Court of Common Pleas of Philadelphia County, Pennsylvania.
2. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. American Goal Construction, Inc. d/b/a American Goal Construction*, Docket No. 200301010, in the Court of Common Pleas of Philadelphia County, Pennsylvania.

3. *Complete Business Solutions Group, Inc. v. Thassos, Inc. d/b/a Thassos an Authentic Greek Restaurant and Nikolaos Fatouros*, Docket No. 200201631, in the Court of Common Pleas of Philadelphia County, Pennsylvania.
4. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Reliance Medical Centers*, Docket No. 200301283, in the Court of Common Pleas of Philadelphia County, Pennsylvania.
5. *Complete Business Solutions Group, Inc., d/b/a Par Funding/Richard James & Associates v. New Vegetarian Palate Inc. and Richard Wong*, Docket No. 200200029, in the Court of Common Pleas of Philadelphia County, Pennsylvania.
6. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Road Service One*, Docket No. 200301738, in the Court of Common Pleas of Philadelphia County, Pennsylvania.
7. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Definitive Staffing Solutions Inc. d/b/a Definitive Staffing Solutions*, No. 200301730, in the Court of Common Pleas of Philadelphia County, Pennsylvania.
8. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. AA&E Hauling, LLC*, Docket No. 200202915, in the Court of Common Pleas of Philadelphia County, Pennsylvania.
9. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Credit Now, LLC and Victor Gess*, Docket No. 20070332, in the Court of Common Pleas of Philadelphia County, Pennsylvania.
10. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Glenss Cleaning Service, LLC.*, Docket No. 200202920, in the Court of Common Pleas of Philadelphia County, Pennsylvania.
11. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. JR Capital LLC d/b/a JR Capital and Jeffery Helm*, Docket No. 200300092 in the Court of Common Pleas of Philadelphia County, Pennsylvania.
12. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Acme Holdings of N.Y., Inc. et ano.*, Docket No. 200300459, in the Court of Common Pleas of Philadelphia County, Pennsylvania.
13. *Complete Business Solutions Group, Inc. v. Madame Paulette LIC LLC d/b/a Madame Paulette LIC and John Mahdessian*, Docket No. 200101676, in the Court of Common Pleas of Philadelphia County.
14. *Complete Business Solutions Group, Inc. v. Randy P. Snider d/b/a Randy Snider Drywall*, Docket No. 200202665, in the Court of Common Pleas of Philadelphia County, Pennsylvania.
15. *Complete Business Solutions Group, Inc. v. Momentum Trans, Inc. d/b/a Momentum Trans and Mohamed Hussein Sayed-Mohamed.*, Docket No. 200300409, in the Court of Common Pleas of Philadelphia County, Pennsylvania.

**DONE AND ORDERED** in Fort Lauderdale, Florida, this \_\_\_\_\_ day of August, 2020.

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**RODOLFO A. RUIZ II**  
**UNITED STATES DISTRICT JUDGE**

Copies to: Counsel of record