

**IN THE 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.

**RECEIVER, RYAN K. STUMPHAUZER’S RESPONSE TO PLAINTIFF’S
EXPEDITED MOTION TO AMEND RECEIVERSHIP ORDER**

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 Response to Plaintiff’s Expedited Motion to Amend Receivership Order (ECF No. 105) (the “Motion”).

INTRODUCTION

The Receiver respectfully submits this Response to report on the status of several issues identified in the Securities and Exchange Commission’s (“SEC”) Motion relating to the Receiver’s

appointment and fulfillment of his duties. Specifically, the Motion identified two sets of issues that had arisen as of August 7, 2020, when the SEC filed the Motion:

- (1) issues relating to the ongoing participation in this matter of attorneys based on unspecified representations of affiliates or owners of the Receivership Entities¹ (*see* Motion at 3-5); and
- (2) issues relating to officers, employees, and agents of the Receivership Entities (*see id.* at 5-6).

Brief summaries of recent events relevant to both issues are set forth below.

RESPONSE

I. Ongoing Attorney Participation in this Matter (*See* Motion at 3-5)

The SEC's Motion explains that, over the last two weeks, the law firm of Fox Rothschild (the "Firm") had made a number of appearances before the Court in different capacities. The Firm initially advised the Court in a letter dated July 27, 2020, that it represented Defendants Complete Business Solutions Group, Inc. d/b/a Par Funding, Full Spectrum Processing, Inc., Lisa McElhone, Joseph Cole Barleta and Joseph W. LaForte. During the status conference on August 4, 2020, the Court acknowledged the concerns raised by the SEC regarding the Firm's continuing representations of any Receivership Entities:

I think her concern really is more as we -- especially as we get, for example, into the preliminary injunction hearing, and we hear from the receiver (inaud.) in the best interest of the company are (inaud.) in the forefront of the receiver's mind, that we don't have kind of a clash, if you will, and counsel for the entity in receivership and the receiver who is supposed to be representing the entity going forward.

So can you maybe walk me through that because if you do feel that you are able, whether it be due process or whatever, to remain in the case while I have a receiver representing the entity, then I think what we are going to see either from the receiver or from the SEC is a motion that will effectively end your representation of the entity given the receivership, which I would then review and then have to write a

¹ Unless otherwise defined herein, capitalized terms shall have the same meaning as set forth in the Motion.

ruling on that, but maybe I'm getting ahead of myself, maybe you are recognizing that dichotomy between your representation and that of the receiver.

(See **Exhibit 1** at 104:15-106:4.) The Court thereafter instructed the Fox Rothschild attorneys to notify the Court by August 6, 2020, if they intended to represent CBSG at the preliminary injunction hearing on August 18, 2020. Fox Rothschild subsequently advised the Court that it would not appear on behalf of CBSG at that hearing. (See **Exhibit 2** (“As the Court requested that we file a notice today, I will prepare a notice confirming that we have no role in the preliminary injunction hearing and informing the Court of our discussions.”).)

Contemporaneous with making that representation to the Court, Fox Rothschild continued to state its intention to act on behalf of the Receivership Entities. Examples include:

- An e-mail to the SEC on the evening of August 5, 2020, wherein a Fox Rothschild attorney wrote: “I’ll try to make this clear. The individuals and the relief defendant have their own counsel. . . . That leaves representation of the two companies. Brett and I had a detailed conversation with the Receiver’s counsel today about the legal and practical issues related to the representation of the companies.” (See ECF No. 105-3.)
- An e-mail to counsel for the Receiver on August 6, 2020, wherein a Fox Rothschild attorney stated that “the officers, directors and owner of this company are a constituency that have a right to be protected for under Florida corporate law We would like to discuss with you how the receiver and you intend to protect the interests of the owner, officers and directors of this Florida company.” (See **Exhibit 3**.)
- An e-mail to counsel for the Receiver on August 6, 2020, wherein Fox Rothschild explained that it was continuing to speak with the owners of certain Receivership Entities regarding its ongoing participation in the case. (See **Exhibit 4** (“We passed along your position to the owners of the Companies. It is their call as to whether they want to litigate this issue.”).)

At the same time Fox Rothschild suggested that it was now communicating with the owners of certain Receivership Entities regarding their legal rights, it also filed a five-page “Notice of Independent Counsel’s Continuing Role for the Companies.” (ECF No. 100.)

In this Notice, Fox Rothschild explained its view that because the “[c]ourt did not provide the Receiver with a legal change of control of the Companies, the terms of this Receivership order does not, under this binding legal authority, allow the Receiver to control the attorney-client privilege and terminate the Companies existing counsel.” (*Id.* at 4-5.) Fox Rothschild further indicated that “undersigned counsel respectfully submits that it remains our ethical duty to continue our representation of the Companies, unless and until an arrangement between the owner of the Companies and the Receiver can be accomplished, or until the Court orders a change in that representation. See ABA Model Rule 1.16; Florida Rules of Professional Conduct 4-1.16.” (*Id.*)

That evening, the SEC asked Fox Rothschild:

I just saw your filing of today where you tell the Court you represent “the owners” of CBSG. Who are “the owners” to whom you are referring? Please let me know today.

Fox Rothschild responded:

We are informed that the legal ownership of CBSG is held in a trust.

(*See* ECF No. 105-3.)

At the timing of this filing, the Firm’s ongoing representation of certain Receivership Entities or its “legal ownership” (as “independent counsel”), and how it may relate to other representations of other individual Defendants or their owners, has not been clarified.²

² The Receiver’s concerns here also relate to the sharing of confidential or privileged information belonging to the Receivership Entities in other ongoing representations. For example, in ongoing litigation pending in the Eastern District of Pennsylvania, CBSG and a company called Fast Advance Funding, Inc. are jointly represented by Fox Rothschild. Individual Defendant Joseph Laforte, when defended during his deposition by Fox Rothschild on March 5, 2020, testified that he was an employee of Fast Advance Funding, Inc., and disclaimed any involvement in or knowledge of CBSG/Par Funding or his wife’s role in the company:

Q. Who is the compliance person that Par Funding, in 2012, that would have been responsible --

MR. LAFORTE: I don't know any employees of Par Funding. I'm not going to testify of things I don't know about because I won't insult the judge.

II. Officer, Employee, and Attorney Cooperation (*See* Motion at 5-6)

A. Officers and Employees

The SEC reports in its Motion that “the principal officers and owners of the Receivership Entities—*i.e.*, the individual Defendants—have thus far refused to sit for direct interviews with the Receiver to discuss the historical (and potential future) financial and operational status and viability of these businesses.” (Motion at 5.) The individual Defendants have continued to refuse to sit for direct interviews.

On August 3, 2020, the Receiver sent e-mails to counsel for each of the individual Defendants asking to schedule a telephonic interview of each of the individual Defendants that would last no more than one hour. At the time of this filing, none of these individual Defendants have agreed to participate in these interviews. Counsel for Joseph LaForte demanded that the

Q. If you could just let me finish my question because --

MR. LAFORTE: I have a question for you. Did you take \$50,000 in cash advances?

...

Q. Can you please let me know whether you know whether your wife, Lisa McElhone, had any involvement with CBSG in 2019.

MR. LAFORTE: No.

Q. You don't know or she didn't?

MR. LAFORTE: I don't know any answers to these questions about Par Funding/CBSG.

...

Q. So it's true that your wife has had nothing to do with CBSG since she purchased Laquer Lounge?

MR. LAFORTE. I don't know.

Q. Got it.

MR. LAFORTE Is that illegal? Is that illegal? You can't -- you have to work in the Laquer Lounge, girl. Is that illegal? Who the president is, who this and that. This poor client, I feel bad for the 30,000 they paid.

Q. Is your wife still the president of CBSG?

MR. LAFORTE. I don't know.

(*See* ECF No. 20-2.)

Receiver provide him in advance with a list of questions that the Receiver intended to ask of Mr. LaForte. Mr. LaForte's attorney also responded that he wanted to interview the Receiver.

On August 10, 2020, the Receiver sent a letter to counsel for the individual Defendants and advised that the Receiver wanted to schedule discussions with employees who were most knowledgeable about various aspects of the operations of these Companies. A copy of this letter (the "Letter Seeking Information") is attached hereto as **Exhibit 5**. The Receiver asked that the individual Defendants provide the names and contact information for these employees by August 11, 2020. None of the individual Defendants provided the requested information as requested.

On August 12, 2020, however, Bettina Schein, the attorney for Joseph Cole, responded that Mr. James Klenk, the comptroller of the Company, would be able to answer most of the Receiver's questions. Ms. Schein offered to schedule the interview, but initially made clear that she and her co-counsel, although they do not represent Mr. Klenk, would be present for any interview of Mr. Klenk. After a lengthy meet-and-confer call, counsel for the individual Defendants have now receded from this position and agreed that the Receiver may communicate directly with CBSG employees without the individual Defendants' counsel being present. As a result, the interview of Mr. Klenk has now been confirmed for tomorrow, August 13, 2020, at 11:00 a.m.³

In the Letter Seeking Information, the Receiver also asked for answers to a few basic questions and requested the individual Defendants to provide the Receiver with certain documents. The Receiver asked the individual Defendants to respond with this information by

³ The individual Defendants have not provided the Receiver with the names and contact information for any other employees of CBSG, but rather suggested that Mr. Klenk "is well equipped to respond to most of the questions" the Receiver posed in the Letter Seeking Information.

August 12, 2020. As of this filing, the Receiver has not received any response from the individual Defendants to these requests.

B. Attorneys and Agents

Several Defendants have told the Court that “counsel for CBSG are available for consultation with the Receiver on the legal and compliance issues relating to CBSG’s business.” (See ECF No. 115 at 5 (“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.”)). Specifically, on August 4, 2020, Lisa McElhone, Joseph Cole Barleta, Joseph W. LaForte, and The L.M.E. 2017 Family Trust—along with the Fox Rothschild firm who joined on behalf of Complete Business Solutions Group, Inc. d/b/a Par Funding, Full Spectrum Processing, Inc., Lisa McElhone, Joseph Cole Barleta, Joseph W. LaForte, and the L.M.E 2017 Family Trust—filed a Joint Memorandum to the Court Regarding the Scope of the Receiver’s Activities Pursuant to the Current TRO (ECF No. 84) (“Joint Memorandum”). In the Joint Memorandum, these Defendants detailed in over three (3) pages the many attorneys CBSG has utilized since 2014 to provide legal opinions and guidance regarding the company’s compliance regarding the legality of its funding business and raising of capital from investors. The individual Defendants identified five different law firms (the “Legal Advisors”) that provided legal advice, opinion letters, formal memoranda (internal or otherwise), and analysis regarding these various legal issues.⁴

⁴ Defendants advised the Court that CBSG had received legal advice 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,”

On August 10, 2020, the Receiver sent a letter to the Legal Advisors identified by Defendants in their filings to the Court. (*See Exhibit 6.*) The Receiver requested copies of opinion letters, formal memoranda (internal or otherwise), or analysis of the legal and compliance issues referenced by Defendants in their filings. (*See id.*; *see also* Defendants' Memorandum at 3-4; ECF No. 115 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.”).)

At the time of this filing (after the close of business on the Receiver's requested response date), the Receiver has been told by counsel for one of the letter recipients that he has been instructed by certain individual Defendants to assert privilege over the CBSG materials and, thus, he cannot provide these materials to the Receiver, absent an Order from the Court or agreement from the individual Defendants. This is consistent with prior correspondence from counsel for Defendant Lisa McElhone wherein she stated her intent to assert privilege against the Receiver, not only on her own behalf, but on “behalf of CBSG, herself, its officers, directors and employees,” over “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.” (*See* August 6, 2020 Ltr., attached as **Exhibit 7.**) Ms. McElhone advised that the Receiver and his counsel should not review any such communications, given Ms. McElhone's assertion of a privilege, and that Ms. McElhone intended to “litigate the applicability of the privilege” if the Receiver refused to turn over all such documents to Ms. McElhone. (*Id.*) The Receiver has not received responses from several other Legal Advisors.

“defaults by merchants,” “issues raised by the Texas Securities Commission,” and “note restructure[s]” relating to an “Exchange offer.” (Joint Memorandum at 3-4.)

On August 12, 2020, the Receiver and his counsel engaged in a meet-and-confer with counsel for the individual Defendants regarding the Receiver's request for these materials from the Legal Advisors. The individual Defendants have now advised that they will agree to allow the Receiver access to these materials from the Legal Advisors, but only if "the Receiver agrees to keep all such communications confidential and not provide such communications to any third party, including any litigant, the SEC or any governmental agency, as such may be determined to constitute a waiver of the company's privilege." As of the filing of this Response, the parties have not yet been able to reach an agreement on this issue.

CONCLUSION

The Receiver offers this Response for the purpose of updating the Court on these recent events and to assist the Court in its consideration of the issues raised in the Motion.

Dated: August 12, 2020

Respectfully Submitted,

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

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By: /s/ Gaetan J. Alfano
GAETAN J. ALFANO
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Co-Counsel for Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 12, 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”

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH
CASE NO. 20-CV-81205-RAR

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff

August 4, 2020

vs.

**COMPLETE BUSINESS SOLUTIONS
GROUP, INC., ET AL.,**
Defendant.

STATUS CONFERENCE VIA VIDEO

BEFORE THE HONORABLE **RODOLFO A. RUIZ, II,**
UNITED STATES DISTRICT COURT JUDGE

A P P E A R A N C E S

FOR THE PLAINTIFF:
SECURITIES AND
EXCHANGE COMMISSION

AMIE RIGGLE BERLIN, ESQ
United States Securities and Exchange
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(305) 982-6300
Berlina@sec.gov

FOR THE DEFENDANTS:
COMPLETE BUSINESS
SOLUTIONS GROUP, INC.,
ET AL.; FULL SPECTRUM
PROCESSING, INC.;
L.M.E. 2017 FAMILY
TRUST; JOSEPH C.
BARLETA; JOSEPH W.
LaFORTE

BRETT A. BERMAN, ESQ
JOSEPH A. DeMARIA, ESQ
Fox Rothschild, LLP
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FOR THE DEFENDANTS:
RETIREMENT EVOLUTION
GROUP, LLC; RETIREMENT
EVOLUTION INCOME FUND,
LLC; RE INCOME FUND 2,
LLC; JOHN GISSAS

DANIEL I. SMALL, ESQ.
CHRISTOPHER M. IAQUINTO, ESQ
Holland and Knight LLP
701 Brickell Avenue, Suite 3000
Miami, FL 33131
(305) 789-7788

1 **MR. BERMAN:** Okay.

2 **THE COURT:** Let her finish. Go ahead, Ms. Berlin.

3 **MS. BERLIN:** Thank you so much. Thank you.

4 We'll take a look at whatever is provided. So I guess
05:52 5 what he's addressed is the first set. We'll look at the
6 documents before we weigh in on that to see what's happens.

7 But the second issue relates to the fact that the
8 company continues to have counsel appearing here and the
9 company is in a receivership.

05:52 10 You know, as I raised earlier today, the individual
11 might have standing to argue about the receivership because
12 they're not in one. The company doesn't. And the company
13 having an attorney present when the entity is in a receivership
14 appointed by the Court, I'm not quite sure I understand how
05:53 15 that's happening. The receiver should be speaking on behalf of
16 the entities from this point forward, so I wanted to raise that
17 now before we continue through the case.

18 **MR. BERMAN:** Sure.

19 **THE COURT:** Go ahead, Mr. Berman. Yeah.

05:53 20 **MR. BERMAN:** Sure. So as Your Honor is aware, you did
21 not sign the order that the SEC put before you which would have
22 been a replacement of the officers and directors. So while
23 Ms. Berlin would love to continue expanding the scope of an
24 order that you signed, you didn't sign the order she wanted.
05:53 25 So we are properly here. But, more importantly, there is

1 something called due process, and to the extent that the days
2 of ex parte are over in this case instead of raising issues on
3 the fly before the Court, if they want to meet and confer with
4 me on any issues I'm always available.

05:54 5 But as I said, we will follow the Court's receiver
6 orders, and Your Honor is very well aware that there is a
7 difference between earned fees prior to a receiver order and
8 earned fees after a receiver order, and we are not dealing with
9 any investor money or any sort of argument like that. But
05:54 10 there's a dispute here, the order that Ms. Berlin is referring
11 to, removing officers and directors, was not signed by the
12 Court.

13 THE COURT: My understanding that Ms. Berlin's concern
14 is more going forward that we speak on behalf of the
05:54 15 corporation with one voice. I think her concern really is more
16 as we -- especially as we get, for example, into the
17 preliminary injunction hearing, and we hear from the receiver
18 (inaud.) in the best interest of the company are (inaud.) in
19 the forefront of the receiver's mind, that we don't have kind
05:54 20 of a clash, if you will, and counsel for the entity in
21 receivership and the receiver who is supposed to be
22 representing the entity going forward.

23 I'm less concerned because I know you're going to
24 provide accounting and I know that receiver's counsel will let
05:54 25 me know if there's some irregularities on that and I can

1 address, and I don't want to kind of get ahead of myself until
2 you've given all that information over to receiver's counsel,
3 but I think going forward, my understanding of the way the
4 receivership is going to operate, and especially when it comes
05:55 5 to the interest of the company in further litigation would be
6 to hear from the receiver on their behalf.

7 So perhaps I'm not disagreeing that I decided to enter
8 a more limited order than what was proposed to me on the
9 officers and director, but perhaps you want to tell me what
05:55 10 concerns I should or should not have been essentially having
11 counsel for the company at the same time that I have a receiver
12 representing the company in this litigation.

13 Because I just can see us, as happened today, I think
14 we saw that, right, which was your concern on behalf of your
05:55 15 client, the corporation, the receiver who has been tasked to
16 represent the entity is not necessarily doing it with the best
17 interest of the entity in mind to avoid liquidation, something
18 that we have clarified today based upon the representation made
19 by Mr. Stumphauzer.

05:55 20 So can you maybe walk me through that because if you
21 do feel that you are able, whether it be due process or
22 whatever, to remain in the case while I have a receiver
23 representing the entity, then I think what we are going to see
24 either from the receiver or from the SEC is a motion that will
05:56 25 effectively end your representation of the entity given the

1 receivership, which I would then review and then have to write
2 a ruling on that, but maybe I'm getting ahead of myself, maybe
3 you are recognizing that dichotomy between your representation
4 and that of the receiver.

05:56 5 Tell me a little bit about why that's going to be a
6 possibility going forward, or if you don't intend to do it and
7 you know that the receiver is taking over representation, let
8 me know, too.

9 What's your take on that?

05:56 10 **MR. BERMAN:** Sure, Your Honor, so what I was saying,
11 I'll give some thought to what Your Honor said and we will
12 consider the best way to proceed.

13 **MS. BERLIN:** Your Honor --

14 **THE COURT:** Hold on, let him finish. Let him finish.
05:56 15 Go ahead.

16 **MS. BERLIN:** I apologize, I thought he was finished.
17 Go ahead.

18 **THE COURT:** Go ahead.

19 **MR. BERMAN:** As I said, Your Honor, we'll give what
05:56 20 Your Honor said some consideration, what Ms. Berlin said some
21 consideration, and decide what we believe is the best interest
22 of ourselves and moving forward.

23 **THE COURT:** That's fine, I just want you to think
24 about it and as provide details to the receiver, perhaps meet
05:57 25 and talk with the receiver as well so that we kind of have our

1 stars aligned a little bit on this for the company. That's
2 what I care about.

3 **MR. BERMAN:** No problem.

4 **THE COURT:** Yes, Ms. Berlin, you wanted to add
05:57 5 something. I know that should there be a disagreement on this
6 point, I'll hear by way of motion from both parties and then I
7 can rule. My hope is that parties are able to work it out
8 right now, so I don't want to jump the gun.

9 But anything you want to add at this point?

05:57 10 **MS. BERLIN:** Absolutely. I simply wanted to ask if
11 perhaps we could create, because we have been, I think it's so
12 helpful the way the Court has been creating sort of a schedule
13 and when things will occur. Is it possible for to us get a
14 deadline by which we will hear from counsel for CBSC because we
05:57 15 have been asking about this for about a week now, and I think
16 it would be helpful to know, maybe they can give us an answer
17 on how they wish to proceed tomorrow because the SEC would then
18 like to file its motion immediately so it can be addressed
19 before the preliminary injunction hearing.

05:58 20 **THE COURT:** Okay, Mr. Berman, how much time do you
21 need because I want to give you some flexibility, you have to
22 get with the receiver, get with your client. I can give you a
23 little room here so you can do what you got to do and do your
24 due diligence.

05:58 25 What do you think you need?

1 **MR. SMALL:** Sure, but I don't know what Ms. Berlin is
2 talking about that we have been asking about this for a week
3 because that didn't happen, so I'm not aware of what she's
4 referring to. What I think she may be referring to is

05:58 5 Mr. Rosenblum and Mr. Alfano asked me on Friday about the fees
6 and me responding to them telling them I would get it once our
7 month end closed, and the month end closed yesterday and opened
8 today, and as I assured Your Honor that e-mail will go out the
9 minute this phone call is over, so I don't know what I haven't
05:58 10 answered but, of course, I'll answer. So I would give me --
11 what day is today? Today is Tuesday?

12 **THE COURT:** Tuesday, the 4th, I think, yeah, today.

13 **MR. SMALL:** So maybe until close of business Thursday
14 so that I can speak with Mr. Alfano and obviously advise what
05:58 15 our position will be and, again, we'll obviously take it under
16 advisement and do what we think is right and what the company
17 thinks is right, and obviously move forward accordingly, but by
18 end of the day Thursday.

19 **THE COURT:** So, Ms. Berlin, we'll get an answer from
05:59 20 Mr. Berman when he's had a chance to meet with his client and
21 also to meet with the receiver so we have some clarify and that
22 way, should there be a difference of opinion on his
23 representation going forward by the end of the 6th, which is
24 Thursday, the appropriate motion can be filed by the SEC by the
05:59 25 close of business Friday, which gives the Court more than

Exhibit “2”

From: [DeMaria, Joseph A.](#)
To: [Gaetan J. Alfano](#); [Berman, Brett](#)
Cc: [Douglas K. Rosenblum](#); [Timothy Kolaya](#)
Subject: RE: CBSG/Par
Date: Thursday, August 6, 2020 8:03:53 AM
Attachments: [image002.png](#)

Thanks for the prompt response. As the Court requested that we file a notice today, I will prepare a notice confirming that we have no role in the preliminary injunction hearing and informing the Court of our discussions. We have passed along your position to the owners of the Companies. It is their call as to whether they want to litigate this issue. We are just doing our duty as counsel to raise the issues and we leave it to the Receiver, and the owners, and if necessary, the Court, to resolve it.

Joseph A. DeMaria

Board Certified in Business Litigation

Fox Rothschild LLP

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From: Gaetan J. Alfano <GJA@Pietragallo.com>
Sent: Thursday, August 06, 2020 7:31 AM
To: Berman, Brett <BBerman@foxrothschild.com>; DeMaria, Joseph A. <jdemaria@foxrothschild.com>
Cc: Douglas K. Rosenblum <DKR@Pietragallo.com>; Timothy Kolaya <tkolaya@sfsllaw.com>
Subject: [EXT] CBSG/Par

Brett and Joe,

Thank you for taking the time to speak with Doug and me yesterday. I shared our discussion with the Receiver. The Receiver does not agree with your position and believes that the Receivership controls all entities named in the Receivership Order for all purposes.

Again, we appreciate your time and professionalism in discussing the matter with us.

Gaetan

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Exhibit “3”

From: [Gaetan J. Alfano](#)
To: [Ryan Stumphauzer](#); [Timothy Kolaya](#); [Adam Foslid](#)
Subject: FW: SEC v. Complete Business Solutions Group, Inc. d/b/a Par Funding, et al.
Date: Tuesday, August 4, 2020 6:23:33 PM
Attachments: [image005.png](#)
[image002.png](#)
[image184594.png](#)

Gaetan J. Alfano, Esquire

Pietragallo Gordon Alfano Bosick & Raspanti, LLP
1818 Market Street, Suite 3402
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From: Berman, Brett <BBerman@foxrothschild.com>
Sent: Tuesday, August 4, 2020 6:20 PM
To: Douglas K. Rosenblum <DKR@Pietragallo.com>; Gaetan J. Alfano <GJA@Pietragallo.com>
Cc: DeMaria, Joseph A. <jdemaria@foxrothschild.com>
Subject: RE: SEC v. Complete Business Solutions Group, Inc. d/b/a Par Funding, et al.

Gaetan and Doug-

Sorry for the delay in getting back to you, but, as noted I had to wait for month end to fully respond.

Subject to further confirmation, as of July 28, Fox Rothschild has \$681,966.45 in outstanding A/R, which includes fees earned as of July 28th but not yet billed. There are additional costs incurred as of July 28th of up to \$10,000 (subject to final confirmation and processing of invoices/bills).

Fox Rothschild has \$1,560,000 from Par Funding held in trust, plus \$30,744.25 in an operating account designated for costs. There has been no transfer of funds out of trust or from designated Par Funding cost advances held in an operating account since the Receiver was appointed.

As the Court made clear, the Court did not enter the SEC's order replacing the officers and directors of the company. Therefore, the officers, directors and owner of this company are a constituency that have a right to be protected for under Florida corporate law. The SEC continues to focus on a

receivership that has not been entered. We would like to discuss with you how the receiver and you intend to protect the interests of the owner, officers and directors of this Florida company. If we can have a satisfactory concession for this constituency, we can discuss Fox Rothschild's continued role in this case.

Let's please discuss best way to proceed on this. Can we do call tonight or tomorrow morning?
Thank you.

Brett A. Berman, Esq.

Partner

Co-Chair of Litigation Department



[Firm Website](#) | [COVID-19 Resource Center](#)

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bberman@foxrothschild.com

California | Colorado | Connecticut | Delaware | DC | Florida | Georgia | Illinois | Minnesota | Nevada | New Jersey | New York | North Carolina | Pennsylvania | South Carolina | Texas | Washington

From: Douglas K. Rosenblum <DKR@Pietragallo.com>

Sent: Tuesday, August 04, 2020 3:20 PM

To: Berman, Brett <BBerman@foxrothschild.com>

Cc: Gaetan J. Alfano <GJA@Pietragallo.com>

Subject: [EXT] RE: SEC v. Complete Business Solutions Group, Inc. d/b/a Par Funding, et al.

Brett:

Just following up on the below request.

Many thanks,

Doug

Douglas K. Rosenblum, Esquire, Certified Fraud Examiner
Pietragallo Gordon Alfano Bosick & Raspanti, LLP
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In consideration of the health and welfare of our employees, clients, friends, and the community, until further notice all office locations of Pietragallo Gordon Alfano Bosick & Raspanti, LLP are closed, but our business will remain open and active by way of fully-operative telework arrangements.

From: Berman, Brett <BBerman@foxrothschild.com>
Sent: Friday, July 31, 2020 2:47 PM
To: Douglas K. Rosenblum <DKR@Pietragallo.com>
Cc: Gaetan J. Alfano <GJA@Pietragallo.com>
Subject: RE: SEC v. Complete Business Solutions Group, Inc. d/b/a Par Funding, et al.

Doug

I will look into this and get back to you asap with the numbers/wip/etc. May not be possible until Monday because of the summer/pandemic staffing.

Brett A. Berman, Esq.
Partner
Co-Chair of Litigation Department



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California | Colorado | Connecticut | Delaware | DC | Florida | Georgia | Illinois | Minnesota | Nevada | New Jersey | New York | North Carolina | Pennsylvania | South Carolina | Texas | Washington

From: Douglas K. Rosenblum <DKR@Pietragallo.com>
Sent: Friday, July 31, 2020 12:29 PM
To: Berman, Brett <BBerman@foxrothschild.com>
Cc: Gaetan J. Alfano <GJA@Pietragallo.com>
Subject: [EXT] SEC v. Complete Business Solutions Group, Inc. d/b/a Par Funding, et al.

Brett:

Can you please advise us whether your firm is holding any funds in escrow (or any sort of trust account) on behalf of any of the defendants or relief defendant in the above matter? Please also confirm that your firm has not transferred any money out of that account or accounts since the Receiver was appointed. If you are holding any such funds, please let us know the balance in the account(s).

Thank you.

Doug

Douglas K. Rosenblum, Esquire, Certified Fraud Examiner

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Exhibit “4”

From: [DeMaria, Joseph A.](#)
To: [Gaetan J. Alfano](#); [Berman, Brett](#)
Cc: [Douglas K. Rosenblum](#); [Timothy Kolaya](#)
Subject: RE: CBSG/Par
Date: Thursday, August 6, 2020 8:03:53 AM
Attachments: [image002.png](#)

Thanks for the prompt response. As the Court requested that we file a notice today, I will prepare a notice confirming that we have no role in the preliminary injunction hearing and informing the Court of our discussions. We have passed along your position to the owners of the Companies. It is their call as to whether they want to litigate this issue. We are just doing our duty as counsel to raise the issues and we leave it to the Receiver, and the owners, and if necessary, the Court, to resolve it.

Joseph A. DeMaria

Board Certified in Business Litigation

Fox Rothschild LLP

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jdemaria@foxrothschild.com
www.foxrothschild.com

From: Gaetan J. Alfano <GJA@Pietragallo.com>
Sent: Thursday, August 06, 2020 7:31 AM
To: Berman, Brett <BBerman@foxrothschild.com>; DeMaria, Joseph A. <jdemaria@foxrothschild.com>
Cc: Douglas K. Rosenblum <DKR@Pietragallo.com>; Timothy Kolaya <tkolaya@sflaw.com>
Subject: [EXT] CBSG/Par

Brett and Joe,

Thank you for taking the time to speak with Doug and me yesterday. I shared our discussion with the Receiver. The Receiver does not agree with your position and believes that the Receivership controls all entities named in the Receivership Order for all purposes.

Again, we appreciate your time and professionalism in discussing the matter with us.

Gaetan

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Exhibit “5”



Ryan K. Stumphauzer

Telephone: 305. 614. 1401

rstumphauzer@sflaw.com

August 10, 2020

VIA E-MAIL

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E-mail: jmarcus@mnrlawfirm.com
drashbaum@mnrlawfirm.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:

In connection with the Receiver’s engagement of Development Specialists, Inc. (“DSI”), we would like to schedule discussions with the employees at CBSG and Full Spectrum Processing, Inc. (“Full Spectrum”) who are most knowledgeable about the following subjects:

1. ACH processing, renegotiation of repayment terms with merchants under existing merchant cash advance (“MCA”) agreements;
2. Collection efforts and litigation against merchants to collect unpaid amounts owed under MCA agreements;
3. Issuing new MCA agreements to merchants;
4. Accounting systems and procedures; and
5. Computer systems and electronic data storage

Accordingly, we ask that your clients identify the appropriate employees at CBSG and Full Spectrum with respect to each of these subjects, along with their personal email addresses (if

Mr. Alan S. Futerfas, Esq., *et al.*

August 10, 2020

Page 2

known) and mobile phone numbers. If one person is best equipped to respond to multiple topics or, alternatively, several employees have substantial knowledge about a particular topic, we ask that you include that in your response. We would like to arrange times for the Receiver and DSI to conduct these discussions as soon as possible. As a result, we ask that you provide us this contact information not later than tomorrow, August 11, 2020.

In addition, we would like your clients to respond to the following requests by Wednesday, August 12, 2020:

1. Provide a list of active bank accounts and explain how the cash management system functions (*i.e.*, the purpose of each bank account, authorized signatories, how funds flow into / between / out of the accounts).
2. Provide a list of all third-party vendors that provide data storage and hosting, cloud-based software and applications, and other information technology support and services for Par Funding and Full Spectrum.
3. What type of system is used for accounting? (e.g., QuickBooks, Peachtree, etc.)
4. What type of system is used to track investor accounts? (*i.e.*, funds received, interest payments made, investment balance, etc.)
5. What data fields are captured in the investor accounts system?
6. How are interest payments to investors calculated?
7. What type of system is used to track merchant accounts?
8. What data fields are captured in the merchant account system?
9. What are the reports generated by the merchant account system that Par Funding utilizes to monitor the merchant accounts? What format are these reports in? (e.g., pdf, Excel)
10. How do you measure delinquencies?
11. What is the process for writing off bad debt?
12. Explain how the “cash over cash” default rate (since 2012) of 1.2% was calculated and provide the detailed data that is used in the calculation.
13. Explain the calculation of monthly collection / deposit receivable rate of 5 - 10% as a percentage of AR balances, and provide the data that supports the calculation.
14. What is the process for addressing returned merchant payments?
15. Explain the underwriting process and what data is collected from the merchants during this time.
16. Provide a personnel chart and payroll register including titles, brief descriptions of duties and unpaid wages.
17. Provide a current AP aging.
18. How many investors are there currently in Par Funding? For individuals who invest through a fund, provide a breakdown by number of individual investors for each fund.
19. What is the total amount of investor funds currently invested with Par Funding? Provide a breakdown of these investor funds by each source (*i.e.*, any direct investments, the amounts invested through a particular agent fund, etc.),

We understand that your clients may not be able to provide precise answers to some of these requests without access to certain records and data. If that is the case for certain of the responses, let us know what additional information would be necessary for your clients to provide a complete

Mr. Alan S. Futerfas, Esq., *et al.*

August 10, 2020

Page 3

and accurate response, where that information is located, and which employees are best suited to assist with gathering that information.

Finally, in an effort to ensure that the Receiver and DSI have access to all relevant information, we ask that you provide copies of the following documents or, alternatively, identify where the following documents are located and which employees are best suited to assist with gathering these documents:

1. General ledger (2012 – present)
2. List of all bank accounts (active and closed) (2012 – present)
3. Bank statements, cancelled checks, deposit detail, wire confirmations, ACH transfers, etc. (2012 – present)
4. Investor records (2012 – present)
 - a. List of Investors
 - b. Accounting of all funds received from and paid to investors
 - c. Legal agreements with Investors
5. Promissory note records (2012 – present)
 - a. Copies of all promissory notes issued
 - b. Accounting for all funds received and disbursed related to Promissory Notes
6. Agent fund records (2018 – present)
 - a. Copies of all agreements with Agent Funds
 - b. Accounting for all funds received and disbursed related to Agent Funds
7. Merchant records (2012 – present)
 - a. List of merchants and related biographical data including state merchant does business in
 - b. Accounting of all amounts advanced and collections received from merchants
 - c. Accounting of all refinancing
 - d. Reports / Analysis of default rates and advances that have been written off
 - e. Reports related to third party collections efforts and any agreements with collectors
8. Offering memoranda / marketing materials (2012 – present)
 - a. Issued by ABetterFinancialPlan.com d/b/a A Better Financial Plan to recruit individuals to create the Agent Funds (training, marketing materials, and an “Agent Guide,” as well as a Private Placement Memorandum, corporate registration, and offering materials provided by Mr. Vagnozzi’s attorney)
 - b. Issued to individuals to invest in Promissory Notes and later, Agent Funds
9. Organization chart for:
 - a. Par Funding
 - b. Full Spectrum
10. Personnel chart for:
 - a. Par Funding
 - b. Full Spectrum
11. Accounting System data files (2012 – present)
12. Operating agreements / corporate records (2012 – present)
13. Corporate / board minutes (2012 – present)
14. Tax returns (2012 – present)

Mr. Alan S. Futerfas, Esq., *et al.*

August 10, 2020

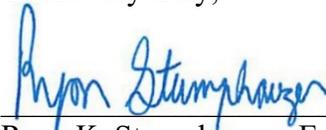
Page 4

15. Year-end payroll reporting / records (2012 – present)

Please respond with this requested information by email to my counsel, Gaetan Alfano (gja@pietragallo.com) and Timothy Kolaya (tkolaya@sflaw.com). For the sake of expediency, contact my counsel immediately if any of these requests are not entirely clear to your clients. We would like to avoid any delay in this process due to any potential misunderstanding of exactly what information we are attempting to obtain.

If there is any reason why you cannot provide the requested information to us by Wednesday, August 12, 2020, we ask that you contact us immediately so that we may discuss the reasons for any such delay and whether there are ways the Receiver may assist in expediting this process.

Yours very truly,



Ryan K. Stumphauzer, Esq.

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

Exhibit “6”



Ryan K. Stumphauzer
Telephone: 305. 614. 1401
rstumphauzer@sflaw.com

August 10, 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

**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

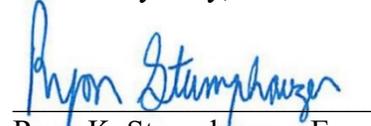
Page 2

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) and Timothy Kolaya (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)
Gaetan J. Alfano, Counsel for Receiver (gja@pietragallo.com)
Douglas Rosenblum, Counsel for Receiver (dkr@pietragallo.com)
Joel Hirschhorn, GrayRobinson, P.A. (joel.hirschhorn@gray-robinson.com)
Alan S. Futerfas, Law Offices of Alan S. Futerfas (asfuterfas@futerfaslaw.com)

Exhibit “7”

ALAN S. FUTERFAS

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ELLEN B. RESNICK
RICHARD F. BRUECKNER

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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