

**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  
FOURTH 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 merchants—some of whom have had their bank accounts frozen as a result of these writs—that have either satisfied these amounts, or sought bankruptcy protection, or were entered with incorrect information, 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 the Receivership Entities<sup>1</sup> Defendants, by and through undersigned counsel, and pursuant to L.R. 7.1(d)(2), hereby

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<sup>1</sup> The “Receivership Entities” are Complete Business Solutions Group, Inc. d/b/a Par Funding (“Par Funding”); Full Spectrum Processing, Inc.; ABetterFinancialPlan.com LLC d/b/a A Better Financial Plan (“ABFP”); 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; RE Income Fund 2 LLC; ABFP Income Fund 3, LLC; ABFP Income Fund 4, LLC; ABFP Income Fund 6, LLC; ABFP Income Fund Parallel LLC; ABFP Income Fund 2 Parallel; ABFP Income Fund 3 Parallel; ABFP Income Fund 4 Parallel; and ABFP Income Fund 6 Parallel.

files this Fourth Expedited Motion to Lift Litigation Injunction as to Certain Garnishment Proceedings and states as follows:

**Introduction**

1. The Court entered an Order Granting the Security and Exchange Commission's Motion for Appointment of Receiver [ECF No. 36] ("Order Appointing Receiver") on July 27, 2020, and an 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 on July 31, 2020.<sup>2</sup>

2. In the Order Entering Litigation Injunction, the Court, among other things, stayed all litigation of any manner involving any of the Receivership Entities, until further Order of this Court.

3. On August 7, 2020, Receiver filed an Expedited Motion to Lift the Litigation Injunction as to Certain Garnishment Proceedings (ECF No. 111) ("First Motion").

4. The Court granted Receiver's First Motion by Order of Court dated August 7, 2020 (ECF No. 112).

5. On August 14, 2020, Receiver filed an Unopposed Second Expedited Motion to Lift the Litigation Injunction as to Certain Garnishment Proceedings (ECF No. 145) ("Second Motion").

6. The Court granted Receiver's Second Motion by Order of Court dated August 14, 2020 (ECF No. 151).

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<sup>2</sup> These two orders have now been amended and superseded by the Court's Amended Order Appointing Receiver dated August 13, 2020 (ECF No. 141) (the "Operative Receivership Order").

7. On August 25, 2020, Receiver filed a Third Expedited Motion to Lift the Litigation Injunction as to Certain Garnishment Proceedings (ECF No. 198) (“Third Motion”).

8. The Court granted Receiver’s Third Motion by Order of Court dated August 25, 2020 (ECF No. 199).

9. Subsequent to the filing of the Third Motion, the Receiver obtained information through counsel of additional garnishment proceedings pending in the Court of Common Pleas of Philadelphia County that should not be proceeding, and which were not included in the First Motion, the Second Motion, or the Third Motion.

10. As such, Receiver hereby moves this Court to modify the Operative Receivership Order. This modification, like the relief requested in the First Motion, Second Motion, and Third Motion, is sought 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 satisfaction of the underlying debt; (2) vacating the current writs of garnishment because the merchant sought bankruptcy protection; or (3) vacating the current writs of garnishment because the writes were entered with incorrect information.

**Background from First Motion, Second Motion, and Third Motion**

11. On July 27, 2020, the Court entered the Order Appointing Receiver.

12. As set forth in the Commission’s Complaint (ECF No. 1) and Emergency *Ex Parte* Motion for Temporary Restraining Order and Other Relief (ECF No. 14), Par Funding is a party to a significant number of lawsuits. The Receiver, who was appointed July 27, 2020, continues to review these as well as other lawsuits to which the Receivership Entities are parties.

13. 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 Par Funding. These agreements allowed for the filing of confessions of judgment for any amounts unpaid.

14. In certain of these actions, Par Funding, through the law firm of Fox Rothschild, obtained writs of garnishment. Due to the impact of the COVID-19 pandemic, the writs of garnishment were subject to a multi-month stay of execution in the Court of Common Pleas (the "Execution Stay") and, therefore, were not served by the Philadelphia County Sheriff's Office at the time entered the writs and.

15. 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.

16. The Receiver has been informed and provided with documents evidencing that a number of these merchants have satisfied their obligations under the Merchant Cash Advance Agreements with Par Funding after the writs of garnishment were initially filed and delivered to the sheriff prior to the COVID-19 pandemic.

17. In addition, in one instance it was discovered that the merchant in the underlying case had filed for bankruptcy protection under Chapter 13 of the U.S. Bankruptcy Code.

18. In another instance, it was discovered that, as a result of a writ of execution, certain bank accounts in the name of an eleven (11) year-old child were frozen in error.

**Additional Information Discovered Subsequent to the Prior Motions**

19. In the case of *Complete Business Solutions Group, Inc. v. ASA Care Inc., Robert Torralba and Rosalinda Mendoza Asa*, Docket No. 200400867, Court of Common Pleas of Philadelphia County, Pennsylvania, the judgment was marked “satisfied” on the Court of Common Pleas Docket on May 20, 2020, but the writ of garnishment was later served on various garnishees. The Receiver seeks to have the Litigation Injunction lifted so that the writ of execution can be dissolved as to any and all garnishees.

20. In the case of *Complete Business Solutions, Inc. v. RCH Construction and Mr. Ryan Halsey*, Docket No. 200401013, Court of Common Pleas of Philadelphia County, Pennsylvania, subsequent to the confession of judgment, the merchant satisfied the obligation as evidenced by a “zero-balance letter” from Par Funding dated June 12, 2020. Despite this, the writ of garnishment was later served on various garnishees. The Receiver seeks to have the Litigation Injunction lifted so that the writ of execution can be dissolved as to any and all garnishees and to mark the docket satisfied.

21. In the case of *Complete Business Solutions Group, Inc. v. Sven Pro Sound LLC and Isaac Svien*, Docket No. 200302907, Court of Common Pleas of Philadelphia County, Pennsylvania, subsequent to the confession of judgment, the merchant satisfied the obligation, as confirmed by the books and records of Par Funding. Despite this, the writ of garnishment was later served on various garnishees. The Receiver seeks to have the Litigation Injunction lifted so that the writ of execution can be dissolved as to any and all garnishees and to mark the docket satisfied.

22. In the case of *Complete Business Solutions Group, Inc. v. Simplified Software Development LLC and Stephen Bennett*, Docket No. 171003666, Court of Common Pleas of

Philadelphia County, Pennsylvania, subsequent to the confession of judgment, the merchant satisfied the obligation as evidenced by a Joint Stipulation of Dismissal with Prejudice of a parallel action filed on March 6, 2019, in the Circuit Court for the Sixth Judicial Circuit in and for Pinellas County, Florida. Despite this, the writ of garnishment was later served on various garnishees. The Receiver seeks to have the Litigation Injunction lifted so that the writ of execution can be dissolved as to any and all garnishees and to mark the Philadelphia County, Pennsylvania docket a satisfied.

23. In the case of *Complete Business Solutions v. Refined Custom Builders LLC d/b/a Refined Custom Builders and Bryan Upton*, Docket No. 200500691, Court of Common Pleas of Philadelphia County, Pennsylvania, subsequent to the confession of judgment, on July 11, 2020, the merchant entered into an authorization agreement for future payments. The Receiver seeks to have the Litigation Injunction lifted so that the writ of execution can be dissolved as to any and all garnishees.

24. In the case of *Complete Business Solutions Group, Inc. v. Victor Munoz of Il Pastaio and La Pasta Boutique LLC*, Docket No. 191201357, Court of Common Pleas of Philadelphia County, Pennsylvania, subsequent to the confession of judgment, on January 23, 2020, the merchant entered into a written Modification Agreement with Complete Business Solutions Group, Inc.

25. In the case of *Complete Business Solutions Group, Inc. v. Tuong Mahn Do Sole Proprietor Infiniti Nails and Tuong Mahn Do*, Docket No. 200301628, Court of Common Pleas of Philadelphia County, Pennsylvania, subsequent to the confession of judgment, on April 7, 2020, a Chapter 13 Bankruptcy Petition was filed on behalf of Tuong Mahn Do, and a Chapter 13 Plan was confirmed on August 20, 2020, in the United States Bankruptcy Court for the Middle District

of Georgia at Case No. 20-40329. The Receiver seeks to have the Litigation Injunction lifted so that the writ of execution can be dissolved as to any and all garnishees.

26. In the case of *Complete Business Solutions Group, Inc. v. Ashton-Ranel Inc. and Albert Bashirov*, Docket No. 200301634, Court of Common Pleas of Philadelphia County, Pennsylvania, subsequent to the confession of judgment, on August 23, 2020, a Chapter 7 Bankruptcy Petition was filed on behalf of Albert Bashirov, in in the United States Bankruptcy Court for the Eastern District of New York at Case No. 20-43038. The Receiver seeks to have the Litigation Injunction lifted so that the writ of execution can be dissolved as to any and all garnishees

27. In the case of *Complete Business Solutions Group, Inc. d/b/a Par Funding v. General Merchandise Enterprises LLC d/b/a Colorado Sports Wear and David Wang*, Docket No. 200300110, Court of Common Pleas of Philadelphia County, Pennsylvania, a writ of execution was served on Bank of America that inadvertently contained the social security number of an eleven (11) year-old child in North Carolina, and as a result, despite the fact that Bank of America has no accounts under the names General Merchandise Enterprises, Colorado Sports Wear or David Wang, the accounts using that child's name have been frozen. The Receiver seeks to have the Litigation Injunction lifted so that the writ of execution can be dissolved as to Bank of America.

28. "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.”).

29. Lifting the stay to allow for the actions identified in this Motion to be resolved is proper as it preserves the assets in the estate, and because the writs of garnishment must be dissolved for those merchants that have satisfied the confessions of judgment or sought bankruptcy protection following the issuance of the writs prior to the COVID-19 pandemic, but which were not served until months later by the Philadelphia Sheriff, and for those writs that were entered with incorrect information.

30. 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 1.

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

The undersigned counsel has conferred with all counsel of record in this matter regarding the relief sought through this motion and certifies that: (1) the following parties do not oppose, or take no position with respect to, the relief requested in the Motion: Securities and Exchange Commission, Perry Abbonizio, Dean Vagnozzi, Michael Furman, and John Gissas; (2) the



following parties object to the relief requested: Lisa McElhone, Joseph LaForte, and Joseph Cole Barletta; and (3) The L.M.E. 2017 Family Trust has not responded to the Receiver's request for its position on the Motion.

Dated: September 3, 2020

Respectfully Submitted,

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*Co-Counsel for Receiver*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on September 3, 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**

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

SECURITIES AND EXCHANGE  
COMMISSION,

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

Defendants.

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**[PROPOSED] ORDER GRANTING THE RECEIVER'S FOURTH EXPEDITED  
MOTION TO LIFT LITIGATION INJUNCTION  
AS TO CERTAIN GARNISHMENT PROCEEDINGS**

**THIS CAUSE** comes before the Court upon the Receiver's Fourth Expedited Motion to lift Litigation Injunction as to Certain Garnishment Proceedings [ECF No. \_\_\_] ("Motion"), filed on September \_\_, 2020. In the Motion, the Receiver seeks to modify the Court's Amended Order Appointing Receiver dated August 13, 2020 (ECF No. 141), so as to lift the litigation injunction provided for in that Order 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 satisfaction of the underlying debt; (2) vacating the current writs of garnishment because of a subsequent bankruptcy of the merchant, which would prohibit execution on the writs pursuant to the U.S. Bankruptcy Code; or (3) vacating the current writs of garnishment because the writs were entered with incorrect information.

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 Fourth Expedited Motion to lift Litigation Injunction as to Certain Garnishment Proceedings (ECF No. \_\_\_ ) is **GRANTED**. The litigation injunction set forth in the Court's Amended Order Appointing Receiver dated August 13, 2020 (ECF No. 141) is hereby lifted in the following matters and solely for the purpose as described in the Motion:

1. *Complete Business Solutions Group, Inc. v. ASA Care Inc., Robert Torralba and Rosalinda Mendoza Asa*, Docket No. 200400867, Court of Common Pleas of Philadelphia County, Pennsylvania.
2. *Complete Business Solutions, Inc. v. RCH Construction and Mr. Ryan Halsey*, Docket No. 200401013, Court of Common Pleas of Philadelphia County, Pennsylvania.
3. *Complete Business Solutions Group, Inc. v. Sven Pro Sound LLC and Isaac Svien*, Docket No. 200302907, Court of Common Pleas of Philadelphia County, Pennsylvania.
4. *Complete Business Solutions Group, Inc. v. Simplified Software Development LLC and Stephen Bennett*, Docket No. 171003666, Court of Common Pleas of Philadelphia County, Pennsylvania.
5. *Complete Business Solutions v. Refined Custom Builders LLC d/b/a Refined Custom Builders and Bryan Upton*, Docket No. 200500691, Court of Common Pleas of Philadelphia County, Pennsylvania.
6. *Complete Business Solutions Group, Inc. v. Victor Munoz of Il Pastaio and La Pasta Boutique LLC*, Docket No. 191201357, Court of Common Pleas of Philadelphia County, Pennsylvania.
7. *Complete Business Solutions Group, Inc. v. Tuong Mahn Do Sole Proprietor Infiniti Nails and Tuong Mahn Do*, Docket No. 200301628, Court of Common Pleas of Philadelphia County, Pennsylvania.
8. *Complete Business Solutions Group, Inc. v. Ashton-Ranel Inc. and Albert Bashirov*, Docket No. 200301634, Court of Common Pleas of Philadelphia County, Pennsylvania.
9. *Complete Business Solutions Group, Inc. d/b/a Par Funding v. General Merchandise Enterprises LLC d/b/a Colorado Sports Wear and David Wang*, Docket No. 200300110, Court of Common Pleas of Philadelphia County, Pennsylvania.

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

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

Copies to: Counsel of record