

**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 RESPONSE TO INVESTOR  
PLAINTIFFS’ MOTION FOR LIMITED RELIEF FROM THE AMENDED  
ORDER STAYING LITIGATION AGAINST THE RECEIVERSHIP ENTITIES**

Ryan K. Stumphauzer, Esq., Court-Appointed Receiver (“Receiver”) of the Receivership Entities,<sup>1</sup> by and through undersigned counsel, files this Response to Investor Plaintiffs’ Motion for Limited Relief from the Amended Order Staying Litigation Against the Receivership Entities (the “Motion for Limited Relief”) (ECF No. 252), and states:

1. On September 11, 2020, the “Investor Plaintiffs” filed a Motion for Limited Relief, seeking clarification from the Court as to whether the litigation injunction entered by the Court (ECF No. 141) (the “Stay Order”) operates to (a) toll the limitations period for certain claims and

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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. (“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; 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; ABFP Multi-Strategy Investment Fund LP; ABFP Multi-Strategy Fund 2 LP; and MK Corporate Debt Investment Company LLC.

(b) preclude the Investor Plaintiffs from pursuing certain other claims against defendants that are not included within the list of Receivership Entities.

2. On September 16, 2020, the Securities and Exchange Commission (“SEC”) filed a Response to the Motion for Limited Relief (the “SEC Response”) (ECF No. 265). In the SEC Response, the SEC initially argues that the Investor Plaintiffs lack standing in this SEC enforcement action and, as a result, the Motion for Limited Relief is not properly before the Court, particularly given that the Court has not been presented with or granted a motion to intervene from the Investor Plaintiffs. The Receiver agrees with the SEC and joins in this argument. Thus, the Court need not even reach the merits of the Motion for Limited Relief.

3. With respect to the merits, the Receiver takes no position on the Investor Plaintiffs’ request for clarification or expansion of the Stay Order on the issue of whether claims the Investor Plaintiffs seek to pursue against the “Eckert Defendants” are tolled. But the Receiver opposes the Investor Plaintiffs’ request for relief from the Stay Order to pursue those claims.

4. The stay of litigation applies to all claims involving “any Receivership Property,” which is defined as “monies, funds, . . . claims, rights and other assets, . . . of whatever kind, which the Receivership Entities own, possess, have a beneficial interest in, or control directly or indirectly.” (Stay Order, ¶¶ 7(A), 32). At this early stage of the litigation, the Receiver has not had an opportunity to evaluate fully which claims it may bring against various third parties, including whether it will pursue claims against the Eckert Defendants. In the event the Receiver decides it is worthwhile for the Receivership Entities to pursue these claims—which are included within the definition of Receivership Property and, thus, the stay of litigation—allowing the Investor Plaintiffs to proceed now with litigation of their claims against these same defendants would potentially deplete the Receivership Estate. *See Sec. & Exch. Comm’n v. Adams*, 3:18-CV-

252-CWR-FKB, 2019 WL 1179407, at \*3 (S.D. Miss. Mar. 13, 2019) (denying nonparties' motion for declaration that stay of ancillary litigation did not apply to their separate case and holding that receiver may have claims against the defendants in the ancillary litigation and, "thus any action against them would expose and potentially deplete Receivership Property").

5. Moreover, the Receiver opposes the Investor Plaintiffs' request for the Court to grant them relief from the Stay Order to pursue claims against the Receivership Entities. The Receiver also opposes the Investor Plaintiffs' request that the Court expand the Stay Order to toll any claims the Investor Plaintiffs may wish to pursue against the Receivership Entities.

6. The SEC filed its Complaint in this action less than two months ago, on July 24, 2020. (ECF No. 1). At this early stage of the litigation, it is proper for the Court to stay all litigation against the Receivership Entities. *See Adams*, 2019 WL 1179407, at \*3 ("The case law supports this Court's authority to issue a broad stay for the preservation of Receivership Property."). Indeed, in cases involving complex and intricate businesses, several entities, and substantial funds, courts should be reluctant to allow such ancillary litigation to proceed, even up to a year after the receivership is established or later, given that "the interest of the Receiver in continuing to marshal and conserve the estate" at that stage "outweigh[s] the" interests of nonparties in pursuing claims involving Receivership Property. *S.E.C. v. Stanford Intern. Bank Ltd.*, 424 Fed. Appx. 338, 341–42 (5th Cir. 2011)

7. The Receiver should be focusing his time and the resources of the Receivership Estate on recovering additional funds on behalf of the Receivership Entities and, thereafter, providing his recommendations to the Court about a plan to distribute these funds to those with claims against the Receivership Entities, including the Investor Plaintiffs. Allowing the Investor Plaintiffs to proceed with their own separate lawsuits against the Receivership Entities at this time,

even solely for purposes of tolling a statute of limitations, “risks opening the doors for many such motions. This forces the Receivership Estate to incur increased litigation costs, all to the detriment of the value of the Receivership Estate’s claims.” *Id.* Indeed, “[v]ery early in a receivership even the most meritorious claims might fail to justify lifting a stay given the possible disruption of the receiver’s duties.” *Id.*

8. Notwithstanding the Receiver’s position on this Motion for Limited Relief, the Receiver’s counsel remains in close communication with counsel for the Investor Plaintiffs. In the event the Investor Plaintiffs indicate they are legitimately at risk of certain claims against the Receivership Entities being barred by the applicable statutes of limitations, the Receiver will take appropriate action to bring this to the attention of the Court, including potentially filing a motion seeking appropriate relief with respect to this issue. At this early stage of the litigation, however, the Receiver joins the SEC in the position that it would not be appropriate to lift the stay or otherwise toll the applicable statutes of limitations for the Investor Plaintiffs or other third parties who may wish to pursue claims against the Receivership Entities.

WHEREFORE, Ryan K. Stumphauzer, as Court-Appointed Receiver, opposes the relief requested in the Motion and respectfully requests this Honorable Court to deny the Motion.

Dated: September 23, 2020

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on September 23, 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