

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 20-CV-81205-RAR/REINHART

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

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

Defendants.

**RECEIVER, RYAN K. STUMPHAUZER'S STATUS REPORT DATED
OCTOBER 14, 2020, REGARDING MOTION TO COMPEL THE
PRODUCTION OF ATTORNEY WORK PRODUCT FROM LAW FIRMS**

Ryan K. Stumphauzer, Esq., Court-Appointed Receiver (“Receiver”) of the Receivership Entities,¹ by and through undersigned counsel, hereby files this Status Report dated October 14, 2020, regarding the Receiver’s Motion to Compel Attorney Work Product From Law Firms (the “Motion to Compel”) (ECF No. 160) and pursuant to the Court’s Orders dated October 8, 2020 (ECF Nos. 311, 312), and states:

¹ The “Receivership Entities” are Complete Business Solutions Group, Inc. d/b/a Par Funding (“CBSG”); 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 Management”); 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.

1. The Court has directed the Receiver to file a Status Report in connection with his Motion to Compel by October 14, 2020, apprising the Court of the status the Receiver's efforts in obtaining documents from the law firm of Offit Kurman regarding legal advice it provided to CBSG. (ECF No. 312).

2. The Receiver continues to make progress in these efforts and remains encouraged that he will be able to resolve this issue with Offit Kurman without the need for further court intervention. Specifically, the firm has provided the Receiver with a list of the various matters for which it provided legal advice to CBSG. Based on this information, the Receiver and Offit Kurman have narrowed the focus of this inquiry to certain of those matters and continue to work cooperatively in resolving the Receiver's request for the firm to produce those documents to the Receiver.

3. The Court has also requested an update from Dean Vagnozzi by October 16, 2020, regarding his efforts to comply with the Court's Order Taking Motion to Compel Under Advisement (ECF No. 280), in which Magistrate Judge Reinhart, among other things, ordered Mr. Vagnozzi to submit to the Receiver a privilege log of communications involving legal advice provided by the law firm of Eckert Seamans for which Mr. Vagnozzi asserts an individual or joint privilege. (ECF No. 311).

4. The Receiver, counsel for Mr. Vagnozzi, and counsel for the law firm of Eckert Seamans continue to engage in discussions about the procedures and timing for the production of the documents the Receiver has requested from Eckert Seamans, as well as the submission of a privilege log to the Receiver identifying any documents for which Mr. Vagnozzi asserts an individual or joint privilege.

5. This process continues to move forward, albeit not as rapidly as any of the parties would like. To that end, Eckert Seamans has made certain potentially responsive documents available to Mr. Vagnozzi and his counsel for a privilege review. Mr. Vagnozzi's counsel has committed to (a) reviewing those documents, (b) producing to the Receiver on a rolling basis all documents for which Mr. Vagnozzi does not claim an individual or joint privilege, and (c) submitting to the Receiver on a rolling basis privilege logs identifying any documents for which Mr. Vagnozzi asserts an individual or joint privilege. Due to the volume of documents and the press of business in connection with this litigation and other matters, Mr. Vagnozzi and his counsel have requested the opportunity to provide an update to the Court on the status of this process on or before October 30, 2020. The Receiver does not oppose this request.

6. In addition, the Receiver and Mr. Vagnozzi have agreed that it would be helpful in resolving potential disputes over Mr. Vagnozzi's claims of privilege if the Court were to consider Mr. Vagnozzi's assertion of an individual privilege over the "Legal Memorandum," as that term is defined in Mr. Vagnozzi's Response in Opposition to the Motion to Compel (the "Response") (ECF No. 212). Mr. Vagnozzi describes in the Response that the Legal Memorandum "addresses financial statement requirements for a startup company with limited financial history under Rule 502(b) of Regulation D, 17 C.F.R. 230.502(b)." (Response at 2). It is the Receiver's position that this privilege belongs to ABFP, ABFP Management, and/or the investment fund that was ultimately created after Eckert Seamans prepared this Legal Memorandum, all of which are Receivership Entities. Given that Mr. Vagnozzi may claim an individual or joint privilege over other documents involving legal advice Eckert Seamans provided about funds not yet created at the time of the legal advice was provided, the Court's ruling on this issue will likely be instructive

to the parties and narrow any future disagreements between the Receiver and Mr. Vagnozzi on similar privilege assertions.

7. Given that progress continues to be made on the remaining issues with respect to obtaining documents from Offit Kurman and obtaining documents and resolving Mr. Vagnozzi's privilege assertions in connection with work product generated by Eckert Seamans, the Receiver respectfully requests the opportunity to file another status report on the status of these efforts on or before October 30, 2020. In the interim, however, the Receiver and Mr. Vagnozzi request Magistrate Judge Reinhart to resolve Mr. Vagnozzi's assertion of privilege over the "Legal Memorandum" identified in the Response, which Document Mr. Vagnozzi has indicated he is willing to provide to Magistrate Judge Reinhart for *in camera* review, if helpful.

WHEREFORE, the Receiver respectfully requests an opportunity to file another status report on the Receiver's efforts to resolve the Motion to Compel as it pertains to work product generated by Offit Kurman and Eckert Seamans on or before October 30, 2020. The Receiver also requests (and notes that Mr. Vagnozzi joins in this request for) Magistrate Judge Reinhart to consider Mr. Vagnozzi's assertion of privilege over the "Legal Memorandum" identified in the Response.

Dated: October 14, 2020

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 14, 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