

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

20-cv-81205-RAR

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

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

Defendants.

**DEFENDANTS' MOTION TO STAY BRIEFING, OR IN
THE ALTERNATIVE, ENLARGE THE TIME TO RESPOND
TO RECEIVER'S MOTION TO EXPAND RECEIVERSHIP ESTATE**

Defendants Lisa McElhone, Joseph Cole Barleta, Joseph W. LaForte, and Relief Defendant The LME 2017 Family Trust (collectively, "Defendants"), move to stay briefing on the Receiver's Motion and Memorandum of Law to Expand Receivership Estate ("Motion to Expand") (ECF No. 357), pending mediation, or in the alternative, to enlarge the time required to file their response to the Motion to Expand. In support, Defendants state as follows:

1. On July 24, 2020, the U.S. Securities and Exchange Commission ("SEC") commenced this action with the filing of its Complaint for Injunctive and Other Relief. (ECF 1).
2. As part of the requested relief, the SEC sought an *ex parte* Motion for the Appointment of a Receiver over the corporate Defendants: 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 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, and RE Income Fund 2 LLC (collectively, the “Receivership Entities”). (ECF No. 4).

3. On July 27, 2020, this Court granted the requested relief and entered a Receivership Order, appointing Ryan K. Stumphauzer as Receiver over the Receivership Entities, their subsidiaries, successors, and assigns. (ECF No. 36).

4. On October 30, 2020 the Receiver filed the Motion to Expand to include (1) Capital Source 2000, Inc.; (2) Fast Advance Funding, LLC; (3) Beta Abigail, LLC; (4) New Field Ventures, LLC; (5) Heritage Business Consulting, Inc.; (6) Eagle Six Consulting, 7 Inc.; (7) nineteen real estate entities; (8) The LME 2017 Family trust; and ten (10) personal real properties (collectively the “Additional Receivership Entities”). (ECF No. 357)

5. In its Motion to Expand, the Receiver is requesting an expansion of over 29 additional entities that involve multiple accounts and over \$44 million worth of real estate. This requires the Defendants to review various documents and multilayered transfers to assess the veracity of these allegations. As such, the complexity of this matter is not something that can be responded to quickly and, as explained below, the Receiver’s Motion does not even request accelerated briefing or even suggest a need for urgency.

6. Further, the Defendants were in the process of conferring with the Receiver to resolve the Motion to Expand. The Receiver and undersigned counsel for the Trust (who was speaking on behalf of Defendants LaForte, McElhone and Cole, as well as the Trust) conferred in good faith on numerous occasions between Thursday, October 29 and Friday, October 30 regarding the Motion to Expand. They were unable to continue the meet and confer before the Motion to Expand was filed. The Defendants request the opportunity to continue the meet and confer on the Motion to Expand with counsel for the Receiver before any additional briefing is necessary and need time to do so.

7. The parties are also mediating this case on December 7, 2020.¹ Commencing weeks ago in mid-October, the Defendants have in good faith pursued early mediation to attempt to bring this case to a resolution. The Defendants are confident that a resolution is possible, which would moot the need to expand the receivership.

8. There is no need to accelerate briefing on the Motion to Expand. The Motion was not filed as an emergency or expedited motion under the local rules. The Receiver has not suggested in the Motion to Expand that any asset at issue has been or is being dissipated. To the contrary, the Defendants have scrupulously maintained the status quo regarding the assets at issue in the Expansion Motion since these proceedings began and have neither withdrawn nor transferred for their personal benefit nor sold any assets at issue.² What's more, in an effort to demonstrate their transparency and confirm that there is no urgency to rule on the Motion to Expand, the undersigned agreed to produce bank statements to the Receiver to verify the same. The parties have agreed to continue conferring, and the undersigned believes this sort of transparency with respect to the assets in question provides a viable and more cost-effective path to resolving this issue than expansion of an already costly Receivership.

9. Accordingly, the Defendants respectfully request this Court to stay the Receiver's Motion to Expand pending mediation, or in the alternative, in accordance with the Local Rules, provide the Defendants with the full 14 days to respond to Receiver's Motion to Expand Receivership. As explained in brief in paragraph 5 above, counsel will need that time to respond to the Expansion Motion if a response is necessary.

10. A stay of the Motion to Expand would be in keeping with the Court's guidance that all parties avoid unnecessary briefing where possible to save Court and party resources and the expenditure of

¹ The parties and Mediator have agreed to set aside December 7 for an all-parties joint Mediation session, although the Mediation process will commence forthwith.

² Capital Source 2000, Inc.'s bank accounts are already frozen.

Receivership Assets. A stay would also provide the parties an opportunity to resolve the Motion to Expand, or the case in its entirety, and avoid the need for the Receiver to review and reply to Defendant's Response to the Motion to Expand (if the matter cannot be settled.)

WHEREFORE, Defendants McElhone, LaForte, Cole and the Trust request a stay of the Receiver's Motion and Memorandum of Law to Expand Receivership Estate pending mediation, or in the alternative, an enlargement of the time required to file its response to the Motion to Expand, specifically, fourteen (14) days from the issuance of the Court's Order on this Motion.³

CERTIFICATE OF GOOD FAITH CONFERENCE

Pursuant to Local Rule 7.1(a)(3)(A), I hereby certify that counsel for the movant has attempted to confer with the parties who may be affected by the relief sought in this motion in a good faith effort to resolve the issues. Undersigned counsel has attempted to confer with counsel for the Receiver who opposes this Request.

Respectfully submitted,

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³ The undersigned requests a minimum of 14 days normally allotted by local rule, but asks the Court to provide 14 days from the date of the Order on the instant application because the undersigned spent the better of the last few days finalizing and filing a Joint Motion to Dismiss which was filed late Monday night, and will only be able to turn their attention to the Motion to Expand today. As noted, counsel's first request is for the Court to stay briefing for the reasons described herein.

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