

**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 REPLY TO
DEFENDANT MCELHONE AND COLE'S JOINT RESPONSE IN
OPPOSITION TO THE RECEIVER'S MOTION FOR CONTEMPT**

Ryan K. Stumphauzer, Esq., Court-Appointed Receiver ("Receiver") of the Receivership Entities,¹ hereby files this Reply to Defendant Lisa McElhone ("McElhone") and Joseph Cole

¹ 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 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; MK Corporate Debt Investment Company LLC; Capital Source 2000, Inc.; Fast Advance Funding LLC; Beta Abigail, LLC; New Field Ventures, LLC; Heritage Business Consulting, Inc.; Eagle Six Consulting, Inc.; 20 N. 3rd St. Ltd.; 118 Olive PA LLC; 135-137 N. 3rd St. LLC; 205 B Arch St Management LLC; 242 S. 21st St. LLC; 300 Market St. LLC; 627-629 E. Girard LLC; 715 Sansom St. LLC; 803 S. 4th St. LLC; 861 N. 3rd St. LLC; 915-917 S. 11th LLC; 1250 N. 25th St. LLC; 1427 Melon St. LLC; 1530 Christian St. LLC; 1635 East Passyunk LLC; 1932 Spruce St. LLC; 4633 Walnut St. LLC; 1223 N. 25th St. LLC; Liberty Eighth Avenue LLC; and The LME 2017 Family Trust; and the receivership also includes the properties located at 568 Ferndale Lane, Haverford PA 19041; 105 Rebecca Court, Paupack, PA 18451; and 107 Quayside Dr., Jupiter FL 33477.

Barleta's ("Cole") Joint Response in Opposition to the Receiver's Motion for Contempt (ECF No. 467) (the "Response"), and states as follows:

INTRODUCTION

On December 11, 2020, the Receiver filed his Motion for an Order Requiring McElhone and Cole to Show Cause Why They Should Not be Held in Contempt (ECF No. 423) (the "Motion"). The Receiver filed this Motion after several months of attempting to address and resolve McElhone and Cole's violations of the Court's Receivership Orders.² Upon reviewing the Motion, the Court determined "that the conduct as alleged would violate the [Receivership Orders]" and, therefore, ordered McElhone and Cole to "show cause why they should not be held in civil contempt for violating the [Receivership] Orders." See Order for Lisa McElhone and Joseph Cole Barleta to Show Cause Why They Should Not be Held in Contempt (ECF No. 425)(the "Show Cause Order"), at 1-2 (*citing Mercer v. Mitchell*, 908 F.2d 763, 768 (11th Cir. 1990)).

McElhone and Cole spend much of their Response arguing that their conduct does not constitute a violation of the Receivership Orders. They and their expert even go so far as suggesting that the Receiver should have done a better job at preventing McElhone and Cole from committing these violations.³ They spend very little time, on the other hand, actually disputing

² The Receivership Orders refers to the Court's Order Appointing Receiver dated July 27, 2020 (ECF No. 36) and the Amended Order Appointing Receiver dated August 12, 2020 (ECF No. 141).

³ Remarkably, the Defendants criticize the Receiver for not taking the "necessary steps to assume immediate control of the Google-Suite platform used by FSP employees." Response at 18 n.5. Cole's consultant indicates that the Receiver should have "utilized best practices by shutting down access to the G-Suite and taking administrative access immediately from the IT staff." Response, Exh. A, at ¶ 28. As McElhone and Cole themselves point out, however, the Par Funding G Suite included was used for several different companies, many of which were not Receivership Entities at the time. Response at 31. Thus, it would not have been appropriate for the Receiver to shut down all access to this database when he was first appointed as Receiver.

the facts. Where they attempt to do so, they cannot disprove the “conduct as alleged.” Rather, they simply suggest that the Receiver and his investigation *may* be wrong about the facts.

The Receiver is confident in his investigation and is prepared to present this indisputable evidence of Cole and McElhone’s violations of the Receivership Orders at an evidentiary hearing. Following the Court’s evaluation of this evidence, the Court should enter an Order holding McElhone and Cole in contempt and require them to reimburse the receivership estate for the fees and costs the Receiver has incurred as a result of their violations of the Receivership Orders.

ARGUMENT

The Receiver has set forth his position in detail in the Motion, as well as other prior filings, regarding McElhone and Cole’s violations of the Receivership Orders.⁴ As a result, the Receiver does not intend to reply herein to each of the points McElhone and Cole have raised in their 38-page Response, but is prepared to address each issue at an evidentiary hearing. Certain of McElhone and Cole’s arguments, however, warrant additional discussion, as set forth below.

A. McElhone and Cole do not dispute, much less disprove, the “conduct as alleged.”

The Court has indicated in the Show Cause Order that three specific categories of conduct on the part of McElhone and Cole, which the Receiver identified in the Motion, would constitute violations of the Receivership Orders. Specifically, the following actions, if proven, are violations of the Receivership Orders: “(1) using Par Funding employees to access and download Receivership Property; (2) setting up a separate cloud-based server and copying Par Funding documents to that server, about which Defendants failed to notify the Receiver or return forthwith; and (3) copying the entire Par Funding and Full Spectrum QuickBooks accounting database to a

⁴ See, e.g., Receiver’s Emergency Motion to Enjoin Access (ECF No. 155) and Receiver’s Response to the Defendant’s Motion to Clarify (ECF No. 260).

separate server under Defendants' control." *See* Show Cause Order at 2. Tellingly, McElhone and Cole do not dispute the occurrence of any of these violations in their Response.

For example, McElhone and Cole admit that Aida Lau, a former Par Funding employee, accessed the Par Funding G Suite, downloaded numerous files, and did so while working at McElhone's residence following the establishment of the receivership. *See* Response at 31 ("After the FBI raid, [Aida Lau] continued to work remotely on her personal laptop . . .;" "[s]he used this laptop in Ms. McElhone's home on occasion;" and she performed a "large download of documents" from the Par Funding G Suite). The only issue McElhone and Cole dispute is whether the Receiver has proven that the download was intentional, as opposed to the result of an automatic synchronization feature Ms. Lau may have been utilizing on her laptop. *Id.* at 32-33 ("The Receiver has a serious tech problem" as the exhibits and other evidence the Receiver has presented on this issue "simply do not show whether the downloads were *deliberate* as opposed to *automatically synchronized*." (emphasis added). To be clear, the Receiver and his consultant are confident in their findings that these were intentional downloads that Ms. Lau manually performed, rather than an inadvertent automatic synchronization. *See* Section B, *infra*. In addition, despite McElhone and Cole's arguments to the contrary, Ms. Lau unquestionably accessed and modified an Excel file containing Par Funding's banking records on August 25, 2020. *See* Section C, *infra*.

Moreover, McElhone and Cole do not dispute that Cole set up the Knew Logic G Suite and hosted on that system thousands of files that belong to Par Funding. *See* Response at 26 ("He did upload documents he created for the defense of the case on the KnewLogic G-Suite."). Rather, they dispute whether the number of documents totaled more than 100,000, or some lesser number. For example, as to the number of records that Aida Lau downloaded, Cole's consultant states that he believes the number of documents to be "**only** 16,796 unique records." *See* Response, Exh. A

at ¶ 23. Cole's consultant is incorrect. *See* Section D, *infra*. But, frankly, does it really matter if the documents at issue consisted of "only" 16,796 unique records, as opposed to some number greater than 100,000? Moreover, McElhone and Cole are simply wrong in stating that they provided the Receiver with login credentials that allowed the Receiver to delete files from the Knew Logic G Suite that belong to Par Funding. *See* Section E, *infra*.

Finally, McElhone and Cole acknowledge that Cole made "a copy of the static QuickBooks file" belonging to Par Funding and Full Spectrum Processing, two of the Receivership Entities. *See* Response at 21. In an attempt to deflect responsibility for this conduct, McElhone and Cole repeatedly state that Cole decided to take these copies of the data, prior to the entry of the Receivership Orders, "at the direction of" prior counsel. *Id.* at 13, 14, 21. The fact that a lawyer may have advised Cole to do so, of course, is not a defense to his continuing access to these documents after he was aware of the Receivership Orders, which would have occurred no later than August 12, 2020. As a result, the fact that Cole did not agree to provide the Receiver with access to and the ability to regain control over those files until December 2020, more than four months after the Receivership Orders were entered, clearly reflect a violation of the requirement for Cole to return these files to the Receivership Entities. *See* Response at 22-23.

B. Aida Lau intentionally, as opposed to inadvertently, downloaded tens of thousands of Par Funding files.

McElhone and Cole have suggested that the Receiver is wrong in concluding that Aida Lau, after the receivership was established in this case, manually and intentionally downloaded tens of thousands of documents from the Par Funding G Suite. *See* Response at 31-33. Rather, they suggest, this may have been the result of an "automatic" synchronization tool that Ms. Lau may have had installed on her laptop computer. *Id.* The Receiver and his consultant are confident in their conclusion that Ms. Lau intentionally downloaded these files.

Attached as Exhibit 1 is the Declaration of Michael Russo (“Russo Dec.”), the Receiver’s eDiscovery specialist. As reflected in this declaration, Mr. Russo has reviewed the information contained within Par Funding’s audit log for the company’s G Suite. This log reflects that thousands of these downloads by Ms. Lau occurred at the exact same date and time, down to the second. As a result of this information, he has been able to confirm that Ms. Lau’s downloads were part of manual and intentional “Bulk Downloads.” Russo Dec. at ¶¶ 7-18.

Mr. Russo has also confirmed that Ms. Lau’s downloads could not have been the result of an inadvertent automatic download through the Google Drive File Stream feature. *Id.* Inadvertent downloads through that feature would not reflect the exact same time stamp for thousands of files that are downloaded during the same session. As a result, based on the information contained on the Par Funding audit log, Mr. Russo has confirmed that there is no method by which Ms. Lau could have downloaded these files through passive or inadvertent action. Instead, Ms. Lau intentionally utilized multiple Bulk Downloads, as evidenced by the thousands of downloads at identical timestamps. *Id.*

C. Aida Lau accessed a file containing the Receivership Entities’ banking records.

McElhone and Cole do not dispute in their Response that Aida Lau accessed and edited two files titled “Bank Activity Log-01” and “Bank Activity Log-02” on August 18, 2020 and August 25, 2020. Rather, they simply respond that the Receiver has not established “that these are banking records of Par Funding as opposed to any of the [non-receivership entities] that Ms. Lau may have accessed as part of her continued ongoing bookkeeping work.” *See* Response at 35-36. Although they are technically correct that these two files do not contain Par Funding data, they are incorrect that the data does not belong to the Receivership Entities. The file titled “Bank Activity Log-02” is a spreadsheet that includes various bookkeeping entries for a variety of bank account

and credit card transactions. Under the label of “Bank Activity Log - Full Spectrum Processing” are transactions for two Citizens bank accounts and two different American Express cards belonging to Full Spectrum Processing, one of the Receivership Entities.⁵

Specifically, this spreadsheet includes all transactions for these accounts, ranging from July 1, 2019 through August 7, 2020. This consists of 2,399 transactions for the account referred to as FSP’s “Citizen Operating” account, 381 transactions for the account referred to as FSP’s “Citizen Payroll,” 2,291 transactions for the account referred to as FSP’s “Amex Simply Cash” and 184 transactions for the account referred to as “Amex Corp – FSP.” In total, this spreadsheet includes the detail for 5,255 of Full Spectrum’s banking and credit card transactions for this period of approximately one year. In other words, despite McElhone and Cole’s suggestions to the contrary, this document clearly contains banking data belonging to the Receivership Entities.

D. Aida Lau downloaded tens of thousands of files from the Par Funding G Suite, and the Knew Logic database also contained tens of thousands of files.

McElhone and Cole, through Cole’s consultant, quibble with the Receiver about the number of “unique” files that Cole has been maintaining on the Knew Logic G Suite or that Aida Lau downloaded from the Par Funding G Suite after the entry of the Receivership Orders. Response, Exh. A., at ¶ 23. Specifically, Cole’s consultant suggests that Ms. Lau did not download 139,000 documents. Rather, he believes that it was “*only* 16,796 unique records.” *Id.* (emphasis added). Cole’s consultant is incorrect.

The audit log for Par Funding’s G Suite clearly demonstrates that Aida Lau downloaded a total of 139,963 documents between July 28 and August 5, 2020. Russo Dec. at ¶ 11. Cole’s

⁵ This file contains detailed financial transactions of Full Spectrum Processing that the Receiver is not comfortable filing in the public record. The Receiver will, of course, provide this document to the Court under seal and without redactions, should the Court wish to review this particular spreadsheet in connection with its consideration of this matter.

consultant is correct that some of these files appear to have been downloaded multiple times. But, after deduplication of these files, Ms. Lau downloaded a total of 57,330 unique records from the Par Funding G Suite, not 16,796. *Id.* at ¶ 12.⁶

Moreover, as the Receiver explained in the Motion, Cole improperly hosted on the Knew Logic G Suite a total of 3,168 “operational documents” and 33,679 accounting files belonging to Par Funding and Full Spectrum. *See* Motion at 11. These approximate numbers should not be surprising to Cole’s consultant, as he himself generated a list of those same files from Cole’s Knew Logic G Suite and emailed them to the Receiver and his eDiscovery consultant on January 7, 2021. That list included 3,168 operational documents in a folder path labeled as “Supporting Documents” and 33,719 files in a folder path labeled as “Accounting.” Russo Dec. at ¶ 20.

E. Cole and his lawyer have never provided the Receiver with access to log-in and delete the files Cole was improperly hosting on the Knew Logic G Suite.

In the Response, McElhone and Cole state that they provided the Receiver access to the Knew Logic drive, and the ability for the “Receiver’s IT person” to “delete those Par Funding documents from the Knewlogic Drive.” Response, p. 22. This is inaccurate. At no time—despite the Receiver’s multiple requests—has McElhone or Cole ever provided the Receiver with this level of access. On August 30, 2020, Bettina Schein sent an email to the Receiver, which included a link that allowed the Receiver access to two folders on the KnewLogic G Suite. *See* Response, Exh. F. The Receiver was able to view and download files from that link, but nothing more.

⁶ Cole’s consultant also suggests that the Receiver “inexplicably” redacted the last several characters of the filenames. Response, Exh. A., at ¶ 23. The reason the Receiver redacted portions of these filenames was to limit disclosure of the names of certain customers and investors, account numbers, transaction amounts, and other sensitive information that are apparent from the names of certain files, which the Receiver does not wish to have included on a publicly available court docket. The Receiver will, of course, provide this document to the Court under seal and without redactions, should the Court wish to review this particular spreadsheet.

Nearly two months later, on December 21, 2020, Cole had still not returned to the Receiver these documents he was hosting on the Knew Logic G Suite. Rather, Cole's consultant confirmed that Ms. Schein and Mr. Cole would *not* provide login access to the Receiver. Russo Dec. at ¶ 18. In fact, Cole would not even allow the Receiver's eDiscovery consultant to observe this process through a "screen share," as they "did not feel it appropriate for you to be looking over my shoulder." *Id.*

Cole's consultant finally provided the Receiver with audit logs for the Knew Logic G Suite on January 11, 2021. *Id.* at ¶ 19. Because these logs were incomplete, the Receiver made several follow-up requests and eventually received complete audit logs from Cole's consultant on January 12, 2021. *Id.* To this day, however, the Receiver has not been provided with administrator log-in access to the Knew Logic G Suite. *Id.* As a result, he has not been able to confirm the accuracy or completeness of these audit logs, and has not been able to confirm whether Cole or his consultant have deleted the Par Funding files contained on that drive. *Id.*

F. Defense of Counsel is no defense to these ongoing violations.

Although Par Funding's former corporate counsel may have instructed McElhone and Cole to take data from the company after this litigation was initially filed, advice of counsel is no defense to McElhone and Cole's ongoing violations of the Receivership Orders. This is particularly true after the Court entered its Amended Order Appointing Receiver on August 12, 2020. ECF No. 141 (the "Amended Order"). The Amended Order made clear the Receiver was authorized to exercise *exclusive possession* and control over all Receivership property, including "electronically stored information;" prohibited Defendants and their agents from taking any action that would "interfere with the Receivership's efforts to take control, possession, or management of any

Receivership property;” and required Defendants to return all Receivership property to the Receiver “forthwith.” *Id.* at ¶¶ 8, 15-16, 18, 29.

Undeterred by the Amended Order, and despite repeated demands by the Receiver to return sensitive financial data that could be used to undermine and misdirect collections, Defendants Cole and McElhone—together with their attorneys—steadfastly refused to do so. Indeed, as recently as December 3rd, long after Par Funding’s former corporate counsel was out of the picture, the Receiver’s counsel reminded Cole and McElhone, as part of a “meet and confer” process regarding the Defendants’ discovery demands, that Cole’s “actions in copying the entire QuickBooks database . . . and *subsequent retention and hosting of those files on ‘Summit Hosting’ after the Court appointed the Receiver*, is a violation of the operative Receivership Order.”⁷ In that same email, the Receiver offered to produce certain discovery materials, but demanded, consistent with the Court’s orders, “that Mr. Cole: (a) provide the Receiver with a complete copy of all QuickBooks files hosted on Summit Hosting, including a log reflecting all access to this database since the time it was initially hosted with Summit Hosting; and (b) delete and purge the copy of the QuickBooks database that is currently being hosted on Summit Hosting.” Remarkably, Defendants Cole and McElhone continued to defiantly flout this Court’s Receivership Orders, responding that “we reject your request that Mr. Cole take any action as a condition to all Defendants receiving the documents to which they are entitled under the FRCP and the Magistrate’s Local Rules.” *Id.* McElhone and Cole cannot point to Par Funding’s former corporate counsel as justification for their actions; they refused to comply with the Receivership Orders on their own volition.

⁷ See Email chain dated December 4, 2020, a copy of which is attached as Exhibit 2 (emphasis added).

CONCLUSION

WHEREFORE, Ryan K. Stumphauzer, as Court-Appointed Receiver, respectfully requests this Honorable Court to schedule an evidentiary hearing on the Motion and, following the Court's evaluation of the evidence, enter an Order holding McElhone and Cole in contempt and requiring them to reimburse the receivership estate for the fees and costs the Receiver has incurred as a result of their violations of the Receivership Orders.

Dated: January 20, 2021

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on January 20, 2021, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record.

/s/ Timothy A. Kolaya
Timothy A. Kolaya

Exhibit “1”

**IN THE 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.

_____ /

DECLARATION OF MICHAEL RUSSO

Pursuant to 28 U.S.C. Section 1746, the undersigned states as follows:

1. My name is Michael Russo. I am over twenty-one years of age and have personal knowledge of the matters set forth herein.
2. I am the founder and CEO of Lawgical Insight. My business address is 2 South Biscayne Boulevard, Suite 1600, Miami, Florida 33131.
3. Lawgical Insight is an eDiscovery, computer forensics, data analysis, and case management firm.
4. I am a Certified e-Discovery Specialist (CEDS) consultant with more than a decade of experience in eDiscovery, computer forensics, data analysis, and case management. I have worked with four offices of the United States Attorney's Office, litigation boutique law firms, and national and international law firms.

5. Ryan K. Stumphauzer requested that I analyze former Par Funding employee Aida Lau's activity in the Par Funding and Full Spectrum G Suite database for activity that occurred after July 28, 2020, the date when Mr. Stumphauzer was appointed as the Receiver over Par Funding and Full Spectrum in this litigation.

6. There are two relevant ways by which files can be downloaded from the G Suite database: Bulk Download and Google Drive File Stream.

7. A Bulk Download represents actual, purposeful action by the user of multiple files. The user must click "Download" in order for such action to take place. Once the user clicks "Download", a zip file will be generated to store downloaded files.

8. During a Bulk Download from a web browser, selected files (including files in subfolders) will show identical timestamps for "time downloaded." This timestamp reflects the precise time the user clicked "Download" and initiated the bulk download process.

9. Google Drive is a file storage and synchronization service developed by Google. It allows users to store files on Google's servers, rather than on the user's hard drive. In order to have files available offline, a user must either download the file(s), open it via native application, or select the option "Available Offline" when using Google Drive File Stream (software developed by Google to view Google Drive data more seamlessly). This selection allows Google Drive to download all relevant files/folders for offline use. Then, users can access the files stored on the server while offline select "Available Offline." This selection allows Google Drive to complete a "Google Drive File Stream." Users can then access the files stored on the server while offline.

10. Unlike a Bulk Download, during a Google Drive File Stream, all files will be downloaded locally and in order. Thus, the timestamps on the audit log represent the actual time

the file was downloaded. As a result, the timestamps for multiple files that are downloaded will be chronological, and not identical.

11. The audit log for Par Funding's G Suite reflects that Aida Lau download a total of 139,963 documents between July 28 and August 5, 2020.

12. To the best of my ability, I have removed duplicates from the audit log of Par Funding's G Suite for all files Ms. Lau downloaded after July 28, 2020. I have done so by filtering by Item ID and removing duplicates of any items sharing an identical Item ID. After deduplication of these files, the audit log reflects that Ms. Lau downloaded a total of 57,330 unique records. Importantly, many documents still share identical time stamps, showing evidence of a Bulk Download by Ms. Lau. Namely, I have identified the following:

- a. Approximately 587 documents downloaded on August 3, 2020 at 6:44:19 PM EST;
- b. Approximately 27,315 documents downloaded on August 3, 2020 at 5:22:35 PM EST;
- c. Approximately 13,553 documents downloaded on August 3, 2020 at 4:31:47 PM EST;
- d. Approximately 102 documents downloaded on August 3, 2020 at 3:41:52 PM EST;
- e. Approximately 8,600 documents downloaded on August 3, 2020 at 10:07:45 AM EST;
- f. Approximately 4,604 documents downloaded on July 31, 2020 at 3:09:26 PM EST; and
- g. Approximately 2,569 documents downloaded on July 31, 2020 at 1:14:59 PM EST.

13. Prior to the Receivership, between February 1, 2020 and July 28, 2020, Ms. Lau only downloaded a total of approximately 100 files.

14. During my analysis, I logged on to a Par Funding administrator account. I recreated a complex file structure and subsequently uploaded it to a new "shared folder" in Google Drive

using approximately 5GB of data as a sample set. I then completed a Bulk Download from the web browser. The results are as follows:

Item name	Date	Event Name
CS2000200727A.pdf	Jan 20, 2021, 6:05:15 PM EST	Download
MASTER VERIFICATIONS.xlsx	Jan 20, 2021, 6:05:15 PM EST	Download
RMR Funding Schedule - 072820.xlsx	Jan 20, 2021, 6:05:15 PM EST	Download
CBSG200727AAM.pdf	Jan 20, 2021, 6:05:15 PM EST	Download
CS2000200727.pdf	Jan 20, 2021, 6:05:15 PM EST	Download
CFS200727AAM.pdf	Jan 20, 2021, 6:05:15 PM EST	Download
CBSG200727A.pdf	Jan 20, 2021, 6:05:15 PM EST	Download
Consolidation Summary.xlsb	Jan 20, 2021, 6:05:15 PM EST	Download
Total ACH Changes.xlsx	Jan 20, 2021, 6:05:15 PM EST	Download
transaction_retrieval.csv	Jan 20, 2021, 6:05:15 PM EST	Download
AR Review.xlsx	Jan 20, 2021, 6:05:15 PM EST	Download
website.csv	Jan 20, 2021, 6:05:15 PM EST	Download
FAF200727A.pdf	Jan 20, 2021, 6:05:15 PM EST	Download
FAF200727.pdf	Jan 20, 2021, 6:05:15 PM EST	Download
Ben_Robert_Samantha_export-1.zip	Jan 20, 2021, 6:05:15 PM EST	Download
user.csv	Jan 20, 2021, 6:05:15 PM EST	Download
AR Summary.xlsx	Jan 20, 2021, 6:05:15 PM EST	Download
Re Wires - 07_16_20.eml	Jan 20, 2021, 6:05:15 PM EST	Download
CFS200727A.pdf	Jan 20, 2021, 6:05:15 PM EST	Download
.DS_Store	Jan 20, 2021, 6:05:15 PM EST	Download
AR Review - 072720.xlsx	Jan 20, 2021, 6:05:15 PM EST	Download
image.png	Jan 20, 2021, 6:05:15 PM EST	Download
CBSG200727P.pdf	Jan 20, 2021, 6:05:15 PM EST	Download
CBSG Returns - 072720.xlsx	Jan 20, 2021, 6:05:15 PM EST	Download
CFS200727.pdf	Jan 20, 2021, 6:05:15 PM EST	Download

15. As seen by the above, during a Bulk Download, the time stamps for each of the downloaded files are identical, down to the exact second. This represents the time that I pressed “Download.” Although this screenshot only reflects 25 documents, the remaining files contained within the five gigabytes of my total sample size showed an identical timestamp.

16. Using the same Par Funding administrative account, I used the same Google Drive repository created above for the purpose of executing a Google Drive File Stream “Available Offline” copy. The results are as follows:

Item name	Date	Event Name	It
CS2000200727.pdf	Jan 20, 2021, 2:32:37 PM EST	Download	1f
AR Summary.xlsx	Jan 20, 2021, 2:32:37 PM EST	Download	1f
CFS200727A.pdf	Jan 20, 2021, 2:32:37 PM EST	Download	1f
RMR Funding Schedule - 072820.xlsx	Jan 20, 2021, 2:32:37 PM EST	Download	1f
CBSG200727P.pdf	Jan 20, 2021, 2:32:37 PM EST	Download	1f
image.png	Jan 20, 2021, 2:32:37 PM EST	Download	1f
AR Review - 072720.xlsx	Jan 20, 2021, 2:32:36 PM EST	Download	1f
CBSG200727A.pdf	Jan 20, 2021, 2:32:36 PM EST	Download	1f
CBSG Returns - 072720.xlsx	Jan 20, 2021, 2:32:36 PM EST	Download	1f
CS2000200727A.pdf	Jan 20, 2021, 2:32:36 PM EST	Download	1f
FAF200727A.pdf	Jan 20, 2021, 2:32:36 PM EST	Download	1f
Consolidation Summary.xlsx	Jan 20, 2021, 2:32:36 PM EST	Download	1f
CBSG200727AAM.pdf	Jan 20, 2021, 2:32:36 PM EST	Download	1f
FAF200727.pdf	Jan 20, 2021, 2:32:36 PM EST	Download	1f
CFS200727.pdf	Jan 20, 2021, 2:32:36 PM EST	Download	1f
CFS200727AAM.pdf	Jan 20, 2021, 2:32:36 PM EST	Download	1f
Admin_review--kyoung@fullspectrumprocess	Jan 20, 2021, 2:32:36 PM EST	Download	1f
Admin_review--bmannes@parfunding.com_0	Jan 20, 2021, 2:32:35 PM EST	Download	1f
Admin_review--james@parfunding.com_0.pst	Jan 20, 2021, 2:32:35 PM EST	Download	1f
Ben_Robert_Samantha_export-1.zip	Jan 20, 2021, 2:32:35 PM EST	Download	1f
ABFP - Executive Summary.pdf	Jan 20, 2021, 2:32:35 PM EST	Download	1f
IRS Letter 121018.pdf	Jan 20, 2021, 2:32:35 PM EST	Download	1f
IRS-Selene letter extension.docx	Jan 20, 2021, 2:32:35 PM EST	Download	1f
ABFP - Report on Compliance.pdf	Jan 20, 2021, 2:32:35 PM EST	Download	1f
request for extension 110718 Faxed.pdf	Jan 20, 2021, 2:32:35 PM EST	Download	1f
Individual Data Flow Responses.pdf	Jan 20, 2021, 2:32:35 PM EST	Download	1f
1346-ABFP List of Vendors.xlsx	Jan 20, 2021, 2:32:35 PM EST	Download	1f
2019 Victory LOC schedules.xlsx	Jan 20, 2021, 2:32:35 PM EST	Download	1f
2019 Dean LOC schedules.pdf	Jan 20, 2021, 2:32:35 PM EST	Download	1f
ABFP - Missing Controls.xlsx	Jan 20, 2021, 2:32:35 PM EST	Download	1f
8250589.pdf	Jan 20, 2021, 2:32:35 PM EST	Download	1f
2017 Pillar 6 1065.pdf	Jan 20, 2021, 2:32:34 PM EST	Download	1f

17. As shown above, during a Google Drive File Stream, the time stamps are chronological, but not identical. The specific time stamp for each file represents the time that each specific file was actually downloaded. Although this screenshot shows only 32 documents, the remaining 5GB of my total sample size showed the same chronological, but not identical, timestamp succession.

18. In my opinion, there is no method by which Ms. Lau could have downloaded these files through passive or inadvertent action. Instead, Ms. Lau utilized multiple Bulk Downloads, as evidenced by the thousands of downloads at identical timestamps. On December 21, 2020, I received an email from Cole’s eDiscovery consultant. A copy of this email is attached as Exhibit A.

19. On January 11, 2021, Cole's consultant sent an email to the Receiver's counsel and me, which contained audit logs he generated for the Knew Logic G Suite. Because these logs were incomplete, the Receiver made several follow-up requests and I eventually received complete audit logs from Cole's consultant on January 12, 2021. To this day, however, Cole and his consultant have not provided the Receiver or me with administrator log-in access to the Knew Logic G Suite. As a result, I have not been able to confirm the accuracy or completeness of these audit logs. In addition, I have not been able to confirm whether Cole or his consultant have deleted the Par Funding files that were contained on that drive.

20. Additionally, on January 7, 2021, I received an email from Bettina Schein containing an Excel file titled "Google Drive Files." This document included a tab labeled "To Send," which was a list of files contained on the Knew Logic G Suite that Cole's consultant had identified as being property of the Receivership Entities. This list contained 33,719 files that were in a folder path labeled as "Accounting," and 3,168 operational documents that were in a folder path labeled as "Supporting Documents."

I declare under penalty of perjury that the foregoing is true, correct, and made in good faith.

Executed on this 20TH day of January, 2021 in Miami, Florida.



MICHAEL RUSSO

Exhibit “A”

From: [Marc Hirschfeld](#)
To: [Timothy Kolaya](#)
Cc: [Michael Russo](#)
Subject: Document Production
Date: Monday, December 21, 2020 5:09:25 PM

Mike

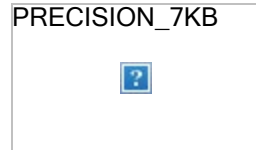
I spoke with Bettina and her client today and logged into their account. You had mentioned that their old google space had several TB of data and you were concerned that Joe had uploaded a large set of data to the new google account. I checked the current account and there was only a few GB of data preset. Hopefully that information alone should alleviate a certain amount of concern that you had. Bettina and her client understood from the hearings and briefings that I would act as a third party independent and they did not feel it appropriate for you to be looking over my shoulder. As we discussed yesterday you were going to provide me with a list of Audit Reports that you wanted me to export and I will create the same. I will discuss with Bettina the results of these audit reports and we can move the process forward of segregating the three buckets of documents, 1) the receivership documents 2) attorney client docs and 3) documents created after august 2020 after consultation with both parties.

Marc Hirschfeld, Esq., *President*

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Rockville Centre, NY 11570



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Marc@plsdata.com

Exhibit “2”

From: [Alan Futerfas](#)
To: [Timothy Kolaya](#); gja@pietragallo.com
Cc: [Bettina Schein](#); [Ellen Resnick](#); [Richard Brueckner](#); [Alejandro O. Soto](#); [Alan Futerfas](#)
Subject: Re: Lisa McElhone Document Demand Meet and Confer Follow-up.
Date: Friday, December 4, 2020 1:58:51 PM

Tim:

To frame and clarify the issues for the Magistrate:

One, we reject your request that Mr. Cole take any action as a condition to all Defendants receiving the documents to which they are entitled under the FRCP and the Magistrate's Local Rules. Your office is not a party in this case but is, bizarrely, far more adversarial than even the SEC – which brought the case. Your office has delayed and obstructed the defense's access to important financial data for months.

Speaking of just Mr. Cole's laptop alone, on August 19, 2020, counsel for Mr. Cole and the Receiver agreed that Mr. Cole would deliver his personal laptop to the office of the Receiver's computer expert for him to examine the computer and make a copy of the work-related files. As per an email of August 19, 2020 at 1:33 pm, memorializing their agreement, Ms. Schein emailed your co-counsel Douglas Rosenblum that:

“Our agreement is as follows: The independent computer expert will take an image of the data on Mr. Cole's personal computer. He will copy and retain only business files. The expert will not look at or retain Mr. Cole's personal files, nor will the expert look at or retain emails. Please provide me with a copy of the data that the independent computer expert has retained from my client's personal computer.”

Thereafter, defense counsel, including Ms. Schein and Dan Fridman, repeatedly requested Mr. Cole's computer and the data on it which all Defendants needed to prepare their defense. Dan Fridman specifically advised of our retention of forensic accountants on August 22 – three- and one-half months ago – in connection with yet another request for the data on Mr. Cole's computer promised by the Receiver. Indeed, on August 26, 2020 – three months ago – Mr. Rosenblum emailed Ms. Schein and acknowledged that the Receiver had already copied the data on Mr. Cole's computer's drive, stating, “As we discussed and you agreed, our expert made an exact copy of Mr. Cole's computer.”

Numerous email communications and telephone calls from Mr. Fridman and Ms. Schein made clear that the defense needs these files which were copied by the Receiver, from Mr. Cole's computer “as a first priority” to prepare the defense. On August 22, August 24, August 25, August 26, October 12, October 15 and into November, counsel requested the copied information from Mr. Cole's computer. Your office has delayed and obstructed the defense access to this simple, readily available data at every turn, including to today.

Accordingly, we reject any request to limit all Defendants' access to data you already agreed to provide and which all defendants need to defend this case. All Defendants are entitled to this data under the law, notwithstanding your made-up issues regarding Joe Cole. As I stated yesterday in my email, the idea that the all Defendants cannot review materials which they know best and have worked with for years, and which they have a right to utilize for their defense, and which they will provide to their expert accountants - the very data which you and the SEC regularly use and make public in reports and filings - is not only baseless but also denies them due process and violates the Rules. It makes no sense to deny Defendants access to this data when you and your team regularly publish this data, including private personal financial information about the Defendants and, indeed, the investors, to the world.

As I also noted in my email of yesterday, just recently the Receiver published exhibits which contained obvious copies of the QuickBooks files. So, your argument appears to be that when the Receiver chooses to use these very materials, you can publish them, but our clients, who are parties to the litigation, cannot see them unless and until you decide to publish highly selective slices of this data to the world. This is

illogical.

Lastly, we will agree to a standard SDFL Protective Order which is readily available and will not cause your office to incur additional unnecessary legal fees. The delay is over. Provide these documents and the standard protective order by the close of business on Monday. Should your office insist on more or further delay document production, we will so advise the Magistrate and set forth your litany of unfounded delays and your failure to comply with our document requests and the Magistrate's Rules.

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From: Timothy Kolaya <tkolaya@sflaw.com>
Date: Thursday, December 3, 2020 at 6:42 AM
To: Alan Futerfas <asfuterfas@futerfaslaw.com>, "Gaetan J. Alfano" <gja@pietragallo.com>
Cc: Bettina Schein <bschein@bettinascheinlaw.com>, Ellen Resnick <ebresnick@futerfaslaw.com>, Richard Brueckner <rbrueckner@futerfaslaw.com>
Subject: RE: Lisa McElhone Document Demand Meet and Confer Follow-up.

Alan –

To be clear, my filing of other documents with the Court has no impact on responding to your requests regarding these documents. The person who has been gathering this information for the Receiver had a death in the family and has been dealing with that over the past several days, including attending a funeral this week. I am certain that any slight delay in our responding to you on these issues is more than justified, under the circumstances.

Again, you received our responses and objections to the request for production on October 22. We stated in those responses and objections that we would not agree to produce many of the documents you were requesting, but we were willing to meet and confer to discuss the various categories of documents you were requesting. Rather than take us up on our offer to meet and confer, you simply sat on the objections for more than a month, which constitutes a waiver of the ability to bring a discovery despite to the attention of the Magistrate Judge, absent a showing of good cause. We are not aware of any good cause for your delay and are confident that the Receiver's recent efforts to respond to your request from last week has been more than reasonable.

We are still attempting to confirm and verify some of the answers below, but in the interest of moving this process along, here is the Receiver's position on the various document requests. This is subject to

change, subject to final confirmation of the availability of certain categories of documents.

1. Request for QuickBooks Database Files (Requests 1, 6-13)

- It is the Receiver's position that Mr. Cole's actions in copying the entire QuickBooks database sometime between July 24 and July 27, 2020, and subsequent retention and hosting of those files on "Summit Hosting" after the Court appointed the Receiver, is a violation of the operative Receivership Order. Notwithstanding this position, the Receiver agrees to produce to the Defendants a static copy of the QuickBooks database for Par Funding and Full Spectrum as of July 28, 2020. This information will be produced subject to the entry of a protective order that will restrict access to these files to attorneys and retained experts only. The Receiver will provide you with a draft protective order for your consideration. As a condition of producing this information, the Receiver demands that Mr. Cole: (a) provide the Receiver with a complete copy of all QuickBooks files hosted on Summit Hosting, including a log reflecting all access to this database since the time it was initially hosted with Summit Hosting; and (b) delete and purge the copy of the QuickBooks database that is currently being hosted on Summit Hosting.

2. Request for Bank Statements (Requests 1, 6-13)

- You asked that the Receiver produce bank statements for "all relevant Par entities." We are not sure which entities are you referring to in this request. In any event, the Receiver agrees to produce bank statements for Par Funding and Full Spectrum Processing from July 2015 through July 2020. These documents will be Bates stamped and produced subject to the entry of a protective order.

3. Client Consolidation Schedules, Deposit Logs, and Bank Activity Reports (Requests 2, 3, 4)

- We believe that we have been able to locate these documents, but are trying to confirm that we have the correct documents for the "Client Consolidation Schedules" and "Bank Activity Reports" you are requesting. Subject to this final confirmation, the Receiver agrees to Bates stamp and produce these documents subject to the entry of a protective order that restricts access to these documents to attorneys and retained experts only.

4. Syndication Agreements (Request 5)

- The Receiver agrees to Bates stamp and produce these documents subject to the entry of a protective order that restricts access to these documents to attorneys and retained experts only.

5. Client Payment Logs (Request 7)

- The Receiver has been attempting to locate these documents. Please provide additional detail about what these documents contain, and where specifically they are saved. Assuming we can locate these files, the Receiver agrees to Bates stamp and produce these documents subject to the entry of a protective order that restricts access to these documents to attorneys and retained experts only.

6. Documents Reflecting Use of Investor Funds (Requests 8, 9)

- The Receiver agrees to produce the QuickBooks database (see No. 1); bank statements (see No. 2); Investor Agreements, Investor Log Reports, and Investor Notes (see No. 9); and tax returns (See No. 10).

7. Accounting for and inventory of funds provided to Merchants (Request 10)

- The Receiver agrees to produce the QuickBooks database (see No. 1) and bank statements (see No. 2). The Receiver does not, however, agree to provide the Defendants with login access to or a copy of data contained on the ConvergeHub platform. As you noted, this information is duplicative of what is contained on the QuickBooks database and, therefore, production of this additional data is not necessary and not proportional to the needs of the case.

8. Payments to Defendants (Requests 12, 13)

- The Receiver agrees to produce the QuickBooks database (see No. 1); bank statements (see No. 2); and tax returns (See No. 10). The Receiver does not, however, agree to provide the Defendants with copies of data contained within the Payroll Data Drive and the Legal Drive on the QNAP, as production of this data is not proportional to the needs of the case.

9. Investor Agreements, Investor Log Reports, and Investor Notes (Requests 14, 15, 16)

- The Receiver agrees to Bates stamp and produce these documents subject to the entry of a protective order that restricts access to these documents to attorneys and retained experts only.

10. Tax Returns

- The Receiver agrees to Bates stamp and produce these documents for 2015 through 2019.

We are confident that, through the production of the documents identified above, the Receiver has more than satisfied his obligations in responding to the request for production. Please let us know if you have any additional questions regarding these document requests. Otherwise, we will continue to gather and prepare these documents for production.

Regards,

Tim



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From: Alan Futerfas <asfuterfas@futerfaslaw.com>

Sent: Wednesday, December 2, 2020 11:04 PM

To: Timothy Kolaya <tkolaya@sflaw.com>; gja@pietragallo.com

Cc: Bettina Schein <bschein@bettinascheinlaw.com>; Ellen Resnick <ebresnick@futerfaslaw.com>; Richard Brueckner <rbrueckner@futerfaslaw.com>

Subject: Re: Lisa McElhone Document Demand Meet and Confer Follow-up.

Tim:

After your note below, sent at 6:52 pm on Tuesday, representing that you needed to confirm document availability and personal issues affecting certain people, you then filed a lengthy Reply to the Receiver's Expansion Motion at 10:39 pm and a motion regarding unredacted documents at 11:18 pm that same evening. You could have said that you were too busy preparing other motions for filing to attend to the outstanding discovery and needed Wednesday to respond.

As it turns out, here we are "tomorrow" (Wednesday) night at 11 pm, and there is still no response.

You have most of the requested documents easily at hand. They are on Joe Cole's computer which you have had since August 2020 and are thus readily available.

I firmly believe that the Magistrate will view the delay since September 23, 2020 as just a bald faced two month denial of our access to the documents we need to defend ourselves in the case and which we are entitled to by local Rules, the FRCP and the Judge's rules.

Alan

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From: Timothy Kolaya <tkolaya@sflaw.com>

Date: Tuesday, December 1, 2020 at 6:52 PM

To: Alan Futerfas <asfuterfas@futerfaslaw.com>, "Gaetan J. Alfano" <gja@pietragallo.com>

Cc: Bettina Schein <bschein@bettinascheinlaw.com>, Ellen Resnick <ebresnick@futerfaslaw.com>, Richard Brueckner <rbrueckner@futerfaslaw.com>

Subject: RE: Lisa McElhone Document Demand Meet and Confer Follow-up.

Alan:

We are still trying to confirm our position with respect to three of the categories of documents you have requested. It is a matter of confirming the availability of those documents and—between the intervening holiday and some personal issues affecting certain of the people who are providing us this information—this has unfortunately taken a bit more time than we expected. We'll be back to you tomorrow.

Regards,

Tim



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From: Timothy Kolaya

Sent: Tuesday, December 1, 2020 11:50 AM

To: Alan Futerfas <asfuterfas@futerfaslaw.com>; gja@pietragallo.com

Cc: Bettina Schein <bschein@bettinascheinlaw.com>; Ellen Resnick <ebresnick@futerfaslaw.com>; Richard Brueckner <rbrueckner@futerfaslaw.com>

Subject: RE: Lisa McElhone Document Demand Meet and Confer Follow-up.

Alan:

We are waiting to hear back internally on the availability of certain of the specific documents you are requesting. We will respond to you by the end of the day today with our position on the list of documents you have requested.

Regards,

Tim



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From: Alan Futerfas <asfuterfas@futerfaslaw.com>

Sent: Monday, November 30, 2020 1:13 PM

To: Timothy Kolaya <tkolaya@sflaw.com>; gja@pietragallo.com

Cc: Bettina Schein <bschein@bettinascheinlaw.com>; Ellen Resnick <ebresnick@futerfaslaw.com>; Richard Brueckner <rbrueckner@futerfaslaw.com>

Subject: Re: Lisa McElhone Document Demand Meet and Confer Follow-up.

Without prejudice to our position on these matters, we will wait until the end of the day today or tomorrow morning for your specific responses.

Thank you,

Alan

From: Timothy Kolaya <tkolaya@sflaw.com>
Date: Monday, November 30, 2020 at 12:58 PM
To: Alan Futerfas <asfuterfas@futerfaslaw.com>, "Gaetan J. Alfano" <gja@pietragallo.com>
Cc: Bettina Schein <bschein@bettinascheinlaw.com>, Ellen Resnick <ebresnick@futerfaslaw.com>, Richard Brueckner <rbrueckner@futerfaslaw.com>
Subject: RE: Lisa McElhone Document Demand Meet and Confer Follow-up.

Alan:

As you know, the Receiver served his objections and responses to Defendant McElhone's request for production more than a month ago, on October 22, 2020. Under the Local Rules, any discovery dispute is deemed waived, absent a showing of good cause, if it is not raised within 30 days from the date of the discovery response. We had prior discussions with your co-counsel about the Defendants' request for copies of the QuickBooks files and we asked that the Defendants let us know what reports and files your expert wanted to review, but never received a response. As for the other categories of documents, nobody contacted us to discuss these items until your email last Tuesday evening, on November 24, 2020, at 8:18 pm.

In any event, at your request, we had a meet and confer call on Wednesday, November 25, 2020, at 2:00 pm (the day before a holiday weekend). You then sent an email after the close of business on Friday, November 27, 2020, demanding a response by today, November 30, 2020, at 1:00 pm (the first day back following the holiday weekend) to the Defendants' positions on the various document requests. This is not reasonable, and the urgency of your demands—after having sat on these objections and responses for more than a month—is especially confusing, given the representations that the Defendants have already made substantial progress in resolving this matter with the SEC and expect to settle the case at the upcoming mediation next week (and the accompanying request to postpone the Court's status conference and consideration of the Motion to Expand the Receivership Estate).

That being said, we have considered the demands you have made regarding these documents requests and believe we can reach agreement on most of these categories. Because of the intervening holiday and other commitments from the individuals who would need to confirm our ability to obtain and produce various documents, we cannot respond substantively to your demands—on a request by request basis—by 1 pm today. We do, however, expect to be in a position to confirm what the Receiver is reasonably able and willing to produce by the end of the day today or tomorrow morning.

When you receive our specific responses to these demands, please let us know if you have any questions.

Regards,

Tim

Image removed by sender.



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From: Alan Futerfas <asfuterfas@futerfaslaw.com>

Sent: Friday, November 27, 2020 5:31 PM

To: gja@pietragallo.com; Timothy Kolaya <tkolaya@sfslaw.com>

Cc: Bettina Schein <bschein@bettinascheinlaw.com>; Alan Futerfas <asfuterfas@futerfaslaw.com>; Ellen Resnick <ebresnick@futerfaslaw.com>; Richard Brueckner <rbrueckner@futerfaslaw.com>

Subject: Lisa McElhone Document Demand Meet and Confer Follow-up.

Mr. Alfano and Mr. Kolaya:

This email is a follow up to our meet and confer on November 25, 2020, amongst you both, myself and Ms. Schein. We have reviewed your assertions and have done further research into the matters discussed.

We note at the outset that our Document Demands were served on September 23, 2020, thus our access to information has already been unnecessarily delayed by over two months. We have received not one piece of paper. This is flatly inconsistent with Judge Reinhart's Discovery Rules.

Information responsive to Requests numbers 1, 6 – 13 is contained in the QuickBooks (QB). Your suggestion of requiring us to make particular Report requests to obtain this information is almost impossible given the range of necessary materials, is grossly burdensome to the defense, and is totally unnecessary. And it will result in numerous wasteful back and forth requests further delaying our access to information when the source material is readily available and easily accessed. As you were advised in August, 2020, prior to the Receivership, Mr. Cole copied a set of the Quick books prior to July 27, 2020 at the direction of Par Funding's prior counsel, Fox Rothschild. That QB copy ends approximately July 27, 2020. Just so we are very clear as to the size of the QB file, it is less than 25 gigabytes. For frame of reference, a standard iPhone has data of 128-256 gigabytes. It would take just minutes to load the QB on to a Thumb drive.

The QB Mr. Cole copied in late July 2020 is presently hosted on Summit Hosting services. It has not been accessed. If the defense can access the QB on this hosting network, there will be no work; no effort; no billing; and no fees incurred by the Receiver in providing this critical and necessary discovery to defense counsel. This is the quickest and most cost-effective mechanism to provide the requested information to counsel and to our accounting experts. If you object to our access to this hosting network, we will immediately file a motion with the Magistrate setting forth the issues contained in this email. Secondly, information responsive to requests numbers 1, 6 – 13 is also contained in bank statements. We expect copies of bank statements by all relevant Par entities up to July 31, 2020.

Documents responsive to Requests 2, 3 and 4 are Spreadsheets that are easily and readily available on the Right Networks accounting server. These are documents used every day by accountants at Par; thus individuals working at Par, such as James Klenk, now will know exactly what these are and where to locate them. They are easily accessible and downloadable.

Documents responsive to Request 5 are located in a folder of the one page Syndication Agreements on the CBSG Right Networks server. Further, there were one page agreements on Joe Cole's desk at Par. In addition, the deposit logs, spreadsheets and other financial information pertaining to the

syndication agreements are contained on the Right Networks accounting drive. Individuals such as Mr. Klenk can readily identify these documents and copy them onto an external thumb drive.

Documents responsive to Request 7 can also be found as Spreadsheets called Client Payment Logs, located on the Right Networks.

Please note that the total amount of information we are requesting that is hosted on Right Networks is less than 100 Gigabytes – less than the amount of data on a standard iPhone.

Documents responsive to Requests 8 and 9. In addition to the QB being responsive to these Requests, Mr. Cole's laptop computer, which was taken by your office for copying in August 2020 – and which has yet to be returned despite numerous requests from Mr. Cole counsel – contains investor files, including all investor agreements requested in our Demand for Production.

Documents responsive to Request 10 are, as noted above, contained on the QB. In addition, all merchant information requested in our Demand is on a site called ConvergeHub. If you provide the defense with "read only" login access, there will be no need for migration of documents or a download. There will be no delay or expense whatsoever, except for whatever basic user fees are imposed; maybe a few hundred dollars per month.

Or, the information sought by Request 10 can be migrated to Amazon S3 storage. We have priced it and Amazon charges \$2.30 per terabyte for monthly data hosting and access. Accordingly, to host even 20 terabytes of data, Amazon S3 would charge about \$46.00 per month.

Documents responsive to Requests 12 and 13, are contained in the QB, as noted above. In addition, documents responsive to these re Requests are found on the local QNAP on the Par Funding server.

Kevin Young, who still works at Par, set this up. In that server is the Payroll Data Drive and the Legal Drive. The QNAP has less than 50 gigabytes of data.

Documents responsive to Requests 14, 15 and 16 are all readily available on Mr. Cole's business laptop. There is an investor folder. The download of Mr. Cole's investor folder will take about one minute to copy onto a thumb drive.

Our Demands also include Par Funding and related entity tax returns. We are certain you possess these simple pdf documents and that they can be provided easily via email or via download.

As is clear from the foregoing, almost all of the data requested in our Demand for Production is located either on the QB's and/or on Joe Cole's laptop computer, which you have had since August 2020 and have yet to return or send a hard drive copy, despite numerous requests by Mr. Cole counsel. Other requests are responded to by easily accessed documents and files and are small productions. And other requests are easily complied with through data access or migration to inexpensive hosting services.

We are done with the continued delay of our access to documents we need to defend the case and which are required to be produced under the FRCP and the local rules, including the Rules of Judge Reinhart. Let us know by Monday at 1 pm, whether you will comply with our discovery requests. Otherwise, we will bring this matter to the attention of the Magistrate Judge.

Thank you,

Alan

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