

**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.

**RECEIVER, RYAN K. STUMPHAUZER’S EXPEDITED MOTION TO
SEAL DEFENDANTS’ MOTION TO DISMISS THE AMENDED
COMPLAINT TO REMOVE CONFIDENTIAL INFORMATION AND OTHER
PERSONAL INFORMATION FROM THE PUBLICLY AVAILABLE DOCKET**

Basis for expedited relief:

The Receiver respectfully seeks this relief on an expedited basis because he recently learned that the Defendants filed a motion on the publicly available docket that contains information the Receiver designated as “Confidential” pursuant to the terms of the Court’s Protective Order, ECF No. 437, and other personal information that is prohibited from being filed on the publicly available docket under Section 6 of the Southern District of Florida’s CM/ECF Administrative Procedures. To limit any further disclosure of this information, the Receiver requests an expedited ruling by August 3, 2021.

Ryan K. Stumphauzer, Esq., Court-Appointed Receiver (“Receiver”) of the Receivership Entities,¹ by and through his undersigned counsel, hereby files this Expedited Motion to Seal

¹ 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

Defendants’ Motion to Dismiss the Amended Complaint Due to Misconduct by the Securities and Exchange Commission and Related Constitutional Violations [ECF No. 663] (the “Motion to Dismiss”) to Remove Confidential Information and Other Personal Information from the Publicly Available Docket (the “Emergency Motion to Seal”), and states as follows:

1. On July 28, 2021, Defendants Joseph W. Laforte, Lisa McElhone, and Joseph Cole Barleta (the “Defendants”) filed the Motion to Dismiss, which includes 34 exhibits and spans 2,919 pages.

2. Certain of the exhibits Defendants attached to the Motion to Dismiss contain unredacted personal information—including social security numbers and taxpayer identification numbers—of Par Funding’s merchants and the merchants’ individual officers, employers, and guarantors of their merchant cash advance agreements with Par Funding. Pursuant to Section 6 of the Southern District of Florida’s CM/ECF Administrative Procedures (the “Administrative Procedures”), the Defendants were required to exclude or redact this personal information from any document they file with the Court. *See* Administrative Procedures, § 6A. In addition, the Administrative Procedures advise filers to “exercise caution when filing documents that contain

Parallel; ABFP Income Fund 3 Parallel; ABFP Income Fund 4 Parallel; ABFP Income Fund 6 Parallel; ABFP Multi-Strategy Investment Fund LP; ABFP Multi-Strategy Investment 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 Consultants, 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; The LME 2017 Family Trust; Blue Valley Holdings, LLC; LWP North LLC; 500 Fairmount Avenue, LLC; Recruiting and Marketing Resources, Inc.; Contract Financing Solutions, Inc.; Stone Harbor Processing LLC; and LM Property Management LLC; and the Receivership also includes the properties located at 568 Ferndale Lane, Haverford PA 19041; 105 Rebecca Court, Paupack, PA 18451; 107 Quayside Dr., Jupiter FL 33477; 2413 Roma Drive, Philadelphia, PA 19145.

other unprotected personal information. *Id.*, § 6B. Although the Defendants have redacted some personal information contained within the Motion to Dismiss, certain personal information included within the exhibits is completely unredacted and other personal information was redacted in a manner that does not completely obscure the information.

3. In addition, the Defendants have attached various exhibits to the Motion to Dismiss that contain “Confidential Information” that the Defendants obtained from the Receiver’s document productions in this case.

4. Specifically, the Receiver made available to the Defendants a static copy of Par Funding’s ConvergeHub database, which contains documents related to Par Funding’s merchant relationships (the “ConvergeHub Production”). *See* Joint Motion for Approval of Stipulation Regarding Converge Hub Production, ECF No. 536, and Order Granting Joint Motion for Approval of Stipulation Regarding Converge Hub Production, ECF No. 545. The Receiver designated these documents as “Confidential” under the terms of the Court’s Protective Order [ECF No. 437] (the “Protective Order”), requesting that the Defendants and their eDiscovery vendor treat these documents as Confidential.

5. Additionally, the Receiver produced email files in native format from certain Par Funding email accounts (the “Native Email Production”), designating those documents as “Confidential” under the terms of the Protective Order and requesting that the Defendants and their eDiscovery vendor treat these documents as Confidential.

6. Certain of the documents the Defendants included within the exhibits to the Motion to Dismiss are from the ConvergeHub Production and the Native Email Production. These documents include personal and financial information from Par Funding’s merchants and individuals associated with those merchants, including credit reports (reflecting outstanding

balances, payment history, and credit scores), bank account statements (reflecting transaction details and balances), internal financial statements (including account receivable statements that reflect Par Funding's merchants' customer lists and outstanding balances), tax documents (Form 1120, K-1, etc.), and many other documents reflecting personal and financial information Par Funding received from its merchants (including, for example, annual business revenue and personal income, bank balances, income amounts, personal emails, home phone numbers, and cell phone numbers).

7. That information should not be included on the public docket because the Receiver designated these documents as "Confidential" pursuant to the terms of the Protective Order, and because the documents contain personal information the Defendants have no legitimate need to include on the publicly available docket.

8. Pursuant to Section 5.4 of the Protective Order, if they intended to include these documents designated as Confidential as exhibits to their Motion to Dismiss, the Defendants were required to comply with Rule 5.4 of the Southern District of Florida's Local Rules and request permission to file the documents under seal.

9. Additionally, certain of the information the Defendants attached to the Motion to Dismiss does not pertain to any of Par Funding's merchants or the individuals associated with those merchants, but rather other individuals who have no relationship whatsoever to Par Funding or its merchants. For example, the Defendants attached a background check they obtained from the ConvergeHub Production for an individual who has the same first and last name of an individual who is associated with one of Par Funding's merchants, but, in fact, has a different middle name. Thus, Par Funding's prior management mistakenly included that report within Par Funding's files for that merchant. The background check indicates that the individual who is the

subject of that report is a convicted felon and was found guilty in a jury trial. The individual associated with a Par Funding merchant—who has the same first and last name of the individual who is the subject of that report—is not a convicted felon and, thus, his reputation will potentially be harmed due to the Defendants’ decision to file this document on the publicly available docket.

10. These documents should not be available on the publicly available docket. Indeed, when the Receiver requested that the Protective Order be entered, one of the Receiver’s primary concerns was the possible public disclosure of information from ConvergeHub and Par Funding’s native emails.

11. On Saturday, July 31, 2021, the Receiver contacted counsel for the Defendants and requested they take immediate action to remove these documents that the Receiver designated as Confidential and otherwise contain personal information from the publicly available docket. Although counsel for the Defendants agreed to take action as necessary to address this issue, they have not yet done so.

12. The Receiver believes immediate action is necessary to limit the improper public disclosure of this information. Accordingly, the Receiver requests the Court to: (a) seal the Motion to Dismiss; and (b) require the Defendants to: (i) file a new version of this Motion to Dismiss that excludes the personal information that should not be included on the publicly available docket in accordance with Section 6 of the Administrative Procedures and the documents the Receiver has designated as Confidential under the terms of the Protective Order; and (ii) seek leave to file the documents containing this information under seal, provided the Defendants truly believe it is necessary for the Court to consider this personal and financial information in its review of the Motion to Dismiss.

13. A Proposed Order for the Court’s consideration is attached as Exhibit 1.

WHEREFORE, Ryan K. Stumphauzer, as Court-Appointed Receiver, by and through his undersigned counsel, respectfully requests this Honorable Court to grant the Emergency Motion to Seal and to seal the Motion to Dismiss.

CERTIFICATION REGARDING PRE-FILING CONFERENCE

The undersigned counsel has conferred with counsel of record for Defendants LaForte, McElhone, and Cole, and with the Securities and Exchange Commission regarding the relief sought through this motion and certifies that: (1) the Securities and Exchange Commission agrees with the relief the Receiver seeks through the Emergency Motion to Seal; and (2) counsel for Defendant LaForte has agreed to look into the issues raised in the Emergency Motion to Seal motion and take any necessary action, but has not yet filed a motion to address these issues.

Dated: August 1, 2021

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 1, 2021, 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
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Defendants.

**[PROPOSED] ORDER GRANTING RECEIVER, RYAN K. STUMPHAUZER'S
EXPEDITED MOTION TO SEAL DEFENDANTS' MOTION TO DISMISS THE
AMENDED COMPLAINT TO REMOVE CONFIDENTIAL INFORMATION AND
OTHER PERSONAL INFORMATION FROM THE PUBLICLY AVAILABLE DOCKET**

THIS CAUSE comes before the Court upon Receiver, Ryan K. Stumphauzer's ("Receiver") Expedited Motion to Seal Defendants' Motion to Dismiss the Amended Complaint Due to Misconduct by the Securities and Exchange Commission and Related Constitutional Violations [ECF No. 663] (the "Motion to Dismiss") to Remove Confidential Information and Other Personal Information from the Publicly Available Docket [ECF No. ____] (the "Emergency Motion to Seal").

Having reviewed the Motion and being otherwise duly advised, it is hereby

ORDERED AND ADJUDGED that the Emergency Motion to Seal is **GRANTED**.

1. The Court hereby seals the Motion to Dismiss and instructs the Clerk to restrict public access to the Motion to Dismiss.

2. The Defendants shall file a new version of this Motion to Dismiss that excludes any personal information that should not have been included on the publicly available docket, as

required by Section 6 of the Administrative Procedures, and any documents the Receiver has designated as Confidential under the terms of the Protective Order.

3. The Defendants shall seek leave to file under seal any exhibits to the Motion to Dismiss that contain documents the Receiver has designated as Confidential under the terms of the Protective Order, provided the Defendants truly believe it is necessary for the Court to consider this personal and financial information in its review of the Motion to Dismiss.

DONE AND ORDERED in Fort Lauderdale, Florida, this _____ day of August , 2021.

RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of record