

**UNITED STATES DISTRICT COURT
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.,**

PLAINTIFF'S NOTICE OF FILING

Pursuant to the Clerk's Notice to Filer (DE 697), Plaintiff Securities and Exchange Commission filed its notice of striking DE 692. The SEC now files a revised version of the chart, with the required notice. The SEC also files with this Notice Exhibit 12 to the Response (DE 691), which was cited in the Response yet inadvertently omitted from that filing.

August 16, 2021

Respectfully submitted,

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**SECURITIES AND EXCHANGE
COMMISSION**

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served this 16th day of August 2021 via cm-ecf on all defense counsel in this case and email to the *ProSe* Defendant in this case.

s/ Amie Riggle Berlin
Amie Riggle Berlin

1. PETROPANGEA (J.R. Harrison Declaration)

Statement Defendants Claim Is False	Defendants’ “Truth” Column Purporting to Prove the Declaration is False ¹	Defendants’ Contention About The Declaration Is False, Defendants Know Their Contention is False, And Their Argument Is Misleading
<p>“6. CBSG did not perform an on-site inspection of the company prior to approving and funding the loan.”</p>	<p>A. “There is an Onsite - Metro Inspection dated March 14, 2017 - CHB000045”</p> <p>B. “Onsite - Photo sent over by broker dated April 05, 2019 - CHB000046”</p>	<p style="text-align: center;">A. <u>As for the Inspection Report Defendants Offer</u></p> <p>(1) In his declaration, Mr. Harrison clearly states he is testifying about an <i>April 2019</i> loan from CBSG to Petrogpangea.²</p> <p>(2) The inspection report Defendants filed is clearly not for that loan because it is from <i>2017 - 2 years before</i> the loan at issue³</p> <p style="padding-left: 40px;">a. Defendants know Mr. Harrison applied to a broker, to help him find a lender/MCA company, on April 3, 2019⁴ - more than 2 years <i>after</i> the inspection report Defendants filed.⁵</p> <p>(3) Further, the inspection report Defendants filed states on its face that the inspector visited an address in <i>2017</i> and it was not that of Petropangea, but the site of <i>a different company</i>.⁶</p> <p style="padding-left: 40px;">a. Consistent with that, the inspection report attaches photos showing a building with signage for a different company: “TransPak.”⁷</p> <p style="text-align: center;">B. <u>As for the “Onsite – Photo” Defendants Offer</u></p> <p>(1) Defendants know these photos are not from an onsite inspection, and are in truth photos Mr. Harrison took himself and emailed to his broker, Fast Advance Funding.⁸</p>

¹ None of the evidence cited in the Defendants’ chart is authenticated or filed with any declaration of evidence showing how it was received by CBSG, who created it, or any other information. The SEC does not concede anything about any evidence Defendants filed or cite in their chart, and assumes - only for purposes of responding to the chart – that each document is what it states on its face to be.

² DE 663-22 at pdf p 8, ¶ 3.

³ DE 663-22 at pdf p 9

⁴ DE 663-22 at pdf p 22, April 3, 2019 application to a broker, “Fast Advance Funding”

⁵ DE 663-22 at pdf p 9

⁶ The Metro Inspection report for 2017 states Petropangea was not located at the address provided, another company was, and thus they “could not verify the legitimacy of the business.” DE 663-2 at pdf p 10.

⁷ DE 663-22 at pdf pp 10-11

⁸ Exhibit 1, April 5, 2019 email from Mr. Harrison attaching the photos the Defendants filed at DE 663-22 at pdf pp 12-15.

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1. PETROPANGEA (J.R. Harrison Declaration)

Statement Defendants Claim Is False	Defendants’ “Truth” Column Purporting to Prove the Declaration is False	Why Defendants’ Contention Is, At Best, Misleading
<p>7. “To my knowledge, CBSG did not perform a background check during the application of underwriting process.”</p>	<p>“CBSG Performed the Following Background Checks and Reviewed⁹ the Following Application: Personal Experian Report 2017, 2018, 2019 Business Experian Report 2017, 2018, 2019 Application - CHB00034 Application (2) - CHB000148”</p>	<p>(1) The Defendants cite one thing – <u>credit reports</u> – to assert that Harrison lied when he said that to his knowledge, no <u>background check</u> was done by CBSG.</p> <p style="margin-left: 40px;">(a) As an initial matter, every single credit report Defendants filed: (1) purports to be from <i>before</i> Harrison even applied for the loan at issue in his declaration; and (2) shows no indication that CBSG ran the credit report.¹⁰</p> <p>(2) Defendants know a credit check and background check are not the same thing, and that the SEC inquired of Mr. Harrison and all other merchants separately as to credit reports vs. background checks.</p> <p style="margin-left: 40px;">(a) The issue of background checks is relevant in this case because CBSG’s brochure told investors they did a background check “<i>in addition to</i>” checking credit scores¹¹</p> <p style="margin-left: 40px;">(b) The SEC provided the Defendants with the written questions we asked Harrison/Petropangea through his counsel, asking (among other things) whether a credit check was done (Harrison answered yes) and then whether a background check was done (no, not to his knowledge)¹²</p>

¹⁰ DE 663-22 at pdf p 22, credit reports bearing dates ranging from March 2017 to January 9, 2019; DE 663-22 at pdf p 22, April 3, 2019 application to broker.

¹¹ Instead, as stated in the CBSG brochure filed with the TRO Motion, CBSG tells investors: “We investigate numerous resources in addition to credit scores to screen applicants including MCA industry databases, Background checks [and] On-Site inspections.” DE 14 at pdf pg 37, fn 251 (citing brochure filed as TRO Exhibit 25, at Exh. E thereto (pages 9 & 11 in brochure); and TRO Exhibit 103, at ¶ 5 & Exh. C thereto (pages 9 & 11).

¹² Exhibit 16 to SEC’ August 14, 2021 response to motion to dismiss.

1. PETROPANGEA (J.R. Harrison Declaration)

Statement Defendants Claim Is False	Defendants’ “Truth” Column Purporting to Prove the Declaration is False	Why Defendants’ Contention Is Unsupported
<p>“8. CBSG did not request information from me or the Company about the Company's expenses, profits, debt schedule, or account receivables during the underwriting process or at any other time prior to approving the loans”</p>	<p>“CBSG Received the Following: Account Receivable Aging – CHB000102”</p>	<p>(1) Declarant states CBSG did not request information from him/his company about the Company’s expenses, profits, debt schedule, or accounts receivable prior to approval.</p> <p>(2) The Defendants offer no evidence that they <i>did</i> request such information from Mr. Harrison/his Company in connection with the loan at issue -prior to approval, or at any other time</p> <p>(3) The Defendants cite an “Accounts Receivable Aging” document with a bates number, but they did not file it and have produced no documents to the SEC in response to our discovery requests.¹³ Therefore, the SEC cannot respond as to this particular document unless and until the Defendants produce documents.¹⁴</p>

¹³ After reviewing the Defendants’ motion and seeing Bates Stamped documents we did not receive from Defendants in response to discovery requests, the SEC advised Defendants that we will object to the introduction of any evidence at trial that they failed to timely produce in response to our Request for Production, and asked them to provide any such late production for our review by Friday, August 13. We will then examine how much, and what, was withheld from production. The SEC took the Defendants at their word that they had no documents to produce in response to the RFP and that the SEC had already received all responsive documents. At this point, there is less than one month remaining of discovery, and SEC retains the right to challenge the introduction of any evidence at trial produced during any last-minute and untimely productions and/or withheld from their productions and filed with their Motion. By responding to the evidence here, the SEC is not waiving the objections to the introduction of such evidence at trial on the grounds set forth above.

¹⁴ A review of ConvergeHub for a document that could be the one Defendants cite resulted in the location of only a 2018 AR report, which obviously would not be for the 2019 loan at issue, and there is no indication that this was requested by Mr. Harrison.

2. Amos Jones

Statement Defendants Claim Is False	Defendants’ “Truth” Column Purporting to Prove the Declaration is False	Why Defendants’ Contention Is Wrong, And They Know It Is Wrong
<p>“6. I do not believe CBSG conducted a credit check, and I reviewed my credit report and it does not reflect that CBSG conducted one before granting the Loan.”</p>	<p>“CBSG Performed the Following Background Checks and Reviewed¹⁵ the Following Application: CHB000080, CHB000079 Personal Experian Report 2018, 2019 Business Experian Report 2018, 2019”</p>	<p>(1) The credit reports are dated as of <u>June 2018</u> and <u>August 2019</u> – well before Mr. Jones obtained the loan he testifies about (from CBSG in November 2019).¹⁶</p> <p>a. The credit reports do not indicate that CBSG ran the credit reports, and Defendants offer no evidence of how and from whom CBSG obtained these reports.¹⁷</p>

¹⁵ Defendants presented no evidence that CBSG reviewed any document cited in the chart, and the SEC is not conceding CBSG reviewed the documents.

¹⁶ DE 663-22 at pdf pp 25-28.

¹⁷ Defendants filed Mr. Jones’ applications to other companies from 2018, more than a year before the loan with CBSG that Mr. Jones testified about in his declaration. DE 663-22 at pdf pp 31-33.

2. Amos Jones

Statement Defendants Claim Is False	Defendants' "Truth" Column Purporting to Prove the Declaration is False	Why Defendants' Contention Is Wrong, And They Know It Is Wrong
<p>"8. To my knowledge, CBSG did not perform a background check during the application or underwriting process."</p>	<p>"CBSG Performed the Following Background Checks and Reviewed the Following Application: CHB000080, CHB000079" Personal Experian Report 2018, 2019 Business Experian Report 2018, 2019 Application – CHB000080, CHB000079 Clear Background Check Report 2018, 2019</p>	<p>Defendants offer:</p> <p>(a) Credit reports, which are not background reports and which are addressed above.¹⁸</p> <p>(b) A Clear Report stating it was generated June 4, 2018,¹⁹ and thus unrelated to the 2019 loan at issue.</p> <p>(ii) The Clear Report is not for the declarant Amos Jones, whose middle initial is N.²⁰ (iii) The Clear Report shows it is for a man who was convicted of a felony by a jury in 1988. The declarant would have been 12 years old then. The declarant is a civil rights attorney, 2006 Harvard Law School graduate, professor, and not the person on the Report.²¹</p> <p>(c) Applications: As is clear on the face of these documents, they are not applications to CBSG, they are from 2018 – a year before the loan at issue, are made to other companies, and they have no background check information in them.²²</p>

¹⁸ As discussed on page 2 above, credit checks are not the same as background checks, and CBSG told investors that it did background checks "in addition to" checking credit check scores.

¹⁹ DE 663-22 at p.29.

²⁰ The declarant applied on behalf of his law firm and his declaration states he is in Washington, D.C. There is one lawyer with this name in Washington, DC and the D.C. Bar shows his middle initial is N. <https://join.dcbbar.org/eWeb/DynamicPage.aspx?Site=dcbbar&WebCode=FindMemberResults>

²¹ www.amosjones.com; <http://amosjones.com/americanstopattorneys>

²² DE 663-22 at pp 31-33.

2. Amos Jones

Statement Defendants Claim Is False	Defendants’ “Truth” Column Purporting to Prove the Declaration is False	Why Defendants’ Contention Is Wrong, And They Know It Is Wrong
<p>9. CBSG did not request information from me or the Company about the Company's expense or debts during the underwriting process or at any time prior to approving the Loans, as I recall - only our operating account statements covering the several months prior to the loan disbursement.</p>	<p>Client filled out and signed off on his debt schedule²³ – CHB000084</p>	<p>(1) The filing has no document with this bates number that we could locate. Since defendants failed to produce documents, we do not have a document with this bates number.</p> <p>(2) However, we believe Defendants are referring to a schedule attached to their filing at DE 663-22 pdf page 40. If so, their argument is disingenuous. As Defendants know, because they filed the application with their Motion as DE 663-22 at pdf page 33, Mr. Jones sought to consolidate loans and lists them on his application.</p> <p>(3) The schedule in the contract with CBSG (DE 663-22 pdf page 40) lists those same loan debts, and nothing more, which the loan from CBSG was supposed to pay.</p> <p>(4) Defendants present no evidence that CBSG ever requested any information about the law firm applicant’s expenses or debts, and can point only to what the deal was – namely, a deal to pay off MCAs with other companies.</p>

²³ Defendants present no evidence that Jones signed off on the debt schedule they file as exhibit

3. American Heritage – Declaration of Joseph Pucci

Statement Defendants Claim Is False	Defendants' "Truth" Column Purporting to Prove the Declaration is False	Why Defendants' Contention Is Wrong, And They Know It Is Wrong
6. CBSG did not perform an on-site inspection of my Company before approving the Loan.	See Onsite – Metro Inspection dated October 28, 2019 – CBSG-RN-003251537	<p>(1) Defendants failed to file or produce this document.²⁴</p> <p>(2) The report shows it was ordered October 28 and the inspection occurred that same day at 3pm.²⁵</p> <p>(3) As Defendants know, CBSG approved this loan at 9:10am on October 28, 2019.²⁶</p> <p>(4) Thus, the inspection occurred <i>after</i> the approval.</p>
7. CBSG did not request information about my Company's expenses during the underwriting process or at any other time prior to approving the Loan	CBSG Received the Bank Statements – CBSG-RN-002392280	<p>That CBSG received a few months of bank statements is clearly not evidence that CBSG asked or received information about the company's expenses. It means only that at some point, CBSG received a few months of bank statements showing some of the financial activity for the company.</p> <p>Additionally, ConvergeHub shows that the bank statements were uploaded on October 29 – the day after the deal was approved.(Exhibit 2)</p>
8. CBSG did not request information about my Company's Profit margins during the underwriting process or at any other time prior to approving the Loan	CBSG Received: 2018 Tax Return for profit margins – CHB000077 AR Summary for profit margins as of September 30, 2019 – CHB000072	<p>As Defendants surely know:</p> <ul style="list-style-type: none"> • These do not prove that CBSG asked the applicant for information about profit margins, let alone before funding the deal • The tax return and AR summary are for different companies, with some indication and information about American Heritage • ConvergeHub shows they were entered into CBSG's system <i>after</i> CBSG approved the loan

²⁴ After reviewing the response and identifying that the Defendants were citing evidence responsive yet not produced in response to our Requests for Production, including this exhibit to the response as well as many others, SEC counsel contacted Defendants. It appears they might have attempted or actually made an electronic production yesterday. However, the production must be processed by the SEC CPU unit before it is viewable by counsel for the SEC. Even if SEC could review whatever was produced on the eve of our response deadline, we would obviously not have had the ability to review the production before our response. The receiver's counsel ultimately provided this document so we could respond.

²⁵ Exhibit 2

²⁶ Defendants know this because ConvergeHub shows the date and time of each activity on a loan application.

3. American Heritage – Declaration of Joseph Pucci

<p>Statement Defendants Claim Is False</p>	<p>Defendants’ “Truth” Column Purporting to Prove the Declaration is False</p>	<p>Why Defendants’ Contention Is Wrong, And They Know It Is Wrong</p>
<p>9. CBSG did not request a debt schedule for my Company during the underwriting process or at any other time prior to approving the Loan.</p>	<p>CBSG Received: 2018 Tax Return for profit margins – CHB000077</p>	<p>The tax return is for a different company, and says this on its face.</p> <p>Defendants present no evidence that CBSG requested from Pucci/his company information about American Heritage’s <i>debt schedule</i>, let alone whether such a request was made before approving the Loan</p> <p>The tax return was received by CBSG after the loan was approved, per ConvergeHub data records attached as Exhibit 2.</p>

4. Sunrooms America – Declaration of Michael Foti

Statement Defendants Claim Is False	Defendants’ “Truth” Column Purporting to Prove the Declaration is False	Why Defendants’ Contention Is Wrong, And They Know It Is Wrong
<p>6. CBSG did not perform an on-site inspection of the Company prior to approving the Loan</p>	<p>“CBSG Received Onsite - Metro Inspection dated June 4, 2019 - CHB000063”</p>	<p>(1) CBSG approved the Loan on June 4, 2019.</p> <p>(2) The Defendants cite one thing – namely, a Metro Inspection report and claim it is dated June 4, 2019. The Defendants chose not to file it with their Motion.</p> <p>(3) As the Defendants know from the face of the inspection report they rely upon, the inspection report states the inspection occurred on June 5.</p> <ul style="list-style-type: none"> ▪ In other words, <u>after</u> CBSG approved the Loan. <p>(4) Once again, Defendants did not file the evidence they cite which shows on its face that their contentions are false. And so we do.²⁷</p>
<p>8. To my knowledge, CBSG did not perform a background check on me during the underwriting process or at any other time prior to approving the Loan</p>	<p>CBSG Performed the Following Background Checks: Personal Experian Report 2019 Business Experian Report 2019 Business Experian Report 2019 (2)</p>	<p>Defendants cite only background checks, with no indication even that CBSG ran these reports.</p> <p>As defendants, background checks and credit reports are different. The SEC alleges that the CBSG brochure about underwriting is false. That brochure, filed with the TRO, tells investors that “<u>in addition credit scores</u>,” CBSG does a background check and on-site inspection.</p> <p>Further, defendants know we asked Foti separately about background checks and credit reports, as we sent them our questionnaire with his responses. His declaration discusses only the background checks, and Defendants know it is true and that Foti answered to these two items separately. Exhibit 16 to Response. Incredibly, Defendants claim his declaration is perjured.</p> <p>There was no background check.</p>

²⁷ Exhibit 4, Metro Inspection report.

4. Sunrooms America – Declaration of Michael Foti

<p>Statement Defendants Claim Is False</p>	<p>Defendants’ “Truth” Column Purporting to Prove the Declaration is False</p>	<p>Why Defendants’ Contention Is Wrong, And They Know It Is Wrong</p>
<p>9. CBSG did not request information showing the Company's profit margins or expenses during the underwriting process at any other time prior to approving the Loan</p>	<p>CBSG Received: 3 Months of Bank Statements showing cashflow – CBSG-RN-000212693, CBSG-RN-000212692, CBSG-RN-000212691 AR List – CHB000162</p>	<p>(1) These documents do not show the company’s profit margins or expenses; they show three months of bank records for an account; and there is no indication that this information was ever sought from Mr. Foti in connection with the loan at issue.</p> <p>(2) Further, ConvergeHub shows CBSG received them <i>after</i> CBSG approved the Loan.</p> <p>(3) As Defendants know, ConvergeHub shows when CBSG received these materials - “June 7 2019” – <i>ie</i>, 3 days after Loan approval.</p>

5. Declaration of Julie Caricato

Statement Defendants Claim Is False	Defendants’ “Truth” Column Purporting to Prove the Declaration is False	Why Defendants’ Contention Is Wrong, And They Know It Is Wrong
5. My Loan was underwritten by CBSG in less than 48 hours	“QuickBooks show funding date more than 48 hours Funding Funtime – Compare with Application Date– CHB000012”	(1) The documents Defendants filed is not a real Quickbooks report. The information shown on the exhibit – of the application date – was added. A copy of a true and unedited Quickbooks printout from CBSG is attached ²⁸ (2) ConvergeHub actually shows Caricato’s application. It is dated June 25, 2019. CovergeHub also shows the contract was done by June 26, and it was moved to “funded” on June 26. ²⁹
6. CBSG did not perform an on-site inspection of my Company prior to approving the Loan, or at any other time.	Onsite Photo Saved on Convergehub – CHB000025	(1) No indication that these are of the declarant’s business, let alone that they are from an onsite inspection. (2) In truth, Metro Inspection did not do an onsite inspection for Funtime or Indoor Playgrounds. These are in truth photos Ms. Caricato emailed to her broker. ³⁰ Thus, there is no inspection report at all, and thus the Defendants do not and cannot present an onsite inspection report. And they know that because they subpoenaed Metro Inspection for its records.
8. CBSG did not perform a credit check	CBSG Performed the Following Background Checks and Reviewed the Following Application: Application – CHB000012 Personal Experian Report 2018 Business Experian Report 2018	(1) Defendants cite a credit report which on its face shows it was prepared in March 2018 - more than 1 year before Caricato even applied for the loan she testifies about. Also, there is no indication CBSG ran this report.

²⁸ Exhibit 5, Quickbooks report sample. This is what Quickbooks really looks like. The exhibit Defendants filed with this Court is not a true and correct copy, and they rely on it for the application date – but the real report does not show any of that information.

²⁹ Exhibit 6.

³⁰ Exhibit 7.

5. Declaration of Julie Caricato

Statement Defendants Claim Is False	Defendants' "Truth" Column Purporting to Prove the Declaration is False	Why Defendants' Contention Is Wrong, And They Know It Is Wrong
<p>9. CBSG did not request information about my Company's expenses during the underwriting process or at any other time prior to approving the Loans</p> <p>12. CBSG did not request a debt schedule for my Company during the underwriting process or at any other time prior to approving the Loans</p>	<p>"CBSG Received Business Debt Schedule completed and signed by the owner – CHB000019"</p>	<p>(1) The document Defendants cite clearly states on its face that it is from February 2020 – about <i>7 months after the deal was approved</i> and funded. DE 663-22 at pdf p 127</p>

6. Declaration of James Frost (National RX)

Statement Defendants Claim Is False	Defendants' "Truth" Column Purporting to Prove the Declaration is False	Why Defendants' Contention Is Wrong, And They Know It Is Wrong
6. CBSG did not perform an on-site inspection of the Company prior to approving the Loan	See Metro Inspection dated on April 07, 2016 – CBSG-RN-000016877	<p>(1) National RX entered into an MCA Agreement with CBSG on April 6, 2016.</p> <p>(2) The Defendants state that the inspection is “dated” April 7, which is misleading. The report shows on its face that it was “ordered” April 7 and that it occurred April 8. The Defendants know this because they have this record and cite to it.</p> <p>(3) According to the inspection report the Defendants cite, the inspection occurred on April 8, 2016 – <i>i.e.</i>, <u>after</u> the Loan was approved.</p>

7. Declaration of Gianna Wolfe (Radiant Images)

<p>Declaration Excerpts, with Alleged Perjury In Bold Type</p>	<p>Evidence Defendants Offer Of Perjury</p>	<p>Defendants Rely On Knowingly False and Misleading Evidence, As Well As A Manipulated Document</p>
<p>5. My Loans were underwritten by CBSG in less than 48 hours</p>	<p>“See Quickbooks data that shows more than 48 hours Funding Radiant Images”</p>	<p>To show the application and funding dates, Defendants cite “Quickbooks” but the document they attach is <u>not a true and correct copy of Quickbooks</u>. It is an altered document. The “funding” date and “application date” text do not appear on Quickbooks.³¹</p> <p>Defendants also filed Wolfe’s application to a to a <u>broker</u>. (DE 663-22 at p.144). Defendants know that brokers first obtain the application from their client (here, Wolfe), <i>then</i> shop the application to various lenders, and <i>then</i> choose which lenders to submit their client’s application to. Thus, the application to the broker clearly does not show the date CBSG received this potential deal. It shows what it states on its face it shows – an application to a third party, a broker.</p> <p>The issue is the duration of underwriting. Defendants offer no evidence of when CBSG purportedly received the application to the broker that they filed (or if that is even what occurred), let alone when CBSG approved the Loan.</p>
<p>8. CBSG did not request information about my Company's expenses during the underwriting process or at any other time prior to approving the Loans</p> <p>9. CBSG did not request information about my Company's profit margins during the underwriting process or at any other time prior to approving the Loans</p>	<p>CBSG received 2014 Tax Return</p>	<p>Ms. Wolfe testified about loans she obtained from November 2015 through 2018. The only evidence Defendants can conjure is one 2014 tax return, which clearly is not a document showing all company’s expenses at the time of the loans at issue. Nor do Defendants even claim that they requested evidence of expenses Ms. Wolfe, or even that Ms. Wolfe gave them an old tax return. Nor is there any indication of when CBSG received it – before or after loan approval.</p> <p>This tax return is not in the CBSG underwriting files (or at least we could not locate it) and it is unclear where it came from, how CBSG received it (if it did), when (before Loan approval?), and whether CBSG requested it from Wolfe (i.e., whether it is relevant to her declaration that CBSG did not request certain information from her).</p> <p>Even so, the fact that CBSG somehow got a copy of a tax return from 2014 does not show in any way that CBSG requested information from Wolfe/Radiant Images about <u>expenses</u> or <u>profits</u> prior to approving the 2015-2018 Loans.</p>

³¹ See exhibit submitted with first discussion above regarding fake Quickbooks reports.

8. Pamela and Robert Fleetwood Declarations (Fleetwood)

DEFENDANTS' CHART (DE 633-22)		SEC RESPONSE TO DEFENDANTS' CHART
Statement Defendants Allege Is False	Defendants' Proof the Declaration is False	Defendants Offer False, Manipulated Evidence They Know Relate to Other Companies/Applications, While Concealing The Truth
5. The Loan was underwritten by CBSG in less than 48 hours from the time we applied	Compare application and Quickbooks which show more than 48 hours Funding Fleetwood	<p><u>Defendants' Quickbooks Exhibit Is Not A True & Correct Copy:</u> Defendants offer a purported page from CBSG Quickbooks showing the application date of December 29, 2016, rather than file the application</p> <ul style="list-style-type: none"> • This is a manipulated version of Quickbooks, modified to add an application date and other information that is not on the original.³² <p>The Documents in the CBSG files – produced to Defendants – show:</p> <ul style="list-style-type: none"> • An application dated December 29, 2016 to a company called <i>Prime Time</i>. Prime Time is a broker in the business of helping its clients find loans, and it was the Fleetwood's broker.³³ • <u>January 3, 2017 at 9:35am</u>: CBSG receives the application from Prime Time. • <u>January 3, 2017, 12:20pm</u>: CBSG sends the information obtained from Prime Time to the CBSG credit committee. • <u>January 3, 2017, 1:25pm</u>: CBSG has its first contact with the Fleetwoods, sending them an offer for an MCA loan. • <u>January 4, 2017, 1:25pm</u>: CBSG sends the Fleetwoods a contract and notice that they have been approved. • <u>January 4, 2017</u>: Date deal is funded; ConvergeHub reflects this as the funding date.³⁴

³² See discussion above regarding fake Quickbooks reports and attaching an exhibit to this chart the true version of a CBSG Quickbooks report, which does not include application and other dates on it.

³³ Defendants know this and knew when they filed and falsely claimed the Fleetwoods applied to CBSG on 12/29. The Fleetwoods sued Prime Time and CBSG in the same case in the Eastern District of Pennsylvania concerning the loans, and LaForte, Cole, and McElhone knew about it, and LaForte and Cole received regular email updates about the case from Brett Berman, CBSG's then-counsel.

³⁴ Exhibit 8, Fleetwood ConvergeHub record.

8. Pamela and Robert Fleetwood Declarations (Fleetwood)

Statement Defendants Allege Is False	Defendants’ Proof of “Perjury”	Defendants Offer A Misleading Characterization of Evidence While Concealing The Truth
<p>7. CBSG did not perform an on-site inspection of the Company prior to approving the Loan</p>	<p>“See – Onsite – Metro Inspection dated January 04, 2017 – CBSG-RN-003314234”</p>	<p>Defendants’ assertion is at best misleading. In truth:</p> <ul style="list-style-type: none"> • The Metro Inspection report is <i>not</i> “dated January 4, 2017.” • Nor did the inspection occur January 4, 2017. • Instead, it was ordered January 4, as the inspection report states on its face. • The report states the inspection occurred January 5, 2017. <ul style="list-style-type: none"> ○ The inspection report says on its face that the inspection was at 11:10am on January 5, 2017. (DE 663-22 at 149). • As set forth above, CBSG approved the Loan on January 4, 2017 and sent the contract to them January 4 <ul style="list-style-type: none"> ○ Thus, CBSG approved the deal 1 day <i>before</i> inspection. <p>The Defendants knew the truth when they filed. They knew:</p> <ul style="list-style-type: none"> • The inspection is not – as they imply – on January 4. <ul style="list-style-type: none"> ○ How? The face of that report says the inspection was January 5 • The MCA Loan was approved January 4. <ul style="list-style-type: none"> ○ How? They have the MCA approval sent to the Fleetwoods on January 4 and the same underwriting file cited herein to show the truth.
<p>8. CBSG did not perform a background check on me during the underwriting process or at any time prior to approving the Loan</p>	<p>“CBSG Performed the Following Background Checks and Reviewed the Following Application: Application Personal Experian Reports for Pamela and Robert 2015 Business Experian Reports 2017”</p>	<p>Defendants’ assertions are knowingly false and misleading:</p> <ul style="list-style-type: none"> • Defendants offer credit reports as proof of a background check, and they <u>know</u> this is different from a background check <ul style="list-style-type: none"> ○ CBSG told investors that “in addition to credit scores,” they did a background check and onsite inspection. See TRO Motion and brochure filed as exhibit thereto, at p9 ○ Consistent with this distinction, Defendants have the questionnaire answers from the Fleetwoods prior to executing their declarations, showing we asked separately about credit checks (the Fleetwoods answered yes) and background checks (they answered no).(Ex 16 to Response Brief)

8. Pamela and Robert Fleetwood Declarations (Fleetwood)

Statement Defendants Allege Is False	Defendants’ Proof of “Perjury”	Defendants Offer A Misleading Characterization of Evidence While Concealing The Truth
<p>10. CBSG did not request a debt schedule for the Company during the underwriting process or at any other time prior to approving the Loans</p>	<p>Included in Application, Page 2</p>	<p>The Defendants know the “Application” they cite is not a CBSG application at all. It was an application the Fleetwoods made to a different company.</p> <ul style="list-style-type: none"> • How do they know that? The application says so. The Defendants did not file the application with the Court. We do.³⁵ • How do we know they have that application and are relying on it? They deposed the SEC on August 3, and tried to get the SEC to agree it was the Fleetwood’s application to CBSG. <p>Plus, the application (which they omit from their filing) to that other company does not have a debt schedule attached</p>

³⁵ Exhibit 9.

9. Declaration of Mary Carleton (Cap Jet)

Statement Defendants Allege Is False (Verbatim)	Proof of "Perjury" Verbatim	Defendants Offer A Misleading Characterization of Evidence While Concealing The Truth
<p>5. CBSG did not perform an on-site inspection of my Company prior to approving the Loan, or at any other time.</p>	<p>"See – Onsite – Metro Inspection dated March 25, 2019"</p>	<p><u>The Defendant' Attack on Ms. Carleton is Wrong and They Know It</u></p> <ul style="list-style-type: none"> • Defendants do not dispute that, as Ms. Carleton swears in her declaration, her company obtained a CBSG Loan in August 2019. <ul style="list-style-type: none"> ○ The application was submitted to CBSG on August 8, 2019 at 12:48pm.³⁶ ○ CBSG approved the Loan on August 9, 2019.³⁷ • The onsite inspection report Defendants filed is from March 2019 – about 5 months before Carleton applied for the Loan. <ul style="list-style-type: none"> ○ Therefore, unless CBSG is claiming a psychic ability to predict in March that Carleton would apply 5 months later for the August Loan, this inspection has no connection at all to the CBSG Loan to Carleton's company. • Even if CBSG had a crystal ball and therefore preemptively did an inspection of the Company before Carleton applied for this Loan, the inspection report is as notable for what it says as for what it does not. <ul style="list-style-type: none"> ○ It says it was done by a company called Metro Inspections. ○ It says the inspector interviewed 1 person – Craig Campbell ○ It does not list Carleton as a person onsite or even spoken to ○ It does not say that Metro Inspections told even Campbell that they were there on behalf of CBSG. • In fact, in March 2019, Carleton applied for a loan to a company called "We Fund Capital." The application is in CBSG's production and therefore CBSG obtained it at some point.³⁸
<p>8. CBSG did not request information from me or the Company about the Company's profit margins during the underwriting process or at any other time prior to approving the Loans</p>	<p>"See Application"</p>	<p>Defendants did not file the August 2019 Application they rely on.</p> <p>Because it does not request this information.</p> <p>Instead, it shows that on August 9 CBSG sent Carleton a pre-qualification letter asking for these items only: a drivers license, voided check, AR or list of client statements, bank records, and "completion of a satisfaction survey." CBSG also says that there will be an onsite inspection.³⁹ That is it And CBSG then approved the Loan that same day.⁴⁰</p>

³⁶ Exhibit 10

³⁷ Exhibit 10

³⁸ Exhibit 11

³⁹ Exhibit 12

⁴⁰ Exhibit 10

10. Declaration of Chad Frost (Volunteer Pharmacy)

DEFENDANTS' CHART (DE 633-22)		SEC RESPONSE TO DEFENDANTS' CHART
Statement Defendants Allege Is False (Verbatim)	Defendants' Proof of "Perjury" Verbatim	Defendants Offer A Misleading Characterization of Evidence While Concealing The Truth
3. In June 2016, Complete Business solutions Group ("CBSG") made a loan to the Company in the amount of \$100,000 (the "Loan") through what CBSG calls its "merchant capital advance" ("MCA") business	"QuickBooks Shows Inaccurate statement"	Defendants do not offer any Quickbooks evidence for review. Frost's company received \$100,000 through two payments, but in <i>May</i> 2016 rather than June 2016. That was an inadvertent error in the declaration. The June bank statements reflect these two payments occurred in May 2016. ⁴¹
5. The Loan was underwritten by CBSG in less than 48 hours from the time I applied	"QB Prove on more than 48 hours Funding Volunteer"	Defendants file no Quickbooks, even a manipulated version, in support. Quickbooks does not list the application date or show the date the application, to a broker or otherwise, reached (if ever) CBSG – except in the manipulated versions the Defendants try to pass off as real.

⁴¹ Exhibit 13

11. Declaration of Sean Whalen (Flexogenix)

<p>Declaration Excerpt</p> <p><i>Allegedly Perjured Statements Appear in Bold Text</i></p>	<p>Defendants’ Proof of “Perjury”</p> <p><i>Pasted Verbatim</i></p>	<p>Defendants Offer A Misleading Characterization of Evidence While Concealing The Truth</p>
<p>4. The Loan was underwritten by CBSG in less than 48 hours from the time I applied⁴²</p>	<p>Compare Quickbooks to Application that shows more than 48 hours Funding Flexogenix Group</p>	<ul style="list-style-type: none"> ▪ As an initial matter, to claim these 4 declarations are false and the date the applications were sent and deals approved, Defendants offer only a manipulated Quickbooks report to show supposed “application” and “funding dates.”⁴³ ▪ Even if the QuickBooks report were real, and it is not, it clearly and on its face purports to show information about a 2017 transaction. Each of Whalen’s declarations is about a 2018 deal approved between October and December 2018, in completely different amounts from what the Defendants’ manipulated 2017 QuickBooks page shows. ▪ Thus, Defendants’ challenge fails because (1) they offer only a manipulated QuickBooks report and the real report doesn’t show the application date at all; and (2) the fake report is about the wrong year, wrong deals, and not those Whalen’s declarations are about. ▪ Nonetheless, because Defendants attack Whalen’s character and accuse him of perjury publicly,⁴⁴ we address all 4 declarations below.

⁴² Whalen executed declarations about 4 deals: 2 in October 2018, 1 in November 2018, and 1 in December 2018. All 4 are attached to Defendants’ perjury chart, and we assume Defendants challenge all 4 of them, and thus discuss each of them: declaration stating it is regarding an Oct. 2018 deal for \$800k; declaration stating it is regarding an Oct. 2018 deal for \$1.2 million); *Id.* at p. _ (declaration stating it is regarding a Nov. 2018 deal for \$1 million); declaration stating it is regarding a Dec. 2018 deal for \$500k);

⁴³ DE 663-22 at p.179; See above, Quickbooks does not have this information on it in its true form.

⁴⁴ Defendants filed the Motion on the public docket, showing merchants’ credit reports and other information, in documents they failed to adequately redact pursuant to the electronic redaction guidance. Therefore, the social security numbers and other PII of the merchants was available to the public for viewing and download for days. Even after undersigned alerted Defense counsel and asked them to remove it or ask that it be filed under seal, they took no action. As a result, the Receiver’s counsel ultimately filed to seek this relief. Before it was sealed, Defendant Dean Vagnozzi circulated the pleading links to his investors via a mass email message and published a video about the filing on Vimeo (available to the public), and investors contacted the SEC stating they had reviewed the filing and the exhibits. Thus, there is no question the merchant witnesses’ PII, and the allegations of perjury, are in public circulation.

Declaration 1 (10/2018 Loan for \$800,000):

“Application”: Sunday, September 30, at 1:20am:

Whalen emails LaForte asking asking for another loan (Ex. 14).

CBSG Approves and Sends Contract: Monday, October 1:

At 12:39am: LaForte emails Whalen a list of CBSG loan offers. *Id.*

At 10:39am: Whalen responds to LaForte via email, choosing \$800k over 199 days option from those LaForte offered. *Id*

At 7:54pm: LaForte emails Whalen, using subject line “contract sent.” LaForte writes: “Want to make sure you received contract.” (Ex. 15). Whalen responds that day, confirming he did and he will require time to return it because he is out of the country. *Id*

At 9:22pm: CBSG underwriting staff email Whalen that they sent the contract to him earlier that same morning, requesting only contract plus notarized Confession of Judgment. (Ex. 16). Contract states agreement between Flexogenix and CBSG as of 10/1/2018. (Ex17 p2)

Tuesday, October 2, at 8:34am: LaForte emails Whalen again that he is still waiting for Whalen to return contract so he can fund (Ex 18).

Wednesday, October 3, 2018, at 6:10am: LaForte emails staff and Whalen, to help get Whalen’s contract “so I can get him the funds tomorrow.” (Ex. 19).

Later that same day, Whalen emails LaForte that he has emailed CBSG his signed contract. *Id.*

CBSG records it as funded, same day. (Ex20, showing 10/3 funded date)

Declaration 2 (10/2018 Loan for \$1,200,000)⁴⁵

ConvergeHub file for this deal has no application in it.

The Defendants have good reason to know, however, that it came about through a request by Whalen to LaForte over the phone and that LaForte sent the contract the next day for \$1.2 million. In fact, ConvergeHub lists the source of this Loan as “Joe Mack, House.” (Ex 21).

⁴⁵ DE 663-22 at p.168.

Cont'd.

October 23: Emails between Whalen and LaForte about a call that same night (Ex 22)

October 24: CBSG makes offer of \$1.2 million to Whalen (Ex 23, CBSG Contract with Flexogenix as of 10/24)

November 1: Whalen sends signed contract to CBSG at 2:11am. (Ex 24).

That same day: ConvergeHub shows the deal as “funded.” (Ex25)

Declaration 3 (11/2018 Loan for \$1 million)⁴⁶

There is no application for this deal, identified on ConverHub as a “new” deal.⁴⁷

Instead, CBSG’s records reflect it was done via an email exchange between Whalen and LaForte.

On November 19:

At 11:08am: Whalen emails LaForte for \$850k. (Ex 26).

At 3:26pm: LaForte responds that he has sent the contract to Whalen. *Id.*

On November 20:

At 3:28pm: Whalen asks to increase the loan to \$1 million (Ex27)

3 Minutes later, or 3:331pm: LaForte responds “You got it.”

On November 26: CBSG underwriting staff emails Whalen that he has not received the new contract because DocuSign software had not been working since the prior week (Ex 28)

December 3: date reflected on ConverHub as receipt of signed contract (which states it is “as of” November 20” and that Whalen signed it November 27, as well as date reflected on ConvergeHub that deal was “funded.” (Ex29).

⁴⁶ DE 663-22 at p.169.

⁴⁷ We add this only since Defendants, in their creativity, might try to argue in their reply that this was related in any way to a prior application or deal.

Cont'd.

Declaration 4 (12/2018 Deal for \$500,000)⁴⁸

There is no application for this deal.

Instead, it appears to have been done through a phone call and via email.

December 12, 2018 at 5:25pm: Whalen emails LaForte, referencing their prior night's call and that he wants a new loan for \$1.5 million, stating he is attaching bank records⁴⁹ (Ex30)

December 13, 2018: LaForte responds, declining the \$1.5 million email message "application" and approving a loan for 439,066.66, noting he will grant \$1.5 million if Whalen/Flexogenix put residential or commercial real estate in as collateral (Ex 30)

December 13-17, 2018: Whalen and LaForte negotiate and after Whalen reminds LaForte that the new loan funds will go back to CBSG soon to pay outstanding loans, LaForte approves him for \$500,000. The approval email is dated December 17, and Whalen confirms receipt of the revised contract that same day (Ex 30)

December 27, 2018: Whalen executes the contract, which contract states it is "as of December 17." (Ex 31, Contract)

December 28, 2018: ConvergeHub reflects this as the "funded" date (Ex 32)

⁴⁸ DE 663-22 at p.170.

⁴⁹ We are filing this exhibit without all the attachments, because it lengthy and because the issue of what was attached is not relevant to the disputed statement in the declaration regarding timing. The email references what is attached and the attachments are visible. Defendants have – and have had - this and all other documents and attachments cited herein.

11. Declaration of Sean Whalen (Flexogenix)

Allegedly Perjured Statement in Declaration	Defendants’ Proof of “Perjury” <i>Pasted Verbatim</i>	Defendants Offer A Misleading Characterization of Evidence While Concealing The Truth
<p>6. CBSG did not perform an on-site inspection of the company prior to approving the Loan.</p> <p><i>This language appears in each Declaration, namely about the October 2018, November 2018, and December 2018 Loans⁵⁰</i></p>	<p>“See Onsite - Metro Inspection Dated November 02, 2017”</p>	<ul style="list-style-type: none"> ▪ Defendants offer an inspection report done by a company called <i>Metro Site Inspections (“MSI”)</i> in November <u>2017</u>.⁵¹ <p><u>However, and as Defendants knew when they filed the Motion:</u></p> <ul style="list-style-type: none"> • The inspection report has a Par Funding logo on it, but Par Funding/CBSG did not do the MSI inspections. It simply paid MSI, a national firm separate from CBSG, to do them.⁵² • So the report, if accurate, simply shows that MSI did an inspection on November 6, 2017 and CBSG paid for it. • Whalen’s declarations are about 2018 Loans, about 1 year after the inspection Defendants cite as evidence • Worse, the Defendants know the truth - that in 2017, Whalen had applied not to CBSG, but to a <i>different</i> company - a lending broker called Empower Group⁵³ • Defendants offer no evidence that Whalen even <i>knew</i> about CBSG on November 6, 2017 when the inspection happened.⁵⁴ • <u>We also note:</u> <ul style="list-style-type: none"> ○ The MSI report states the inspector spoke with 1 person – and it is not Whalen ○ There is no indication that the inspector in 2017 told anyone at Flexogenix that CBSG had paid for the inspection ○ There is no evidence that Whalen <i>ever</i> knew CBSG (as opposed to perhaps the company he <i>did</i> apply with) paid for the inspection of his business in 2017, let alone that he knew this inspection even occurred

⁵⁰ Note added by SEC counsel; does not appear on original chart and is not a quote from the Declarations

⁵¹ Purported meaning it is not authenticated and there is no evidence it relates to Loans at issue.

⁵² www.metroinspections.com

⁵³ During the recent Rule 30(b)(6) deposition of the SEC, Defendants showed Whalen’s 2017 application to Empower Funding to the SEC witness, and tried to get the SEC to agree with them that this was for the 2018 Loans done a year later.

⁵⁴ Undersigned searched the production files and did not locate any evidence showing Whalen knew about CBSG doing an inspection in 2017. However, the Defendants did not share the 2017 Application (which they did not produce in response to the SEC’ RFP) until introducing it as an exhibit in their deposition of the SEC. They could have more responsive documents they are concealing that show to the contrary, but our search shows of all documents produced in this case shows nothing.

11. Declaration of Sean Whalen (Flexogenix)

Allegedly Perjured Statement in Declaration	Defendants’ Proof of “Perjury” <i>Pasted Verbatim</i>	Defendants Offer A Misleading Characterization of Evidence While Concealing The Truth
7. To my knowledge, CBSG did not perform a background check on me during the underwriting process or any time prior to approving the Loan	“CBSG Performed the Following Background Checks and Reviewed the Following Application: Personal Experian Reports for Sean P Whalen and Yingyin Chen 2017 Application”	<p>Defendants cite 2 things, neither of which shows a background check:</p> <ol style="list-style-type: none"> 1. Credit reports <ul style="list-style-type: none"> • As set forth above, credit report are not background checks and Defendants know that and told investors “in addition to credit scores,” then ran background checks. <i>See infra.</i> • The credit reports are not even from the time of the Loans at issue; they are from a year before Whalen applied for the Loans at issue. DE 663-22 at pp 171-172 (top left corner of each page) 2. An “Application” <ul style="list-style-type: none"> • As set forth above, and as is apparent on the face of the document Defendants rely on, this is a 2017 application Whalen made to a different company • The application is a one-page document and is not a background check report • There is no indication Whalen knew CBSG got this application, let alone that this would be considered a “background check” • Defendants chose not to inquire of Whalen, did not depose him, and have no idea what his knowledge was.
8. CBSG did not request information showing the Company's profit margins or expenses during the underwriting process or at any other time prior to approving the Loan	“See Data Book Received by CBSG”	<p>Defendants:</p> <ul style="list-style-type: none"> • Offered no evidence or explanation of the “Data Book” • Did not file the “Data Book” • Offer no evidence or even assertion that CBSG requested information showing Flexogenix’s profit margins or expenses – ever – let alone prior to approving each Loan • Offer no evidence that Whalen gave CBSG the “Data Book” in response to such a request • Offer no evidence that “Data Book” even includes information showing the profit margins or expenses of Flexogenics

12. Declaration of Bruce McNider (Flexogenix)

Allegedly Perjured Statement in Declaration	Defendants' Proof of "Perjury" <i>Pasted Verbatim</i>	Defendants Offer A Misleading Characterization of Evidence While Concealing The Truth
<p>3. In [Month]201[], Complete Business Solutions Group ("CBSG"), made a loan to my Company in the amount of \$ _____ (the "Loan") through what CBSG calls its "merchant capital advance" ("MCA") business</p>	<p>"Blanks in Regarding Essential Claims Show Declaration was not even read."</p>	<p>Defendants' assertion that 2 blanks Mr. McNider did not fill in on his Declaration show he did not read it is absurd.</p> <ul style="list-style-type: none"> • As the Defendants know from the face of the document: <ul style="list-style-type: none"> ○ McNider filled in his blanks for his residential city and the name his company in handwriting in paragraph 2 of his declaration,⁵⁵ ○ The fact that he did not fill in blanks in the following paragraph is evidence of nothing more than the fact that he filled in some blanks and not others ○ Declaration is signed and dated • Defendants chose not to depose Mr. McNider, and thus chose not to ask him why he did not fill in these blanks, or to ask if he read it. • As the Defendants know, McNider emailed this signed declaration to the SEC through his counsel, and the email chain shows this.
<p>5. The Loan was underwritten by CBSG in less than 48 hours.</p>	<p>Quickbooks compared to Application shows more than 48 hours Funding McNider Marine</p>	<p>Defendants rely on and filed a fake QuickBooks report.⁵⁶</p> <p>As for the Application:</p> <ul style="list-style-type: none"> • As Defendants know, the application they filed is not to CBSG • Instead, as is clear on its face, it is an application to a different company, called Richmond Capital Solutions.⁵⁷ • Defendants present no evidence of when McNider was submitted to CBSG, when underwriting occurred, when CBSG entered a contract with McNider to purchase his company's accounts receivable, how long the underwriting took, or what McNider, the Declarant, was told or otherwise knew.

⁵⁵ DE 663-22 at p.180.

⁵⁶ DE 663-22 at p.193; See Quickbooks exhibit above

⁵⁷ DE 663-22 at p.192.

12. Declaration of Bruce McNider (Flexogenix)

Allegedly Perjured Statement in Declaration	Defendants' Proof of "Perjury" <i>Pasted Verbatim</i>	Defendants Offer A Misleading Characterization of Evidence While Concealing The Truth
7. CBSG did not perform a credit check during the application or underwriting process	"CBSG Performed the Following Background Checks and Reviewed the Following Application: Business Experian Report 2016 Personal Experian Report 2016 Application"	<p>Defendants cite the Application.</p> <ul style="list-style-type: none"> • Application to Richmond does not prove or show a credit check was done by anyone, let alone CBSG.⁵⁸ • Instead, it just shows, at best, that McNider gave permission in his application to Richmond Capital Solutions and any of its unnamed affiliates agents permission to pull credit. <p>Defendants also offer two credit reports, with no other support or evidence about these reports, including who performed them.</p> <ul style="list-style-type: none"> • There is no indication that CBSG, as opposed to Richmond (the broker McNider applied to) or anyone else, pulled these credit report, and no evidence presented by Defendants that someone reviewed them⁵⁹ • In sum, defendants offer no evidence that CBSG pulled these, reviewed these, or anything whatsoever to show that McNider would have seen a credit pull by CBSG on his credit report <p>Defendants offer no evidence:</p> <ul style="list-style-type: none"> • Showing CBSG (as opposed to anyone else, including the company McNider actually applied to) performed these credit checks; • That CBSG performed these credit checks⁶⁰ during the application and underwriting process; or • That McBride knew CBSG performed these credit checks, let alone during the application or underwriting process.

⁵⁸ DE 663-22 at

⁵⁹ DE 663-22 at 194

⁶⁰ The SEC is not agreeing CBSG performed the credit checks, but indicating that even if Defendants had presented evidence that CBSG performed the credit checks that still does not counter what Whalen testified to. They would have to show that it was done during the underwriting or application process. And to prove perjury, they would obviously need to prove even more.

12. Declaration of Bruce McNider (Flexogenix)

Allegedly Perjured Statement in Declaration	Defendants' Proof of "Perjury" <i>Pasted Verbatim</i>	Defendants Offer A Misleading Characterization of Evidence While Concealing The Truth
<p>8. CBSG did not request information from me or the Company about the Company's expenses during the underwriting process or at any other time prior to approving the Loans</p> <p>9. CBSG did not request information from me or the Company about the Company's profit margins during the underwriting process or at any other time prior to approving the Loans</p>	<p>"See Matrix and bank statements for cash flow"</p>	<p>As McNider's application to Richmond Capital Solutions states, he was seeking a loan to consolidate a group of outstanding loans/MCAs.⁶¹</p> <p>The Matrix:⁶²</p> <ul style="list-style-type: none"> • Is general. It states (1) Lender names and balances McNider was seeking to consolidate; and (2) end of month account balances and amount deposited into bank account for 3 months.⁶³ <ul style="list-style-type: none"> ○ Defendants offer no evidence of where this information came from, whether from Richmond Capital, McNider, or otherwise • Does not state: (1) Company's expenses – operating, payroll, overhead, or otherwise - other than loans balances McBride had applied to consolidate;⁶⁴ (2) details about accounts receivable, deals, profit stream, etc.; (3) the Company's profit margins. • Thus the Matrix appears to have no connection to McNider's declaration paragraphs 8 and 9.

⁶¹ DE 663-22 at 192.

⁶² DE 663-22 at p.182.

⁶³ DE 663-22 at p.182, 192 (at "reason" answer on application)

⁶⁴ DE 663-22 at 192

13. Declaration of Kara DiPietro (HMC)

<p>Allegedly Perjured Statement in Declaration</p>	<p>Defendants’ Proof of “Perjury” <i>Pasted Verbatim</i></p>	<p>Defendants Offer A Misleading Characterization of Evidence While Concealing The Truth</p>
<p>4. LaForte explained that CBSG/Par Funding would loan money to HMC in exchange for daily payments. The loan agreements stated that payments are based on a specified 10% of HMC's accounts receivables.</p> <p>5. Based on the loan terms that LaForte proposed, I agreed to consolidate HMC's loans with CBSG on or about February 26, 2018. After that, and through February 24, 2019 HMC and CBSG entered into many more separate loan agreements that I secured through personal guarantees</p>	<p>“See Application Application, showing MCA”</p>	<p>Defendants seek dismissal because DiPietro supposedly perjured herself in paragraph 4 of her declaration.</p> <p>However, whether or not an application “show[s] MCA” does not have any bearing on DiPietro’s testimony at issue, nor do Defendants explain why this is relevant.</p> <p>To the extent the defendants are trying to argue DiPietro is wrong in her usage of the word “loan” and she should have used the word “MCA,” DiPietro is not a lawyer and as the Defendants have repeatedly been told, whether the deals are loans vs MCAs is not an issue in this case and never will be.</p>

13. Declaration of Kara DiPietro (HMC)

<p>Allegedly Perjured Statement in Declaration</p>	<p>Defendants’ Proof of “Perjury” <i>Pasted Verbatim</i></p>	<p>Defendants Offer A Misleading Characterization of Evidence While Concealing The Truth</p>
<p>13. During the meeting, LaForte told me CBSG had a loan default rate of less than 1% so there was virtually no risk to my investment funds given the low default rate</p> <p>14. LaForte also told me that my investment was secured by insurance, and that there was no risk to my principal. He told me that if a merchant defaulted on his loan, then CBSG had the insurance to back up investor funds, thus reassuring me that my investment was safe and secure</p> <p>17. Neither Laforte, nor Alperstein, Abbonizio, or anyone associated with the investment opportunity ever disclosed any risks associated with and investment with Par or MCA, such as that I could lose all my investment funds. If I had known that CBSG had a higher default rate than what LaForte told me, or that my investment funds were not backed by insurance, I never would have invested</p>	<p>“See email chain showing Par did not even know DiPietro had invested.”</p>	<p>Defendants cite attorney-client privileged email messages – clearly marked “attorney-client privileged.” (DE 663-22 at pp 208-209).</p> <p>We stopped reading when we saw the attorney-client privilege designation since to our knowledge Ms. DiPietro has not waiver her attorney client privilege and thus we believe this was inadvertently produced.</p> <p>Based on every other piece of evidence Defendants claim shows perjury when it does not, we imagine this message is of the same ilk.</p>

13. Declaration of Kara DiPietro (HMC)

<p>Allegedly Perjured Statement in Declaration</p>	<p>Defendants’ Proof of “Perjury” <i>Pasted Verbatim</i></p>	<p>Defendants Offer A Misleading Characterization of Evidence While Concealing The Truth</p>
<p>23. On May 3, 2019, LaForte demanded I travel to Philadelphia to meet with him and CBSG's CFO to discuss my outstanding balances. That meeting occurred on May 6, 2019. At that meeting LaForte presented me with a new loan that he demanded I sign. After the meeting, LaForte followed me to my car and threatened to blow up my home if I did not sign the new loan with CBSG and pay what he said I "owed" them. LaForte also made similar physical threats to HMC's attorney, telling him that he did not want anybody to get "hurt." On Friday, May 10, 2019, LaForte sent me a text message saying "Get your fat ass up and call me," followed by "That was my last call. Now action." A true and correct copy of this text message I received from LaForte is attached as Exhibit D.”</p>	<p>“See emails showing DiPietro continued to engage with Par and was happy to deal with them after allegedly threatening Ms. DiPietro.”</p>	<p>The email do not prove Ms. DiPietro’s statement in paragraph 23 are false. Nor do the Defendants challenge the authenticity of the email Ms. DiPietro cites and attaches in connection with Paragraph 23, or present any denial that the events occurred just as she described them.</p> <p>Instead, it appears Defendants argue that if Ms. DiPietro acted kindly or continued to engage or was in their view, “happy,” then she cannot be the victim of abuse or threats of violence. We will not dignify this frankly ignorant and offensive argument concerning the reactions of such victims with a response.</p> <p>Notably, as with every other person whose declaration they attack, the Defense has not deposed them or even spoken to them about their declarations.</p>

14. Declaration of Julie Katz (TourMappers)

<p>Allegedly Perjured Statement in Declaration</p>	<p>Defendants’ Proof of “Perjury” <i>Pasted Verbatim</i></p>	<p>Defendants Offer A Misleading Characterization of Evidence While Concealing The Truth</p>
<p>7. CBSG did not perform a personal on-site inspection of that Company prior to approving the Loan. I only emailed photos of my office to the sales representative</p>	<p>“See Onsite – Pictures sent by broker”</p>	<p>In the challenged paragraph of her declaration, Ms. Katz testifies that CBSG did not perform an on-site inspection and instead she emailed photos she took to her sales representative. (Ex. 33).</p> <p>Defendants offer nothing more than the email from the sales representative to CBSG, forwarding the photos Ms. Katz testifies she took. (DE 663-22 at 214). If anything, this seems to just confirms the SEC’s assertion that there was no on-site inspection and CBSG received photos the applicant took.</p>
<p>8. CBSG did not perform a background check or credit check on me during the underwriting process or at any time prior to approving the Loan</p>	<p>“CBSG Performed the Following Background Checks and Reviewed the Following Application:</p> <p>Personal Experian Report 2020 Business Experian Report 2020 Application</p>	<p>As with all their other challenges, Defendants only file documents with no declaration or proof of what they use the document to try to prove.</p> <p>The “application” defendants filed is clearly not a CBSG application. It states “United Secured Broker” on it. (DE 663-22 at p.232). Nor do Defendants even assert this a CBSG application.</p> <p>The application is not a background check. It states 4 things on it: name of company applying, company address, owner of the company, and the date of the application – January 9, 2020. (DE 663-22 at p.232).</p> <p>Defendants filed two credit checks from January 9, 2020, the same date as the TourMappers application to United Secured Broker defendants filed. (DE 663-22 at 211-213 & 232). Defendants provide no evidence that CBSG pulled these credit reports, let alone reviewed them., or that Ms. Katz would know this (ie, if the company she actually applied to showed up on her credit report as pulling credit).</p>
<p>10. CBSG did not request the Company's profit margins during the underwriting process or at any other time prior to approving the Loan</p>	<p>CBSG received: Aging Analysis Report Leader Bank Statement 1531 2019</p>	<p>CBSG presents no evidence that it asked Ms.Katz for anything. CBSG did present her application, which shows she applied to a broker on January 9, 2020. There is no evidence that CBSG asked Ms.Katz for either of the documents Defendants cite, and the documents clearly do not reflect what the company’s profit margins were.</p>

Exhibit 12**Production Chart**

#	Producing Party	Count
1	ACTUM_PROCESSING	47,962
2	BFP	30,679
3	CAMAPLAN	7,446
4	OFR	1,896
5	PA_DEPARTMENT_OF_BANKING_SECURITIES	1,666
6	PA_DEPARTMENT_BANKING_SECURITIES	1,648
7	BANK_OF_AMERICA	1,413
8	THE_VICTORY_BANK	1,034
9	HESKIN_SHANE	645
10	VERTO	492
11	CITIZENS_BANK	422
12	TD_BANK	415
13	ENT_CU	392
14	DIPIETRO_KARA	310
15	VIMEO	239
16	PNC_BANK	236
17	WELLS_FARGO_BANK	144
18	TEXAS_SECURITIES_REGULATORS	104
19	RECEIVER	64
20	HMC	62
21	SYNOVUS	48
22	BEEBE_BRAD	42
23	REPUBLIC_BANK	28
24	FINRA	26

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25	N/A	24
26	FIRST PLATINUM ABSTRACT	22
27	JOYCE CHRISTOPHER	18
28	JPMCB	18
29	TX STATE SECURITIES BOARD	18
30	MARLOWE SCOTT	16
31	ATLANTIC COMMUNITY BANKERS BANK	14
32	WSFS BANK	13
33	CBS LOCAL	11
34	GLACIER BANK	11
35	REGIONS BANK	11
36	SENDERA TITLE	11
37	BANCORP BANK	10
38	DELUCCO GARY	9
39	SIGNATURE BANK	9
40	DE DIVISION OF CORPORATIONS	7
41	REEHL INVESTIGATIONS	7
42	AEROTITLE	6
43	GRAFF DENNIS	6
44	KAPLAN LEAMAN WOLFE	6
45	WEINKRANZ STEVE	6
46	COMMONWEALTH OF VIRGINIA	5
47	FIRST INTERNATIONAL BANK AND TRUST	5
48	FOTI MICHAEL	5
49	FRBNY	5
50	KOTA PAY	5
51	LIPOWSKI RONALD	5
52	MONAHAN MICHAEL	5
53	REIKES MARC	4

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54	VAGNOZZI_DEAN	4
55	VICTORY_STATE_BANK	4
56	MERIDIAN_BANK	3
57	STOLLER_ROBERT	3
58	BENEFICIAL_BANK	2
59	ENT_CREDIT_UNION	2
60	FEDEX_EXPRESS	2
61	AJI_MEDIA	1
62	NJ_BUREAU_OF_SECURITIES	1
63	PICKER_BENJAMIN	1
	TOTAL	97,728

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