

UNITED STATES DISTRICT
COURT 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.

**DEFENDANT'S MOTION TO FILE MATERIALS UNDER SEAL IN
SUPPORT OF REPLY IN SUPPORT OF MOTION TO DISMISS (DE#663)**

Pursuant to Local Rule 5.4, Defendants Joseph W. LaForte, Lisa McElhone, and Joseph Cole Barleta, by and through their attorneys, respectfully seek to file under seal documents that have been designated as Confidential pursuant to the Protective Order.

1. Good cause exists because the documents have been designated confidential pursuant to the Protective Order (DE# 437).
2. These exhibits are crucial to Defendant's reply but are either designated confidential pursuant to the Protective Order entered by this Court. (DE 437) or are from ConvergeHub and have not yet been reviewed by the Receiver.
3. The Receiver's position is that many of the ConvergeHub documents are confidential, but he is unable to review them each one of them before filing. Having prepared the exhibits, the undersigned can confirm that the Receiver will likely consider most of these exhibits confidential, and of course, he has already designated some exhibits confidential.

4. Therefore, Defendants respectfully request that ConvergeHub exhibits, and other exhibits designated confidential by the Receiver, be filed under seal.

Wherefore, Defendants respectfully request that they be permitted to file their ConvergeHub exhibits, and other exhibits designated confidential under seal.

Local Rule 7.1(a)(3) Certification

Counsel for the Defendants conferred or attempted to confer with counsel for the Receiver and the SEC on their position for this motion. The Receiver's counsel stated that:

It is the Receiver's position that many, but not all, of the documents from ConvergeHub are confidential and/or contain personal information that should not be filed on the publicly-available docket. Given the volume of material on ConvergeHub and the manner in which the Receiver agreed to make these documents available to the Defendants (see ECF Nos. 536, 545), there was no reasonable way for the Receiver to review and designate documents as confidential on a document-by-document basis. Because there will be insufficient time for the Defendants to meet and confer with the Receiver between the time they decide which documents they intend to attach as exhibits to their Reply and the deadline for filing the Reply, the Receiver does not object to the Defendants filing all exhibits they obtained from ConvergeHub under seal. Upon receiving the Defendants' motion to seal and having an opportunity to review these exhibits, the Receiver will file a response indicating which exhibits, if any, should be de-designated as confidential and, therefore, need not be filed under seal.

Counsel for the Defendants agreed to this procedure, and thus seeks to file all of the ConvergeHub exhibits under seal to be unsealed once the Receiver has had the chance to review them.

Counsel for the SEC did not respond to two emails asking for their position on this motion. However, given that the SEC has requested that documents designated as confidential be filed under seal, the undersigned anticipates that the SEC similarly would not oppose this motion.

Dated: August 23, 2021

**KOPELOWITZ OSTROW
FERGUSON WEISELBERG GILBERT**
One W. Las Olas Blvd., Suite 500
Fort Lauderdale, Florida 33301
Attorneys for Joseph W. LaForte

LAW OFFICES OF ALAN S. FUTERFAS
565 Fifth Avenue, 7th Floor
New York, New York 10017
/s/ Alan S. Futerfas

By: /s/ David L. Ferguson
DAVID L. FERGUSON
Florida Bar Number: 0981737
Ferguson@kolawyers.com
JOSHUA R. LEVINE
Florida Bar Number: 91807
Levine@kolawyers.com

ALAN S. FUTERFAS
Telephone: 212- 684-8400
asfuterfas@futerfaslaw.com
Attorneys for Lisa McElhone
Admitted Pro Hac Vice

/s/ Bettina Schein
Bettina Schein, Esq.
Attorney for Joseph Cole Barleta
565 Fifth Avenue, New York, New York 10017
(212) 880-9417
bschein@bettinascheinlaw.com
Admitted *Pro Hac Vice*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 23, 2021, I electronically filed the forgoing 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 transmissions of Notices of Electronic Filing generated by CM/ECF.

By: /s/ David L. Ferguson
DAVID L. FERGUSON