

**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’ (1) MOTION IN LIMINE TO EXCLUDE EXPERT
TESTIMONY AND REPORT OF MELISSA DAVIS, (2) JOINT MOTION FOR
PARTIAL SUMMARY JUDGMENT, AND (3) JOINT STATEMENT OF UNDISPUTED
FACTS IN SUPPORT OF THEIR MOTION FOR PARTIAL SUMMARY JUDGMENT**

Basis for expedited relief:

The Receiver respectfully seeks this relief on an expedited basis because he recently learned that the Defendants filed two motions and another filing on the publicly-available docket that contain 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 5, 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)

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

Defendants' Motion *In Limine* to Exclude Expert Testimony and Report of Melissa Davis [ECF No. 803] (the "Motion *In Limine*"), (2) Joint Motion for Partial Summary Judgment [ECF No. 804] (the "Motion for Partial Summary Judgment"), and (3) Joint Statement of Undisputed Facts in Support of Their Motion for Partial Summary Judgment [ECF No. 805] ("Statement of Facts"), because these filings contain Confidential Information and other personal information that should not be available on the public docket (the "Expedited Motion to Seal"), and states as follows:

1. On October 4, 2021, at 9:33 p.m., Defendants Joseph W. Laforte, Lisa McElhone, and Joseph Cole Barleta (the "Defendants") filed the Motion *In Limine*, which includes as an exhibit the "Report of Expert" from the Securities and Exchange Commission's Expert Witness in this action, Melissa Davis (the "Davis Report").

2. Certain of the exhibits attached to the Davis Report, which are now part of the publicly-available docket as a result of Defendants' filing of the Motion *In Limine*, include the names and outstanding receivable balances of each of Par Funding's historical and current merchants. The Receiver has designated this information as "Confidential Information" pursuant

Fund 6, LLC; ABFP Income Fund Parallel LLC; ABFP Income Fund 2 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.

to the terms of the Court's Protective Order [ECF No. 437] (the "Protective Order"), requesting that the Defendants treat this information as Confidential.

3. Other exhibits include unredacted personal information—including social security numbers, taxpayer identification numbers, and bank account numbers—of Par Funding's merchants.

4. 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 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 other unprotected personal information. *Id.*, § 6B. Although the Defendants redacted certain personal information contained within certain exhibits to the Davis Report, they apparently overlooked personal information included within other exhibits, which is completely unredacted and now included as part of the publicly-available docket.

5. Thus, Defendants' Motion *In Limine* includes information that should not be available on the public docket because the Receiver designated certain documents and information as "Confidential" pursuant to the terms of the Protective Order, and because the Motion *In Limine* contains personal information the Defendants have no legitimate need to include on the publicly-available docket.

6. Pursuant to Section 5.4 of the Protective Order, if the Defendants intended to include these documents designated as Confidential as exhibits to their Motion *In Limine*, they 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.

7. 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 what has occurred here: the possible public disclosure of the names and account information of Par Funding's merchants.

8. On Monday, October 4, 2021, at 10:38 p.m., undersigned counsel for the Receiver sent an email to 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.

9. On Monday, October 4, 2021, at 11:05 p.m., the Defendants filed the Motion for Partial Summary Judgment, which contains the very same Confidential Information and personal information that Defendants improperly included in the Motion *In Limine*.

10. On Monday, October 4, 2021, at 11:22 p.m., undersigned counsel for the Receiver contacted counsel for the Defendants and, once again, indicated that this Confidential Information and personal information must be removed from the publicly-available docket.

11. On Monday, October 4, 2021, at 11:28 p.m., counsel for Joseph LaForte responded that the inclusion of this information "was an oversight" and they would "file the appropriate motions in the morning."

12. On Monday, October 4, 2021, at 11:30 p.m., the Defendants filed the Statement of Facts, which also contains the very same Confidential Information and personal information that Defendants improperly included in the Motion *In Limine*.

13. The Receiver believes immediate action is necessary to limit the improper public disclosure of this information.² To that end, the Receiver is filing this Expedited Motion to Seal this evening, as the Receiver believes it would not be prudent to allow this Confidential and other personal information to remain on the publicly-available docket for any longer than is necessary. Accordingly, the Receiver requests the Court to: (a) seal the Motion *In Limine*, Motion for Partial Summary Judgment, and Statement of Facts; and (b) require the Defendants to: (i) file a new version of the Motion *In Limine*, Motion for Partial Summary Judgment, and Statement of Facts that exclude 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, financial, and Confidential information in its review of the Motion *In Limine* and the Motion for Partial Summary Judgment.

14. 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 Expedited Motion to Seal, and to seal the Motion *In Limine*, Motion for Partial Summary Judgment, and the Statement of Facts.

² Each of the documents the Defendants filed is hundreds of pages long, including the exhibits. The Receiver has not yet reviewed all of the exhibits to each of these filings and, therefore, has not been able to confirm whether any other Confidential Information or other personal information has been included in these filings, but would strongly urge the Defendants to review these exhibits in detail before re-filing these documents to ensure that no such information is included in their subsequent filings.

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 Expedited Motion to Seal; and (2) counsel for the Defendants have indicated that the inclusion of this information was an “oversight” and would take action at a later time, but have not specifically confirmed whether they agree with the relief the Receiver is seeking through the Expedited Motion to Seal as of the time of this filing.

Dated: October 5, 2021

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 5, 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' (1) MOTION IN LIMINE
TO EXCLUDE EXPERT TESTIMONY AND REPORT OF MELISSA DAVIS,
(2) JOINT MOTION FOR PARTIAL SUMMARY JUDGMENT, AND
(3) JOINT STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF
THEIR MOTION FOR PARTIAL SUMMARY JUDGMENT**

THIS CAUSE comes before the Court upon Receiver, Ryan K. Stumphauzer's ("Receiver") Expedited Motion to Seal (1) Defendants' Motion *In Limine* to Exclude Expert Testimony and Report of Melissa Davis [ECF No. 803] (the "Motion *In Limine*"), (2) Joint Motion for Partial Summary Judgment [ECF No. 804] (the "Motion for Partial Summary Judgment"), and (3) Joint Statement of Undisputed Facts in Support of Their Motion for Partial Summary Judgment ("Statement of Facts") [ECF No. 805] (the "Expedited Motion to Seal") [ECF No. ____].

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

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

1. The Court hereby seals the Motion to *In Limine*, Motion for Partial Summary Judgment, and the Statement of Facts and instructs the Clerk to restrict public access to the Motion to *In Limine*, Motion for Partial Summary Judgment, and the Statement of Facts.

Exhibit 1

2. The Defendants shall file a new version of the Motion *In Limine*, Motion for Partial Summary Judgment, and Statement of Facts that exclude 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 *In Limine*, Motion for Partial Summary Judgment, and Statement of Facts 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 *In Limine* and Motion for Partial Summary Judgment.

DONE AND ORDERED in Fort Lauderdale, Florida, this ____ day of October , 2021.

RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of record