

**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 MOTION
TO LIFT LITIGATION INJUNCTION AS TO CERTAIN
COUNTERPARTIES WITH EAGLE SIX CONSULTANTS,
INC. AND HERITAGE BUSINESS CONSULTING, INC.**

Ryan K. Stumphauzer, Esq., Court-Appointed Receiver ("Receiver") of the Receivership Entities,¹ by and through undersigned counsel, hereby files this Motion to Lift Litigation

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 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.

Injunction as to Certain Counterparties with Eagle Six Consultants, Inc. (“ESC”) and Heritage Business Consulting, Inc. (“HBC”), and states as follows:

FACTUAL BACKGROUND AND SUMMARY OF PROPOSED CLAIMS

On or about July 27, 2020, the Court appointed the Receiver as receiver for Par Funding and other associated entities. *See* Order Appointing Receiver [ECF No. 36]. On December 16, 2020, the Court entered an Order Granting Motion to Expand Receivership Estate, expanding the receivership over, among other entities, ESC and HBC. *See* Order Granting Motion to Expand Receivership Estate [ECF No. 436]. As stated in the Amended Order Appointing Receiver dated August 13, 2020 [ECF No. 141], the Court appointed the Receiver because:

the appointment of a receiver in this action is necessary and appropriate for the purposes of marshaling and preserving all assets of the Defendants (“Receivership Assets”) and those assets of the Relief Defendant that: (a) are attributable to funds derived from investors or clients of the Defendants; (b) are held in constructive trust for the Defendants; and/or (c) may otherwise be includable as assets of the estates of the Defendants (collectively, “Recoverable Assets”).

Amended Order Appointing Receiver, p. 1.

The Amended Order Appointing Receiver further provides for a stay of all litigation involving the Receiver and the Receivership Entities:

All civil legal proceedings of any nature, including, but not limited to, bankruptcy proceedings, arbitration proceedings, foreclosure actions, default proceedings, or other actions of any nature involving: (a) the Receiver, in his capacity as Receiver; (b) any Receivership Property, wherever located; (c) any of the Receivership Entities, including subsidiaries and partnerships; or, (d) any of the Receivership Entities’ past or present officers, directors, managers, agents, or general or limited partners sued for, or in connection with, any action taken by them while acting in such capacity of any nature, whether as plaintiff, defendant, third-party plaintiff, third-party defendant, or otherwise (such proceedings are hereinafter referred to as “Ancillary Proceedings”)

(the “Litigation Injunction”). [ECF No. 141, ¶ 32.]

The Receiver requests this Court to lift the Litigation Injunction for the limited purpose of allowing the Receiver to pursue claims against certain counterparties that have received funds from

ESC and HBC, two of the Receivership Entities. Specifically, the Receiver intends to pursue claims against the following entities and individuals that entered into promissory notes, loan agreements, line of credit agreements, credit and security agreements, and other similar obligations with ESC or HBC (the “Agreements”), or otherwise received funds from ESC or HBC (collectively, the “Counterparties”):

1. Claims by ESC:
 - a. Rainer & Lloyd Associates LLC
2. Claims by HBC:
 - a. Nuco Tech Designs, Inc.
 - b. Cascades of Colorado, Inc.
 - c. AveNew Funding LLC
 - d. Mark Lowenstein
 - e. Christopher Payne
 - f. Jonathan Fry

Each of the Counterparties is in default under their respective Agreements with either ESC or HBC, or otherwise wrongfully received or retained funds from ESC or HBC. Based on these defaults, the Receiver has determined, in his professional judgment, that it is in the best interests of the Receivership Estate to pursue claims against these Counterparties, as well as certain of the guarantors under these various Agreements and the collateral and security the Counterparties provided to ESC or HBC under these Agreements.

ARGUMENT

A district court enjoys broad equitable powers to appoint a receiver over assets disputed in litigation before the court. The receiver’s role, and the district court’s purpose in the appointment, is to safeguard the disputed assets, administer the property as suitable, and to assist the district court in achieving a final, equitable distribution of the assets if necessary. *See* 13 Moore’s Federal Practice ¶¶ 66.02–.03 (3d ed.1999). A district court’s equitable purpose demands that the court be able to

exercise control over claims brought against receivership assets. The receivership court has a valid interest in both the value of the claims themselves and the costs of defending any suit as a drain on receivership assets. *See SEC v. Universal Fin.*, 760 F.2d 1034, 1038 (9th Cir.1985).

Lifting the Litigation Injunction is appropriate to pursue claims against Rainer & Lloyd Associates LLC; Nuco Tech Designs, Inc.; Cascades of Colorado, Inc.; AveNew Funding LLC; Mark Lowenstein; Christopher Payne; and Jonathan Fry. Receivership courts generally rely on a three-factor test to adjudicate requests to lift the litigation stay injunction. These factors include:

(1) whether refusing to lift the stay genuinely preserves the status quo or whether the moving party will suffer substantial injury if not permitted to proceed; (2) the time in the course of the receivership at which the motion for relief from the stay is made; and (3) the merit of the moving party's underlying claim.

S.E.C. v. Byers, 592 F. Supp. 2d 532, 536 (S.D.N.Y. 2008), *aff'd*, 609 F.3d 87 (2d Cir. 2010)

The three factors weigh in favor of lifting the Litigation Injunction to allow the Receiver to pursue the claims. Regarding the first element, the Receiver will suffer substantial injury if prohibited from pursuing these proposed claims. The Counterparties owe substantial sums under the relevant Agreements with ESC or HBC, or otherwise wrongfully received or retained funds from ESC or HBC. The Receiver seeks to collect these amounts for the benefit of the Receivership Estate.

Secondly, the timing is appropriate in this instance to lift the Litigation Injunction. While the initial phase of a receivership often involves fact investigation and determining which claims, if any, the Receiver might pursue, the Receiver has now determined that this litigation is necessary to promote the orderly administration of the estate, particularly as it applies to these Counterparties.

Finally, the claims against these Counterparties are meritorious. These Counterparties executed Agreements obligating them to pay either ESC or HBC and are in breach of their obligations thereunder, or otherwise wrongfully received or retained funds from ESC or HBC. A proposed Order granting this relief is attached as Exhibit 1.

CONCLUSION

WHEREFORE, the Receiver respectfully requests that the Court enter an Order lifting the Litigation Injunction to allow the Receiver to pursue claims, as he deems appropriate, against the Counterparties, as well as certain of the guarantors under the various Agreements, the collateral and security the Counterparties provided to ESC or HBC under these Agreements, or for any funds wrongfully received or retained from ESC or HBC by the Counterparties.

CERTIFICATION REGARDING PRE-FILING CONFERENCE

The undersigned counsel has conferred with all counsel of record and unrepresented parties in this matter regarding the relief sought through this motion and certifies that: (1) the SEC does not oppose the motion to lift the litigation injunction; and (2) counsel of record for all Defendants have not responded with their position with respect to the relief sought.

Dated: October 26, 2021

Respectfully Submitted,

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Co-Counsel for Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 26, 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

**IN THE UNITED STATES DISTRICT COURT
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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.

**[PROPOSED] ORDER GRANTING RECEIVER, RYAN K.
STUMPHAUZER’S MOTION TO LIFT LITIGATION INJUNCTION
AS TO CERTAIN COUNTERPARTIES WITH EAGLE SIX
CONSULTANTS, INC. AND HERITAGE BUSINESS COUNSULTING, INC.**

THIS CAUSE comes before the Court upon the Receiver, Ryan K. Stumphauzer’s Motion to Lift Litigation Injunction as to Certain Counterparties with Eagle Six Consultants, Inc. and Heritage Business Consulting, Inc. [ECF No. ___] (the “Motion”), filed on October 26, 2021.

Through this Motion, the Court-Appointed Receiver, Ryan K. Stumphauzer (the “Receiver”) seeks to modify the Court’s Amended Order Appointing Receiver dated August 13, 2020 [ECF No. 141], so as to lift the litigation injunction provided for in that Order to allow the Receiver, on behalf of Eagle Six Consultants, Inc. (“ESC”) and Heritage Business Consulting, Inc. (“HBC”), two of the Receivership Entities, to pursue claims against the Counterparties under certain promissory notes, loan agreements, and other similar obligations with ESC or HBC (the “Agreements”), or who otherwise received funds from ESC or HBC, as well as certain of the guarantors under these various Agreements and the collateral and security the Counterparties provided to ESC or HBC under these Agreements.

The Receiver has made a sufficient and proper showing in support of the relief requested. Accordingly, it is hereby **ORDERED AND ADJUDGED** that Receiver's Motion is **GRANTED**. Specifically, the litigation injunction set forth in the Court's Amended Order Appointing Receiver dated August 13, 2020 [ECF No. 141] is hereby lifted so as to allow the Receiver to pursue claims, as he deems appropriate, against the following Counterparties, as well as certain of the guarantors under the various Agreements, the collateral and security these Counterparties provided to ESC or HBC, or for any funds wrongfully received or retained from ESC or HBC by the Counterparties:

1. Claims by ESC:
 - a. Rainer & Lloyd Associates LLC
2. Claims by HBC:
 - a. Nuco Tech Designs, Inc.
 - b. Cascades of Colorado, Inc.
 - c. AveNew Funding LLC
 - d. Mark Lowenstein
 - e. Christopher Payne
 - f. Jonathan Fry

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

RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of record