

**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 (1) RESPONSE IN OPPOSITION
TO NON-PARTY, WILMINGTON SAVINGS FUND SOCIETY, FSB, NOT IN
ITS INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE FOR INVICTUS
RESIDENTIAL POOLER TRUST 3A’S MOTION TO INTERVENE AND
FOR RELIEF FROM THE AMENDED ORDER APPOINTING RECEIVER
AND (2) MOTION TO LIFT LITIGATION INJUNCTION TO ALLOW
COMMENCEMENT OF PROCEEDINGS INVOLVING NON-JUDICIAL SALE
OF PROPERTY LOCATED AT 984 BEL AIR ROAD, LOS ANGELES, CA 90077**

Ryan K. Stumphauer, Esq., Court-Appointed Receiver (“Receiver”) of the Receivership Entities,¹ by and through undersigned counsel, hereby files his: (1) response in opposition to Non-

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

Party, Wilmington Savings Fund Society, FSB, not in its Individual Capacity but Solely as Trustee for Invictus Residential Pooler Trust 3A’s Motion to Intervene and for Relief from the Amended Order Appointing Receiver [ECF No. 845] (the “Motion to Intervene”); and (2) Motion to Lift the Litigation Injunction to Allow Commencement of Proceedings Involving Non-Judicial Sale of Property Located at 984 Bel Air Road, Los Angeles, CA 90077 (the “Receiver’s Motion to Lift Litigation Injunction”), and states as follows:

1. In the Motion to Intervene, non-party Wilmington Savings Fund Society, FSB, not in its Individual Capacity but Solely as Trustee for Invictus Residential Pooler Trust 3A (“Wilmington”) asks the Court to permit it to intervene in this action for the purpose of obtaining relief from the stay of litigation in the Amended Order Appointing Receiver [ECF No. 141] (the “Litigation Injunction”), so that Wilmington may proceed with a non-judicial foreclosure over certain property located at 984 Bel Air Road, Los Angeles, CA 90077 (the “Property”).

2. Wilmington holds a first position lien over the Property through a Deed of Trust that Ashley S. Aarons (“Aarons”), Trustee of the Ashely S. Aarons 2015 Trust dated May 15, 2015, provided to Wilmington.

3. Complete Business Solutions Group, Inc. d/b/a Par Funding (“CBSG”), as collateral for a merchant cash advance it provided to Aarons’ business, recorded a Security Agreement against the Property that is junior to Wilmington’s Deed of Trust on the Property.

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.

4. As Wilmington describes in the Motion, on July 17, 2019, Aarons filed for bankruptcy protection under chapter 11 of the U.S. Bankruptcy Code in the Central District of California, as Case No. 2:19-bk-18316-NB (the “Bankruptcy Case”).

5. On June 22, 2020, Wilmington obtained relief from the automatic stay in the Bankruptcy Case to allow it to foreclose on its Deed of Trust and proceed with a non-judicial foreclosure sale of the Property.

6. The Litigation Injunction, entered on August 13, 2020, prevents Wilmington from proceeding with its proposed non-judicial foreclosure sale.

7. On February 4, 2021, the Receiver filed his Combined Ninth Motion to Lift Litigation Injunction as to Certain Garnishment Proceedings, to Allow Receiver to Release or Remove Security Agreements, and to Authorize Receiver to Enter into a Settlement Agreement with Chapter 11 Debtor, Ashley Aarons d/b/a Coffee Dog Entertainment [ECF No. 485] (the “Ninth Motion”).

8. In the Ninth Motion, the Receiver sought, among other relief, to lift the Litigation Injunction for the limited purpose of permitting the Receiver to enter into a settlement agreement with Aarons, the Debtor in the Bankruptcy Case, which allowed the Receiver to avoid the characterization of CBSG’s lien on the Property as a preferential transfer.

9. That settlement also provided Aarons with a period of time to voluntarily market the Property for sale, consistent with the reorganization goals of the chapter 11 proceedings.

10. The Court entered an Order granting the Ninth Motion on February 6, 2021 [ECF No. 487].

11. On October 15, 2021, a status conference was conducted in the Bankruptcy Case, during which the court determined to convert the Bankruptcy Case to chapter 7.

12. On October 18, 2021, the day before Wilmington filed the Motion, the court in the Bankruptcy Case entered an Order Converting Case to Chapter 7 on the Court's Status Conference. A copy of that Order is attached as Exhibit 1. In that Order, the court determined that all property in the bankruptcy estate, which includes the Property, would revert in the chapter 7 estate.

13. Given that Aarons has not been successful in her efforts to market the Property through a voluntary sale, and given that the Bankruptcy Case has now been converted to a chapter 7 proceeding, the Receiver believes that Wilmington should be permitted to proceed with its non-judicial foreclosure sale of the Property.

14. As this Court is aware, CBSG has more than 1,000 merchants with outstanding balances on their merchant cash advance agreements. The Receiver is negotiating on a daily basis with these merchants to resolve issues relating to their accounts. For example, as a result of Orders from this Court granting the Receiver's prior motions to lift the Litigation Injunction, the Receiver has marked confessed judgments as satisfied or dissolved writs of attachment with respect to collections proceedings involving more than 300 merchants.

15. Recognizing the challenges that may accompany allowing numerous non-parties to intervene in this action for the purpose of seeking to lift the litigation injunction, the Receiver requests the Court to deny the Motion to Intervene.² At the same time, however, the Receiver, through the Receiver's Motion to Lift Litigation Injunction, hereby requests the Court to lift the Litigation Injunction for the limited purpose of allowing Wilmington to foreclose on its Deed and Trust and proceed with a non-judicial foreclosure sale of the Property, in accordance with applicable state law.

² To that end, the Receiver incorporates the SEC's prior arguments opposing requests by non-parties to intervene in this SEC enforcement action. *See, e.g.*, SEC's Response in Opposition to Lead Funding's first Motion to Intervene [ECF No. 409].

WHEREFORE, Ryan K. Stumphauzer, as Court-Appointed Receiver, by and through his undersigned counsel, respectfully requests this Honorable Court to: (1) deny Wilmington's Motion to Intervene; and (2) grant the Receiver's Motion to Lift Litigation Injunction, on a limited basis as set forth above. A proposed order for the Court's consideration is attached as Exhibit 2.

Dated: November 12, 2021

Respectfully Submitted,

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Co-Counsel for Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 12, 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”

1 PETER C. ANDERSON
2 UNITED STATES TRUSTEE
3 Jill M. Sturtevant, State Bar No. 089395
4 Assistant United States Trustee
5 Dare Law, State Bar No. 155714
6 Trial Attorney
7 OFFICE OF THE UNITED STATES TRUSTEE
8 915 Wilshire Blvd., Suite 1850
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8 UNITED STATES BANKRUPTCY COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 LOS ANGELES DIVISION

11 In re:) Case No.: 2:19-bk-18316 NB
12)
13 **ASHLEY SUSAN AARONS**) Chapter 11
14)
15 Debtor) ORDER CONVERTING CASE TO
16) CHAPTER 7 ON THE COURT’S STATUS
17) CONFERENCE
18)
19) Date: October 15, 2021
20) Time: 12:00 p.m.
21) Ctrm: 1545
22) 255 E. Temple Street
23) Los Angeles, CA 90012

19 The Court’s continued Status Conference was heard on the date and time stated above with
20 appearances stated on the record. Having reviewed the record in this case including but not limited
21 to, the Procedures Order [docket #9], the Proof of Service of the Procedures Order [docket #20], the
22 Amended Plan of Reorganization [docket #313], the Order Confirming the Plan of Reorganization
23 [docket #390], and the Memorandum of Rulings [docket #460], all oral argument, for good cause, it
24 is hereby

25 ORDERED that the case is hereby converted to chapter 7, and it is
26 FURTHER ORDERED that Debtor shall comply with Federal Rules of Bankruptcy
27 Procedure 1019, and it is

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FURTHER ORDERED upon conversion to chapter 7, property will revert in the chapter 7 estate, and the automatic stay will be reimposed upon the revested property only to the extent that relief from stay was not previously granted by the Court during this case.

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Date: October 18, 2021


Neil W. Bason
United States Bankruptcy Judge

EXHIBIT 2

**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.

**[PROPOSED] ORDER GRANTING RECEIVER, RYAN K. STUMPHAUZER'S
MOTION TO LIFT LITIGATION INJUNCTION TO ALLOW COMMENCEMENT
OF PROCEEDINGS INVOLVING NON-JUDICIAL SALE OF PROPERTY
LOCATED AT 984 BEL AIR ROAD, LOS ANGELES, CA 90077**

THIS CAUSE comes before the Court upon the Receiver's Motion to Lift Litigation Injunction to Allow Commencement of Proceedings Involving Non-Judicial Sale of Property Located at 984 Bel Air Road, Los Angeles, CA 90077 [ECF No. _____] ("Motion"), filed on November 12, 2021.

In the Motion, 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 Non-Party, Wilmington Savings Fund Society, FSB, not in its Individual Capacity but Solely as Trustee for Invictus Residential Pooler Trust 3A to proceed with a non-judicial foreclosure over property located at 984 Bel Air Road, Los Angeles, CA 90077, in accordance with applicable state law.

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 to allow Non-Party, Wilmington Savings Fund Society, FSB, not in its Individual Capacity but Solely as Trustee for Invictus Residential Pooler Trust 3A, to proceed with a non-judicial foreclosure over property located at 984 Bel Air Road, Los Angeles, CA 90077, in accordance with applicable state law.

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

RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of record