

**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.

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**RECEIVER, RYAN K. STUMPHAUZER’S (1) RESPONSE IN OPPOSITION TO  
NON-PARTY JOHN J. RYBINSKI’S MOTION TO INTERVENE AND TO MODIFY  
ASSET FREEZE AND (2) MOTION TO LIFT LITIGATION INJUNCTION TO ALLOW  
COMMENCEMENT OF FORECLOSURE ACTION INVOLVING PROPERTY  
LOCATED AT 2132-2136 ERIE BOULEVARD EAST, SYRACUSE, NY 13214**

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

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<sup>1</sup> 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 Fund 6, LLC; ABFP Income Fund Parallel LLC; ABFP Income Fund 2 Parallel; ABFP Income Fund 3 Parallel; ABFP Income Fund 4 Parallel; and ABFP Income Fund 6 Parallel; ABFP Multi-Strategy Investment Fund LP; ABFP Multi-Strategy 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 Consulting, 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; 500 Fairmount Avenue, LLC; Liberty Eighth Avenue LLC; Blue Valley Holdings, LLC; LWP North LLC; The LME 2017 Family Trust; Recruiting and Marketing Resources, Inc.; Contract Financing Solutions, Inc.; Stone Harbor Processing LLC; LM Property

Party John J. Rybinski's Motion to Intervene and to Modify Asset Freeze [ECF No. 1308] (the "Motion to Intervene"); and (2) Motion to Lift Litigation Injunction to Allow Commencement of Foreclosure Action Involving Property Located at 2132-2136 Erie Boulevard East, Syracuse, NY 13214 (the "Receiver's Motion to Lift Litigation Injunction"), and states as follows:

1. In the Motion to Intervene, non-party John J. Rybinski ("Rybinski") asks the Court to permit him to intervene in this action for the purpose of obtaining relief from the asset freeze contained in the Court's Amended Order Appointing Receiver [ECF No. 141] (the "Amended Order"), so that Rybinski may proceed with a foreclosure action captioned as *John J. Rybinski v. Salvatore J. Vigliotti, et al.*, Index No. 008071-2021, pending in the Supreme Court of the State of New York, County of Onondaga (the "Foreclosure Action").

2. Rybinski holds a first position lien over certain real property that Salvatore Vigliotti owns at 2132-2136 Erie Boulevard East, Syracuse, NY 13214 (the "Property") through a Mortgage and Security Agreement dated December 23, 2014, that Salvatore J. Vigliotti executed in favor of Rybinski.

3. In the Foreclosure Action, Rybinski alleges that Salvatore J. Vigliotti defaulted under the Mortgage and Security Agreement and seeks to foreclose on the Property.

4. Complete Business Solutions Group, Inc. d/b/a Par Funding ("CBSG"), as collateral for a merchant cash advance it provided to Vigliotti Properties LLC and Salvatore Vigliotti, recorded a Mortgage against the Property on July 1, 2016, which is junior to Rybinski's Mortgage and Security Agreement.

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Management LLC; and ALB 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; 159 26<sup>th</sup> Street, Avalon, NJ 08202; and 164 84<sup>th</sup> Street, Stone Harbor, NJ 08247.

5. As a result of CBSG's interest in the Property as a junior lienholder, Rybinski named CBSG as a Defendant in the Foreclosure Action.

6. The Amended Order, and in particular the Litigation Injunction contained therein, prevents Rybinski from proceeding with his foreclosure action.

7. On January 28, 2022, counsel for Rybinski filed a letter in the Foreclosure Action, enclosing a copy of the Amended Order and advising that the Foreclosure Action is stayed as a result of the Litigation Injunction in the Amended Order.

8. On June 27, 2020, Vigliotti filed for bankruptcy protection under chapter 7 of the U.S. Bankruptcy Code in the Northern District of New York, as Case No. 20-30697-5-mcr (the "Bankruptcy Case").

9. On October 5, 2020, an Order of Discharge was entered in the Bankruptcy Case, which provides that a creditor with a lien may enforce a claim against the debtor's property subject to that lien unless the lien was avoided or eliminated. Neither Rybinski's Mortgage and Security Agreement nor CBSG's Mortgage were avoided or eliminated in the Bankruptcy Case.

10. The Receiver has no reason to believe that CBSG's lien interest on the Property is superior to Rybinski's Mortgage and Security Agreement on the Property.

11. According to the local property appraiser's office, the combined assessed value of the two parcels that comprise the Property is \$170,000, and the full market value is \$246,377.

12. According to representations from Rybinski's counsel, the amount of principal, interest, and other amounts Rybinski owes under the Mortgage and Security Agreement was in excess of \$190,000 as of September 2021, with additional interest and other amounts continuing to accrue since that time.

13. Through the Receiver's investigation, he has determined that a foreclosure sale in the Foreclosure Action is likely to result in no surplus proceeds—or, at the most, in the tens of thousands of dollars—beyond the amount necessary to satisfy Rybinski's first position lien on the Property.

14. As a result, the Receiver believes that Rybinski should be permitted to proceed with his Foreclosure Action and a potential foreclosure sale of the Property, provided that any surplus proceeds to which CBSG may be entitled are promptly distributed to the Receiver.

15. 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 hundreds of merchants.

16. 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.<sup>2</sup> 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 Rybinski to proceed with his Foreclosure Action and a potential foreclosure sale of the Property.

WHEREFORE, Ryan K. Stumphauzer, as Court-Appointed Receiver, by and through his undersigned counsel, respectfully requests this Honorable Court to: (1) deny Rybinski's Motion to

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<sup>2</sup> 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].

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 1.

**CERTIFICATION REGARDING PRE-FILING CONFERENCE**

The undersigned counsel has conferred with the SEC regarding the relief sought herein and certifies that the SEC is in agreement with the Receiver's opposition to the Motion to Intervene and does not oppose the relief requested in the Receiver's Motion to Lift Litigation Injunction.

Dated: July 27, 2022

Respectfully Submitted,

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*Co-Counsel for Receiver*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on July 27, 2022, 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  
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 (1) DENYING NON-PARTY JOHN J. RYBINSKI'S MOTION TO INTERVENE AND TO MODIFY ASSET FREEZE AND (2) GRANTING RECEIVER, RYAN K. STUMPHAUZER'S MOTION TO LIFT LITIGATION INJUNCTION TO ALLOW COMMENCEMENT OF FORECLOSURE ACTION INVOLVING PROPERTY LOCATED AT 2132-2136 ERIE BOULEVARD EAST, SYRACUSE, NY 13214**

**THIS CAUSE** comes before the Court upon Non-Party John J. Rybinski's Motion to Intervene and to Modify Asset Freeze [ECF No. 1308] (the "Motion to Intervene"); and (2) the Receiver's Motion to Lift Litigation Injunction to Allow Commencement of Foreclosure Action Involving Property Located at 2132-2136 Erie Boulevard East, Syracuse, NY 13214 [ECF No. \_\_\_\_] (the "Receiver's Motion to Lift").

In the Motion to Intervene, Non-Party John J. Rybinski seeks to intervene in this action for the limited purpose of requesting the Court to modify the asset freeze provided for in the Court's Amended Order Appointing Receiver dated August 13, 2020 [ECF No. 141] (the "Amended Order"), so as to permit John J. Rybinski to proceed with a foreclosure action captioned as *John J. Rybinski v. Salvatore J. Vigliotti, et al.*, Index No. 008071-2021, pending in the Supreme Court of the State of New York, County of Onondaga (the "Foreclosure Action").

In the Receiver's opposition to the Motion to Intervene and the Receiver's Motion to Lift, the Receiver opposes the Motion to Intervene, but simultaneously requests the Court to lift the litigation injunction provided for in the Amended Order to allow Non-Party John J. Rybinski to proceed with the Foreclosure Action.

The Receiver has made a sufficient and proper showing in support of the relief requested. Accordingly, it is hereby

**ORDERED AND ADJUDGED** that:

1. The Motion to Intervene is **DENIED**.
2. The Receiver's Motion to Lift is **GRANTED**. For the reasons stated in the Receiver's Motion to Lift, 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 John J. Rybinski to proceed with the Foreclosure Action.

**DONE AND ORDERED** in Fort Lauderdale, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
**RODOLFO A. RUIZ II**  
**UNITED STATES DISTRICT JUDGE**

Copies to: Counsel of record