

**UNITED STATES DISTRICT COURT  
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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**DEFENDANTS JOSEPH LAFORTE AND LISA MCELHONE’S MOTION FOR  
AN ORDER TO SHOW CAUSE WHY THE UNITED STATES ATTORNEY FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA SHOULD NOT BE HELD IN CONTEMPT  
OR, IN THE ALTERNATIVE, MOTION FOR AN ORDER DIRECTING THE UNITED  
STATES ATTORNEY FOR THE EASTERN DISTRICT OF PENNSYLVANIA TO  
TURN OVER POSSESSION OF CERTAIN ASSETS TO THE RECEIVER**

Defendants, Joseph LaForte and Lisa McElhone (collectively the “Defendants”), by and through their undersigned counsel, file this motion seeking an order to show cause why Jacqueline C. Romero, in her capacity as the United State Attorney for the Eastern District of Pennsylvania (“Ms. Romero” or the “U.S. Attorney”), should not be held in contempt for her willful refusal to deliver certain of the Defendants’ assets to the Receiver. Alternatively, the Defendants ask the Court to enter an order directing Ms. Romero to deliver those assets to the Receiver,

**BACKGROUND**

On or about July 28, 2020, the FBI seized a 2008 Cessna Model 680 jet (the “Plane”) owned by Eagle Union Quest One, LLC (“EUQO”) and a stock account worth approximately \$12 Million (the “Stock Account”) which is owned by the L.M.E. 2017 Family Trust (the “LME Trust”).<sup>1</sup> EUQO

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<sup>1</sup> See Receiver’s Quarterly Status Report Dated May 2, 2022, ECF No. 1223-1, p. 6 and FN 8.

and the LME Trust are both Receivership Entities that are currently under the control of the Receiver.<sup>2</sup>

Pursuant to the Orders appointing the Receiver (ECF Nos. 36 and 141, collectively the “Receivership Orders”), the Receiver is specifically “authorized, empowered and directed” to take appropriate and necessary action to “preserv[e] the Receivership Entities’ property interests or to prevent the dissipation or concealment of such property interests.” (*See* ECF NO. 36, ¶ 4). The Court – through the Receiver – has taken “exclusive jurisdiction and possession of the assets, of whatever kind and wherever situated, of the... Receivership Entities.” (*See* ECF No. 141, ¶ 1; *see also id.* at 141 at ¶ 3: All persons or entities with “direct or indirect control over any Receivership Assets and/or Recoverable Assets, other than the Receiver [have been] restrained and enjoined from directly or indirectly transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating or otherwise disposing of or withdrawing such assets”). Furthermore, the Receivership Orders specifically contemplate that the Receiver may marshal Receivership Assets from government offices, such as the U.S. Attorneys’ Office for the Eastern District of Pennsylvania. (*Id.* at ¶ 7: “In furtherance of his responsibilities in this matter, the Receiver is authorized to communicate with, and/or serve this Order upon, any... government office that he deems appropriate”).

The U.S. Attorney has been served with and/or is aware of the Receivership Orders – as evidenced by the fact that Ms. Romero previously agreed to transfer over \$2.5 Million in cash (which the FBI seized from Joseph LaForte’s home and CBSG’s business premises) to the Receiver upon his request. (*See* ECF No. 1041, ¶10: noting that the Receiver consulted with the U.S. Attorneys’ Office

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<sup>2</sup> The LME Trust is a Relief Defendant and is also specifically identified as a “Receivership Entity” in various motions filed by the Receiver (*see, e.g.*, ECF No. 1180, FN 1). EUQO is a wholly owned subsidiary of CBSG, and its most recent annual report filed with the Florida Office of Financial Regulation (attached as Exhibit 1) identifies the Receiver as EUQO’s sole principal.

for the Eastern District of Pennsylvania about expanding the Receivership to include the seized cash, and it did not object). The foregoing notwithstanding, and for reasons that are not entirely clear, the U.S. Attorney has refused to transfer the Plane and Stock Account to the Receiver – even though the Defendants have requested that she do so. (See December 6, 2022 email from the Assistant U.S. Attorney for the Eastern District of Pennsylvania, attached as Exhibit 2: “**The short answer to the question of whether we’ll agree to transfer the seized assets to the Receiver is no.** Of course, if we end up re-engaging in plea discussions it’s probably worth revisiting”) (emphasis supplied). Likewise, it appears that the Receiver has taken no action to bring the Plane and the Stock Account into the Receivership – even though the Receiver previously identified these assets as “Receivership Property” which is being held by the U.S. Attorney and/or the FBI.<sup>3</sup>

The Plane and the Stock Account are believed to have a current combined value in excess of \$18 Million. Accordingly, it is of paramount importance that these assets be marshalled by the Receiver so that they can be used to address the enormous judgment entered against the Defendants,<sup>4</sup> and subsequently distributed to the investors.

## LEGAL STANDARD

### 1. Civil Contempt

“[C]ourts have inherent power to enforce compliance with their lawful orders through civil contempt.” *Spallone v. United States*, 493 U.S. 265, 276 (1990). A party may initiate contempt

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<sup>3</sup> See ECF No. 1223-1, p. 6 at FN 8: “CBSG is the 100% member of [EUQO], the owner of [*sic*] 2008 Cessna model 680, tail #N789mJ, with a book value of \$6,300,000. The FBI maintains possession of the airplane...[.] The U.S. Attorney’s Office for the Eastern District of Pennsylvania also maintains possession of a Charles Schwab brokerage account owned by the [LME Trust].”

<sup>4</sup> Because the LME Trust is owned by Ms. McElhone and EUQO is solely owned by CBSG (which is also owned by Ms. McElhone), the Plane and Stock Account are ultimately the property of Ms. McElhone and should be used to partially satisfy the disgorgement judgement that was entered against her and Mr. LaForte, jointly and severally.

proceedings by filing a motion requesting the court to issue an order to show cause why a party should not be held in civil contempt. *Newman v. State of Alabama*, 683 F.2d 1312, 1318 (11th Cir. 1982). “If the court finds that the conduct *as alleged* would violate [its] prior order, it enters an order requiring the defendant to show cause why [the party] should not be held in contempt and conducts a hearing on the matter.” *Mercer v. Mitchell*, 908 F.2d 763, 768 (11th Cir. 1990) (emphasis added); *Wyatt ex rel. Rawlings v. Rogers*, 92 F.3d 1074, 1078 (11th Cir.1996) (stating that the moving party need only *allege* facts which, if true, would support a contempt finding).

In a civil contempt proceeding, the petitioning party bears the burden of establishing by clear and convincing evidence (1) that the allegedly violated order was lawful and unambiguous; (2) that the contempt defendants had notice of the order; and (3) that the contempt defendants violated the order. *F.T.C. v. Levin*, 618 F.3d 1221, 1232, 1235 (11th Cir. 2010). “The focus of the court's inquiry in civil contempt proceedings is not on the subjective beliefs or intent of the alleged contemnors in complying with the order, but whether in fact their conduct complied with the order at issue.” *Howard Johnson Co. v. Khimani*, 892 F.2d 1512, 1516 (11th Cir. 1990). After the moving party makes this prima facie showing, “the burden of production shifts to the alleged contemnor to show a ‘present inability to comply that goes beyond a mere assertion of inability.’” *PlayNation Play Systems, Inc. v. Vexel Corporation*, 939 F.3d 1205, 1212 (11<sup>th</sup> Cir. 2019) (citing *Khimani*, 892 F.2d at 1516). The moving party bears the ultimate burden of demonstrating that the contempt defendants had the ability to comply with the order. *Levin*, 618 F.3d at 1332.

## **2. The Court Has Broad Equitable Powers**

This Court’s equitable powers are broad and, as a result, the Court has “wide discretion to determine relief in an equity receivership.” *SEC v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992) (citing *SEC v. Safety Finance Service, Inc.*, 674 F.2d 368, 372 (5th Cir. 1982)). “This discretion derives from

the inherent powers of an equity court to fashion relief.” *Id.* (citations omitted). A court-appointed receiver is a well-established equitable remedy available in SEC enforcement proceedings for injunctive relief. *See, e.g., SEC v First Financial Group of Texas*, 654 F.2d 429, 438 (5th Cir. 1981). The Court’s equitable powers permit it to enforce the Receivership Orders by directing the Receiver to take possession of Receivership Assets.

### **ARGUMENT**

#### **I. The Court Should Issue an Order to Show Cause Why the U.S. Attorney Should Not Be Held in Civil Contempt Based on her Refusal to Transfer Receivership Assets**

The Court should issue an Order to Show Cause because the evidence presented in this Motion demonstrates that the U.S. Attorney has, and continues to, willfully violate the Receivership Orders by withholding the Plane and Stock Account after the Defendants requested that these assets be transferred to the Receivership in accordance with the Receivership Orders.

First, there is no legitimate dispute that the Receivership Orders are valid and lawfully issued. *See* Section 22(a) of the Securities Act of 1933, 15 U.S.C. § 77v(a) (providing jurisdiction over suits in equity); Section 27 of the Securities Exchange Act of 1934, 15 U.S.C. § 78aa (same); 28 U.S.C. § 3103 (setting forth the power of the Court to appoint a receiver in equity). Also, the Receivership Orders make clear that the U.S. Attorney is not exempt from their application simply because she is acting on behalf of the United States Attorneys’ Office. (*See* ECF 141 at ¶ 4 and 7: “[T]he Receiver is authorized to communicate with, and/or serve this Order upon, any... government office that he deems appropriate” and the Receiver has “exclusive jurisdiction and possession of the assets, of whatever kind and wherever situated, of the... Receivership Entities.”).

Second, the U.S. Attorney is clearly on notice of the Receivership Orders – as she previously consented to the Receiver’s motion to expand the Receivership to include over \$2.5 Million in cash that was seized by the FBI, and the U.S. Attorney then transferred said cash to the Receivership. (*See*

ECF 1041, ¶ 2-4, 10). The U.S. Attorney also received notice of the Receivership Orders when the Defendants (through their counsel) requested that the Plane and the Stock Account be transferred to the Receivership – but the U.S. Attorney declined to transfer the assets and offered no explanation or justification. (*See Exhibit 2*).

Finally, the U.S. Attorney’s unjustified refusal to relinquish possession of the Plane and the Stock Account – even though she knows that these assets belong to EUQO and the LME Trust, which are Receivership Entities – clearly violates the Receivership Orders, which state:

[A]ll persons and entities with direct or indirect control over any Receivership Assets and/or any Recoverable Assets, other than the Receiver, are hereby restrained and enjoined from directly or indirectly transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating or otherwise disposing of or withdrawing such assets. This freeze shall include, but not be limited to, Receivership Assets and/or Recoverable Assets that are on deposit with financial institutions such as banks, brokerage firms and mutual funds. (ECF No. 141, ¶ 3).

The Receivership Order also state that anyone with notice of the orders is “restrained and enjoined from directly or indirectly taking any action, or causing any action to be taken... which would... [i]nterfere with the Receiver’s efforts to take control, possession, or management of any Receivership Property...[,] hinder, obstruct or otherwise interfere with the Receiver in the performance of his duties...[,] or interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Estates.” (*Id.* at ¶ 29 (a), (b) and (d)) (emphasis supplied).

Here, the U.S. Attorney’s refusal to transfer approximately \$18 Million in assets which she knows were seized from Defendants and are owned by certain Receivership Entities constitutes an action which interferes with: the Receiver’s efforts to take control of Receivership Property; the Receiver’s performance of his duties; and/or this Court’s exclusive jurisdiction over the Receivership Estates. Accordingly, the Defendants have met their initial burden to show that an Order to Show Cause should be issued.

**II. In the Alternative, the Court Should Order the U.S. Attorney to Deliver Possession of the Plane and Stock Account to the Receiver**

In the alternative – if this Court decides that an Order to Show Cause should not be issued – the Defendants respectfully request that the Court enter an Order requiring the U.S. Attorney to immediately deliver possession of these Receivership Assets to the Receiver.

In a recent quarterly report, the Receiver explicitly identified the Plane as a \$6.3 Million asset owned by a wholly owned subsidiary of CBSG which constitutes “Receivership Property.” (*See* ECF 1223-1, p. 6 and FN 8). The Receiver also identified the Brokerage Account as an asset owned by the LME Trust, but stated that the value of the Brokerage Account was not included in the appropriate line item for Receivership Property – although the Receiver provides no explanation *why* this asset has been left off the balance sheet. (*See id.*). There is simply no justification for the U.S. Attorney’s failure to deliver possession of the Plane and the Stock Account – or for the Receiver’s failure to take possession of these assets, pursuant to his express duties under the Receivership Orders. This is not a paltry sum which the Receiver – in its discretion – can decide to forgo collecting. The Plane and Stock Account constitute approximately \$18 Million in assets which must be brought into the Receivership so that they can be used to satisfy the judgment against the Defendants and be available for distribution to investors.

**CONCLUSION**

For all of the foregoing reasons, the Defendants respectfully request that the Court enter an Order requiring the United States Attorney for the Eastern District of Pennsylvania, Jacqueline C. Romero, to show cause why she should not be held in contempt for refusing to transfer the Plane and Stock Account to the Receiver. Alternatively, the Defendants respectfully request that the Court order Ms. Romero to immediately deliver possession of the Plane and Stock Account to the Receiver. The Defendants also seek their costs and attorneys’ fees for bringing this motion, and any other or different

relief that this Court deems just, proper and equitable.

**S.D. Fla L. R. 7.1(a)(3) Certification of Counsel**

Counsel for the Defendants hereby certify that they have conferred with counsel for the Receiver about the relief sought in this motion, and the Receiver has authorized us to state as follows: The Receiver has not been involved in any discussions with the US Attorney's office for the Eastern District of Pennsylvania or the Defendants concerning the substance of this motion, but generally does not oppose the inclusion of assets in the Receivership Estate if those assets constitute Receivership Property, as defined under the Amended Order Appointing Receiver (ECF No. 141). Counsel for the Defendants hereby certify that they have also conferred with counsel for the SEC in a good faith effort to resolve the issues raised in this motion and have been unable to do so.

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**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that on this 23<sup>rd</sup> day of December, 2022, 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/ James M. Kaplan  
JAMES M. KAPLAN

**FILED**

DOCUMENT# M20000002454

**Mar 08, 2022**  
**Secretary of State**  
**2257666471CC**

**Entity Name:** EAGLE UNION QUEST ONE, LLC

**Current Principal Place of Business:**

STUMPHAUZER FOSLID SLOMAN ROSS & KOLAYA PLLC  
2 S. BISCAYNE BLVD. SUITE 1600  
MIAMI, FL 33131

**Current Mailing Address:**

STUMPHAUZER FOSLID SLOMAN ROSS & KOLAYA PLLC  
2 S. BISCAYNE BLVD. SUITE 1600  
MIAMI, FL 33131 US

**FEI Number:** 84-4113223

**Certificate of Status Desired:** No

**Name and Address of Current Registered Agent:**

STUMPHAUZER, RYAN K  
STUMPHAUZER FOSLID SLOMAN ROSS & KOLAYA PLLC  
2 S. BISCAYNE BLVD. SUITE 1600  
MIAMI, FL 33131 US

*The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.*

**SIGNATURE:** RYAN K. STUMPHAUZER

03/08/2022

Electronic Signature of Registered Agent

Date

**Authorized Person(s) Detail :**

Title            RECEIVER  
Name            STUMPHAUZER, RYAN K  
Address        STUMPHAUZER FOSLID SLOMAN  
                  ROSS & KOLAYA PLLC  
                  2 S. BISCAYNE BLVD. SUITE 1600  
City-State-Zip: MIAMI FL 33131

*I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 605, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.*

**SIGNATURE:** RYAN STUMPHAUZER

RECEIVER

03/08/2022

Electronic Signature of Signing Authorized Person(s) Detail

Date

## Noah Snyder

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**Subject:** FW: US v LaForte

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**From:** Newcomer, Matthew (USAPAE) <[Matthew.Newcomer@usdoj.gov](mailto:Matthew.Newcomer@usdoj.gov)>  
**Date:** Tuesday, December 6, 2022 at 11:09 AM  
**To:** Brian McMonagle <[bmcmonagle@mpmpc.com](mailto:bmcmonagle@mpmpc.com)>, Michael J. Engle <[MEngle@atlip.com](mailto:MEngle@atlip.com)>  
**Cc:** Murray, Patrick (USAPAE) <[Patrick.J.Murray@usdoj.gov](mailto:Patrick.J.Murray@usdoj.gov)>, Lastowski, Alexandra (USAPAE) <[Alexandra.Lastowski@usdoj.gov](mailto:Alexandra.Lastowski@usdoj.gov)>  
**Subject:** US v LaForte

Brian and Mike,

A couple of things to raise in the LaForte case. It probably makes sense to jump on a quick call this week, particularly on #3.

(1) Attached is a letter following up on the phone call we had with Brian the other week in connection with the 922(g) case, regarding the electronics seized from Mr. LaForte's home (and the 2 cell phones seized from his body).

(2) The short answer to the question of whether we'll agree to transfer the seized assets to the Receiver is no. Of course, if we end up re-engaging in plea discussions it's probably worth revisiting.

(3) Let us know if your amenable to a short tolling agreement in the securities/tax/unlawful collection case. There is at least one count expiring very early in the new year.

Let us know your availability for a call later this week and we'll set it up. Thursday afternoon and Friday are generally clear for us. Thanks.

-Matt

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<LaForte- Letter to Counsel, re Seized Electronics.pdf>