

**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.

**RECEIVER'S MOTION TO STRIKE DEFENDANT
JOSEPH COLE BARLETA'S NOTICE OF COMPLIANCE**

Court-Appointed Receiver Ryan K. Stumphauzer (“Receiver”), through his undersigned counsel, respectfully submits this Motion to Strike Defendant Joseph Cole Barleta’s (“Cole”) Notice of Compliance.

I. Factual Background

On April 24, 2023, the Receiver moved for an Order to Show Cause why Defendant Cole should not be held in contempt of the Court for refusing to comply with the Court’s April 29, 2022 Order Granting Receiver’s Motion to Compel [ECF No. 1222] (the “Discovery Order”). [ECF 1552] (the background of that motion is incorporated herein by reference). On April 26, 2023, the Court granted the Receiver’s Motion for an Order to Show Cause, requiring Cole to show cause as to why he should not be held in contempt by May 12, 2023, and scheduling an evidentiary hearing on June 5, 2023. [ECF 1553]. On June 6, 2023, after Cole’s response and the subsequent evidentiary hearing, the Court held Cole in contempt of Court. [ECF 1586] (the “Contempt Order”). As part of the holding, the Court instructed Cole that he would “have ten (10) days to

comply in full with the [Discovery] Order [ECF No. 1552] and the Receiver's requests for production." *Id.*

On June 15, 2023, counsel for Cole ("Mr. Raikhelson") sent the Receiver a production and informed counsel for the Receiver, Gaetan J. Alfano, that he intended to file a notice of compliance. *See* emails dated June 15, 2023, between counsel for the Receiver and counsel for Cole, herein attached as "Ex. 1". That same day, on June 15, 2023, Cole filed a Notice of Compliance, stating he had provided the Receiver with necessary discovery. [ECF 1599]. Upon review of Cole's production, however, counsel for the Receiver informed Mr. Raikhelson of the following deficiencies:

1. The Court Order required documents from 2016 to present. The earliest document [Mr. Cole] provided is from 2022.
2. Mr. Cole's summary lists properties but there are no documents provided for the properties. For example, Mr. Cole has a mortgage for his Philadelphia property but provided no documentation on mortgage payments.
3. Likewise the summary lists "other assets" and their "estimated value" but [Mr. Cole has] provided no documentation on these items.
4. There is no information on indebtedness owed to Mr. Cole or related companies.
5. You have not provided any documents related to FL Memory Lane or Winsome Grounds beyond bank statements. We understand that despite the existence of the Asset Freeze, Mr. Cole has pledged real property in connection with the criminal case. Where are the documents for that pledge?
6. You have provided no information about any safe deposit boxes.

See emails dated June 16, 2023, between counsel for the Receiver and counsel for Cole, herein attached as "Ex. 2". In response, Cole's counsel made a further production and attempted to justify why the production was deficient. *See id.* Even after further supplementing the production, however, Cole was still in noncompliance with the Court's Discovery Order.

During a June 29, 2023 status conference, Mr. Raikhelson represented to the Court that his client was in compliance with the Court's Discovery Order. Relevant Excerpts of the June 29, 2023 status conference transcript attached at "Ex. 3." Counsel for the Receiver disagreed with Mr. Raikhelson, stating that the Receiver intended to move to strike the Notice of Compliance. In support, counsel for the Receiver explained that Cole's production was deficient "for a number of reasons, but the primary one is a lack of information about the real estate that Cole acquired, [the Receiver] believes, with commingled investor funds." *Id.* Counsel for the Receiver explained that Cole had provided very little, if any, information on his properties in Delaware and Florida, and the information provided did not go back to 2016, as the Court ordered. *Id.* Counsel for the Receiver further brought to the Court's attention that the Notice of Compliance did not discuss the liabilities associated with Cole's accounts. *Id.* The Court urged both parties to "try and meet and confer," having no issue with providing Cole more time to attempt to make an "adequate and fulsome" production of his financial records. *Id.*

On July 7, 2023, counsel for the Receiver again emailed Mr. Raikhelson, identifying several categories of documents that Mr. Cole failed to produce in response to the Court's Discovery Order. *See* emails dated July 7, 2023, through July 31, 2023, between counsel for the Receiver and counsel for Cole, herein attached as "Ex. 4." On July 17, 2023, Mr. Raikhelson responded, again insisting Cole's production was in compliance, further adding that:

In any event, the easiest response to Winsome Grounds LLC and FL Memory Lane LLC is that you are incorrect in calling these entities "corporations." They are not corporations, but limited liability companies.

Winsome Grounds LLC is a limited liability company registered in Delaware. FL Memory Lane LLC is a limited liability company registered in Florida. Just so you know, Florida does not require certain corporate formalities, and the Articles of Organization are auto generated. *See* attached. As such, the information you seek regarding these entities are generally not kept. Most small businesses in Florida do not have independent operating agreements, especially when they are closely held.

Moreover, the account information you seek has already been provided. We provided everything. I will double check with Mr. Barleta, but I believe the accounts did not exist for an earlier period that you requested.

Finally, I have included Amie in this email, as it appears the documents you seek are in aid of execution. I do not know her position on the matter besides the fact that collections is an issue for the SEC. However, Cole does not intend to violate any Court Order. I will review your request with my client in greater detail and provide you any supplemental information we have.

See id. On July 19, 2023, Counsel for the Receiver advised Mr. Raikhelson that his response was “inaccurate and insufficient,” explaining:

First, this is not an exercise in execution on the (now) final judgment against your client. The Receiver is seeking to insure Mr. Cole’s compliance with the Court’s Order and to correct Mr. Cole’s misstatements in his Notice of Compliance, which were repeated at the June 29 status conference.

Second, you have provided no business formation or other documents for Winsome [Grounds LLC] or Hezwal [Abbwal LLC].¹ Delaware requires minimally a certificate of formation for an LLC. Have you produced them?

Third, you have provided no documents concerning Mr. Cole’s property holdings in Florida, Delaware, or Pennsylvania, It is remarkable that Mr. Cole could promptly pledge his interest in the 1751 parcel in Delaware to secure his pretrial release in the criminal case in the Eastern District of Pennsylvania but has yet to produce a single property document for over 14 months in response to an Order from the Southern District of Florida.

Fourth, the Receiver does not believe your client’s representation that no earlier accounts exist for: 1) the Memory Lane BOA accounts; 2) the Winsome PNC account; 3) the Fulton Bank account; 4) or the WSFS account for Hezwal. None of those accounts appears to have an initial account statement included. If your client intends to persist in this representation, then please direct me to the opening account statement for each account or provide the actual account opening materials. Most banks provide access for 7 years so your client is within the window in which he can retrieve materials or demonstrate that none exist.

¹ Both Winsome Grounds LLC and Hezwal Abbwal LLC are registered in Delaware. At a minimum, §18-201 of the Limited Liability Company Act of the State of Delaware requires a certificate of formation be filed for all limited liability companies.

Id. Counsel for the Receiver asked that the production be supplemented by July 24, 2023. *See id.* Mr. Raikhelson did not respond until July 27, 2023, at which time Mr. Raikhelson asserted a new argument on behalf of Cole:

[T]he extent of the original request for production and Judge Ruiz’s Order asks documents of assets, but not liabilities. As such, I do not think your request entails mortgage documents or statements of other liabilities. As for the \$100K Fidelity balance, I do not know if you are seeking testimony or not. Essentially, you are seeking to have my client, through document production, to disclose to you why certain funds are missing and where they are. As you can see from the bank statements, the funds were either spent or transferred. If you want to know for what purpose, that would get into testimonial evidence. This is our same position on the Fidelity accounts.

Id. Mr. Raikhelson also asserted that “Halliz Abbwal has only been in operation for a little over a year and the statements provided to [counsel for the Receiver] are all the statements available on the portal.” *Id.* The next day, July 28, 2023, counsel for the Receiver responded to Mr. Raikhelson that the Court Order requires Cole to produce “all assets, irrespective of value or any liabilities associated with the asset.” *Id.* Counsel for the Receiver further added that:

Among other deficiencies... [Cole has also] not produced any closing statements, deeds, business formation documents or bank statements from either 2016 or inception except for the Fidelity account. It is also immaterial that a [Hezwal Abbwal LLC] is less than a year old. As we clarified at the June 5 hearing, the Order was through “the present” – June 5, 2023.

[Cole] misled the Court when [he] filed Mr. Cole’s Notice of Compliance. [Counsel for the Receiver] had hoped that [Mr. Raikhelson] and Mr. Cole had taken seriously the Court’s comments at the hearing as well as the impact of the resulting contempt Order but apparently not. [Cole has] left the Receiver no choice but to move to strike [the] Notice of Compliance and to seek the Court’s intervention, including further sanctions.

Id. On July 31, 2023, Mr. Raikhelson reasserted that the Court’s Discovery Order did not contemplate “debts owed” by Cole, therefore “the distinction of assets vs liabilities makes a difference,” and Cole is not in possession of closing documents. *See id.* Further, despite counsel for the Receiver’s detailed email dated June 16, 2023, outlining these deficiencies, Mr. Raikhelson

added that issues with Cole's production had not been raised until the June 29th status conference and the Notice of Compliance had been filed in good faith. *See id.*

As of the filing of this Motion to Strike Cole's Notice of Compliance, Cole has not provided any further documentation in compliance with the Court's Discovery Order and Contempt Order.

II. Legal Standard

Rule 37(b)(2) authorizes the Court to impose sanctions when a party "fails to obey an order to provide or permit discovery." Fed. R. Civ. P. 37(b)(2)(A); *see also United States v. \$3,107.90 in United States Currency*, 2006 WL 950096 (M.D. Ga. Apr. 12, 2006) ("Rule 37 [] authorizes the Court to impose sanctions for failure to cooperate"); *ADM Agri-Indus., Ltd. v. Harvey*, 200 F.R.D. 467 (M.D. Ala. May 9, 2001) ("... Rule 37 authorizes a wide range of sanctions for a party's failure to make disclosures or cooperate in discovery..."); *Seven Seas Cruises v. V Ships Leisure Sam*, 2011 WL 13220383, at *6 (S.D. Fla. Apr. 28, 2011) ("[Rule 37] addresses a party's failure to make disclosures or to cooperate in discovery and sets forth sanctions that may be imposed by a Court."). Sanctions at the Court's disposal include, but are not limited to, "prohibiting the disobedient party from supporting or opposing designated claims or defenses," "striking pleadings in whole or in part," and "rendering a default judgment against the disobedient party." Fed. R. Civ. P. 37(b)(2)(A) (enumerating sanctions).

In general, district courts have broad discretion to fashion appropriate sanctions for violations of discovery orders. *Malautea v. Suzuki Motor Co., Ltd.*, 987 F.2d 1536, 1542 (11th Cir. 1993). For example, a default judgment sanction requires a willful or bad faith failure to obey a discovery order. *Societe Internationale pour Participations Industrielles et Commerciales v. Rogers*, 357 U.S. 197 (1958). Violation of a discovery order caused by simple negligence, misunderstanding, or inability to comply will not justify a Rule 37 default judgment or dismissal.

In re Chase and Sanborn Corp., 872 F.2d 397, 400 (11th Cir.1989) (inability to comply); *Equal Employment Opportunity Comm'n v. Troy State Univ.*, 693 F.2d 1353, 1357 (11th Cir.1982) (simple negligence or misunderstanding). In imposing sanctions, the court may consider “the unsuitability of another remedy, the intransigence of a party, and the absence of an excuse.” *Watkis v. Payless ShoeSource, Inc.*, 174 F.R.D. 113, 116 (M.D. Fla. 1997).

III. Argument

The Receiver has patiently made good faith efforts to work with Cole in order to obtain the required information. *See supra*. Despite numerous requests and ample time, Cole has not provided the discovery in compliance with the Court’s Discovery Order and Contempt Order. Specifically, Cole has failed to provide the following documentation in direct violation of the Contempt Order:

- All statements for the relevant period in the Court’s Order (2016 through present) for the following accounts: (i) FL Memory Lane Bank of America account (3299); (ii) FL Memory Lane Bank of America account (3286); (iii) Winsome Grounds PNC account; (iv) Fulton Bank account; and (v) Hezwal Abbwal WSFS Bank account. Cole is responsible for obtaining the relevant statements from the banks irrespective of whether they are currently in his possession.
- All property related documents (including closing statements, deeds, applicable mortgage related documents, and HUD-1 statements) for the properties located at: (i) 609 S. Delhi Street, Philadelphia, PA; (ii) 1745 Walnut Green Road, Wilmington, DE; (iii) 1751 Walnut Green Road, Wilmington DE; and (iv) 108 Louisiana Drive, Pensacola, FL.
- Corporate formation documents for FL Memory Lane LLC and Hezwal Abbwal LLC.
- All documents and statements associated with any lines of credit secured by the above-referenced properties.
- All documents related to real estate taxes, property insurance and maintenance fees associated with the above-reference properties.
- All documents reflecting the depletion of funds in Cole’s Fidelity accounts from the time of the Asset Freeze in August 2020 (totaling roughly \$100,000) through May 2023 (under \$100).

As such, Cole has failed to abide by the Court’s Discovery Order and Contempt Order, and his Notice of Compliance is inappropriate and dishonest. Cole’s attempt to distinguish assets versus liabilities to avoid compliance ignores that the Court did not order Cole to produce documents relating to assets that he may own “free and clear” of any liabilities; the subject of the Court’s Discovery Order is *all* assets, irrespective of the value or any liabilities associated with that asset. Moreover, Cole has failed to produce any closing statements, deeds, business formation documents or bank statements from either 2016 or inception, except for the Fidelity account. Lastly, despite Mr. Raikhelson’s assertions that Hazwel Abbal has only existed for approximately a year, it is immaterial that a particular business or asset is less than a year old because the Court’s Contempt Order made clear that the production was through “the present.”

Striking pleadings, in whole or in part, does not require a willful or bad faith failure to obey a discovery order. *See Rogers*, 357 U.S. 197 (1958). The Court can instead utilize its discretion to fashion appropriate sanctions for violations of discovery orders. *See Malautea*, 987 F.2d at 1542. The current state of Cole’s production, in combination with his obstinance in working with the Receiver to comply with the Court’s Discovery Order and Contempt Order, provides ample grounds to strike Cole’s Notice of Compliance. Put plainly, Cole’s Notice of Compliance is false and was filed in bad faith. As such, an appropriate sanction is to strike the Notice of Compliance.

IV. Conclusion

For the foregoing reasons, Receiver respectfully requests that this Court: (1) grant his Motion to Strike Defendant Joseph Cole Barleta’s Notice of Compliance; (2) impose a daily coercive fine on Cole until such time that Cole proves he is in full compliance with the Discovery Order and the Contempt Order; and (3) award the Receiver the attorneys’ fees and costs he has incurred in connection with this Motion, in an amount to be determined by the Court following

Cole's full compliance with the Discovery Order and the Contempt Order. A proposed Order granting this Motion is attached as Exhibit 5.

CERTIFICATION REGARDING PRE-FILING CONFERENCE

The undersigned counsel has conferred with counsel for Joseph Cole Barleta regarding his noncompliance with the Court's orders and the deficiencies in his Notice of Compliance. Notwithstanding the foregoing, Cole has not withdrawn his notice of compliance and otherwise does not agree to the relief requested herein.

Dated: August 15, 2023

Respectfully Submitted,

**STUMPHAUZER KOLAYA
NADLER & SLOMAN, PLLC**
Two South Biscayne Blvd., Suite 1600
Miami, FL 33131
(305) 614-1400 (Telephone)
(305) 614-1425 (Facsimile)

By: /s/ Timothy A. Kolaya
TIMOTHY A. KOLAYA
Florida Bar No. 056140
tkolaya@sknlaw.com

Co-Counsel for Receiver

**PIETRAGALLO GORDON ALFANO
BOSICK & RASPANTI, LLP**
1818 Market Street, Suite 3402
Philadelphia, PA 19103
(215) 320-6200 (Telephone)
(215) 981-0082 (Facsimile)

By: /s/ Gaetan J. Alfano
GAETAN J. ALFANO
Pennsylvania Bar No. 32971
(Admitted Pro Hac Vice)
GJA@Pietragallo.com

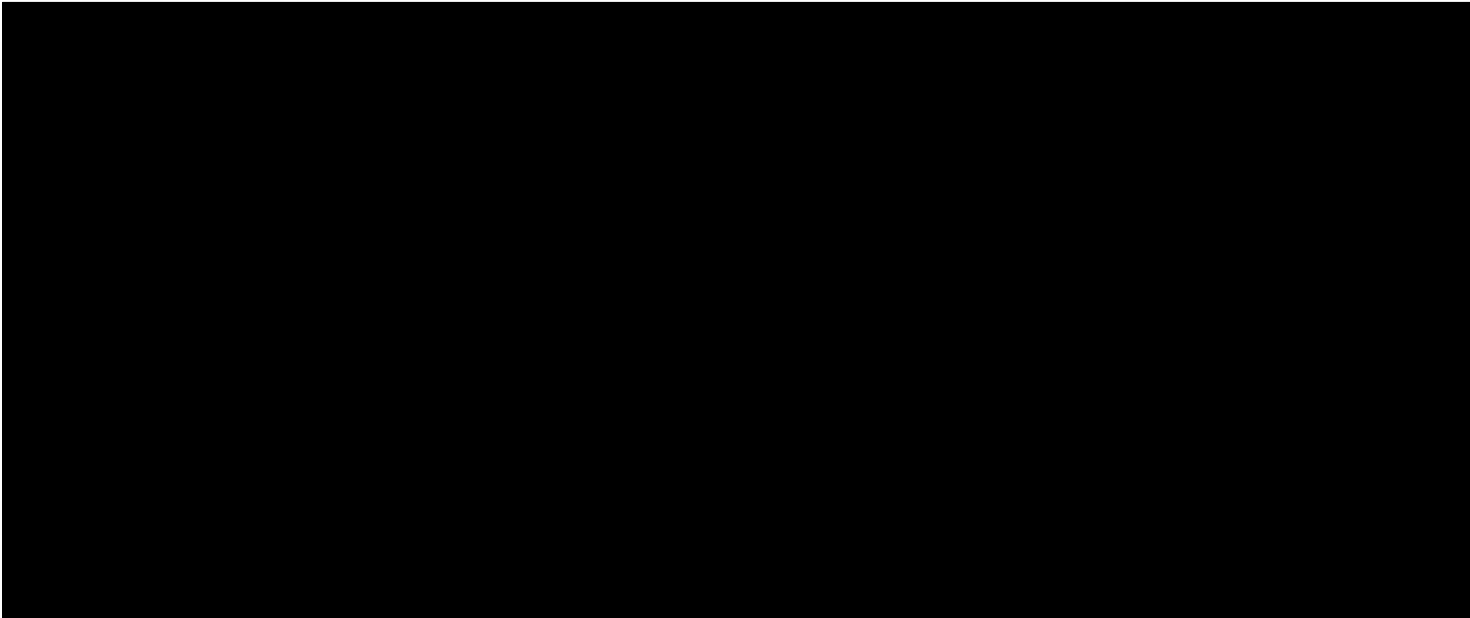
Co-Counsel for Receiver

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on August 15, 2023, 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”



From: Andre Raikhelson <arlaw@raikhelsonlaw.com>
Date: June 15, 2023 at 5:14:31 PM EDT
To: "Gaetan J. Alfano" <GJA@pietragallo.com>
Cc: Timothy Kolaya <tkolaya@sknlaw.com>
Subject: Re: SERVICE OF COURT DOCUMENTS - SECURITIES AND EXCHANGE COMMISSION V. COMPLETE BUSINESS SOLUTIONS CASE NO. 20-CV-81205-RAR

Perhaps try this link: <https://www.dropbox.com/sh/fltnd73zdfekny/AADBou-JARYMx2pPaCTOEuf7a?dl=0>

From: Gaetan J. Alfano <GJA@Pietragallo.com>
Date: Thursday, June 15, 2023 at 5:10 PM
To: Andre Raikhelson <arlaw@raikhelsonlaw.com>
Cc: Timothy Kolaya <tkolaya@sknlaw.com>
Subject: RE: SERVICE OF COURT DOCUMENTS - SECURITIES AND EXCHANGE COMMISSION V. COMPLETE BUSINESS SOLUTIONS CASE NO. 20-CV-81205-RAR

Andre,

We do not yet have the documents. Nevertheless, you state that Mr. Cole has no stocks or securities in his name. According to his attached statement, Mr. Cole had a Fidelity Account valued in excess of \$186,000 as of August, 2019.

You appreciate that the Order requires documents from 2016 through present.

Please explain.

Thank you.

Gaetan

Gaetan J. Alfano, Esquire

Pietragallo Gordon Alfano Bosick & Raspanti, LLP
1818 Market Street, Suite 3402
Philadelphia, PA 19103
Office: (215) 988-1441 | Fax: (215) 754-5181
GJA@Pietragallo.com | BIO | vCard



This electronic mail message, and any attachments transmitted with it, contain confidential information, intended only for the named addressee(s). If you are not the intended recipient or the person responsible for delivering this e-mail to the intended recipient, you are hereby notified that any use, distribution, copying or disclosure of this communication is strictly prohibited. If you have received this e-mail in error please immediately notify Pietragallo Gordon Alfano Bosick & Raspanti, LLP by reply e-mail, and delete a copies of this communication from your computer and network. Thank you.

From: Andre Raikhelson <arlaw@raikhelsonlaw.com>
Sent: Thursday, June 15, 2023 4:18 PM
To: Gaetan J. Alfano <GJA@Pietragallo.com>
Cc: Timothy Kolaya <tkolaya@sknlaw.com>; Joe Cole <joecole@knewlogic.com>
Subject: SERVICE OF COURT DOCUMENTS - SECURITIES AND EXCHANGE COMMISSION V. COMPLETE BUSINESS SOLUTIONS CASE NO. 20-CV-81205-RAR

Dear Mr. Alfano and Mr. Kolaya:

I am send you a ZIP file where you can see Mr. Cole's production to your discovery request. Mr. Barleta does not have any stocks, securities, or vehicles under his name. Likewise, Cole does not own any trusts or disposed of property. Cole has produced a complete accounting of his bank statements.

We will be filing a notice of compliance with the Court in due time. A notice of compliance has been drafted, and I am waiting for my client to give me the final OK to file it.

1. Andre G. Raikhelson, Esq.

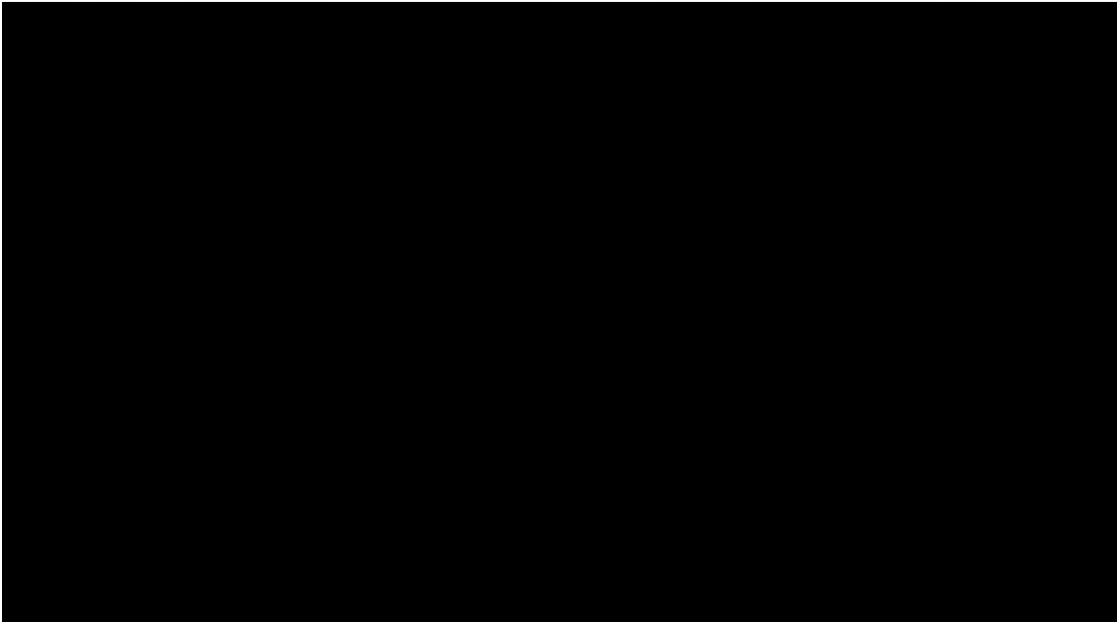
Trayber Raikhelson Law Group, PLLC.

2750 NE 185th Street | Suite 206 | Aventura | FL | 33180 | www.raikhelsonlaw.com |
T: 305.990.1451 | F: 954.951.0620 | arlaw@raikhelsonlaw.com

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto. Without a valid retainer agreement, no attorney-client relationship shall be created unless evidenced by a formal signed written agreement by both lawyer and client.

--

Exhibit “2”



From: Andre Raikhelson <arlaw@raikhelsonlaw.com>
Date: June 16, 2023 at 6:00:55 PM EDT
To: "Gaetan J. Alfano" <GJA@pietragallo.com>
Cc: Timothy Kolaya <tkolaya@sknlaw.com>, Joe Cole <joecole@knewlogic.com>
Subject: Re: Deficiencies in Production pursuant to Court Order

Gaetan,

I hope this resolves the deficiencies in production.

See link: <https://www.dropbox.com/sh/j37h4yhsluadsh7/AAD7BYsQ6hcfGsl3gBogCL1a?dl=0>

The explanation is as follows:

1. Capital Source 2000, Inc. - all statements sent yesterday because you had all the statements when the Receiver was running the company.
2. Helliz Abwall is the bookkeeping company. All statements were sent as that is a new company.
3. FLML statements sent all from inception of company in 2019
4. WG sent all from inception of company from 2019
5. Cole Fulton only had statements available online dating back to June 2021. There were no physical copies, and my client did not have anything else in his physical possession.
6. All of the transactions regarding the Fidelity account were done with oversight of counsel, specifically Bettina Schein.

1. Andre G. Raikhelson, Esq.

Law Offices of Andre G. Raikhelson, LLC

7000 W. Palmetto Park Rd | Suite 210 | Boca Raton | FL | 33433 | www.raikhelsonlaw.com |
T: 954.895.5566 | F: 954.951.0620 | arlaw@raikhelsonlaw.com

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto. Without a valid

retainer agreement, no attorney-client relationship shall be created unless evidenced by a formal signed written agreement by both lawyer and client.

From: Gaetan J. Alfano <GJA@Pietragallo.com>
Date: Friday, June 16, 2023 at 12:48 PM
To: Andre Raikhelson <arlaw@raikhelsonlaw.com>
Cc: Timothy Kolaya <tkolaya@sknlaw.com>
Subject: RE: Deficiencies in Production pursuant to Court Order

Andre – we will wait until COB today. I am also withdrawing the Notice of Deposition at this time, without prejudice to the Receiver’s right to seek Mr. Cole’s deposition ta a later date.

Gaetan J. Alfano, Esquire

Pietragallo Gordon Alfano Bosick & Raspanti, LLP
1818 Market Street, Suite 3402
Philadelphia, PA 19103
Office: (215) 988-1441 | Fax: (215) 754-5181
GJA@Pietragallo.com | BIO | vCard



This electronic mail message, and any attachments transmitted with it, contain confidential information, intended only for the named addressee(s). If you are not the intended recipient or the person responsible for delivering this e-mail to the intended recipient, you are hereby notified that any use, distribution, copying or disclosure of this communication is strictly prohibited. If you have received this e-mail in error please immediately notify Pietragallo Gordon Alfano Bosick & Raspanti, LLP by reply e-mail, and delete a copies of this communication from your computer and network. Thank you.

From: Andre Raikhelson <arlaw@raikhelsonlaw.com>
Sent: Friday, June 16, 2023 12:43 PM
To: Gaetan J. Alfano <GJA@Pietragallo.com>
Cc: Timothy Kolaya <tkolaya@sknlaw.com>; Joe Cole <joecole@knewlogic.com>
Subject: Re: Deficiencies in Production pursuant to Court Order

Gaetan,

I am not ignoring you. I promised a client I’d have a complaint written for him, and it’s a complicated complaint. Give me a few hours and I’ll respond more completely to your e-mail.

1. Andre

From: Gaetan J. Alfano <GJA@Pietragallo.com>
Date: Friday, June 16, 2023 at 12:17 PM
To: Andre G. Raikhelson Esquire (arlaw@raikhelsonlaw.com) <arlaw@raikhelsonlaw.com>
Cc: Timothy Kolaya <tkolaya@sknlaw.com>
Subject: Deficiencies in Production pursuant to Court Order

Andre,

I understand that you are checking with Mr. Cole but there are glaring deficiencies in the production from last evening:

1. The Court Order required documents from 2016 to present. The earliest document you provided is from 2022.
2. Mr. Cole's summary lists properties but there are no documents provided for the properties. For example, Mr. Cole has a mortgage for his Philadelphia property but provided no documentation on mortgage payments.
3. Likewise the summary lists "other assets" and their "estimated value" but you have provided no documentation on these items.
4. There is no information on indebtedness owed to Mr. Cole or related companies.
5. You have not provided any documents related to FL Memory Lane or Winsome Grounds beyond bank statements. We understand that despite the existence of the Asset Freeze, Mr. Cole has pledged real property in connection with the criminal case. Where are the documents for that pledge?
6. You have provided no information about any safe deposit boxes.

Under the circumstances, your Notice of Compliance is inaccurate. Please withdraw it by COB today so as to avoid any impression that Mr. Cole has complied, when he clearly has not.

Thank you.

Gaetan

Gaetan J. Alfano, Esquire

Pietragallo Gordon Alfano Bosick & Raspanti, LLP
1818 Market Street, Suite 3402
Philadelphia, PA 19103
Office: (215) 988-1441 | Fax: (215) 754-5181
GJA@Pietragallo.com | BIO | vCard



This electronic mail message, and any attachments transmitted with it, contain confidential information, intended only for the named addressee(s). If you are not the intended recipient or the person responsible for delivering this e-mail to the intended recipient, you are hereby notified that any use, distribution, copying or disclosure of this communication is strictly prohibited. If you have received this e-mail in error please immediately notify Pietragallo Gordon Alfano Bosick & Raspanti, LLP by reply e-mail, and delete a copies of this communication from your computer and network. Thank you.

Exhibit “3”

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION
CASE NO. 20-CV-81205-RAR

SECURITIES & EXCHANGE COMMISSION, Miami, Florida
Plaintiff, June 29, 2023
vs. 1:13 p.m. - 2:31 p.m.
COMPLETE BUSINESS SOLUTIONS,
d/b/a PAR FUNDING, et al.,
Defendants. Pages 1 to 72

STATUS CONFERENCE
BEFORE THE HONORABLE RODOLFO A. RUIZ, II
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF: ALISE M. JOHNSON
UNITED STATES SECURITIES and
EXCHANGE COMMISSION
801 Brickell Avenue
Suite 1800
Miami, Florida 33131

FOR THE RECEIVER: TIMOTHY A. KOLAYA
STUMPHAUZER, FOSLID, SLOMAN,
ROSS & KOLAYA, PLLC
Two South Biscayne Boulevard
Suite 1600
Miami, Florida 33131

STENOGRAPHICALLY REPORTED BY:

ILONA LUPOWITZ, CRR, RPR, RMR
Official Court Reporter to:
The Honorable Rodolfo A. Ruiz, II
United States District Court
4 North Miami Avenue
Room 11-2
Miami, Florida 33128
(305) 523-5737

1 (Appearances continued)

2

3 FOR THE RECEIVER: GAETAN J. ALFANO
4 PIETRAGALLO, GORDON, ALFANO, BOSICK &
5 RASPANTI, LLP
6 1818 Market Street
7 Philadelphia, Pennsylvania 19103

5

6 FOR THE DEFENDANT, JAMES KAPLAN
7 LISA MCELHONE: KAPLAN ZEENA, LLP
8 2 South Biscayne Boulevard
9 Suite 3050
10 Miami, Florida 33131

8

9 THE DEFENDANT, ANDRE G. RAIKHELSON
10 JOSEPH COLE BARLETA: LAW OFFICES OF ANDRE G. RAIKHELSON, LLC
11 301 Yamato Road
12 Suite 1240
13 Boca Raton, Florida 33431

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 criminal case. The receiver is fairly hands off on that.

2 Our goal is to have minimal involvement, if any,
3 because again we're looking for a pretrial disposition. We do
4 not intend to spend any significant receivership time or
5 resources into that criminal case.

6 THE COURT: And actually -- I appreciate that. Thank
7 you, Mr. Raikhelson, for letting me know.

8 One thing, now that I have you guys in front of me on
9 this point: What is the latest on the production? I meant to
10 ask that as well. What's the latest on the production from his
11 client? Because I don't know if there's an update on the
12 financial form, the documents that were the subject of the
13 Court's contempt order currently on appeal. And I don't know
14 if there's been any developments. I did mean to ask on that,
15 now that I'm checking in with Mr. Raikhelson. And whoever -- I
16 don't know. Whoever wants to lead on that, if we have an
17 update on production.

18 Do we know, Mr. Raikhelson? Have those documents been
19 produced, or are we in the process of putting them together?

20 MR. RAIKHELSON: We have produced all of the documents
21 that I believe Mr. Alfano and the receiver have asked for. We
22 made an initial production. Mr. Alfano informed me that that
23 production was deficient. And then we have supplemented that
24 production subsequently and filed a notice of compliance with
25 the Court. And that's about it.

1 THE COURT: Okay. Mr. Alfano, how is that looking? I
2 know you may have just started getting your hands around the
3 supplemental production. I only ask because, if my
4 recollection serves me right, we have -- as part of the Court's
5 prior order, we have contingency; if the production continues
6 to be noncompliant, we have coercive daily fines and other
7 things that could be triggered. So I just was hoping we didn't
8 have to get there.

9 What's your sense on the supplemental production?

10 MR. ALFANO: That it's deficient, Your Honor. We
11 intend to move to strike the notice of compliance. It's
12 deficient for a number of reasons, but the primary one is a
13 lack of information about the real estate that Mr. Cole
14 acquired, we believe, with commingled investor funds.

15 We know that he's acquired certain real estate in
16 Delaware and Florida, and we have very little information
17 produced as far as the acquisition of that real estate, the
18 deeds, what the transactions were. If there's any mortgages,
19 for example, mortgages on his home, we have no information
20 about that. Some of the information does not go back to 2016.
21 We believe that it should. We've been told, in some instances,
22 that he doesn't have copies of certain records, which we would
23 have expected him to go to the bank and get. So we certainly
24 have concerns about that.

25 And we also have concerns about, I think, a very

1 important representation that was made to the Court in that
2 notice of compliance, because included in that notice was a
3 request that the asset freeze either be lifted or modified.

4 THE COURT: Correct, yeah.

5 MR. ALFANO: And there was an accounting of Mr. Cole's
6 assets. And it went something like this, if I have my numbers
7 right: That he had real estate that was valued -- first of
8 all, the asset freeze is \$5.5 million from August of 2020.
9 Then Mr. Cole had assets of real estate worth 2.1 million. And
10 then he's counting the cash of his CS 2000 account, at United
11 Bank, of roughly 2.3 million, I think, is what we transferred
12 in and is now frozen. And essentially saying that those two
13 classes of assets is somehow -- add up to 5.5 million.

14 And there was also a representation that because
15 Mr. Cole, through CS 2000, has a claim in the receivership of
16 \$30 million, that that's also an additional asset. So
17 therefore, Mr. Cole has, you know, essentially ample assets to
18 satisfy the \$5.5 million freeze.

19 The difficulty with that representation, Your Honor, is
20 that while Mr. Cole is claiming 2.3 million in cash assets
21 pertaining to CS 2000, and \$30 million in claims in the
22 receivership of CS 2000's assets, he's not counting the
23 liabilities. Because those claims represent the claims of
24 investors, other than Mr. Cole and other than Mr. Bromley, in
25 CS 2000, those investors who acquired an interest in certain

1 accounts that CBSG was the counterparty for. So it was
2 basically -- they were basically syndication agreements. And
3 there are liabilities associated with those accounts that are
4 not discussed at all in his notice of compliance. So for a
5 number of reasons, we think that the notice of compliance is
6 deficient and misleading, and we intend to address that in a
7 proper motion before the Court.

8 THE COURT: I appreciate that.

9 I would say, Mr. Raikhelson, certainly we're going to
10 want to try to meet and confer as much as possible. If indeed
11 there is a motion to strike, or further supplemental filings to
12 be made, or amendments to be made, to more accurately reflect
13 the financial picture of Mr. Cole, we're going to want to do
14 that. I will be watching to see what comes down the pike in
15 terms of filings, but let's try to continue to comply with the
16 Court's outstanding order and make a very adequate and fulsome
17 financial picture in our production so that we can get a sense
18 of exactly what assets and liabilities Mr. Cole does have. And
19 definitely to try, if possible, to have him get documentation
20 that will back up some of the real estate, for example, and
21 other types of assets he may have. I have no problem giving
22 him time to do that if he's making a good-faith effort to go to
23 the banks, get that information, so that the receiver can
24 analyze it.

25 But I would just urge that we try to meet and confer

1 and make these corrections as soon as we can, so that we paint
2 the right picture of the asset position that Cole is in, and
3 then that way the Court won't have to necessarily get involved
4 once again on this production.

5 But certainly, I think you've heard where Mr. Alfano
6 is, Mr. Raikhelson. So I don't know if you want to chime in,
7 but there's some work there left to be done, it sounds like.

8 MR. RAIKHELSON: Yes, Your Honor. The deficiency that
9 Mr. Alfano just raised to the Court is the first time I ever
10 heard it. I haven't gotten -- I sent him that email, I would
11 say, a couple of days -- I don't want to make a false
12 representation, but to the best of my recollection, a couple of
13 days after the initial -- after the initial transfer of
14 documents. I haven't received anything in response.

15 To the extent that there is some kind of deficiency, I
16 agree with the Court, we would certainly want to meet and
17 confer. And if there is something that we can remedy, if
18 there's something that's in our possession, custody, and
19 control, that we can go to the bank and get, that's something
20 that we're obviously going to do, and we have no objection to
21 doing so.

22 The other update that I wanted to share with the Court
23 is based on what the Eleventh Circuit decided regarding the
24 final order of disgorgement, based on the consent decree, we
25 have reached out to the SEC, because now that -- well, very

1 soon a mandate will be issued. Within 15 days, I believe. We
2 have reached out to the SEC, and I have a scheduled phone call
3 with the SEC, I believe, tomorrow. If my email is true, I
4 believe tomorrow. So hopefully that is in the progress of
5 resolving certain things.

6 And then the other two appeals are in their infancy.

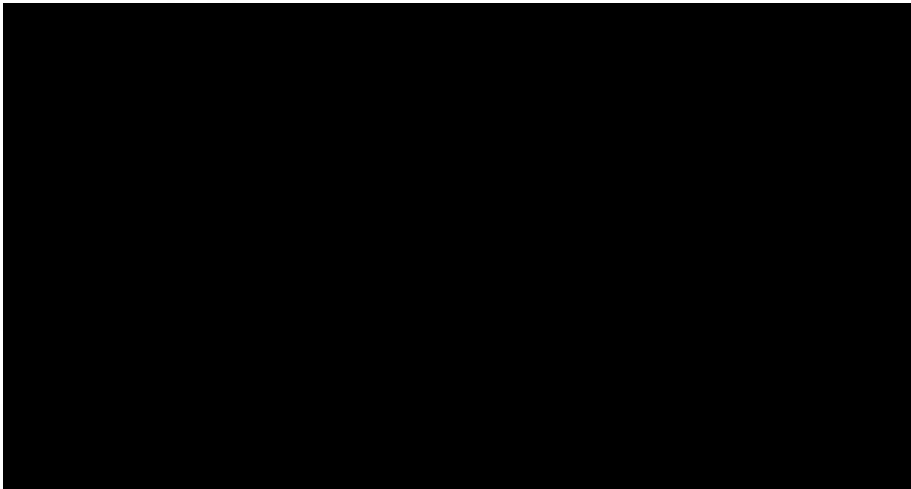
7 THE COURT: Very good. I think -- to your point, I
8 think the important thing is, you've heard what some of
9 Mr. Alfano's concerns are. Certainly you'll want to get on a
10 call with the receiver's team, figure out where you can cure
11 any representations, and what else they're looking for, so you
12 can just try to be in compliance with the order.

13 My hope is not to have to wade into enforcement of that
14 order anymore. I urge everyone to try to sit down and figure
15 out exactly what we need and what we have not been provided in
16 the most fulsome way possible. I don't think that the Court's
17 category of production and date range is unclear. I think
18 they're pretty clear.

19 So we just want to make sure we get everything we can
20 to be responsive. As long as you work with the receiver and
21 get us that, that should be good. Hopefully we don't have to
22 worry about further enforcement.

23 As to the appeal, yes, absolutely, anything that would
24 expedite and take issues off the table for the SEC so we can
25 all focus on what the last pieces of the case is better for

Exhibit “4”



From: Andre Raikhelson <arlaw@raikhelsonlaw.com>
Sent: Monday, July 31, 2023 1:42 PM
To: Gaetan J. Alfano <GJA@Pietragallo.com>
Cc: Timothy Kolaya <tkolaya@sknlaw.com>; Berlin, Amie R. <BerlinA@sec.gov>; Joe Cole <joecole@knewlogic.com>
Subject: Re: Compliance with Court Order

Gaetan,

We have a misunderstanding, and I am attempting to rectify it. Your request for documents relating to debts owed is something not contemplated by your original request. Which is why the distinction of assets vs liabilities makes a difference.

Moreover, my client does not have access to those “closing documents” that you seek. Why do you believe this statement is untrue. Have you attempted to subpoena these records?

I did not mislead the Court. When I filed the Notice of Compliance, I believed in good faith that we had complied. You raised no issue to it until the day of the last status conference, which, as I stated in open court, was a surprise.

You seem to keep things to yourself until its convenient for you to use – and I’m just not a fan of this kind of gamesmanship.

How would you like Cole to produce documents he does not have?

Sincerely,

Andre G. Raikhelson, Esq.

From: Gaetan J. Alfano <GJA@Pietragallo.com>
Date: Friday, July 28, 2023 at 9:12 AM
To: Andre Raikhelson <arlaw@raikhelsonlaw.com>
Cc: Timothy Kolaya <tkolaya@sknlaw.com>, Berlin, Amie R. <BerlinA@sec.gov>
Subject: RE: Compliance with Court Order

Andre,

Your asset versus liability statement is a distinction without a difference. We did not ask for and the Court did not order you to produce documents relating to assets that Mr. Cole may own "free and clear" of any liabilities – the subject is all assets, irrespective of value or any liabilities associated with that asset.

Among other deficiencies that I have outlined below, you also have not produced any closing statements, deeds, business formation documents or bank statements from either 2016 or inception except for the Fidelity account. It is also immaterial that a particular business/asset is less than a year old. As we clarified at the June 5 hearing, the Order was through "the present" – June 5, 2023.

You misled the Court when you filed Mr. Cole's Notice of Compliance. I had hoped that you and Mr. Cole had taken seriously the Court's comments at the hearing as well as the impact of the resulting contempt Order but apparently not. You have left the Receiver no choice but to move to strike your Notice of Compliance and to seek the Court's intervention, including further sanctions.

Gaetan

Gaetan J. Alfano, Esquire

Pietragallo Gordon Alfano Bosick & Raspanti, LLP
1818 Market Street, Suite 3402
Philadelphia, PA 19103
Office: (215) 988-1441 | Fax: (215) 754-5181
GJA@Pietragallo.com | BIO|vCard



This electronic mail message, and any attachments transmitted with it, contain confidential information, intended only for the named addressee(s). If you are not the intended recipient or the person responsible for delivering this e-mail to the intended recipient, you are hereby notified that any use, distribution, copying or disclosure of this communication is strictly prohibited. If you have received this e-mail in error, please immediately notify Pietragallo Gordon Alfano Bosick & Raspanti, LLP by reply e-mail, and delete all copies of this communication from your computer and network. Thank you.

From: Andre Raikhelson <arlaw@raikhelsonlaw.com>

Sent: Thursday, July 27, 2023 1:06 PM

To: Gaetan J. Alfano <GJA@Pietragallo.com>

Cc: Timothy Kolaya <tkolaya@sknlaw.com>; Berlin, Amie R. <BerlinA@sec.gov>; Joe Cole <joecole@knewlogic.com>

Subject: Re: Compliance with Court Order

Gaetan,

I wanted to talk to you regarding this. Apologies for not responding earlier. I'm getting really bogged down with trials. Courts are setting trials and being extremely strict with continuances here in Florida. So, the stuff I was able to get away with in not having a fully booked trial schedule is no longer available.

Although probably not something you are concerned about, I am looking to hire more lawyers to resolve this problem.

In any event, I wanted to let you know our position, and see if your position changes after learning ours. Helliz Abbwal has only been in operation for a little over a year and the statements provided to you are all the statements available on the portal.

Moreover, the extent of the original request for production and Judge Ruiz's Order asks documents of assets, but not liabilities. As such, I do not think your request entails mortgage documents or statements of other liabilities. As for the \$100K Fidelity balance, I do not know if you are seeking testimony or not. Essentially, you

are seeking to have my client, through document production, to disclose to you why certain funds are missing and where they are. As you can see from the bank statements, the funds were either spent or transferred. If you want to know for what purpose, that would get into testimonial evidence. This is our same position on the Fidelity accounts.

Let me know how you can address our concerns.

Respectfully,

Andre G. Raikhelson, Esq.

From: Gaetan J. Alfano <GJA@Pietragallo.com>
Date: Wednesday, July 19, 2023 at 3:43 PM
To: Andre Raikhelson <arlaw@raikhelsonlaw.com>
Cc: Timothy Kolaya <tkolaya@sknlaw.com>, Berlin, Amie R. <BerlinA@sec.gov>
Subject: RE: Compliance with Court Order

Andre,

Your cursory response is inaccurate and insufficient. First, this is not an exercise in execution on the (now) final judgment against your client. The Receiver is seeking to insure Mr. Cole's compliance with the Court's Order and to correct Mr. Cole's misstatements in his Notice of Compliance, which were repeated at the June 29 status conference.

Second, you have provided no business formation or other documents for Winsome or Hezwal. Delaware requires minimally a certificate of formation for an LLC. Have you produced them?

Third, you have provided no documents concerning Mr. Cole's property holdings in Florida, Delaware, or Pennsylvania, as set forth in my third bullet point below. It is remarkable that Mr. Cole could promptly pledge his interest in the 1751 parcel in Delaware to secure his pretrial release in the criminal case in the Eastern District of Pennsylvania but has yet to produce a single property document for over 14 months in response to an Order from the Southern District of Florida.

Fourth, the Receiver does not believe your client's representation that no earlier accounts exist for: 1) the Memory Lane BOA accounts; 2) the Winsome PNC account; 3) the Fulton Bank account; 4) or the WSFS account for Hezwal. None of those accounts appears to have an initial account statement included. If your client intends to persist in this representation, then please direct me to the opening account statement for each account or provide the actual account opening materials. Most banks provide access for 7 years so your client is within the window in which he can retrieve materials or demonstrate that none exist.

The Receiver has instructed me to return this matter to the Court's attention absent compliance by Monday, July 24, 2023. Thank you.

Gaetan

Gaetan J. Alfano, Esquire

Pietragallo Gordon Alfano Bosick & Raspanti, LLP
1818 Market Street, Suite 3402
Philadelphia, PA 19103
Office: (215) 988-1441 | Fax: (215) 754-5181
GJA@Pietragallo.com | BIO | vCard



This electronic mail message, and any attachments transmitted with it, contain confidential information, intended only for the named addressee(s). If you are not the intended recipient or the person responsible for delivering this e-mail to the intended recipient, you are hereby notified that any use, distribution, copying or disclosure of this communication is strictly prohibited. If you have received this e-mail in error, please immediately notify Pietragallo Gordon Alfano Bosick & Raspanti, LLP by reply e-mail, and delete all copies of this communication from your computer and network. Thank you.

From: Andre Raikhelson <arlaw@raikhelsonlaw.com>

Sent: Monday, July 17, 2023 1:17 PM

To: Gaetan J. Alfano <GJA@Pietragallo.com>

Cc: Timothy Kolaya <tkolaya@sknlaw.com>; Joe Cole <joecole@knewlogic.com>; Berlin, Amie R. <BerlinA@sec.gov>

Subject: Re: Compliance with Court Order

Gaetan,

No need to seek Court intervention. My client did not know if your request because I was bogged down with other matters, including one personal matter that I needed to attend to. Moreover, you know my phone number, no idea why you couldn't just call me.

In any event, the easiest response to Winsome Grounds LLC and FL Memory Lane LLC is that you are incorrect in calling these entities "corporations." They are not corporations, but limited liability companies.

Winsome Grounds LLC is a limited liability company registered in Delaware. FL Memory Lane LLC is a limited liability company registered in Florida. Just so you know, Florida does not require certain corporate formalities, and the Articles of Organization are auto generated. See attached. As such, the information you seek regarding these entities are generally not kept. Most small businesses in Florida do not have independent operating agreements, especially when they are closely held.

Moreover, the account information you seek has already been provided. We provided everything. I will double check with Mr. Barleta, but I believe the accounts did not exist for an earlier period that you requested.

Finally, I have included Amie in this email, as it appears the documents you seek are in aid of execution. I do not know her position on the matter besides the fact that collections is an issue for the SEC. However, Cole does not intend to violate any Court Order. I will review your request with my client in greater detail and provide you any supplemental information we have.

Respectfully,

Andre G. Raikhelson, Esq.

Law Offices of Andre G. Raikhelson, LLC

7000 W. Palmetto Park Rd | Suite 210 | Boca Raton | FL | 33433 | www.raikhelsonlaw.com |

T: 954.895.5566 | F: 954.951.0620 | arlaw@raikhelsonlaw.com

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto. Without a valid retainer agreement, no attorney-client relationship shall be created unless evidenced by a formal signed written agreement by both lawyer and client.

From: Gaetan J. Alfano <GJA@Pietragallo.com>

Date: Friday, July 7, 2023 at 2:47 PM

To: Andre G. Raikhelson Esquire (arlaw@raikhelsonlaw.com) <arlaw@raikhelsonlaw.com>

Cc: Timothy Kolaya <tkolaya@sknlaw.com>

Subject: Compliance with Court Order

Good Afternoon Andre:

We write to identify several categories of documents that Mr. Cole failed to produce in response to the Court's Order. We hope to obtain these documents without further court intervention. From our vantage point, there is no room for debate or negotiation. Indeed, the Order clearly identified ten categories of responsive documents, and the Court has soundly rejected all of Mr. Cole's objections.

Consequently, we are hereby demanding that Mr. Cole produce the following documents forthwith:

- All deposit items (deposit slips, images of deposited checks) as well as copies of outgoing checks drawn upon the bank accounts at Fidelity, Fulton Bank, PNC and Bank of America, as identified in Mr. Cole's Financial summary.
- All accounts provided, except for Fidelity, do not cover the relevant time period in the Court's Order. For example, the 2 Bank of America accounts for FL Memory Lane (3299 and 3286) go back only to April, 2022 and those do not appear to be opening accounts; the Winsome Grounds PNC statements only go back to November 30, 2019; the Fulton Bank statements only go back to June 18, 2021; the WSFS Bank account statements for Hezwal Abbwal only go back to June 30, 2022. Please note that if the statements exist – irrespective of whether Mr. Cole has them handy – he is responsible for obtaining them from the relevant banks.
- All property related documents (including HUD-1 statements) for the properties located at: (i) 609 S. Delhi Street, Philadelphia, PA, (ii) 1745 Walnut Green Road, Wilmington, DE, (iii) 1751 Walnut Green Road, Wilmington DE, and (iv) 108 Louisiana Drive, Pensacola, FL. Mr. Cole acquired each of these properties within the period covered by the Court's Order. Where are the closing statements, deeds, and any applicable mortgage related documents. For instance, Mr. Cole has been carrying a mortgage on the Delhi Street Property since he acquired it in 2017. Where are the mortgage and mortgage statement for that property?
- Winsome Grounds LLC and FL Memory Lane LLC are corporations. Where are the corporate documents, eg, articles, bylaws, operating agreements? Hezwal Abbwal LLC also is a corporation. Where are the corresponding corporate documents?
- All documents and statements associated with any lines of credit secured by the above-referenced properties.
- All documents related to real estate taxes, property insurance and maintenance fees associated with the above-reference properties.
- At the time of the Asset Freeze in August 2020, Mr. Cole's Fidelity accounts totaled roughly \$100,000. By May 2023, it had been spent done to under \$100. Where did those assets go?
- Aside from the check copies referenced above, any documents reflecting the disposition of funds from Mr. Cole's Fidelity accounts between January 2018 and April 2020, and between August 2020 and December 2020 (see screenshots below).

INVESTMENT REPORT
August 1, 2020 - August 31, 2020

Your Portfolio Value: **\$93,407.88**
Portfolio Change from Last Period: ▼ \$6,613.66

	This Period	Year-to-Date
Beginning Portfolio Value	\$100,021.54	\$7,283.84
Additions	-	316,447.78
Subtractions	-6,614.52	-230,353.53
Transaction Costs, Fees & Charges	-	9.00
Change in Investment Value *	0.86	29.79
Ending Portfolio Value **	\$93,407.88	\$93,407.88
Accrued Interest (AI)	-	-
Ending Portfolio Value incl. AI	\$93,407.88	

INVESTMENT REPORT
September 1, 2020 - September 30, 2020

Your Portfolio Value: **\$83,202.45**
Portfolio Change from Last Period: ▼ \$10,205.43

	This Period	Year-to-Date
Beginning Portfolio Value	\$93,407.88	\$7,283.84
Additions	-	316,447.78
Subtractions	-10,206.15	-240,559.66
Transaction Costs, Fees & Charges	-	9.00
Change in Investment Value *	0.72	30.51
Ending Portfolio Value **	\$83,202.45	\$83,202.45
Accrued Interest (AI)	-	-
Ending Portfolio Value incl. AI	\$83,202.45	

INVESTMENT REPORT
October 1, 2020 - October 31, 2020

Your Portfolio Value: **\$3,595.55**
Portfolio Change from Last Period: ▼ \$79,606.90

	This Period	Year-to-Date
Beginning Portfolio Value	\$83,202.45	\$7,283.84
Additions	-	316,447.78
Subtractions	-79,607.48	-320,167.16
Transaction Costs, Fees & Charges	12.00	21.00
Change in Investment Value *	0.58	31.09
Ending Portfolio Value **	\$3,595.55	\$3,595.55
Accrued Interest (AI)	-	-
Ending Portfolio Value incl. AI	\$3,595.55	

INVESTMENT REPORT
November 1, 2020 - November 30, 2020

Your Portfolio Value: **\$1,959.10**
Portfolio Change from Last Period: ▼ \$1,636.45

	This Period	Year-to-Date
Beginning Portfolio Value	\$3,595.55	\$7,283.84
Additions	-	316,447.78
Subtractions	-1,636.47	-321,803.63
Transaction Costs, Fees & Charges	-	21.00
Change in Investment Value *	0.02	31.11
Ending Portfolio Value **	\$1,959.10	\$1,959.10
Accrued Interest (AI)	-	-
Ending Portfolio Value incl. AI	\$1,959.10	

INVESTMENT REPORT
December 1, 2020 - December 31, 2020

Your Portfolio Value: **\$1,275.47**
Portfolio Change from Last Period: **¥ 563.63**

	This Period	Year-to-Date
Beginning Portfolio Value	\$1,959.10	\$7,283.84
Additions	900.00	312,347.76
Subtractions	-1,593.64	-323,387.27
Transaction Costs, Fees & Charges	0.00	21.00
Change in Investment Value *	0.01	31.12
Ending Portfolio Value **	\$1,275.47	\$1,275.47
Accrued Interest (AI)	0.00	0.00
Ending Portfolio Value incl AI	\$1,275.47	\$1,275.47

We reserve the right to demand additional documents included within the scope of the Order and provide the above list only to focus your attention on the most important items.

Please let us know the date we can expect to receive these documents. Alternatively, if you do not intend to provide any of the documents identified above, please let us know immediately.

Thank you.

Gaetan

Gaetan J. Alfano, Esquire

Pietragallo Gordon Alfano Bosick & Raspanti, LLP
1818 Market Street, Suite 3402
Philadelphia, PA 19103
Office: (215) 988-1441 | Fax: (215) 754-5181
GJA@Pietragallo.com | BIO | vCard



This electronic mail message, and any attachments transmitted with it, contain confidential information, intended only for the named addressee(s). If you are not the intended recipient or the person responsible for delivering this e-mail to the intended recipient, you are hereby notified that any use, distribution, copying or disclosure of this communication is strictly prohibited. If you have received this e-mail in error, please immediately notify Pietragallo Gordon Alfano Bosick & Raspanti, LLP by reply e-mail, and delete all copies of this communication from your computer and network. Thank you.

Exhibit “5”

**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.

**[PROPOSED] ORDER GRANTING RECEIVER, RYAN K.
STUMPHAUZER'S MOTION TO STRIKE DEFENDANT
JOSEPH COLE BARLETA'S NOTICE OF COMPLIANCE**

THIS CAUSE comes before the Court upon the Receiver's Motion to Strike Defendant Joseph Cole Barleta's Notice of Compliance [ECF No. _____] ("Motion"), filed on August 15, 2023.

In the Motion, the Receiver indicates that Defendant Joseph Cole Barleta ("Cole") has not complied with this Court's Order holding Cole in contempt of Court for failing to provide the Receiver with certain discovery [ECF No. 1586] (the "Contempt Order"), and requests the Court to strike Cole's Notice of Compliance [ECF 1599], through which Cole indicated that he had complied with the Contempt Order and provided the Receiver with necessary discovery required under the Court's April 29, 2022 Order Granting Receiver's Motion to Compel [ECF No. 1222] (the "Discovery Order").

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 Receiver's Motion is **GRANTED**.
2. Cole's Notice of Compliance [ECF No. 1599] is hereby **STRICKEN**.
3. A daily coercive fine in the amount of \$_____ is hereby **IMPOSED** on Cole, beginning on the day immediately following the date of this Order, and continuing until Cole demonstrates he is in full compliance with the Discovery Order and the Contempt Order.
4. To demonstrate full compliance, Cole is **INSTRUCTED** to file a Notice with the Court confirming he has produced, or that no responsive documents exist for, each of the following categories of documents:
 - All statements for the relevant period in the Court's Order (2016 through present) for the following accounts: (i) FL Memory Lane Bank of America account (3299); (ii) FL Memory Lane Bank of America account (3286); (iii) Winsome Grounds PNC account; (iv) Fulton Bank account; and (v) Hezwal Abbwal WSFS Bank account. Cole is responsible for obtaining the relevant statements from the banks irrespective of whether they are currently in his possession.
 - All property related documents (including closing statements, deeds, applicable mortgage related documents, and HUD-1 statements) for the properties located at: (i) 609 S. Delhi Street, Philadelphia, PA; (ii) 1745 Walnut Green Road, Wilmington, DE; (iii) 1751 Walnut Green Road, Wilmington DE; and (iv) 108 Louisiana Drive, Pensacola, FL.
 - Corporate formation documents for FL Memory Lane LLC and Hezwal Abbwal LLC.
 - All documents and statements associated with any lines of credit secured by the above-referenced properties.
 - All documents related to real estate taxes, property insurance and maintenance fees associated with the above-reference properties.
 - All documents reflecting the depletion of funds in Cole's Fidelity accounts from the time of the Asset Freeze in August 2020 (totaling roughly \$100,000) through May 2023 (under \$100).
5. An award of attorneys' fees and costs is hereby **IMPOSED** against Cole, in an amount to be determined by the Court following Cole's full compliance with the Discovery Order

and the Contempt Order. The Receiver is **INSTRUCTED** to file a notice with the Court upon Cole's full compliance with the Discovery Order and Contempt Order, enclosing the billing records for the attorneys' fees and costs he has incurred in connection with this Motion.

DONE AND ORDERED in Miami, Florida, this ____ day of August, 2023.

RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of record