

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 20-CV-81205-RAR/REINHART

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

COMPLETE BUSINESS SOLUTIONS
GROUP, INC. d/b/a PAR FUNDING, *et al.*

Defendants.

**NON-PARTY PACIFIC LIFE INSURANCE COMPANY’S RESPONSE IN OPPOSITION
TO THE RECEIVER’S MOTION TO COMPEL COMPLIANCE WITH SUBPOENA**

Non-Party Pacific Life Insurance Company (“Pacific Life”) respectfully submits this response in opposition to Receiver, Ryan K. Stumphauzer’s Motion to Compel Pacific Life Insurance Company’s Compliance with Subpoena (D.E. 1655) (the “Motion to Compel”).

INTRODUCTION

On *August 24, 2022*, the Receiver issued a subpoena *duces tecum* to Pacific Life generally seeking documents identifying any changes relating to how the Company administered life insurance policies, or processed policy reinstatement requests, during the onset of the COVID-19 pandemic. On *October 4, 2022* and *October 6, 2022*, Pacific Life responded to the Receiver’s subpoena and produced the only document it had responsive to the subpoena’s document requests – an April 14, 2020 Bulletin titled “COVID-19 Disaster Relief (All States).” Pacific Life explained to the Receiver that the Bulletin was the only document it had addressing accommodations made by Pacific Life in response to COVID-19, and that it did not otherwise make any changes to its administration of life insurance contracts, or reinstatement practices, in response to COVID-19.

Pacific Life also confirmed that it did not have any documents responsive to the subpoena's other document requests. On *October 14, 2022*, apparently dissatisfied with the response, the Receiver sent Pacific Life a letter contending that it was "untenable" that Pacific Life could only locate a single document responsive to its subpoena. On *October 31, 2022*, Pacific Life responded again explaining that it had fully responded to the subpoena by producing all responsive documents:

We provided the bulletin, which we believe is generally responsive to items 1 and 2 in the subpoena. For items 3, 4, 5, 6 (which is duplicative of 5), and 7, Pacific Life does not have any responsive documents.

See E-mail from Pacific Life to John W. Kettering, Esq., dated October 31, 2022.

On August 9, 2023, almost a full year after issuing the subpoena to Pacific Life, the Receiver has now filed the instant Motion seeking an order requiring Pacific Life to produce all documents responsive to the August 24, 2022 subpoena. The sole basis for the Motion is the Receiver's contention that it is "implausible" that Pacific Life only has one document responsive to its subpoena. The Motion, however, is misplaced. As Pacific Life has explained to the Receiver numerous times, Pacific Life produced the only document it had responsive to the subpoena, and confirmed that it had no other responsive documents. While the Receiver may be disappointed with the fact that Pacific Life had only one responsive document, Pacific Life cannot be compelled to produce documents that do not exist.

In any event, the Receiver's Motion should be denied because it is extraordinarily late. Local Rule 26.1(g)(2)(A) requires that a party must submit a discovery dispute to the Court "within twenty-eight (28) days of the date when the issue was first raised with the opposing party." *See* S.D. Fla. L.R. 26.1(g)(2)(A)(iv). In this case, the Receiver was required to file its motion to compel within 28 days of October 14, 2022 – the date when the Receiver first took issue with Pacific Life's response to the subpoena. The Receiver, however, did not file its Motion until August 9, 2023 –

almost *nine months after* it first notified Pacific Life that it believed (albeit incorrectly) the subpoena response was insufficient.

For these reasons, and those set forth below, the Receiver's Motion to Compel should be denied in its entirety.

RELEVANT FACTUAL BACKGROUND

On August 28, 2020, a Pacific Life insurance policy insuring the life of Marshall Gelfand and owned by ABFP Multi-Strategy Investment Fund LP ("ABFP Multi-Strategy"), one of the Receivership Entities, entered its contractual grace period following a failure to pay required policy premiums. On October 29, 2020, the policy lapsed, by its plain terms, because it had insufficient cash value and because no additional premiums were paid to keep the policy in force.

On November 6, 2020, following the policy's lapse, the Receiver sent a premium payment to Pacific Life. Pacific Life returned the premium payment, however, because the policy had already terminated and was no longer in force.

In mid-November 2020, the Receiver began attempting to apply for reinstatement of the policy pursuant to the policy's reinstatement provision. The reinstatement provision is not automatic. Rather, it simply permits a policyowner the *opportunity to apply* for reinstatement based on: Pacific Life's receipt of a written application; evidence of insurability satisfactory to Pacific Life at the same risk/rating class as issued; sufficient premium to cover all monthly deductions due and unpaid during the grace period; plus sufficient premium to keep the policy in force for three months after the date of reinstatement. The provision essentially allows the former policyowner the chance to place the policy back in force, provided the applicant meets the same financial and health underwriting requirements as when the policy was issued.

In this case, the Receiver, however, did not complete the necessary paperwork in the nearly six months from when it first started pursuing reinstatement until the insured's passing on April 1, 2021. Indeed, the Receiver did not provide Pacific Life with a written application signed by the insured, evidence of insurability satisfactory to Pacific Life, sufficient premium to cover monthly deductions incurred during the grace period, or sufficient premium to keep the policy in force going forward. Following the insured's passing, the policy could not be reinstated. The Receiver contends that it was unable to complete the necessary paperwork prior to the insured's death, including the necessary written application with insured's signature and required evidence of insurability demonstrating that the insured was still in the same risk class, because the insured was in a long-term care facility that did not permit visitors due to the facility's COVID-19 restrictions.

On August 24, 2022, more than a year and half after the insured's death, the Receiver served Pacific Life with a subpoena *duces tecum* seeking documents relating any changes to the Company's administration of life insurance policies made in response to the COVID-19 pandemic. *See* Motion to Compel, Ex. 1. In particular, the subpoena sought to discover whether Pacific Life implemented any changes to how it administered life insurance policies, or processed reinstatement requests, in light of COVID-19. *See id.* On October 4, 2022, Pacific Life responded by email to the Receiver's subpoena, explained its position with respect to the administration and reinstatement application process, and produced a Bulletin titled "COVID-19 Disaster Relief (All States)" responsive to the Receiver's document requests. *See* Email from Pacific Life to Receiver's counsel, dated October 4, 2022 (attached hereto as Ex. A). As Pacific Life explained, in relevant part:

We have reviewed our documents, and I have attached the communication relating to the extension of grace periods offered in response to Covid. You'll note that it is dated April 14, 2020 and applies to all states. In California, this accommodation ended in July 2020. You may recall that

the policy insuring Mr. Gelfand [sic] went into its grace period on August 28, 2020. This is the only item which addresses accommodations made by Pacific Life in response to Covid for policies issued in California. There is nothing related to reinstatements or “wet” signatures. Please note that the only accommodation asked of insurers by various state departments of insurance related to the extension of grace periods.

Id. With respect to the subpoena’s request that Pacific Life identify any policies that were reinstated without a “wet ink” signature of the insured, Pacific Life confirmed that, after a review of California reinstatement applications, “[t]here were no policies which were reinstated without a wet signature on the reinstatement application.” *Id.* Pacific Life noted that it was providing this information as a courtesy so that the Receiver would know what was forthcoming in Pacific Life’s response. *Id.*

On October 6, 2022, Pacific Life formally responded to the Receiver’s subpoena *duces tecum*, produced the “COVID-19 Disaster Relief (All States)” Bulletin responsive to the Receiver’s document requests, and provided a Custodian of Records Affidavit confirming that the document produced was a true and correct copy prepared in the ordinary course of business. *See* Letter from Pacific Life to John W. Kettering, Esq., dated October 6, 2022 (attached hereto as Ex. B). Pacific Life’s Custodian of Records Affidavit also confirmed that Pacific Life was not withholding any documents responsive to the subpoena. *Id.*

On October 14, 2022, the Receiver sent Pacific Life a letter acknowledging receipt of the “COVID-19 Disaster Relief (All States)” Bulletin and corresponding Custodian of Records Affidavit. *See* Letter to Pacific Life from John W. Kettering, Esq., dated October 14, 2022 (attached hereto as Ex. C). The letter, however, took issue with the fact that Pacific Life had produced only one document responsive to the subpoena. *Id.* The letter requested that Pacific Life amend its response by confirming whether any documents existed responsive to the individually numbered document requests, and produce any additional responsive documents it had. *Id.*

On October 31, 2022, Pacific Life responded to the Receiver's meet and confer letter. *See* E-mail from Pacific Life to John W. Kettering, Esq., dated October 31, 2022 (attached hereto as Ex. D). Pacific Life explained that it had fully responded to the subpoena. *Id.* Pacific Life noted that it had produced the "COVID-19 Disaster Relief (All States)" Bulletin, which it believed was generally responsive to the subpoena's document request numbers 1 and 2. *Id.* Pacific Life then confirmed that it did not have any documents responsive to requests 3 through 7. *Id.* ("For items 3, 4, 5, 6 (which is duplicative of 5), and 7, Pacific Life does not have any responsive documents.").

On January 9, 2023, several months after Pacific Life responded to the subpoena confirming that it had produced all responsive documents or had not responsive documents, the Receiver emailed Pacific Life indicating that it intended to bring Pacific Life's purported failure to respond to the subpoena before the Court. *See* Motion to Compel, Ex. 2.

On August 9, 2023, almost a year after the Receiver issued the subpoena, and over ten months after Pacific Life responded to it, the Receiver brought this Motion to Compel.

ARGUMENT

I. PACIFIC LIFE PRODUCED ALL DOCUMENTS RESPONSIVE TO THE RECEIVER'S SUBPOENA AND CANNOT BE COMPELLED TO PRODUCE DOCUMENTS THAT DO NOT EXIST

The Receiver's subpoena generally sought documents relating to any guidelines and changes Pacific Life implemented to the administration and reinstatement of life insurance policies in response to COVID-19. *See* Motion to Compel, Ex. 1. In particular, Request Nos. 1 and 2 sought:

1. All guidelines for changes to Pacific Life's administration of life insurance policies made in response to COVID-19 between January 1, 2020, and July 1, 2021.

2. All documents and communications discussing changes to Pacific Life's administration or [sic] life insurance policies made in response to COVID-19 between January 1, 2020, and July 1, 2021.

Id.

In response, Pacific Life thoroughly reviewed its documents and files and produced the "COVID-19 Disaster Relief (All States)" Bulletin, which it believed was generally responsive to these Requests. *See* Email from Pacific Life to John W. Kettering, Esq., dated October 4, 2022; Letter from Pacific Life to John W. Kettering, Esq., dated October 6, 2022; *see also* E-mail from Pacific Life to John W. Kettering, Esq., dated October 31, 2022. As Pacific Life explained to the Receiver numerous times, the "COVID-19 Disaster Relief (All States)" Bulletin was the only document it had "address[ing] accommodations made by Pacific Life in response to Covid for policies issued in California." E-mail from Pacific Life to John W. Kettering, Esq., dated October 4, 2022; *see also* E-mail from Pacific Life to John W. Kettering, Esq., dated October 31, 2022 (explaining that "Pacific Life did not have documents (with the exception of the bulletin) responsive to the subpoena").

Requests Nos. 3 through 7 sought:

3. All documents and communications written or otherwise, identifying how Pacific Life permitted policy reinstatement in response to COVID-19 between January 1, 2020, and July 1, 2021.
4. All guidelines identifying how Pacific Life permitted policy reinstatement in response to COVID-19 between January 1, 2020, and July 1, 2021.
5. All documents and communications concerning any changes to Pacific Life's internal practices for policy reinstatement as a result of state and local COVID-19 restrictions between January 1, 2020, and July 1, 2021.
6. All documents and communications concerning any changes to Pacific Life's internal practices for policy reinstatement as a result of state and local COVID-19 restrictions between January 1, 2020, and July 1, 2021.

7. Copies of any and all policies, with identifying information redacted, between January 1, 2020 and July 1, 2021 which was reinstated without a “wet ink” signature.

See Motion to Compel, Ex. 1.

In response, Pacific Life again thoroughly reviewed its documents and files, but located no responsive documents. Pacific Life informed the Receiver that it had no documents responsive to these Requests, as there were no changes to Pacific Life’s contractual provisions or internal practices regarding policy reinstatements during COVID. *See* E-mail from Pacific Life to John W. Kettering, Esq., dated October 4, 2022 (explaining that there were no documents “related to reinstatements or ‘wet signatures’”). Pacific Life also explained that, with respect to Request No. 7, Pacific Life had reviewed its reinstatement applications for California policies from the date of the policy’s lapse through the insured’s death and confirmed that “[t]here were no policies which were reinstated without a wet signature on the reinstatement application.” *Id.* Pacific Life subsequently confirmed that it had produced all documents it located responsive to the subpoena or that no such documents existed. E-mail from Pacific Life to John W. Kettering, Esq., dated October 31, 2022 (“We provided the bulletin, which we believe is generally responsive to items 1 and 2 in the subpoena. For items 2, 4, 5, 6 (which is duplicative of 5), and 7, Pacific Life does not have any responsive documents.”). Accordingly, Pacific Life fully complied with the subpoena.

The Receiver’s Motion does not identify any documents that it believes Pacific Life is withholding or provide any evidence of impropriety. Instead, it simply speculates that it is “implausible” that Pacific Life has only one document responsive to the subpoena. Motion to Compel, at 4. However, the “COVID-19 Disaster Relief (All States)” Bulletin was the only document Pacific Life had addressing accommodations to grace periods made by Pacific Life in response to COVID-19. As Pacific Life explained, it did not make any other changes to its

administration of life insurance policies, or reinstatement practices, in response to COVID-19. While the Receiver may be unhappy that Pacific Life only had one responsive document, it is improper simply to object claiming additional responsive documents must exist. Indeed, this is the precise scenario identified in the Court's Best Practices for Discovery in Federal Court article:

A brief aside. I must note one of my favorite objections. Here's the scenario: Party A responds to a request for production by saying either (1) it has produced all responsive documents or (2) it doesn't have any within its possession, custody, or control. Party B objects that additional responsive documents must exist, so Party A's response is inaccurate. What exactly is the Court supposed to do? Go to Party A's offices and conduct an independent search? No. The proper remedy is for Party B to develop a record through interrogatory or corporate representative deposition of what Party A did to try to identify responsive documents (Where did they look? Who was involved in the search process? Etc.). If Party B then believes Party A has not fully complied with the discovery request, Party B can seek an appropriate remedy on a developed factual record.

See Best Practices for Discovery in Federal Court by U.S. Magistrate Judge Bruce E. Reinhart, at p. 3 (available at <https://www.flsd.uscourts.gov/content/judge-bruce-e-reinhart>). Notably, the Receiver has not attempted to develop any record that would demonstrate that Pacific Life was withholding documents, nor could it. Indeed, notwithstanding the Receiver's unfounded speculation, Pacific Life produced the only document it had responsive to the subpoena and confirmed the non-existence of documents related to the remaining requests.

Simply put, Pacific Life has fully responded to the Receiver's subpoena by producing the one document it had responsive to Request Nos. 1 and 2, and confirming that it had no documents responsive to Request Nos. 3 through 7. Although the Receiver may dislike these responses, Pacific Life cannot be compelled to provide documents that do not exist. *See Mizner Grand Condo. Ass'n, Inc. v. Travelers Prop. Cas. Co. of Am.*, 2010 WL 11506039, at *3 (S.D. Fla. Oct. 12, 2010) ("It is elementary that a party cannot be ordered to compel non-existent information."); *Wachovia Fin. Servs., Inc. v. Birdman*, 2010 WL 11506044, at *8 (S.D. Fla. Sept. 27, 2010) (party's

speculation that other documents may exist “is insufficient to support entry of an order compelling discovery which the resisting party claims does not exist”). The Receiver’s Motion to Compel should be denied in its entirety.

II. THE RECEIVER’S MOTION TO COMPEL IS UNTIMELY

In any event, the Motion to Compel should be denied because it exceptionally late. The plain language of Local Rule 26.1(g)(2)(A) states that a party must submit a discovery dispute to the Court “within twenty-eight (28) days of the date when the issue was first raised with the opposing party.” *See* S.D. Fla. L.R. 26.1(g)(2)(A)(iv). A party’s failure to submit the discovery dispute to the Court within 28 days, absent a showing of good cause, “constitute[s] grounds for denial of the relief requested.” *Id.* 26.1(g)(2)(B).

In this case, the Receiver was required to file its motion to compel within 28 days of October 14, 2022 – the date when the Receiver first took issue with Pacific Life’s response to the subpoena. *See* Letter from John W. Kettering, Esq. to Pacific Life, dated October 14, 2022. Thus, the Receiver’s motion to compel should have been filed, at the latest, by November 11, 2022. The Receiver, however, did not file its Motion to Compel until August 9, 2023 – almost *nine months after* it first notified Pacific Life that it believed the subpoena response was insufficient. Accordingly, because the Motion is untimely, and because it does not even attempt to establish good cause for the delay, the Motion should be denied. *Liberty Surplus Ins. Corp. v. Kaufman Lynn Constr., Inc.*, 2022 WL 4540997, at *3 (S.D. Fla. Sept. 26, 2022) (denying motion to compel filed 25 days beyond the time period provided by the Local Rules as untimely and dilatory).

CONCLUSION

For the foregoing reasons, Pacific Life respectfully requests that the Court enter an order denying the Receiver’s Motion to Compel in its entirety.

Dated: September 11, 2023

Respectfully submitted,

/s/ Todd M. Fuller

Todd M. Fuller (Fla. Bar. No. 666211)

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tfuller@carltonfields.com

*Counsel for Non-Party Pacific Life
Insurance Company*

EXHIBIT A

Fuller, Todd M.

From: Turigliatto, Kari <Kari.Turigliatto@PacificLife.com>
Sent: Tuesday, October 4, 2022 7:23 PM
To: John W. Kettering
Cc: Douglas K. Rosenblum
Subject: CBSG Receivership and Pacific Life Policy VF51528720
Attachments: COVID-19 Disaster Relief - All States 4,14,2020.pdf

Mr. Kettering:

We disagree that you are entitled to receive any documents outside of the time period of October 29, 2020 and April 1, 2021, but have attached one communication, as explained below.

First, January 1, 2020 should not be the operative start date as Covid was virtually unknown and Mr. Gelfand's policy had not yet lapsed, nor does it not make any sense to look for items beyond the date of Mr. Gelfand's death of April 1, 2021.

Second, the fixation on the reinstatement process is puzzling. We trust you understand that ABFP Multi Strategy Investment Fund LP (and individuals working on its behalf) were seeking to obtain Mr. Gelfand's signature on the reinstatement *application*. Assuming your client had been able to have Mr. Gelfand sign the application, it still had to be approved by underwriting at Pacific Life. During the time that a policy has lapsed and a reinstatement application is under review, there is no coverage under the lapsed policy.

Third, you have made a point to emphasize that – unbeknownst to Pacific Life – Mr. Gelfand was in a nursing home, and his son was unable to enter the nursing home in order to obtain his signature on the reinstatement application. Assuming that Mr. Gelfand's son was able to secure his father's signature on the reinstatement application and have it returned to Pacific Life before Mr. Gelfand's passing, it appears you believe that an individual in a nursing home would have been approved by underwriting *so as to reinstate the policy at the same rate class* as when the policy was issued in 2006. This would be a remarkable feat, to say the least.

We have reviewed our documents, and I have attached the communication relating to the extension of grace periods offered in response to Covid. You'll note that it is dated April 14, 2020 and applies to all states. In California, this accommodation ended in July 2020. You may recall that the policy insuring Mr. Gelfand's policy went into its grace period on August 28, 2020. This is the only item which addresses accommodations made by Pacific Life in response to Covid for policies issued in California. There is nothing related to reinstatements or "wet" signatures. Please note that the only accommodation asked of insurers by various state departments of insurance related to the extension of grace periods. I am unsure how you have come to the conclusion that insurers were no longer allowed to ask for wet signatures on documents as a result of Covid.

The subpoena also seeks "copies of any and all policies, with identifying information redacted, between January 1, 2020 and July 1, 2021 which were reinstated without a "wet ink" signature." We have reviewed reinstatement applications for California issued policies for the time period of October 29, 2020 to April 1, 2021. There were no policies which were reinstated without a wet signature on the reinstatement application.

We will respond to your subpoena and provide you with a custodian affidavit. I am sending you this email as a courtesy so that you know what to expect.

Kari

From: John W. Kettering <JK@Pietragallo.com>
Sent: Tuesday, September 27, 2022 10:00 AM
To: Turigliatto, Kari <Kari.Turigliatto@PacificLife.com>; Douglas K. Rosenblum <DKR@Pietragallo.com>
Subject: RE: CBSG Receivership and Pacific Life Policy VF51528720

[External Email]

Ms. Turigliatto –


Thank you for the email. In a good faith effort to cooperate, we'd agree to limit subpoena response(s) to those applicable under California law.

We disagree, however, that October 29, 2020, is the beginning of the applicable time period. The subpoena seeks policy changes made in response to the COVID-19 pandemic which started in earnest in March 2020. The subpoena's January 1, 2020, start date is narrowly tailored to capture Pacific Life's standards both prior to the pandemic as well as the changes to the standards throughout the pandemic. Moreover, the fact that Mr. Gelfand's policy was in place as of January 1, 2020, further supports the relevance of January 1st as the proper starting point

Please let me know if you disagree with the above.

Thanks

John

John W. Kettering, Esquire
Pietragallo Gordon Alfano Bosick & Raspanti, LLP
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From: Turigliatto, Kari <Kari.Turigliatto@PacificLife.com>
Sent: Monday, September 26, 2022 2:52 PM
To: John W. Kettering <JK@Pietragallo.com>; Douglas K. Rosenblum <DKR@Pietragallo.com>
Subject: RE: CBSG Receivership and Pacific Life Policy VF51528720

Mr. Kettering:

We have reviewed the subpoena, and believe our responses need to be appropriately limited to policies issued in California, as that was the state in which the policy insuring Mr. Gelfand was issued. Likewise, we believe the time period needs to be from October 29, 2020 (date notice of lapse sent to ABFP Multi Strategy) through April 1, 2021 (date of Mr. Gelfand's passing). Please let me know if you agree.

Thanks, Kari


From: John W. Kettering <JK@Pietragallo.com>
Sent: Friday, September 9, 2022 3:15 PM
To: Turigliatto, Kari <Kari.Turigliatto@PacificLife.com>; Douglas K. Rosenblum <DKR@Pietragallo.com>
Subject: Re: CBSG Receivership and Pacific Life Policy VF51528720

[External Email]

Thank you Ms. Turigliatto. I appreciate the cooperation. We'd be happy to assist on this side in clarifying anything or assisting how we can.

Thanks

John
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From: Turigliatto, Kari <Kari.Turigliatto@PacificLife.com>
Sent: Friday, September 9, 2022 5:46:44 PM
To: John W. Kettering <JK@Pietragallo.com>; Douglas K. Rosenblum <DKR@Pietragallo.com>
Subject: RE: CBSG Receivership and Pacific Life Policy VF51528720

Yes, I will accept service on behalf of Pacific Life. We may need you to define "state and local" as well. Once we start reviewing this in more detail, we'll let you know. Thanks, Kari

Confidential

From: John W. Kettering <JK@Pietragallo.com>
Sent: Friday, September 9, 2022 2:15 PM
To: Turigliatto, Kari <Kari.Turigliatto@PacificLife.com>; Douglas K. Rosenblum <DKR@Pietragallo.com>
Subject: RE: CBSG Receivership and Pacific Life Policy VF51528720

[External Email]

Ms. Turigliatto –

Thank you for the email and for taking the time to response. While I had wanted to ask you personally on the phone, it doesn't sounds like the schedules are not going to align for me to do so in a timely manner. As such, I'll simply ask by email.

As you recall we represent the Ryan K. Stumphauzer as the Receiver for ABFP Multi-Strategy Investment Fund L.P. As part of the Receiver's court appointed obligation to investigate claims, marshal estate assets, and recover receivership funds, a subpoena directed to Pacific Life has been issued. A copy of the subpoena is attached. We'd respectfully request that you accept service of the subpoena on behalf of Pacific Life to save the Receivership from the time and expense of personal service. We appreciate your good faith cooperation on the issue,

Please advise whether you are able to accept service.

Thank you

John

John W. Kettering, Esquire


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From: Turigliatto, Kari <Kari.Turigliatto@PacificLife.com>

Sent: Friday, September 9, 2022 5:03 PM

To: John W. Kettering <JK@Pietragallo.com>; Douglas K. Rosenblum <DKR@Pietragallo.com>

Subject: RE: CBSG Receivership and Pacific Life Policy VF51528720

Hi Mr. Kettering. I am not available for a call until Thursday or Friday next week. If there is a time you are available on those days, we'll see what we can schedule. Thanks, Kari

Confidential

From: John W. Kettering <JK@Pietragallo.com>

Sent: Thursday, September 8, 2022 6:37 AM

To: Turigliatto, Kari <Kari.Turigliatto@PacificLife.com>; Douglas K. Rosenblum <DKR@Pietragallo.com>

Subject: RE: CBSG Receivership and Pacific Life Policy VF51528720

[External Email]

Ms. Turigliatto:

Following up on this. Is there a time today or tomorrow for a brief discussion? As I mentioned, there have been developments in the Receivership case that we wanted to discuss with you. We're attempting to cooperate on the matter and hope that you have an opportunity for a call.

Thanks

John

John W. Kettering, Esquire


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From: John W. Kettering <JK@Pietragallo.com>

Sent: Tuesday, September 6, 2022 12:05 PM

To: Turigliatto, Kari <Kari.Turigliatto@PacificLife.com>; Douglas K. Rosenblum <DKR@Pietragallo.com>

Subject: RE: CBSG Receivership and Pacific Life Policy VF51528720

Ms. Turigliatto:

I hope that all is well. I wanted to follow up on some of the conversations that we had last year, including some written correspondences, relating to Pacific Life Policy VF51528720 issued to Marshall M. Gelfand. There's been an update that we wanted to discuss and make you aware. Do you have time for a brief call on the matter sometime in the next day or so for a brief discussion? We'd appreciate the time.

Thanks

John

John W. Kettering, Esquire


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From: Turigliatto, Kari <Kari.Turigliatto@PacificLife.com>
Sent: Friday, December 17, 2021 12:21 PM
To: Douglas K. Rosenblum <DKR@Pietragallo.com>
Cc: John W. Kettering <JK@Pietragallo.com>
Subject: RE: CBSG Receivership and Pacific Life Policy VF51528720

Thank you. Yes, we are in receipt of your letter referenced below. Pacific Life's position has not changed. Enjoy the holidays. Kari

Pacific Life - Confidential

From: Douglas K. Rosenblum <DKR@Pietragallo.com>
Sent: Tuesday, December 14, 2021 12:10 PM
To: Turigliatto, Kari <Kari.Turigliatto@PacificLife.com>
Cc: John W. Kettering <JK@Pietragallo.com>
Subject: FW: CBSG Receivership and Pacific Life Policy VF51528720

[External Email]

Good afternoon, Ms. Turigliatto. I write to confirm that you received the attached letter. I look forward to hearing from you.

Many thanks and happy holidays.
Doug Rosenblum

Douglas K. Rosenblum, Esquire, Certified Fraud Examiner
Pietragallo Gordon Alfano Bosick & Raspanti, LLP
1818 Market Street, Suite 3402
Philadelphia, PA 19103
Office: (215) 988-1464 | Fax: (215) 754-5179
DKR@Pietragallo.com | [BIO](#)



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From: John W. Kettering <JK@Pietragallo.com>
Sent: Wednesday, November 24, 2021 10:47 AM
To: Kari.Turigliatto@PacificLife.com
Cc: Douglas K. Rosenblum <DKR@Pietragallo.com>
Subject: CBSG Receivership and Pacific Life Policy VF51528720

Ms. Turigliatto:

Attached please find correspondence from Doug Rosenblum relating to policy VF51528720 issued to Marshall M. Gelfand. A hard copy has been placed in the mail to your address this afternoon. Please feel free to contact Doug if you have any questions.

Thank you

John

John W. Kettering, Esquire

Office: 724-981-1397 Ext: 1609

Fax: (724) 981-1398

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SPECIAL REPORT



DATE: April 14, 2020

TO: Life Insurance Producers, Broker General Agencies, Management, and Office Administrators

SUBJECT: COVID-19 Disaster Relief (All States)

Category	
<input type="checkbox"/>	Administration
<input checked="" type="checkbox"/>	Compliance
<input type="checkbox"/>	Marketing
<input type="checkbox"/>	Product
<input type="checkbox"/>	Risk Selection
<input type="checkbox"/>	Miscellaneous

COVID-19 Disaster Relief (All States)

During these uncertain times, Pacific Life understands that paying life insurance premium(s) may be challenging. We want to assist policyholders impacted by the COVID-19 pandemic and its economic impact by providing options to maintain their coverage.

As a result, we are offering an extension of the grace period and policy coverage for an additional 60 days, or longer if required by the guidelines in the policyowner's state. A notification of the options will be included with each *Notice of Required Premium* (grace notice).

Policyowners may continue to pay the grace premium shown on their original grace notice or they may reach out to Pacific Life directly to take advantage of the additional extension and acquire the new payment amount and due date.

Life Insurance Producers, Broker General Agencies, Management and Office Administrators are encouraged to reach out to clients in affected areas to inform them of this accommodation. Please also take into consideration that your clients may receive delayed notices related to their policy due to delivery service in affected areas.

Our customer service representatives are available to assist you.

- For Pacific Life policies that have policy numbers beginning with "2L," please call 844-276-0193 from 9:00 AM – 8:00 PM ET.
- For all other Pacific Life policies, please call 800-347-7787 from 5:00 AM – 5:00 PM PT.

Pacific Life is a product provider. It is not a fiduciary and therefore does not give advice or make recommendations regarding insurance or investment products.



Pacific Life Insurance Company
(800) 800-7681 • www.PacificLife.com

Pacific Life & Annuity Company
(888) 595-6996 • www.PacificLife.com

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Pacific Life's Home Office is located in Newport Beach, CA.

BT-49357-00 4/20

EXHIBIT B



Sharese Colquitt
Corporate Paralegal
(949) 219-3105
Sharese.Colquitt@PacificLife.com

October 6, 2022

Via E-mail Only

John W. Kettering, Esquire
Pietragallo Gordon Alfano Bosick & Raspanti, LLP
7 West State Street, Suite 100
Sharon, PA 16146
jk@pietragallo.com

Re: **CBSG Receivership**
Policy VF51528720

In response to your subpoena and previously communicated by Kari Turigliatto, attached is the responsive document and Custodian's Affidavit for the above-named matter.

Please contact me if you have any questions.

Thank you,

Sharese Colquitt
Corporate
Paralegal



Custodian of Records Affidavit

**Matter Name: CBSG Receivership
Policy VF51528720**

I certify that I am a custodian of the records for Pacific Life & Annuity Company ("Pacific Life") and swear that the matters stated in this affidavit are true to the best of my information, knowledge, and belief:

- Records Located:** Enclosed are true and correct copies the relevant records described in the subpoena. These copies were prepared by Pacific Life personnel in the ordinary course of business and are identified below under Additional Information or on the attachment. No record has been withheld except as noted below under Additional Information or on the attachment.
- Email Search:** Pacific Life is in the process of searching its email repositories for emails responsive to this subpoena. Any responsive, non-privileged emails will be provided to you under separate affidavit as soon as they are available and Pacific Life has received payment from you.
- No Email Search:** Pacific Life has not searched its email repositories pursuant to this subpoena. Please refer to Pacific Life's acknowledgement letter, which was sent to you after Pacific Life received the subpoena.
- Records Destroyed:** Records responsive to this subpoena existed at one time but were destroyed in the normal course of business in accordance with the Pacific Life's standard destruction schedule and copies are not available.
- No Records:** A thorough record search based on the information furnished in the subpoena by you to Pacific Life has been conducted. No relevant records that are responsive to the subpoena were located.
- Additional Information:**

Dated: October 6, 2022

Sharese Colquitt, Paralegal

EXHIBIT C

PIETRAGALLO
PIETRAGALLO GORDON ALFANO
BOSICK & RASPANTI, LLP
ATTORNEYS AT LAW

1818 MARKET STREET SUITE 3402 PHILADELPHIA, PA 19103
215.320.6200 FAX: 215.981.0082
WWW.PIETRAGALLO.COM

FILE NO.: SFSLAW-114125.032
E-MAIL: jk@Pietragallo.com

October 14, 2022

VIA ELECTRONIC MAIL
AND FIRST CLASS MAIL

Kari Turigliatto, Esquire
AVP, Counsel
Law Department
Pacific Life Insurance Company
700 Newport Center Drive
Newport Beach, CA 92660
Kari.Turigliatto@PacificLife.com

Re: Marshall M. Gelfand VF51528720
SEC v. Complete Business Solutions Group, Inc., et al.
Case No. 20-cv-81205-RAR (S.D.FI.)

Dear Ms. Turigliatto:

In response to the subpoena dated August 24, 2022, our office is in receipt of Pacific Life's Response Letter dated October 6, 2022, along with an accompanying affidavit. Additionally, our office received a single "Special Report" dated April 14, 2020, produced as a responsive document.

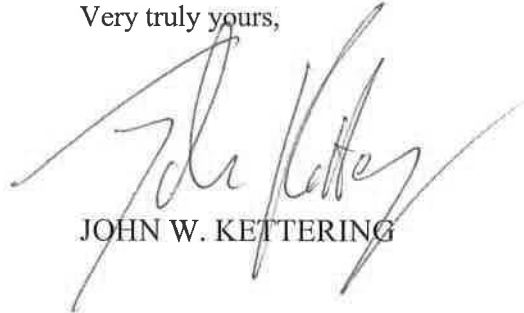
After review, it appears that Pacific Life failed to thoroughly respond to each command within the issued subpoena. For instance, Pacific Life failed to produce any communications relating to changes in administration or life insurance policies. Moreover, Pacific Life failed to produce any documents relating to internal practices relating to reinstatement of life insurance policies. Finally, Pacific Life failed to produce any policy reinstated without a "wet ink" signature. It appears untenable that Pacific Life could locate only a single document generated in response to the COVID-19 pandemic.

Therefore, we would respectfully request that Pacific Life amend its response to the subpoena within fourteen (14) days to both (i) respond individually to each enumerated command for production representing whether responsive documents exists or whether there is a legally identifiable objection; and to (ii) provide any other document(s) responsive to the commands.

K. Turigliatto, Esq.
Page 2

Please let me know if you have any question or would like to discuss further.

Very truly yours,

A handwritten signature in black ink, appearing to read "John W. Kettering", written in a cursive style. The signature is positioned above the printed name.

JOHN W. KETTERING

Cc: Sharese Colquitt (via email Sharese.Colquitt@PacificLife.com)
Douglas K. Rosenblum (via email DKR@pietragallo.com)

7671169v1

EXHIBIT D

Fuller, Todd M.

From: Turigliatto, Kari <Kari.Turigliatto@PacificLife.com>
Sent: Monday, October 31, 2022 7:01 PM
To: John W. Kettering
Cc: Douglas K. Rosenblum; Colquitt, Sharese
Subject: RE: CBSG Receivership Subpoena
Attachments: CBSG Receivership and Pacific Life Policy VF51528720

Dear Mr. Kettering:

In response to your letter dated October 14, 2022, I believe Pacific Life has responded to the subpoena by providing responsive documents. I sent you the attached email dated October 4, 2022, as a courtesy, explaining that Pacific Life did not have documents (with the exception of the bulletin) responsive to the subpoena, which you never acknowledged.

As you recall, you agreed that Pacific Life's response would only address COVID 19 guidelines for California. We provided the bulletin, which we believe is generally responsive to items 1 and 2 in the subpoena. For items 3, 4, 5, 6 (which is duplicative of 5), and 7, Pacific Life does not have any responsive documents.

Thanks, Kari

Attorney-Client External

From: John W. Kettering <JK@Pietragallo.com>
Sent: Friday, October 14, 2022 11:30 AM
To: Colquitt, Sharese <Sharese.Colquitt@PacificLife.com>; Turigliatto, Kari <Kari.Turigliatto@PacificLife.com>
Cc: Douglas K. Rosenblum <DKR@Pietragallo.com>
Subject: RE: CBSG Receivership Subpoena

[External Email]


Ms. Turigliatto –

Attached please find correspondence relating to the email below. A hard copy of the original has been placed in the mail as well.

Thank you

John

John W. Kettering, Esquire
Pietragallo Gordon Alfano Bosick & Raspanti, LLP
7 West State Street, Suite 100
Sharon, PA 16146
Office: 724-981-1397 Ext: 1609 | Fax: (724) 981-1398
JK@Pietragallo.com | [BIO](#) | [vCard](#)

Connect with me on LinkedIn: 



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From: Colquitt, Sharese <Sharese.Colquitt@PacifiLife.com>
Sent: Friday, October 7, 2022 3:56 PM
To: John W. Kettering <JK@Pietragallo.com>
Cc: Douglas K. Rosenblum <DKR@Pietragallo.com>
Subject: CBSG Receivership Subpoena

Re: **CBSG Receivership
Policy VF51528720**

Dear Mr. Kettering:

In response to your subpoena and previously communicated by Kari Turigliatto, attached please find: responsive document, Custodian’s Affidavit, and Response Letter for the above-named matter.

Please contact me if you have any questions.

Thank you,

Sharese
Sharese Colquitt
Paralegal
Corporate Law Department

 **PACIFIC LIFE**
700 Newport Center Drive | Newport Beach, CA | 92660-6397
Phone: 949.219.3105 | Fax: 949.219.3706
Sharese.Colquitt@PacifiLife.com

Attorney-Client External

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