

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO.: 20-CV-81205-RAR**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

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

Defendants.

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**RECEIVER, RYAN K. STUMPHAUZER’S MOTION TO STAY THE  
COURT’S CONSIDERATION OF MOTION TO APPROVE SETTLEMENT WITH  
ECKERT SEAMANS FOR PERIOD OF 90 DAYS AND TO REQUIRE MEDIATION**

Ryan K. Stumphauzer, Esq., Court-Appointed Receiver (“Receiver”) of the Receivership Entities,<sup>1</sup> by and through his undersigned counsel, hereby files this Motion to stay the Court’s

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<sup>1</sup> The “Receivership Entities” are Complete Business Solutions Group, Inc. d/b/a Par Funding (“Par Funding”); Full Spectrum Processing, Inc.; ABetterFinancialPlan.com LLC d/b/a A Better Financial Plan; ABFP Management Company, LLC f/k/a Pillar Life Settlement Management Company, LLC; ABFP Income Fund, LLC; ABFP Income Fund 2, L.P.; United Fidelis Group Corp.; Fidelis Financial Planning LLC; Retirement Evolution Group, LLC; RE Income Fund LLC; RE Income Fund 2 LLC; ABFP Income Fund 3, LLC; ABFP Income Fund 4, LLC; ABFP Income Fund 6, LLC; ABFP Income Fund Parallel LLC; ABFP Income Fund 2 Parallel; ABFP Income Fund 3 Parallel; ABFP Income Fund 4 Parallel; and ABFP Income Fund 6 Parallel; ABFP Multi-Strategy Investment Fund LP; ABFP Multi-Strategy Fund 2 LP; MK Corporate Debt Investment Company LLC; Fast Advance Funding LLC; Beta Abigail, LLC; New Field Ventures, LLC; Heritage Business Consulting, Inc.; Eagle Six Consulting, Inc.; 20 N. 3rd St. Ltd.; 118 Olive PA LLC; 135-137 N. 3rd St. LLC; 205 B Arch St Management LLC; 242 S. 21st St. LLC; 300 Market St. LLC; 627-629 E. Girard LLC; 715 Sansom St. LLC; 803 S. 4th St. LLC; 861 N. 3rd St. LLC; 915-917 S. 11th LLC; 1250 N. 25th St. LLC; 1427 Melon St. LLC; 1530 Christian St. LLC; 1635 East Passyunk LLC; 1932 Spruce St. LLC; 4633 Walnut St. LLC; 1223 N. 25th St. LLC; 500 Fairmount Avenue, LLC; Liberty Eighth Avenue LLC; Blue Valley Holdings, LLC; LWP North LLC; The LME 2017 Family Trust; Recruiting and Marketing Resources, Inc.; Contract Financing Solutions, Inc.; Stone Harbor Processing LLC; LM Property Management LLC; and ALB Management, LLC; and the Receivership also includes the property located at 107

consideration of the Receiver's Motion for: (i) Approval of Settlement among Receiver, Putative Class Plaintiffs, and Eckert Seamans; (ii) Approval of Form, Content, and Manner of Notice of Settlement and Bar Order; (iii) Setting a Deadline to Object to Approval of the Settlement and Entry of Bar Order; and (iv) Scheduling a Hearing; with Incorporated Memorandum of Law (the "Eckert Seamans Motion"), and to require a mediation with the parties to the proposed Eckert Seamans settlement and certain groups that filed objections thereto, and states as follows:

1. On May 6, 2024, the Receiver filed the Eckert Seamans Motion [ECF No. 1861], through which he sought approval of a settlement agreement with, among others, the law firm of Eckert Seamans Cherin & Mellott (the "Eckert Seamans Settlement").

2. On May 13, 2024, the Court entered an Order Preliminarily Approving the Eckert Seamans Settlement [ECF No. 1906] (the "Preliminary Approval Order").

3. On Friday, July 12, 2024, and Monday, July 15, 2024, certain groups filed responses to the Eckert Seamans Motion in which they oppose final approval of the Eckert Seamans Settlement on various grounds [ECF Nos. 1987, 1989, 1992, 1993, 1994] (the "Responses"). In the Responses, these groups argue, among other things, that the bar order provided for under the Eckert Seamans Settlement is not permitted as a result of the Supreme Court's recent opinion in *Harrington v. Purdue Pharma*.

4. *Harrington* determined that the federal bankruptcy code does not authorize orders barring claims against third-party, non-debtors as part of a Chapter 11 reorganization plan. The Supreme Court took great pains in the opinion, however, to emphasize that its ruling was narrowly confined to that issue.

5. *Harrington* overruled one Eleventh Circuit case that courts have used to justify bar orders, *In re Seaside Engineering & Surveying, Inc.*, 780 F.3d 1070 (11th Cir. 2015), because that case involved a non-consensual bar order as part of a Chapter 11 reorganization plan. *Harrington* did not discuss a separate and older line of cases the Eleventh Circuit and other courts have used to uphold bar orders in receivership cases that did not involve bar orders in Chapter 11 reorganization plans. See *In re United States Oil & Gas Litig.*, 987 F.2d 489 (11th Cir. 1992); *In re Munford, Inc.*, 97 F.3d 449 (11th Cir. 1996).

6. The Receiver will brief the impact of *Harrington*, if any, on those other cases at the appropriate time. See, e.g., *FTC v. Simple Health Plans, LLC*, 801 Fed. Appx. 685, 2020 U.S. App. LEXIS 3461 (11th Cir. Feb. 5, 2020) (unpublished, *per curiam*) (explaining that the Supreme Court does not overrule lower court rulings by implication); *Markland v. Davis (In re Centro Group, Inc.)*, 2021 U.S. App. LEXIS 32962 (11th Cir. Nov. 5, 2021) (unpublished, *per curiam*) (explaining the difference between the *Munford* and *Seaside Engineering* cases).

7. The Court has established July 31, 2024, as the date by which the Receiver is to file his reply to the Responses. [ECF No. 1998]. Moreover, the Court has scheduled a final approval hearing on the Eckert Seamans Motion for August 13, 2024. [ECF No. 1945].

8. As discussed with the Court during the status conference on July 12, 2024, there is likely to be an appeal of the Court's order on the Eckert Seamans Settlement, regardless of whether the Court grants or denies final approval. This appellate process is expected to last a substantial amount of time, and the Eckert Seamans Settlement provides that the \$45 million settlement payment required thereunder will not be made until there is a final unappealable order approving the settlement.

9. Accordingly, in an effort to avoid a lengthy delay to the funding of any settlement payment, and the ultimate availability of those funds for distribution to investors, the Receiver requests the Court to stay its consideration of the Eckert Seamans Motion for a period of 90 days, so that the Receiver, putative class counsel, and Eckert Seamans can participate in a single, global mediation with certain of the groups that filed Responses to the Eckert Seamans Motion.

10. Specifically, the Receiver believes it would be productive for the parties to the settlement to participate in a mediation with the following groups that filed Responses: (a) Defendant Dean Vagnozzi and non-parties Alec Vagnozzi, Albert Vagnozzi, and Terry Kohler (collectively, the “Vagnozzi Group”); (b) the Plaintiffs in the case of *Parker, et al. v. Pauciulo, et al.*, No. 20-00892 (Phila. Ct. Com. Pl. 2020) (the “Parker Plaintiffs”); and (c) certain merchants who obtained funding from CBSG and filed the Responses at docket entries ECF Nos. 1992 and 1993 (the “Merchant Objectors”).<sup>2</sup> The Receiver, putative class counsel and Eckert Seamans previously participated in settlement conferences with the Vagnozzi Group and the Parker Plaintiffs, but those were separate settlement conferences, the Parker Plaintiffs did not attend their settlement conference (only its counsel attended), and Eckert Seamans’ insurance carriers did not attend either of those settlement conferences.

11. The Receiver thus requests that the Court order that a single, global mediation occur—which the Receiver, putative class counsel, Eckert Seamans (including a representative for

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<sup>2</sup> The Merchant Objectors are B & T Supplies, Inc. d/b/a B and T Supply d/b/a Biggest Book.com; Tzvi Odzer; Ruben Azrak; RKDK Inc. d/b/a Haagen Dazs; Gelato on Hudson LLC d/b/a Haagen Dazs; Asia Star Broadcasting Inc.; Daniel Shah; Perfect Impression Inc.; Susan Abrahams; Kara Dipietro; Carl Dorvil; Pamela Fleetwood; Robert Fleetwood; Fleetwood Services LLC; Michael Joseph Foti; Chad Frost; Gex Management Inc; HMC, Inc; Johnny Harrison, Sr; Michael Heller; Julie Paula Katz; MH Marketing Solutions Group, Inc; Petropangea Inc; Radiant Images Inc; Sunrooms Group Inc; TourMappers NorthAmerica LLC; Volunteer Pharmacy, LLC; Sean Whalen; Giane Wolfe; and Iris Chen Yngyin.

all of its insurers), the Vagnozzi Group (including all clients and counsel), the Parker Plaintiffs (including all clients and counsel), and the Merchant Objectors (including all clients and counsel) (the “Mediation Participants”) must attend—within these 90 days, with the costs of mediation to be split six-ways, with one-sixth of the mediator’s fees to be paid for by each of the Mediation Participants. In the event the Mediation Participants are unable to agree on a mediator or a mediation date within seven (7) days from date of an order on this motion, the Receiver requests that the Court require the parties to file a joint status report indicating their respective proposals, with the Court thereafter issuing a supplemental order appointing the mediator for this proposed mediation.

WHEREFORE, Ryan K. Stumphauzer, as Court-Appointed Receiver, by and through his undersigned counsel, respectfully requests this Honorable Court to: (a) grant this motion; (b) stay its consideration of the Eckert Seamans Motion for a period of 90 days; (c) require the Mediation Participants (including all counsel, all clients, and all insurers) to participate in a mediation during this 90 day period in an effort to resolve the pending objections to the Eckert Seamans Settlement, with the costs of mediation to be split six-ways, with one-sixth of the mediator’s fees to be paid for by each of the Mediation Participants; (d) require the Mediation Participants to attempt to reach agreement on a mediator and mediation date within seven (7) days from the date of an order on this motion; (e) in the event the Parties cannot reach agreement on a mediator and mediation date, require the Mediation Participants to file a status report indicating their respective proposals, with the Court thereafter issuing a supplemental order appointing the mediator for this proposed mediation; and (f) grant such other and further relief as the Court deems just and proper. A proposed order for the Court’s consideration is attached as Exhibit 1.

**CERTIFICATION REGARDING PRE-FILING CONFERENCE**

The undersigned counsel conferred with Eckert Seamans (and its insurers), putative class counsel, the Vagnozzi Group, the Parker Plaintiffs, and the Merchant Objectors, regarding the relief requested in the motion, and certifies:

- Eckert Seamans (and its insurers) agree with the requested relief;
- Putative class counsel agree with the requested relief;
- The Vagnozzi Group agree with the requested relief;
- The Merchant Objectors agree with the requested relief; and
- The Parker Plaintiffs do not necessarily oppose participating in a mediation, so long as certain parameters are met (such as pre-mediation discovery and utilizing United States Magistrate Judge Bruce Reinhart for another settlement conference, as opposed to a mediation with a private mediator), but do not agree with the Court canceling the final approval hearing scheduled for August 13, 2024, or otherwise staying its consideration of the Eckert Seamans Motion.

Dated: July 31, 2024

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on July 31, 2024, I electronically filed the foregoing document with the clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Timothy A. Kolaya  
TIMOTHY A. KOLAYA

# Exhibit “1”



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO.: 20-CV-81205-RAR**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

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

Defendants.

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**[PROPOSED] ORDER GRANTING RECEIVER, RYAN K. STUMPHAUZER'S  
MOTION TO STAY THE COURT'S CONSIDERATION OF MOTION  
TO APPROVE SETTLEMENT WITH ECKERT SEAMANS  
FOR PERIOD OF 90 DAYS AND TO REQUIRE MEDIATION**

**THIS CAUSE** comes before the Court upon the Receiver's Motion to Stay the Court's Consideration of Motion to Approve Settlement with Eckert Seamans for Period of 90 Days and to Require Mediation [ECF No. \_\_\_\_\_] (the "Motion"), filed on July 31, 2024.

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. The Receiver's pending Motion for: (i) Approval of Settlement among Receiver, Putative Class Plaintiffs, and Eckert Seamans; (ii) Approval of Form, Content, and Manner of Notice of Settlement and Bar Order; (iii) Setting a Deadline to Object to Approval of the Settlement and Entry of Bar Order; and (iv) Scheduling a Hearing; with Incorporated Memorandum of Law

[ECF No. 1861] (“Eckert Seamans Motion”), including the Receiver’s deadline to file a reply in further support of the Eckert Seamans Motion, is hereby **STAYED** for a period of 90 days.

3. During this 90-day period, the Receiver, putative class counsel, Eckert Seamans, the Vagnozzi Group,<sup>1</sup> the Parker Plaintiffs,<sup>2</sup> and the Merchant Objectors<sup>3</sup> (including all counsel, all clients, and all insurers) (each of these six groups is defined as a “Mediation Participant”) must participate in a mediation in an effort to resolve the pending objections to the Eckert Seamans Settlement, with the costs of mediation to be split six-ways, with one-sixth of the mediator’s fees to be paid for by each of the Mediation Participants.

4. The Mediation Participants must attempt to reach agreement on a mediator and mediation date within seven (7) days from the date of this Order (the “Selection Deadline”). If the Mediation Participants are able to reach agreement, they shall file a Notice of Proposed Order Scheduling Mediation on or before the Selection Deadline, indicating the name of the mediator and the date for the mediation.

5. In the event the Mediation Parties cannot reach agreement on a mediator and mediation date, the Mediation Participants must file a status report on or before the Selection Deadline, indicating their respective proposals for the mediation, and the Court will thereafter

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<sup>1</sup> The Vagnozzi Group is Defendant Dean Vagnozzi and non-parties Alec Vagnozzi, Albert Vagnozzi, and Terry Kohler.

<sup>2</sup> The Parker Plaintiffs are the Plaintiffs in the case of *Parker, et al. v. Pauciulo, et al.*, No. 20-00892 (Phila. Ct. Com. Pl. 2020).

<sup>3</sup> The Merchant Objectors are B & T Supplies, Inc. d/b/a B and T Supply d/b/a Biggest Book.com; Tzvi Odzer; Ruben Azrak; RKDK Inc. d/b/a Haagen Dazs; Gelato on Hudson LLC d/b/a Haagen Dazs; Asia Star Broadcasting Inc.; Daniel Shah; Perfect Impression Inc.; Susan Abrahams; Kara Dipietro; Carl Dorvil; Pamela Fleetwood; Robert Fleetwood; Fleetwood Services LLC; Michael Joseph Foti; Chad Frost; Gex Management Inc; HMC, Inc; Johnny Harrison, Sr; Michael Heller; Julie Paula Katz; MH Marketing Solutions Group, Inc; Petropangea Inc; Radiant Images Inc; Sunrooms Group Inc; TourMappers NorthAmerica LLC; Volunteer Pharmacy, LLC; Sean Whalen; Giane Wolfe; and Iris Chen Yngyin.

issue a supplemental order appointing the mediator for this proposed mediation, and requiring the parties to coordinate promptly with the mediator to schedule the mediation.

6. At the conclusion of the mediation, the Mediation Parties shall file a status report indicating the outcome of the mediation and whether the stay of the Eckert Seamans Motion should remain in effect or be lifted.

**DONE AND ORDERED** in Miami, Florida, this \_\_\_\_ day of August, 2024.

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

Copies to: Counsel of record