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.
_____/

RENEWED MOTION FOR: (I) APPROVAL OF SETTLEMENT AMONG RECEIVER, PUTATIVE CLASS PLAINTIFFS, AND ECKERT SEAMANS; (II) APPROVALOF FORM, CONTENT AND MANNER OF NOTICE OF SETTLEMENT AND OPT-OUT BAR ORDER; (III) SETTING DEADLINE TO OBJECT TO APPROVAL OF THE SETTLEMENT AND ENTRY OF OPT-OUT BAR ORDER, OR REQUEST EXCLUSION FROM SETTLEMENT; AND (IV) SCHEDULING A HEARING

Ryan K. Stumphauzer, Court-Appointed Receiver of the Receivership Entities,[1] files this *Renewed Motion for: (i) Approval of Settlement among Receiver, Putative Class Plaintiffs, and*

[1] The "**Receivership Entities**" are Complete Business Solutions Group, Inc. d/b/a 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; ABFP Income Fund 6 Parallel; ABFP Multi-Strategy Investment Fund LP; ABFP Multi-Strategy Investment 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 Consultants, 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.

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 Opt-Out Bar Order, or Request Exclusion for Settlement; and (iv) Scheduling a Hearing; with Incorporated Memorandum of Law (the "**Motion**").

I.
Introduction

The Receiver and Class Counsel have achieved an extraordinary $38 million settlement with Eckert Seamans that will substantially increase the cash available for distribution to investors. On August 5, 2020, Chimicles Schwartz Kriner & Donaldson-Smith LLP and Edelson Lechtzin LLP, as class counsel, commenced a putative class action in the United States District Court for the District of Delaware, captioned *Caputo, et al. v. Vagnozzi, et al.*, No. 20-cv-01042-UNA (D. Del.) (Connolly, J.). On September 9, 2020, Levine Kellogg Lehman Schneider + Grossman LLP, as class counsel, commenced a putative class action in the United States District Court for the Southern District of Florida, captioned *Montgomery, et al. v. Eckert Seamans Cherin & Mellott, et al.*, No. 20-cv-23750-RAR (S.D. Fla.) (Gayles, J.). On November 6, 2020, the Chimicles firm, the Edelson firm, Levine Kellogg, and Silver Law Group, as class counsel, commenced a putative class action in the United States District Court for the Eastern District of Pennsylvania, captioned *Melchior, et al. v. Vagnozzi*, *et al*., No. 20-cv-05562 (E.D. Pa) (Perez, J.).[2] The defendants in the

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LLC; 1635 East Passyunk LLC; 1932 Spruce St. LLC; 4633 Walnut St. LLC; 1223 N. 25th St. LLC; Liberty Eighth Avenue LLC; The LME 2017 Family Trust; Blue Valley Holdings, LLC; LWP North LLC; 500 Fairmount Avenue, LLC; Recruiting and Marketing Resources, Inc.; Contract Financing Solutions, Inc.; Stone Harbor Processing LLC; LM Property Management LLC; and ALB Management, Inc., and the Receivership also includes the property located at 107 Quayside Drive, Jupiter, Florida 33477.

[2] The three class actions are collectively referred to as the "**Putative Class Actions**," the plaintiffs in those class action are collectively referred to as "**Putative Class Plaintiffs**," and the four law firms—Levine Kellogg Lehman Schneider + Grossman LLP, Chimicles Schwartz Kriner &

Putative Class Actions included, among others, Eckert Seamans Cherin & Mellott, LLC and John Pauciulo, Esq. (collectively, "**Eckert Seamans**").

After more than four years of litigation and two separate mediations, the Putative Class Plaintiffs, Eckert Seamans, and the Receiver have settled the Putative Class Actions, and the Receiver's own potential claims against Eckert Seamans. The parties reached a prior settlement in principle and filed a motion before this Court to approve that prior settlement on May 6, 2024. *See* [ECF No. 1861]. On July 2, 10, 12, and 15, 2024, several objections were filed challenging the prior settlement based on various grounds, including that the bar order previously requested was not permitted as a result of the United States Supreme Court's recent opinion in *Harrington v. Purdue Pharma L.P.*, 603 U.S. ----, 144 S. Ct. 2071, 219 L. Ed. 2d 721 (2024), decided on June 27, 2024. *See* [ECF Nos. 1983, 1986, 1987, 1989, 1992, 1993, 1994].

The Court ordered the parties to the settlement, and the three principal objectors, to attend another mediation to attempt to resolve their differences. The Parties and the principal objectors attended mediation on October 7, 8, and 15, 2024 with Judge Michael A. Hanzman (Ret.), during which (i) Eckert Seamans reached separate settlements with two of the principal objectors, and the Receiver reached a settlement with the third objector, and (ii) the parties then reached a new settlement that will result in a $38 million cash recovery (the "**Settlement Amount**") that is payable to investors soon after approval by the Court and issuance of a Final Bar Order.

The precise terms of the settlement are more fully set forth in the settlement agreement attached to this Motion as Exhibit "1" (the "**Settlement Agreement**"). But, in broad terms, the settlement provides recoveries to the Putative Class Plaintiffs, payment to their attorneys, and

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Donaldson-Smith LLP, Edelson Lechtzin LLP, and Silver Law Group—are collectively referred to as "**Class Counsel**.

substantial funds for *all* investors in this receivership (the "**Investors**"). In exchange for the Settlement Amount, the Putative Class Plaintiffs have agreed to: (i) provide the Eckert Seamans Released Parties[3] with broad releases; and (ii) dismiss their claims against Eckert Seamans with prejudice. The Receiver has agreed: (i) to distribute the net settlement proceeds in accordance with the Settlement Agreement and future orders of the Court; (ii) to provide the Eckert Seamans Released Parties with broad releases; and (iii) to seek entry of an opt-out bar order, as described more fully below (the "**Opt-Out Bar Order**"). Importantly, as set forth below, the settlement is ***expressly contingent*** on the entry of the Opt-Out Bar Order.

The Receiver requests, by way of this Motion, that the Court approve the Settlement Agreement and Bar Order by means of a two-step process.

First, the Receiver requests that the Court enter an order substantially in form and substance as Exhibit A to the Settlement Agreement (the "**Preliminary Approval Order**"). The Preliminary Approval Order preliminarily approves the Settlement Agreement and establishes approval procedures—including providing notice to parties potentially affected by the settlement, along with an opportunity to object and participate in the final approval hearing. The Receiver believes that the Preliminary Approval Order can be entered without a hearing on the basis of the substantial matters of law and fact set forth in this Motion.

Second, the Receiver requests that, after the procedures delineated in the Preliminary Approval Order have been met, the Court enter the Opt-Out Bar Order substantially in the form and substance as Exhibit B to the Settlement Agreement, which shall serve as the Court's final

[3] Defined terms used but not defined in this Motion have the meaning ascribed to them in the Settlement Agreement. To the extent there is any discrepancy between a defined term in the Settlement Agreement and the same defined term herein, the definition in the Settlement Agreement shall control.

order approving the Settlement Agreement and barring all non-governmental claims against the Eckert Seamans Released Parties, as further described below and in the Settlement Agreement.

An Opt-Out Bar Order is necessary to bring these significant settlement funds to investors because the $38 million settlement is *expressly contingent* on the entry of the Opt-Out Bar Order. As is set forth clearly and unambiguously in the Settlement Agreement, the settlement here is not like the settlement from a case in this District that was the subject of an appeal before the Eleventh Circuit. *See SEC v. Quiros*, 966 F.3d 1195 (11th Cir. 2020). This settlement here is ***expressly conditioned*** on the Eckert Seamans Released Parties receiving the Opt-Out Bar Order in substantially the same form as Exhibit B attached to the Settlement Agreement:

> *[I]n the event the Opt-Out Bar Order is not issued*, or the Opt-Out Bar Order is issued and is subsequently vacated or reversed on appeal, in whole or in part, or modified in any manner such that it no longer bars the commencement or continuation of any and all civil actions against the Eckert Seamans Released Parties as more fully described in the Opt-Out Bar Order attached hereto as Exhibit B and in Recitals E, F, and G, supra, then *this Agreement shall be null, void, and of no further effect* (except for the Sections of this Agreement that survive the termination of this Agreement); the Parties shall not be bound by the releases set forth in Section 5 of this Agreement; the Parties shall proceed to litigate their claims as if this Agreement had not been executed; and the Receiver shall return the Settlement Amount, if any has been paid.

Settlement Agreement ¶ 2 (emphasis added).

Moreover, if a certain agreed-upon threshold of parties (the "Opt-out Threshold") exercise their right to exclude themselves from the Settlement Agreement, Eckert Seamans shall have the option in its sole discretion to withdraw from the Settlement and render this Settlement Agreement null and void. In the event Eckert Seamans exercises this right, the Parties will promptly provide notice to the Court in advance of the Final Approval Hearing (as defined below).

II.
Background

A. Commencement of the SEC Action and Appointment of the Receiver

The Court has appointed the Receiver to act as sole legal representative for the Receivership Entities. Specifically, the Receiver derives his authority from the Court's Order Granting Motion for Appointment of Receiver [ECF No. 36] and Amended Order Appointing Receiver [ECF No. 141] (collectively, the "**Receivership Order**"), entered at the request of the Securities and Exchange Commission (the "**SEC**") [ECF No. 4]. The Receiver's authority includes the authority to compromise or settle claims of the Receivership Entities against third parties. *See* ECF No. 141 at ¶ 42.

The complaint in the SEC Action alleges, *inter alia,* that the defendants, in violation of federal securities laws, controlled and utilized the various Receivership Entities in furtherance of a fraud on Investors. Based on these allegations, the SEC sought various forms of relief, including appointment of the Receiver.

B. The Putative Class Plaintiffs' Contentions

As stated above, Class Counsel filed the Putative Class Actions. The Putative Class Plaintiffs are not suing any Receivership Entities and contended that Eckert Seamans aided and abetted the fraud on the Putative Class Plaintiffs, the Investors, and the Receivership Entities by, *inter alia*, creating and advising agent funds used to solicit investors in Par Funding merchant cash advances, preparing false and misleading offering documents distributed to investors, and serving as *de facto* underwriters of the merchant cash advance investments. Class Counsel obtained an Order in the Putative Class Actions (i) naming them interim Co-Lead Counsel, and (ii) providing them sole and exclusive authority to "conduct settlement negotiations" on behalf of the putative Classes. *See* ECF No. 55 in Putative Class Actions at ¶¶ 1 and 5(d).

C. Eckert Seamans's Contentions

Eckert Seamans denies all material allegations asserted by the Putative Class Plaintiffs in the Putative Class Actions and any wrongdoing in connection with any claims or potential claims that could have been brought by the Receiver.

D. General Terms and Conditions of the Settlement Agreement

Eckert Seamans has been vigorously defending the Putative Class Actions and would continue to do so absent the settlement memorialized in the Settlement Agreement. To avoid the continued expense, delay, and uncertainty associated with the Putative Class Actions and the potential claims by the Receiver on behalf of the Receivership Entities, and to avoid the continued depletion of Eckert Seamans' insurance coverage, the Parties participated in mediation on October 7, 8 and 15, 2024 with Judge Michael A. Hanzman (Ret.) and reached a settlement. The settlement was memorialized in the Settlement Agreement. The principal terms of the Settlement Agreement are as follows:[4]

(i) Eckert Seamans pays, or causes to be paid, $38 million after the Opt-Out Bar Order is issued and becomes Final.[5]

(ii) The Putative Class Plaintiffs, Eckert Seamans, and the Receiver exchange the mutual releases set forth in Section 5 of the Settlement Agreement.

[4] This description of the Settlement Agreement is only a summary. The Settlement Agreement memorializes all of the terms and conditions of the Parties' agreement. Parties in interest are encouraged to read the Settlement Agreement in full and consult with a lawyer, if necessary.

[5] As used in this Motion, "**Final**" means an order unmodified after the conclusion or expiration of any right or time period of any person or party to seek any objection, appeal, rehearing, reversal, reconsideration or modification, in whole or in part, of the order. For avoidance of doubt, the Opt-Out Bar Order is not considered Final prior to the conclusion or expiration of any right or time period of any person or party to seek any objection, appeal, rehearing, reversal, reconsideration or modification, in whole or in part, of the order; nor is the Opt-Out Bar Order considered Final during the pendency of any appeal or rehearing or during the time that an appeal, rehearing, reversal, reconsideration, or modification remains possible.

(iii) Class Counsel recovers $6.25 million in attorneys' fees from the Settlement Amount—a low percentage in this Circuit—so the Investors need not pay such amounts.

(iv) The balance of the Settlement Amount shall be used for the benefit of the Receiver and all of the Receivership Entities, from which all Investors and the Putative Class Plaintiffs benefit, and which payments are being made in this action so the Putative Class Plaintiffs need not incur the added expense of a separate distribution in the Putative Class Actions.

(v) The Putative Class Plaintiffs dismiss their claims against Eckert Seamans with prejudice, and the Receiver releases his potential claims against Eckert Seamans, after the Opt-Out Bar Order is issued and becomes Final. As stated above, it is a condition precedent to the effectiveness of the Settlement Agreement and to the Receiver's receipt of the Settlement Amount that this Court issue the Opt-Out Bar Order.

E. Facts Supporting Approval of the Settlement Agreement and Entry of the Opt-Out Bar Order

As stated above, the Putative Class Actions were litigated for extensive periods of time, during which discovery—both formally and informally—was conducted, comprising tens of thousands of documents. The settlement was the result of two formal mediations over the course of four in-person sessions, but also included countless telephone conferences and in-person meetings in Miami and New York. All the while, all Parties were represented by experienced and diligent counsel vigorously pressing their respective client's positions.

The Settlement Agreement provides outstanding recoveries for the Receiver and the Receivership Entities; after payment of attorneys' fees and other amounts as described herein, it still results in a recovery of approximately ***$31,750,000***. The Settlement Amount will thus substantially benefit ***all*** Investors and ***all*** Receivership Entities.

The Opt-Out Bar Order has been a condition of any settlement with Eckert Seamans since the commencement of the Parties' discussions. In colloquial terms, Eckert Seamans's willingness to settle—for $38 million is contingent upon "global peace" with respect to all claims that have been or could be asserted against the Eckert Seamans Released Parties relating in any way to this

case and the fraud alleged herein. The Opt-Out Bar Order is accordingly a condition precedent to the effectiveness of the Settlement Agreement and to payment of the Settlement Amount. All Parties potentially affected by the Settlement Agreement or the Opt-Out Bar Order will receive notice in the manner set forth below and provided in the Preliminary Approval Order (as may be supplemented by the Court).

F. Settlement Approval Procedures

To afford potentially affected parties notice and an opportunity to object and participate in a hearing, the Receiver proposes the following procedures for notice, objections and a hearing (the "**Settlement Approval Procedures**"):

(i) Notice. The Receiver will prepare a notice substantially in form and content as Exhibit C to the Settlement Agreement (the "**Notice**"), which will contain a description of the Settlement Agreement and the Opt-Out Bar Order and afford potentially affected parties the opportunity—through multiple different means—to obtain complete copies of all settlement-related papers; the notice will be distributed in accordance with items (ii), (iii) and (iv) below.

(ii) Service. The Receiver will serve the Notice no later than ten (10) days after entry of the Preliminary Approval Order by first class U.S. mail, postage prepaid to:

a. all counsel who have appeared of record in the SEC Action;

b. all counsel who are known by the Receiver to have appeared of record, or entered into a tolling agreement, in any legal proceeding or arbitration commenced by or on behalf of any of the Receivership Entities, in the Putative Class Actions, or any individual investor or putative class of investors seeking relief against any person or entity relating in any manner to the Receivership Entities or the subject matter of the SEC Action or the Putative Class Actions;

c. all known investors in each and every one of the Receivership Entities identified in the investor lists in the possession of the Receiver at the addresses set forth therein;

d. all known non-investor creditors of each and every one of the Receivership Entities identified after a reasonable search by the Receiver;

e. all parties to the SEC Action;

f. all owners, officers, directors, and senior management employees of the Receivership Entities;

g. all other persons or entities that previously received notice of the Receiver's filings;

h. the third-party administrators and/or other control persons for the Pillar Entities, the Fallcatcher Entities, and the Atrium Entities; and

i. counsel for all parties that have filed any actions against Eckert Seamans.

(iii) Publication. The Receiver will publish the Notice no later than ten (10) days after entry of the Preliminary Approval Order:

a. once a week for two non-consecutive weeks in the Legal Intelligencer; and

b. on the website maintained by the Receiver in connection with the SEC Action (www.parfundingreceivership.com).

(iv) Copies upon Request. The Receiver will promptly provide copies of the Motion, the Settlement Agreement, and all exhibits and attachments thereto to any person who requests such documents via email.

(v) Evidence of Compliance. No later than five (5) days before the Final Approval Hearing (defined below), the Receiver will file with the Court written evidence of compliance with items (i) through (iv) above, either in the form of an affidavit or declaration.

(vi) Hearing. The Receiver requests that the Court schedule a hearing (the "**Final Approval Hearing**") to consider final approval of the Settlement Agreement and entry of the Opt-Out Bar Order on a date that is at least sixty (60) calendar days after the entry of the Preliminary Approval Order.

(vii) Objection / Opt-Out Deadline and Objections / Requests for Exclusion.

a. The Receiver requests that the Court require any person who objects to or excludes themselves from the Settlement Agreement or the Opt-Out Bar Order to file an objection or request for exclusion with the Court no later than thirty (30) calendar days before the Final Approval Hearing (the "**Objection / Opt-Out Deadline**").

b. The Receiver requests that the Court require all such objections or opt-outs to

i. be in writing;

ii. be signed by the person filing the objection or opt-out, or his or her attorney;

iii. state, in detail, the factual and legal grounds for the objection or opt-out;

iv. attach any document the Court should review in considering the objection or opt-out and ruling on the Motion;

v. require the person filing the objection or opt-out to make a request to appear at the Final Approval Hearing, if that person intends to appear at the Final Approval Hearing; and

vi. be served by email and regular mail on:

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c. The Receiver requests that no person be permitted to argue at the Final Approval Hearing unless such person has complied with the requirements of the foregoing procedures.

d. The Receiver also requests that any party to the Settlement Agreement be authorized to file a response to the objection or opt-out before the Final Approval Hearing.

III.
Relief Requested

The Receiver respectfully requests (i) entry of the Preliminary Approval Order, preliminarily approving the Settlement Agreement and the Settlement Approval Procedures outlined herein, and (ii) entry of the Opt-Out Bar Order, after expiration of the Objection Deadline if no objections or requests for exclusion are timely filed, or after the Final Approval Hearing if objections or requests for exclusion are timely filed.

IV.
Basis for Requested Relief

"A district court has broad powers and wide discretion to determine relief in an equity receivership." *SEC. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992). In such an action, a district court has the power to approve a settlement that is fair, adequate and reasonable, and is the product of good faith after an adequate investigation by the receiver. *See Sterling v. Steward*, 158 F.3d 1199 (11th Cir. 1998). "Determining the fairness of the settlement is left to the sound discretion of the trial court and *we will not overturn the court's decision absent a clear showing of abuse of that discretion*." *Id.* at 1202 (quoting *Bennett v. Behring Corp.,* 737 F.2d 982, 986 (11th Cir. 1984) (emphasis supplied)).

A district court also has the power to enter an order permanently enjoining third parties from bringing any claims against a settling party that could have been asserted by or through the receivership or in connection with any the facts giving rise to the receivership—often referred to as a "bar order." *SEC v. Kaleta*, 530 Fed. Appx. 360 (5th Cir. 2013) (approving bar order in SEC receivership). Bar orders are appropriate "to assist the parties in reaching a settlement." *Matter of Munford, Inc.*, 97 F.3d 449, 455 (11th Cir. 1996) (approving a bar order in a bankruptcy case).

Bar orders have been approved by the Eleventh Circuit and in multiple cases in this District. *See*, *e.g.*, *In re U.S. Oil and Gas Lit.*, 967 F.2d 489, 491 (11th Cir. 1992) (approving bar order in a class action); *SEC v. Mutual Benefits Corp.*, No. 04-60573 [ECF No. 2345] (S.D. Fla. Oct. 13, 2009) (Moreno, J.) (approving bar order in SEC receivership); *SEC v. Latin American Services Co., Ltd.*, No. 99-2360 [ECF No. 353] (S.D. Fla. May 14, 2002) (Ungaro-Benages, J.) (approving bar order in SEC receivership); *Commodity Futures Trading Comm'n v. Bluprint LLC*, No. 22-80092-CV, 2023 WL 5109447 (S.D. Fla. Aug. 2, 2023) (Matthewman, J.) (approving bar order in CFTC receivership); *SEC v. Quiros*, No. 1:16-cv-21301 [ECF No. 353] (S.D. Fla. June 30, 2017) (Gayles, J.) (same); *SEC v. Quiros*, No. 1:16-cv-21301 [ECF No. 657] (S.D. Fla. Apr. 6, 2021) (Gayles, J.) (same); *SEC v. Quiros*, No. 1:16-cv-21301 [ECF No. 675] (S.D. Fla. July 1, 2021) (Gayles, J.) (same); *SEC v. Quiros*, No. 1:16-cv-21301 [ECF No. 690] (S.D. Fla. July 29, 2021) (Gayles, J.) (same); *SEC v. Quiros*, No. 1:16-cv-21301 [ECF No. 715] (S.D. Fla. Mar. 2, 2022) (Gayles, J.) (same). Entry of a bar order is reviewed for an abuse of discretion. *See In re U.S. Oil and Gas Lit.*, 967 F.2d at 491 ("we affirm the district court's imposition of a settlement bar order and establish the standard of review to be abuse of discretion").

In *Harrington*, the Supreme Court determined that the bankruptcy code did not permit approval of a reorganization plan that provided for "non-consensual third-party releases."

Harrington, 144 S. Ct. at 2087. This is an equity receivership, not a bankruptcy proceeding, and, therefore, the holding in *Harrington* does not control. In any event, the Supreme Court made clear in *Harrington* that it was not "call[ing] into question *consensual* third-party releases." *Id.* (emphasis in original). Prior to and following the *Harrington* opinion, courts have determined that consensual third-party releases and bar orders, whereby affected parties are provided a meaningful opportunity to opt out, are permissible. *See In re Robertshaw US Holding Corp.*, 662 B.R. 300, 322 (Bankr. S.D. Tex. 2024) (noting that "[t]here is nothing improper with an opt-out feature for consensual third-party releases" and that *Harrington* "did not change the law" in this regard); *In re Stein Mart, Inc.*, 629 B.R. 516, 523–24 (Bankr. M.D. Fla. 2021) ("The Court is convinced the opt-out procedure employed here produces a consensual agreement and meeting of the minds between the releasees and releasors.").

Thus, this Court has the authority to approve an opt-out bar order and to fix the procedures for the grant of such relief, as long as due process is afforded to affected persons. *See Elliott*, 953 F.2d at 1566.

A. The Settlement Agreement is fair, adequate, and reasonable.

To approve a settlement in an equity receivership, a district court must find the settlement is fair, adequate, and reasonable and is not the product of collusion between the parties. *See Sterling*, 158 F.3d at 1203. To determine whether the settlement is fair, the court should examine the following factors: "(1) the likelihood of success; (2) the range of possible [recovery]; (3) the point on or below the range of [recovery] at which settlement is fair, adequate and reasonable; (4) the complexity, expense and duration of litigation; (5) the substance and amount of opposition to the settlement; and (6) the stage of proceedings at which the settlement was achieved." *Id.* at 1203 n.6 (citing *Bennett*, 737 F.2d at 986).

Upon due consideration of these governing factors, the Settlement Agreement should be approved. Before entering into the Settlement Agreement, Class Counsel litigated the Putative Class Plaintiffs' claims; carefully evaluated the defenses to those claims; and considered the delay and expense of prosecution of such claims, the uncertainty of outcome in any such litigation, and the possibility of appeal of any adverse outcome. Likewise, the Receiver evaluated his own potential claims against Eckert Seamans; carefully evaluated the potential defenses to those claims; and considered the delay and expense of prosecution of such claims, the uncertainty of outcome in any such litigation, and the possibility of appeal of any adverse outcome. The Settlement Agreement was executed after extensive, arm's length negotiations conducted between the Parties and their experienced counsel in good faith. It was, of course, not the product of collusion. *See Hemphill v. San Diego Ass'n of Realtors, Inc.,* 225 F.R.D. 616, 621 (S.D. Cal. 2004) ("[T]he courts respect the integrity of counsel and presume the absence of fraud or collusion in negotiating the settlement[.]").

Indeed, it bears mention that the process of negotiating the terms of the initial settlement in principle occurred over a period of more than six months, during which the Parties exchanged numerous papers and participated in countless conversations and in-person meetings, both with the mediator and directly. During that time, Eckert Seamans was cooperative and forthcoming about the defenses they had asserted and their willingness to fight all claims brought against them through all appeals. In addition to those negotiations, the Parties also attended a formal mediation with JAMS in New York, New York.

Following the objections to the initial settlement in principle, the Receiver, Eckert Seamans, and Class Counsel, together with the principal objectors, participated in a second mediation with Judge Michael A. Hanzman (Ret.). The mediator spent several hours in advance

of the mediation meeting with each of the parties in an effort to narrow the disputed issues in advance of the in-person mediation. The parties then participated in three days of in-person mediation, on October 7, 8, and 15, 2024, which resulted in this Settlement Agreement. The involvement of a skilled mediator is viewed as a positive factor in addressing the reasonableness of a settlement. *See, e.g., Poertner v. Gillette Co.*, No. 14-13882, 2015 WL 4310896, *6 (11th Cir. 2015) (affirming approval of class action settlement, noting the parties' arm's-length negotiations moderated by an experienced mediator); *Lee v. Ocwen Loan Servicing, LLC*, No. 14-CV-60649, slip op. at 25-26 (S.D. Fla. Sept. 14, 2015) (approving settlement and noting that parties' use of a highly respected mediator supported the conclusion that the settlement was not the product of collusion); *Hamilton v. SunTrust Mortg. Inc.*, No. 13-60749-CIV, 2014 WL 5419507, at *2 (S.D. Fla. Oct. 24, 2014) (noting that the fact that the settlement occurred following significant litigation, considerable document discovery, and months of negotiations with the help of a well-respected mediator supported approval of class action settlement). During negotiations and in preparation for mediation, and thereafter, the Parties exchanged information about the Parties' actual and potential claims and defenses. The proposed settlement marks the culmination of those efforts and is reflected in the Settlement Agreement and this Motion.

The Settlement Agreement thus provides for a total payment of $38 million, which results in the Receiver and the Receivership Entities receiving approximately$31,750,000, ***net of*** the payment to Class Counsel, which can be used for all Investors. Such a recovery is undoubtedly well within the range of reasonableness and will provide additional liquidity needed to maximize the value of the assets owned by the Receivership Entities for the benefit of *all* Investors. The Settlement Agreement, therefore, provides a substantial benefit to the Receivership Entities and

all of their Investors. Accordingly, the Settlement Agreement is fair, adequate and reasonable, and not the product of collusion.

B. The Opt-Out Bar Order is necessary and appropriate ancillary relief to the SEC Action.

i. The Court has the authority to approve the Opt-Out Bar Order.

District courts have the power to enter bar orders in equity receiverships where necessary or appropriate as ancillary relief in the context of the underlying action. *See Kaleta*, 530 Fed. Appx. at 362. As the Fifth Circuit has explained, a district court has "inherent equitable authority to issue a variety of ancillary relief measures in actions brought by the SEC to enforce the federal securities laws." *Id.* (internal quotations omitted). *See also* All-Writs Act, 28 U.S.C. § 1651; *In re Baldwin-United Corp. (Single Premium Deferred Annuities Ins. Litig.)*, 770 F.2d 328, 338 (2d Cir. 1985). Such ancillary relief includes injunctions against non-parties as part of settlements in the receivership. *See Kaleta*, 530 Fed. Appx. at 362.

This power to enter bar orders is consistent with the Eleventh Circuit's recognition of the district court's "broad powers and wide discretion to determine relief in an equity receivership [that] derives from the inherent powers of an equity court [to] fashion relief[.]" *See Elliott*, 953 F.2d at 1566. Moreover, the Eleventh Circuit has *expressly* held that district courts have the power to enter bar orders. *See Munford*, 97 F.3d at 455 (affirming entry of a bar order over objection of non-settling defendants where "integral to settlement in an adversary proceeding"); *In re U.S. Oil and Gas Lit.*, 967 F.2d 489 (11th Cir. 1992) (affirming entry of a bar order over objection of non-settling co-defendants).

Citing the Eleventh Circuit's precedents in *Munford* and *U.S. Oil and Gas Litigation*, Judge Moreno concluded that bar orders are "within this Court's jurisdiction and equitable authority to enter and enforce." *Mutual Benefits Corp.*, No. 04-60573, slip op. [ECF No. 2345] at 8. Accordingly, courts in this District have regularly entered bar orders in SEC receiverships and in

bankruptcy cases. *See*, *e.g.*, *id.* (entering a bar order where it was "necessary" to administration of the receivership); *Brophy v. Salkin,* 550 B.R. 595 (S.D. Fla. 2015) (affirming bankruptcy court's entry of bar order); *Latin Am. Services Co., Ltd.*, No. 99-2360, slip op. [ECF No. 353] at 4 (entering a bar order against all investors over investor objection); *In re Rothstein Rosenfeldt Adler, PA*, 2010 WL 3743885, at *7 (Bankr. S.D. Fla. Sept. 22, 2010) (entering bar order that was "necessary to achieve the complete resolution" of the parties' disputes and was "fair and equitable"); *Commodity Futures Trading Comm'n v. Bluprint LLC*, No. 22-80092-CV, 2023 WL 5109447 (S.D. Fla. Aug. 2, 2023) (Matthewman, J.); *SEC v. Quiros*, No. 1:16-cv-21301 [ECF No. 353] (S.D. Fla. June 30, 2017) (Gayles, J.) (approving bar order in SEC receivership); *SEC v. Quiros*, No. 1:16-cv-21301 [ECF No. 657] (S.D. Fla. Apr. 6, 2021) (Gayles, J.) (approving bar order in SEC receivership); *SEC v. Quiros*, No. 1:16-cv-21301 [ECF No. 675] (S.D. Fla. July 1, 2021) (Gayles, J.) (approving bar order in SEC receivership); *SEC v. Quiros*, No. 1:16-cv-21301 [ECF No. 690] (S.D. Fla. July 29, 2021) (Gayles, J.) (approving bar order in SEC receivership); *SEC v. Quiros*, No. 1:16-cv-21301 [ECF No. 715] (S.D. Fla. Mar. 2, 2022) (Gayles, J.) (approving bar order in SEC receivership). Moreover, as described above, the consensual nature of the Opt-Out Bar Order the parties are requiring as a necessary condition of this Settlement Agreement is permissible and appropriate, notwithstanding the potential impact, if any, the *Harrington* opinion may have on parties seeking bar orders in equity receiverships. *In re Robertshaw US Holding Corp.*, 662 B.R. at 322.[6]

[6] In addition, the Eleventh Circuit has already made clear the difference between bar orders sought in a settlement context, such as in *U.S. Oil & Gas* and *Munford*, and bar orders entered as part of a bankruptcy plan of reorganization, as in *Harrington*, describing them as "non-comparable" and "factually distinguishable." *In Re Centro Group, LLC*, No. 21-11364, 2021 WL 5158001, at *3 (11th Cir. Nov. 5, 2021). The *Centro Group* panel explained the factors to be used in determining whether a bar order is appropriate in a Chapter 11 reorganization. *Id.* But the *Centro Group* court

Whether a bar order should be approved turns on the specific facts and circumstance of each individual case. *See Kaleta*, 530 Fed. Appx. at 362 ("receivership cases are highly fact-specific"). "A district court considering entering a bar order must conduct a two-part inquiry: First it must consider whether the bar order is 'essential,' and, second, it must determine whether it is 'fair and equitable, with an eye toward its effect on the barred parties.'" *Commodity Futures Trading Comm'n v. Bluprint LLC*, 22-80092-CV, 2023 WL 5109447, at *3 (S.D. Fla. Aug. 2, 2023) (quoting *Quiros*, 966 F.3d at 1199). "A bar order is essential when it is 'integral' to the settlement." *Id.*

ii. The Court should enter the Opt-Out Bar Order

The Opt-Out Bar Order is essential to the settlement and entry of the Opt-Out Bar Order is fair and equitable. As stated above, the settlement here is ***expressly conditioned*** on the Eckert Seamans Released Parties receiving the Opt-Out Bar Order in substantially the same form as Exhibit B attached to the Settlement Agreement. In this case, there are ample facts establishing that the Opt-Out Bar Order is necessary and appropriate:

- Entry of the Opt-Out Bar Order is a contractual prerequisite to Eckert Seamans paying the Settlement Amount. Indeed, the Settlement Amount is not even due until the Bar Order is issued ***and becomes "Final."*** *See U.S. Oil and Gas Lit.*, 967 F.2d at 494 (bar order appropriate to secure $8.5 million in exchange for global peace for settling party); *Kaleta*, 530 Fed. App'x at 362 (additional consideration in the form of guarantee of payment to the receivership).

- The Settlement Amount enables the Receiver to pay the Putative Class Plaintiffs' attorneys their fees and reimburse their expenses, and still have approximately $31,750,000 remaining to pay to Investors.

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said that in *Munford*, the Eleventh Circuit laid out factors courts should use to determine whether bar orders are appropriate in adversary or third-party proceedings as part of settlements. *Id.* The Eleventh Circuit made it very clear in *Centro Group* that the two types of bar orders serve very different purposes, are subject to different tests, and rest on different legal grounds. *Id.* at *2-*3. As such, binding Eleventh Circuit precedent permits bar orders in the context sought here, even without the cautious opt-out procedure proposed by the Parties in this case.

- The Opt-Out Bar Order is a necessary and integral condition precedent to the settlement and a full and final resolution of the disputes between the Receiver, the Putative Class Plaintiffs, and Eckert Seamans. Indeed, it is a specific condition precedent to the Settlement Agreement—in particular, to both the Receiver's receipt of the Settlement Amount and the Parties' mutual releases. *See U.S. Oil and Gas Lit.*, 967 F.2d at 494-95 (approving bar order that was "integral" to approved settlement).

- Without the Opt-Out Bar Order, assets of the Receivership Entities would be depleted by time-consuming, expensive, and risky litigation without any certainty of outcome. *See In re Superior Homes & Investments, LLC, No. 6:09-BK-01955-KSJ, 2012 WL 12896256, at *6 (M.D. Fla. Sept. 20, 2012), aff'd, 521 Fed. Appx. 895 (11th Cir. 2013)* (bar order appropriate to stop the depletion of assets that would otherwise be expended in funding litigation, decreasing the ultimate recovery for the Estate).

- Likewise, the Opt-Out Bar Order is needed to protect and/or enhance the value of the assets of the Receivership Entities. *See DeYoung*, 850 F.3d at 1183 (bar order appropriate to protect receivership entity's assets); *see also Zacarias*, 945 F.3d at 902 (enjoining third-party claims that "would undermine the receivership's operation" was "well within the broad jurisdiction of the district court to protect the receivership res").

- The Opt-Out Bar Order is specifically tailored to the facts underlying the SEC Action, and the barred claims are interrelated to potential claims that could be brought by the Receiver and were in fact brought by the Putative Class Plaintiffs. *See U.S. Oil and Gas Lit.*, 967 F.2d at 496 (barring interrelated claims); *Kaleta*, 530 Fed. Appx. at 362 (bar order appropriately tailored to claims that arise from the underlying fraud).

- Investors will greatly benefit from the Settlement Amount, as described above, by receiving payments through a claim in the receivership through the claims process. *See Kaleta*, 530 Fed. Appx. at 362 (investors may "pursue their claims by participat[ing] in the claims process for the Receiver's ultimate plan of distribution for the Receivership Estate") (alteration in original; internal quotations omitted).

- The Opt-Out Bar Order is "fair and equitable" to non-settling third parties whose claims against Eckert Seamans will be enjoined because those claims are questionable, at best, given their participation in the fraud, and they are being allocated an amount from the settlement and/or may pursue such claims in the claims process to be conducted in the receivership. *See Zacarias*, 945 F.3d at 903 (rejecting third party's argument that "bar order deprived them of their property (that is, their claims) without due process and without just compensation" because "the bar orders channel investors' recovery associated with [the settling parties] through the receivership's distribution process"); *see also DeYoung*, 850 F.3d at 1182-83; *cf. SEC v. Stanford Int'l Bank*, 927 F.3d 830, 848 n.18 (5th Cir. 2019) ("When compared with *DeYoung*, 850 F.3d at 1182-83, the unsustainability of the

settlement and bar orders here is manifest. Unlike that case, the extracontractual claims of these Appellants do not parallel those of the Receiver, Underwriters possess no contribution/indemnity claim against the receivership estate, and Appellants have been provided no channel to assert claims in the receivership.").

- The interests of persons potentially affected by the Opt-Out Bar Order have been represented by the Receiver, acting in the best interests of the Receivership Entities in his fiduciary capacity, and upon the advice and guidance of his experienced counsel.

In light of these facts, and the authorities entering similar bar orders in comparable circumstances, entry of the Opt-Out Bar Order is necessary and appropriate ancillary relief.

iii. The Opt-Out Bar Order should include the Agent actions and the Merchant action filed against Eckert Seamans.

It is fair and equitable that the Opt-Out Bar Order include the actions brought by Agents against Eckert Seamans: (1) *Vagnozzi v. Pauciulo*, *et al*., No. 02115 (Phila. Ct. Common Pleas) (the "Vagnozzi Action"); (2) *Kohler, et al. v. Pauciulo, et al.*, No. 210502334 (Phila. Ct. Common Pleas) ("Vagnozzi's Brother's Action"); (3) *Parker, et al. v. Pauciulo*, *et al*., No. 00892 (Phila. Ct. Common Pleas) (the "Vagnozzi Sub-Agent Action"); and (4) *Westhead, et al. v. Eckert Seamans, et al.*, No. 240102114 (Phila. Ct. Common Pleas) (the "Westhead Action").[7] Despite their participation in defrauding investors, the plaintiffs in those actions threatened to derail the prior $45 million settlement in principle that would benefit the very investors they defrauded because they wish to pursue their own claims against Eckert Seamans. Although it appears that these objectors will not object to or opt out of this Settlement Agreement, as set forth below, they should be precluded from pursuing such litigation, absent a valid opt out, because their claims are not likely to succeed, and are inextricably related to and duplicative of the Receiver's claims and the

[7] Attorney Haines also filed the action styled, *Legacy Advisory Grp., Inc., et al. v. Pauciulo, et al.*, No. 211001003 (Phila. Ct. Common Pleas), which appears to be duplicative of the Vagnozzi Sub-Agent Action.

claims in the Putative Class Actions. It is also fair and equitable that the Opt-Out Bar Order include the action brought by merchant plaintiffs against Eckert Seamans: *B and T Supplies, Inc., et al. v. AG Morgan Tax and Accounting LLC, et al*., Case No. 1:23-cv-11241 (S.D.N.Y.) (the "Merchant Action").[8]

Some of the factors considered when determining whether a bar order is fair and equitable are: (1) "the interrelatedness of the claims that the bar order precludes;" (2) "the likelihood of nonsettling defendants to prevail on the barred claim;" (3) "the complexity of the litigation;" and (4) "the likelihood of depletion of the resources of the settling defendants." *CFTC v. Bluprint LLC*, 2023 WL 5109447, at *3 (quoting *Munford*, 97 F.3d at 455). Courts have held that "separate claims of a settling estate and a non-settling third-party against the same or similar defendants may be interrelated for the purpose of issuing a bar order." *Brophy*, 550 B.R. at 600. Claims brought against a common defendant are "interrelated" if they "arise out of the same common nucleus of operative facts and circumstances" and are based on "similar" (though not necessarily identical) "acts and omissions." *Id.*

In *Brophy*, for example, the trial court granted the trustee's motion for approval of the trustee's settlement of breach of fiduciary duty claims against the debtor's officer that provided for payment from the director's and officers' liability insurer. *Id.*at 597. As part of that settlement, the trial court entered a bar order. *Id.* The plaintiffs in a securities class action against former directors and officers appealed that order because it enjoined them from further prosecuting the class action. *Id.* The District Court for the Southern District of Florida affirmed the bar order because the non-settling parties' securities fraud claims against the settling parties arose out of the

[8] The plaintiffs in the Merchant Action included claims against Eckert Seamans, but later voluntarily dismissed those claims without prejudice.

same transactions and conduct. *Id.* at 600. Specifically, in reaching that conclusion, the court explained:

> The Bankruptcy Court also reasonably concluded in applying this standard that the claims were interrelated because they "arise out of the same common nucleus of operative facts and circumstances and are based on similar, if not identical, acts and omissions." Both sets of claims "sought damages based upon acts and omissions involving the disclosure of materially inaccurate information to third parties and improper insider transactions."

Id. at 600 (quoting *U.S. Oil & Gas*, 967 F.2d at 496. Here, the Putative Class Actions, the Receiver's potential claims against Eckert Seamans, the Vagnozzi Action, the Vagnozzi's Brother's Action, the Vagnozzi Sub-Agent Action, the Westhead Action, and the Merchant Action all arise out of the same "facts and circumstances" and "similar" acts and omissions—namely, Eckert Seamans's role with Par Funding and/or the agent funds that were used to solicit Par Funding investors.

Attorney George Bochetto brought the Vagnozzi Action on behalf of Dean Vagnozzi—a Defendant in this action who created a majority of the agent funds and who bears significant responsibility for the size and extent of the fraud. Vagnozzi was the principal of Receivership Entities ABetterFinancialPlan.com LLC d/b/a A Better Financial Plan and ABFP Management Company, LLC, as well as numerous ABFP agent funds.

Between August 2012 and December 2017, Par Funding notes were sold directly to the investing public through a network of unregistered sales agents, largely recruited by Vagnozzi. In January 2018, however, Par Funding learned that it was under investigation by the Pennsylvania Department of Banking and Securities for violating state securities laws through its use of unregistered agents. In response, Dean Vagnozzi, Defendant Joseph LaForte, and others hatched a scheme to allow Vagnozzi to continue raising capital for Par Funding by creating "Agent Funds," which would sell promissory notes to investors (instead of Par Funding selling them) and would

not disclose that the sole investment of the Agent Funds was, in fact, Par Funding. Vagnozzi recruited individuals to create these Agent Funds, including the plaintiffs in the Vagnozzi Sub-Agent Action (from whom Vagnozzi received a commission "override").

Vagnozzi would offer these individuals the opportunity to open "turnkey" Agent Funds designed and structured to circumvent the prohibitions of the Pennsylvania Department of Banking and Securities. The turnkey packages included everything the Agent Fund needed to get started, including an "Agent Guide," as well as a Private Placement Memorandum, corporate registration, and other offering materials—all of which were created by Eckert Seamans and Vagnozzi. The offering documents concealed from investors that they were entrusting their money to twice-convicted felon Joseph LaForte. The offering documents failed to disclose that Par Funding was the *only* MCA company with which the Agent Funds were investing. The Agent Funds were managed by Vagnozzi, through his company ABFP Management Company, LLC, which is now a Receivership Entity. Vagnozzi and the Agent Funds he created and recruited were responsible for defrauding hundreds of investors out of substantial funds.

In his complaint against Eckert Seamans, Vagnozzi alleges that the suit arises out of Eckert Seaman's representation of Vagnozzi "in connection with the creation of various investment funds formed for the express purpose of investing in alternative income-producing opportunities." Vagnozzi Cmplt. [ECF No. 742, Ex. A] at 1. Those "investment funds" include Vagnozzi's ABFP Income Funds and Parallel Funds, ***which are Receivership Entities***, as well as other Agent Funds formed to solicit Par Funding investors. Indeed, the claims are not just interrelated—they are identical to the Receiver's potential claims on behalf of the Receivership Entities (including ABFP Management Company, LLC). In fact, despite bringing the claims in his individual capacity, Vagnozzi's claims do not arise from Eckert Seaman's representation of him on personal matters.

Rather, Vagnozzi's claimed damages are consequences of Eckert Seamans's alleged legal malpractice in the creation of the ***Receivership Entities*** and other similar entities Vagnozzi used to perpetrate fraud on investors.

The complaint in the Vagnozzi Action is replete with facts and arguments concerning Eckert Seamans's representation of various Receivership Entities in misleading Investors:

- "Pauciulo appeared on numerous videos and recordings that were played to and for the benefit of potential clients, personally assured potential clients that Vagnozzi and his entities were in full compliance with all securities laws, and that all required disclosures were contained within the PPMs." Vagnozzi Cmplt. at ¶ 64;

- "Pauciulo specifically advised Vagnozzi: There was no need whatsoever to disclose that the proceeds of [ABFP Income] Fund 2 would be invested with PAR funding. . . ." *Id.* at ¶ 74(a);

- "Pauciulo specifically advised Vagnozzi: . . . There was no need to disclose any of the inherent business risks of PAR Funding's operations or financial condition, since there was no need to ever refer to PAR Funding." *Id.* at ¶ 74(c);

- "Defendants represented Vagnozzi in the creation of [ABFP Funds 1-3, 4, 6],[9] each with a separate PPM and Subscription Agreement, each with a distinct and different group of investors, and as to each Defendants charged distinct legal fees and rendered 'registration' and 'disclosure' advice." *Id.* at ¶ 75;

- "Throughout the entire process, upon the specific advice of Defendants, no PPM nor Subscription Agreement was ever registered with the SEC, and none ever disclosed:

    a. That the investor monies would be solely invested in PAR.
    b. The names, backgrounds, or criminal convictions of any of PAR's principals.
    c. Any of the risk factors attendant to investing funds in PAR funding."

  Id. at ¶ 88;

- "In connection with negotiating with and having investors accept the 'Exchange Offers,' Defendants represented Vagnozzi in the creation of ABFP Parallel Funds 1, 2, 3, 4 and 6, each with a separate PPM, and prepared 'Supplements" to the original PPMs," which the SEC alleged such Supplements "were completely inadequate and not in compliance with state and federal law, and that the Parallel Funds were not properly registered." *Id.* at ¶¶ 105-106.

[9] Each of those funds is a Receivership Entity.

The damages Vagnozzi seeks to recover further underscores the interrelatedness of the action. As his primary damages, Vagnozzi identifies damages arising from having to defend against the SEC Action, the Putative Class Actions, and numerous other regulatory investigative proceedings by the SEC and various State regulatory commissions. *Id.* at ¶ 125. The Eleventh Circuit has held that claims to such damages are not "truly independent claims." *See*, *e.g.*, *In re HealthSouth Corp.*, 572 F.3d at 864 (finding claim to attorneys' fees for defending suits by the underlying plaintiffs were not "truly independent claims" for purposes of entering a bar order).[10] Additionally, Vagnozzi identifies legal fees paid to Eckert Seamans as part of his damages. *Id.* at ¶ 136. But Eckert Seaman's invoices were paid by ABetterFinancialPlan.com, LLC, ***a Receivership Entity***, not from Vagnozzi's personal accounts. *See* ECF No. 236 at 2-3. In its Order Denying Defendant Dean Vagnozzi's Motion for Leave to File Declaratory Judgment Complaint, this Court recognized that the legal fees paid to Eckert Seamans "are comprised of commingled investor funds that constitute Receivership Property." ECF No. 1695 at 3. Accordingly, the Vagnozzi Action is directly related to the Putative Class Actions and the potential claims of the Receiver and the Receivership Entities.[11]

Mr. Bochetto also filed Vagnozzi's Brother's Action, which is a similar lawsuit filed on behalf of Albert Vagnozzi (Dean Vagnozzi's brother), Albert Vagnozzi's business partner (Paul Kohler), and their Agent Funds, Capricorn Income Fund I, LLC ("Capricorn"), and Capricorn Income Fund I Parallel, LLC. Like Dean Vagnozzi through ABFP, Albert Vagnozzi was an Agent

[10] "The *Munford* test . . . does not require the barred claims to be property of the estate or dependent upon estate claims to be interrelated." *Brophy*, 550 B.R. at 600–01.

[11] This Court already determined that the Vagnozzi Action was an "Ancillary Proceeding" that was subject to the litigation stay because it "implicates Receivership Property and infringes on the authority the Court granted the Receiver by this Court." [ECF No. 788].

Fund manager. In addition, the SEC sued Albert Vagnozzi, Capricorn, and others for their role in defrauding Par Funding investors. *See SEC v. Westhead, et al.,* No. 1:23-cv-23749 (S.D. Fla.) [ECF No. 1762, Ex. B]. The SEC alleges that Albert Vagnozzi and Capricorn raised more than $18 million from at least 110 investors and then funneled the investors' money to Par Funding for the purchase or promissory notes. *See id.* at ¶ 4. According to the SEC, Albert Vagnozzi and Capricorn engaged in fraudulent conduct and participated in the unregistered offering of Par Funding promissory notes to investors. ¶¶ 50-75.

In the complaint in Vagnozzi's Brother's Action, Albert Vagnozzi, his business partner, Capricorn, and Capricorn Income Fund I Parallel, LLC, allege that Eckert Seamans created the plaintiff Agent Funds and drafted the PPMs "to be used for the purpose of offering merchant cash advance notes syndicated by PAR to investors." Vagnozzi's Brother's Complaint [ECF No. 1390, Ex. A] at ¶¶ 44-46, 63, 87. Like the Vagnozzi Action, the focus of the complaint in Vagnozzi's Brother's Action is Eckert Seamans's legal advice provided to the Agent Funds in connection with misrepresentations to Investors:

- "At no time did Defendants ever advise Plaintiffs that Capricorn needed to disclose to investors the financial arrangements Capricorn had with PAR Funding." Vagnozzi's Brother's Cmplt. at ¶ 58;

- "At no time did Defendants ever advise Plaintiffs that they or Capricorn may be regarded as "custodians" over investor funds and that, as such, had additional obligations with the regulators or the investors concerning any such custody." *Id.* at ¶ 59;

- "Based upon all of the advice and assurances given to Plaintiffs by Defendants, Plaintiffs had various PTK clients, friends, and family invested in Capricorn - to the tune of millions of dollars - based upon the PPM provided to each such client as drafted by Defendants." *Id.* at ¶ 62;

- "That injunction was issued and a Receiver was appointed, which immediately caused Capricorn I and Capricorn Parallel to stop receiving interest or principal payments from PAR, and thus placed Plaintiffs in the position of not being able to have Capricorn perform its obligations to investors." *Id.* at ¶ 93;

- Vagnozzi and Kohler, and their respective families, have been subjected to negative media and permanent internet coverage in connection with the "PAR" scandal and their role (orchestrated by Defendants) in bringing millions of dollars of public investment dollars to PAR. *Id.* at ¶ 98.

Thus, Vagnozzi's Brother's Action likewise is inextricably intertwined with the Receivership Entities and the Putative Class Actions.

Attorney Clifford Haines brought the Vagnozzi Sub-Agent Action on behalf of 17 individuals and their Agent Funds that solicited and lost investor money after funneling it to Par Funding to fund short-term merchant cash advances. *See*, *e.g.*, Vagnozzi Sub-Agent Cmplt. [ECF No. 1152, Ex. A] at 2, ¶¶ 52, 64. Like the Vagnozzi Action and Vagnozzi's Brother's Action, the plaintiffs in the Vagnozzi Sub-Agent Action are comprised of individuals and the Agent Funds these individuals formed for the purpose of raising money from investors and then funneling that investor money to Par Funding.

The plaintiffs in the Vagnozzi Sub-Agent Action include Michael Tierney and Merchant Services Income Fund, LLC ("MSI"), who were recently sued by the SEC, along with Albert Vagnozzi, for their role in defrauding Par Funding investors. *See SEC v. Westhead, et al,* No. 1:23-cv-23749 (S.D. Fla.) [ECF No. 1762, Ex. B]. Like Dean Vagnozzi and Albert Vagnozzi, Tierney was an Agent Fund manager who was brought in by Vagnozzi. *Id.* at ¶ 2. According to the SEC, Tierney and MSI raised more than $32 million from at least 70 investors and then funneled the investors' money to Par Funding. *Id.* at ¶ 5. The SEC alleges that Tierney and MSI engaged in fraudulent conduct and participated in the sale of unregistered securities. *Id.* at ¶¶ 108-132.

The plaintiffs in the Vagnozzi Sub-Agent Action allege that they hired Eckert Seamans to form the Agent Funds and prepare each fund's private placement memorandum, "which would

allow the Agent Fund to raise money to invest in PAR." *Id*. at ¶ 66. The allegations by the SEC, as well the allegations in the Vagnozzi Sub-Agent Action complaint, make clear that the funds that went to the Agent Funds were comprised of commingled investor dollars, and the plaintiffs seek to recover *that exact money* as supposed damages in the Vagnozzi Sub-Agent Action. *See*, *e.g.*, Vagnozzi Sub-Agent Cmplt. at ¶¶ 52, 85, 92, 102, 104, 126, 138, 214, 226, 280, 292, 302, 314 (describing the damages sought as "the amount of money [each of the plaintiffs' Agent Funds] invested in PAR."); SEC's Amended Complaint, at ¶ 65 ("The Agent Funds . . . funnel investor money to Par Funding, which then issues Par Funding Notes to its Agent Funds."). Thus, the recovery sought is comprised of investor losses. Further, the plaintiffs in the Vagnozzi Sub-Agent Action allege as damages "counsel fees related to the SEC investigation and expended to defend against claims from investors." *Id.* at ¶¶ 105, 127, 170, 193, 215, 237, 259, 281, 303, 325, 347, 369, 391, 413. *See*, *e.g.*, *In re HealthSouth Corp.*, 572 F.3d at 864 (finding claim to attorneys' fees for defending suits by the underlying plaintiffs were not "truly independent claims" for purposes of entering a bar order).

Indeed, this Court recognized the interrelatedness of the Vagnozzi Sub-Agent Action in denying the motion to lift the stay with respect to that action. In denying that motion, the Court explained: "[t]his Court agrees that by letting [plaintiffs in the Vagnozzi Sub-Agent Action] proceed with the action requested, it would infringe upon the work of the Receiver and could create an imbalance among the investors with respect to the recovery of their assets." [ECF No. 1179 at 2]. The Vagnozzi Sub-Agent Action against Eckert Seamans thus asserts no "truly independent claims," but instead only asserts claims that are duplicative of the claims in the Putative Class Actions and duplicative of the Receiver's potential claims. *In re HealthSouth Corp. Sec. Litig.*, 572 F.3d at 864. In fact, the ultimate investors in the Vagnozzi Sub-Agent Action—when one

pierces through the Agent Funds—are Investors *in this action* and have submitted, either directly or through the Agent Funds, proofs of claim *in this action*. Accordingly, the Vagnozzi Sub-Agent Action is interrelated with the Receivership and the Putative Class Actions. A bar order against that case is fair and equitable.[12]

Moreover, the plaintiffs in the foregoing action could not show a likelihood of success on the merits. Given the role of the Agent Funds in the fraud, it is unlikely that the plaintiffs in those cases could overcome Eckert Seaman's defenses, such as comparative fault and unclean hands, which likely would bar any recovery in those actions. Under Pennsylvania law, any contributory negligence is a complete defense to a legal malpractice action. *See Gorski v. Smith*, 812 A.2d 683, 702 (2002). Accordingly, this Court should enter the Bar Order.

In addition, there are three groups of entities—the Fallcatcher Entities, the Pillar Entities, and the Atrium Entities—that Vagnozzi operated or solicited investors for under the umbrella of ABetterFinancialPlan.com, LLC, ***a Receivership Entity***, which have been placed under the control of third-party administrators. Two of these groups of entities were previously under, but have since been removed from, the control of Receivership Entities and the Pillar and Atrium Entities are still operational, while Fallcatcher has been enjoined and consented to a final judgment and a liquidation. None of these groups have filed claims against Eckert Seamans. But, because the legal advice Eckert Seamans provided to ABetterFinancialPlan.com, LLC in connection with the investments into these three groups of entities is similar to that which it provided with respect to Par Funding, the scope of the Opt-Out Bar Order also extends to potential claims relating to investments made into these three groups of entities.

[12] For the same reasons, a bar order against *Legacy Advisory Grp., Inc., et al. v. Pauciulo, et al.*, No. 211001003 (Phila. Ct. Common Pleas) is appropriate, to the extent that case exists.

C. The Settlement Approval Procedures comply with due process; they afford persons affected by the Settlement Agreement and Opt-Out Bar Order notice and an opportunity to be heard in a manner that is good and sufficient under the circumstances.

"Due process requires notice and an opportunity to be heard." *Elliott*, 953 F.2d at 1566. The procedures required to satisfy due process vary "according to the nature of the right and to the type of proceedings." *Id.* "[A] hearing is not required if there is no factual dispute." *Elliott*, 953 F.2d at 1566. Ultimately, due process requires procedures that are "fair." *Id.* The Settlement Approval Procedures delineated above meet all of these requirements.

The form and content of the Notice provide a reasonable opportunity to evaluate and object to the Motion, the Settlement Agreement, or the Opt-Out Bar Order, or to request exclusion from the Settlement Agreement. The Notice contains a description of the settlement and the Bar Order, the parties to the Settlement Agreement, and the material terms thereof. The Notice provides a reasonable description and warning that the rights of the person receiving or reviewing it may be affected by the Settlement Agreement and Opt-Out Bar Order and of their right to object to the settlement and Bar Order, or to request exclusion from the Settlement Agreement, and the manner in which to make such an objection or request exclusion.

The manner and method of service and publication set forth in the Settlement Approval Procedures is reasonably calculated under the circumstances to disseminate the Notice to ***all*** potentially affected parties. The Notice will be served on all counsel who have appeared of record in the SEC Action; all counsel who are known by the Receiver to have appeared of record in any legal proceeding or arbitration commenced by or on behalf of any of the Receivership Entities or any Investors (or who have entered into a tolling agreement); and all known Investors in each one of the Receivership Entities. The Notice will be served on all known non-investor creditors; and all owners, officers, directors, and senior management employees of the Receivership Entities. In

short, all investors, creditors, and other interested persons of which the Receiver has actual knowledge will receive actual service of the Notice.

In addition, the Notice will be published in the Legal Intelligencer and the Notice will also be published on the Receiver's website, which has been online since shortly after the Receiver's appointment. Such publication is reasonably calculated to apprise persons not receiving actual service of the Notice that their rights may be affected and of their opportunity to object.

Accordingly, the Settlement Approval Procedures furnish all parties in interest a full and fair opportunity to evaluate the Motion, the Settlement Agreement and the Bar Order, and to object thereto.

V.
Conclusion

WHEREFORE, the Receiver respectfully requests that the Court grant this Motion, in full, and enter the Preliminary Approval Order and the Opt-Out Bar Order, approving the Settlement Agreement and Opt-Out Bar Order, in the manner set forth above.

Local Rule 7.1 Certification of Counsel

Pursuant to Local Rule 7.1, undersigned counsel has conferred with counsel for the Securities and Exchange Commission. The Commission has no objection to the relief sought with respect to the Receiver's proposed settlement agreement with Eckert Seamans, but takes no position at this time with respect to the other settlements with Eckert Seamans, including those of Defendant Dean Vagnozzi, Shannon Westhead, Michael Tierney, Alec Vagnozzi, Albert Vagnozzi, and any and all other individuals or entities, because the details of such settlements have not been shared with or disclosed to the Commission despite the Commission's request.

In addition, Class Counsel has no objection to the relief sought herein. Counsel for the Vagnozzi Actions, the Vagnozzi's Brother's Action, the Vagnozzi Sub-Agent Action, the

Westhead Action, and the Merchant Action have confirmed that their clients do not oppose, and will not object to, the approval of the settlement.

Dated: December 24, 2024

Respectfully submitted,

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Co-Counsel for Receiver

CERTIFICATE OF SERVICE

I certify that on December 24, 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 all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Timothy A. Kolaya
TIMOTHY A. KOLAYA

Exhibit “1”

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Agreement") is entered into by and among: Ryan Stumphauzer, not individually, but solely in his capacity as receiver (the "Receiver") for the entities identified on Schedule A to this Agreement (collectively, the "Receivership Entities"); the plaintiffs in *Montgomery, et al. v. Eckert Seamans Cherin & Mellott, et al.*, No. 20-cv-23750-DPG (S.D. Fla.) (Gayles, J.), *Melchior, et al. v. Vagnozzi, et al.*, No. 20-cv-05562-MRP (E.D. Pa) (Perez, J.), and *Caputo, et al. v. Vagnozzi, et al.*, No. 20-cv-01042-CFC (D. Del.) (Connolly, J.) (collectively, the "Putative Class Plaintiffs"); and Eckert Seamans Cherin & Mellott, LLC and John Pauciulo, Esq. (collectively "Eckert Seamans"). (The Receiver, the Putative Class Plaintiffs, and Eckert Seamans shall each be referred to as a "Party" and shall collectively be referred to as the "Parties.")

RECITALS

A. The Receiver has been appointed as receiver over the Receivership Entities in a civil enforcement action commenced by the Securities and Exchange Commission (the "SEC") captioned *SEC v. Complete Business Solutions Group, Inc. d/b/a Par Funding*, No. 20-cv-81205-RAR (S.D. Fla.) (Ruiz, J.) and pending in the United States District Court for the Southern District of Florida (the "SEC Action") before the Honorable Rodolfo A. Ruiz, II. The Receiver derives his authority over the Receivership Entities from the District Court's *Order Granting Motion for Appointment of Receiver* [DE #36] entered at the request of the SEC [DE #4], and as expanded to include other entities [DE #238, 436, 484, 579, 1156]. (The Receivership Entities and all property subject to the Receiver's authority are collectively referred to as the "Receivership Estate.")

B. The complaint in the SEC Action alleges, *inter alia*, that the defendants, in violation of federal securities laws, controlled and utilized the various Receivership Entities in furtherance of a fraud on investors (the "Investors") and sought various forms of relief including appointment of the Receiver.

C. On September 9, 2020, Levine Kellogg Lehman Schneider + Grossman LLP as class counsel commenced a putative class action in the United States District Court for the Southern District of Florida captioned *Montgomery, et al. v. Eckert Seamans Cherin & Mellott, et al.*, No. 20-cv-23750-DPG (S.D. Fla.) (Gayles, J.). On August 5, 2020, Chimicles Schwartz Kriner & Donaldson-Smith LLP and Edelson Lechtzin LLP as class counsel commenced a putative class action in the United States District Court for the District of Delaware captioned *Caputo, et al. v. Vagnozzi, et al.*, No. 20-cv-01042-CFC (D. Del.) (Connolly, J.). On November 6, 2020, Chimicles Schwartz Kriner & Donaldson-Smith LLP, Edelson Lechtzin LLP, Levine Kellogg Lehman Schneider + Grossman LLP, and Silver Law Group as class counsel commenced a putative class action in the United States District Court for the Eastern District of Pennsylvania captioned *Melchior, et al. v. Vagnozzi, et al.*, No. 20-cv-05562-MRP (E.D. Pa) (Perez, J.). (These three actions are collectively referred to as the "Putative Class Actions.") (The law firms Chimicles Schwartz Kriner & Donaldson-Smith LLP, Edelson Lechtzin LLP, Levine Kellogg Lehman Schneider + Grossman LLP, and Silver Law Group are collectively referred to as "Class Counsel.") Eckert Seamans denies the allegations asserted in the Putative Class Actions and any alleged wrongdoing in connection with any claim or potential claim that could have been brought by the Receiver.

D. The Parties originally attended mediation on June 7, 2023 with JAMS in New York, New York. A settlement in principle was reached for the sum of Forty-Five Million Dollars ($45,000,000.00). On May 6, 2024, a motion to approve that settlement was filed in the SEC Action. On July 12 and 15, 2024, several objections were filed challenging the settlement based on various grounds, including that the bar order previously requested was not permitted as a result of the United States Supreme Court's recent opinion in *Harrington v. Purdue Pharma L.P.*, 603 U.S. ----, 144 S. Ct. 2071, 219 L. Ed. 2d 721 (2024), decided on June 27, 2024. The District Court in the SEC Action ordered the parties to the settlement, and the three principal objectors, to attend a mediation to attempt to resolve their differences. The Parties and the objectors attended mediation on October 7, 8 and 15, 2024 with Judge Michael A. Hanzman (Ret.), during which (i) Eckert Seamans reached separate settlements with the two principal objectors, and the Receiver reached a settlement with the third objector, and (ii) the Parties then reached a new settlement for the sum of Thirty-Eight Million Dollars ($38,000,000.00) (the "Settlement Amount"). The Settlement Amount settles the Receiver's potential claims against Eckert Seamans, and the claims in the Putative Class Actions against Eckert Seamans. Class Counsel has requested, and the Receiver has agreed, that the Receiver shall disburse the Settlement Amount through the Receivership Estate on behalf of the Putative Class Actions as described herein and subject to the approval of the District Court in the SEC Action.

E. The Parties desire to settle all claims brought, those that could have been brought, and those that may be brought in the future against Eckert Seamans, or against any party that, if sued, could bring claims for indemnification, subrogation, contribution, or any other "pass through" type claim against Eckert Seamans, including, its current and former employees, shareholders, of counsel, agents, attorneys, insurers, officers, directors, members, managers, managing members, principals, associates, representatives, trustees, general and limited partners, partners, owners, affiliated professional corporations, as well as all other persons serving in a corporate capacity, and each of their respective administrators, heirs, trustees, beneficiaries, spouses, assigns, directors, officers, shareholders, owners, partners, affiliates, subsidiaries, predecessors, predecessors in interest, successors, and successors in interest (collectively, the "Eckert Seamans Released Parties"). Eckert Seamans enters into this Agreement and seeks assurance that, upon settlement of the claims brought in the Putative Class Actions and any potential claims by the Receiver and issuance of the Opt-out Bar Order (as defined and discussed herein), no further civil actions can or will be commenced or continued against the Eckert Seamans Released Parties with respect to the events and occurrences underlying the claims in the Putative Class Actions, or otherwise relating in any way to any of the Receivership Entities, the Receivership Estate, or which arise directly or indirectly from Eckert Seamans's activities, omissions, or services, or alleged activities, omissions, or services, in connection with the Receivership Entities or the Receivership Estate ("Eckert Seamans's Activities"). This bar on civil actions includes but is not limited to continued assertion of the Putative Class Actions; continued assertion of any other actions filed against Eckert Seamans and relating to the Receivership Estate, including *Parker, et al. v. Pauciulo, et al.*, No. 201200892 (Phila. Ct. Common Pleas), *Vagnozzi v. Pauciulo, et al.*, No. 210402115 (Phila. Ct. Common Pleas), *Kohler, et al. v. Pauciulo, et al.*, Case No. 210502334 (Phila. Ct. Common Pleas), *Legacy Advisory Grp., Inc., et al. v. Pauciulo, et al.*, No. 211001003 (Phila. Ct. Common Pleas); *Westhead, et al. v. Eckert Seamans, et. al.*, Case No. 240102114 (Phila. Ct. Common Pleas); *Alec Vagnozzi v. Pauciulo, et al*., Philadelphia County CCP, No.: 240303094; and *B and T Supplies, Inc., et al. v. AG Morgan Tax and Accounting LLC, et al.*, Case No. 1:23-cv-11241 (S.D.N.Y.); and/or the filing of any new action by the Receiver,

Putative Class Plaintiffs, or any Investor against Eckert Seamans relating to Eckert Seamans's Activities. The Opt-out Bar Order discussed herein does not apply to any actions brought by federal or state governmental bodies or agencies.

F. The Parties recognize and understand that any full settlement of their respective rights, claims and defenses is expressly and entirely contingent upon entry of the Opt-out[1] Bar Order attached hereto as Exhibit B, which shall have become Final as defined herein. As used in this Agreement, in reference to any court order, "Final" means a court approving and issuing an order after the conclusion or expiration of any right or time period of any person or party to seek any objection, appeal, rehearing, reversal, reconsideration or modification, in whole or in part, of the order. Without in any way limiting the foregoing, an order, including the Opt-out Bar Order, is not considered Final as used herein during the pendency of any appeal or rehearing of the order, or during the time that an appeal, rehearing, reversal, reconsideration, or modification of the order remains possible. The Opt-out Bar Order is a material term of this Agreement as are the releases set forth herein. Eckert Seamans would not enter into this Agreement absent the entry of the Opt-out Bar Order and the Opt-out Bar Order becoming Final.

G. As a result, the Parties have agreed to a full and final settlement of their rights, claims and defenses; provided, however, that condition precedents to the effectiveness of the settlement are: (i) the entry of an order by the District Court in the SEC Action in substantially the same form and substance as attached hereto as Exhibit "A" (the "Preliminary Approval Order"), which, *inter alia*, provides for preliminary approval of this Agreement, gives notice to all affected and interested parties, and delineates the form, manner and substance of notices to be provided in advance of final approval of this Agreement; (ii) the entry of a Final Approval and Opt-out Bar Order by the District Court in the SEC Action in substantially the same form and substance as attached hereto as Exhibit "B" (the "Opt-out Bar Order"), which, *inter alia*, provides for Final approval of this Agreement and bars commencement and continuation of any actions against the Eckert Seamans Released Parties as set forth herein; and (iii) that the Opt-out Bar Order becomes Final.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is **HEREBY AGREED** as follows:

1. RECITALS. The Parties represent, warrant and affirm that the above recitals are true and correct, except for such recitals based on the allegations asserted by one or more Parties. The recitals set forth above are an integral and material part of this Agreement and are incorporated herein by reference.

2. EFFECTIVENESS. On the date this Agreement is fully executed by the signatories hereto, meaning the date that the final signatory executes this Agreement (the "Execution Date"), this Agreement shall take effect, subject to: (i) approval and entry of the Preliminary Approval Order by the District Court in the SEC Action; (ii) approval and entry of the Opt-out Bar Order by the District Court in the SEC Action; and (iii) the Opt-out Bar Order becoming Final. Stated differently but without limiting the foregoing, and as further provided

[1] The Opt-out nature of the Bar Order is subject to Paragraph 4(d) below.

herein, in the event the Opt-out Bar Order is not issued, or the Opt-out Bar Order is issued and is subsequently vacated or reversed on appeal, in whole or in part, or modified in any manner such that it no longer bars the commencement or continuation of any and all civil actions against the Eckert Seamans Released Parties as more fully described in the Opt-out Bar Order attached hereto as Exhibit B and in Recitals E, F, and G, supra, then this Agreement shall be null, void, and of no further effect (except for the Sections of this Agreement that survive the termination of this Agreement); the Parties shall not be bound by the releases set forth in Section 5 of this Agreement; the Parties shall proceed to litigate their claims as if this Agreement had not been executed; and the Receiver shall return the Settlement Amount, if any has been paid.

3. SETTLEMENT.

a. **Settlement Payment.** Subject to the terms and conditions of this Agreement, seven (7) days after the Opt-out Bar Order becomes Final, Eckert Seamans shall make or cause to be made payment of the Settlement Amount in the manner provided for in Section 3(b), below. Payment of the Settlement Amount is the only payment required to be made or caused to be made by Eckert Seamans under this Agreement. The Receiver shall provide a properly completed IRS W-9 form to Eckert Seamans's counsel or its assignee before payment of the Settlement Amount. Class Counsel and/or the Receiver shall thereafter bear sole responsibility for collecting W-9 forms, as appropriate, and for issuing 1099 forms, as appropriate, for any payments made from the Settlement Amount.

b. **Payment Instructions.** Eckert Seamans shall make, or cause to be made, the payment set forth in Section 3(a), above, to an attorney trust account maintained by the Receiver by wire transfer pursuant to wire instructions to be provided by the Receiver.

c. **Disbursement and Use of Settlement Amount.** Subject to the approval of a distribution protocol by the District Court in the SEC Action, Class Counsel has requested, and the Receiver has agreed, that the Receiver shall disburse the amounts delineated below and described herein on their behalf as follows:

i. The Receiver shall establish an attorneys' fund of Six Million, Two Hundred and Fifty Thousand Dollars ($6,250,000) pursuant to Section 7 of this Agreement to compensate Class Counsel and co-counsel for their efforts in bringing the Putative Class Actions.

ii. Any third parties that have or may have claims against the Eckert Seamans Released Parties relating to or arising out of the Receivership Entities or the Receivership Estate, or which arise directly or indirectly from Eckert Seamans's Activities, may only pursue their claims by participating in the claims process in the Receivership Estate that will occur under the direction of the District Court in the SEC Action.

d. **Potential Reimbursement of Eckert Seamans's Insurers.** The Receiver agrees to reimburse Eckert Seaman's insurers fifteen percent (15%) of the remaining balance of the portfolio of merchant cash advance ("MCA") accounts of Complete Business Solutions Group, Inc. ("CBSG") d/b/a Par Funding (the "Portfolio Balance") as of June 7, 2023, in excess of $25,000,000 that may hereafter be collected or otherwise realized through sale, but not to exceed a total reimbursement of Fifteen Million Dollars ($15,000,000). The Receiver agrees to fulfill his

duties in good faith under the applicable Receivership Orders to collect the Portfolio Balance. Nothing herein shall provide Eckert Seamans the right to challenge the Receiver's exercise of independent business judgment, and nothing herein shall require the Receiver to continue to attempt to collect on the Portfolio Balance at such time when the Receiver determines, in his independent business judgment, that the Receivership Estate should be wound down or the Portfolio Balance or any portion thereof should be sold off to a potential purchaser, subject to the approval of the District Court in the SEC Action, any such funds to be applied to the calculation in the first sentence of this paragraph. The Receiver agrees to remit funds to Eckert Seamans's insurers on a quarterly basis as such funds may be collected. This Agreement is limited to the MCA accounts of CBSG and does not extend to any other assets of CBSG or of any other Receivership Entity.

4. SETTLEMENT APPROVAL; OPT-OUT BAR ORDER IS ESSENTIAL.

a. **Request for Approval.** No later than twenty-one (21) days after the Execution Date, the Receiver shall file a motion with the District Court in the SEC Action requesting approval of this Agreement and entry of the Preliminary Approval Order and Opt-out Bar Order (the "Settlement Motion"). The Receiver shall share a copy of the Settlement Motion with Eckert Seamans at least five (5) days before filing the Settlement Motion. The Settlement Motion shall seek, among other things required by this Agreement, a court-imposed deadline by which objections to this Agreement and the Opt-out Bar Order must be filed with the District Court in the SEC Action or else they will be deemed to be waived. The Settlement Motion shall also seek a deadline by which Investors or other affected parties may opt-out of the settlement and the Opt-out Bar Order or else they will be deemed to be participants in the settlement and be barred by the Bar Order.

b. **Contents of Settlement Motion.** The Receiver shall request in the Settlement Motion: (i) entry of the Preliminary Approval Order substantially in form and substance as Exhibit A to this Agreement; (ii) entry of the Opt-out Bar Order substantially in form and substance as Exhibit B to this Agreement; and (iii) approval of the form and content of the notice attached as Exhibit "C," (the "Notice") and the manner and method of publication of such Notice.

c. **Service and Publication of Notice.** In accordance with the Preliminary Approval Order, the Receiver shall use best efforts to provide good and sufficient notice of this Agreement, the Settlement Motion, and the deadline to object to approval of this Agreement and the Opt-out Bar Order to all Investors and otherwise affected parties. Thirty (30) days after the Opt-out Bar Order has become Final, the Receiver shall be reimbursed from the Settlement Amount for the costs of providing such notice.

d. **The Opt-out Bar Order is Essential.** As stated above, the settlement memorialized in this Agreement is expressly contingent on the issuance of the Opt-out Bar Order attached hereto as Exhibit B. To that end, Eckert Seamans shall have the sole right to withdraw from the Settlement in the event that parties that Opt-out exceed a certain agreed-upon threshold (the "Opt-out Threshold"). Simultaneously herewith, counsel for the Parties are executing a confidential Supplemental Agreement Regarding Opt-out Threshold (the "Supplemental Agreement"). The Supplemental Agreement sets forth certain conditions under which Eckert Seamans shall have the option in its sole discretion to withdraw from the Settlement and render

this Agreement (as well as any ancillary contingent settlement agreements with any objectors) null and void in the event that the Opt-out Threshold is reached. In the event Eckert Seamans exercises this right, the Parties will promptly provide notice to the Court in advance of the final approval hearing of this Settlement Agreement.

5. RELEASES.

a. **Release of Eckert Seamans:** Upon payment of the Settlement Amount, and without the need for the execution and delivery of additional documentation or the entry of any additional orders of the District Court in the SEC Action, the Putative Class Plaintiffs and their counsel, and any person or entity claiming by or through them, along with the Receiver,[2] on behalf of the Receivership Entities and the Receivership Estate, or any of them, or anyone claiming through them, including but not limited to the Investors and anyone claiming by or through them, shall irrevocably and unconditionally, fully, finally and forever waive, release, acquit and discharge the Eckert Seamans Released Parties, and all of their counsel, from any and all claims, actions, causes of action, liabilities, obligations, rights, suits, accounts, covenants, contracts, agreements, promises, damages, judgments, claims, debts, encumbrances, liens, remedies, attorneys' fees, costs of court, interest and demands, of any and every kind, character or nature whatsoever (including unknown claims), whether liquidated or unliquidated, asserted or unasserted, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, now existing or hereafter arising, in law, at equity or otherwise, which the Putative Class Plaintiffs, the Receiver, the Receivership Entities, and the Receivership Estate, or any of them, or anyone claiming through them, on their behalf or for their benefit, may have or claim to have, now or in the future, against the Eckert Seamans Released Parties that are based upon, relate to, or arise out of, in connection with, or pertain to the Putative Class Actions, including the parties, allegations, and issues in said actions, any of the Receivership Entities or the Receivership Estate, or which arise directly or indirectly from Eckert Seamans's Activities to the broadest extent permitted by law. Notwithstanding anything contained in this Section 5(a) or elsewhere contained in this Agreement to the contrary, the foregoing is not intended to release, nor shall it have the effect of releasing, Eckert Seamans from the performance of its obligations in accordance with this Agreement. Notwithstanding anything contained in this Section 5(a) or elsewhere contained in this Agreement to the contrary, the foregoing is not intended to release, nor shall it have the effect of releasing, any other party or financial institution in any manner whatsoever; for the avoidance of doubt and not by way of limitation, the Putative Class Plaintiffs and the Receiver expressly preserve all claims and causes of action they may have against any other person, entity, or financial institution, including but not limited to the other defendants in the Putative Class Actions and other defendants that the Receiver and/or the Putative Class Plaintiffs have sued. Finally, notwithstanding anything contained in this Section 5(a) or elsewhere contained in this Agreement to the contrary, the foregoing is not intended to release, nor shall it have the effect of releasing,

[2] For purposes of this release, the term "Receiver" shall include without limitation all present and former officers, directors, owners, partners, limited partners, general partners, affiliated professional corporations, managers, members, managing members, principals, associates, shareholders, employees, representatives, trustees, of counsel, agents, attorneys, and all other persons serving in a corporate capacity of all of the Receivership Entities, and each of their respective administrators, heirs, trustees, beneficiaries, spouses, assigns, directors, officers, shareholders, owners, partners, affiliates, subsidiaries, predecessors, predecessors in interest, successors, and successors in interest.

claims of any federal or state governmental bodies or agencies, including but not limited to the claims brought by and belonging to the SEC in the SEC Action.

b. **Release of Putative Class Plaintiffs:** Upon the payment of the Settlement Amount, and without the need for the execution and delivery of additional documentation or the entry of any additional orders of the District Court in the SEC Action, except as expressly provided in this Agreement, the Eckert Seamans Released Parties shall irrevocably and unconditionally, fully, finally and forever waive, release, acquit and discharge each and every one of the Putative Class Plaintiffs and their counsel, and any person or entity claiming by or through them (collectively, the "Class Released Parties"), from any and all claims, actions, causes of action, liabilities, obligations, rights, suits, accounts, covenants, contracts, agreements, promises, damages, judgments, claims, debts, encumbrances, liens, remedies, attorneys' fees, costs of court, interest and demands, of any and every kind, character or nature whatsoever (including unknown claims), whether liquidated or unliquidated, asserted or unasserted, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, now existing or hereafter arising, in law, at equity or otherwise, which the Eckert Seamans Released Parties, and their affiliates, subsidiaries, and assigns, or any of them, or anyone claiming through them, on their behalf or for their benefit may have or claim to have, now or in the future, against the Class Released Parties that are based upon, relate to, or arise out of, in connection with, or pertain to the Putative Class Actions, including the parties, allegations, and issues in said actions, or which arise directly or indirectly from activities regarding the Receivership Entities to the broadest extent permitted by law. Notwithstanding anything contained in this Section 5(b) or elsewhere contained in this Agreement to the contrary, the foregoing is not intended to release, nor shall it have the effect of releasing, the Class Released Parties from the performance of their obligations in accordance with this Agreement. In addition, notwithstanding anything contained in this Section 5(b) or elsewhere contained in this Agreement to the contrary, the foregoing is not intended to release, nor shall it have the effect of releasing, any person other than the Class Released Parties in any manner whatsoever; for the avoidance of doubt and not by way of limitation, the Eckert Seamans Released Parties expressly preserve all claims and causes of action they may have against any other person or entity.

c. **Release of Receiver:** Upon the payment of the Settlement Amount, and without the need for the execution and delivery of additional documentation or the entry of any additional orders of the District Court in the SEC Action, except as expressly provided in this Agreement, the Eckert Seamans Released Parties and the Class Released Parties shall irrevocably and unconditionally, fully, finally and forever waive, release, acquit and discharge the Receiver and the Receivership Entities, along with his agents and counsel (collectively, the "Receiver Released Parties"), from any and all claims, actions, causes of action, liabilities, obligations, rights, suits, accounts, covenants, contracts, agreements, promises, damages, judgments, claims, debts, encumbrances, liens, remedies, attorneys' fees, costs of court, interest and demands, of any and every kind, character or nature whatsoever (including unknown claims), whether liquidated or unliquidated, asserted or unasserted, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, now existing or hereafter arising, in law, at equity or otherwise, which the Eckert Seamans Released Parties and the Class Released Parties, along with their affiliates, subsidiaries, and assigns, or any of them, or anyone claiming through them, on their behalf or for their benefit may have or claim to have, now or in the future, against the Receiver Released Parties that are based upon, relate to, or arise out of, in connection with or pertain to the

Putative Class Actions, including the parties, allegations, and issues in said actions, or which arise directly or indirectly from activities regarding the Receivership Entities, to the broadest extent permitted by law. Notwithstanding anything contained in this Section 5(c) or elsewhere contained in this Agreement to the contrary, the foregoing is not intended to release, nor shall it have the effect of releasing, the Receiver Released Parties from the performance of their obligations in accordance with this Agreement. In addition, notwithstanding anything contained in this Section 5(c) or elsewhere contained in this Agreement to the contrary, the foregoing is not intended to operate as a release by the Putative Class Plaintiffs of the Receiver Released Parties with respect to other distributions to be made by the Receiver in the SEC Action, subject to approval by the District Court in the SEC Action. Finally, notwithstanding anything contained in this Section 5(c) or elsewhere contained in this Agreement to the contrary, the foregoing is not intended to release, nor shall it have the effect of releasing, any person other than the Receiver Released Parties in any manner whatsoever; for the avoidance of doubt and not by way of limitation, the Class Released Parties and the Eckert Seamans Released Parties expressly preserve all claims and causes of action they may have against any other person or entity.

d. **Injunctive Relief.** Except as otherwise expressly set forth in this Agreement, the Parties, and any persons, entities or individuals they control, as well as any person or entity acting on behalf of any of the foregoing pursuant to and memorialized in a writing, shall not sue or otherwise bring any suit or claim in any court, arbitration or other tribunal against each other for any of the claims released by the Parties to this Agreement. Any Party who violates Section 5 agrees that the non-violating Party is entitled to injunctive relief against the violating Party and, if they prevail, reasonable attorneys' fees and expenses as a result thereof.

6. STAY AND DISMISSAL OF ACTIONS

a. **Stay of Putative Class Actions and Other Actions.** The Settlement Motion described in Section 4(a) above shall also seek to continue the stay for actions against Eckert Seamans.

b. **Dismissal of Putative Class Actions.** Ten (10) days after Eckert Seamans's payment of the Settlement Amount in accordance with Section 3, above, the Putative Class Plaintiffs and Eckert Seamans shall file a Stipulation of Dismissal in each of the Putative Class Actions, which dismisses all claims against Eckert Seamans with prejudice, and waives any right(s) of appeal, with each party bearing their own attorneys' fees and costs.

7. DISTRIBUTION OF ATTORNEYS' FUND

a. The Receiver and Class Counsel have agreed that a portion of the Settlement Amount shall be used to compensate Class Counsel (and any other co-counsel) for bringing the Putative Class Actions (the "Attorneys' Fund"). The Attorneys' Fund shall be Six Million and Two Hundred and Fifty Thousand Dollars ($6,250,000). The Attorneys' Fund represents the entire amount of the attorneys' fee for bringing the Putative Class Actions as to Eckert Seamans and achieving the settlement memorialized in this Agreement.

b. Subject to the terms of this Section 7(b), the Receiver supports, and Eckert Seamans agrees not to oppose or otherwise object to, the application by Class Counsel in the SEC

Action for an award of attorneys' fees (and reimbursement of expenses) in the amount of the Attorneys' Fund, payable solely from the Settlement Amount. The Attorneys' Fund shall be distributed by the Receiver in accordance with the following provisions:

i. Within thirty (30) days after entry of the Preliminary Approval Order, Class Counsel shall advise the Receiver, in writing, that they have agreed on an allocation of the Attorneys' Fund. If approved by the District Court in the SEC Action, the Receiver shall disburse the Attorneys' Fund in accordance with this Section 7, and that allocation.

ii. The Receiver can only disburse the Attorneys' Fund to Class Counsel upon satisfaction of the following: (1) after the Bar Order has become Final; (2) Eckert Seamans has made or caused to be made payment of the Settlement Amount, and (3) Eckert Seamans has been dismissed, with prejudice, from the Putative Class Actions.

iii. No counsel for the Putative Class Plaintiffs shall be entitled to further compensation from the Receivership Estate or Eckert Seamans. The Attorneys' Fund shall be the sole source of compensation for all counsel for the Putative Class Plaintiffs; they shall not be entitled to further funds from the Receivership Estate or Eckert Seamans.

iv. The resolution of the distribution of the Attorneys' Fund shall have no impact on the other terms of this Agreement. All other terms of this Agreement shall remain in full force and effect irrespective of any issues regarding the allocation or distribution of the Attorneys' Fund and irrespective of any decision by the District Court in the SEC Action regarding the allocation or disbursement of the Attorneys' Fund.

8. REVERSAL, VACATION OR MODIFICATION

a. Eckert Seamans's willingness to enter into this Agreement is expressly and entirely contingent upon the Opt-out Bar Order becoming Final. In the event that the Opt-out Bar Order is not entered in substantially the form submitted by the Parties, vacated or reversed on appeal, in whole or in part, or modified in any manner such that it no longer bars the commencement or continuation of any and all civil actions against the Eckert Seamans Released Parties as more fully described in the Opt-out Bar Order attached hereto and herein, then:

i. The Receiver shall return the Settlement Amount to Eckert Seamans, if any has been paid.

ii. The Parties are not bound by the releases set forth in Section 5 of this Agreement.

iii. The Parties shall proceed to litigate their claims as if this Agreement had not been executed (except the Putative Class Actions will remain subject to orders issued before this Agreement was executed by the courts in the Putative Class Actions).

b. Any and all applicable periods of limitations, as well as any and all applicable time-related defenses (including, without limitation, any and all time-related defenses based upon waiver, laches or estoppel), are hereby tolled as to any claim, counterclaim, crossclaim, and/or defense that the Parties could assert against any other Party. The tolling period shall commence

as of the Execution Date of this Agreement and shall continue until forty five (45) days after the District Court in the SEC Action refuses to issue the Opt-out Bar Order, or the Opt-out Bar Order, after having been issued by the District Court in the SEC Action, is vacated or reversed on appeal, in whole or in part, or modified in any manner such that it no longer bars the commencement or continuation of any and all civil actions against the Eckert Seamans Released Parties as more fully described in the Opt-out Bar Order attached hereto and herein (the "End Date"). This Section is intended to preserve the status quo as to any and all statutes of limitations regarding all of the Parties' claims and defenses from the Execution Date until the End Date.

9. REPRESENTATIONS AND WARRANTIES

a. **Representation and Warranties of Eckert Seamans.** Eckert Seamans represents and warrants that as of the Execution Date: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization with all requisite power and authority to carry on the business in which it is engaged, to own the properties it owns, to execute this Agreement and to consummate the transactions contemplated hereby; (b) it has full requisite power and authority to execute and deliver and to perform its obligations under this Agreement, and the execution, delivery and performance hereof, and the instruments and documents required to be executed by it in connection herewith (i) have been duly and validly authorized by it, and (ii) are not in contravention of its organizational documents or any material agreements specifically applicable to it; (c) no proceeding, litigation or adversary proceeding before any court, arbitrator or administrative or governmental body is pending against it which would materially and adversely affect its ability to enter into this Agreement or to perform its obligations hereunder; (d) it will pursue the approval of this Agreement, including entry of the Preliminary Approval Order and the Bar Order, in good faith and using its best efforts; (e) it will perform the obligations created by this Agreement and cooperate with the Receiver and the Putative Class Plaintiffs in good faith regarding this Agreement; and (f) it has not assigned any of the claims released herein.

b. **Representation and Warranties of the Receiver.** The Receiver hereby represents and warrants that as of the Execution Date: (a) subject to the entry of the Preliminary Approval Order and Opt-out Bar Order, he has the power and authority to bind the Receivership Entities and the Receivership Estate to the terms of this Agreement or otherwise has been duly authorized to execute and deliver this Agreement on their behalf; (b) the Receiver will pursue the approval of this Agreement, including entry of the Preliminary Approval Order and the Opt-out Bar Order, in good faith and using his best efforts; (c) he will perform the obligations created by this Agreement and cooperate with Eckert Seamans and the Putative Class Plaintiffs in good faith regarding this Agreement; (d) he has not assigned any of the claims being released herein; (e) no proceeding, litigation or adversary proceeding before any court, arbitrator or administrative or governmental body is pending against the Receiver or the Receivership Estate which would materially and adversely affect the Receiver's ability to enter into this Agreement or to perform his obligations hereunder.

c. **Representation and Warranties of the Putative Class Plaintiffs.** The Putative Class Plaintiffs hereby represent and warrant that as of the Execution Date: (a) they are authorized to enter into this Agreement; (b) they will pursue the approval of this Agreement, including entry of the Preliminary Approval Order and the Opt-out Bar Order, in good faith and

using their best efforts; (c) they will perform the obligations created by this Agreement and cooperate with the Receiver and Eckert Seamans in good faith regarding this Agreement; (d) they have not assigned any of the claims released herein.

d. **No Assignment.** For avoidance of doubt, the Parties represent and warrant that, as of the Execution Date, there has been no assignment of any claims that are being released, or are purporting to be released, by the Parties to this Agreement, such that the Parties are able to give the releases provided for herein to the broadest extent permitted by law.

10. COVENANTS

a. **Covenants of Eckert Seamans.** Eckert Seamans hereby covenants and agrees that it shall provide all cooperation reasonably necessary to obtain (and shall take no unreasonable action to impede or preclude) the entry of the Preliminary Approval Order and the Opt-out Bar Order, and the implementation of this Agreement, subject to Paragraph 4(d) above.

b. **Covenants of the Receiver.**

i. The Receiver, for himself and, as applicable, on behalf of the Receivership Entities and the Receivership Estate, hereby covenants and agrees that he shall take, and shall cause the Receivership Entities and the Receivership Estate to take, all actions reasonably necessary to obtain (and shall take no action to impede or preclude) the entry of the Preliminary Approval Order and the Opt-out Bar Order, and the implementation of this Agreement.

ii. The Receiver, for himself and on behalf of the Receivership Entities and the Receivership Estate, hereby covenants and agrees that he shall take, and shall cause the Receivership Entities and the Receivership Estate to take, all actions reasonably necessary to enforce and carry out the Preliminary Approval Order, the Opt-out Bar Order, and this Agreement, including all reasonable requests by Eckert Seamans to enforce the Preliminary Approval Order, the Opt-out Bar Order, and this Agreement. For the avoidance of doubt, it shall be the Receiver and his professionals who will seek enforcement of the Opt-out Bar Order in the event any person or entity brings or seeks to bring a claim against any of the Eckert Seamans Released Parties that may be prohibited by, or in violation of, the Opt-out Bar Order. The Receiver's obligation, as described in this Section 10(b)(ii), to seek enforcement of the Opt-out Bar Order, shall continue for the duration of his appointment as the receiver for the Receivership Estate.

c. **Covenants of the Putative Class Plaintiffs.** The Putative Class Plaintiffs hereby covenant and agree that they shall not object to and shall take all actions reasonably necessary to obtain (and shall take no action to impede or preclude) the entry of the Preliminary Approval Order and the Opt-out Bar Order, and the implementation of this Agreement. The Putative Class Plaintiffs hereby covenant and agree that they shall take all actions reasonably necessary, as requested by the Receiver or Eckert Seamans, to enforce and carry out the Preliminary Approval Order, the Opt-out Bar Order, and this Agreement, including cooperating in any efforts by Eckert Seamans and the Receiver to enforce the Preliminary Approval Order, the Opt-out Bar Order, and this Agreement.

11. MISCELLANEOUS

a. **Amendments.** This Agreement may not be modified, amended or supplemented except by a written agreement executed by the Parties and approved by the District Court in the SEC Action.

b. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, successors, and assigns, including without limitation upon any successor receiver in the SEC Action, or any trustee, custodian, or other estate representative appointed in a case under title 11 of the United States Code.

c. **No Admission of Liability.** The execution of this Agreement is not intended to be, nor shall it be construed as, an admission or evidence in any pending or subsequent suit, action, proceeding or dispute of any liability, wrongdoing, or obligation whatsoever (including as to the merits of any claim or defense) by any Party to any other Party or any other person with respect to any of the matters addressed in this Agreement. None of this Agreement, the settlement, or any act performed or document executed pursuant to or in furtherance of this Agreement or the settlement: (i) is or may be deemed to be or may be used as an admission or evidence of the validity of any claim, or any allegation made against Eckert Seamans; (ii) is or may be deemed to be or may be used as an admission or evidence of any liability, fault or omission of Eckert Seamans in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal; or (iii) is or may be deemed to be or used as admission or evidence of or have any evidentiary, res judicata, or collateral estoppel effect on the Putative Class Plaintiffs' or the Receiver's ability to assert claims, as applicable, against any party other than the Eckert Seamans Released Parties. None of this Agreement, the settlement, or any act performed or document executed pursuant to or in furtherance of this Agreement or the settlement shall be admissible in any proceeding for any purposes, except in the SEC Action and solely for the purposes of determining whether to approve this Agreement or to enforce rights under this Agreement, and except that the Receiver and the Eckert Seamans Released Parties may file this Agreement in any action to enforce this Agreement, to enforce the Opt-out Bar Order, or to support a defense or counterclaim based on the principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion, or similar defense or counterclaim. For the avoidance of doubt, Eckert Seamans expressly denies that it is liable to any Party.

d. **Good Faith Negotiations.** The Parties further recognize and acknowledge that each of the Parties hereto is represented by independent counsel of that Party's own choosing, and such Party received independent legal advice with respect to the dispute giving rise to this Agreement and the advisability of entering into this Agreement. Each of the Parties acknowledges that the negotiations leading up to this Agreement were conducted regularly, at arm's length, and in good faith; this Agreement is made and executed by and of each Party's own free will based on its own investigation and evaluation of the matters in dispute and after consultation with independent counsel of its own choosing; that each Party knows all of the relevant facts and his or its rights in connection therewith; and that he or it has not been improperly influenced or induced to make this settlement as a result of any act or action on the part of any party or employee, agent, attorney or representative of any Party to this Agreement. Each Party further acknowledges and

agrees that it is not entering into this Agreement in reliance upon any statement or representation made by any other Party, or the lack of any statement or representation made by any other Party, except for the statements or representations that are expressly made in this Agreement. The Parties further acknowledge that they entered into this Agreement because of their desire to avoid the further expense and inconvenience of the Putative Class Actions, the uncertainties and risks associated with continued litigation, and to compromise permanently and settle the claims and potential claims between the Parties that are settled by this Agreement.

e. **Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon, or to give to, any person other than the signatories hereto and the "Released Parties" defined in Section 5 any right, remedy or claim under or by reason of this Agreement or any covenant, condition or stipulation thereof, and the covenants, stipulations and agreements contained in this Agreement are and shall be for the sole and exclusive benefit of the signatories hereto, the "Released Parties" defined in Section 5, and their respective successors and assigns. For the avoidance of doubt, only the signatories hereto, the "Released Parties" defined or referenced in Section 5, and their respective successors and assigns may seek to enforce this Agreement.

f. **Governing Law; Retention of Jurisdiction; Service of Process.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without giving effect to any principles of conflicts of law. The prior sentence does not preclude reliance on other law as necessary in the Putative Class Actions to obtain dismissal of those actions in the courts in which they are pending. By its execution and delivery of this Agreement, and solely in connection with this Agreement, each of the Parties hereby irrevocably and unconditionally agrees that any legal action, suit or proceeding between the Parties with respect to any matter under or arising out of or in connection with this Agreement shall be brought in the District Court for the Southern District of Florida, Miami Division, before the District Court Judge presiding over the SEC Action, except that such action may be brought in any other court of competent jurisdiction if the District Court for the Southern District of Florida declines or lacks jurisdiction, and by execution and delivery of this Agreement, each Party hereby irrevocably accepts and submits itself to the jurisdiction of such court, generally and unconditionally, with respect to any such action, suit or proceeding. In the event any such action, suit or proceeding is commenced, the Parties hereby agree and consent that service of process may be made, and personal jurisdiction over any Party in any such action, suit or proceeding, may be obtained, by service of a copy of the summons, complaint and other pleadings required to commence such action, suit or proceeding upon the Party at the address set forth in Section 11(j) below.

g. **Entire Agreement.** Except as expressly provided herein, this Agreement constitutes the full and entire agreement among the Parties with regard to the subject hereof, and supersedes all prior negotiations, representations, promises or warranties (oral or otherwise) made by any Party with respect to the subject matter hereof. No Party has entered into this Agreement in reliance on any other Party's prior representation, promise or warranty (oral or otherwise), except for those that may be expressly set forth in this Agreement.

h. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original copy of this Agreement and all of which, when taken together, shall constitute one and the same Agreement. Copies of executed counterparts

transmitted by telecopy or other electronic transmission service shall be considered original executed counterparts, provided receipt of copies of such counterparts is confirmed.

i. **Not Severable.** If any portion of this Agreement is held to be prohibited, invalid, or unenforceable, then – other than the exceptions identified in the second sentence of this Section 11(i) – the Agreement as a whole shall be deemed invalid and unenforceable and shall not be binding on the Parties. The only exceptions to this Section 11(i) are: the tolling agreements contained in Section 8(b) of this Agreement, which shall survive the termination of this Agreement; and the provisions of Section 11(c) of this Agreement, which shall survive the termination of this Agreement.

j. **Notices.** Any notice required or permitted to be provided under this Agreement shall be in writing and served by electronic mail and either (a) certified mail, return receipt requested, postage prepaid, (b) hand delivery, or (c) reputable overnight delivery service, freight prepaid, to be addressed as follows:

If to the Receiver, to:

Ryan Stumphauzer
Stumphauzer Kolaya Nadler & Sloman PLLC
One Biscayne Tower
2 S. Biscayne Boulevard
Suite 1600
Tel: (305) 614-1400
Fax: (305) 614-1425
Email: rstumphauzer@sfslaw.com

with a copy to:
Timothy A. Kolaya
Stumphauzer Kolaya Nadler & Sloman PLLC
One Biscayne Tower
2 S. Biscayne Boulevard
Suite 1600
Tel: (305) 614-1400
Fax: (305) 614-1425
Email: tkolaya@sknlaw.com

Gaetan J. Alfano, Esquire
Pietragallo Gordon Alfano Bosick & Raspanti, LLP
1818 Market Street, Suite 3402
Philadelphia, PA 19103
Tel: (215) 988-1441
Fax: (215) 981-0082
Email: gja@pietragallo.com

If to the Putative Class Plaintiffs, to:

Levine Kellogg Lehman Schneider + Grossman LLP
Jeffrey C. Schneider
Jason K. Kellogg
Victoria J. Wilson
Miami Tower
100 SE 2nd Street, 36th Floor
Miami, FL 33131
Tel.: (305) 403-8788
Fax: (305) 403-8789
Email: jcs@lklsg.com
Email: jk@lklsg.com
Email: vjw@lklsg.com

Steven A. Schwartz
Chimicles Schwartz Kriner & Donaldson-Smith LLP
361 West Lancaster Avenue
Haverford, PA 19041
Tel.: (610) 642-8500
Fax: (610) 649-3633
Email: sas@chimicles.com

Marc H. Edelson
Eric Lechtzin
Edelson Lechtzin LLP
411 S. State Street
Suite N-300
Newtown, PA 18940
Tel.: (215) 867-2399
Fax: (267) 685-0676
Email: medelson@edelson-law.com
Email: elechtzin@edelson-law.com

Scott Lance Silver
Silver Law Group
11780 W. Sample Road
Coral Springs, FL 33065
Tel: (954) 755-4799
Fax: (954) 755-4684
Email: ssilver@silverlaw.com

If to Eckert Seamans, to:

Melanie Emmons Damian
Damian & Valori LLP
1000 Brickell Avenue
Suite 1020
Miami, FL 33131
Tel.: (305) 371-3960
Fax: (305) 371-3965
Email: mdamian@dvllp.com

Jay A. Dubow
Erica H. Dressler
Troutman Pepper
3000 Two Logan Square
Eighteenth and Arch Streets
Philadelphia, PA 19103-27799
Tel.: (215) 981-4691
Email: jay.dubow@troutman.com
Email: erica.dressler@troutman.com

Catherine M. Recker
Richard D. Walk, III
Welsh & Recker
306 Walnut Street
Philadelphia, PA 19106
Tel.: (215) 972-6430
Email: cmrecker@welshrecker.com
Email: rwalk@welshrecker.com

k. **Further Assurances.** Each of the Parties agrees to execute and deliver, or to cause to be executed and delivered, all such instruments, and to take all such action as the other Parties may reasonably request, in order to effectuate the intent and purposes of, and to carry out the terms of, this Agreement.

l. **Tax Treatment and Obligations.** Any Party receiving funds under this Agreement is responsible for its or his/her own tax payments, filings and obligations relating to the receipt of such funds and takes sole and complete responsibility for any tax characterization of such funds or any tax obligations relating to the receipt of such funds.

m. **Voluntary, Knowing and Complete Agreement.**

i. Each Party executing this Agreement acknowledges and represents that such Party has read this Agreement carefully and in its entirety; that this Agreement and the exhibits referenced herein, including but not limited to the Opt-out Bar Order, express all of the understandings and agreements between and among the Parties concerning the subject of this

Agreement; and that each Party has executed this Agreement freely and voluntarily, and without duress or other undue influence, after consulting with his, her, or its independent legal counsel.

ii. Each Party hereto acknowledges that it may hereafter discover facts different from or in addition to those now known or believed to be true with respect to the causes of action, claims, liabilities, demands, obligations, or damages of any nature whatsoever that are the subject of the releases set forth above, and each Party expressly agrees to assume the risk of the possible discovery of additional or different facts, and agrees that this Agreement shall be and shall remain effective in all respects regardless of the later discovery of such additional or different facts.

n. **Execution.** By executing this Agreement, all of the undersigned persons represent to each of the other Parties to this Agreement that they are legally and mentally competent, fully advised as to the meaning of this Agreement, including through consultation with counsel of their own choosing, that they are fully authorized to execute this Agreement on behalf of themselves individually or their respective Parties, and that upon the execution by the undersigned, the Parties will be bound by the terms of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the latest date set forth below.

Eckert Seamans Cherin & Mellott, LLC

_____ _____

By: _____ **Dated**

_____ _____

John Pauciulo **Dated**

_____ _____

Ryan Stumphauzer, not individually, but solely in his capacity as Receiver for the Receivership Entities **Dated**

Dennis Melchior **Dated**

Linda Letier **Dated**

Teresa Kirk-Junod **Dated**

Robert Hawrylak **Dated**

Joseph F. Brock Jr. **Dated**

Raymond G. Heffner **Dated**

John Madden **Dated**

Thomas D. Green **Dated**

Maureen A. Green **Dated**

Dominick Bellizzie **Dated**

Janet Kaminski **Dated**

Cynthia Butler **Dated**

William Butler **Dated**

Edward Woods **Dated**

Glen W. Cole, Jr. **Dated**

John Butler **Dated**

Robert Betz **Dated**

Michael D. Groff **Dated**

Shawn P. Carlin **Dated**

Marcy H. Kershner **Dated**

John W. Harvey **Dated**

Laurie H. Sutherland **Dated**

William M. Sutherland **Dated**

Bruce Chasan **Dated**

Randal Boyer, Jr. as POA for Chantal Boyer **Dated**

Roy Mills **Dated**

Jace A. Weaver **Dated**

George S. Roadknight **Dated**

Robert Delrocco **Dated**

Leonard Goldstein **Dated**

David Jakeman **Dated**

Neil Benjamin **Dated**

Mark Newkirk **Dated**

Michael Swan **Dated**

Barbara Barr **Dated**

Michael Barr **Dated**

Joseph Camaioni **Dated**

Jordan Lepow **Dated**

Marilyn Swartz **Dated**

Joan L. Yori **Dated**

Mark A. Tarone **Dated**

Raymond D. Fergione **Dated**

Raymond Bruce Boehm **Dated**

Robin Lynn Boehm **Dated**

Patricia Crossin-Chawaga **Dated**

Charles P. Moore **Dated**

James E. Hilton **Dated**

Douglas C. Kunkel **Dated**

Bonnie Lee Beeman **Dated**

Ernest S. Lavorini **Dated**

Elizabeth Ann Doyle **Dated**

Joseph Greenberg **Dated**

Paul J. Davis **Dated**

William P. Betz, Jr. **Dated**

Donald Dempsey **Dated**

Robert Montgomery **Dated**

Lynne Lapidus **Dated**

Henry Barth **Dated**

Laurie Haire **Dated**

Glenn Friedman **Dated**

Rosalye Friedman **Dated**

Betti Jane Cuomo **Dated**

Anthony Cuomo **Dated**

Mark Heron **Dated**

Raymond Jannelli **Dated**

Joseph Caputo **Dated**

Joan Caputo **Dated**

Schedule A

(List of Receivership Entities)

The "Receivership Entities" are Complete Business Solutions Group, Inc. d/b/a 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; ABFP Income Fund 6 Parallel; ABFP Multi-Strategy Investment Fund LP; ABFP Multi-Strategy Investment 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 Consultants, 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; Liberty Eighth Avenue LLC; The LME 2017 Family Trust; Blue Valley Holdings, LLC; LWP North LLC; 500 Fairmount Avenue, LLC; Recruiting and Marketing Resources, Inc.; Contract Financing Solutions, Inc.; Stone Harbor Processing LLC; LM Property Management LLC; and ALB Management, Inc., and the Receivership also includes the property located at 107 Quayside Drive, Jupiter, Florida 33477.

INDEX TO EXHIBITS A-C

Exhibit	Identity	Settlement Agreement Para.
A	Preliminary Approval Order	4(b)
B	Final Approval and Bar Order	4(b)
C	Notice	4(b)

Exhibit “A”

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.

_____/

ORDER (I) PRELIMINARILY APPROVING SETTLEMENT AMONG RECEIVER, PUTATIVE CLASS PLAINTIFFS, AND ECKERT SEAMANS; (II) APPROVING FORM AND CONTENT OF NOTICE, AND MANNER AND METHOD OF SERVICE AND PUBLICATION; (III) SETTING DEADLINE TO OBJECT TO APPROVAL OF SETTLEMENT AND ENTRY OF OPT-OUT BAR ORDER OR REQUEST EXCLUSION FROM SETTLEMENT; AND (IV) SCHEDULING A HEARING

THIS MATTER came before the Court upon the Motion for (i) Approval of Settlement among Receiver, Putative Class Plaintiffs, and Eckert Seamans Cherin & Mellott, LLC and John Pauciulo, Esq. (Eckert Seamans Cherin & Mellott, LLC and John Pauciulo, Esq. are collectively referred to as "**Eckert Seamans**"); (ii) Approval of Form, Content, and Manner of Notice of Settlement and Opt-out Bar Order; (iii) Setting Deadline to Object to Approval of the Settlement and Entry of Opt-out Bar Order or Request Exclusion from Settlement; and (iv) Scheduling a Hearing; with Incorporated Memorandum of Law [ECF No. ___] (the "**Motion**") filed by Ryan Stumphauzer, as the Court-appointed receiver (the "**Receiver**") of the entities set forth on Exhibit A to this Order (the "**Receivership Entities**") in the above-captioned civil enforcement action (the "**SEC Action**"). The Motion concerns the Receiver's request for approval of a proposed

settlement among: a group of investors that filed class actions (defined below as the "**Putative Class Plaintiffs**"); the Receiver; and Eckert Seamans, which is memorialized in the settlement agreement attached to the Motion as Exhibit 1 (the "**Settlement Agreement**").

As used in this Order, the "**Parties**" means the Putative Class Plaintiffs; the Receiver; and Eckert Seamans. Terms used but not defined in this Order have the meaning ascribed to them in the Settlement Agreement. To the extent there is any discrepancy between a defined term in the Settlement Agreement and the same defined term herein, the definition in the Settlement Agreement shall control.

By way of the Motion, the Receiver seeks an order preliminarily approving the Settlement Agreement and establishing procedures to provide notice of the settlement, opt-out procedures, and an opportunity to object, setting a deadline to object, and scheduling a hearing. After reviewing the terms of the Settlement Agreement, reviewing the Motion and its exhibits, and considering the arguments and proffers set forth in the Motion, the Court preliminarily approves the Settlement Agreement and hereby establishes procedures for final approval of the Settlement Agreement and entry of the Final Approval and Opt-out Bar Order attached as Exhibit B to the Settlement Agreement (the "**Opt-out Bar Order**") as follows:

1. **Preliminary Approval.** Based upon the Court's review of the Settlement Agreement, the Motion and its attachments, and upon the arguments and proffers set forth in the Motion, the Court preliminarily finds that the settlement is fair, adequate and reasonable, is a prudent exercise of the business judgment by the Receiver, the Putative Class Plaintiffs and Eckert Seamans, and is the product of good faith, arm's length and non-collusive negotiations between the Putative Class Plaintiffs, Eckert Seamans, and the Receiver. The Court, however, reserves a final ruling with respect to the terms of the Settlement

Agreement, including the Opt-out Bar Order, until after the Final Approval Hearing (defined below) occurs, or is cancelled pursuant to Section 7, infra.

2. **Notice.** The Court approves the form and content of the notice attached as Exhibit C to the Settlement Agreement (the "**Notice**"). Service or publication of the Notice in accordance with the manner and method set forth in this paragraph constitutes good and sufficient notice, and is reasonably calculated under the circumstances to notify all interested parties of the Motion, the Settlement Agreement, and the Opt-out Bar Order, and of their opportunity to object thereto and attend the Final Approval Hearing (defined below) concerning these matters; provides notice of the procedures by which Investors could exclude themselves from participation in the Settlement Agreement; and furnishes all parties in interest a full and fair opportunity to evaluate the settlement and object to the Motion, the Settlement Agreement, the Opt-out Bar Order, and all matters related thereto; and complies with all requirements of applicable law, including, without limitation, the Federal Rules of Civil Procedure, the Court's local rules, and the United States Constitution. Accordingly:

    a. The Receiver is directed, no later than 10 days after entry of this Order, to cause the Notice in substantially the same form as attached to the Settlement Agreement to be served by email where e-mail address is known and first-class U.S. mail,[1] postage prepaid, to:

        i. all counsel who have appeared of record in the SEC Action;

        ii. all counsel who are known by the Receiver to have appeared of record, or entered into a tolling agreement, in any legal proceeding or arbitration

[1] All addresses shall be run through the national change of address (NCOA) database maintained by USPS prior to mailing. All names and addresses contained in returned mail will be run through

commenced by or on behalf of any of the Receivership Entities, in the Putative Class Actions, or any individual investor or putative class of investors seeking relief against any person or entity relating in any manner to the Receivership Entities or the subject matter of the SEC Action or the Putative Class Actions;

iii. all known investors in each and every one of the Receivership Entities identified in the investor lists in the possession of the Receiver at the addresses set forth therein;

iv. all known non-investor creditors of each and every one of the Receivership Entities identified after a reasonable search by the Receiver;

v. all parties to the SEC Action;

vi. all professionals, financial institutions, and consultants of the Receivership Entities;

vii. all owners, officers, directors, and senior management employees of the Receivership Entities;

viii. all other persons or entities that previously received notice of the Receiver's filings;

ix. the third-party administrators and/or other control persons for the Pillar Entities, the Fallcatcher Entities, and the Atrium Entities; and

x. counsel for all parties that have filed any actions against Eckert Seamans

b. The Receiver is directed, no later than 10 days after entry of this Order, to cause the Notice in substantially the same form as attached to the Settlement Agreement to be published:

i. Once a week for two non-consecutive weeks in the Legal Intelligencer; and

ii. on the website maintained by the Receiver in connection with the SEC Action (www.parfundingreceivership.com).

c. The Receiver is directed to promptly provide copies of the Motion, the Settlement Agreement, and all exhibits and attachments thereto, to any person who requests

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the NCOA database. If no viable address is provided or available, a skip trace shall be performed. The Receiver shall take all commercially reasonable efforts to ensure actual delivery of the notice.

such documents via email. The Receiver may provide such materials in the form and manner that the Receiver deems most appropriate under the circumstances of the request.

d. The Receiver is directed, no later than 5 days before the Final Approval Hearing (defined below), to file with this Court written evidence of compliance with the subparts of this paragraph, which may be in the form of an affidavit or declaration.

3. **Final Hearing.** The Court will conduct a in person before the Honorable Rodolfo A. Ruiz, II at __:__ _.m. on _____ ___, 2024 (the "**Final Approval Hearing**"). The purposes of the Final Approval Hearing will be to consider final approval of the Settlement Agreement, entry of the Opt-out Bar Order, and award of attorneys' fees as described in paragraph 7 of the Settlement Agreement.

4. **Objection / Opt-Out Deadline; Objections and Appearances at the Final Approval Hearing.** Any person who objects to the terms of the Settlement Agreement, the Opt-out Bar Order, the Motion, or any of the relief related to any of the foregoing, or requests exclusion from the Settlement Agreement, must file an objection or request for exclusion, in writing, with the Court pursuant to the Court's Local Rules, no later than thirty (30) days before the Final Approval Hearing. All objections filed with the Court must:

a. Contain the name, address, telephone number of the person filing the objection or request for exclusion, or his or her attorney;

b. Be signed by the person filing the objection or request for exclusion, or his or her attorney;

c. State, in detail, the factual and legal grounds for the objection or request for exclusion;

d. Attach any document the Court should review in considering the objection or request from exclusion and ruling on the Motion; and

e. If the person filing the objection or request for exclusion intends to appear at the Final Approval Hearing, make a request to do so.

Subject to the discretion of this Court, no person will be permitted to appear at the Final Approval Hearing without first filing a written objection or request for exclusion, and requesting to appear at the hearing in accordance with the provisions of this paragraph. Copies of any objections filed must be served by email and regular mail on:

Ryan Stumphauzer
Stumphauzer Kolaya Nadler & Sloman PLLC
One Biscayne Tower
2 S. Biscayne Boulevard
Suite 1600
Tel: (305) 614-1400
Fax: (305) 614-1425
Email: rstumphauzer@sknlaw.com

Tim Kolaya
Stumphauzer Kolaya Nadler & Sloman PLLC
One Biscayne Tower
2 S. Biscayne Boulevard
Suite 1600
Tel: (305) 614-1400
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Email: tkolaya@sknlaw.com

Gaetan J. Alfano
Pietragallo Gordon Alfano Bosick & Raspanti, LLP
1818 Market Street, Suite 3402
Philadelphia, PA 19103
Tel.: (215) 320-6200
Fax: (215) 981-0082
Email: gja@pietragallo.com

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Jason K. Kellogg
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Damian & Valori LLP
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Jay A. Dubow
Troutman Pepper
3000 Two Logan Square
Eighteenth and Arch Streets
Philadelphia, PA 19103-27799
Tel.: (215) 981-4713

Email: jay.dubow@troutman.com

Catherine M. Recker
Welsh and Recker
306 Walnut Street
Philadelphia, PA 19106
Email: cmrecker@welshrecker.com

Any person failing to file an objection or request for exclusion by the time and in the manner set forth in this paragraph shall be deemed to have waived the right to object (including any right to appeal) or exclude themselves from the Settlement Agreement, and to appear at the Final Approval Hearing, and such person shall be forever barred from raising such objection in this action or any other action or proceeding or to seek exclusion from the Settlement Agreement, subject to the discretion of this Court.

5. **Responses to Objections.** Any party to the Settlement Agreement may respond to an objection filed pursuant to this Order by filing a response in this Action. To the extent any person filing an objection cannot be served by the Court's CM/ECF system, a response must be served to the email address provided by that objector, or, if no email address is provided, to the mailing address provided.

6. **Attorneys' Fees.** As set forth in the Settlement Agreement, within thirty (30) days of the entry of this Order, Class Counsel must advise the Receiver that they have agreed on an allocation of the Attorneys' Fund. The procedures for distribution of the Attorneys' Fund set forth in the Settlement Agreement are hereby approved by this Court.

7. **Adjustments Concerning Hearing and Deadlines.** The date, time and place for the Final Approval Hearing, and the deadlines and other requirements in this Order, shall be subject to adjournment, modification or cancellation by the Court without further notice other than that which may be posted by means of the Court's CM/ECF system in the SEC Action. **If**

no objections or requests for exclusion are timely filed or if the objections or requests for exclusion are resolved before the hearing, the Court may cancel the Final Approval Hearing. Additionally, if Eckert Seamans exercises its right to withdraw from the Settlement and render this Settlement Agreement null and void because the number of parties that exclude themselves from the Settlement Agreement exceed a certain agreed-upon threshold of the Parties, the Parties shall promptly provide notice to the Court so that the Court may cancel the Final Approval Hearing.

8. **No Admission.** Nothing in this Order or the Settlement Agreement is or shall be construed to be an admission or concession of any violation of any statute or law, of any fault, liability or wrongdoing, or of any infirmity in the claims or defenses of the settling parties with regard to the SEC Action, the action brought by the Putative Class Plaintiffs, or any other case or proceeding.

9. **Jurisdiction.** The Court retains jurisdiction to consider all further matters relating to the Motion or the Settlement Agreement, including, without limitation, entry of an Order finally approving the Settlement Agreement and the Opt-out Bar Order.

10. **Stay of Litigation.** All claims that would be Barred Claims against the Eckert Seamans Released Parties, including, but not limited to:

    a. *Melchior, et al. v. Vagnozzi, et al.*, No. 20-5562 (E.D. Pa. 2020);

    b. *Montgomery, et al. v. Eckert Seamans Cherin & Mellott, LLC, et al.*, No. 20-cv-23750 (S.D. Fla. 2020);

    c. *Parker, et al. v. Pauciulo, et al.*, No. 20-00892 (Phila. Ct. Com. Pl. 2020);

    d. *Dean Vagnozzi v. Pauciulo, et al.*, No. 210402115 (Phila Ct. Com. Pl. 2021);

    e. *Albert Vagnozzi, et al. v. Pauciulo, et al.*, No. 210502334 (Phila Ct. Com. Pl. 2021);

f. *Alec Vagnozzi v. Pauciulo, et al*., No.: 240303094 (Phila. Ct. Com. Pl. 2024);

g. *Legacy Advisory Group, Inc., et al. v. Pauciulo, et al.*, No. 211001003 (Phila Ct. Com. Pl. 2021);

h. *Westhead, et al. v. Eckert Seamans, et. al.*, Case No. 240102114 (Phila. C.C.P.);

i. *B and T Supplies, Inc., et al., v. AG Morgan Tax and Accounting LLC, et al.*, No. 1:23-cv-11241 (S.D.N.Y.); and

j. *Caputo, et al. v. Vagnozzi, et al*., No. 20-cv-01142 (D. Del);

are stayed until the Final Hearing or further order of this Court. To the extent reasonably necessary for the Receiver or the Investors to pursue claims against others, Eckert Seamans shall produce non-privileged testimony or documents within their custody or control, subject to all appropriate objections, but shall be reimbursed for any reasonable expenses or costs incurred in doing so.

DONE AND ORDERED in Chambers at Miami, Florida, this ____ day of _____, 2024.

_____
RODOLFO A. RUIZ, II
UNITED STATES DISTRICT JUDGE

Exhibit A

(List of Receivership Entities)

The "Receivership Entities" are Complete Business Solutions Group, Inc. d/b/a 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; ABFP Income Fund 6 Parallel; ABFP Multi-Strategy Investment Fund LP; ABFP Multi-Strategy Investment 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 Consultants, 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; Liberty Eighth Avenue LLC; The LME 2017 Family Trust; Blue Valley Holdings, LLC; LWP North LLC; 500 Fairmount Avenue, LLC; Recruiting and Marketing Resources, Inc.; Contract Financing Solutions, Inc.; Stone Harbor Processing LLC; LM Property Management LLC; and ALB Management, Inc., and the Receivership also includes the property located at 107 Quayside Drive, Jupiter, Florida 33477.

Exhibit “B”

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.
_____/

FINAL ORDER (I) APPROVING SETTLEMENT AMONG RECEIVER, PUTATIVE CLASS PLAINTIFFS, AND ECKERT SEAMANS; AND (II) BARRING, RESTRAINING, AND ENJOINING CLAIMS AGAINST ECKERT SEAMANS

THIS MATTER came before the Court on the Motion for (i) Approval of Settlement among Receiver, Putative Class Plaintiffs, and Eckert Seamans Cherin & Mellott, LLC and John Pauciulo, Esq.; (ii) Approval of Form, Content, and Manner of Notice of Settlement and Opt-out Bar Order; (iii) Entry of Opt-out Bar Order; and (iv) Scheduling a Hearing; with Incorporated Memorandum of Law [ECF No. ___] (the "**Motion**") filed by Ryan Stumphauzer, as the Court-appointed receiver (the **"Receiver")** of the entities set forth on Exhibit A to this Order (the "**Receivership Entities**") in the above-captioned civil enforcement action (the "**SEC Action**"). Pursuant to this Court's Order (I) preliminarily approving settlement among Receiver, Putative Class Plaintiffs, and Eckert Seamans; (II) approving the form and content of notice, and manner and method of service and publication; (III) setting a deadline to object to approval of settlement and entry of opt-out bar order or request exclusion from settlement; and (IV) scheduling a hearing [ECF No. ___] (the "**Preliminary Approval Order**"), the Court held a hearing on _____ ___, 2024 to consider the Motion and hear objections, if any.

By way of the Motion, the Receiver requests final approval of a proposed settlement among: (1) a group of investors that filed the complaint in the litigation in the cases captioned *Montgomery, et al. v. Eckert Seamans Cherin & Mellott, et al.*, No. 20-cv-23750-DPG (S.D. Fla.) (Gayles, J.), *Melchior, et al. v. Vagnozzi, et al.*, No. 20-cv-05562-MRP (E.D. Pa) (Perez, J.), and *Caputo, et al. v. Vagnozzi, et al.*, No. 20-cv-01042-CFC (D. Del.) (Connolly, J.) (the "**Putative Class Actions**") (the Plaintiffs in those actions are referred to collectively as the "**Putative Class Plaintiffs**"); (2) the Receiver; and (3) Eckert Seamans Cherin & Mellott, LLC and John Pauciulo, Esq. (collectively, "**Eckert Seamans**"). The settlement ("**Settlement**") is memorialized in the settlement agreement attached to the Motion as Exhibit 1 (the "**Settlement Agreement**").[1]

By way of the Motion, the Receiver requests entry of this opt-out bar order (the "**Opt-out Bar Order**") permanently barring, restraining and enjoining any person or entity—other than any federal or state governmental bodies or agencies and Investors who excluded themselves from the Settlement pursuant to the procedures described in the applicable Notice of Settlement (the "Notice")—from pursuing claims against any of the Eckert Seamans Released Parties (as defined herein) relating to the events and occurrences underlying, relating to or arising out of the claims in the Putative Class Actions and/or the SEC Action, or otherwise relating in any way to any of the Receivership Entities, the Receivership Estate, or which arise directly or indirectly from Eckert Seamans's activities, omissions, or services, or alleged activities, omissions, or services, in connection with the Receivership Entities, or the Receivership Estate ("**Eckert Seamans's Activities**"), to the broadest extent permitted by law.

[1] As used in this Order, the "**Settling Parties**" means Eckert Seamans, the Receiver, and the Putative Class Plaintiffs. Defined and/or initial capped terms used but not defined in this Order have the meaning ascribed to them in the Settlement Agreement. To the extent there is any discrepancy between a defined term in the Settlement Agreement and the same defined term herein, the definition in the Settlement Agreement shall control.

The Court's Preliminary Approval Order preliminarily approved the Settlement Agreement, approved the form and content of the Notice, and set forth procedures for the manner and method of service and publication of the Notice to all affected parties, including all investors (collectively, "**Investors**"). The Preliminary Approval Order and related documents were served by mail on all identifiable interested parties and publicized in an effort to reach any unidentified persons.

The Preliminary Approval Order established opt-out procedures by which Investors could exclude themselves from participation in the Settlement, set a deadline for affected parties to object to the Settlement Agreement or the Opt-out Bar Order, and scheduled the hearing for consideration of such objections, as well as the Settling Parties' argument and evidence in support of the Settlement Agreement and the Opt-out Bar Order. That deadline has passed, and Objections were filed at ECF Nos. _____, _____, and _____.

The Receiver filed a declaration with the Court in which he detailed his compliance with the notice and publication requirements contained in the Preliminary Approval Order [ECF No. ___] (the "**Declaration**"). Investors who excluded themselves from the Settlement pursuant to the procedures described in the Notice are not bound by the Settlement or this Opt-out Final Bar Order.

This Court is fully advised of the issues in the various actions, as it has previously received evidence and heard argument concerning the events, circumstances, and transactions in the SEC Action, which resulted in the appointment of the Receiver and the issuance of the Preliminary Injunctions, the Permanent Injunctions, and the Asset Freeze Orders. In addition, the Court has read and considered the Motion, the Settlement Agreement, the Declaration of the Receiver concerning proper notice of the Motion and the Preliminary Approval Order, other relevant filings

of record, and the arguments and evidence presented at the hearing; therefore, the Court **FINDS AND DETERMINES** as follows:

A. The Court has jurisdiction over the subject matter, including, without limitation, jurisdiction to consider the Motion, the Settlement Agreement, and this Opt-out Bar Order, and authority to grant the Motion, approve the Settlement Agreement, enter this Opt-out Bar Order, and award attorneys' fees. *See* 28 U.S.C. § 1651; *SEC v. Kaleta*, 530 Fed. Appx. 360 (5th Cir. 2013) (affirming approval of settlement and entry of bar order in equity receivership commenced in a civil enforcement action). *See also Matter of Munford, Inc.*, 97 F.3d 449 (11th Cir. 1996) (approving settlement and bar order in a bankruptcy case); *In re U.S. Oil and Gas Lit.*, 967 F.2d 480 (11th Cir. 1992) (approving settlement and bar order in a class action).

B. The service or publication of the Notice as described in the Receiver's Declaration is consistent with the Preliminary Approval Order, constitutes good and sufficient notice, and was reasonably calculated under the circumstances to notify all affected persons of the Motion, the Settlement Agreement and the Opt-out Bar Order, and of their opportunity to object thereto, of the deadline for objections, and of their opportunity to appear and be heard at the hearing concerning these matters, and of the opt-out procedures by which Investors could exclude themselves from participation in the Settlement. Accordingly, all Investors were provided a full and fair opportunity to opt out of the Settlement and affected parties were furnished a full and fair opportunity to object to the Motion, the Settlement Agreement, the Opt-out Bar Order and all matters related thereto and to be heard at the hearing; therefore, the service and publication of the Notice complied with all requirements of applicable law, including, without limitation, the Federal Rules of Civil Procedure, the Court's local rules, and the due process requirements of the United States Constitution.

C. The Court has allowed any Investors, objectors, and parties to the SEC Action to be heard if they desired to participate. Each of these persons or entities has standing to be heard on these issues.

D. The Settling Parties negotiated over a period of many months; their negotiations included the exchange and review of documents, many telephone conferences; and mediation—at which counsel for all of the Settling Parties were present or available by telephone. The Settlement Agreement was entered into in good faith, is at arm's length, and is not collusive. The claims the Putative Class Plaintiffs brought against Eckert Seamans involve disputed facts and issues of law that would require substantial time and expense to litigate, with significant uncertainty as to the outcome of such litigation, the measurement of damages, the allocation of benefits to each plaintiff, and any ensuing appeal. The Settlement Agreement includes potential claims by the Receiver. The alleged claims, injuries, and harms to the investors that would be asserted by the Receiver, including but not limited to, legal malpractice claims, arise from the same alleged scheme, not isolated acts—that is, from a composite of conduct of the Defendants in the above referenced matter and the Receivership Entities, and others taken over years, collectively establishing and perpetuating the alleged fraud. Additionally, the claims of the Class Plaintiffs and those of the Receiver seek recovery to address certain of the same harms sustained by the same conduct and arising out of the same transactions in the same alleged scheme. *See Zacarias v. Stanford International Bank Ltd.,* 945 F.3d 883, 899-902 (5th Cir., Dec. 19, 2019): *SEC v. DeYoung*, 850 F.3d 1172, 1175 (10th Cir. 2017). The Receiver could, however, assert additional claims that are not asserted by the Class Plaintiffs in the Putative Class Actions.

E. By reason of the Appointment Order and applicable law concerning federal equity receiverships, the Receiver is the owner of, possesses, and has the sole and exclusive right to assert

all alleged claims and potential causes of action on behalf of the Receivership Entities against Eckert Seamans

F. Such litigation, however, is costly and burdensome, involves complex transactions, multiple witnesses in multiple fora, and substantial legal arguments. Eckert Seamans denies that it is liable in any way to the Putative Class Plaintiffs or the Receiver.

G. The Settlement Agreement provides for Eckert Seamans to pay or cause to be paid a total amount of Thirty-Eight Million Dollars ($38,000,000.00) (the "**Settlement Amount**") to settle the Putative Class Actions and the Receiver's potential action—a recovery for the Receivership Entities, in net and absolute terms, of approximately $31,750,000—which permits the Receiver to make distributions to Investors that did not exclude themselves from the Settlement ("Participating Investors") and to otherwise support the assets of the Receivership Estate for the benefit of all Investors. The payment of attorneys' fees to counsel for the Putative Class Plaintiffs relieves the Putative Class Plaintiffs from the obligation to pay attorneys' fees and costs out of their own recoveries with respect to their claims against Eckert Seamans.

H. At the request of counsel for the Putative Class Plaintiffs, the Receiver will act as disbursing agent for the Settlement Amount. After the Putative Class Plaintiffs and their counsel receive their share of the recovery from the Settlement Amount, and subject to the approval and control of the Court, the Receiver will be permitted to distribute the balance, as provided for by the Settlement Agreement, to preserve and maximize the value of the assets in the Receivership Entities for the benefit of the remaining Participating Investors and other creditors and stakeholders. Without payment of these portions of the Settlement Amount, the assets of the Receivership Estate could be wasted and have diminished value.

I. The Court finds that the allocations and consideration for the Investors among the Putative Class Plaintiffs and the Receivership Entities delineated in the Settlement Agreement are fair and reasonable, both individually and as a whole.

J. Based upon the foregoing findings, the Court further finds and determines that entry into the Settlement Agreement is a prudent exercise of business judgment by the Receiver, the Putative Class Plaintiffs and Eckert Seamans, that the proposed settlement as set forth in the Settlement Agreement is fair, adequate and reasonable, that the interests of all affected persons were fairly and reasonably considered and addressed, and that the Settlement Amount provides a recovery to the Receiver for the benefit of the Receivership Entities and the Participating Investors that is well within the range of reasonableness. *See Sterling v. Stewart*, 158 F.3d 1199 (11th Cir. 1996) (settlement in a receivership may be approved where it is fair, adequate, and reasonable and is not the product of collusion between the settling parties).

K. Eckert Seamans has expressly conditioned its willingness to enter into the Settlement Agreement, and pay, or cause to be paid, the Settlement Amount, on a full and final resolution with respect to any and all claims instituted now or hereafter by any and all of the Barred Persons (as defined below) against any and all of the Eckert Seamans Released Parties (as defined below) that relate in any manner whatsoever to the events and occurrences underlying the claims in the Putative Class Actions, the SEC Action, the Receivership Entities, the Receivership Estate, or Eckert Seamans's Activities (the "**Barred Claims**," as more fully defined below). A necessary condition to Eckert Seamans's ultimate acceptance of the terms and conditions of the Settlement Agreement is the issuance of the Opt-out Bar Order and that the Opt-out Bar Order becomes Final[2].

[2] As used in this Order, any court order being "**Final**" means a court approving and issuing an order unmodified after the conclusion or expiration of any right or time period of any person or

Pursuant to the terms of the Settlement Agreement, entry of the Opt-out Bar Order and the Opt-out Bar Order becoming Final is a necessary condition precedent to the payment of the Settlement Amount.

L. To be clear, Eckert Seamans is only willing to pay the Settlement Amount in exchange for finality as to the Barred Claims. The Court finds that the Settling Parties have agreed to the settlement in good faith and that Eckert Seamans is paying a fair share of the potential damages for which it is alleged to be liable, though Eckert Seamans denies any wrongdoing or liability.

M. The Settlement Amount also creates a fund that is being provided to the Receiver to make distribution to Participating Investors and to protect and substantially increase the value of the assets of the Receivership Estate for all of the remaining Participating Investors, creditors, and stakeholders.

N. **Notice to Affected Parties**

The Receiver has given the best practical notice of the proposed Settlement Agreement and Opt-out Bar Order to all known interested persons:

i. all counsel who have appeared of record in the SEC Action;

ii. all counsel who are known by the Receiver to have appeared of record, or entered into any tolling agreement, in any legal proceeding or arbitration commenced by or on behalf of any of the Receivership Entities, in the Putative Class Actions, or any individual investor or putative class of investors seeking relief against any person or entity relating in any manner

party to opt out or seek any objection, appeal, rehearing, reversal, reconsideration or modification, in whole or in part, of the order. For avoidance of doubt, an order, including this Order, is not considered Final prior to the conclusion or expiration of any right or time period of any person or party to opt out or seek any objection, appeal, rehearing, reversal, reconsideration or modification, in whole or in part, of the order. Without in any way limiting the foregoing, an order, including this Order, is not considered Final as used herein during the pendency of any appeal or rehearing of the order, or during the time that an appeal, rehearing, reversal, reconsideration, or modification of the order remains possible.

to the Receivership Entities or the subject matter of the SEC Action or the Putative Class Actions;

iii. all known investors in each and every one of the Receivership Entities identified in the investor lists in the possession of the Receiver at the addresses set forth therein;

iv. all known non-investor creditors of each and every one of the Receivership Entities identified after a reasonable search by the Receiver;

v. all parties to the SEC Action;

vi. all professionals, financial institutions, and consultants of the Receivership Entities;

vii. all owners, officers, directors, and senior management employees of the Receivership Entities;

viii. all other persons or entities that previously received notice of the Receiver's filings;

ix. the third-party administrators and/or other control persons for the Pillar Entities, the Fallcatcher Entities, and the Atrium Entities; and

x. counsel for all parties that have filed any actions against Eckert Seamans.

The Receiver has maintained a list of those given notice. Access to that list will be permitted as necessary if a Barred Person as defined below denies receiving notice and asserts that this Order is therefore inapplicable to that Barred Person.

In addition, the Receiver has published the Notice approved by the Preliminary Approval Order in the Legal Intelligencer once a week for two non-consecutive weeks. The Receiver has also maintained the Notice on the website maintained by the Receiver in connection with the SEC Action (www.parfundingreceivership.com).

Through these notices and publications, anyone with an interest in the Receivership Entities would have become aware of the Settlement Agreement and Opt-out Bar Order and been provided sufficient information to put them on notice how to obtain more information, opt out, and/or object, if they wished to do so.

O. **Benefits of the Settlement:**

i. The Settlement Amount allows the Receiver, as disbursing agent, to pay attorneys' fees and reimbursement of expenses in the total amount of Six Million Two Hundred Fifty Thousand Dollars ($6,250,000) to counsel for the Putative Class Plaintiffs so that the Putative Class Plaintiffs do not need to pay such amounts.

ii. The balance of the Settlement Amount, absent certain allocations described in the Motion, shall be used for the benefit of the Receivership Estate from which all Participating Investors and the Putative Class Plaintiffs benefit and which payments are being made on behalf of the Participating Investors and the Putative Class Plaintiffs, subject to the approval of this Court.

iii. The Settlement Amount thus enhances the value of the Receivership Estate and benefits all Participating Investors, creditors, and stakeholders.

P. The Opt-out Bar Order and the releases in the Settlement Agreement are tailored to matters relating to the Barred Claims and are appropriate to maximize the value of the Receivership Entities for the benefit of the Participating Investors and other stakeholders and creditors. The Receiver will establish a distribution process through which Participating Investors and other interested parties may seek disbursement of funds, including the Settlement Amount to the extent such amounts have not been used to administer the Receivership Estate or for the benefit of the Receivership Estate. The interests of persons affected by the Opt-out Bar Order and the releases in the Settlement Agreement were well represented by the Receiver, acting in the best interests of the Receivership Entities in his fiduciary capacity and upon the advice and guidance of his experienced counsel. Accordingly, the Settlement Agreement is fair, adequate and reasonable, and

in the best interests of all creditors of, Participating Investors in, or other persons or entities claiming an interest in, having authority over, or asserting claims against the Receivership Entities, and of all persons who could have claims against the Eckert Seamans Released Parties relating to the Barred Claims. The Opt-out Bar Order is a necessary and appropriate order granting ancillary relief in the SEC Action.

Q. Approval of the Settlement Agreement and the Opt-out Bar Order and adjudication of the Motion are discrete from other matters in the SEC Action, and, as set forth above, the Settling Parties have shown good reason for the approval of the Settlement Agreement and Opt-out Bar Order to proceed expeditiously. Therefore, there is no just reason for delay of the finality of this Order.

Based on the foregoing findings and conclusions, the Court **ORDERS, ADJUDGES, AND DECREES** as follows:

1. The Motion is **GRANTED** in its entirety. Any objections to the Motion or the entry of this Order are overruled to the extent not otherwise withdrawn or resolved. Any other objections to the Motion or the entry of this Order, including, but not limited to, those not filed as of the date of this Court's execution of this Order, are deemed waived and overruled.

2. The Settlement Agreement is **APPROVED** and is final and binding upon the Settling Parties and their successors and assigns as provided in the Settlement Agreement. The Settling Parties are authorized to perform their obligations under the Settlement Agreement.

3. The Receiver shall disburse the Settlement Amount in accordance with the terms and conditions of the Settlement Agreement and a plan of distribution to be approved by this Court. Without limitation of the foregoing, upon payment of the Settlement Amount as set forth in the Settlement Agreement, the releases set forth in Section 5 of the Settlement Agreement are

APPROVED and are final and binding on the Parties and their successors and assigns as provided in the Settlement Agreement. The Court further approves the use of Six Million and Two Hundred and Fifty Thousand Dollars ($6,250,000) to establish the Attorneys' Fund to be disbursed in accordance with the terms of the Settlement Agreement.

4. The Opt-out Bar Order as set forth in paragraph 5 of this Order is **APPROVED** as a necessary and appropriate component of the settlement. *See Kaleta*, 530 Fed. Appx. at 362 (entering bar order and injunction in an SEC receivership proceeding where necessary and appropriate as "ancillary relief" to that proceeding). *See also In re Seaside Eng'g & Surveying, Inc.*, 780 F.3d 1010 (11th Cir. 2015) (approving bar orders in bankruptcy matters); *Bendall v. Lancer Management Group, LLC*, 523 Fed. Appx. 554 (11th Cir. 2013) (the Eleventh Circuit "will apply cases from the analogous context of bankruptcy law, where instructive, due to limited case law in the receivership context"); *Munford, Inc. v. Munford, Inc.*, 97 F.3d 449, 454-55 (11th Cir. 1996); *In re Jiffy Lube Securities Litig.*, 927 F.2d 155 (4th Cir. 1991); *Eichenholtz v. Brennan*, 52 F.3d 478 (3d Cir. 1955).

5. OPT-OUT BAR ORDER AND INJUNCTION: THE BARRED PERSONS ARE PERMANENTLY BARRED, ENJOINED, AND RESTRAINED FROM ENGAGING IN THE BARRED CONDUCT AGAINST THE ECKERT SEAMANS RELEASED PARTIES WITH RESPECT TO THE BARRED CLAIMS, as those terms are herein defined.

a. **The "Barred Persons"**: Any non-governmental person or entity, including, without limitation, (i) all present and former officers, directors, owners, partners, limited partners, general partners, affiliated professional corporations, managers, members, managing members, principals, associates, shareholders, employees,

representatives, trustees, of counsel, agents, attorneys, insurers and all other persons serving in a corporate capacity of all of the Receivership Entities as well as all Participating Investors of the Receivership Entities; (ii) any Defendant in the SEC Action, or in any action now pending or which may hereafter be brought in connection with the Barred Claims; (iii) any party to the Putative Class Actions; or (iv) any person or entity claiming by or through such persons or entities, Participating Investors and/or the Receivership Entities, all and individually, directly, indirectly, or through a third party, whether individually, derivatively, on behalf of a class, as a member of a class, or in any other capacity whatsoever;

b. **The "Barred Conduct"**: instituting, reinstituting, amending, intervening in, initiating, commencing, maintaining, continuing (including by filing any motion to vacate any previously issued order), filing, encouraging, soliciting, supporting, participating in, collaborating in, otherwise prosecuting, or otherwise pursuing or litigating in any case or manner, whether pre-judgment or post-judgment, or enforcing, levying, employing legal process, attaching, garnishing, sequestering, bringing proceedings supplementary to execution, collecting or otherwise pursuing or litigating in any case or manner, enforcing, recovering, by any means or in any manner, based upon any liability or responsibility, or asserted or potential liability or responsibility, directly or indirectly, relating in any way to the Barred Claims;

c. **The "Barred Claims"**: any and all claims, actions, lawsuits, causes of action, investigation, demand, complaint, cross-claims, counterclaims, or third-party claims or proceeding of any nature, whether known or unknown, including, but not limited to, litigation, arbitration, or other proceeding, in any federal or state court,

or in any other court, arbitration forum, administrative agency, or other forum in the United States, Canada or elsewhere, whether arising under local, state, federal or foreign law, that in any way relate to, are based upon, arise from, or are connected: with the released claims or interests of any kind as set forth in the Settlement Agreement; with the facts and claims that were, or could have been asserted, in the Putative Class Actions; by, with or on behalf of the Receivership Entities, or which arise directly or indirectly from Eckert Seamans's Activities, work, conduct, omissions, or services, or alleged work, conduct, omissions, or services, in connection with the Receivership Entities; or with the investments at issue in the SEC Action or in any Putative Class Actions, including but not limited to those events, transactions and circumstances alleged, or which could have been alleged, in the SEC Action or relating in any way to Eckert Seamans's Activities.

d. **The "Eckert Seamans Released Parties"**: Eckert Seamans, or any party that, if sued, could bring claims for indemnification, subrogation, contribution, or any other "pass through" type claim against Eckert Seamans, including, its current and former employees, shareholders, of counsel, agents, attorneys, insurers, officers, directors, members, managers, managing members, principals, associates, representatives, trustees, general and limited partners, partners, owners, affiliated professional corporations, as well as all other persons serving in a corporate capacity, and each of their respective administrators, heirs, trustees, beneficiaries, spouses, assigns, directors, officers, shareholders, owners, partners, affiliates, subsidiaries, predecessors, predecessors in interest, successors, and successors in interest. Any non-settling defendants in any action commenced by the Receiver or

in any other actions by or on behalf of the Investors or any of them who would otherwise be entitled to contribution or indemnity from the Eckert Seamans Released Parties in connection with any claim asserted against them by the Receiver or the Investors shall be entitled to a dollar-for-dollar offset against any subsequent judgment entered against such party for: (1) with respect to the Receiver, the Settlement Amount, less the amounts paid to the Putative Class Plaintiffs for their share of the Settlement Amount and counsel for the Putative Class Plaintiffs; and (2) with respect to the Participating Investors, any portion of the Settlement Amount received by each such Participating Investor pursuant to the Settlement Agreement. This provision is without prejudice to whatever rights, if any exist, any non-settling defendant may have to setoff under applicable law in any action brought by or on behalf of the Receiver or the Receivership Entities or by any Participating Investor now pending or which may be brought in the future. Any and all claims for indemnity and/or contribution against the Eckert Seamans Released Parties, whether contractual, equitable, statutory, or otherwise, are barred hereby and included within the Barred Claims.

iv. Paragraph 5 of this Order shall not apply (i) to the United States of America, its agencies or departments, or to any state or local government; (ii) to the Settling Parties' respective obligations under the Settlement Agreement; (iii) or to any Investors who exclude themselves from the Settlement pursuant to the procedures described in the Notice.

v. Nothing in this Order bars the Eckert Seamans Released Parties from pursuing claims and causes of action they may have against any person or entity not specifically released by them in the Settlement Agreement.

vi. Nothing in this Order or the Settlement Agreement, and no aspect of the Settling Parties' settlement or negotiations thereof, is or shall be construed to be an admission or concession of any violation of any statute or law, of any fault, liability or wrongdoing, or of any infirmity in the claims or defenses of the Settling Parties with regard to any case or proceeding, including the Putative Class Actions.

vii. No Eckert Seamans Released Party shall have any duty or liability with respect to the administration of, management of, or other performance by the Receiver of his duties relating to the Receivership Entities, including, without limitation, the process to be established for filing, adjudicating and paying claims against the Receivership Entities or the allocation, disbursement or other use of the Settlement Amount.

viii. Neither the Settlement Agreement, nor this Order, shall be impaired, modified or otherwise affected in any manner other than by direct appeal of this Order, or motion for reconsideration or rehearing thereof, made in accordance with the Federal Rules of Civil Procedure.

ix. Nothing in this Order or the Settlement Agreement, nor the performance of the Settling Parties' obligations thereunder, shall in any way impair, limit, modify or otherwise affect the rights of Eckert Seamans, the Putative Class Plaintiffs, the Receiver, or the Participating Investors against any party not released in the Settlement Agreement.

x. All Barred Claims against the Eckert Seamans Released Parties, including, but not limited to, those in the Putative Class Actions, are stayed until this Order is Final. To the extent reasonably necessary for the Receiver or the Investors to pursue claims against others, Eckert Seamans shall produce non-privileged witnesses or documents within their custody or control,

subject to all appropriate objections, but shall be reimbursed for any reasonable expenses or costs incurred in doing so.

xi. The Putative Class Plaintiffs and the Receiver are directed and authorized to dismiss their claims against Eckert Seamans with prejudice, when this Order is Final within the meaning of the Settlement Agreement, in accordance with the terms of the Settlement Agreement with no party admitting to wrongdoing or liability and all parties responsible for their attorneys' fees and costs.

xii. Pursuant to Fed. R. Civ. P. 54(b), and the Court's authority in this equity receivership to issue ancillary relief, this Order is a final order for all purposes, including, without limitation, for purposes of the time to appeal or to seek rehearing or reconsideration.

xiii. This Order shall be served by counsel for the Receiver via email, first class mail or international delivery service, on any person or entity afforded notice (other than publication notice) pursuant to the Preliminary Approval Order.

xiv. Without impairing or affecting the finality of this Order, the Court retains continuing and exclusive jurisdiction to construe, interpret and enforce this Order, including, without limitation, the injunction, the Opt-out Bar Order and releases herein or in the Settlement Agreement or any other provision of the Settlement Agreement. This retention of jurisdiction is not a bar to any person, including the Settling Parties, from raising the injunction or Opt-out Bar Order to obtain its benefits in establishing reductions to damage awards or seeking to dismiss a claim.

DONE AND ORDERED in Chambers at Miami, Florida, this ____ day of _____, 2024.

_____
RODOLFO A. RUIZ, II
UNITED STATES DISTRICT JUDGE

Exhibit A

(List of Receivership Entities)

The "Receivership Entities" are Complete Business Solutions Group, Inc. d/b/a 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; ABFP Income Fund 6 Parallel; ABFP Multi-Strategy Investment Fund LP; ABFP Multi-Strategy Investment 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 Consultants, 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; Liberty Eighth Avenue LLC; The LME 2017 Family Trust; Blue Valley Holdings, LLC; LWP North LLC; 500 Fairmount Avenue, LLC; Recruiting and Marketing Resources, Inc.; Contract Financing Solutions, Inc.; Stone Harbor Processing LLC; LM Property Management LLC; and ALB Management, Inc., and the Receivership also includes the property located at 107 Quayside Drive, Jupiter, Florida 33477.

Exhibit “C”

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.
_____/

NOTICE OF PROCEEDINGS TO APPROVE SETTLEMENT AMONG RECEIVER, PUTATIVE CLASS PLAINTIFFS, AND ECKERT SEAMANS CHERIN & MELLOTT, LLC AND JOHN PAUCIULO AND OPT-OUT BAR ORDER

PLEASE TAKE NOTICE that Ryan K. Stumphauzer, Esq., as the Court-appointed receiver (the "Receiver") of the entities (the "Receivership Entities") in the above-captioned civil enforcement action (the "SEC Action"), has filed a request for approval of a proposed settlement between and among: groups of investors that filed complaints in *Montgomery, et al. v. Eckert Seamans Cherin & Mellott, et al.*, No. 20-cv-23750-DPG (S.D. Fla.) (Gayles, J.), *Melchior, et al. v. Vagnozzi, et al.*, No. 20-cv-05562-MRP (E.D. Pa.) (Perez, J.), and *Caputo, et al. v. Vagnozzi, et al.*, No. 20-cv-01042-CFC (D. Del.) (Connolly, J.) ("Putative Class Plaintiffs"); the Receiver; and Eckert Seamans Cherin & Mellott, LLC and John Pauciulo, Esq. ("Eckert Seamans"). The proposed settlement settles all claims that were and could have been asserted against Eckert Seamans by the Putative Class Plaintiffs or the Receiver or any Receivership Entity; such settlement is **expressly conditioned** on the Court approving the Settlement Agreement and including in the order approving such Settlement Agreement a provision permanently barring, restraining and enjoining any person or entity that does not exclude themselves from the Settlement Agreement from pursuing claims, **including but not limited to claims you may possess**, against any of the Eckert Seamans Released Parties relating to the SEC Action or the Putative Class Actions, including but not limited to claims by on behalf of any Investor, by the Receiver, by the Receivership Entities (including their past and present general partners, owners, shareholders, officers, and directors), by any current or former customer or client of Eckert Seamans, any Defendant in the SEC Action, or in any action now pending or which may hereafter be brought in connection with the Barred Claims; any party to the Putative Class Actions; or by any other person or entity (other than federal or state governmental bodies or agencies) with respect to facts and claims that were, or could have been, asserted in the Putative Class Actions, or otherwise relating in any way to any of the Receivership Entities, or which arise directly or indirectly from Eckert Seamans's activities, work, conduct, omissions, or services in connection with the Receivership

Entities (the "Opt-Out Bar Order").[1]

PLEASE TAKE FURTHER NOTICE that the material terms of the Settlement Agreement are that Eckert Seamans will pay Thirty-Eight Million Dollars ($38,000,000.00) in exchange for broad releases from the Putative Class Plaintiffs, the Receiver, and the Receivership Entities, and the Opt-Out Bar Order.

PLEASE TAKE FURTHER NOTICE that the Settlement Agreement establishes an Attorneys' Fund to reimburse costs and compensate the attorneys for the Putative Class Plaintiffs.

PLEASE TAKE FURTHER NOTICE that copies of the Settlement Agreement; the Motion for: (i) Approval of Settlement between Receiver, Putative Class Plaintiffs, and Eckert Seamans; (ii) Approval of Form, Content, and Manner of Notice of Settlement and Opt-Out Bar Order; (iii) Entry of Opt-Out Bar Order; and (iv) Scheduling a Hearing [ECF No. ___] (the "Motion"); the proposed Opt-Out Bar Order; and other supporting and related papers, may be obtained from the Court's docket in the SEC Action or from the website created by the Receiver (www.parfundingreceivership.com). Copies of the Motion may also be obtained by email request to Timothy A. Kolaya at tkolaya@sknlaw.com.

PLEASE TAKE FURTHER NOTICE that the final hearing on the Motion, at which time the Court will consider approval of the Settlement Agreement including the grant of the releases and the issuance of the Opt-Out Bar Order, is set in person before the Honorable Rodolfo A. Ruiz, II on _____ at _____ (the "Final Approval Hearing").

Any objection to the Settlement Agreement, the Motion or any related matter, including, without limitation, entry of the Opt-Out Bar Order, or any request for exclusion from the Settlement Agreement, must be filed, in writing, with the Court in the SEC Action, and served by email and regular mail, on: (1) Ryan K. Stumphauzer, Esq., Stumphauzer Kolaya Nadler & Sloman PLLC, One Biscayne Tower, 2 S. Biscayne Boulevard, Suite 1600, Email: rstumphauzer@sknlaw.com; (2) Timothy A. Kolaya, Stumphauzer Kolaya Nadler & Sloman PLLC, One Biscayne Tower, 2 S. Biscayne Boulevard, Suite 1600, Email: tkolaya@sknlaw.com (3) Jeffrey C. Schneider, Levine Kellogg Lehman Schneider + Grossman LLP, Miami Tower, 100 SE 2nd Street, 36th Floor , Miami, FL 33131, Email: jcs@lklsg.com; (4) Steven A. Schwartz, Chimicles Schwartz Kriner & Donaldson-Smith LLP, 361 West Lancaster Avenue, Haverford, PA 19041, Email: sas@chimicles.com; (5) Marc H. Edelson, Edelson Lechtzin LLP, 411 S. State Street, Ste N-300, Newtown, PA 18940, Email: medelson@edelson-law.com; (6) Scott Lance Silver, Silver Law Group, 11780 W. Sample Road, Coral Springs, FL 33065, Email: ssilver@silverlaw.com; (7) Melanie Emmons Damian, Damian & Valori LLP, 1000 Brickell Avenue, Suite 1020, Email: mdamian@dvllp.com; (8) Jay A. Dubow, Troutman Pepper, 3000 Two Logan Square, Eighteenth and Arch Streets, Philadelphia, PA 19103-27799, Email: jay.dubow@troutman.com; and (9) Catherine M. Recker, Welsh and Recker, P.C., 306 Walnut Street, Philadelphia, PA 19106, Email: cmrecker@welshrecker.com **no later than _____, 2024 (the "Objection / Opt-Out Deadline"),** and such objection or request for exclusion must be made in accordance with the Court's Order (I) preliminarily approving settlement between Receiver, Putative Class Plaintiffs, and Eckert Seamans; (II) approving form and content of notice,

[1] Defined terms used but not defined in this Notice are more fully defined in the Settlement Agreement.

and manner and method of service and publication; (III) setting deadline to object to approval of settlement and entry of opt-out bar order, or to request exclusion from settlement agreement; and (IV) scheduling a hearing [ECF No. ____] (the "Preliminary Approval Order").

PLEASE TAKE FURTHER NOTICE that any person or entity failing to file an objection or request for exclusion on or before the Objection Deadline and in the manner required by the Preliminary Approval Order shall not be heard by the Court. Those wishing to appear and present their objections or requests for exclusion at the Final Approval Hearing must include a request to appear in their written objection or request for exclusion. **If no objections or requests for exclusion are timely filed, the Court may cancel the Final Approval Hearing without further notice.**

This matter may affect your rights. You may wish to consult an attorney.

# # #