

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

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

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

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

Defendants.

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**RECEIVER'S QUARTERLY STATUS REPORT DATED JANUARY 31, 2025**

Ryan K. Stumphauzer, Esq., Court-Appointed Receiver (“Receiver”) of the Receivership Entities,<sup>1</sup> pursuant to the requirements of the Amended Order Appointing Receiver [ECF No. 141], hereby files this Quarterly Status Report dated January 31, 2025. By way of summary, as of the end of

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<sup>1</sup> 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; 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.

the reporting period (December 31, 2024), the Receivership Estate consisted of, among other things, approximately \$11,677,000 of unsold real property,<sup>2</sup> \$350,000 in other unsold tangible assets the Receiver has brought into the Receivership Estate, and \$175,474,000 in cash. As of January 31, 2025, the current cash balance was \$116,061,887. This decrease in the current cash balance since the end of the reporting period is a result of the distributions to investors discussed in Section V. The report attached as **Exhibit 1** includes a schedule reflecting the net tangible assets contained within the Receivership Estate.

**I. Overall Administration of Receivership Estate**

**A. Quarterly Report of Receivership Estate**

Pursuant to the requirements of the Amended Order Appointing Receiver [ECF No. 141], attached as **Exhibit 1** is a full report and accounting reflecting (to the best of the Receiver's knowledge as of the period covered by the report) the existence, value, and location of all Receivership Property, and of the extent of liabilities, both those claimed to exist by others and those the Receiver believes to be legal obligations of the Receivership Estates (the "Quarterly Report"). The Quarterly Report contains the following information: (1) summary of the operations of the Receiver; (2) the amount of cash on hand, the amount and nature of accrued administrative expenses, and the amount of unencumbered funds in the estate; (3) a schedule of all the Receiver's receipts and disbursements (attached as Exhibit A to the Quarterly Status Report), with one column for the quarterly period covered and a second column for the entire duration of the receivership; (4) a description of all known Receivership Property, including approximate or actual valuations, anticipated or proposed dispositions, and reasons for retaining assets where no disposition is intended; (5) a description of liquidated and unliquidated claims held by the Receivership Estate, including the need for forensic

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<sup>2</sup> This estimated value is based on the original acquisition price of each property, rather than a current appraisal or an estimate of the potential sales proceeds for each property.

and/or investigatory resources; approximate valuations of claims; and anticipated or proposed methods of enforcing such claims (including likelihood of success in: (i) reducing the claims to judgment; and, (ii) collecting such judgments); (6) a list of all known creditors with their addresses and the amounts of their claims; (7) the status of Creditor Claims Proceedings, after such proceedings have been commenced; and (8) the Receiver's recommendations for a continuation or discontinuation of the receivership and the reasons for the recommendations, as required pursuant to Paragraphs 53 and 54 of the Amended Order Appointing Receiver dated August 13, 2020 [ECF No. 141].

## **II. Update on Other Assets Included within the Receivership Estate**

### **A. Accounts Receivable and Collection Activities**

At the time of his appointment, the Receiver obtained control over \$28,779,570 in cash held by the various original Receivership Entities. As a result of various Orders expanding the Receivership, the Receiver obtained an additional \$14,756,649 in cash held by the additional Receivership Entities. The Receiver has also acquired an additional \$180,057,084 in cash through collections, settlements, other recoveries, and asset sales. After accounting for expenses, the total cash balance was \$175,474,466, as of December 31, 2024. As of January 31, 2025, the current cash balance was \$116,061,887. This decrease of the cash balance since the end of the reporting period is the result of the distributions to investors discussed in Section V.

### **B. Accounts Receivable – Merchant Cash Advance Accounts**

The Receiver, his professionals, and the staff he rehired at Par Funding have been continuing to collect on the accounts receivable for the merchant cash advance ("MCA") accounts that were pending with the company as of the time the Receiver took over the operations of Par Funding. Through the first quarter of 2022, the Receiver's quarterly status reports reflected the full accounts receivable balances that had been recorded on Par Funding's books for these MCA accounts, while explaining that these balances did not reflect appropriate reductions or reserves for collectability or bad debt.

Starting in the quarter that ended on June 30, 2022, the Receiver identified MCA accounts that should be written off because the merchant had a closed bankruptcy, was no longer in operation, or had neither viable guarantors nor viable collateral. The Receiver also determined that a reserve was required for MCA accounts with ongoing bankruptcies and in other circumstances where full payment was doubtful. *See* DSI's Report, attached as Exhibit 1.

Based on the Receiver's ongoing analysis of the merchant accounts, the accounts receivable balance was previously reduced to \$224 million on June 30, 2022, \$189 million on September 30, 2022, \$68.5 million on September 30, 2023, \$66.4 million on December 31, 2023, \$23.8 million on March 31, 2024, \$15.4 million on June 30, 2024, and \$13.8 million on September 30, 2024. As of the end of the fourth quarter of the 2024 reporting period (October 1, 2024, through December 31, 2024), the total receivable balance was further reduced to \$8.2 million. The Receiver continues to analyze the remaining portfolio and anticipates further reductions in the receivable balance.

Based on this collectability analysis, and only using information that was available to CBSG management, the Receiver finalized and filed an amended tax return for 2018, a previously unfiled return for 2019, and an amended return for 2020. Through these returns, the Receiver is requesting a refund of approximately \$10.5 million.

### **C. Collection Efforts Through Outside Collection Company and Litigation**

As previously reported, the Receiver engaged Altus Receivables Management, Inc. ("Altus"), a national collection company, to collect judgments previously entered against select non-performing, non-bankruptcy merchants, guarantors, and counterparties that had outstanding balances and/or were otherwise in default at the time of the establishment of the receivership. The Receiver referred a total of 216 exemplified judgments to Altus. Altus has closed 200 files, either by way of settlement or based on a determination that further collection efforts would be futile. The Receiver continues to wind down his remaining collection efforts through Altus for the remaining 16 referred accounts.

The Receiver also initiated 68 actions against merchants in the Philadelphia Court of Common Pleas, either through civil action complaints or confessions of judgment. No actions are being actively litigated, with the balance resolved through offers of settlement, default, or confessed judgments. The Receiver settled its confessed judgment against Kingdom Logistics. That litigation is stayed while Kingdom Logistics performs its payment obligations under the parties' settlement agreement. Alan Redmond, the guarantor for National Brokers, filed a petition for bankruptcy protection on October 2, 2024, thereby staying the Receiver's litigation in the Philadelphia Court of Common Pleas. Redmond also has been indicted for various tax related crimes in the Eastern District of Pennsylvania. The Receiver has asserted his claim in bankruptcy and is working to maximize any potential recovery for the Receivership Estate.

**D. Collection Activity and Settlements with ESC and HBC Counterparties**

To date, the Receiver has resolved, either through full payoffs of the amount owed or settlements, the account balances of several counterparties to agreements with Eagle Six Consultants, Inc. ("ESC") and Heritage Business Consulting, Inc. ("HBC"). Although the remaining balance owed to ESC and HBC by these counterparties is \$11,759,000, the Receiver believes a portion of that amount is likely to be uncollectable.

**E. Life Settlements**

The Receiver continues to manage the portfolios of life settlement policies owned by ABFP Multi-Strategy Investment Fund LP ("MSIF") and ABFP Multi-Strategy Investment Fund II LP ("MSIF II"). On June 7, 2024, the Receiver was notified that one of the MSIF life settlement policies had matured and the net proceeds from this policy in the amount of \$271,187.76 was received in October 2024. To date, the Receiver has received total death benefits payable for policies owned by MSIF in the amount of \$5,832,479, and for policies owned by MSIF II in the amount of \$7,700,000.

These amounts only include the policy face value the Receiver has received on these policies, and exclude any interest or dividends the Receiver has received for these policies.

There are 10 unmaturing policies remaining within MSIF, with a total policy face value of \$12,371,434. And there are 12 unmaturing policies remaining within MSIF II, with a total policy face value of \$5,376,097. The Receiver continues to pay the premiums due on these policies, and no decision has been made regarding the possibility of selling these policies or transferring the policies to a third-party administrator. Because of poor underwriting and incomplete documentation maintained by prior management, the proposed purchase price the Receiver has obtained for these policies reflects a significant discount from the face value of the policies. In order to maximize the recovery on these policies, the Receiver anticipates deferring his decision on either selling or transferring these policies until the final stages of winding down the receivership.

### **III. Settlement with Eckert Seamans**

The Receiver and class counsel representing investor plaintiffs in various class action cases reached an agreement in principle to settle their claims against Eckert Seamans and its former partner John W. Pauciulo for \$45 million, which represented the approximate amount of the remaining limits on the law firm's eroding insurance policy. On May 6, 2024, the Receiver filed a motion to approve this settlement [ECF No. 1861] (the "Eckert Settlement Motion"). Following the entry 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), due to the filing of several objections to the Eckert Settlement Motion, and as a result of the likelihood that there would be an appeal of any order on the Eckert Settlement Motion, the Receiver asked the Court to stay its consideration of the Eckert Settlement Motion and to order the Receiver, counsel for the putative investor class, Eckert Seamans and its insurers, and the objectors to participate in a mediation. [ECF No. 2004].

On October 18, 2024, the Receiver reported to the Court that, as a result of the parties' efforts in the mediation, the Receiver, Class Counsel, Eckert, and certain of the objectors had reached agreements in principle to resolve the objections and for a new global settlement, which will result in a gross recovery (*i.e.*, prior to the payment of Class Counsel fees) to the Receivership Estate of \$38 Million (the "New Eckert Settlement").

The New Eckert Settlement is conditioned on, among other things, court approval and the entry of an opt-out (*i.e.*, consensual) bar order that prevents additional claims against the law firm and Mr. Pauciulo relating to the issues that are being resolved in the New Eckert Settlement. On December 24, 2024, the Receiver filed a motion to approve the New Eckert Settlement. [ECF No. 2981]. The Court entered an Order preliminarily approving the New Eckert Settlement on December 26, 2024. [ECF No. 2082]. As required under the preliminary approval order, the Receiver provided notice of the New Eckert Settlement, advising potential Claimants of their opportunity to object to or opt out of the settlement prior to the deadline of January 27, 2025. The Receiver did not receive any opt outs or objections prior to that deadline.

Two groups of potential claimants were provided an extension of time, through February 6, 2025, to determine whether to file objections to or opt out of the New Eckert Settlement. The first group is the "Chehebars," a group of family members from New York who were direct investors in CBSG. The second group who received this extension of time includes Defendants Lisa McElhone and Joseph LaForte, the former principals of Par Funding. It is unclear at this time whether either of these groups will object to or opt out of the New Eckert Settlement.

A final approval hearing on the New Eckert Settlement is scheduled for February 26, 2025. If the Court grants final approval to the New Eckert Settlement, the Receiver should receive the settlement proceeds into the Receivership Estate seven (7) days after the appeals period on the final approval order has expired, which is 60 days after the Court enters the final approval order. Those

funds would then be available for distribution to Claimants as part of the Receiver's distribution process, which is discussed in further detail below in Section V.

#### **IV. Receiver-Controlled Real Estate and Personal Property**

Over the course of these proceedings, the Receiver has controlled 25 properties (the "Receiver-Controlled Properties"). Three of the Receiver-Controlled Properties were single-family residential properties (the "Single-Family Properties"), and the remaining 22 properties were commercial, residential, or mixed-use rental properties in Philadelphia (the "Philadelphia Properties"). By Order dated January 10, 2023, the Court authorized the Receiver to market for sale all of the Receiver-Controlled Properties (the "Court Order"). Following the Court Order, the Receiver (i) commissioned market value appraisals of the Receiver-Controlled Properties and (ii) engaged separate real estate brokers to list and market each property for sale.

##### **A. Marketing of Single-Family Properties**

The Receiver previously sold two of the three Single-Family Properties. Each sales price was above the property's appraised value. As previously reported, the third Single-Family Property, located at 107 Quayside Drive, Jupiter, Florida, was under an Agreement of Sale, but certain title issues, including an IRS lien based on Defendant Lisa McElhone's pre-receivership federal tax obligations, prevented the Receiver from closing on that sale. Although the buyer under that prior agreement cancelled the contract when it became clear that these title issues could not be resolved promptly, the Receiver is now in the process of contracting with another buyer. The Receiver is continuing to explore methods to resolve these title issues, and anticipates filing a motion with the Court to request the relief that will be necessary to satisfy a title insurance company for the purpose of providing title insurance on the sale of that property.



**B. Marketing of Philadelphia Commercial/Mixed Use Properties**

As of the end of the current reporting period, through December 31, 2024, the Receiver sold 20 of the 22 Philadelphia Properties. In his prior status reports, the Receiver provided an overview of his marketing efforts and the closed sales of all the Philadelphia Properties. For further information about the Philadelphia Properties that have already been sold, the Receiver refers to his prior status reports.

The remaining two unsold Philadelphia Properties are 20 N. 3<sup>rd</sup> Street, which consists of two separately deeded commercial units and two separately deeded residential units, and 205 B Arch Street, a second-floor office condominium. Both properties formerly housed Par Funding's pre-receivership staff. The Receiver has received an offer for 205 B Arch Street, pending the potential purchaser's due diligence. The Receiver is also negotiating a sale of the two commercial units at 20 N. 3<sup>rd</sup> Street. The Receiver continues to work diligently with its broker, Berkshire, to market the remaining Philadelphia Properties to maximize their value in any sale.

Finally, many of the Philadelphia Properties were individually held by a corresponding single purpose limited liability company registered in Pennsylvania (the "LLC"). As the property held by a particular LLC is sold, the Receiver intends to dissolve the corresponding LLC under Pennsylvania law as part of his efforts to reduce the number of Receivership Entities and, ultimately, to wind down the Receivership Estate.

**C. Sale of Personal Property**

The Receiver has now sold a substantial amount of personal property within the Receivership Estate, including automobiles, watercraft, fine art, luxury watches and sports memorabilia. The Receiver is still in the process of selling the Cherubini yacht.

**V. Claims and Distribution Process**

**A. Claims Process**

As described in previous reports, the Court approved and the Receiver executed a process for soliciting, accepting and evaluating Proof of Claims forms submitted by potential claimants against the Receivership Estate. Thereafter, the Receiver issued Notices of Determination to each claimant to advise whether he agreed with the validity of the Claims submitted, and the amount each Claimant sought to recover. The Claimants were then afforded thirty (30) days to object to the Notices of the Receiver's Claim Determination ("NODs"). On April 22, 2024, the Receiver filed a Motion to (i) Approve Proposed Treatment of Claims and (ii) for Determination of a Ponzi Scheme (the "Claims Motion") [ECF No. 1843]. After considering objections from Claimants and replies from the Receiver, the Court entered an order on the Claims Motion, finding that CBSG operated as a Ponzi scheme and, generally, approving the Receiver's proposed claims determinations [ECF No. 1976] (the "Claims Order").

**B. Distribution Process**

Following the entry of the Claims Order, the Court directed the Receiver to prepare and file a motion to approve his proposed distribution plan and to authorize an initial distribution (the "Distribution Motion"). On August 23, 2024, the Receiver filed his Distribution Motion [ECF No. 2014]. After the filing of various motions to supplement the Distribution Motion [ECF Nos. 2047, 2061, 2070], as well as various responses and replies to these motions, the Court entered an Order granting the Distribution Motion on December 16, 2024 [ECF No 2078] (the "Distribution Order"). In the Distribution Order, the Court approved the Receiver's distribution plan and authorized the Receiver to issue a first interim distribution payment to various Claimants with Allowed Claims. The approved distributions within this first tranche total \$110,868,715.

On Friday, January 17, 2025, the Receiver's claims agent mailed interim distribution checks to 464 individual investors who were Claimants with allowed Class 3(A) Claims against the Receivership Entities. Those checks totaled \$37,236,195.80 in distribution payments. On Tuesday, January 21, 2025, the Receiver delivered \$22,313,033.87 to CamaPlan for the Allowed Claims of 323 individual investors with Class 3(A) Claims who utilized a CamaPlan self-directed IRA account to invest in one of the Receivership Entities. CamaPlan then allocated those funds to the accounts of the individual investors in accordance with an agreed-upon schedule. Thus, the Receiver has sent out a total of \$59,549,229.67 to Claimants with Allowed Claims as part of the first interim distribution.<sup>3</sup>

The balance of the \$110,868,715 in first interim distribution payment is for non-Receivership Entity Agent Funds that have Allowed Claims against CBSG. Specifically, there are 29 investment entities with allowed Class 3(A) Claims that pooled individual investor funds for investment into CBSG. In the Distribution Order, the Court authorized the allocation of first interim distribution payments to these Agent Funds, but instructed the Receiver to withhold those payments pending clarification and a further Order of the Court about the specific details of how those funds would be distributed. *See* Distribution Order at 42-43.

Specifically, although these non-Receivership Entity Agent Funds are the proper Claimants who hold Allowed Claims against CBSG, the Receiver expressed concerns about disbursing distribution payments to certain of these Agent Funds. Some of the managers of these Agent Funds are Defendants in pending SEC enforcement actions relating to their involvement in the CBSG investment scheme. Other Agent Fund managers represented to the Receiver that they no longer maintain active bank accounts and, if they received a distribution payment from the Receiver, they

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<sup>3</sup> Certain investors in the Retirement Evolution entities invested through self-directed IRA plans that were managed by custodians other than CamaPlan. The Receiver has not yet sent out \$2,108,262.61 to the Retirement Evolution Claimants that invested through these other IRA custodians. The Receiver is finalizing this process and anticipates issuing those additional payments shortly.

would not be able to return those funds to the individual investors who invested in CBSG through these Agent Funds.

Additionally, the Receiver has indicated that distribution payments to Agent Funds should only occur when there is a clear plan for ensuring that those funds are returned in a fair and equitable manner to the individual investors. As a result, the Receiver requested an opportunity to coordinate directly with these Agent Fund managers to confirm how the distribution payments to the Agent Funds would be allocated among the various investors in those Agent Funds. Additionally, the Receiver has been coordinating with the Agent Fund managers to determine whether any distribution payments should (1) bypass the Agent Fund and be issued directly to the individual investors in such Non-Receivership Entity Agent Funds, or (2) be issued to the Agent Funds with specific and enforceable instructions regarding how the Agent Fund managers should allocate and further distribute those funds to the individual investors within those Agent Funds.

The Receiver is working to finalize this review and analysis, and now has sufficient information to enable him to make recommendations to the Court regarding the distribution payments to be issued for 16 of the 29 non-Receivership Entity Agent Funds. The Receiver anticipates filing a motion to approve these payments in the near future, which would allow him to send out an additional \$18,878,266.61 of the previously allocated first distribution. The Receiver continues to analyze the investor data and is requesting additional information from the fund managers for the remaining 13 non-Receivership Entity Agent Funds, which represent the remaining \$30,335,956.14 of the approximately \$110 million in first interim distribution payments.

As part of the Distribution Order, the Court adopted the Receiver's recommendation to hold back, and not yet distribute, approximately \$65 million in funds currently within the Receivership Estate. The Receiver recommended this holdback because of certain disputed claims, ongoing expenses, and other pending issues. In addition, the Receiver anticipates receiving additional funds

into the Receivership Estate, such as the settlement proceeds from the New Eckert Settlement and the sales proceeds from the sale of the Quayside Property. As the disputed claims and pending issues are resolved, and the Receiver recovers additional funds into the Receivership Estate, the Receiver will recommend releasing the holdback and requesting approval to make additional distributions to Claimants of the funds within the Receivership Estate.

## **VI. Criminal Proceedings Report**

The criminal proceedings against Par Funding, its principals, and their associates have been discussed in the Receiver's prior status reports. In summary:

1. Defendant Renato Gioe pled guilty to two counts of extortionate collections of credit and one count of conspiracy to the same offense. His sentencing hearing has been scheduled for March 11, 2025.
2. Defendant Perry Abbonizio pled guilty to one count of conspiracy to commit wire fraud. His sentencing hearing has been scheduled for April 17, 2025.
3. Defendant Joseph LaForte pled guilty to several criminal offenses, including: felon in possession of firearms, in violation of 18 U.S.C. § 922(g)(1); racketeering conspiracy, in violation of 18 U.S.C. § 1962(d), with the predicate crimes being securities fraud, in violation of 15 U.S.C. §§ 78j(b), 78ff and 17 C.F.R. § 240.10b-5; conspiracy to defraud the Internal Revenue Service, in violation of 18 U.S.C. § 371; wire fraud, in violation of 18 U.S.C. § 1343 (related to LaForte's operation of Par Funding); and obstruction of justice, in violation of 18 U.S.C. §§ 1505 and 2 (related to a violent attack on counsel for the Receiver causing serious bodily injury, as well as threats of force against a victim of extortion). Defendant Joseph LaForte and the government have agreed that the appropriate sentence for Mr. LaForte will include incarceration between 162 months and 186 months. Mr. LaForte will pay restitution to his victims in an amount to be

determined at sentencing. He will also pay \$10,487,481 to the IRS and \$1,655,299 to the Pennsylvania Department of Revenue. His sentencing hearing is scheduled for February 12, 2025.

4. Defendant James LaForte pled guilty to several criminal offenses, including: racketeering conspiracy, in violation of 18 U.S.C. § 1962(d); extortionate collection of debt, in violation of 18 U.S.C. § 894; obstruction of justice, in violation 18 U.S.C. §§ 1505 and 2 (related to a violent attack on counsel for the Receiver causing serious bodily injury, as well as threats of force against a victim of extortion); and retaliation, in violation of 18 U.S.C. § 1513(b)(1) (related to threats of violence against cooperating co-defendant Perry Abbonizio and his family members). Defendant James LaForte and the government have agreed that the appropriate sentence for Mr. LaForte will include incarceration between 110 months and 137 months. While the Court has accepted Defendant James LaForte's guilty plea, the Court has not yet determined whether it will accept the proposed duration of incarceration as sufficient. Mr. LaForte will also pay victim restitution of \$2,488,645. His sentencing hearing is scheduled for March 10, 2025.
5. Defendant Joseph Cole Barleta pled guilty to racketeering conspiracy in violation of 18 U.S.C. § 1962(d) (related to his involvement in Par Funding's operations). Mr. Barleta's sentence will be within the sole discretion of the Court. The government has agreed not to seek a sentence of incarceration of more than eight years (96 months), but the Court is not bound by this recommendation. Barleta's sentencing hearing is scheduled for February 25, 2025.
6. Defendant Lisa McElhone pled guilty to one count of wire fraud in violation of 18 U.S.C. §1343. Her sentencing hearing is scheduled for June 2, 2025. Ms. McElhone

and the government have agreed that the appropriate sentence for Ms. McElhone will include incarceration between zero and 27 months.

7. Defendant Kenneth Bacon pled guilty to conspiracy, tax evasion, filing false returns, aiding and assisting in filing false returns, and wire fraud. His sentencing hearing is scheduled to occur on June 23, 2025. Rodney Ermel was charged with similar crimes in this case. Mr. Ermel is the only Defendant in these related criminal cases who has not pled guilty, and he is scheduled for trial on May 14, 2025.

In anticipation of sentencings for Joseph LaForte, James LaForte, and Joseph Cole Barleta, the Honorable Mark E. Kearney convened a hearing on January 13, 2025, to hear testimony and arguments to determine the amount of actual fraud loss arising from the racketeering and fraud scheme to which the above defendants pled guilty. On January 17, 2025, the Court issued an order finding the actual fraud loss in this matter to be applied for sentencing purposes under section 2B1.1 of the United States Sentencing Commission's Guidelines Manual is \$288,395,088.<sup>4</sup> On January 21, 2025, the Court issued a memorandum opinion setting forth its findings of facts and conclusions of law supporting its January 17, 2025 order. The Court's opinion is attached hereto as **Exhibit 2**.

The RICO indictment includes notices of forfeiture. The assets subject to the notices include a Cesna Citation Sovereign 680 jet bearing tail number N789MJ that is currently in the possession of the United States, all funds in a Charles Schwab investment account ending in number 7878 in the name of Tradewinds South, LLC, and parcels of land owned by Defendant Joseph Cole Barletta at 1745 Walnut Green Road and 1751 Walnut Green Road in Wilmington, Delaware. The United States has filed notices of *lis pendens* against both Wilmington, Delaware properties. The government is

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<sup>4</sup> The Court found the government met its burden in demonstrating an actual loss of \$404,737,299 in investors' principal owed as of July 27, 2020. The Court also found the defendants met their burden in demonstrating they are entitled to receive credit for collateralized assets in the amount of \$116,342,211.

exploring the possibility of transferring the assets subject to forfeiture to the Receivership for liquidation and distribution to the investors.

The Receiver will continue to monitor and, as necessary, participate in these criminal proceedings, with the goal of minimizing any related expense to the Receivership Estate.

**CONCLUSION**

**WHEREFORE**, Ryan K. Stumphauzer, as Court-Appointed Receiver, by and through his undersigned counsel, respectfully files this Quarterly Status Report dated January 31, 2025.

Dated: January 31, 2025

Respectfully Submitted,

**STUMPHAUZER KOLAYA  
NADLER & SLOMAN, PLLC**  
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By: /s/ Timothy A. Kolaya  
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*Co-Counsel for Receiver*



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on January 31, 2025, I electronically filed the foregoing document with the clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Timothy A. Kolaya

TIMOTHY A. KOLAYA

# Exhibit “1”



VIA EMAIL (rstumphauzer@sknlaw.com)

January 31, 2025

Mr. Ryan Stumphauzer  
Receiver  
c/o Stumphauzer Kolaya Nadler & Sloman, PLLC  
2 South Biscayne Boulevard  
Suite 1600  
Miami, Florida 33131

Dear Ryan:

In accordance with the Amended Order Appointing Receiver (ECF No. 141) (“Amended Order”), following is our quarterly report relating to the operations and analyses undertaken by Development Specialists Inc. (“DSI”) for the period of October 1, 2024 through December 31, 2024 (“Reporting Period”). Except as may be noted, all activity and financial data is for the Reporting Period.

**A. A summary of operations of the Receiver**

The Receivership is now comprised of 54 legal entities as well as numerous assets owned by these legal entities or purchased by the defendants in their own name for personal use. During the Reporting Period, the Receivership had agreed to sell

- Certain watercraft, including the Manitou XT Pontoon Boat and jet skis, for gross sales price of \$100,000.
- Membership interests in investments that Eagle Six Consultants held in a commercial real estate project for gross sales price of \$490,000.

The final sales for these assets closed, with the net proceeds being received, in January 2025.

In addition, Heritage Business Consulting was an investor in a limited liability company. We previously decided to maintain the membership interests in this company because management of the company was marketing the underlying assets for sale. During the Reporting Period, the underlying assets were sold, which resulted in a net payout to the Receivership of approximately \$5.9MM.

MIAMI/FT. LAUDERDALE

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Mr. Ryan K. Stumphauzer  
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The Receivership also liquidated its holdings in publicly-traded stock held by ABFP Income Fund 2, so that this cash would be available for distributions to investors in that Receivership Entity. The total proceeds of this liquidation was \$2,124,442. Of this amount, \$2,079,955 was received in December 2024 and \$44,487 was received in January 2025.

During the Reporting period, my staff and I continued working with you and counsel, as well as the corporate staff on various operations matters as they arose.

### **General Operations**

- Staffing:

We continue to discuss general operations matters with both the accounting and collections staff as needed. In light of staff reductions, DSI has been overseeing or performing accounting and operations tasks and working with the staff on day-to-day matters to maintain Receivership operations. We have continued to evaluate the ongoing need for staffing and discuss this with you and counsel.

- Tax Matters

During the Reporting period, we filed final tax reports for many of the limited liability companies which formerly owned real estate that has been sold. This was done in order to dissolve the underlying LLC's registered in Pennsylvania. With the assistance of counsel, this work is ongoing.

- Other

Additionally, we worked with counsel in order to finalize and reconcile claims in order to execute the first interim distribution to claimants. This work resulted in the approval by the Court to distribute approximately \$110 million to claimants. In January 2025, the Receivership distributed nearly \$60 million to direct investors, including those direct investors who invested through their self-directed IRA held at CamaPlan.

### **Portfolio Collections**

#### ***Analysis of merchant cash advance ("MCA") accounts***

As previously reported, at the outset of the Receivership, we were provided a listing of the MCA accounts for CBSG ("CBSG Portfolio"). This listing included thousands of accounts with a gross balance of over \$400MM, without reduction for collectability or bad debt. These accounts were marked as performing, non-performing, under-performing or in default. The following table reflects the portfolio status on July 28, 2020, as included in

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our prior reports, and December 31, 2024 based on this categorization of the balances from reports prepared by operations staff.

<i>\$MM's</i>	<b>CBSG Portfolio as of:</b>	
	<b>7/28/2020</b>	<b>12/31/2024</b>
Active <sup>1</sup>	\$117.7	\$5.4
Exception Portfolio	203.9	\$150.3
Litigation <sup>2</sup>	4.6	32.3
Non-Performing <sup>3</sup>	34.7	20.6
Bankruptcy <sup>4</sup>	54.7	58.6
Total Portfolio	\$415.6	\$267.2

The reduction in the CBSG Portfolio balance of approximately \$148.4MM represents merchants that have completely paid their advance through full payment of the remaining balance, settlement at a reduced amount or write-off of the remaining balance if the balance was determined to be unrecoverable. Balances determined to be unrecoverable include bankruptcy of the merchant and guarantor, verifiable closure of the merchant’s business or for other business reasons.

For all MCA Receivership Entities, the accounts receivable balance on December 31, 2024 was approximately \$277.3MM. We continued to analyze the collectability of the MCA advances for additional write-offs and reserves for uncollectible accounts balances. While certain balances have already been written off, we have determined that additional reserves and write-offs are needed for accounts with open bankruptcies and for other matters where full payment is doubtful. This on-going review process has resulted in reserves and write-offs of approximately \$269.1MM. ***The net result of these adjustments reduced the accounts receivable balances of the MCA Receivership Entities to approximately \$8.2MM.*** Further reductions may be needed as more information is

<sup>1</sup> Active portfolio includes all merchants having made a payment from November 1, 2024 through December 31, 2024 and those paying pursuant to a settlement agreement. Merchants have entered into short-term settlement agreements thereby reducing the balance owed. As of the end of the Reporting Period, there are approximately 400 settlement agreements for all MCA companies with approximately 380 merchants completely paid and the remainder with outstanding payments according to the agreement.

<sup>2</sup> As of 12/31/2024, there were numerous accounts on hold due to various legal reasons, including collateral issues, pending litigation, legal demands and pending and filed confessions of judgment. The balance also includes accounts sent to Altus Receivable Management, some of which were returned back to the Receivership during the Reporting Period.

<sup>3</sup> Non-performing merchants include merchants that have not made a payment in the 60 days prior to the end of the Reporting Period. This includes accounts that management defaulted prior to the Receivership.

<sup>4</sup> Includes Exception Portfolio merchants that filed bankruptcy. These merchants are excluded from the Exception Portfolio balance. Furthermore, the balance takes into account only if the merchant filed for bankruptcy. In certain cases, the guarantor filed bankruptcy but not the merchant. In these cases, for the table, the amount owed by the merchants has not been reclassified to bankruptcy. The balance also includes amounts not yet written off although the merchant may have been discharged.

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gathered. This analysis excludes accounts receivable held by Eagle Six Consultants and Heritage Business Consulting.

### **Net Tangible Assets**

We prepared a schedule detailing the assets on-hand as of the end of the Reporting Period (see Exhibit C). As of that time, the Receivership had approximately \$180.5MM of tangible assets, which includes cash, investments, real estate and personal assets. These assets were transferred to the Receivership from pre- Receivership banks; gained through collections, litigation efforts and sale of Receivership assets; and obtained through various settlements. More specifically, as of the end of the Reporting Period:

- The Receivership held approximately \$164.5MM in tangible assets from CBSG and other related entities, including real estate holdings of approximately \$11.7MM and other non-cash, tangible assets of approximately \$0.5MM. This does not include the value of the accounts receivable.
- The Receivership held approximately \$10.4MM in assets from the ABFP entities which includes cash. This includes the liquidation of certain stock as previously mentioned.
- The Receivership held approximately \$1.4MM in assets, all cash, from the Retirement Evolution entities and settlement with Mr. Gissas.
- The Receivership held approximately \$200,000 in assets, all cash, from the Fidelis entities, which was transferred at the outset of the Receivership.
- The Receivership held approximately \$10.4MM of cash from settlements with Messrs. Abbonizio and Vagnozzi as detailed in Exhibit C, which included cash from the sale of real estate from the settlements.

### **Claims Administration and Distribution**

As reported, the deadline to submit claims was March 22, 2023. During the Reporting Period and as needed, DSI compiled information from the accounting and other records in order to respond to inquiries from creditors or counsel regarding the claim.

Furthermore, we refined the analyses to calculate distributions to investors, by fund and in total. These analyses assisted counsel in preparing reports and developing the distribution methodology in order to make a first interim distribution of approximately \$110MM in currently-held cash.

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**B. The amount of cash on hand, the amount and nature of accrued administrative expenses, and the amount of unencumbered funds in the estate.**

Exhibit A shows the activity of the Receivership through for the Reporting Period and the cumulative period. Total cash and cash equivalents as of December 31, 2024 is \$175,304,553. All of the cash is unencumbered.

The accrued administrative fees for the quarter ended December 31, 2024 are:

- Receiver/co-counsel – Stumphauzer Kolaya Nadler & Sloman, PLLC \$186,707.58
- Co-counsel – Pietragallo Gordon Alfano Bosick & Raspanti, LLP \$193,270.46
- Financial Advisor/Operations Consultant – Development Specialists, Inc. \$154,595.25
- Digital Evidence/Computer Forensics Prof. – Lawgical Insights, LLC \$502.30
- Investigation Firm – HD Investigative Group, LLC \$0.00

All other administrative expenses, such as payroll and office expenses, are paid in the ordinary course of business. Certain employee wages, specifically paid time off, for employees who have returned to work may be owed to employees but have not been quantified.

**C. A schedule of all the Receiver’s receipts and disbursements.**

Exhibit A details the receipts and disbursements for the Reporting Period.

**D. A description of known Receivership Property, including approximate or actual valuations, anticipated or proposed dispositions, and reasons for retaining assets where no disposition is intended.**

Receivership Property includes:

<b>Asset:</b>	<b>Estimated value</b>
	<b>12/31/2024</b>
Cash in bank	\$175,304,553
Cash held by ACH processors	\$170,000
Portfolio balance <sup>5</sup>	\$8,200,000
Other accounts receivable <sup>6</sup>	\$11,759,000
Investment in third parties <sup>7</sup>	\$980,000

<sup>5</sup> Includes all MCA Receivership Entities – Complete Business Solution Group, Inc.; Fast Advance Funding, LLC; and, Contract Financing Solutions, Inc. The balance shown is after taking into account adjustments as discussed herein.

<sup>6</sup> This balance of “other accounts receivable” includes, among other things, amounts owed by third parties to ESC and HBC. As with the MCA balances, certain balances were reduced during the quarter as more information about collectability was noted.

<sup>7</sup> We identified certain balances that are not accounts receivable but rather investments in other, third-party, non-public entities recorded by ESC and HBC. The balance is the gross balance without adjustment for changes in value of the underlying investment assets.

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<b>Asset:</b>	<b>Estimated value</b>
Life settlement policies (gross death benefits) <sup>8</sup>	\$17,750,000
Real estate	\$11,677,000
Other Assets (see Exhibit B)	\$350,000
Furniture and fixtures	\$0

**E. A description of liquidated and unliquidated claims held by the Receivership Estate, including the need for forensic and/or investigatory resources; approximate valuations of claims; and anticipated or proposed methods of enforcing such claims.**

As we wind down the Receivership, we continue to work with you and counsel to analyze any additional claims held by the Receivership Estate that might be pursued. One significant claim is the claim against the law firm of Eckert Seamans. The detail of the status of that claim and the potential recovery from this claim is discussed in your quarterly status report.

As described in the Court’s Order approving the Claims Motion, now that the Court has determined that CBSG operated as a Ponzi scheme, clawback claims against investors who recovered more than 100 percent of their net investment in CBSG and, therefore, are described as “net winners” can be pursued. To the extent any other claims, including clawback claims against net winners, are pursued, a motion must be filed to lift the litigation injunction. We will continue to work with counsel to analyze the cost-benefit of pursuing any such additional claims.

**F. A list of all known creditors with their addresses and the amounts of their claims.**

We provided a list of the known creditors of CBSG in our report to you dated August 31, 2020 and filed as Exhibit 1 to ECF No. 214, Receiver Ryan K. Stumphauzer’s Notice of Filing Sworn Statement Pursuant to Paragraph 9 of the Amended Receivership Order. In addition, a listing of claimants was included in the previously mentioned ECF No. 1843 and ECF No. 1976.

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<sup>8</sup> Approximate death benefit of life settlement insurance policies owned by Receivership Entities under the A Better Financial Plan after adjustment for death benefits received and included in the cash balance. The value of the life insurance policies necessarily depends on the availability of critical documentation including but not limited to the insurance policy, actuarial detail and the purchase and sale agreement for the policy. Based on the incomplete documentation that has been made available to us to date and, in turn, provided to Maple Life Analytics, LLC (“Maple”), Maple concluded the market value of the policies in the portfolio (as of the February 2021 valuation) is less than \$10.0MM. Since February 2021, policies have matured with death benefits received totaling approximately \$13.5MM. In the event the Receivership receives additional documentation, we will provide such documentation to Maple and will provide additional updates in future reports if any such additional information affects the Maple valuation of these policies. Additionally, in the prior Reporting Period, one additional policy matured and the net proceeds for that policy were received during the current Reporting Period.



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**G. The status of Creditor Claims Proceedings, after such proceedings have commenced.**

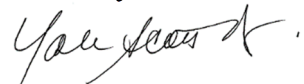
Prior to the Reporting Period, the date by when claimants must file claims was set as March 22, 2023. Approximately 1,291 claims were filed, which includes amended claims and duplicate claims. In addition, since many CBSG investors made investments through their IRA plan at CamaPlan, CamaPlan filed two bulk claims for an additional 567 claims. As noted above, creditors were notified whether or not the Receiver agreed with the filed proof of claim and were sent notices of determination (“NOD”). We responded to over 300 creditors with inquiries about the NOD that was sent and the allowance of the claim. The deadline for creditors to have file formal objections to the NOD was December 21, 2023. Approximately 300 objections were filed, including those by participants in CamaPlan. On April 22, 2024, the Claims Motion was filed. On June 26, 2024, the Court entered an order granting the Claims Motion and approving the proposed claims determinations.

Thereafter, a motion to approve a distribution plan and to authorize an initial distribution was filed. We worked with counsel to assess the proposed distributions to claimants and the distribution agent to set a process for making the first interim distribution. The distribution process started in January 2025, following the Court’s entry of its order on the motion.

**H. The Receiver’s recommendations for a continuation or discontinuation of the receivership and the reasons for the recommendations.**

It is my recommendation that the Receivership continues. The Receivership is benefitted by continuing to collect outstanding merchant and loan balances and, as appropriate, pursuing various claims. While the remaining balances to be recovered have been reduced, ongoing efforts are expected to continue to result in additional collections beyond the cost of operating the receivership. The professional staffing changes that have occurred will reduce fees going forward. Current professionals are knowledgeable of the Receivership Entities’ books and records, all of which is vital to working with you and counsel on various causes of actions and to maximize and monetize the assets of the receivership.

Sincerely,



Yale Scott Bogen  
Senior Managing Director

Copy to: Mr. Gaetan J. Alfano (GJA@Pietragallo.com)  
Mr. Tom J. Frey (e-mail TFrey@DSIConsulting.com)  
Mr. Timothy A. Kolaya (e-mail TKolaya@sknlaw.com)  
Mr. George E. Shoup, III (e-mail GShoup@DSIConsulting.com)

# **EXHIBIT A**

Ryan K Stumphauzer, Receiver

Report prepared by:  
Financial Advisor and Operational Consultant to the Receiver  
Development Specialists, Inc.

INTERIM REPORT IN PREPARATION OF STATUS CONFERENCE  
**STANDARDIZED FUND  
ACCOUNTING REPORT**

CIVIL - RECEIVERSHIP FUND

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Consolidated Par Funding Receivership Entities <sup>1</sup>

Civil Court Docket No. 20-cv-81205-RAR

Reporting Period 10/1/2024 to 12/31/2024

<sup>[1]</sup> 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.

STANDARDIZED FUND ACCOUNTING REPORT for PAR FUNDING - Cash Basis  
 Receivership; Civil Court Docket No. 20-cv-81205-RAR  
 Reporting Period 10/1/2024 to 12/31/2024

Fund Accounting:		Current Period	Prior Period(s)	Case-to-date
		10/1/24 - 12/31/24	7/28/20 - 9/30/24	Total
Line 1	<b>Beginning Balance<sup>4</sup>:</b>	\$168,376,111	\$26,446,083	\$26,446,083
	<i>Increases in Fund Balance:</i>			
Line 2	<b>Business Receipts</b>	7,353,512	109,929,077	117,282,589
	Business Receipts - Overpayments	0	(98,865)	(98,865)
Line 3	<b>Cash and Securities</b>		0	0
	Pre-Receivership Cash Transfer	0	14,756,649	14,756,649
	Change in Value of Securities	138,272	697,189	835,461
Line 4	<b>Interest/Dividend Income</b>	1,653,161	9,597,926	11,251,087
Line 5	<b>Real Estate Liquidation</b>	0	43,361,671	43,361,671
Line 6	<b>Other Asset Liquidation</b>	3,886	1,826,702	1,830,588
Line 7	<b>Third-Party Litigation Income</b>	0	4,079,310	4,079,310
Line 8	<b>Miscellaneous<sup>1</sup></b>	0	1,515,243	1,515,243
	<b>Total Receipts<sup>2</sup></b>	9,148,831	185,664,902	194,813,732
	<b>Total Funds Available (Lines 1 - 8):</b>	\$177,524,941	\$212,110,985	\$221,259,815
	<i>Decreases in Fund Balance:</i>			
Line 9	<b>Disbursements to Investors</b>	0	0	0
Line 10	<b>Disbursements for Receivership Operations:</b>			
Line 10a	<i>Disbursements to Receiver or Other Professionals<sup>3</sup></i>	823,466	25,604,497	26,427,962
Line 10b	<i>Business Asset Expenses</i>			0
	Payroll & Benefits	128,544	4,231,043	4,359,587
	IT Expense	30,113	1,075,441	1,105,554
	Utilities	8,151	127,412	135,563
	Insurance	11,119	200,502	211,621
	Other Operating Expense	669,222	1,095,399	1,764,622
	Other	120	430,768	430,888
	<b>Total Business Asset Expenses<sup>2</sup></b>	847,269	7,160,565	8,007,834
				0
Line 10c	<i>Personal Asset Expenses</i>	0	0	0
Line 10d	<i>Investment Expenses</i>			0
	Premiums Due on Life Settlement Policies	368,288	5,734,546	6,102,834
	Property Expenses	11,453	1,813,832	1,825,285
	Real Estate Liquidation Expenses	0	3,376,708	3,376,708
	Other Asset Liquidation Expenses	0	0	0
				0
Line 10e	<i>Third-Party Litigation Expenses</i>			0
	1. Attorney Fees	0	44,726	44,726
	2. Litigation Expenses	0	0	0
	3. Forensic Accounting	0	0	0
	<i>Total Third-Party Litigation Expenses</i>	0	44,726	44,726
Line 10f	<i>Tax Administrator Fees and Bonds</i>	0	0	0
Line 10g	<i>Federal and State Tax Payments</i>	0	0	0
	<b>Total Disbursements for Receivership Operations</b>	\$2,050,476	\$43,734,874	\$45,785,349
Line 11	<b>Disbursements for Distribution Expenses Paid by the Fund:</b>	\$0	0	0
Line 12	<b>Disbursements to Court/Other:</b>	\$0	0	0
	<b>Total Funds Disbursed (Line 9 - 12)</b>	\$2,050,476	\$43,734,874	\$45,785,349
Line 13	<b>Ending Balance:</b>	\$175,474,466	\$168,376,111	\$175,474,466

STANDARDIZED FUND ACCOUNTING REPORT for PAR FUNDING - Cash Basis  
 Receivership; Civil Court Docket No. 20-cv-81205-RAR  
 Reporting Period 10/1/2024 to 12/31/2024

		<u>Current Period</u>	<u>Prior Period</u>	<u>Case-to-date</u>
<b>Line 14</b>	<b>Ending Balance of Fund - Net Assets:</b>			
	<i>Line 14a</i>	\$175,474,466	\$168,376,111	\$175,474,466
	<i>Line 14b</i> Investments			Unknown
	<i>Line 14c</i> Other Assets or Uncleared Funds			
	<b>Total Ending Balance of Fund - Net Assets</b>	<b>\$175,474,466</b>	<b>\$168,376,111</b>	<b>\$175,474,466</b>

<b>OTHER SUPPLEMENTAL INFORMATION:</b>				
		<u>Current Period</u>	<u>Prior Period</u>	<u>Case-to-date</u>
<i>Report of Items NOT To Be Paid by the Fund:</i>				
<b>Line 15</b>	<b>Disbursements for Plan Administration Expenses Not Paid by the Fund:</b>			
<b>Line 16</b>	<b>Disbursements to Court/Other Not Paid by the Fund:</b>			
<b>Line 17</b>	<b>DC &amp; State Tax Payments</b>			
<b>Line 18</b>	<b>No. of Claims:</b>			
	<i>Line 18a</i> # of Claims Received This Reporting Period .....			
	<i>Line 18b</i> # of Claims Received Since Inception of Fund .....			
<b>Line 19</b>				
	<i>Line 19a</i> # of Claimants/Investors Paid This Reporting Period .....			
	<i>Line 19b</i> # of Claimants/Investors Paid Since Inception of Fund .....			

Note 1: Includes \$16,574.82 of expense reimbursements from Vision Solar and Solar Exchange for shared IT expenses.  
Note 2: Excludes inter-receivership receipts/disbursements.  
Note 3: Disbursements to Receiver or Other Professionals includes payments for certain IT related expenses and tax preparation.  
Note 4: In Q1 2023, the SEC approved removing Capital Source 2000 from the Receivership. All cash relating to Capital Source 2000 was transferred to the prior members in accordance with the SEC’s decision. Cash has been adjusted to reflect this change.

**Schedule 1.1**  
 STANDARDIZED FUND ACCOUNTING REPORT for PAR FUNDING - Cash Basis  
 Receivership; Civil Court Docket No. 20-cv-81205-RAR

Entity	Bank Name	Account Number	Ending Cash Balance as of 12/31/2024
<b>Pre-receiver Accounts</b>			
ABFP Income Fund 2	Charles Schwab	x7943	\$0
<b>Receiver Accounts</b>			
Complete Business Solutions Group, Inc.	City National Bank	x1839	\$0
Complete Business Solutions Group, Inc.	City National Bank	x5736	\$0
Complete Business Solutions Group, Inc.	City National Bank	x2430	\$250,000
Complete Business Solutions Group, Inc.	City National Bank	x5554	\$435
Complete Business Solutions Group, Inc.	City National Bank	x3071	\$3,246
Complete Business Solutions Group, Inc.	City National Bank	x9941	\$45,425,917
Complete Business Solutions Group, Inc.	City National Bank	x0021	\$13,655,100
Complete Business Solutions Group, Inc.	City National Bank	x9781	\$12,593,154
Complete Business Solutions Group, Inc.	Actum	N/A	\$12,000
Complete Business Solutions Group, Inc.	Priority Payment Systems	N/A	\$50,000
CBSG dba Par Funding Receivership (QSF)	City National Bank	x8813	\$19,398,697
CBSG dba Par Funding Receivership (QSF)	City National Bank	x2399	\$250,000
Full Spectrum Processing Inc.	City National Bank	x5700	\$5,028
ABFP Multi-Strategy Investment Fund LP.	City National Bank	x3575	\$250,000
ABFP Multi-Strategy Investment Fund LP.	City National Bank	x7463	\$2,430,899
ABFP Multi-Strategy Investment Fund 2 LP.	City National Bank	x3872	\$250,000
ABFP Multi-Strategy Investment Fund 2 LP.	City National Bank	x8902	\$6,500,529
Fidelis Financial Planning LLC.	City National Bank	x5835	\$13,938
The United Fidelis Group Corp.	City National Bank	x5682	\$183,704
Fast Advance Funding LLC	City National Bank	x2069	\$250,000
Fast Advance Funding LLC	City National Bank	x7783	\$1,365,010
Fast Advance Funding LLC	Actum	N/A	\$43,613
118 Olive PA LLC	City National Bank	x1195	\$250,000
118 Olive PA LLC	City National Bank	x1942	\$493,681
205 B Arch St Management LLC	City National Bank	x1420	\$0
242 S 21st St LLC	City National Bank	x9339	\$250,000
242 S 21st St LLC	City National Bank	x2182	\$861,865
300 Market St LLC	City National Bank	x1186	\$250,000
300 Market St LLC	City National Bank	x7303	\$3,446,143
627-629 E Girard LLC	City National Bank	x9872	\$250,000
627-629 E Girard LLC	City National Bank	x7543	\$3,017,128
803 S 4th St LLC	City National Bank	x9816	\$642,636
1427 Melon St LLC	City National Bank	x3410	\$250,000
1427 Melon St LLC	City National Bank	x7623	\$6,401,911
1530 Christian St. LLC	City National Bank	x3401	\$250,000

**Schedule 1.1**

STANDARDIZED FUND ACCOUNTING REPORT for PAR FUNDING - Cash Basis  
 Receivership; Civil Court Docket No. 20-cv-81205-RAR

<b>Entity</b>	<b>Bank Name</b>	<b>Account Number</b>	<b>Ending Cash Balance as of 12/31/2024</b>
1530 Christian St. LLC	City National Bank	x0736	\$769,538
1635 East Passyunk LLC	City National Bank	x3293	\$799,247
1932 Spruce St LLC	City National Bank	x2834	\$250,000
1932 Spruce St LLC	City National Bank	x6019	\$1,479,089
4633 Walnut St. LLC	City National Bank	x2843	\$250,000
4633 Walnut St. LLC	City National Bank	x0656	\$530,713
1223 N 25th St. LLC	City National Bank	x9861	\$720,911
1250 N 25th St LLC	City National Bank	x4130	\$968,881
135-137 N. 3rd St. LLC	City National Bank	x9753	\$250,000
135-137 N. 3rd St. LLC	City National Bank	x7223	\$6,271,518
715 Sansom St. LLC	City National Bank	x9863	\$2,252,545
861 N 3rd St. LLC	City National Bank	x9845	\$250,000
861 N 3rd St. LLC	City National Bank	x7383	\$1,471,307
915-917 S. 11th LLC	City National Bank	x9818	\$250,000
915-917 S. 11th LLC	City National Bank	x0816	\$1,739,486
20 N. 3rd St. Ltd	City National Bank	x1447	\$0
Capital Source 2000, Inc	City National Bank	x2528	\$0
Heritage Business Consulting, Inc.	City National Bank	x1745	\$250,000
Heritage Business Consulting, Inc.	City National Bank	x7943	\$7,587,382
Eagle Six Consulting, Inc.	City National Bank	x2519	\$250,000
Eagle Six Consulting, Inc.	City National Bank	x7703	\$17,208,171
Liberty Eighth Avenue LLC	City National Bank	x1700	\$250,000
Liberty Eighth Avenue LLC	City National Bank	x7063	\$16,793
LME 2017 Family Trust	City National Bank	x8827	\$125,640
LWP North LLC	City National Bank	x8115	\$250,000
LWP North LLC	City National Bank	x2102	\$3,056,977
Blue Valley Holdings, LLC	City National Bank	x5460	\$250,000
Blue Valley Holdings, LLC	City National Bank	x2022	\$3,122,293
500 Fairmount Avenue, LLC	City National Bank	x8169	\$1,633,494
Contract Financing Solutions	Actum	N/A	\$64,300
Contract Financing Solutions	City National Bank	x7143	\$3,609,473
Contract Financing Solutions	City National Bank	x4540	\$250,000
Recruiting and Marketing Resources	City National Bank	x4279	\$2,071
<b>Total Bank Balance</b>			<b>\$175,474,466</b>

**Complete Business Solutions et al Receivership**

Net Assets Schedule

Reporting Period 10/1/2024 to 12/31/2024

	2024				2023				2022				2021	2020
	Q4	Q3	Q2	Q1	Q4	Q3	Q2	Q1	Q4	Q3	Q2	Q1	Q4	Q4
<b>RECEIPTS AND ASSETS:</b>														
Net MCA collections	\$1,031,590	\$1,369,679	\$778,897	\$867,753	\$2,230,574	\$1,377,340	\$839,117	\$1,744,287	\$3,182,887	\$3,169,061	\$5,864,888	\$4,796,064	\$5,329,687	\$19,545,846
Other accounts receivables	5,937,558	79,032	74,000	83,000	62,000	62,000	69,000	279,000	290,692	48,491	138,297	265,300	1,242,828	126,569
Rental income <sup>1</sup>	119,363	373,422	(21,585)	190,119	348,820	437,657	356,035	537,000	517,000	633,800	493,000	500,000	505,000	-
Insurance proceeds	265,000	-	-	750,000	-	500,000	3,504,924	-	-	3,032,479	-	-	4,432,143	350,000
Litigation proceeds	-	-	500,000	547,586	-	-	33,031	15,000	2,614	100,296	394,686	2,486,098	-	-
Other cash receipts <sup>2</sup>	3,737,002	8,299,738	10,908,787	9,343,682	7,820,963	9,756,015	4,275,518	297,061	199,560	4,125,509	38,825	2,579,985	1,290,325	9,935,224
<b>Other Assets:</b>														
Beginning cash	\$166,434,427	\$158,383,690	\$148,482,274	\$139,069,429	\$131,152,672	\$122,106,441	\$115,311,109	\$117,211,559	\$115,115,250	\$106,067,856	\$101,850,882	\$94,219,460	\$84,687,504	\$34,936,278
Marketable securities	-	1,941,683	1,896,266	1,806,151	1,815,338	1,575,829	1,534,549	1,491,363	1,427,855	1,392,926	1,461,227	1,682,483	1,523,709	1,089,936
Net real estate	11,677,000	11,677,000	17,828,000	26,547,000	35,221,000	40,000,000	52,684,000	55,129,000	55,129,000	55,129,000	56,408,685	56,008,685	52,831,900	0
Vehicles and watercraft	350,000	456,000	539,000	539,000	539,000	539,000	1,181,600	1,181,600	1,181,600	1,181,600	1,181,600	1,181,600	1,181,600	0
Other personal assets	-	-	-	56,837	258,761	2,160,000	2,314,500	2,314,500	2,314,500	2,314,500	2,314,500	2,314,500	2,314,500	0
<b>TOTAL RECEIPTS AND ASSETS:</b>	<b>189,551,941</b>	<b>182,580,243</b>	<b>180,985,639</b>	<b>179,800,557</b>	<b>\$179,449,126</b>	<b>\$178,514,282</b>	<b>\$182,103,384</b>	<b>\$180,200,370</b>	<b>\$179,360,958</b>	<b>\$177,195,517</b>	<b>\$170,146,590</b>	<b>\$166,034,175</b>	<b>\$155,339,196</b>	<b>\$65,983,853</b>
<b>EXPENSES AND DISBURSEMENTS:</b>														
Operating expenses	847,269	237,698	299,848	313,515	307,735	517,388	411,242	2,797,136	443,305	418,005	486,364	567,952	444,717	472,173
Personal asset expenses	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Premium due on life settlement policies	368,288	280,584	234,921	294,200	321,103	360,063	315,145	360,691	260,378	305,154	583,232	324,481	354,434	324,301
Real estate property expenses	11,453	42,630	84,539	109,410	16,329	227,311	153,095	270,030	23,174	94,636	138,833	286,565	18,724	-
Real Estate liquidation expenses	-	526,104	724,931	590,613	796,299	535,751	201,641	-	-	-	-	-	-	-
Other Asset liquidation expenses	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Third party attorney fees and expenses	-	-	-	-	-	-	-	-	-	-	-	(100)	100	-
Professional fees	823,466	984,116	996,018	1,047,961	1,104,133	1,446,268	1,201,172	1,148,291	1,383,415	1,232,486	1,470,064	1,821,366	2,441,777	-
<b>TOTAL EXPENSES AND DISBURSEMENTS</b>	<b>2,050,476</b>	<b>2,071,132</b>	<b>2,340,257</b>	<b>2,355,699</b>	<b>\$2,545,599</b>	<b>\$3,086,782</b>	<b>\$2,282,294</b>	<b>\$4,576,149</b>	<b>\$2,110,272</b>	<b>\$2,050,280</b>	<b>\$2,678,493</b>	<b>\$3,000,263</b>	<b>\$3,259,752</b>	<b>\$796,474</b>
<b>NET ASSET VALUE (NAV)</b>	<b>187,501,466</b>	<b>180,509,111</b>	<b>178,645,382</b>	<b>177,444,858</b>	<b>\$176,903,527</b>	<b>\$175,427,500</b>	<b>\$179,821,090</b>	<b>\$175,624,221</b>	<b>\$177,250,686</b>	<b>\$175,145,237</b>	<b>\$167,468,097</b>	<b>\$163,033,912</b>	<b>\$152,079,444</b>	<b>\$65,187,380</b>

Note 1: The negative rental income in Q2 2024 represents the payment of prepaid rent to the new buyers. Additionally, Q1 2024 rental income was adjusted to include the return of rental income to the new buyer for the sale of 715 Sansom.

Note 2: Balance includes receipts of legacy accounts from the expansions of the Receivership.



## EXHIBIT B

### Other Assets

Asset	Approximate Value <sup>9</sup>
Yacht	\$250,000
Manitou XT Pontoon boat	\$82,000
Yamaha Waverunner jet skis (2)	\$18,000
<b>Total</b>	<b>\$350,000</b>

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<sup>9</sup> Amount represents approximate purchase price except for the value of the yacht. The Receiver has adjusted the approximate value of the yacht based on input from the broker engaged to the sell the asset. Although the pontoon boat and waverunners are now under contract to be sold, the proceeds from the sale of these assets are not expected to be received into the Receivership Estate until sometime in the first quarter of 2025.

**EXHIBIT C****Complete Business Solutions et al Receivership**

Tangible Assets Schedule

Reporting Period as of 12/31/2024

	CBSG	Abbonizio	ABFP	Vagnozzi	Retirement Evolution	Fidelis	Total (as of 12/31/24)
<b>Assets On-hand:</b>							
<b>Cash and Investment Accounts:</b>							
Cash	\$ 152,516,654	\$ 6,306,610	\$ 10,365,839	\$ 4,730,272	\$ 1,357,448	\$ 197,642	\$ 175,474,466
SEP Account (Retirement Funds)	-	-	-	-	-	-	-
ABFP Income Fund 2 (Stock and cash)	-	-	-	-	-	-	-
<b>Other Assets:</b>							
Real Estate	11,677,000	-	-	-	-	-	11,677,000
Auto	-	-	-	-	-	-	-
Watercraft	350,000	-	-	-	-	-	350,000
Other Assets	-	-	-	-	-	-	-
<b>Total Assets On-hand</b>	<b>\$ 164,543,654</b>	<b>\$ 6,306,610</b>	<b>\$ 10,365,839</b>	<b>\$ 4,730,272</b>	<b>\$ 1,357,448</b>	<b>\$ 197,642</b>	<b>\$ 187,501,466</b>

Note 1: In Q1'23, the SEC approved removing Capital Source 2000 from the receivership. All cash relating to Capital Source 2000 was transferred to the prior members in accordance with the SEC's decision. Cash has been adjusted to reflect this change.

Note 2: The above schedule does not include ABFP life insurance policies with total face value death benefits of approximately \$17.7MM; although the Receiver believes that the present value of these policies, if sold in an arms-length transaction, would be substantially less.

Note 3: The above schedule does not include future payments due under settlement agreements with various merchants and counterparties.

Note 4: The above schedule does not include restricted stock in Sustainable Resources Group, LLC and Telemachus India LLC transferred to the Receiver pursuant to the settlement with Mr. Vagnozzi. Both investments were highly speculative and there is no readily available market for either stock.

# Exhibit “2”

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA** : **CRIMINAL ACTION**  
 :  
 **v.** : **NO. 23-198- 1, 4, 5**  
 :  
 **JOSEPH LAFORTE, JOSEPH COLE** :  
 **BARLETA, JAMES LAFORTE** :

**MEMORANDUM  
with Findings of Fact & Conclusions of Law**

**KEARNEY, J.**

**January 21, 2025**

An earlier convicted felon and two other men admitted creating a fraudulent scheme to induce hundreds of persons to lend their related companies approximately \$547 million from 2012 to 2020 secured by short term promissory notes and a security interest in the related companies’ accounts receivable and cash. The three men sold their investors a “merchant cash advance” business model through which the related companies purchased over \$1.3 billion of merchants’ accounts receivables at a discount to provide the merchants with short term cash but also required the merchants repay the advance plus substantial interest a few months later. The three men did not tell the investors of their leader’s felony conviction, nor did they tell the investors their companies had not returned a profit since 2016. The three men did not tell their investors of enriching themselves and other insiders by more than \$150 million in internal distributions while losing money on their merchant advance business and using the investor funds to pay distributions and make more merchant advances. The Securities and Exchange Commission investigated the businesses and filed suit in July 2020 to freeze assets and appoint a receiver to recover for the investors then owed over \$404 million in principal. The judge in the securities enforcement action

appointed a receiver to evaluate ongoing operations and work to repay the investors. Our Grand Jury later charged these three men and others with a racketeering enterprise including securities fraud and wire fraud in the operations of their related companies. The three men pleaded guilty before us. We set sentencing hearings over the next several weeks.

Federal sentencing policy requires we adhere to Congressional directives and study the guidance from the United States Sentencing Commission. The Sentencing Commission recommends offense levels based off the amount of a fraud loss in a convicted fraudulent scheme. We now must calculate the fraud loss suffered by the investors under section 2B1.1 of the United States Sentencing Guidelines.

We welcomed extensive briefing and presided over an evidentiary hearing to determine the actual fraud loss weeks before the sentencings. The United States argued, and presented compelling expert and agent testimony, describing the nature of the scheme and identifying an actual loss of \$404,737,299 in principal owed to the investors when the Securities and Exchange Commission sued, and a federal judge froze the companies' accounts in July 2020. The convicted felon businessman countered we should calculate the loss number based on the companies' revenue value (as an ongoing concern for sale) or, alternatively, we should take the total funds raised and subtract all repayments to investors, including principal and interest. The companies' financial officer countered we should also limit the actual fraud loss to the dollar amount of claims voluntarily submitted to and approved by the Receiver. We disagree with both deviations from actual fraud loss under the Guidelines based on the outstanding principal at the time a federal judge and Receiver stopped the admitted crimes. But we agree with the businessmen as to a credit for the companies' verifiable accounts receivables and cash in the bank available for distribution to the investors. We find the actual loss to investors resulting from this admitted fraudulent scheme

is \$288,395,088 after carefully evaluating the credibility of the witnesses and the varied legal positions.

**I. FINDINGS OF FACT AFTER EVIDENTIARY HEARING**

1. Our Grand Jury charged Joseph LaForte, James LaForte, and Joseph Cole Barleta with a racketeering conspiracy to defraud persons and entities investing in Complete Business Solutions Group, Inc., d/b/a Par Funding and its affiliate companies through the predicate crimes of securities fraud and wire fraud.<sup>1</sup>

2. Joseph LaForte, James LaForte, and Joseph Cole Barleta, among others, admitted:

a. They participated in a racketeering conspiracy to defraud investors in Par Funding and its affiliate companies through, among other means, predicate crimes of securities and wire fraud;

b. Par Funding funded merchant-customer businesses through short-term financing transactions held out as merchant cash advances to purchase accounts receivables to be repaid in short term largely for merchants who could not borrow from a traditional lender. These merchants would instead sell their receivables for a short-term financing to be repaid within a few months;

c. Par Funding purchased merchant-customers' future receivables at a discount and gave merchant-customers the discounted amount up front to operate their businesses. Merchant-customers agreed to repay Par Funding the purchase price advanced to them plus interest, typically 30% or more;

d. Par Funding needed to raise money to buy these accounts receivable. It raised capital to fund these merchant cash advances by soliciting investors and selling them promissory notes from approximately 2012 to 2017. Par Funding promised the investors interest payments on their promissory notes ranging from 12% to 44% over the course of twelve months, at which time

Par Funding would repay the investors' principal investment in full. Par Funding also gave the investors a security interest in its assets including its cash on hand and accounts receivable from the merchants. The investors could not transfer or negotiate these promissory notes;

e. Par Funding restructured the way it raised capital to fund these merchant cash advances in 2018. It switched from raising capital directly from individual investors to raising capital indirectly through agent funds;

f. Joseph LaForte, James LaForte, and Joseph Cole Barleta lied to investors about Joseph LaForte's criminal history and made false claims about Par Funding's profitability; in reality, Par Funding's MCA business did not generate enough cash flow to repay investors their promised returns from 2016 to 2020;

g. Joseph LaForte, James LaForte, and Joseph Cole Barleta, among others, continued to raise funds from investors even though they knew Par Funding did not create a profit.

3. The LaFortes and Mr. Barleta approved large distributions to themselves with investors' funds. From the beginning of 2015 through July 2020, insider payments exceeded \$150 million.<sup>2</sup>

4. The United States Securities and Exchange Commission sued Par Funding, related entities, and individuals including the LaFortes and Mr. Barleta, in the United States District Court for the Southern District of Florida as part of an enforcement action on July 24, 2020.

5. The Honorable Rodolfo A. Ruiz II presiding in the enforcement action appointed Ryan Stumphauzer as the Receiver over Par Funding and several of its affiliates.<sup>3</sup>

6. The Receiver assumed responsibility for the assets of the entities in receivership as part of the securities civil enforcement action before Judge Ruiz, which include identifying and collecting assets to distribute to Par Funding's defrauded investors.<sup>4</sup>

7. Joseph LaForte, James LaForte, and Joseph Cole Barleta pleaded guilty to participating in a racketeering conspiracy to defraud investors in Par Funding and its affiliate companies with the predicate crimes of securities and wire fraud.<sup>5</sup>

8. Judge Ruiz froze Par Funding's assets at the end of July 2020.

9. Par Funding's records as of July 27, 2020 reflected the outstanding principal owed to investors totaled \$404,737,299 between Par Funding and its affiliate companies, with Par Funding responsible for approximately \$366 million and the balance owed by affiliates.

10. The Receiver recovered approximately \$26.8 million from the bank accounts of Par Funding and its MCA affiliates.

11. The Receiver collected approximately \$81 million in accounts receivable of Par Funding and its affiliates.

12. Approximately \$6.8 million in accounts receivable remains collectible.

13. We scheduled sentencing hearings for:

- a. Joseph LaForte on February 12, 2025;
- b. Joseph Cole Barleta on February 25, 2025; and,
- c. James LaForte on March 10, 2025.

## **II. CONCLUSIONS OF LAW**

14. Joseph LaForte, James LaForte, and Joseph Cole Barleta participated in a fraudulent scheme resulting in an actual loss of \$404,737,299 to investors in Par Funding and Par Funding's affiliates, which constitutes a specific offense characteristic under U.S.S.G. § 2B1.1(b)(1).

15. Joseph LaForte, James LaForte, and Joseph Cole Barleta pledged collateral to the victim-investors in their fraudulent scheme.



16. The fair market value of the collateral assets at the time of sentencing is approximately \$116.3 million under U.S.S.G. § 2B1.1 cmt. n.3(D)(ii).

17. The actual loss to investors because of the admitted fraudulent scheme is \$288,395,088.

### III. ANALYSIS

We set the sentencing hearings for Messrs. LaForte and Barleta to begin on February 10, 2025. A key issue for sentencing is the proper offense level based on the actual loss under the advisory Sentencing Guidelines. The questions in sentencing include whether, among other issues, we consider: Par Funding's ongoing market value shortly before detection of the fraudulent scheme; interest paid to the investors as a credit when it is not calculated as part of the loss to the investors; and the amount of voluntary claims recognized by the Receiver in the enforcement action before Judge Ruiz. The parties requested we allow briefing and a hearing to determine the actual loss before issuing the probation officer's presentence investigation report. We benefitted from the comprehensive advocacy and evaluating the credibility of expert and agent witness testimony in understanding the loss consistent with criminal sentencing policy as opposed to issues involved with receivership, disgorgement, or a claims process in a civil enforcement proceeding.

The United States, Joseph LaForte, and Joseph Cole Barleta filed memoranda explaining what they believe is the correct fraud loss number and argued their positions in a fraud loss hearing held January 13, 2025.<sup>6</sup> The United States suggests a fraud loss number of \$404,737,299 and urges us not to credit the Defendants for collateral assets. Joseph LaForte suggests a fraud loss number of \$9.5 million because he stipulated to it in his plea agreement. Joseph Cole Barleta suggests a fraud loss number of \$0 because he did not stipulate to a fraud loss number in his plea agreement.

We today focus on section 2.B1.1 of the Sentencing Guidelines as amended in November 2024. “For offenses involving fraud or theft, § 2B1.1 of the advisory Guidelines provides for an offense level enhancement based on the value of the ‘loss’ attributable to the defendant’s conduct.”<sup>7</sup> “The defendant’s base offense level, which is used to calculate a recommended range of imprisonment, increases as the loss resulting from the offense increases.”<sup>8</sup> “The maximum increase is a 30-level enhancement for conduct resulting in a loss exceeding \$550 million.”<sup>9</sup> “To determine loss, a sentencing court ‘need only make a reasonable estimate’ based on the available evidence—precision is not required.”<sup>10</sup> “[T]he government bears the burden of proving loss by a preponderance of the evidence.”<sup>11</sup> “[A]lthough ‘the burden of persuasion remains with the Government, once the Government makes out a prima facie case of the loss amount, the burden of production shifts to the defendant to provide evidence that the Government’s evidence is incomplete or inaccurate.’”<sup>12</sup>

“The Guidelines’ commentary details how a district court should calculate the amount of loss.” In the Application Notes to section 2B1.1 to the Guidelines, the Sentencing Commission instructs us not to include “[i]nterest of any kind” in our loss calculation.<sup>13</sup> The Sentencing Commission also suggests we reduce the loss number by the amount of money returned to the victim before detection of the offense and, “[i]n a case involving collateral pledged or otherwise provided by the defendant, the amount the victim has recovered at the time of sentencing from disposition of the collateral, or if the collateral has not been disposed of by that time, the fair market value of the collateral at the time of sentencing.”<sup>14</sup> Finally, in a case involving a fraudulent investment scheme such as a Ponzi scheme, the Sentencing Commission tells us not to reduce the loss number by money transferred to any individual investor in the scheme in excess of that investor’s principal investment.<sup>15</sup>

We address the parties' arguments in turn, starting with their proposed fraud loss numbers and then analyzing their proposed offset credits resulting from the collateral assets.

**A. The United States met its burden of showing \$404,737,299 as a reasonable estimate of the fraud loss attributable to the fraudulent scheme.**

The United States' proposed fraud loss of \$404,737,299 is the most reasonable and verifiable estimate of loss based on the adduced evidence. Joseph LaForte's valuation argument suggesting he managed Par Funding as a profitable business before the Securities Commission's detection and lawsuit is unconvincing as is his argument we should ignore the Application Notes to the Guidelines and credit the Defendants for their interest payments to the victims. We also disagree with Mr. Cole Barleta we should base the estimate off the number of voluntary claims approved by the Receiver instead of the outstanding principal owed to investors. We set the fraud loss number at \$404,737, 299 before considering collateral offsets.

**1. The parties' widely differing positions on the investor loss.**

*The United States.* The United States argues we should set the fraud loss at \$404,737,299.<sup>16</sup> This number is the total principal amount Par Funding and its affiliate companies Capital Source 200, Inc. and Fast Advance Funding LLC owed to investors in July 2020, shortly before the Securities and Exchange Commission intervened and Judge Ruiz froze the entities' assets. Spreadsheets the United States extracted from Mr. Barleta's laptop kept track of how much principal Par Funding and its affiliates owed investors.<sup>17</sup> Those spreadsheets show Par Funding owed investors \$366,101,849 as of July 27, 2020, Capital Source 2000 owed investors \$31,409,450 as of July 24, 2020, and Fast Advance Funding owed \$7,226,000 as of July 24, 2020.<sup>18</sup> The United States asks we adopt the principal sums from the three affiliates to arrive at the \$404,737,299 fraud loss number. This \$404 million accounts for the principal Par Funding and its affiliates had repaid investors at the time the Securities and Exchange Commission intervened (and the principal still

owed), but does not account for interest repaid or interest still outstanding because of the Sentencing Guidelines' Application Note directing courts to exclude interest from the loss calculation.<sup>19</sup> At the January 13, 2025 hearing, the United States also proffered two cases where courts of appeals affirmed district courts' exclusion of interest from fraud loss calculations: *United States v. Allen*<sup>20</sup> and *United States v. Peugh*.<sup>21</sup>

The United States' expert Melissa Davis conducted a cash flow analysis of Par Funding which broke things down further: she opined the total funds raised from investors minus the principal repaid equals approximately \$366 million (i.e., the largest portion of the United States' proffered fraud loss number).<sup>22</sup> Ms. Davis then subtracted out business expenses, commissions, and related party transactions, which left a net cash inflow of \$39.9 million from Par Funding's merchant cash advances from 2011–2020.<sup>23</sup> Ms. Davis swore a cash flow of \$39.9 million would not have been enough to cover operating expenses and pay investors their promised interest amounts, so Par Funding must have funded the shortfalls with new investor money. According to Ms. Davis, this business structure has the attributes of a Ponzi scheme. The United States argues if we cannot reasonably calculate the actual loss number, we can use the Defendants' illicit gain (approximately \$154 million) as an alternative measure of loss.

**Joseph LaForte.** Joseph LaForte argues we should set the fraud loss at \$9.5 million. Joseph LaForte argued in his memorandum the fraud loss number is not the entire amount invested minus the amount repaid to investors (the United States' position); instead, we should consider whether Par Funding's value in 2020, based on the Times Revenue method of valuation, exceeded the amount not repaid to investors.<sup>24</sup> According to Joseph LaForte, Judge Davila's opinion in *United States v. Holmes*<sup>25</sup> supports using a company's value prior to detection of the offense as a starting point for a fraud loss calculation.<sup>26</sup> Joseph LaForte argued Ms. Davis should have valued Par

Funding as a going concern instead of analyzing it as if it went into liquidation when the Securities and Exchange Commission intervened.<sup>27</sup> The “proper” valuation would have shown Par Funding was not a Ponzi scheme because it advanced more cash to merchants than it received from investors.<sup>28</sup> And, when valued as a going concern, Par Funding was worth “significantly more than the amount not yet paid to investors.”<sup>29</sup> The valuation argument in Joseph LaForte’s memorandum relies heavily on the expert report of David Dunkleberger, who subtracted the Securities and Exchange Commission’s disgorgement penalty from Par Funding’s estimated value to achieve a “surplus value.”<sup>30</sup> According to Mr. Dunkleberger, Par Funding’s surplus value means there was no actual loss. But Joseph LaForte still concedes he stipulated to the fraud loss number at \$9.5 million in his plea agreement.<sup>31</sup>

Joseph LaForte dropped his argument about Par Funding’s value at the hearing. He instead urged us to rely on the numbers in the Receiver’s declaration and calculate the fraud loss number as the difference between the total funds raised (\$550,325,596) minus the \$300,108,117 Par Funding repaid in principal to its investors before the Securities and Exchange Commission intervened. (Joseph LaForte claimed this would equal a fraud loss number of approximately \$260 million, but  $\$550,325,596 - \$300,108,117$  is actually \$250 million, not \$260 million).<sup>32</sup> Joseph LaForte argued we can subtract both the principal and the interest Par Funding repaid its investors from the fraud loss number because the Application Notes to the Sentencing Guidelines are not binding and/or because Judge Surrick credited interest payments in *United States v. Buckman*.<sup>33</sup> If we choose not to credit the interest payments, Joseph LaForte argued the fraud loss number should be approximately \$360 million.<sup>34</sup>

**Joseph Cole Barleta.** Mr. Barleta argues we should set the investor loss at \$0. Mr. Barleta incorporated the arguments from Joseph LaForte’s memorandum (i.e., Par Funding was a viable

entity and would have been able to repay its investors) with the caveat Mr. Barleta is not bound to a fraud loss floor of \$9.5 million.<sup>35</sup>

If we do find fraud loss, though, Mr. Barleta proposed an alternative calculation in his memorandum and at the hearing which Joseph LaForte did not advance. Mr. Barleta argued we should estimate the loss based on the amount of voluntary investor claims made and approved by the Receiver—\$227,825,696—rather than the \$404,737,299 of outstanding investor notes.<sup>36</sup>

Mr. Barleta agreed with the United States we can use the Defendants' illicit gain as a measure of loss but disagreed the Defendants gained \$154 million from the scheme.<sup>37</sup> Mr. Barleta claimed in his memorandum he would challenge that number at the hearing and reserved the right to rebut the United States' evidence with his own documents.<sup>38</sup> But the only number Mr. Barleta advanced at the hearing was the \$228 million number based on the Receiver's approved claims.

**2. We find the total investor loss of principal through confirmed investor notes as of July 27, 2022 is \$404,737,299.**

The United States met its burden of demonstrating the fraud loss of \$404,737,299 at the time the Securities and Exchange Commission detected the scheme and filed suit. The United States offered a compelling prima facie case establishing the loss amount. Messrs. LaForte and Cole Barleta did not meet their burden to provide evidence establishing inaccuracy in the United States' calculations. The United States proved loss by a preponderance of the evidence: we agree \$404,737,299 in outstanding principal Par Funding and its affiliates owed investors at the time the Securities and Exchange Commission intervened is a reasonable estimate.<sup>39</sup>

Joseph LaForte's and Mr. Barleta's proposed fraud loss numbers are rooted in flawed analysis. We find Joseph LaForte's argument concerning Par Funding's value unpersuasive for several reasons.<sup>40</sup> Joseph LaForte's concern over Par Funding's value derives mainly from his opinion Par Funding was not a Ponzi scheme: he wants to show the company was profitable and

therefore they did not need to use investor cash to cover its shortfalls. But whether Par Funding was a Ponzi scheme does not change our calculation. True, the Guidelines' Application Notes instruct us not to credit payments exceeding principal investments as part of a fraudulent scheme, but we would reach the same conclusion regardless under Application Note (C)(i)'s general prohibition on interest.<sup>41</sup> So, the value of the company—and whether that value indicates a Ponzi scheme—is of no moment. In other words, even if Ms. Davis undervalued the company, its value is really only relevant to the Ponzi scheme question and does not impact the United States' position Par Funding and its affiliates owed its investors \$404,737,299 in principal as of July 2020.

Judge Davila's analysis in *Holmes*, which Joseph LaForte relies on, is distinguishable.<sup>42</sup> Judge Davila studied the Guidelines' credit of value provided to the victim before detection of the offense and selected a valuation date prior to the detection of the offense to estimate loss resulting from the fraud. But *Holmes* was a "fraud case[] involving induced stock purchases of an otherwise legitimate company," where the court "must 'disentangle the underlying value of the stock' and identify 'inflation of that value due to the fraud.'"<sup>43</sup> Judge Davila found it important the United States did not establish the company's "ultimate collapse was the result of Defendant's conspiratorial conduct and should therefore be reflected in her loss calculation."<sup>44</sup> The investors in Par Funding, by contrast, did not purchase stock; they purchased promissory notes. The value of a promissory note is derived from the financial strength and creditworthiness of the issuer; it does not—at least in this case—have the same inherent value or potential for profit as stock does. We need not value Par Funding as a going concern to reasonably estimate actual fraud loss.

We are also unpersuaded by Joseph LaForte's related argument Par Funding has a surplus value sufficient to cover the Securities and Exchange Commission's disgorgement penalty if valued as a going concern.<sup>45</sup> Putting aside the fact Joseph LaForte did not move Mr.

Dunkleberger's valuation into evidence, we fail to see how the Securities and Exchange Commission's disgorgement of ill-gotten gains impacts our analysis. Joseph LaForte is essentially arguing there is a surplus value sufficient to cover the fraud loss if there is a surplus value sufficient to cover the disgorgement penalty. This presupposes the disgorgement penalty number is the same as the fraud loss number. But disgorgement penalties and fraud loss calculations address two different things: disgorgement penalties focus on unjust enrichment to the wrongdoer while fraud loss calculations address loss to victims.<sup>46</sup> We are not persuaded by Mr. Barleta's suggestion we adopt the Receiver's \$228 million in approved claims for a related reason: the \$228 million stems from the money *actually available* to disburse to victims, while our number must focus on the total loss to victims for sentencing purposes.

We also are not persuaded by the argument Joseph LaForte advanced at the hearing suggesting we start with the total funds invested and subtract all of the repayments to investors including principal and interest. Joseph LaForte argued the Sentencing Commission's Application Notes are not binding but we see no reason to diverge from them absent authority from our Court of Appeals. Joseph LaForte cited only one case from this Circuit where the court credited interest in its loss calculation.<sup>47</sup> Judge Surrick's opinion in *Buckman* does not impact our analysis. There, the United States argued defendants' total repayments to homeowners should not be credited toward the loss amount because significant portions of the payments represented interest but the United States' only support for this argument was an amortization calculator found on the Internet.<sup>48</sup> We addressed a breakdown of the outstanding principal and interest still owed to Par Funding's investors; our exclusion of interest does not require guesswork as in *Buckman*.

We conclude \$404,737,299 is a reasonable estimate of the fraud loss attributable to the Defendants.



**B. Messrs. LaForte and Cole Barleta met their burden to reduce the fraud loss number to \$288,395,088 after accounting for collateral assets.**

We next consider offsets allowing us to reduce the fraud loss number of \$404,737,299. The Sentencing Commission offers, “[i]n a case involving collateral pledged or otherwise provided by the defendant,” to reduce the fraud loss number by “the amount the victim has recovered at the time of sentencing” or by “the fair market value of the collateral at the time of sentencing.”<sup>49</sup>

The promissory notes left outstanding at the time the Securities and Exchange Commission intervened in July 2020 granted the investors a security interest in Par Funding’s assets. The Receiver collected two types of collateral from Par Funding: the money in its bank accounts and the accounts receivable due to Par Funding by its merchant cash advance customers. We now consider the parties’ evidence and legal arguments on the value of these assets. We disagree we should not credit the collateral assets because they are “illusory” but accept the United States’ alternative argument Par Funding’s bank accounts are worth approximately \$28.6 million and its accounts receivable are worth approximately \$87.8 million. We are not persuaded by the higher values Joseph LaForte and Cole Barleta place on Par Funding’s collateral assets. We are left with a fraud loss number of approximately \$288 million after we credit the collateral assets and subtract their value from the fraud loss number.

**1. The parties’ varied positions on collateral assets.**

*The United States.* The United States argues we should not credit Par Funding for these collateralized assets because they are “unsecured and illusory assets which provided no bona fide security or protection to investors in the event of a loss.”<sup>50</sup> Yet the United States’ own expert witness Bradley Sharp swore the Receiver did in fact recover assets from Par Funding’s bank accounts and accounts receivable. The Receiver seized \$28,629,613 from the accounts of Par Funding and its affiliates,<sup>51</sup> and collected \$80,912,598 of Pa Funding’s accounts receivable.<sup>52</sup> Of

the approximately \$13.6 million in accounts receivable still on the books, Mr. Sharp opined only \$6,800,000 remains collectible because of future write offs and reserves. The United States did not present authority—either in its briefing or at the hearing—to support its argument the \$28.6 million from the bank accounts and the \$87.8 million from the accounts receivable can still be considered “illusory” despite Mr. Sharp’s testimony the money has been or will be recovered.

If we credit the collateralized property, the United States argued the correct fraud loss number is approximately \$288 million: \$404,737,299 less the cash in the accounts and the amount collected (or collectible) from accounts receivable.

**Joseph LaForte.** Joseph LaForte argued in his memorandum and at the hearing we should credit the Defendants for the \$43.5 million seized from Par Funding’s bank accounts as a matter of Pennsylvania securities law.<sup>53</sup> But he did not rebut the United States’ evidence at the hearing establishing only \$28.6 million of the \$43.5 million is attributable to Par Funding and its affiliates.

Joseph LaForte further argued we should credit the assets in accounts receivable but we should not cap them at \$81 million. According to Joseph LaForte, if Par Funding had continued to operate as a going concern it would have collected a far higher amount of the \$415.6 million in accounts receivable reflected in Par Funding’s records.<sup>54</sup> Joseph LaForte’s cross examination of Mr. Sharp focused on the Receiver’s collection efforts, which, according to Joseph LaForte’s memorandum, left something to be desired. Joseph LaForte did not state a firm number on how much of the accounts receivable we should credit but seemingly thinks we should credit the entire \$415.6 million.

**Joseph Cole Barleta.** Mr. Barleta, like Joseph LaForte, argues we should credit the \$43.5 million seized from Par Funding’s bank accounts.<sup>55</sup> But he (again like Joseph LaForte) did not

rebut the United States' evidence at the hearing showing only \$28.6 million is attributable to Par Funding and its affiliate

Mr. Barleta also argued we should credit the assets in accounts receivable but he did not suggest, like Joseph LaForte, we should credit the accounts receivable assets anywhere up to \$415.6 million. Mr. Barleta instead argued we should credit \$109,830,212 in accounts receivable, which is the number of business receivables reflected in the Receiver's Third Quarter Report.<sup>56</sup> The United States' expert Mr. Sharp explained at the hearing the \$109 million in the report reflects the collections attributable to Par Funding and its affiliate plus other collections because the report format used for the Receivership combines all collections. He swore \$81 million is the net MCA collections attributable to Par Funding and its affiliate companies.

**2. We find \$116,342,211 in collateral is deductible from the fraud loss amount.**

The correct number to offset the fraud loss number falls somewhere between the parties' positions. We do not agree with the United States the assets in Par Funding's bank accounts and accounts receivable are "unsecured" or "illusory"; the United States' own experts testified about the Receiver's successful efforts to seize assets from both sources. The United States offers no authority for the proposition assets which have already been collected can still somehow be "unsecured." We find more persuasive United States' alternative position crediting \$28.6 million for the bank accounts and \$87.8 million for the accounts receivable. The United States proved by a preponderance of the evidence we can reasonably credit \$116.3 million in collateral assets to offset the fraud loss amount.

Messrs. LaForte's and Barleta's arguments are problematic for several reasons. Neither Joseph LaForte nor Joseph Cole Barleta rebutted the United States' evidence only \$28.6 million out of the \$43.5 million seized from the bank accounts is attributable to Par Funding and its

affiliates. Turning to their positions on the assets in accounts receivable, we find Joseph LaForte's argument particularly unconvincing. He argued, without citing to authority, we should not limit the creditable amount of accounts receivable to the amount the Receiver collected because Par Funding could have collected far more had the Receiver not intervened. This strains credulity. As Joseph LaForte conceded at the hearing, the collection tactics of Par Funding prior to the Receiver's intervention involved extortion, including threats of physical violence. The fact the Receiver did not resort to such measures (or simply used tactics Joseph LaForte did not approve of) is hardly a reason to credit more money than the Receiver actually collected. Anything beyond the \$81 million (plus the remaining \$6.8 million Mr. Sharp swore is collectible) is speculative, as Joseph LaForte presented no compelling evidence of additional collectible amounts. Without legal authority suggesting we can credit collateral assets beyond those the Receiver collected, we cannot agree with Joseph LaForte's position.

We also disagree with Mr. Barleta's position we should credit \$109 million instead of \$81 million, although this position is certainly more reasonable than Mr. LaForte's. We found credible Mr. Sharp's testimony only \$81 million is attributable to collection on the MCAs from Par Funding and its affiliates. Once the United States made its prima facie case, Mr. Barleta did not meet his burden to rebut Mr. Sharp's testimony with evidence showing \$109 million is the correct number.

### **C. Conclusion**

The United States met its burden in demonstrating a fact and legal basis for an actual loss of \$404,737,299 in investors' principal owed as of July 27, 2020. Messrs. LaForte and Cole Barleta met their burden in demonstrating we should credit approximately \$28.6 million in bank account assets and approximately \$87.8 million in accounts receivable equaling \$116,342,211 in collateral credits. We calculate actual loss under section 2B1.1 as \$288,395,088.

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<sup>1</sup> We use “Par Funding” and “CBSG” interchangeably to refer to Complete Business Solutions Group, Inc., d/b/a Par Funding. Messrs. LaForte and Barleta also used Par Funding’s affiliated companies Capital Source 200, Inc. and Fast Advance Funding LLC in the scheme.

<sup>2</sup> Gov’t Ex. 21 (Lareau Summ. of Insider Payments).

<sup>3</sup> See *General Information*, PAR FUNDING RECEIVERSHIP WEBSITE, <https://parfundingreceivership.com/> (last visited Jan. 14, 2025).

<sup>4</sup> See also *Frequently Asked Questions*, PAR FUNDING RECEIVERSHIP WEBSITE, <https://parfundingreceivership.com/faqs/> (last visited Jan. 14, 2025). Judge Ruiz recently approved the Receiver’s request to distribute \$227,825,696 to defrauded investors across eight different classes of claims ranked by priority.

<sup>5</sup> ECFs 230, 241, 273.

<sup>6</sup> James LaForte’s counsel attended but did not present witnesses or ask questions during the hearing as stipulated to a fraud loss amount between \$1,500,000 and \$3,500,000. ECF 241 ¶ 15(b).

<sup>7</sup> *United States v. Xue*, 42 F.4th 355, 361 (3d Cir. 2022).

<sup>8</sup> *Id.* (citing U.S.S.G. § 2B1.1(b)(1)).

<sup>9</sup> *Id.* (citing U.S.S.G. § 2B1.1(b)(1)).

<sup>10</sup> *United States v. Norman*, 465 F. App’x 110, 122 (3d Cir. 2012) (quoting *United States v. Ali*, 508 F.3d 136, 145 (3d Cir.2007)).

<sup>11</sup> *Id.* (citing *United States v. Fumo*, 655 F.3d 288, 310 (3d Cir. 2011)).

<sup>12</sup> *Fumo*, 655 F.3d at 310 (quoting *United States v. Jimenez*, 513 F.3d 62, 86 (3d Cir. 2008)).

<sup>13</sup> U.S.S.G. § 2B1.1 cmt. n.3(C)(i).

<sup>14</sup> *Id.* § 2B1.1 cmt. n.3(D)(i)–(ii).

<sup>15</sup> *Id.* § 2B1.1 cmt. n.3(E)(iv).

<sup>16</sup> The United States in its fraud loss memorandum argued Par Funding and its affiliates owed investors a principal amount of \$416,145,483. ECF 289 at 3–4. At the hearing, the United States revised that number to \$404,737,299, explaining it had stipulated to the numbers reflected in Par Funding’s July 2020 spreadsheets as opposed to the numbers reflected in the March 2020 spreadsheets the United States relied on in its memorandum.

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<sup>17</sup> ECF 289 at 3; see also Gov't Ex. 3 (CBSG Balance Sheet July 27, 2020); Gov't Ex. 17 (Capital Source Balance Sheet July 24, 2020); Gov't Ex. 18 (Fast Advance Funding Balance Sheet July 24, 2020).

<sup>18</sup> Gov't Ex. 3 (CBSG Balance Sheet July 27, 2020); Gov't Ex. 17 (Capital Source Balance Sheet July 24, 2020); Gov't Ex. 18 (Fast Advance Funding Balance Sheet July 24, 2020).

<sup>19</sup> ECF 289 at 4 & n.6. Par Funding raised \$547.2 million in total from investors and repaid \$178.7 in principal, leaving approximately \$366 million in principal still left to be repaid. As noted above, Par Funding's outstanding \$366 million plus the outstanding principal amounts due to investors in Par Funding's affiliate companies is how the United States reaches its number of \$404,737,299.

<sup>20</sup> 88 F.3d 765, 771 (9th Cir. 1996) (“[P]ayments made towards interest cannot be considered as repayments made on the loan.”).

<sup>21</sup> 675 F.3d 736, 741 (7th Cir. 2012) (“[Interest] payments were not money ‘returned’ to State Bank: they did not reduce the loans’ outstanding principal balance . . .”), *rev'd on other grounds*, 569 U.S. 530 (2013)).

<sup>22</sup> We note a potential discrepancy between the \$366 million in principal Ms. Davis swore at the hearing and in certain sections of her report Par Funding owed its investors in July 2020 and the \$368.5 million in principal reflected in another section of her report. *Compare* Gov't Ex. 1 (Davis Expert Rep.) at 31 ¶ 67, *with id.* at 33 ¶ 75. But this difference of \$2.5 million is immaterial.

<sup>23</sup> *Id.* at 32 ¶ 73.

<sup>24</sup> ECF 292 at 2–8.

<sup>25</sup> No. 18-258-1, 2023 WL 149108 (N.D. Cal. Jan. 10, 2023).

<sup>26</sup> ECF 292 at 3, 7.

<sup>27</sup> *Id.* at 6.

<sup>28</sup> *Id.* at 3–4.

<sup>29</sup> *Id.* at 6.

<sup>30</sup> *Id.* at 6–7. Joseph LaForte did not move to admit Mr. Dunkleberger's expert report into evidence at the hearing.

<sup>31</sup> *Id.* at 8.

<sup>32</sup> We attribute the slight difference between Joseph LaForte's total number of invested funds (\$550 million) and the United States' total number of invested funds (\$547 million) to the “returned payments” represented in Melissa Davis's cash reconstruction. *See* Gov't Ex. 1 (Davis

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Expert Rep.) at 34. In other words, it seems \$550 million is the gross total while \$547 million is the net total.

<sup>33</sup> No. 14-540, 2019 WL 142385 (E.D. Pa. Jan. 8, 2019), *aff'd*, 811 F. App'x 73 (3d Cir. 2020); ECF 292 at 8–9.

<sup>34</sup> This number reflects another mathematical error, although not one impacting our final analysis. Assuming, as set forth in Joseph LaForte's memorandum, the interest payments totaled approximately \$120 million, adding this number back to the fraud loss number would put us at \$370 million, not \$360 million.

<sup>35</sup> ECF 293 at 3.

<sup>36</sup> *Id.* at 5.

<sup>37</sup> *Id.* at 10–11.

<sup>38</sup> *Id.*

<sup>39</sup> Because the United States proved actual loss by a preponderance of the evidence, we need not consider the parties' alternative arguments concerning the Defendants' illicit gains.

<sup>40</sup> We further reject these arguments to the extent Mr. Barleta incorporates and relies on them.

<sup>41</sup> The Sentencing Commission's Office of General Counsel cites courts of appeals distinguishing between the general prohibition on interest set forth in Application Note (C)(i) and the earnings reinvested by victims of a Ponzi scheme. OFFICE OF THE GENERAL COUNSEL, U.S. SENT'G COMM'N, PRIMER ON LOSS CALCULATION UNDER §2B1.1 (2024). These courts of appeals permit the earnings victims reinvested in the Ponzi scheme to be included in the fraud loss number as "realized gains" and only exclude the most recent interest gains from the loss calculation. *Id.* at 21 & n.4. But in this case the United States is not including interest either as a credit or a debit, so the Application Note specific to Ponzi schemes does not affect our analysis. The United States is not seeking to address interest on either side of the equation.

<sup>42</sup> ECF 292 at 7 (citing *Holmes*, 2023 WL 149108, at \*6).

<sup>43</sup> *Holmes*, 2023 WL 149108, at \*4 (quoting *United States v. Zolp*, 479 F.3d 715, 719 (9th Cir. 2007)).

<sup>44</sup> *Id.*

<sup>45</sup> ECF 292 at 6–7.

<sup>46</sup> Compare *SEC v. Bonan Huang*, 684 F. App'x 167, 176 (3d Cir. 2017) (the disgorgement penalty is meant "to deprive a wrongdoer of his unjust enrichment and to deter others from violating securities laws." (quoting *SEC v. Teo*, 746 F.3d 90, 104–05 (3d Cir. 2014))), with *United States v.*

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*Bennett*, 9 F. Supp. 2d 513, 519 (E.D. Pa. 1998) (“Under the Guidelines, loss in a fraud scheme arises from the impact on the victim, which is not necessarily related to defendant’s gain.” (citing *United States v. Wolfe*, 71 F.3d 611, 617 (6th Cir.1995))), *aff’d*, 161 F.3d 171 (3d Cir. 1998).

<sup>47</sup> ECF 292 at 9 (citing *Buckman*, 2019 WL 142385).

<sup>48</sup> *Buckman*, 2019 WL 142385, at \*5.

<sup>49</sup> U.S.S.G. § 2B1.1 cmt. n.3(D)(ii).

<sup>50</sup> ECF 289 at 8.

<sup>51</sup> Gov’t Ex. 6 (Sharp Cash on Hand Summ.). This number is different than the \$43.5 million set forth in the United States’ memorandum. ECF 289 at 8. The cash on hand at the start of the Receivership was \$28.7 million with an additional \$14.7 million from all expanded Receivership entities. Gov’t Ex. 6 (Sharp Cash on Hand Summ.). These are the numbers the United States apparently used to get to \$43.5 million. ECF 289 at 8. But Mr. Sharp swore the cash on hand at the start of the Receivership attributable to Par Funding and its affiliates was only \$24 million, and the additional cash due to the expanded Receivership attributable to Par Funding and its affiliates was only \$4.5 million, which, together, equal the \$28.6 million number the United States put forth as the amount of collateralized assets in Par Funding’s bank accounts at the hearing. In other words, not all of the \$43.5 million can be attributed to Par Funding and its affiliates.

<sup>52</sup> As the United States argues, \$81 million is a fraction of the \$415.6 million in accounts receivable reflected in Par Funding’s records. ECF 289 at 9.

<sup>53</sup> ECF 292 at 9–11.

<sup>54</sup> *Id.* at 11–14. Joseph LaForte claims “this cap is unreasonable as the Receiver has not collected anywhere near as much of the account receivables a Par Funding could have and would have absent the Receiver’s intervention.” *Id.* at 12.

<sup>55</sup> ECF 293 at 8–9.

<sup>56</sup> *Id.* at 9.