

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
CASE NO.: 20-CV-81205-RAR**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

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

Defendants.

**RECEIVER, RYAN K. STUMPHAUZER'S UNOPPOSED
SECOND EXPEDITED MOTION TO LIFT LITIGATION
INJUNCTION AS TO CERTAIN GARNISHMENT PROCEEDINGS**

Basis for expedited relief:

Pursuant to Local Rule 7.1(d), the Receiver seeks relief on an expedited basis because the Receiver has concluded that certain actions need to be taken immediately in order to vacate writs of garnishment and prevent collection efforts that should not be proceeding with respect to merchants—some of whom have had their bank accounts frozen as a result of these writs—that have either satisfied or reached agreement regarding these amounts, or otherwise sought bankruptcy relief, as further described in this motion. These actions cannot be completed without lifting the Litigation Injunction.

Ryan K. Stumphauzer, Esq., Court-Appointed Receiver (“Receiver”) of Defendants Complete Business Solutions Group, Inc. d/b/a Par Funding (“Par Funding”); Full Spectrum Processing, Inc.; ABetterFinancialPlan.com LLC d/b/a A Better Financial Plan; ABFP Management Company, LLC f/k/a Pillar Life Settlement Management Company, LLC; ABFP Income Fund, LLC; ABFP Income Fund 2, L.P.; United Fidelis Group Corp.; Fidelis Financial Planning LLC; Retirement Evolution Group, LLC; RE Income Fund LLC; and RE Income Fund 2 LLC (the “Receivership Entities”), by and through undersigned counsel, and pursuant to L.R.

7.1(d)(2), hereby files this Unopposed Second Expedited Motion to Lift Litigation Injunction as to Certain Garnishment Proceedings and states as follows:

Introduction

1. The Court entered an Order Granting the Security and Exchange Commission's Motion for Appointment of Receiver [ECF No. 36] ("Order Appointing Receiver") on July 27, 2020, and an Order granting Security and Exchange Commission's Urgent Motion to Amend Order Appointing Receiver to Include Litigation Injunction [ECF No. 56] ("Order Entering Litigation Injunction"), entered on July 31, 2020.¹

2. In the Order Entering Litigation Injunction, the Court, among other things, stayed all litigation of any manner involving any of the Receivership Entities, until further Order of this Court.

3. On August 7, 2020, Receiver filed an Expedited Motion to Lift the Litigation Injunction as to Certain Garnishment Proceedings [ECF No. 111] ("First Motion").

4. The Court granted Receiver's First Motion by Order of Court dated August 7, 2020 [ECF No. 112].

5. Subsequent to the filing of the First Motion, Receiver obtained information through counsel of additional garnishment proceedings pending in the Court of Common Pleas of Philadelphia County that were not included in the First Motion.

6. As such, Receiver hereby moves this Court to modify the Operative Receivership Order. This modification, like the relief requested in the First Motion, is sought to allow certain pre-receivership garnishment proceedings currently pending in the Court of Common Pleas of

¹ These two orders have now been amended and superseded by the Court's Amended Order Appointing Receiver dated August 13, 2020 [ECF No. 141] (the "Operative Receivership Order").

Philadelphia County, Pennsylvania to be opened for the limited purpose of either: (1) vacating the current writs of garnishment because of a subsequent agreement or satisfaction of the underlying debt; or (2) vacating the current writs of garnishment because of a subsequent bankruptcy of the merchant, which would prohibit the execution on the writs pursuant to the U.S. Bankruptcy Code. *See* 11 U.S.C. § 362 and 11 U.S.C. § 1322.

Background from First Motion

7. On July 27, 2020, the Court entered the Order Appointing Receiver.

8. As set forth in the Commission’s Complaint [ECF No. 1] and Emergency *Ex Parte* Motion for Temporary Restraining Order and Other Relief [ECF No. 14], Par Funding is a party to a significant number of lawsuits. The Receiver, who was appointed July 27, 2020, continues to review these as well as other lawsuits to which the Receivership Entities are parties.

9. As part of that review, the Receiver has become aware of a number of actions previously filed in the Court of Common Pleas of Philadelphia County, Pennsylvania against merchants (and/or guarantors) who had defaulted under a merchant cash advance agreement with Par Funding. These agreements allowed for the filing of confessions of judgment for any amounts unpaid.

10. In certain of these actions, Par Funding, through the law firm of Fox Rothschild, obtained writs of garnishment. The writs of garnishment were not served by the Philadelphia County Sheriff’s Office at the time, due to the impact of the COVID-19 pandemic and were subject to a multi-month stay of execution in the Court of Common Pleas (the “Execution Stay”).

11. Following the lifting of the Execution Stay in the Court of Common Pleas, and prior to the Receiver’s appointment, the Sheriff recently served the writs that had been with the Sheriff

from prior to the COVID-19 pandemic. As a result, the affected merchants have had various bank accounts frozen.

12. The Receiver has been informed and provided with documents evidencing that a number of these merchants have satisfied their obligations under the merchant cash advance agreements or modified their agreements with Par Funding after the writs of garnishment were initially filed and delivered to the sheriff prior to the COVID-19 pandemic. A list of these additional actions that were satisfied or resolved by further agreement are set forth below.

13. In addition, during this intervening time of Court and sheriff shutdowns caused by the COVID-19 pandemic, some of the merchants filed for protection under the U.S. Bankruptcy Code pursuant to Chapters 7, 11 or 13.

Additional Information Discovered Subsequent to the First Motion

14. Due to the Litigation Injunction, the parties in the actions listed below cannot file the necessary documents with the Court to demonstrate satisfaction of the confessed judgments to vacate the writs of garnishment, and to allow for the cases to be discontinued and the actions closed. As shown below, the confessed judgments were either satisfied or resolved by a post-confession agreement.

- a. *Complete Business Solutions Group, Inc. v. Beverly Hills Management Residential Services*, Docket No. 200301568, Court of Common Pleas of Philadelphia County, Pennsylvania. Post-confession payment agreement reached between parties (via email) May 13, 2020.
- b. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Reverent Media Inc. d/b/a Reverent Media d/b/a Reverent Wedding Films and Clayton Daniel Vaughan*, Docket No. 200300113, Court of Common Pleas of Philadelphia County, Pennsylvania. Post-confession payoff confirmation letter from Par Funding dated May 4, 2020.
- c. *Complete Business Solutions, Inc., d/b/a Par Funding v. Open Sky Inc. d/b/a Open Shy, and Jacob Lamdan*, Docket No. 200203392, Court of Common Pleas of Philadelphia County, Pennsylvania. Post-confession payoff confirmation email from Par Funding dated May 6, 2020.

- d. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Briar Heights Inc d/b/a Briar Heights and John Definnis*, Docket No. 200601626, Court of Common Pleas of Philadelphia County, Pennsylvania. Praeipie To Satisfy Judgment Filed July 21, 2020.
- e. *Complete Business Solutions Group, Inc. d/b/a Par Funding v. The Tasting Room of Monona, Inc. d/b/a The Tasting Room, and Jason Smith and Jessica Smith*, Docket No. 200302729, Court of Common Pleas of Philadelphia County, Pennsylvania. Praeipie To Satisfy Judgment filed May 12, 2020.
- f. *Complete Business Solutions Group, Inc. d/b/a Par Funding v. Akiladelphia Creative Contracting LLC d/b/a Akiladelphia Creative Contracting and Akil Bowler*, Docket No 200400137, Court of Common Pleas of Philadelphia County, Pennsylvania. Post-confession payment plan agreement with Par Funding in May 2020.
- g. *Complete Business Solutions Group, Inc. v. Olga Enterprises, LLC, Eric Blasone and Olga Gilmutdinova*, Docket No. 170703455, Court of Common Pleas of Philadelphia County, Pennsylvania. Post Confession settlement and satisfaction.
- h. *Complete Business Solutions, Inc., d/b/a d/b/a Par Funding v. Gate Embroidery NY 2, Inc. d/b/a Gate Embroidery NY2 and Caroline Tinaz*, Docket No. 200400536, Court of Common Pleas of Philadelphia County, Pennsylvania. Post-confession payoff confirmation letter from Par Funding dated May 11, 2020.

15. Moreover, the Litigation Injunction prevents the Receiver from taking action to prevent collection efforts in a possible violation of the Bankruptcy Code's automatic stay provisions and in order to assure those matters are addressed in their respective Bankruptcy Courts. After the filing of the First Motion, the Receiver became aware of another case in which a merchant filed for bankruptcy protection:

- a. *Complete Business Solutions, Inc., v. AT Imports, LLC, RT Sales LLC and Anthony H. Tryon*, Docket No. 180301865, Court of Common Pleas of Philadelphia County, Pennsylvania.

16. "The Court should lift the stay if there is good reason to do so, but part of the purpose of the stay against litigation is to preserve the assets for the benefit of creditors and investors while the Receiver investigates claims; requiring the Receiver to monitor and engage in litigation early on in the receivership would deplete the assets of [the Receivership Entities]." *SEC*

v. Onix Capital, LLC, Case No. 16-cv-24678, 2017 WL 6728814 (S.D. Fla. July 24, 2017) (adopted by District Court Judge Cooke, 2017 WL 6728773 and denying motion to lift stay and file bankruptcy petitions). See *SEC v. Stanford Int'l. Bank Ltd.*, 424 Fed.Appx. 338, 341-42 (S.D.N.Y. 2008), *aff'd*, 609 F.3d 87 (2d Cir. 2010) (holding that the receivership was still in its early stages and thus maintaining the stay against litigation was appropriate where Receiver had been in place for one year and was tasked with investigating the fraudulent scheme at issue); *U.S. v. Acorn Tech. Fund, L.P.*, 429 F.3d 428, 443 (3d Cir. 2005) (“[T]he purpose of imposing a stay of litigation is clear. A receiver must be given a chance to do the important job of marshaling and untangling a company's assets without being forced into court by every investor or claimant.”).

17. Lifting the stay to allow for the actions identified in this Motion to be resolved is proper as it preserves the assets in the estate for the benefit of creditors, and because the writs of garnishment must be dissolved for those merchants that have satisfied the confessions of judgment or entered into new agreements following the issuance of the writs prior to the COVID-19 pandemic, but prior to service of the writs months later by the Philadelphia Sheriff.

18. Moreover, any action to collect on the writs of garnishment for the actions identified above could possibly subject the estate to a claim of a violation of the automatic stay provision of 11 U.S.C. §362(a), which would further deplete the assets of the estate.

19. The Receiver is requesting this relief on an expedited basis, and all counsel of record have confirmed that they either do not oppose or take no position on the requested relief.

WHEREFORE, Ryan K. Stumphauzer, as Court-Appointed Receiver, by and through his undersigned counsel, respectfully requests this Honorable Court to grant the expedited motion and lift the Litigation Injunction on a limited basis for certain garnishment proceedings. A proposed order for the Court's consideration is attached as Exhibit 1.

CERTIFICATION REGARDING PRE-FILING CONFERENCE

The undersigned counsel has conferred with all counsel of record in this matter regarding the relief sought through this motion and certifies that all counsel of record have confirmed that their clients either do not oppose or take no position with respect to the relief sought.

Dated: August 14, 2020

Respectfully Submitted,

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

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

Co-Counsel for Receiver

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

By: /s/ Gaetan J. Alfano
GAETAN J. ALFANO
Pennsylvania Bar No. 32971
(Admitted Pro Hac Vice)
GJA@Pietragallo.com
DOUGLAS K. ROSENBLUM
Pennsylvania Bar No. 90989
(Admitted Pro Hac Vice)
DKR@Pietragallo.com

Co-Counsel for Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 14, 2020, I electronically filed the foregoing document with the clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Timothy A. Kolaya

TIMOTHY A. KOLAYA

EXHIBIT 1

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
CASE NO.: 20-CV-81205-RAR**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

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

Defendants.

**[PROPOSED] ORDER GRANTING THE RECEIVER'S SECOND EXPEDITED
MOTION TO LIFT LITIGATION INJUNCTION
AS TO CERTAIN GARNISHMENT PROCEEDINGS**

THIS CAUSE comes before the Court upon the Receiver's Unopposed Second Expedited Motion to lift Litigation Injunction as to Certain Garnishment Proceedings [ECF No. ___] ("Motion"), filed on August __, 2020. In the Motion, the Receiver seeks to modify the Court's Amended Order Appointing Receiver dated August 13, 2020 [ECF No. 141], so as to lift the litigation injunction provided for in that Order for certain garnishment matters currently pending in the Court of Common Pleas of Philadelphia County, Pennsylvania to be opened for the limited purpose of either: (1) vacating the current writs of garnishment because of a subsequent agreement or satisfaction of the underlying debt; or (2) vacating the current writs of garnishment because of a subsequent bankruptcy of the merchant, which would prohibit the execution on the writs pursuant to the U.S. Bankruptcy Code.

The Receiver has made a sufficient and proper showing in support of the relief requested. Accordingly, it is hereby

ORDERED AND ADJUDGED that Receiver's Unopposed Second Expedited Motion to lift Litigation Injunction as to Certain Garnishment Proceedings [ECF No. ___] is **GRANTED**. The litigation injunction set forth in the Court's Amended Order Appointing Receiver dated August 13, 2020 [ECF No. 141] is hereby lifted in the following matters and solely for the purpose as described in the Motion:

1. *Complete Business Solutions Group, Inc. v. Beverly Hills Management Residential Services*, Docket No. 200301568, Court of Common Pleas of Philadelphia County, Pennsylvania.
2. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Reverent Media Inc. d/b/a Reverent Media d/b/a Reverent Wedding Films and Clayton Daniel Vaughan*, Docket No. 200300113, Court of Common Pleas of Philadelphia County, Pennsylvania.
3. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Open Sky Inc. d/b/a Open Shy, and Jacob Lamdan*, Docket No. 200203392, Court of Common Pleas of Philadelphia County, Pennsylvania.
4. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Briar Heights Inc d/b/a Briar Heights and John Definnis*, Docket No. 200601626, Court of Common Pleas of Philadelphia County, Pennsylvania.
5. *Complete Business Solutions Group, Inc. d/b/a Par Funding v. The Tasting Room of Monona, Inc. d/b/a The Tasting Room, and Jason Smith and Jessica Smith*, Docket No. 200302729, Court of Common Pleas of Philadelphia County, Pennsylvania.
6. *Complete Business Solutions Group, Inc. d/b/a Par Funding v. Akiladelphia Creative Contracting LLC d/b/a Akiladelphia Creative Contracting and Akil Bowler*, Docket No 200400137, Court of Common Pleas of Philadelphia County, Pennsylvania.
7. *Complete Business Solutions Group, Inc. v. Olga Enterprises, LLC, Eric Blasone and Olga Gilmutdinova*, Docket No. 170703455, Court of Common Pleas of Philadelphia County, Pennsylvania.
8. *Complete Business Solutions, Inc., d/b/a d/b/a Par Funding v. Gate Embroidery NY 2, Inc. d/b/a Gate Embroidery NY2 and Caroline Tinaz*, Docket No. 200400536, Court of Common Pleas of Philadelphia County, Pennsylvania.
9. *Complete Business Solutions, Inc., v. AT Imports, LLC, RT Sales LLC and Anthony H. Tryon*, Docket No. 180301865, Court of Common Pleas of Philadelphia County, Pennsylvania.

DONE AND ORDERED in Fort Lauderdale, Florida, this _____ day of August, 2020.

RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of record

EXHIBIT 1

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
CASE NO.: 20-CV-81205-RAR**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

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

Defendants.

**[PROPOSED] ORDER GRANTING THE RECEIVER'S SECOND EXPEDITED
MOTION TO LIFT LITIGATION INJUNCTION
AS TO CERTAIN GARNISHMENT PROCEEDINGS**

THIS CAUSE comes before the Court upon the Receiver's Unopposed Second Expedited Motion to lift Litigation Injunction as to Certain Garnishment Proceedings [ECF No. ___] ("Motion"), filed on August __, 2020. In the Motion, the Receiver seeks to modify the Court's Amended Order Appointing Receiver dated August 13, 2020 [ECF No. 141], so as to lift the litigation injunction provided for in that Order for certain garnishment matters currently pending in the Court of Common Pleas of Philadelphia County, Pennsylvania to be opened for the limited purpose of either: (1) vacating the current writs of garnishment because of a subsequent agreement or satisfaction of the underlying debt; or (2) vacating the current writs of garnishment because of a subsequent bankruptcy of the merchant, which would prohibit the execution on the writs pursuant to the U.S. Bankruptcy Code.

The Receiver has made a sufficient and proper showing in support of the relief requested. Accordingly, it is hereby

ORDERED AND ADJUDGED that Receiver's Unopposed Second Expedited Motion to lift Litigation Injunction as to Certain Garnishment Proceedings [ECF No. ___] is **GRANTED**. The litigation injunction set forth in the Court's Amended Order Appointing Receiver dated August 13, 2020 [ECF No. 141] is hereby lifted in the following matters and solely for the purpose as described in the Motion:

1. *Complete Business Solutions Group, Inc. v. Beverly Hills Management Residential Services*, Docket No. 200301568, Court of Common Pleas of Philadelphia County, Pennsylvania.
2. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Reverent Media Inc. d/b/a Reverent Media d/b/a Reverent Wedding Films and Clayton Daniel Vaughan*, Docket No. 200300113, Court of Common Pleas of Philadelphia County, Pennsylvania.
3. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Open Sky Inc. d/b/a Open Shy, and Jacob Lamdan*, Docket No. 200203392, Court of Common Pleas of Philadelphia County, Pennsylvania.
4. *Complete Business Solutions Group, Inc., d/b/a Par Funding v. Briar Heights Inc d/b/a Briar Heights and John Definnis*, Docket No. 200601626, Court of Common Pleas of Philadelphia County, Pennsylvania.
5. *Complete Business Solutions Group, Inc. d/b/a Par Funding v. The Tasting Room of Monona, Inc. d/b/a The Tasting Room, and Jason Smith and Jessica Smith*, Docket No. 200302729, Court of Common Pleas of Philadelphia County, Pennsylvania.
6. *Complete Business Solutions Group, Inc. d/b/a Par Funding v. Akiladelphia Creative Contracting LLC d/b/a Akiladelphia Creative Contracting and Akil Bowler*, Docket No 200400137, Court of Common Pleas of Philadelphia County, Pennsylvania.
7. *Complete Business Solutions Group, Inc. v. Olga Enterprises, LLC, Eric Blasone and Olga Gilmutdinova*, Docket No. 170703455, Court of Common Pleas of Philadelphia County, Pennsylvania.
8. *Complete Business Solutions, Inc., d/b/a d/b/a Par Funding v. Gate Embroidery NY 2, Inc. d/b/a Gate Embroidery NY2 and Caroline Tinaz*, Docket No. 200400536, Court of Common Pleas of Philadelphia County, Pennsylvania.
9. *Complete Business Solutions, Inc., v. AT Imports, LLC, RT Sales LLC and Anthony H. Tryon*, Docket No. 180301865, Court of Common Pleas of Philadelphia County, Pennsylvania.

DONE AND ORDERED in Fort Lauderdale, Florida, this _____ day of August, 2020.

RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of record