

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

CASE NO. 20-CIV-81205-RAR

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

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

Defendants.

STATUS REPORT BY FOX ROTHSCHILD LLP

Fox Rothschild LLP (“Fox”), by its undersigned counsel, provides this report to the Court regarding its services for CBSG, its cooperation with the Receiver and its response to requests made by the Receiver for documents.

Fox’s Role as Counsel and Services

1. Fox served as counsel for Complete Business Solutions Group, Inc. d/b/a Par Funding and certain affiliated entities (collectively, “CBSG”) and has possession of documents that were created or received by Fox during the course of its legal work for CBSG.

2. Fox understands that the Receiver has possession and access to a cloud-based document storage site that houses all of the files of CBSG. Those files should include all communications between CBSG and Fox and all documents provided by Fox to CBSG and vice versa.

3. Fox’s primary role for CBSG was as litigation counsel in representing CBSG in cases and proceedings involving the collection of defaulted merchant cash advance agreements. This role for Fox began in February 2020 and ended with the filing of this action. Fox also

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represented CBSG in defense of claims filed by individual merchants and in defense of several proposed class actions (none of which were certified or that went beyond certification, non-merits based discovery). Fox also provided limited services to CBSG in corporate related matters. Fox never served as securities counsel for CBSG, and Fox did not assist CBSG in raising capital through the issuance of notes to investors or otherwise.

4. In or about March 2018, CBSG engaged Fox to review CBSG's existing merchant advance documents, and Fox prepared revisions to a set of standard form merchant advance documents for CBSG. Then, in mid to late-2019, CBSG asked Fox to assist it in defending a federal action brought by certain merchants who were borrowers of CBSG. Fox was then asked to handle the defense of several other suits of this nature. Fox's role as litigation counsel later expanded to include several merchant cash advance enforcement/collection suits. In February 2020, Fox's role as litigation counsel greatly expanded when CBSG asked Fox to oversee numerous merchant cash enforcement actions. This representation included filing numerous new merchant cash enforcement actions. These generally were commenced by the filing of confessions of judgment in Pennsylvania. Fox filed numerous new confession cases, and it also entered its appearance in numerous existing confession cases, replacing prior counsel.

5. Fox also assisted CBSG, from time to time, with merchant cash advance modifications of various kinds. Beginning in the second half of March 2020, CBSG asked Fox to assist CBSG in loan modification work made necessary by the Covid-19 pandemic. This work involved review and preparation of modified corporate documents to address the financial impacts on CBSG by Covid-19. Fox prepared revised corporate documents, such as promissory notes, that would be part of the Exchange Offer that was proposed and designed by independent securities counsel not affiliated with Fox (the "Exchange Notes"). Fox did not perform any

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securities work, or provide securities law advice, in connection with this work. Instead, CBSG engaged specialized securities law counsel, Bybel Rutledge (who had represented CBSG since at least 2018 in dealing with securities related issues). Securities counsel provided securities advice and was responsible for any necessary securities filings.

6. Fox may have performed some other legal services for CBSG on a limited basis, and the foregoing description is intended to provide an overview and not to recite every assignment or legal service performed by Fox.

Fox's Current Role and Urgent Need to Attend to Litigation Matters

7. At this time, Fox is not representing any of the Defendants in this proceeding, and, as a result of the appointment of the Receiver, Fox is not continuing to perform services in connection with numerous legal actions in which Fox has appeared as counsel. As a result, Fox has been unable to respond to numerous requests and demands by merchants and their counsel to assist in the resolution of pressing issues.

8. A portion of Fox's work involved merchant cash advance enforcement and collection through garnishments, attachments and other collection and enforcement remedies. These matters and others often require immediate attention. Fox recently has been confronted with a number of situations that require urgent attention in this area. Fox has received demands from merchants and their counsel to resolve pressing issues concerning pending loan enforcement remedies. Fox has been threatened with lawsuits. Fox's inability to respond, or take any action whatsoever, is putting it in jeopardy and has the real possibility of creating unnecessary issues for merchants.

9. Fox has requested that the Receiver either allow Fox to continue as counsel in pending cases on an interim basis, subject to an arrangement for adequate compensation, or to

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agree that Fox may withdraw immediately as counsel in pending cases, with proper substitutions of counsel. Fox will address this matter by separate motion in the event it cannot be resolved on an agreed and expedited basis with the Receiver.

Document Production By Fox

10. With respect to documents, Fox understands that the Receiver stands in the shoes of CBSG and holds CBSG's attorney-client privilege. To date, Fox has cooperated with the Receiver and intends to cooperate fully with the Receiver in providing access to or copies of all documents that the Receiver reasonably requests that the Receiver is entitled to receive as the Court-appointed officer standing in CBSG's shoes.

11. The vast majority of Fox's documents consist of court filings and correspondence or email relating to court cases. As noted above, it is Fox's understanding that all of its communications with CBSG and all of the documents it prepared for CBSG or exchanged with CBSG are already available to the Receiver because the Receiver has access to CBSG's document storage system which is a cloud-based system.

12. To avoid undue burden to Fox, Fox would like the Receiver to provide a written list of the categories of documents the Receiver seeks from Fox. Fox will cooperate fully in providing to the Receiver all documents that Fox would have been required to provide to CBSG if CBSG had requested the documents. Fox does not anticipate that it will object to the production of documents requested by the Receiver, but it is possible that certain documents may be protected by attorney-client privileges that exist between Fox and third parties and that certain documents requested by the Receiver will be confidential documents that are owned by Fox, that are proprietary to Fox and that were not produced by Fox or received by Fox for the benefit of CBSG or as incident to Fox's services for CBSG.

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13. Fox requests that the Receiver categorize the documents it wishes to obtain, endeavor to obtain the documents from the CBSG cloud-storage system first before burdening Fox with document production tasks and provide reasonable compensation to Fox for its services in the event that Fox is not engaged to continue as litigation counsel. Fox, through its undersigned counsel, will respond promptly and fully to all reasonable requests by the Receiver.

Recent Urgent Requests By Receiver

14. Recently, the Receiver has made urgent requests for two categories of documents: (1) opinions as to legality of the business conducted by CBSG, and (2) documents relating to the exchange notes.

15. To the best of Fox's knowledge, and without having time to completely review all of the documents in Fox's possession, Fox is not aware of ever having provided an opinion letter on the legality of CBSG's business or having received such an opinion letter from other counsel prior to the institution of this action.

16. In 2018, when Fox was consulted with respect to merchant cash advance documents and enforceability issues, there were communications between one or more Fox lawyers and CBSG officers on these topics, and Fox prepared/revised some form of documents. The Receiver already has these documents, but nonetheless, Fox, on an exigent basis, conducted a search of its computer records for this category of documents. The retrieved and reviewed documents in this category are being produced today on a secure web site. Fox is continuing its retrieval and review of documents in this category.

17. During the course of Fox's representation of CBSG, attorneys at Fox, from time to time, were consulted with respect to legal issues of various kinds, and communications concerning legal matters and issues took place between Fox attorneys and officers of CBSG, as

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is normal in the course of any legal representation. Fox is willing to search for email communications of this nature and provide copies to the Receiver. However, in order to reduce the burden on Fox, and make a production in an organized manner, Fox requests that the Receiver provide a list of subject matters or topics that are deemed important to the Receiver.

18. As to the second category of documents requested by the Receiver on an urgent basis—the documents relating to the “Exchange Notes”—Fox conducted a similar exigent search of its records and is producing the retrieved and reviewed documents it believes are responsive today on a secure web site. Fox is continuing its retrieval and review of documents in this category.

Affirmation By Fox

19. Since the Receiver was appointed, Fox has been cooperating with the Receiver and its counsel. Specifically, and without limitation, Fox has been in regular communication regarding matters that are arising in pending cases, has provided documentation requested regarding the business and has provided court filings and court opinions to assist the Receiver.

20. Fox pledges to work cooperatively with the Receiver in providing information that may be helpful to the Receiver and documents that are reasonable requested by the Receiver. At the same time, Fox also wishes to minimize its burden, to the extent possible, and to have the time necessary to review documents before producing them to assure that Fox properly discharges all of its legal and ethical obligations.

Dated: August 20, 2020.

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Respectfully submitted,

/s/ Peter H. Levitt

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ATTORNEYS FOR FOX ROTHSCHILD LLP

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on August 20, 2020, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record.

/s/ Peter H. Levitt

Peter H. Levitt