

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO.: 20-CIV-81205-RAR

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

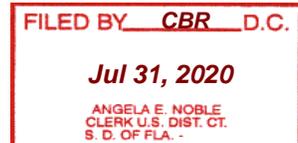
v.

COMPLETE BUSINESS SOLUTIONS GROUP,
INC. d/b/a/ PAR FUNDING,
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,
RETIREMENT EVOLUTION INCOME
FUND, LLC , f/k/a RE INCOME FUND, LLC,
RE INCOME FUND 2, LLC,
LISA MCELHONE,
JOSEPH COLE BARLETA a/k/a/ JOE COLE,
JOSEPH W. LAFORTE a/k/a JOE MACK
a/k/a/ JOE MACKI a/k/a JOE MCELHONE,
PERRY S. ABBONIZIO,
DEAN J. VAGNOZZI,
MICHAEL C. FURMAN,
and JOHN GISSAS

Defendants, and

L.M.E. 2017 FAMILY TRUST,

Relief Defendant.



UNDER SEAL

_____ /

PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S
URGENT MOTION TO AMEND ORDER APPOINTING RECEIVER
TO INCLUDE LITIGATION INJUNCTION

The Securities and Exchange Commission, joined by the Receiver in the relief sought herein, hereby move this Court for a modified Order of appointment of the Receiver to clarify the powers and rights of the Receiver in regard to stays of litigation against the Receiver and the Receiver Entities. This clarification is sought in order to avoid the possible expenditure of Receivership assets and the possible default on deadlines in lawsuits to which the Receivership Entities are parties. The Receiver and Commission seek the same language that is included in other Receivership Orders entered in this District, and nationwide, as shown in the attached proposed Amended Order.

On July 27, the Court entered an Order appointing Ryan K. Stumphauzer as the Receiver over the corporate Defendants [D.E. 36].

As set forth in the Commission's Complaint and Motion for Temporary Restraining Order, Par Funding is a party to thousands of lawsuits. The Receiver, who was appointed July 27, 2020, is reviewing these as well as other lawsuits to which the Receivership Entities are parties. Complicating this is the fact that Par Funding is represented in all, or nearly all, of the its lawsuits by the same law firm and, in many cases, the same lawyer defending Par Funding and other Defendants in this case. Defense Counsel for Par Funding is contacting the Receiver seeking direction on lawsuits in which Defense Counsel represented Par Funding prior to the Commission filing this case. (Exhibits A and B). The Receiver has not retained Par Funding's Defense Counsel in this case as his counsel in any matter.

We are seeking this change on an urgent basis because there are Court deadlines and discovery deadlines in the Receivership Entities' lawsuits, some of which we learned today will occur tomorrow. (Exhibits A and B hereto).

We respectfully request that this Court impose a stay on all matters to which a Receivership Entity is a party. A purpose of the federal receivership is to safeguard the Receivership Entities' assets for the benefit of investors. Given that the Receiver is only beginning his investigation into the affairs of the Receivership Entities, a litigation injunction serves to guard the assets of the

Receivership Entities by preventing ancillary litigation. “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.”).

It is well-recognized that “[a] district court may impose a litigation stay on a non-party to a receivership as part of its inherent power as a court of equity to fashion effective relief.” *SEC v. Byers*, 609 F.3d 87, 91 (2d Cir. 2010) (citing *SEC v. Wencke*, 622 F.2d 1363, 1369 (9th Cir. 1980)). Indeed, Courts in this District routinely impose the same injunction stay sought in this case. It is, in fact, part of the Model SEC Receivership Order the Commission filed with its Motion for the Appointment of a Receiver in this case.

We are requesting this relief on an expedited basis because the Receivership Entities are parties to cases in which there are litigation deadlines of tomorrow, July 31, 2020.

July 30, 2020

Respectfully submitted,

By: s/Amie Riggle Berlin
Amie Riggle Berlin, Esq.
Senior Trial Counsel
Florida Bar No. 630020
Direct Dial: (305) 982-6322
Direct email: berlina@sec.gov

Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
801 Brickell Avenue, Suite 1800
Miami, Florida 33131
Telephone: (305) 982-6300

CERTIFICATE OF SERVICE

Undersigned counsel conferred with the Receiver, Ryan Stumphauzer, who agrees and joins in this motion for the Relief requested herein. Undersigned counsel emailed defense counsel but they have not had an opportunity to respond. Due to the urgent nature of the relief sought herein, undersigned counsel felt it necessary to file this motion without further delay and will file a Notice of the defendants' positions if and when that is received from them.

s/Amie Riggle Berlin

Berlin, Amie R.

From: Berman, Brett <BBerman@foxrothschild.com>
Sent: Thursday, July 30, 2020 8:26 AM
To: Douglas K. Rosenblum; Gaetan J. Alfano
Subject: FW: CAH Mediation

This is a local counsel. this is a long negotiated settlement process involving a complex case in NC. I cant ignore them any longer.

Brett A. Berman, Esq.

Partner

Co-Chair of Litigation Department



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bberman@foxrothschild.com

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From: Walt Pettit <Walt.Pettit@hutchenslawfirm.com>

Sent: Tuesday, July 28, 2020 1:20 PM

To: Berman, Brett <BBerman@foxrothschild.com>; DeSantis, Kasey H. <kdesantis@foxrothschild.com>

Cc: Michael Stein <Michael.Stein@hutchenslawfirm.com>

Subject: [EXT] RE: CAH Mediation

Brett – Following up on my previous emails, I received a call from the mediator about 20 minutes ago. He commented that all parties have resolved the matter and are still waiting on a response from CBSG and that it is critical CBSG respond in some way. I believe that we have obtained the best possible settlement at this time unless CBSG desires to litigate the matter. As I stated before, I am not able to note the likelihood of success on the claims with the facts known to date.

Walt Pettit | Managing Partner of Charlotte Office

Walt.Pettit@hutchenslawfirm.com

Hutchens Law Firm LLP

6230 Fairview Road, Suite 315 | Charlotte, NC 28210
P.O. Box 12497 | Charlotte, NC 28220-2497
T: 704-362-9255 | F: 704-362-9268

HutchensLawFirm.com



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From: Berman, Brett [<mailto:BBerman@foxrothschild.com>]
Sent: Thursday, July 23, 2020 8:06 PM
To: Walt Pettit; DeSantis, Kasey H.
Cc: Michael Stein
Subject: RE: CAH Mediation

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I haven't had the time to review. When is answer due?

Brett A. Berman, Esq.
Partner
Co-Chair of Litigation Department



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From: Walt Pettit <Walt.Pettit@hutchenslawfirm.com>

Sent: Wednesday, July 22, 2020 3:20 PM

To: Berman, Brett <BBerman@foxrothschild.com>; DeSantis, Kasey H. <kdesantis@foxrothschild.com>

Cc: Michael Stein <Michael.Stein@hutchenslawfirm.com>

Subject: [EXT] RE: CAH Mediation

Brett – I have had a chance to review the latest draft of the Term Sheet and I have attached a copy for your review. As to what I believe are the remaining issues to settle the matter, this email is to share my thoughts as follows:

1. As to Health Acquisition Company (HAC), we discussed preserving CBSG's claims against HAC with the mediator. The mediator responded that this would cause the settlement to fail. We discussed CBSG entering an agreement not to sue HAC and releasing Nusbaum and White (N/W) from any claim based on the Gemino Note but preserving CBSG's rights against N/W to recover the other Notes (or the proceeds received therefrom) assigned by HAC to N/W. After some thought, I believe that if this is one of the last issues to resolve the matter, I would agree to these terms. Based on representation of counsel, HAC does not have any assets and any recovery would be from N/W anyway.
2. CBSG is to receive \$750K as a secured creditor and have a \$1M unsecured claim in the Oswego case (CAH # 2). I think that this should be a joint and several claim in all cases for at least \$1.25M if not \$1.5M.

Please review these issues with the appropriate folks at CBSG and let me know if I have authority to proceed as set forth in this email. Thanks.

Walt Pettit | Managing Partner of Charlotte Office

Walt.Pettit@hutchenslawfirm.com

Hutchens Law Firm LLP

6230 Fairview Road, Suite 315 | Charlotte, NC 28210

P.O. Box 12497 | Charlotte, NC 28220-2497

T: 704-362-9255 | F: 704-362-9268

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From: Berman, Brett [<mailto:BBerman@foxrothschild.com>]
Sent: Tuesday, July 21, 2020 1:48 PM
To: Walt Pettit; DeSantis, Kasey H.
Cc: Michael Stein
Subject: RE: CAH Mediation

CAUTION: This is an external Email from "Berman, Brett" <bberman@foxrothschild.com> . Do not click links or open attachments unless you recognize the sender and know the content is safe.

Let me know thoughts/comments on this.

Brett A. Berman, Esq.
Partner
Co-Chair of Litigation Department



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bberman@foxrothschild.com

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From: Walt Pettit <Walt.Pettit@hutchenslawfirm.com>
Sent: Tuesday, July 21, 2020 8:45 AM
To: Berman, Brett <BBerman@foxrothschild.com>; DeSantis, Kasey H. <kdesantis@foxrothschild.com>
Cc: Michael Stein <Michael.Stein@hutchenslawfirm.com>
Subject: [EXT] FW: CAH Mediation

Brett – I received the email below and new proposed term sheet yesterday afternoon. I will review and send an email to you with my thoughts. Please let me know if you have had a chance to review my email to you over the weekend with the client and received a response from the client.

Walt Pettit | Managing Partner of Charlotte Office
Walt.Pettit@hutchenslawfirm.com
Hutchens Law Firm LLP
6230 Fairview Road, Suite 315 | Charlotte, NC 28210
P.O. Box 12497 | Charlotte, NC 28220-2497
T: 704-362-9255 | F: 704-362-9268

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From: C. Edward Dobbs [<mailto:edobbs@phrd.com>]
Sent: Monday, July 20, 2020 2:26 PM
To: Waldrep, Tom; Lyday, Jennifer; Jim Lanik; JP Cournoyer; Walt Pettit; Paul A. Fanning (PAF@wardandsmith.com)
Subject: CAH Mediation

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Dear counsel,

I am attaching the most recent draft of the proposed settlement term sheet, marked to show changes from the last draft. This draft incorporates comments received to date from counsel for the parties. I do not represent that all of the changes requested by a party have been accepted by each counterpart, although most of the changes have been discussed with the parties. In addition, I have massaged some of the requested language changes simply as a matter of drafting style.

I have not as yet received final word from Walt regarding CBSG's position on the settlement term sheet, but I am led to believe that the primary (if not only) issue relates to the scope of releases.

Please let me know your questions and comments at your earliest convenience. We are close to the finish line, hopefully, and I would expect that we can put this matter to bed by the end of this week.

C. Edward Dobbs

Partner

Parker, Hudson, Rainer & Dobbs LLP
303 Peachtree Street NE, Suite 3600, Atlanta, GA 30308

D: (404) 420-5529 • T: (404) 523-5300

E: edobbs@phrd.com

[biography](#) [v-card](#)



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Berlin, Amie R.

From: Berman, Brett <BBerman@foxrothschild.com>
Sent: Thursday, July 30, 2020 8:23 AM
To: Douglas K. Rosenblum; Gaetan J. Alfano
Subject: FW: [EXT] Re: Surplus Shed v. Par Funding 20-12937

Another example – and I will avoid sending you every single one, which are many – but I need some direction this morning on what to do as I cannot simply ignore courts and counsel.

Brett A. Berman, Esq.

Partner

Co-Chair of Litigation Department



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From: Frank D'Amore <fdamore@rrslegal.com>

Sent: Thursday, July 30, 2020 8:12 AM

To: Frankowski, Brittney <BFrankowski@countyofberks.com>; Berman, Brett <BBerman@foxrothschild.com>

Cc: Rothermel, Amy <ARothermel@countyofberks.com>

Subject: Re: [EXT] Re: Surplus Shed v. Par Funding 20-12937

I am sorry for the delayed responses I have been in trial for the last couple of days. When is the soonest we can get this in? I am not pointing to any nefarious doing by Mr. Berman, but I would be remiss to not point out that his client does retain what we are contending is an illegal benefit, of a relatively small amount of money. If its pushed out long enough the injunction may even, arguably, become moot.

This is routine argument, and any warm body with a license from Mr. Berman's firm will do. His partner, "Steph" was apparently good enough to handle it last time.

Thank you

From: Frankowski, Brittney <BFrankowski@countyofberks.com>
Sent: Tuesday, July 28, 2020 5:37 PM
To: Frank D'Amore <fdamore@rrslegal.com>; Berman, Brett <BBerman@foxrothschild.com>
Cc: Rothermel, Amy <ARothermel@countyofberks.com>
Subject: Re: [EXT] Re: Surplus Shed v. Par Funding 20-12937

I was going to reach out tomorrow and let you know the date has changed to August 7 at 9:30. Does that work?

Sincerely,
Brittney Frankowski
Administrative Assistant
to Honorable James M. Lillis

From: Berman, Brett <BBerman@foxrothschild.com>
Sent: Tuesday, July 28, 2020 5:34:43 PM
To: Frankowski, Brittney <BFrankowski@countyofberks.com>; Frank D'Amore <fdamore@rrslegal.com>
Cc: Rothermel, Amy <ARothermel@countyofberks.com>
Subject: RE: [EXT] Re: Surplus Shed v. Par Funding 20-12937

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I am so sorry but I am not available Friday. when are some options for next week?

Brett A. Berman, Esq.
Partner
Co-Chair of Litigation Department



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bberman@foxrothschild.com

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From: Frankowski, Brittney <BFrankowski@countyofberks.com>
Sent: Tuesday, July 28, 2020 11:39 AM
To: Frank D'Amore <fdamore@rrslegal.com>; Berman, Brett <BBerman@foxrothschild.com>

Cc: Rothermel, Amy <ARothermel@countyofberks.com>
Subject: RE: [EXT] Re: Surplus Shed v. Par Funding 20-12937

Counsel,
Upon the Judge's review, a hearing will be held on Friday, July 31 at 11:00 a.m. assuming counsel's availability?

*Sincerely,
Brittney Frankowski
Administrative Assistant
to Honorable James M. Lillis
610-478-6208 extension 3 7 4 1*

From: Frank D'Amore <fdamore@rrslegal.com>
Sent: Friday, July 24, 2020 12:48 PM
To: Frankowski, Brittney <BFrankowski@countyofberks.com>; Berman, Brett <BBerman@foxrothschild.com>
Cc: Rothermel, Amy <ARothermel@countyofberks.com>
Subject: Re: [EXT] Re: Surplus Shed v. Par Funding 20-12937

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Thanks Brittney.

You will see from the motion why I believe this needs to be heard sooner rather than later. I will submit a rule with the Motion as well.

We simply wanted to keep this in front of the assigned judge.

Thanks. Courtesy copies should be coming.

From: Frankowski, Brittney <BFrankowski@countyofberks.com>
Sent: Friday, July 24, 2020 12:45 PM
To: Berman, Brett <BBerman@foxrothschild.com>
Cc: Frank D'Amore <fdamore@rrslegal.com>; Rothermel, Amy <ARothermel@countyofberks.com>
Subject: Re: [EXT] Re: Surplus Shed v. Par Funding 20-12937

Last week it was, that's all I'm saying, I haven't seen a formal filing so for the moment we agree.

Sincerely,
Brittney Frankowski
Administrative Assistant
to Honorable James M. Lillis

From: Berman, Brett <BBerman@foxrothschild.com>
Sent: Friday, July 24, 2020 12:41:59 PM
To: Frankowski, Brittney <BFrankowski@countyofberks.com>
Cc: Frank D'Amore <fdamore@rrslegal.com>; Rothermel, Amy <ARothermel@countyofberks.com>
Subject: Re: [EXT] Re: Surplus Shed v. Par Funding 20-12937

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But it is not an emergency so what are we talking about here?

Brett A. Berman, Esq.
Partner
Co-Chair of Litigation Department



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bberman@foxrothschild.com

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New York | North Carolina | Pennsylvania | South Carolina | Texas | Washington

On Jul 24, 2020, at 12:41 PM, Frankowski, Brittney <BFrankowski@countyofberks.com> wrote:

I agree, if this no longer being scheduled as an emergency as initially indicated to the Court, the motion/petition, rule and proposed order should be filed and it will be assigned a future hearing date upon being received.

Attorney Berman, I apologize, when it's an emergency with a quick turnaround date, we select dates with counsel via email often before the formal filing occurs to ensure everyone is available.

Sincerely,
Brittney Frankowski
Administrative Assistant
to Honorable James M. Lillis

From: Berman, Brett <BBerman@foxrothschild.com>

Sent: Friday, July 24, 2020 12:36:56 PM

To: Frank D'Amore <fdamore@rrslegal.com>

Cc: Frankowski, Brittney <BFrankowski@countyofberks.com>; Rothermel, Amy <ARothermel@countyofberks.com>

Subject: Re: [EXT] Re: Surplus Shed v. Par Funding 20-12937

County of Berks Warning: This is an external email. Please exercise caution.

There is no motion filed. How are we talking about scheduling a hearing? Given that frank said there is no emergency, why would this not be on a normal schedule? I am very confused.

Brett A. Berman, Esq.
Partner
Co-Chair of Litigation Department



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bberman@foxrothschild.com

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| New Jersey | New York | North Carolina | Pennsylvania | South Carolina | Texas | Washington

On Jul 24, 2020, at 12:31 PM, Frank D'Amore <fdamore@rrslegal.com> wrote:

We are available.

Thanks

From: Frankowski, Brittney <BFrankowski@countyofberks.com>

Sent: Friday, July 24, 2020 10:29 AM

To: Frank D'Amore <fdamore@rrslegal.com>; Berman, Brett
<BBerman@foxrothschild.com>

Cc: Rothermel, Amy <ARothermel@countyofberks.com>

Subject: RE: Surplus Shed v. Par Funding 20-12937

Good morning,

There is availability on Friday, July 31 at 9:30 a.m. if that works for everyone?

Sincerely,
Brittney Frankowski
Administrative Assistant
to Honorable James M. Lillis
610-478-6208 extension 3741

From: Frank D'Amore <fdamore@rrslegal.com>

Sent: Friday, July 24, 2020 9:10 AM

To: Frankowski, Brittney <BFrankowski@countyofberks.com>; Rothermel, Amy

<ARothermel@countyofberks.com>

Cc: Berman, Brett <BBerman@foxrothschild.com>

Subject: Surplus Shed v. Par Funding 20-12937

County of Berks Warning: This is an external email. Please exercise caution.

Hello Brittney and Amy,

We are going to be filing our Motion in the above-captioned case today. We would really like this matter to stay in front of Judge Lillis rather than an emergency judge. Ed Stock will be handling the argument.

He has availability next Friday. Does that work for the Judge?

Thank you.

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