

**IN THE UNITED STATES DISTRICT COURT  
FOR THE 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.

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**RECEIVER, RYAN K. STUMPHAUZER’S RESPONSE IN  
OPPOSITION TO DEFENDANTS’ MOTION TO COMPEL THE  
RECEIVER TO PRODUCE DOCUMENTS RESPONSIVE TO DEFENDANT  
LISA McELHONE’S REQUESTS FOR PRODUCTION OF DOCUMENTS**

Ryan K. Stumphauzer, Esq., Court-Appointed Receiver (“Receiver”) of the Receivership Entities,<sup>1</sup> hereby files his response in opposition to Defendants’ Motion to Compel the Receiver

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<sup>1</sup> The “Receivership Entities” are 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; 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 Fund 2 LP; and MK Corporate Debt Investment Company LLC; Capital Source 2000, Inc.; Fast Advance Funding LLC; Beta Abigail, LLC; New Field Ventures, LLC; Heritage Business Consulting, Inc.; Eagle Six Consulting, 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 L.M.E. 2017 Family Trust; 568 Ferndale Lane, Haverford PA 19041; 105 Rebecca Court, Paupack, PA 18451; and 107 Quayside Dr., Jupiter FL 33477.

to Produce Documents Responsive to Defendant Lisa McElhone's Requests for Production of Documents (the "Motion to Compel"), and states as follows:

**A. Cole's Unauthorized Access of Records Belonging to the Receivership Entities**

The SEC filed this action on July 24, 2020. Upon learning of the existence of the lawsuit, Defendant Joseph Cole Barleta ("Cole"), working in conjunction with Defendant Lisa McElhone ("McElhone"), downloaded Par Funding's entire QuickBooks database, along with tens of thousands of additional files belonging to Par Funding. Defendant Cole then proceeded to host the QuickBooks database on a new cloud-based virtual desktop server with a company named Summit Hosting. He uploaded the other files he took from Par Funding to a new Google G Suite he created under the company name of "Knew Logic." *See, e.g.*, Receiver's Motion for an Order Requiring Lisa McElhone and Joseph Cole Barleta to Show Cause Why They Should Not be Held in Contempt, ECF No. 423.

The Court entered the initial Receivership Order on July 27, 2020. *See* ECF No. 36. Through this and other subsequent Orders that expanded the scope of the receivership, the Court empowered the Receiver with sole and exclusive possession and control of all files belonging to the Receivership Entities, which includes Par Funding. Despite the Court's entry of these Orders, the Defendants have, for whatever reason, steadfastly resisted returning these files to the Receiver. The Defendants' refusal to comply with the Court's Orders has required the Receiver to expend considerable time and resources to carry out his duties and secure exclusive possession and control of these files belonging to Par Funding. *See, e.g.*, ECF Nos. 155, 260, 423. To that end, Judge Ruiz entered an Order for Defendant McElhone and Defendant Cole to show cause why they should not be held in contempt for their violation of the Court's Orders and failure to return these documents to the Receiver. *See* ECF No. 425.

**B. McElhone’s Request for Production to the Receiver for Par Funding’s Records**

On September 22, 2020, Defendant McElhone served her first Request for the Production of Documents on the Receiver, seeking documents relating to Par Funding (the “Request”). The Request was extremely overbroad, seeking, for example, “[a]ll CBSG and FSP files for Receivership Entities located on the G Suite from 2012 to the present.” On October 22, 2020, the Receiver served objections and responses to the Request. Defendant McElhone took no action, however, with respect to these objections for more than 30 days, arguably waiving any right under Local Rule 26.1(g) to bring a discovery dispute before the Court on these objections, absent a showing of good cause for such delay.

**C. Meet and Confer Efforts Between the Receiver and Counsel for McElhone and Cole**

On November 24, 2020, after this period of unexplained delay, counsel for Defendant McElhone and Defendant Cole requested an immediate meet and confer call with the Receiver’s counsel to discuss the Receiver’s objections to the Request. The Receiver’s counsel made themselves available for a meet-and-confer call with Defendant McElhone and Cole’s lawyers the very next day, on November 25, 2020. Over the course of the next week, counsel for the Receiver and counsel for Defendants McElhone and Cole continued to exchange several emails in an effort to reach agreement on the scope of production in response to the Request. Throughout this process, the Receiver has insisted that Defendant Cole return to the Receiver the data he took and has been maintaining in violation of the Court’s Orders, including an audit log reflecting who may have accessed this information, before the Receiver would produce financial data to the Defendants.<sup>2</sup>

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<sup>2</sup> Defendants Cole and McElhone also disputed the need for a Protective Order. Although they eventually retreated from this position, Defendants Cole and McElhone would not agree to the Receiver’s proposed Protective Order. As a result, this issue was discussed with the Court at a status conference on December 15, 2020. Following that status conference, Judge Ruiz directed

On December 3, 2020, the Receiver agreed with Defendants McElhone and Cole that the Receiver would produce the following categories of documents to the Defendants in response to the Request, subject to Defendant Cole's return of the data he took and has been maintaining in violation of the Court's Orders: (a) a static copy of the QuickBooks database for Par Funding and Full Spectrum as of July 28, 2020; (b) Bank statements for Par Funding and Full Spectrum Processing from July 2015 through July 2020, to the extent they were available; (c) Deposit Logs; (d) Syndication Agreements; (e) Spreadsheet titled "Consolidation Summary;" (f) Investor Agreements; (g) Spreadsheet titled "Investor Log;" (h) Investor Notes; and (i) Tax Returns for 2016 through 2019.

At the Status Conference on December 15, 2020, the parties discussed this issue with Judge Ruiz. Upon listening to argument from the parties, Judge Ruiz entered a Paperless Order directing the parties to continue to "meet and confer concerning the materials the Receiver requested that Defendants produce *before the Receiver will provide Defendants access to CBSG's financial data*. If the parties are unable to reach an agreement, the Receiver shall file a motion to compel production of those materials on or before December 18, 2020." *See* ECF No. 434 (emphasis added). Thus, this precise issue was already squarely before and addressed by Judge Ruiz.

As instructed by Judge Ruiz, counsel for the Receiver and counsel for Defendant Cole continued to meet and confer on this issue regarding the return of this data to the Receiver. Eventually, on Friday, December 18, 2020, counsel for the Receiver and counsel for Defendant Cole reached an agreement regarding the return of the data. *See* ECF No. 449. Since that time, counsel for the Receiver and his eDiscovery consultant have been in communication with

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the parties to submit competing proposed protective orders. ECF No. 434. Thereafter, the Court entered the Receiver's proposed Protective Order. ECF No. 437.

Defendant Cole's hosting company, Summit Hosting, to coordinate and finalize the return of that QuickBooks data to the Receiver.

The Receiver has also been in contact with Defendant Cole's eDiscovery consultant to coordinate the return of the information on the Knew Logic G Suite, together with an audit log. Remarkably, although Defendants have complained about delay on the part of the Receiver in producing documents in response to the Request, it was not until Tuesday, January 5, 2021, that Defendant Cole's eDiscovery consultant finally provided the Receiver with a list of all files contained on the Knew Logic G Suite.

**D. The Receiver's Concerns About Producing Documents to the Other Defendants**

Throughout the course of this litigation, various of the Defendants have submitted joint filings to the Court and presented a consolidated defense with respect to certain issues. These joint efforts have reflected a sharing of information and data between and among the Defendants. For example, on August 7, 2020, Defendant Joseph LaForte, one of the parties that filed the instant Motion, signed on to a "Joint Response" to the Receiver's motion to engage Development Specialists, Inc. to assist with forensic analysis and operations of the Receivership Entities. ECF No. 106. Attached to that Joint Response was a Declaration of former Par Funding employee Aida Lau, which contained information pertaining to Par Funding, including recent data created after the litigation commenced. ECF No. 106-1. To that end, Ms. Lau's Declaration included a funding analysis, financial summary, and cash position for Par Funding. *Id.* It also included a balance sheet as of July 29, 2020, a list of creditors that was current through July 31, 2020, and bank account statements for Par Funding that were issued with balances as of July 31, 2020. *Id.*

This declaration from Ms. Lau caused the Receiver significant concern. Indeed, it was apparent from reviewing this declaration that Ms. Lau, acting on behalf of various of the

Defendants, including Defendants McElhone, Cole, and LaForte, had access to records and information—in violation of the Court’s various receivership Orders—belonging to the Receivership Entities. Various of the Defendants—including each of the “Moving Defendants” who filed this Motion—have also indicated that they intend to use a shared forensic accounting expert in connection with their defense of the claims against them this litigation. In fact, the Moving Defendants confirmed this in their Motion. *See* Motion, p. 8 n.6. Because of the extensive evidence of prior unauthorized access of and refusal to return to the Receiver documents and information belonging to the Receivership Entities, together with a clear indication that several of the Defendants have already shared, and will continue to share, information in connection with the defense of this action, the Receiver has not been comfortable turning over any financial records relating to Par Funding to the Defendants, absent a review of the access and audit logs for the information Defendant Cole has been maintaining in violation of the Court’s Orders.

**E. New Information Learned Just Today About Activity on the Knew Logic G Suite**

It was not until *today*, January 11, 2021, at 10:47 a.m. that Defendant Cole’s eDiscovery consultant finally provided the Receiver with various access and audit logs for the information contained on the Knew Logic G Suite. The initial audit log provided to the Receiver—which reflects user access, deletion and editing of files, and other information about the sharing of these files—only included information from September 8, 2020 through the present. In other words, it did not include data for the prior periods of time, during which the Receiver has already confirmed unauthorized access and sharing of data belonging to the Receivership Entities. It was only through several additional emails to Defendant Cole’s eDiscovery consultant that the Receiver obtained an additional audit log. To date, however, the Receiver has still not received the complete audit logs for the period of time of July 29, 2020 (when the Knew Logic G Suite was apparently

created) through August 28, 2020. Although these logs are apparently available, Defendant Cole's eDiscovery consultant has simply not provided them to the Receiver yet, despite multiple requests.

The logs the Receiver has received thus far reflect, among other things, that access to the Knew Logic database was provided to several former officers and employees of Par Funding, including Joseph LaForte, Aida Lau, Jamie McElhone, Anthony Fazio, Jeremiah Luddeni, and Tori Villarose. In addition, the audit logs reflect that Defendant Cole deleted 8,494 documents belonging to Par Funding on *December 21, 2020*, including thousands of daily ACH deposit transaction records, leases for Par Funding's office space, operating agreements for Par Funding, invoices, and various IRS and tax related documents. The log also reflects that Defendant Cole "deleted" and "trashed" a QuickBooks database file titled "Full Spectrum Processing Inc.QBB" on December 21, 2020. The Receiver has other copies of these files within the records of the Receivership Entities, but he is troubled that Defendant Cole deleted these files on December 21, 2020, during the midst of these extensive meet-and-confer efforts concerning the return of those very documents to the Receiver.

**F. The Receiver's Production to the Defendants**

On January 11, 2021, after Cole finally provided the Receiver with certain of the access and audit logs for the Knew Logic G Suite, the Receiver determined that he had sufficient assurances in place to begin producing documents to the Defendants,<sup>3</sup> provided those documents were designated as "Confidential" pursuant to the terms of the Court's Protective Order, ECF No. 437. As a result, the Receiver has made an initial production of a substantial volume of documents

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<sup>3</sup> The Receiver reserves the right to seek additional relief from the Court, including requesting the Defendants to return the data the Receiver has produced to them, in the event the complete audit logs for the Knew Logic G Suite from July 29, 2020 through August 28, 2020, reflect anything that causes the Receiver concern about the Defendants being in possession of Par Funding's data.

to the Defendants, consistent with the categories of documents the Receiver previously agreed to produce in response to Defendant McElhone's Request. These documents bear Bates stamps in the range of CBSG-Receiver-000000001 through CBSG-Receiver-000103887.

To be clear, the Receiver was prepared to produce these documents to all Defendants over a month ago, as early as December 3, 2020. Defendant Cole, however, has delayed this process significantly through his failure to use any semblance of diligence in providing the Receiver with the data hosted on and audit logs for Summit Hosting and the Knew Logic G Suite. In other words, any delay of this production has been self-inflicted by Defendant Cole and flows directly from his unauthorized downloading of and delay in returning to the Receiver documents belonging to the Receivership Entities. The Receiver still has concerns about these actions of Defendant Cole—particularly in light of the costs and expenses the Receiver has incurred as a result of Defendant Cole and Defendant McElhone's violations of the Court's Orders—and intends to continue pursuing the Order to Show Cause against Defendants Cole and McElhone, ECF No. 435, for their conduct related to these data breaches and failure to return this information to the Receiver in a timely fashion.<sup>4</sup> Nevertheless, the Receiver has now begun the production of the documents he agreed to produce in response to the Request and is making these documents available to all Defendants, subject to the terms of the Protective Order. As a result, the relief requested in the Motion is now moot.

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<sup>4</sup> For example, the Receiver intends to seek from Defendants Cole and McElhone all of his costs and expenses related to these efforts to obtain the Summit Hosting and Knew Logic G Suite files and access logs from Defendant Cole, as well as the fees incurred in responding to this Motion.



**CONCLUSION**

WHEREFORE, Ryan K. Stumphauzer, as Court-Appointed Receiver, respectfully submits that because the Receiver has now begun the production of documents in response to the Request (*i.e.*, the documents that are the subject of the Motion), the Motion should be denied as moot.

Dated: January 11, 2021

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on January 11, 2021, 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/ Timothy A. Kolaya*  
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*Timothy A. Kolaya*