

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	
	)	Chapter 11
)	
PGX HOLDINGS, INC., <i>et al.</i> , ¹	)	Case No. 23-10718 (CTG)
)	
Debtors.	)	(Jointly Administered)
)	
	)	Related to Docket Nos. 6, 58

CERTIFICATION OF COUNSEL REGARDING MOTION OF THE DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO (A) PAY PREPETITION WAGES, SALARIES, OTHER COMPENSATION, AND REIMBURSABLE EXPENSES AND (B) CONTINUE EMPLOYEE BENEFITS PROGRAMS, AND (II) GRANTING RELATED RELIEF

The undersigned proposed counsel to the above captioned debtors and debtors in possession (collectively, the “Debtors”) hereby certifies the following:

1. On June 4, 2023 (the “Petition Date”), each of the above-captioned debtors and debtors in possession (the “Debtors”) filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), with the Clerk of the United States Bankruptcy Court for the District of Delaware. The Debtors are continuing to operate their businesses and manage their affairs as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On June 4, 2023, the Debtors filed the *Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PGX Holdings, Inc. (2510); Credit Repair UK, Inc. (4798); Credit.com, Inc. (1580); Creditrepair.com Holdings, Inc. (7536); Creditrepair.com, Inc. (7680); eFolks Holdings, Inc. (5213); eFolks, LLC (5256); John C. Heath, Attorney At Law PC (8362); Progrexion ASG, Inc. (5153); Progrexion Holdings, Inc. (7123); Progrexion IP, Inc. (5179); Progrexion Marketing, Inc. (5073); and Progrexion Teleservices, Inc. (5110). The location of the Debtors’ service address for purposes of these chapter 11 cases is: 257 East 200 South, Suite 1200, Salt Lake City, Utah 84111.



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Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief [Docket No. 6] (the “Motion”).

3. On June 6, 2023 the Court entered the *Interim Order (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief* [Docket No. 58] (the “Interim Order”).

4. On June 7, 2023 the Motion and Interim Order were served along with the *Omnibus Notice of Second Day Hearing to be Held On June 28, 2023 at 2:00 P.M. (ET)* [Docket No. 74] (the “Notice”). The Notice indicated an objection deadline of June 21, 2023, which has been extended solely for the Official Committee of Unsecured Creditors (the “UCC”) to July 17, 2023 at 4:00 p.m. and for the Office of the United States Trustee for the District of Delaware (“UST”) to July 18, 2023 at 4:00 p.m.

5. Other than the Limited Objection of Official Committee of Unsecured Creditors to the Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefit Programs, and (II) Granting Related Relief [Docket No. 154] (the “UCC Objection”), the Debtors have not received any responsive pleading relating to the Motion and the undersigned has searched the docket in these cases to confirm no responsive pleading appears thereon.

6. The Debtors have revised the proposed order submitted with the Motion (the “Revised Proposed Order”) to address and resolve the UCC Objection. A copy of the Revised Proposed Order is attached hereto as **Exhibit A**. A copy of the REDLINED Revised Proposed Order marked to reflect changes to the version filed with the Motion is attached hereto as **Exhibit B**.

7. A copy of the Revised Proposed order has been circulated to the UST and UCC who have confirmed they have no opposition to the entry of the Revised proposed Order in the form attached hereto as **Exhibit A**.

8. Accordingly, the Debtors respectfully request that the Court enter the Revised Proposed Order in the form attached hereto as **Exhibit A** at its earliest convenience.

Dated: July 20, 2023
Wilmington, Delaware

/s/ Michael W. Yurkewicz

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*Co-Counsel to the Debtors and Debtors
in Possession*

EXHIBIT A

Revised Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
	)	Chapter 11
PGX HOLDINGS, INC., <i>et al.</i> , ¹	)	Case No. 23-10718 (CTG)
)	
Debtors.	)	(Jointly Administered)
	)	Re: Docket Nos. 6, 58

**FINAL ORDER (I) AUTHORIZING
THE DEBTORS TO (A) PAY PREPETITION
WAGES, SALARIES, OTHER COMPENSATION, AND
REIMBURSABLE EXPENSES AND (B) CONTINUE EMPLOYEE
BENEFITS PROGRAMS, AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for the entry of a final order (this “Final Order”), (a) authorizing the Debtors (i) to pay undisputed prepetition wages, salaries, other compensation, and reimbursable expenses on account of the Employee Compensation and Benefits and (ii) to continue employee benefits programs in the ordinary course of business, including payment of certain undisputed prepetition obligations related thereto; and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having

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² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

found that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate and no other notice need be provided; and this Court having reviewed the Motion; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on a final basis as set forth herein.
2. The Debtors are authorized, but not directed, to continue and/or modify, change, and discontinue the Employee Compensation and Benefits and to implement new programs, policies, and benefits, in the ordinary course of business during these chapter 11 cases and without the need for further Court approval, subject to applicable law. For the avoidance of doubt, the Debtors are not authorized to: (i) pay any amounts to insiders on account of any bonus, retention, or incentive programs during the chapter 11 cases; or (ii) make any payment on account of the Employee Compensation and Benefits that are outside the ordinary course of business without prior Court approval.
3. The Debtors are authorized, but not directed, to pay and honor prepetition amounts related to the Employee Compensation and Benefits Programs; *provided*, the Debtors shall give the professionals retained by the Official Committee of Unsecured Creditors (the "Creditors' Committee") two (2) business days' advance notice of the proposed payments authorized in

paragraph 3 herein related solely to the Non-Insider Quarterly Incentive Plan and the Non-Insider Quarterly Retention Program, which notice shall include (i) the identities of the Employees and/or Temporary Staff to be paid and the employment status of each such Employee and/or Temporary Staff, (ii) the total prepetition claim owed to each such Employee and/or Temporary Staff, (iii) the amount of the proposed payment to each such Employee and/or Temporary Staff, and (iv) details of the Debtors' various bonus programs (including the identities of Employees and/or Temporary Staff qualified for such bonus programs, the metrics and performance benchmarks involved in the bonus programs, and a full copy of each of the bonus programs).

4. The Debtors shall timely provide the professionals retained by the Creditors' Committee non-privileged information regarding the Debtors' pre- and post-petition bonus, incentive, retention, and compensation programs upon the reasonable written request (which may be made via email) of the Creditors' Committee.

5. Nothing herein shall be deemed to authorize the payment of any amounts which violates or implicates section 503(c) of the Bankruptcy Code; *provided* that nothing herein shall prejudice the Debtors' ability to seek approval of relief pursuant to section 503(c) of the Bankruptcy Code at a later time.

6. Pursuant to section 362(d) of the Bankruptcy Code: (a) Employees are authorized to proceed with their workers' compensation claims in the appropriate judicial or administrative forum under the Workers' Compensation Program, and the Debtors are authorized to pay all undisputed prepetition amounts relating thereto in the ordinary course of business; and (b) the notice requirements pursuant to Bankruptcy Rule 4001(d) with respect to clause (a) are waived. This modification of the automatic stay pertains solely to claims under the Workers' Compensation Program and any such claims must be pursued in accordance with the applicable Workers'

Compensation Program. Payment on account of any recoveries obtained in connection with a claim brought pursuant to this paragraph is limited to the terms and conditions of the applicable Workers' Compensation Program, including with regard to any policy limits or caps.

7. Nothing contained in the Motion or this Final Order, and no action taken pursuant to the relief requested or granted (including any payment made in accordance with this Final Order), is intended as or shall be construed or deemed to be: (a) an admission as to the amount, validity or priority of, or basis for any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication, admission or finding that any particular claim is an administrative expense claim, other priority claim or otherwise of a type specified or defined in the Motion or this Final Order; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver or limitation of any claims, causes of action or other rights of the Debtors or any other party in interest against any person or entity under the Bankruptcy Code or any other applicable law.

8. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Final Order.

9. The Debtors are authorized, but not directed, to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

10. Notwithstanding anything to the contrary in this Final Order, any payment made, or authorization contained, hereunder, shall be subject to the “Approved Budget” as defined in the order of the Court approving debtor-in-possession financing in these chapter 11 cases.

11. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

12. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

13. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

14. For the avoidance of doubt, the rights of the Creditors’ Committee to challenge any bonuses or other compensation issued either (a) prior to the commencement of the chapter 11 cases, or (b) in violation of this Final Order after the commencement of the chapter 11 cases, are preserved.

15. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

EXHIBIT B

REDLINED Revised Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
	)	Chapter 11
PGX HOLDINGS, INC., <i>et al.</i> , ¹	)	Case No. 23-10718 (CTG)
)	
Debtors.	)	(Joint Administration Requested <u>Jointly Administered</u>)
	)	Re: Docket No <u>Nos. —6, 58</u>

**FINAL ORDER (I) AUTHORIZING
THE DEBTORS TO (A) PAY PREPETITION
WAGES, SALARIES, OTHER COMPENSATION, AND
REIMBURSABLE EXPENSES AND (B) CONTINUE EMPLOYEE
BENEFITS PROGRAMS, AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for the entry of a final order (this “Final Order”), (a) authorizing the Debtors (i) to pay undisputed prepetition wages, salaries, other compensation, and reimbursable expenses on account of the Employee Compensation and Benefits and (ii) to continue employee benefits programs in the ordinary course of business, including payment of certain undisputed prepetition obligations related thereto; and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28

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² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

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U.S.C. § 157(b)(2); and this Court having found that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate and no other notice need be provided; and this Court having reviewed the Motion; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on a final basis as set forth herein.
2. The Debtors are authorized, but not directed, to continue and/or modify, change, and discontinue the Employee Compensation and Benefits and to implement new programs, policies, and benefits, in the ordinary course of business during these chapter 11 cases and without the need for further Court approval, subject to applicable law. For the avoidance of doubt, ~~except as otherwise expressly set forth herein, nothing in this Final Order should be construed as authorizing~~ the Debtors are not authorized to: (i) pay any amounts to insiders on account of any bonus, retention, or incentive programs during the chapter 11 cases; or (ii) make any payment on account of the Employee Compensation and Benefits that are outside the ordinary course of business without prior Court approval.
3. ~~Notwithstanding anything to the contrary herein, the~~The Debtors are authorized, but not directed, to pay and honor prepetition amounts related to the Employee Compensation and Benefits Programs; provided, the Debtors shall give the professionals retained by the

Official Committee of Unsecured Creditors (the “Creditors’ Committee”) two (2) business days’ advance notice of the proposed payments authorized in paragraph 3 herein related solely to the Non-Insider Quarterly Incentive Plan and the Non-Insider Quarterly Retention Program, which notice shall include (i) the identities of the Employees and/or Temporary Staff to be paid and the employment status of each such Employee and/or Temporary Staff, (ii) the total prepetition claim owed to each such Employee and/or Temporary Staff, (iii) the amount of the proposed payment to each such Employee and/or Temporary Staff, and (iv) details of the Debtors’ various bonus programs (including the identities of Employees and/or Temporary Staff qualified for such bonus programs, the metrics and performance benchmarks involved in the bonus programs, and a full copy of each of the bonus programs).

4. The Debtors shall timely provide the professionals retained by the Creditors’ Committee non-privileged information regarding the Debtors’ pre- and post-petition bonus, incentive, retention, and compensation programs upon the reasonable written request (which may be made via email) of the Creditors’ Committee.

5. ~~4.~~ Nothing herein shall be deemed to authorize the payment of any amounts which violates or implicates section 503(c) of the Bankruptcy Code; *provided* that nothing herein shall prejudice the Debtors’ ability to seek approval of relief pursuant to section 503(c) of the Bankruptcy Code at a later time.

6. ~~5.~~ Pursuant to section 362(d) of the Bankruptcy Code: (a) Employees are authorized to proceed with their workers’ compensation claims in the appropriate judicial or administrative forum under the Workers’ Compensation Program, and the Debtors are authorized to pay all undisputed prepetition amounts relating thereto in the ordinary course of business; and (b) the notice requirements pursuant to Bankruptcy Rule 4001(d) with respect to clause (a) are

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waived. This modification of the automatic stay pertains solely to claims under the Workers' Compensation Program and any such claims must be pursued in accordance with the applicable Workers' Compensation Program. Payment on account of any recoveries obtained in connection with a claim brought pursuant to this paragraph is limited to the terms and conditions of the applicable Workers' Compensation Program, including with regard to any policy limits or caps.

7. ~~6.~~ Nothing contained in the Motion or this Final Order, and no action taken pursuant to the relief requested or granted (including any payment made in accordance with this Final Order), is intended as or shall be construed or deemed to be: (a) an admission as to the amount, validity or priority of, or basis for any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication, admission or finding that any particular claim is an administrative expense claim, other priority claim or otherwise of a type specified or defined in the Motion or this Final Order; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver or limitation of any claims, causes of action or other rights of the Debtors or any other party in interest against any person or entity under the Bankruptcy Code or any other applicable law.

8. ~~7.~~ The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the

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Debtors' designation of any particular check or electronic payment request as approved by this Final Order.

9. ~~8.~~ The Debtors are authorized, but not directed, to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

10. ~~9.~~ Notwithstanding anything to the contrary in this Final Order, any payment made, or authorization contained, hereunder, shall be subject to the "Approved Budget" as defined in the order of the Court approving debtor-in-possession financing in these chapter 11 cases.

11. ~~10.~~ Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

12. ~~11.~~ Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

13. ~~12.~~ The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

14. [For the avoidance of doubt, the rights of the Creditors' Committee to challenge any bonuses or other compensation issued either \(a\) prior to the commencement of the chapter 11 cases, or \(b\) in violation of this Final Order after the commencement of the chapter 11 cases, are preserved.](#)

15. ~~13.~~ This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.