

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

In re: : Chapter 11
: :
PGX HOLDINGS, INC., *et al.*,¹ : Case No. 23-10718 (CTG)
: :
: **Obj. Deadline: August 22, 2023 at 12:00 p.m.**²
Debtors. : **Sale Hearing Date: August 25, 2023 at 10:00 a.m.**

**UNITED STATES TRUSTEE’S RESERVATION OF RIGHTS WITH RESPECT TO
MOTION OF THE DEBTORS FOR ENTRY OF ORDERS (I)(A) APPROVING
BIDDING PROCEDURES FOR SUBSTANTIALLY ALL OF THE DEBTORS’ ASSETS,
(B) AUTHORIZING THE DEBTORS TO ENTER INTO ONE OR MORE STALKING
HORSE AGREEMENTS AND TO PROVIDE BIDDING PROTECTIONS
THEREUNDER, (C) SCHEDULING AN AUCTION AND APPROVING THE FORM
AND MANNER OF NOTICE THEREOF, (D) APPROVING ASSUMPTION AND
ASSIGNMENT PROCEDURES, AND (E) SCHEDULING A SALE HEARING AND
APPROVING THE FORM AND MANNER OF NOTICE THEREOF; (II)(A)
APPROVING THE SALE OF THE DEBTORS’ ASSETS FREE AND CLEAR OF LIENS,
CLAIMS, INTERESTS AND ENCUMBRANCES AND (B) APPROVING THE
ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND
UNEXPIRED LEASES; AND (III) GRANTING RELATED RELIEF**

In support of his reservation of rights with respect to the *Motion of the Debtors for Entry of Orders (I)(A) Approving Bidding Procedures for Substantially All of the Debtors’ Assets, (B) Authorizing the Debtors to Enter Into One or More Stalking Horse Agreements and to Provide Bidding Protections Thereunder, (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures, and (E)*

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.

² The objection deadline was extended by agreement of the parties.



Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof; (II)(A) Approving the Sale of the Debtors' Assets Free and Clear of Liens, Claims, Interests and Encumbrances and (B) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases; and (III) Granting Related Relief [D.I. 66] (the "Motion"), Andrew R. Vara, the United States Trustee for Regions 3 and 9 ("U.S. Trustee"), by and through his undersigned counsel, states:

JURISDICTION AND STANDING

1. This Court has jurisdiction to hear this reservation of rights.
2. Pursuant to 28 U.S.C. § 586, the U.S. Trustee is charged with the administrative oversight of cases commenced pursuant to chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). This duty is part of the U.S. Trustee's overarching responsibility to enforce the bankruptcy laws as written by Congress and interpreted by the courts. *See United States Trustee v. Columbia Gas Sys., Inc. (In re Columbia Gas Sys., Inc.)*, 33 F.3d 294, 295-96 (3d Cir. 1994) (noting that U.S. Trustee has "public interest standing" under 11 U.S.C. § 307, which goes beyond mere pecuniary interest); *Morgenstern v. Revco D.S., Inc. (In re Revco D.S., Inc.)*, 898 F.2d 498, 500 (6th Cir. 1990) (describing the U.S. Trustee as a "watchdog").
3. Pursuant to 11 U.S.C. § 307, the U.S. Trustee has standing to be heard with respect to this reservation of rights.

BACKGROUND

4. On June 4, 2023, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.
5. On June 6, 2023, the Debtors filed the Motion.
6. On June 12, 2023, the U.S. Trustee appointed an official committee of unsecured creditors.

7. On July 24, 2023, the United States of America, on behalf of the Consumer Financial Protection Bureau, filed the *Motion of the United States of America to Convert Chapter 11 Cases to Chapter 7* (D.I. 233) (the “Motion to Convert”). The Motion to Convert is also scheduled for hearing on August 25, 2023.

8. On July 28, 2023, the Debtors filed a *Notice of Revised Stalking Horse Purchase Agreements* (D.I. 250).

9. On August 4, 2023, the Court entered an order approving the bidding procedures requested in the Motion (D.I. 331).

10. On August 14, 2023, the Debtors filed the *Notice of (I) Cancellation of Auction and (II) Filing of Proposed Sale Orders* (D.I. 356), which stated that the Debtors had not received any qualified bids other than the Progrexion Stalking Horse Bid and the Lexington Law Stalking Horse Bid.

11. The Debtors seek approval of the sale of substantially all of the Debtors’ assets and authority to enter into two asset purchase agreements with the stalking horse purchasers. The first agreement is with the Debtors’ DIP Lenders³ and prepetition First Lien Lenders, who seek to purchase substantially all of the assets of the Debtors by credit bid (the “Progrexion Assets”), exclusive of Lexington Law. The second agreement is with the owners and the principal attorney at Lexington Law for substantially all of the assets of Lexington Law. The two agreements are conditioned on each other and are intended to permit the Debtors’ businesses to continue as a going concern. Mot. ¶ 2.

12. The proposed purchase price of the Progrexion Assets consists of a credit bid of the amount of the DIP Facility, plus a portion of the first lien credit facility, for a total purchase

³ Capitalized terms not defined herein shall have the meaning ascribed to such terms in the Motion.

amount of approximately \$237.5 million, plus assumption of certain liabilities and payment of certain administrative expenses. The proposed purchase price for the Lexington Law assets consists of the assumption and cure of the Operating Agreements with PGX, including (i) prepetition cure amounts of approximately \$24 million, (ii) payment of up to \$4.4 million of administrative expenses, and (iii) the assumption of the engagement agreements between Lexington Law and its direct clients. Mot. ¶ 2.

RESERVATION OF RIGHTS

13. The forms of sale order proposed by the Debtors include numerous factual findings with respect to which the Debtors must introduce evidence to support. The U.S. Trustee reserves the right to object to any of the proposed factual findings if they are not adequately supported by the evidentiary record. The U.S. Trustee reserves all rights until the evidentiary record is complete.

14. The U.S. Trustee has provided comments to counsel to the Debtors regarding the proposed forms of sale order. The U.S. Trustee anticipates that such comments will be resolved consensually prior to the hearing, but reserves the right to raise the same with the Court if they cannot be resolved.

15. The U.S. Trustee leaves the Debtors to their burden of proof and reserves any and all rights, remedies and obligations to, among other things, complement, supplement, augment, alter or modify this reservation of rights, assert any objection, file an appropriate motion, or conduct any and all discovery as may be deemed necessary or as may be required and to assert such other grounds as may become apparent upon further factual discovery.

WHEREFORE, the U.S. Trustee requests that this Court issue an order consistent with this Reservation of Rights and/or granting such other relief as this Court deems appropriate, fair and just.

Respectfully submitted,

ANDREW R. VARA
UNITED STATES TRUSTEE
REGIONS 3 AND 9

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Dated: August 22, 2023

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re : Chapter 11
:
PGX Holdings, Inc., et al. : Case Number 23-10718 (CTG)
:
Debtors.

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that, the *United States Trustee's Reservation of Rights With Respect to Motion of the Debtors for Entry of Orders (I)(A) Approving Bidding Procedures for Substantially All of the Debtors Assets, (B) Authorizing the Debtors to Enter Into One or More Stalking Horse Agreements and to Provide Bidding Protections Thereunder, (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures, and (E) Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof; (II)(A) Approving the Sale of the Debtors Assets Free and Clear of Liens, Claims, Interests and Encumbrances and (B) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases; and (III) Granting Related Relief* was caused to be served CM/ECF on August 22, 2023 to the following persons:

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