

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. 13, 66

**CERTIFICATION OF COUNSEL REGARDING MOTION OF THE DEBTORS
FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHROIZING THE
DEBTORS TO (A) MAINTAIN INSURANCE AND SURETY COVERAGE ENTERED
INTO PREPETITION ANDPAY RELATED PREPETITION OBLIGATIONS, AND
(B) RENEW, SUPPLEMENT, MODIFY, OR PURCAHSE INSURANCE AND
SURETY COVERAGE, 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 5, 2023, the Debtors filed the *Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Maintain Insurance and Surety Coverage Entered*

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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Into Prepetition and Pay Related prepetition Obligations, and (B) Renew, Supplement, Modify, or Purchase Insurance and Surety Coverage, and (II) Granting Related Relief [Docket No. 13] (the “Motion”).

3. On June 6, 2023, the Court entered the *Interim Order (I) Authorizing the Debtors to (A) Maintain Insurance and Surety Coverage Entered Into Prepetition and Pay Related Prepetition Obligations, and (B) Renew, Supplement, Modify, or Purchase Insurance and Surety Coverage, and (II) Granting Related Relief* [Docket No. 63] (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 *Objection of Capitol Indemnity Corporation to the Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Maintain Insurance and Surety Coverage Entered Into Prepetition and Pay Related Prepetition Obligations, and (B) Renew, Supplement, Modify, or Purchase Insurance and Surety Coverage, and (II) Granting Related Relief* [Docket No. 110] (the “Capitol Objection”), the Debtors have not received any other responsive pleading relating to the Motion and the undersigned has searched the docket in these cases to confirm no other responsive pleading appears thereon.

6. The Debtors have revised the proposed order submitted with the Motion (the “Revised Proposed Order”) to address the Capitol 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, UCC, and counsel to Capitol Indemnity Corporation, each of which have confirmed that 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 18, 2023
Wilmington, Delaware

/s/ Michael W. Yurkewicz

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*Proposed 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. 13, 63

**FINAL ORDER (I) AUTHORIZING THE DEBTORS
TO (A) MAINTAIN INSURANCE AND SURETY COVERAGE
ENTERED INTO PREPETITION AND PAY RELATED PREPETITION
OBLIGATIONS, AND (B) RENEW, SUPPLEMENT, MODIFY, OR PURCHASE
INSURANCE AND SURETY COVERAGE, AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of a final order (this “Final Order”), (a) authorizing, but not directing, the Debtors to (i) maintain coverage under the Insurance Policies and the Surety Bonds and pay related obligations and (ii) renew, supplement, modify, or purchase insurance and surety coverage in the ordinary course 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 found that this Court may enter a final order consistent with Article III of the United States

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

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 establishes 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 shall serve a copy of the Motion and this Final Order on each Insurance Carrier and Surety listed in Exhibit C and Exhibit D attached to the Motion within two (2) business days after entry of this Final Order.
3. The Debtors are authorized, but not directed, to: (a) continue and maintain the Insurance Policies³ and the Surety Bonds and pay any related prepetition or postpetition amounts or obligations in the ordinary course of business, including any amounts or obligations that may be owed to the Broker; *provided* that, to the extent that any Surety Bond has been issued, renewed, or remains in place postpetition without cancellation as part of the Surety Bond program and is subject to an indemnity agreement entered into by the Debtors and Capitol Indemnity Corporation ("CapSpecialty") (an "Indemnity Agreement") prepetition, the Debtors' indemnification obligations to CapSpecialty under each prepetition Indemnity Agreement arising on account of

³ For the avoidance of doubt, the term Insurance Policies shall include all insurance policies issued or providing coverage at any time to the Debtors or their predecessors and any agreements related thereto, whether or not listed on Exhibit C attached to the Motion.

such Surety Bond (including any reasonable fees and expenses of counsel as provided for in such Indemnity Agreement) shall be deemed to be postpetition obligations of the Debtors to the extent arising out of the Debtors' postpetition conduct; and (b) renew, amend, supplement, extend, or purchase Insurance Policies and Surety Bonds, in each case, to the extent that the Debtors determine that such action is in the best interest of their estates; *provided* that, to the extent that any Surety Bond is issued, renewed, or remains in place postpetition without cancellation as part of the Surety Bond program, the Debtors shall execute a corresponding postpetition Indemnity Agreement renewing their obligations to CapSpecialty as to each such postpetition Surety Bond (including any reasonable fees and expenses of counsel as provided for in such Indemnity Agreement); *provided* that the Debtors shall give the professionals retained by the Official Committee of Unsecured Creditors (the "Committee") two (2) days' advance notice if, outside the ordinary course of business, the Debtors intend to renew, amend, supplement, extend, terminate, replace, increase, or decrease existing insurance coverage and surety coverage or change Insurance Carriers or Surety, enter into any new premium financing agreements, or obtain additional insurance, or surety coverage in a manner that would be inconsistent with the Debtors' current insurance and surety. Any claim asserted by CapSpecialty for indemnification under any Indemnity Agreement, related to or arising out of any actual, potential, or asserted liability of CapSpecialty to any beneficiary or obligee under any Surety Bond shall be treated as a postpetition claim to the extent it is determined that the actual, potential, or asserted liability of the Debtors to any beneficiary or obligee with respect to such Surety Bond arises out of a postpetition breach of such bonded obligation.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

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

10. The Debtors are authorized, but not directed, to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

11. 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.	)	(Jointly Administered Requested)
	)	Re: Docket Nos. 13 , <u>63</u>

**FINAL ORDER (I) AUTHORIZING THE DEBTORS
TO (A) MAINTAIN INSURANCE AND SURETY COVERAGE
ENTERED INTO PREPETITION AND PAY RELATED PREPETITION
OBLIGATIONS, AND (B) RENEW, SUPPLEMENT, MODIFY, OR PURCHASE
INSURANCE AND SURETY COVERAGE, AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of a final order (this “Final Order”), (a) authorizing, but not directing, the Debtors to (i) maintain coverage under the Insurance Policies and the Surety Bonds and pay related obligations and (ii) renew, supplement, modify, or purchase insurance and surety coverage in the ordinary course 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

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

28 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 establishes 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 shall serve a copy of the Motion and this Final Order on each Insurance Carrier and Surety listed in Exhibit C and Exhibit D attached to the Motion within two (2) business days after entry of this Final Order.
3. The Debtors are authorized, but not directed, to: (a) continue and maintain the Insurance Policies³ and the Surety Bonds and pay any related prepetition or postpetition amounts or obligations in the ordinary course of business, including any amounts or obligations that may be owed to the Broker; [provided that, to the extent that any Surety Bond has been issued, renewed, or remains in place postpetition without cancellation as part of the Surety Bond program and is subject to an indemnity agreement entered into by the Debtors and Capitol](#)

³ For the avoidance of doubt, the term Insurance Policies shall include all insurance policies issued or providing coverage at any time to the Debtors or their predecessors and any agreements related thereto, whether or not listed on Exhibit C attached to the Motion.

Indemnity Corporation (“CapSpecialty”) (an “Indemnity Agreement”) prepetition, the Debtors’ indemnification obligations to CapSpecialty under each prepetition Indemnity Agreement arising on account of such Surety Bond (including any reasonable fees and expenses of counsel as provided for in such Indemnity Agreement) shall be deemed to be postpetition obligations of the Debtors to the extent arising out of the Debtors’ postpetition conduct; and (b) renew, amend, supplement, extend, or purchase Insurance Policies and Surety Bonds, in each case, to the extent that the Debtors determine that such action is in the best interest of their estates; *provided that, to the extent that any Surety Bond is issued, renewed, or remains in place postpetition without cancellation as part of the Surety Bond program, the Debtors shall execute a corresponding postpetition Indemnity Agreement renewing their obligations to CapSpecialty as to each such postpetition Surety Bond (including any reasonable fees and expenses of counsel as provided for in such Indemnity Agreement); provided that the Debtors shall give the professionals retained by the Official Committee of Unsecured Creditors (the “Committee”) two (2) days’ advance notice if, outside the ordinary course of business, the Debtors intend to renew, amend, supplement, extend, terminate, replace, increase, or decrease existing insurance coverage and surety coverage or change Insurance Carriers or Surety, enter into any new premium financing agreements, or obtain additional insurance, or surety coverage in a manner that would be inconsistent with the Debtors’ current insurance and surety. Any claim asserted by CapSpecialty for indemnification under any Indemnity Agreement, related to or arising out of any actual, potential, or asserted liability of CapSpecialty to any beneficiary or obligee under any Surety Bond shall be treated as a postpetition claim to the extent it is determined that the actual, potential, or asserted liability of the Debtors to any beneficiary or obligee with respect to such Surety Bond arises out of a postpetition breach of such bonded obligation.*

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

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

10. The Debtors are authorized, but not directed, to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

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