

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

In re:

Prodigy Investment Holdings, Inc.,¹

Reorganized Debtor.

Chapter 11

Case No. 23-11120 (BLS)

Ref. Docket No. 1293

**FEE EXAMINER'S FINAL REPORT REGARDING
FINAL FEE APPLICATION OF LOWENSTEIN SANDLER LLP**

Rucki Fee Review, LLC (“Rucki Fee Review”), the fee examiner appointed in the above-captioned chapter 11 cases and acting in its capacity as such (the “Fee Examiner”), hereby submits its final report (this “Final Report”) regarding the *Final Application of Lowenstein Sandler LLP as Counsel to the Official Committee of Unsecured Creditors for Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred for the Period of August 26, 2023 through March 13, 2024* (the “Final Fee Application”) [Docket No. 1293] filed by Lowenstein Sandler LLP (the “Firm”).

BACKGROUND

1. In performance of its fee and expense review procedures and in preparation of its initial report provided to the Firm (the “Initial Report”) and this Final Report designed to quantify and present factual data relevant to the requested fees, disbursements and expenses contained in the Final Fee Application consistent with its appointment order, Rucki Fee

¹ The Reorganized Debtor in this chapter 11 case, along with the last four digits of the Reorganized Debtor’s federal tax identification number, is: Prodigy Investments Holdings, Inc. (9565). The location of the Reorganized Debtor’s service address is: 3350 Virginia St., 2nd Floor, Miami, FL 33133.



Review reviewed the Final Fee Application and all fee applications filed by the Firm in these chapter 11 cases, including each of the billing and expense entries listed in the exhibits to such fee applications, for compliance with section 330 of the Bankruptcy Code, Bankruptcy Rule 2016 and Local Rule 2016-2, as well as the *U.S. Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330—Appendix A* and the Firm’s retention order. Rucki Fee Review also reviewed for a reasonable effort to comply with the *Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases Effective as of November 1, 2013* (the “Attorney Large Case Guidelines”). Certain of the Firm’s fee and expense detail, covering the inception of these chapter 11 cases through January 31, 2024, was previously reviewed by Rucki Fee Review and subject to its reports previously filed on the docket of these chapter 11 cases. This fee and expense detail was not re-reviewed for this Final Report, and the issues raised herein relate to the subsequent fee period except to the extent this Final Report expressly addresses matters relating to the entire final fee period on a cumulative basis.

2. Rucki Fee Review did not prepare informal memos related to the fee applications of the Firm, but instead included its issues and questions in its Initial Report provided to the Firm. Rucki Fee Review thereafter conferred with the Firm regarding the Initial Report, and following such conferral includes its recommendations in this Final Report.

DISCUSSION

3. For the compensation period of August 26, 2023 through March 13, 2024, as set forth in the Final Fee Application, the Firm seeks final bankruptcy court approval in the amount of

\$3,412,137.25 as actual, reasonable and necessary fees and for expense reimbursement of \$26,290.22. This includes \$578,582.75 in fees and \$4,712.14 in expenses that were not previously subject to a report by Rucki Fee Review, and accounts for the \$45,387.50 of fee reductions previously agreed to with Rucki Fee Review.

4. Although it examines the matter on a case-by-case basis based on the facts and circumstances of each case and each applicant's role within a case (such as whether a firm is responsible for coordinating filing and scheduling of and hearing on multiple professionals' fee applications) regardless of whether any given threshold is exceeded such that fees below its presumptive threshold may be unreasonable and fees above its presumptive threshold may be reasonable, Rucki Fee Review generally does not consider time spent on fee issues to be presumptively unreasonable where less than 7% of total time has been charged for preparing fee applications and addressing fee issues. It applies these guidelines on a cumulative basis. Through the entirety of the final fee period the Firm has charged approximately \$55,438.00 in fees (net of \$792.00 in fee reductions on account of fee-related work previously agreed to with Rucki Fee Review) relating to the Firm's fee applications and the fee applications of other committee professionals on a cumulative basis (all but \$4,302.50 of which relate to the Firm's fee applications). This includes approximately \$14,853.00 not previously considered by the Bankruptcy Court on an interim basis and amounts to approximately 1.6% of the Firm's total cumulative fees through the entirety of the final fee period. Subject to the agreed reductions set forth herein (which includes all \$1,685.00 of the fees considered administrative in nature below, and \$207.00 of the miscellaneous reductions requested below), Rucki Fee Review considers these fees reasonable, necessary and appropriate.

5. Subject to its prior agreed reductions and the agreed reductions set forth herein, Rucki Fee Review considers the staffing breakdown during the entirety of the final fee period (percentage of hours billed by partners, counsel, associates and paraprofessionals, respectively) to be appropriate, and also considers it appropriate for the period of February 1-March 13, 2024 not previously subject to a report by Rucki Fee Review. The Firm's blended hourly rate during the entirety of the final fee period was \$941.90 (prior to the application of reductions), which blended rate is situated between a counsel and junior partner at the Firm's current standard hourly rates. The Firm's blended hourly rate during the period of February 1-March 13, 2024 not previously subject to a report by Rucki Fee Review was slightly higher at \$1,022.77 per hour and compares to \$931.67 during the Firm's first quarterly fee period and \$923.92 during the Firm's second quarterly fee period. Moreover, the billing rates of the Firm's counsel and certain partners are less than that of associates at many firms with comparable chapter 11 experience, allowing for a heavier utilization of counsel and partners.
6. Rucki Fee Review gives additional scrutiny to time entries of those billing fewer than 15 hours in an interim fee period to address if the utilization of such particular persons was necessary for the case. Rucki Fee Review identified seven persons who billed fewer than 15 hours during the fee period of February 1-March 13, 2024 not previously subject to a report by Rucki Fee Review (six attorneys and one paraprofessional). After review of these entries and subject to the agreed reductions set forth herein, Rucki Fee Review considers the utilization of each of these persons to be reasonable, necessary and appropriate. All other persons billing fewer than 15 hours in an interim fee period were addressed in Rucki Fee Review's prior reports filed on the docket in these chapter 11 cases.

7. With respect to the size of the team utilized by the Firm: 14 professionals or paraprofessionals were utilized by the Firm during the fee period of February 1-March 13, 2024 (which compares to 26 during the Firm's first quarterly fee period and 34 during the Firm's second quarterly fee period). Like past quarters, this included a mix of not only bankruptcy attorneys but also litigators, subject matter specialists, and paraprofessionals. Subject to the agreed reductions set forth herein, Rucki Fee Review considers this appropriate in light of the work required of the Firm during the fee period between February 1 and March 13, 2024, and believes the Firm's work was well-coordinated with the Firm's fellow professionals.
8. Rucki Fee Review notes that it is customary in cases before the Bankruptcy Court for a "reasonable effort" to comply with the Attorney Large Case Guidelines to include preparation of a budget and staffing plan for each applicable law firm agreed to by the client (debtor or committee). Here, the Firm attached a cumulative staffing plan to the Final Fee Application and the staffing levels utilized by the Firm during the entirety of the final fee period generally complied with the staffing plan exclusive of *de minimis* timekeepers. Like the first two quarterly fee periods, the Firm did not attach a budget to the Final Fee Application, but instead stated "For the Final Fee Period covered by this Application, Lowenstein Sandler's fees are consistent with the terms and amounts set forth in the Final Order (I) Authorizing The Debtors To Use Cash Collateral, (II) Granting Adequate Protection, (III) Modifying The Automatic Stay, And (IV) Granting Related Relief and related budget approved by the Court at Docket No. 422." The publicly filed version of the budget attached thereto does not contain a line item for UCC professionals, or the Firm specifically. During its review of the first quarterly fee period, however, Rucki Fee Review

was provided with budget detail that extended through January 2024 showing the Firm was under budget by approximately two-thirds through the first two quarterly fee periods, and Rucki Fee Review understands the Firm “rolled forward” this prior budget surplus, which budget surplus significantly exceeded the incremental fees billed by the Firm.

9. Local Rule 2016-2 provides in section (d) that all fee applications shall include complete and detailed activity descriptions; each activity description shall include the type of activity, each activity description shall include the participants to the activity; each activity description shall include the subject matter and shall be sufficiently detailed to allow the bankruptcy court to determine whether all the time, or any portion thereof, is actual, reasonable, and necessary and shall include a time allotment billed in tenths of an hour and not be “lumped” with other entries. Notwithstanding the Local Rule, and consistent with the practice of certain of the Bankruptcy Court’s Judges, Rucki Fee Review does not object to “lumping” where a single timekeeper bills less than 0.5 hours during an entire day in the aggregate (not multiple lumped 0.5 entries).
10. Rucki Fee Review identified certain entries that it considers lumped or otherwise not fully compliant with the Local Rules for reasons such as not identifying the counterparties to e-mail discussions, which is not an uncommon practice. After conferral with the Firm, the Firm has agreed to a reduction of \$2,000.00 on account of these entries in compromise of Rucki Fee Review’s request.
11. Administrative tasks that are generally not compensable by a non-chapter 11 client or are secretarial in nature are not compensable in chapter 11. Rucki Fee Review identified certain work it considered administrative in nature, and the Firm agreed to a fee reduction

of \$1,685.00 on account of these fees in compromise of Rucki Fee Review's request, all of which relate to work on fee applications or fee-related issues.

12. Rucki Fee Review identified certain conferences, telephone calls or other matters that were billed inconsistently by the respective professionals, and/or conferences where the counterparty to the conversation did not bill an itemized charge for the discussion. Rucki Fee Review acknowledges that the latter can result from a professional intentionally or inadvertently not billing for a conference that actually occurred, or otherwise not being billed. After discussion with the Firm, the Firm has agreed to a reduction of \$4,751.50 on account of these entries, representing the full amount of the difference in the non-matching entries and no reduction for the entries without a corresponding entry, which Rucki Fee Review considers an appropriate compromise.

13. Rucki Fee Review has identified certain entries where the various subentries did not total the time stated for the entry. In some cases, these underbilled; in other cases, they overbilled. In the aggregate, these entries amounted to a slight underbilling, so no reduction is necessary on account of these entries.

14. In addition to those other matters referenced herein, Rucki Fee Review requested the Firm waive or reduce certain entries for miscellaneous reasons. After discussion with the Firm, the Firm has agreed to a reduction of \$733.00 on account of these entries in compromise of Rucki Fee Review's request, \$207.00 of which relate to fee-related issues.

15. The Final Fee Application seeks reimbursement of \$4,712.14 in expenses not previously subject to a report by Rucki Fee Review for the period from February 1-March 13, 2024. With respect to the Firm's expense reimbursement requests, Rucki Fee Review notes that

it generally considers the cost of meals in excess of the following guidelines, per person, to be unreasonable: \$25/breakfast, \$35/lunch and \$55/dinner, for Wilmington and all other U.S. locations, except for New York City and London, \$35/breakfast, \$55/lunch and \$70/dinner; for Washington DC, Chicago, Los Angeles and San Francisco, \$30/breakfast, \$45/lunch and \$65/dinner. With respect to hotel charges, Rucki Fee Review generally considers room charges (inclusive of taxes) in excess of the following rates to be excessive absent satisfactory explanation from an applicant of the justification for exceeding such charges: \$375/Wilmington; \$550/New York City; \$450/Boston and San Francisco; \$400/Washington, DC, Los Angeles, and London; \$325/Chicago, Miami, Philadelphia and Pittsburgh; \$300/Dallas and Houston; \$275/Baltimore and Denver; \$250 for all other U.S. locations.

16. Here, the Firm's incremental expenses include meal and lodging charges that comply with the foregoing limitations, and Rucki Fee Review considers these expenses and the balance of the Firm's incremental expenses not previously subject to a report by Rucki Fee Review to be reasonable, necessary and appropriate as requested. The balance of the Firm's final expense reimbursement request was previously addressed by Rucki Fee Review in its prior reports filed on the docket of these chapter 11 cases.

17. After accounting for the agreed fee reductions of \$9,169.50 noted above, Rucki Fee Review considers the balance of the fees and expenses sought in the Final Fee Application reasonable, necessary and appropriate under the circumstances,

CONCLUSION

18. Rucki Fee Review recommends the approval of the Final Fee Application in the amount of \$3,402,967.75 with respect to fees and the reimbursement of expenses in the amount of \$26,290.22, which amounts reflect the reductions agreed to with the Firm set forth herein.

Dated: May 30, 2024
Wilmington, Delaware

Respectfully submitted,

RUCKI FEE REVIEW, LLC
FEE EXAMINER

By: /s/ Justin H. Rucki
Justin H. Rucki
President of Rucki Fee Review, LLC