

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

IN RE:)	
)	Case No. 23-11120 (BLS)
)	
PRODIGY INVESTMENT HOLDINGS,)	Chapter 11
INC., ¹)	
)	
Reorganized Debtor.)	Related Document No.: 1424
)	
)	

**RESPONSE OF RON WHITE’S AIR COMPRESSOR SALES, INC.
TO DEBTOR’S THIRD OMNIBUS (SUBSTANTIVE) OBJECTION TO
CERTAIN (I) MISCLASSIFIED CLAIMS, (II) OVERSTATED AND
MISCLASSIFIED CLAIMS, (III) OVERSTATED CLAIMS,
AND (IV) NO LIABILITY CLAIMS**

COMES NOW, Ron White’s Air Compressor Sales, Inc. (“RWI”) and hereby files this response (this “Response”) to the Reorganized Debtor Prodigy Investment Holdings, Inc.’s (the “Reorganized Debtor”) *Third Omnibus (Substantive) Objection to Certain (i) Misclassified Claims, (ii) Overstated and Misclassified Claims, (iii) Overstated Claims, and (iv) No Liability Claims* (the “Objection”) (Doc. 1424). In support thereof, RWI states as follows:

FACTUAL BACKGROUND

1. RWI is an industrial and mechanical equipment and services provider with a special emphasis on compressed air systems.
2. Prior to the Petition Date (as that term is hereinafter defined), Proterra Inc. (“Proterra”) and RWI entered into a business relationship pursuant to which RWI manufactured certain compressed air systems for Proterra. As part of this business relationship, Proterra would

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.



routinely submit purchase orders to RWI for the manufacture of certain goods and then pay RWI for same within thirty (30) days of delivery.

3. On April 18, 2023, prior to the Petition Date, Proterra attempted to “cancel” purchase orders for 236 units in the combined amount of \$1,025,481.20 (the “Disputed Balance”) that it had previously submitted to RWI in October 2022 (the “Disputed Purchase Orders”). At the time of Proterra’s attempted cancellation of the Disputed Purchase Orders, RWI was in the process of manufacturing the units requested by Proterra in the Disputed Purchase Orders.

4. Proterra’s attempted cancellation of the Disputed Purchase Orders was in direct violation of the terms and conditions governing the purchase orders, which provided Proterra could not cancel previously submitted and accepted purchase orders without RWI’s prior written consent. Specifically, RWI’s terms and conditions state: “Purchaser may not cancel or change an order once placed with and accepted by [RWI] except with the prior written consent of [RWI] and upon terms that will indemnify [RWI] against any loss.” A true and correct copy of RWI’s terms and conditions are attached hereto as **Exhibit “A”**.

5. On July 28, 2023, after Proterra’s attempted cancellation of the Disputed Purchase Orders, a Proterra representative sent an email to RWI representatives in which Proterra stated: “[W]e’re sure there’s future demand that we can put on order to make up for the [Disputed Purchase Order] cancellations with RWI.” A true and correct copy of such email is attached hereto as **Exhibit “B”**.

6. On August 7, 2023 (the “Petition Date”), Proterra commenced the above-styled chapter 11 bankruptcy proceedings (this “Bankruptcy Case”).

7. After the Petition Date, Proterra requested that RWI continue to provide goods and services to Proterra based, in part, on the promise that Proterra would honor the allegedly cancelled

Disputed Purchase Orders. These representations, together with the fact that Proterra conferred critical vendor status to RWI for which RWI received five (5) total payments of \$402,600.00 (the “Critical Vendor Payments”), induced RWI to continue the manufacturing process of units to support Proterra’s business needs. The Critical Vendor Payments did not serve to reduce the Disputed Balance, and RWI reserved, and continues to reserve, its right to pursue payment of same as an administrative expense claim of Proterra’s bankruptcy estate.

8. On September 25, 2023, RWI filed a Proof of Claim (the “Original POC”) (Claim No. 162) in the amount of \$1,954,316.87, which, consisted, in part, of a priority claim owed pursuant to 11 U.S.C. § 507(a)(2) in the amount of \$1,234,499.34.

9. On October 25, 2023, RWI filed an amended Proof of Claim (the “Amended POC”) (Claim No. 1117) in the amount of \$2,125,575.95, which, in part, consists of a priority claim owed pursuant to 11 U.S.C. § 507(a)(2) in the amount of \$1,539,958.42 (the “Priority Claim”), which is inclusive of the Disputed Balance.

10. In March 2024, Proterra’s claims administrator informed RWI of its position that the Disputed Balance was not entitled to be treated as an administrative expense claims.

11. In addition to the Disputed Purchase Orders, RWI submitted certain invoices in the combined amount of \$85,292.80 to Proterra in connection with goods delivered to Proterra during the twenty (20) day period immediately preceding the Petition Date (the “503(b)(9) Invoices”). The 503(b)(9) Invoices are due to be paid pursuant § 503(b)(9) of the Bankruptcy Code, as confirmed by the claims administrator in an e-mail to RWI dated March 28, 2024. As set forth therein, the claims administrator notified RWI’s counsel that it had “reconciled [the 503(b)(9) Invoices] and they have been marked as allowed” to be paid as administrative expenses of the bankruptcy estate. A true and correct copy of such email is attached hereto as **Exhibit “C”**.

12. Notwithstanding this fact, and contrary to Proterra's prior practice of promptly paying such allowed, priority claims, Proterra's claims administrator informed RWI's counsel that Proterra would not pay the 503(b)(9) Invoices until the parties had reached an agreement on the Disputed Balance of the administrative expense claim portion of the Amended POC.

13. On September 10, 2024, the Reorganized Debtor filed the Objection to the Disputed Balance of the administrative expense claim portion of the Amended POC, asserting that such balance "is not allowed priority status under section 503(b)(9) and should be reclassified as a general unsecured claim." (*See* Doc. 1424-2, p. 11.) The Reorganized Debtor does not dispute that the 503(b)(9) Invoices are due to be paid as administrative expenses of the bankruptcy estate.

ARGUMENT

I. *The Disputed Balance of RWI's Priority Claim should be paid in full as an administrative expense claim.*

The Disputed Balance of RWI's Priority Claim should be paid in full as an "actual, necessary cost[] and expense[] of preserving the estate" pursuant to 11 U.S.C. § 503(b)(1)(A). As set forth above, the Disputed Purchase Orders giving rise to the Disputed Balance were submitted by Proterra to RWI but later "cancelled" prior to the Petition Date. Importantly, Proterra informed RWI that the alleged cancellation of the Disputed Purchase Orders was a mistake and that new purchase orders would be submitted. These representations were made by Proterra to induce RWI to continue manufacturing goods for Proterra post-petition, which inured to the benefit of Proterra and its bankruptcy estate.

Section 503(b)(1)(A) of the Bankruptcy Code provides that a party may receive an allowed, administrative expense claim for "the actual, necessary costs and expenses of preserving the estate." 11 U.S.C. § 503(b)(1)(A). The following elements must be present in order to establish a *prima facie* case for an administrative expense claim under § 503(b)(1): (i) the claim arises from

a transaction with the debtor-in-possession, and (ii) the goods or services supplied enhanced the ability of the debtor-in-possession's business to function as a going concern. *Toma Steel Supply, Inc. v. TransAmerican Natural Gas Corp. (In the Matter of TransAmerican Natural Gas Corp.)*, 978 F.2d 1409, 1416 (5th Cir. 1992). Each of those elements is present here.

First, the Disputed Balance portion of RWI's Priority Claim arose from transactions with the debtor-in-possession. While Proterra's express assurance that "we can put on order to make up for the [cancellation of the Disputed Purchase Orders]" was made prior to the Petition Date, RWI's manufacturing of the goods requested pursuant to the Disputed Purchase Orders continued after the Petition Date based, in large part, upon Proterra's assurances that it would submit new purchase orders to replace the Disputed Purchase Orders. Without these representations, and notwithstanding the critical vendor treatment it would ultimately receive, RWI more than likely would have discontinued the post-petition manufacturing process of the goods requested by Proterra in the Disputed Purchase Orders in order to mitigate loss. Based on these facts, RWI asserts that the first element is satisfied.

Second, RWI's continued manufacturing of the goods requested in the Disputed Purchase Orders after the Petition Date at Proterra's insistence that the alleged cancellation of the Disputed Purchase Orders was a mistake and that Proterra would issue replacement purchase orders therefor enhanced the ability of Proterra to operate as a going concern. As set forth above, after Proterra's attempted cancellation of the Disputed Purchase Orders, RWI immediately communicated to Proterra its concern with such attempted cancellation, as it was contrary to the terms and conditions governing the business relationship between the parties and would potentially cause RWI to incur significant damage. So as not to lose the benefit of its business relationship with RWI, Proterra informed RWI that it would either honor the purportedly cancelled Disputed Purchase Orders or

submit new purchase orders to completely eliminate RWI's loss exposure. These representations were obviously material to RWI and led to RWI's decision to continue doing business with Proterra after the Petition Date. Proterra's representations and RWI's subsequent reliance thereon provided a clear and obvious benefit to Proterra's bankruptcy estate by permitting Proterra to continue with its business as a going concern.

The case of *In re River Oaks Furniture, Inc.*, 269 B.R. 733 (Bankr. N.D. Miss. 2001), is instructive. In *River Oaks*, the debtor, a furniture wholesaler, placed an order with Lifestyle Enterprises, Inc. ("Lifestyle"), a furniture component dealer, shortly after the debtor filed its bankruptcy petition. *Id.* at 734. After Lifestyle manufactured and shipped the goods ordered by the debtor, but prior to delivery, the debtor attempted to cancel the order based upon the fact that the end-user of the goods, Heilig-Myers, no longer wanted them from the debtor. *Id.* at 735. After Lifestyle was unable to sell the manufactured goods to a third-party to mitigate its loss exposure, Lifestyle moved for an administrative expense claim in the amount of the value of the manufactured goods. *Id.* In determining whether Lifestyle was entitled to an administrative expense claim, the bankruptcy court, and the district court on appeal, considered whether Lifestyle supplied goods or services to the debtor in such a way that Lifestyle had enhanced the debtor's ability to function as a going concern. *Id.* at 736. The court ultimately denied the debtor's objection and held as follows:

The court finds, however, that [the debtor] did benefit from the shipments; and the shipments did enhance [the debtor's] ability to function as a going concern. Specifically, Lifestyle supplied [the debtor] with the means necessary for [the debtor] to secure an order from Heilig Meyers for custom-made furniture components. That Heilig Meyers later cancelled the order with [the debtor] does not negate the fact that [the debtor] received a benefit from the placing of the order. **Section 503 does not require that the debtor-in-possession receive the optimal, or even the sought after, benefit before the supplied goods or services can be compensable as an administrative expense.** Rather, Section 503 simply mandates that, in order to establish the second element of a prima facie case of entitlement to

payment for an administrative expense, the goods or services Lifestyle supplied to [the debtor] must have enhanced the ability of [the debtor] to function as a going concern. Here, the court finds that the service Lifestyle supplied to [the debtor]—the ability to place an order for custom-sized furniture components in order to obtain a substantial amount of business with Heilig Meyers—enhanced [the debtor’s] ability to function as a going concern.

Id. at 737 (emphasis added). Here, as in *River Oaks*, the question is not centered on whether Proterra received the goods that were requested in the Disputed Purchase Orders. The key determination is whether Proterra received a benefit from the placing of the Disputed Purchase Orders and whether it received a benefit post-petition after making representations to RWI that it would compensate RWI through new purchase orders or honoring the cancelled Disputed Purchase Orders. The answer to that inquiry is unequivocal “yes” – Proterra was able to continue operating as a going concern similar to Lifestyle in *River Oaks* as a result of its misrepresentations to RWI concerning the Disputed Purchase Orders. Accordingly, RWI asserts that the Disputed Balance of the Priority Claim is entitled to administrative expense status pursuant to 11 U.S.C. § 503(b)(1)(A).

II. *The 503(b)(9) Invoices should be paid in full.*

As previously noted, the claims administrator previously confirmed that the 503(b)(9) Invoices are due to be paid in full. RWI respectfully requests that the 503(b)(9) Invoices be paid in full immediately.

Dated: October 16, 2024
Wilmington, Delaware

McCarter & ENGLISH, LLP

By: /s/ Kate Roggio Buck
Kate Roggio Buck (No 5140)
405 N. King Street, 8th Floor
Wilmington, DE 19801
Telephone (302) 984-6300
Facsimile (302) 442-4710
kbuck@mccarter.com

EXHIBIT 1



AIR COMPRESSOR SALES & SERVICE 4019 SOUTH MURRAY AVE.
ANDERSON SC, 29624
(864) 296-8885 FAX (864) 296-1228

TERMS AND CONDITIONS OF SALE NOTICE: ALL SALES BY RON WHITE'S AIR COMPRESSOR SALES, INC. ("SELLER") ARE SUBJECT TO AND CONDITIONED UPON PURCHASER'S ACCEPTANCE OF THE TERMS CONTAINED IN THIS DOCUMENT. ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY PURCHASER ARE OBJECTED TO BY AND WILL NOT BE BINDING UPON SELLER UNLESS SPECIFICALLY ASSENTED TO IN WRITING BY SELLER. AS USED IN THESE TERMS AND CONDITIONS OF SALE, "PRODUCTS" MEANS THOSE PRODUCTS SET FORTH IN THE ATTACHED DOCUMENT(S).

I. Acceptance. All orders received by SELLER are subject to final acceptance or confirmation by SELLER and no terms or orders are binding upon SELLER until so accepted.

II. Deliveries. Unless otherwise specified by SELLER in writing, all deliveries are F.O.B. SELLER'S warehouse in Anderson, SC (UCC Terms). All deliveries shall be via common carrier or some other reasonable means chosen by SELLER. All risk of loss to Products sold shall pass to Purchaser upon delivery by SELLER of such Products to a common carrier. Delivery is conditional on the timely receipt by SELLER of documents necessary for the completion of the order, any down payment, and Purchaser's compliance with these terms only, and partial deliveries are permissible. All delivery schedules are estimates only, and SELLER will not be liable for any delay in the performance of orders or contracts, or in the delivery or shipment of Products, or for any damages suffered by Purchaser by reason of such delay. Delivery is subject to Purchaser maintaining credit satisfactory to SELLER. SELLER may suspend or delay performance or delivery at any time pending receipt of assurances, including full or partial prepayment or payment of any outstanding amounts owed adequate to SELLER in its discretion, of Purchaser's ability to pay. Failure to provide such assurances shall entitle SELLER to cancel this contract without further liability or obligation to Purchaser.

III. Prices. Unless otherwise specified by SELLER in the attached document(s), prices and quantities are quoted F.O.B. SELLER'S warehouse in Anderson, SC (UCC Terms). Prices are subject to change by SELLER without notice to Purchaser, and only those prices set forth on the attached document(s) will apply to the order. Unless otherwise specified by SELLER in the attached document(s), prices do not include installation, training, setup or other similar services. Prices do not include sales, use, excise, privilege or any similar tax levied by any government, and Purchaser shall pay any such applicable tax. Upon the request of SELLER, Purchaser shall provide SELLER a tax exemption certificate acceptable to the appropriate taxing authorities.

IV. Terms of Payment. Unless otherwise specified by SELLER in the attached document(s), the purchase price shall be due in full by Purchaser within thirty (30) days of invoice date after delivery, testing, and inspection by REI. No partial payment by Purchaser shall constitute an accord and satisfaction or otherwise satisfy the entire outstanding balance of any invoice of SELLER, notwithstanding any notation or statement accompanying that payment. Extension of credit, if any, may be changed or withdrawn by SELLER at any time. Invoices not paid within thirty (30) days after their due date will be subject to carrying charges. Carrying charges shall accrue and be added to the unpaid balance in the amount of one and one half percent (1.5 %) per month of any overdue unpaid balance, or the maximum rate permitted by law, whichever is less. Purchaser shall reimburse SELLER for the costs of collection, including, without limitation, reasonable attorneys' fees, of any overdue amount owed by Purchaser to SELLER. Purchaser may not hold back or set off any amounts owed to SELLER in satisfaction of any claims asserted by Purchaser against SELLER. Time is of the essence with respect to this provision.

V. Returned Products and Claims. Within fifteen (15) days after Purchaser's receipt of Products sold, Purchaser must give written notice to SELLER of any claim by Purchaser based upon the condition, quantity, or grade of the Products sold or of any claimed nonconformity with Purchaser's specifications, and the notice must indicate the basis of the claim in detail. Purchaser's failure to comply with this paragraph shall constitute irrevocable acceptance by Purchaser of the Products delivered and shall bind Purchaser to pay to SELLER the full price of such Products. Products sold shall not be returned without SELLER's prior written consent, and transportation charges for return shall not be paid by SELLER unless authorized in advance. Products that have been shipped outside of the United States are not subject for returns. SELLER will not authorize any returns for these products. Purchaser will be fully liable for payment of these products.

VI. Cancellation/Changes. Purchaser may not cancel or change an order once placed with and accepted by SELLER except with the prior written consent of SELLER and upon terms that will indemnify SELLER against any loss. SELLER may correct mathematical or clerical errors.

EXHIBIT 2

From: Joel Raju Mathew <jrajumathew@proterra.com>

Sent: Friday, July 28, 2023 11:07 AM

To: Brittany Moore <brittany@rwiindustrial.com>; Dan George <dgeorge@proterra.com>; Katherine Turner <KTurner@proterra.com>; Donovan Colman <donovan@rwiindustrial.com>

Cc: Amy Cuny <acuny@proterra.com>; Travis Hawkins <travis@rwiindustrial.com>; Jessica Harris <jessica@rwiindustrial.com>

Subject: RE: GEM shipments - Expedite options

Good Morning Brittany,

Appreciate all the inputs you have provided.

We understand you're waiting for inputs from Gardner-Denver before providing ETAs for some of the POs.

Meanwhile, we've done some preliminary planning and it looks like we'll be in the negative from mid-August for the '147-6148' Hydrovane Compressor at GEM. We may not have adequate inventory or shipments to meet Daimler demand from 14th August, just two weeks from now.

The current promised dates from RWI are about a month behind the need by dates in our PO which is causing the tightness/shortage. Let us know what expedite options are available to us against GEM809546 & GEM811133 shipments so that we can support Daimler weekly volumes.

Maybe we can try to explore the below options –

1. Airfreight shipments that have not yet set sail.
 - a. Can we have them shipped straight to Greer from the port without stopping at RWI? May help us shave a few days.
2. Reduce sea shipment transit time of 8 weeks (UK to East Coast)?
3. Reduce Princeton Port to Greenville transit time of 9-11 days?

Could you also let us know if Gardner Denver was/is able to ramp up production temporarily/short term to meet Daimler need?

We can review the options available before we decide on how to proceed. Also, if you could keep Katherine posted on all future shipments, she can review whether expedite is needed or not in each case.

Also, I'm going to get on calls with Transit and Service to understand our future demand. As Dan and I conveyed on our previous call, we're sure there's future demand that we can put on order to make up for the PO cancellations with RWI. We'll try to get this wrapped up soon too so that you have visibility on future demand and can plan accordingly. We can also work on the cancellation policy requested by RWI on new POs.

Again, we appreciate all the information and support from RWI. I think we've made a lot of progress over the last few weeks – we just needed time to go through the data and understand where we were. But we're moving ahead now regardless of communication gaps in the past. Let's work together now to ensure that we're able to meet Daimler weekly demand for the next 10 weeks or so.

Thank you,

Joel R Mathew

Global Supply Manager - Major Systems, PROTERRA

jrajumathew@proterra.com | 919.349.7607

www.proterra.com | 1 Whitlee Ct., Greenville, SC 29607

EXHIBIT 3

From: Colleen Flansaas <CFlansaas@provincefirm.com>
Sent: Thursday, March 28, 2024 3:52 PM
To: Wes Bulgarella; Amanda (Demby) Swift
Subject: RE: Proterra - Claims Reconciliation

Hello,

Yes, I have reconciled those three claims and they have been marked as allowed. The total 503(b)(9) asserted amount in the claim was \$1,539,958.42. After the FTI payment of \$429,074.42 and the three allowed of \$85,402.80, there is still \$1,025,481.20 shown outstanding as 503(b)(9) asserted amounts. These cancellation fee's are not subject to administrative assertion and should be considered as General Unsecured costs. We are not at the stage where we are reconciling GUC amounts. We need to come to an agreement on the balance of the admin amount before any payments can be made. I'd be more than happy to set up a call with our counsel for discussion.

Invoice	07/13/2023	135197	804045	51,168.00
Invoice	07/13/2023	135198	GEM809546	34,112.00
Invoice	07/14/2023	135203	SRG823446	122.80

Thank You, Colleen

Colleen Flansaas
Senior Analyst

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

In re:

Prodigy Investments Holdings, Inc.,¹

Debtors.

Chapter 11

Case No. 23-11120 (BLS)

CERTIFICATE OF SERVICE

I, Kate R. Buck, certify that on October 16, 2024, I caused a true and correct copy of the *Response Of Ron White's Air Compressor Sales, Inc. To Debtor's Third Omnibus (Substantive) Objection To Certain (I) Misclassified Claims, (II) Overstated And Misclassified Claims, (III) Overstated Claims, and (IV) No Liability Claims* to be served upon the below listed parties via First Class Mail, postage pre-paid or in the manner so indicated.

/s/ Kate R. Buck

Kate R. Buck (No. 5140)

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Counsel to the Distribution Trustee

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.