Docket #0254 Date Filed: 03/30/2026

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

IN RE:	.	Case No. 26-60110-5-wak
	.	
VANDERBILT	.	James M. Hanley U.S.
MINERALS, LLC,	.	Courthouse and Federal Bldg.
	.	100 S. Clinton Street
	.	Syracuse, NY 13261
Debtor.	.	
	.	Wednesday, March 4, 2026
. . . . .	.	2:00 p.m.

TRANSCRIPT OF:

MOTION OF THE DEBTOR AND DEBTOR IN POSSESSION FOR CASE MANAGEMENT ORDER (I) DESIGNATING SYRACUSE AS THE VENUE FOR ALL FUTURE HEARINGS AND (II) ESTABLISHING CERTAIN OMNIBUS HEARING DATES. FILED BY VANDERBILT MINERALS, LLC (DOC. NO. 4)

MOTION OF THE DEBTOR AND DEBTOR IN POSSESSION FOR ENTRY OF INTERIM AND FINAL ORDERS AUTHORIZING IT TO PAY CERTAIN PREPETITION TAXES AND FEES. FILED BY VANDERBILT MINERALS, LLC (DOC. NO. 8)

MOTION OF THE DEBTOR AND DEBTOR IN POSSESSION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) APPROVING THE CONTINUED USE OF THE DEBTOR'S CASH MANAGEMENT SYSTEM AND (II) GRANTING RELATED RELIEF. FILED BY VANDERBILT MINERALS, LLC (DOC. NO. 9)

MOTION OF THE DEBTOR AND DEBTOR IN POSSESSION FOR INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTOR TO (A) CONTINUE ITS INSURANCE AND SURETY BOND PROGRAMS AND SATISFY RELATED OBLIGATIONS; (B) OBTAIN, RENEW, AMEND, SUPPLEMENT, MODIFY, EXTEND, PURCHASE AND/OR REPLACE INSURANCE POLICIES AND/OR SURETY BONDS; AND (C) CONTINUE TO PAY BROKERAGE AND ADMINISTRATIVE FEES AND SATISFY RELATED OBLIGATIONS; AND (II) GRANTING RELATED RELIEF. FILED BY VANDERBILT MINERALS, LLC (DOC. NO. 11)

MOTION OF THE DEBTOR AND DEBTOR IN POSSESSION FOR AUTHORIZATION TO PAY PREPETITION CLAIMS OF CERTAIN CRITICAL VENDORS, LIEN CLAIMANTS AND 503(B)(9) CLAIMANTS. FILED BY VANDERBILT MINERALS, LLC (DOC. NO. 12)

MOTION OF THE DEBTOR AND DEBTOR IN POSSESSION FOR INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTOR TO PAY PREPETITION EMPLOYEE WAGES, BENEFITS AND RELATED ITEMS AND (II) GRANTING CERTAIN RELATED RELIEF. FILED BY VANDERBILT MINERALS, LLC (DOC. NO 14)

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MOTION TO OBTAIN CREDIT UNDER SECTION 364(B),RULE 4001 (C), (D) MOTION FOR RELIEF FROM STAY (MOTION OF THE DEBTOR AND DEBTOR IN POSSESSION PURSUANT TO SECTIONS 105, 362, 363, 503, 507 AND 552 OF THE BANKRUPTCY CODE, BANKRUPTCY RULES 2002, 4001, 6004 AND 9014 AND LOCAL RULES 2002-1, 4001-2 AND 9013-1 FOR INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTOR TO OBTAIN POSTPETITION FINANCING, (II) GRANTING LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (III) MODIFYING THE AUTOMATIC STAY, (IV) SCHEDULING A FINAL HEARING AND (V) GRANTING RELATED RELIEF). FEE AMOUNT $199. FILED BY VANDERBILT MINERALS, LLC (DOC. NO. 17)

BEFORE THE HONORABLE WENDY A. KINSELLA
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

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For Talc Claimants Committee:	Belluck Law LLP By: JOSEPH W. BELLUCK, ESQ. 546 5th Avenue, 5th Floor New York, NY 10036 Weitz & Luxenberg By: NICHOLAS GONSALVES, ESQ. 700 Broadway New York, NY 10003
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Audio Operator:	Rachel Sugrue

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

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(Proceedings commence at 2:00 p.m.)

(Call to Order)

THE CLERK: Continuing with the 2:00 p.m. calendar, Case Number 26-60110, Vanderbilt Minerals, LLC. We have several matters on.

Motion to sell property free and clear of liens, and related relief; motion for entry of interim and final orders approving the continued use of the debtor's cash management system; motion for entry of interim and final orders authorizing it to pay certain prepetition taxes and fees; and motion for interim and final orders authorizing the debtor to pay prepetition employee wages, benefits, and related items, and granting certain related relief.

Please note your appearance for the record.

MR. REYNOLDS: Good afternoon, Your Honor. For the record, Dan Reynolds, Jones Day, proposed counsel to the debtor.

THE COURT: Good afternoon. Other appearances on behalf of the debtor?

MR. SULLIVAN: Thank you, Your Honor, Charles Sullivan and Greyson Walter, Bond, Schoeneck & King, proposed co-counsel to the debtor.

THE COURT: Good afternoon.

Ms. Champion?

MS. CHAMPION: Good afternoon, Your Honor, Erin

Champion on behalf of the Office of the United States Trustee.

THE COURT: Good afternoon.

MR. AGAY: Good afternoon, Your Honor David Agay from McDonald Hopkins, and Jeff Dove from Barclay Damon on behalf of the DIP lender and stalking horse buyer.

THE COURT: Good afternoon.

Any other appearances in the courtroom?

(No audible response)

THE COURT: Why don't we go then to the video. Do we have any appearance on behalf of debtor's independent manager?

Oh, it looks like we only have a few people on the video.

MR. BARNOWSKI: I apologize, Your Honor, I couldn't get off mute. This is Dan Barnowski on behalf of Ben Pickering, independent manager.

THE COURT: Good afternoon.

Anyone appearing on behalf of Twin City Fire Insurance Company?

(No audible response)

THE COURT: Hearing none. R.T. Vanderbilt Holding Company?

MR. HOWARD: Good afternoon, Your Honor, it's George Howard from Vinson & Elkins on behalf of R.T. Vanderbilt Holding Company and the other non-debtor affiliates.

THE COURT: Good afternoon, Counselor.

Appearance for United Steel, Paper and Forestry, the union?

MS. WOODS: Good afternoon, Your Honor, this is Melissa Woods from Cohen, Weiss and Simon, and I'm here on behalf of the Steelworkers.

THE COURT: Good afternoon.

Appearances for the talc claimants' counsel.

MR. BELLUCK: Yes, good afternoon, Your Honor, Joseph Belluck from Belluck Law appearing on behalf of Linda Weaver as the estate representative for Anna Bishop, and I am also now chair of the Talc Claimants Committee and can speak to you about that as well.

THE COURT: Good afternoon, Mr. Belluck.

Other talc claimants' counsel present?

MR. GONSALVES: Nick Gonsalves -- sorry, couldn't get off mute -- for Kathleen Dole, a member of the Talc Claimants Committee.

THE COURT: Good afternoon.

Other appearances?

MR. GONSALVES: Good afternoon.

THE COURT: Just other appearances by video?

MS. BARBARUOLO: Paula Barbaruolo on behalf of the United States Trustee.

THE COURT: Good afternoon.

Is there anyone else who would like their appearance

noted on the record?

(No audible response)

THE COURT: Hearing none, I will turn it over to you.

MR. REYNOLDS: Good afternoon, Your Honor. Again, for the record, Dan Reynolds, Jones Day, proposed counsel to the debtor. If it pleases the Court, I would like to start by laying out the debtor's proposed agenda for today.

THE COURT: Sure.

MR. REYNOLDS: We are here today, Your Honor, for two sets of relief. First, we're seeking final relief for each of our first day motions save three. The three exceptions are the DIP motion, the critical vendor motion, and each of those will be heard on March 18th, and the utility motion, which will be heard on March 24th. The final relief on our first day motions that will be heard today, Your Honor, is unopposed.

Second, we'll be seeking entry of the bidding procedures motion. That relief is contested, Your Honor, first by a group of plaintiff law firms, who refer to themselves as the certain law firms, who appear on behalf of individuals and the estates of individuals who the certain law firms respectively represent who have alleged claims against the debtor for personal injury and/or wrongful death related to the debtor's talc products; second, by the United States Trustee's Office. In addition, a single member of the certain law firms, Belluck Law, LLP, filed a *sua sponte* letter to the Court

seeking to adjourn the bidding procedures motion. We propose to handle that concurrently with the bidding procedures motion later in today's hearing.

But with that, Your Honor, we would propose to divide today's hearings into two segments, the first segment will be the final relief on the first day motions that are up for today. In a moment, if it pleases the Court, I'll cede the podium to my colleague Mr. Buchta. Once Mr. Buchta's presentation is complete, we'll begin the second portion of today's hearing, when Mr. Buchta cedes the podium to my colleague Mr. Corcoran. Mr. Corcoran will introduce the evidence we will rely on in support of the bidding procedures motion. I will then return to end the hearing by seeking entry of the bidding procedures order.

If that agenda works with Your Honor, we'll proceed in that fashion.

THE COURT: It does. Thank you.

MR. REYNOLDS: Understood and thank you, Your Honor.

Before I cede the podium to Mr. Buchta, a few updates for the Court. As I'm sure the Court saw and as was just stated by counsel, the United States Trustee's Office provided notice that a committee of unsecured creditors has been appointed. The debtor would like to thank the office for their attention and efforts to the matter. We look forward to working collaboratively with the committee and, for the record,

each of my previous representations from prior hearings still apply, including representations regarding the UCC's objection rights to the settlement motion and the final DIP motion, and the debtor's commitment to negotiate a reasonable budget before the committee's activities. Second, as we discussed at the last hearing, all of the debtor's professionals' retention applications have been filed.

With that, unless Your Honor has any questions for me to start the hearing, I'll cede the podium to my colleague Mr. Buchta.

THE COURT: That's fine. Thank you.

MR. REYNOLDS: Thank you.

MR. BUCHTA: Good afternoon, Your Honor. For the record, Nick Buchta, Jones Day, proposed counsel to the debtor and debtor-in-possession.

Your Honor, as Mr. Reynolds referenced, I'll be taking you through everything that is before Your Honor today other than the bidding procedures motion. Before I get into the substance of those motions, just one housekeeping matter. As Your Honor is aware, on the petition date the debtor filed a declaration of Mr. Dean Vomero in support of the debtor's first day motions, including those that Your Honor is ruling on today, that declaration can be found at Docket Number 3. Your Honor, pending any objections, I request that Mr. Vomero's first day declaration be moved into evidence. Mr. Vomero is in

the courtroom and is available for cross-examination.

THE COURT: Thank you.

Ms. Champion, any objection?

MS. CHAMPION: No objection.

THE COURT: Is there any objection by video?

(No audible response)

THE COURT: Hearing none, the Court will allow it, admit it.

(Declaration of Dean R. Vomero admitted into evidence)

MR. BUCHTA: Thank you, Your Honor.

Your Honor, I would first propose that we start with the debtor's taxes motion. That can be found at Docket Number 8, with the first and second interim orders that Your Honor has entered, found at Docket Numbers 45 and 96 respectively.

Your Honor, by this motion, the debtor seeks authority to make payments on account of tax obligations which they incurred prepetition and were assessed in the ordinary course of business, this includes sales and use taxes, regulatory and licensing taxes and fees, foreign taxes and fees, property taxes, and certain other miscellaneous taxes, assessments, registrations and fees.

The debtor does also incur various customs duties, fees for business licenses and permits, and other fees and assessments.

As of the petition date, the debtor estimates that

approximately $315,000 in prepetition taxes and fees had accrued and remain unpaid. The debtor seeks authority to pay the full amount of these taxes upon entry of the final order.

We did not receive any objections or comments to the proposed final order.

Your Honor, for the reasons stated on the record at the first day hearing, the debtor submits that the payment of these prepetition taxes and fees are appropriate and warranted under the Bankruptcy Code.

Unless Your Honor has any questions for me, I would respectfully request that Your Honor enter the proposed final order

THE COURT: Thank you.

Ms. Champion, anything from the U.S. Trustee?

MS. CHAMPION: Your Honor, the United States Trustee did not object to this motion. May I just do note, though, that there is one party that hasn't had an opportunity to review it and, while the U.S. Trustee might not have an objection, certainly the committee should be afforded an objection to the, you know, the extent they would have any input. I don't see the necessity in having a final hearing without the committee, but, you know, I defer to the Court on that. I just wanted to make that observation.

THE COURT: Thank you, Ms. Champion.

Anyone else on the video?

(No audible response)

THE COURT: The Court reviewed the record before it with respect to these motions and, while recognizing the committee was just appointed and counsel for the committee is not appointed, these are standard operating procedures for the first part on an emergency basis. Based on the same terms and conditions in the previous interim orders, the Court will grant the motion at Docket 8 on a final basis.

MR. BUCHTA: Thank you, Your Honor.

Your Honor, next I'd like to take you through the debtor's cash management motion, this can be found at the Docket Number 9, with the first and second interim orders found at Docket Numbers 48 and 95.

Your Honor, by this motion, the debtor seeks customary relief with respect to their bank accounts and existing cash management system. In particular, the debtor is requesting authority through the ordinary course of business to continue its existing cash management systems, to maintain and use existing business forms, and to perform under and continue making intercompany transactions consistent with historical practices.

The debtor's cash management system is critical to preserving and maximizing the value of its estate and any disruption would have an immediate adverse effect on the debtor's business; it would impair the debtor's ability to

successfully administer this case.

Your Honor, after we filed the cash management motion, we incorporated several sets of comments. First, from the United States Trustee adding language to the proposed order directing the banks to add debtor-in-possession designations to each of the debtor's bank accounts. This was incorporated in the first interim order that Your Honor entered.

Second, between the entry of the first and second interim orders, we received comments from JPMorgan, one of the debtor's banks, requesting that language be added to the proposed order preserving the bank's rights to proceed against the debtor's cash collateral in accordance with underlying letters of credit that secure the debtor's reclamation and other regulatory obligations. This was incorporated into the second interim order that Your Honor entered and is present in the proposed final order in the same form as it was previously.

Third, as Your Honor is aware, at the first day hearing we added language seeking interim relief under Section 345(b) of the Bankruptcy Code with respect to the debtor's money market account. Your Honor, we are requesting that this relief be requested on a final basis as well. The use of this account is somewhat different than your typical money market account. It is not operational cash of the debtor, this account holds only cash which is used to collateralize the debtor's obligations under letters of credit related to

reclamation and other regulatory obligations, in addition to de minimis interest that's generated in the account over time. The debtor does not put money into or take money out of this account other than as necessary to ensure that statutorily required minimum amounts are available on deposit in the account.

Given the underlying letter of credit obligations, it would be procedurally challenging to move the cash collateral into another account. We would request that Your Honor allow the debtor to continue to utilize this account, which does not hold operational cash of the debtor and which cash will not be available, if at all, to the debtor's creditors until the underlying regulatory obligations are resolved.

The United States Trustee did informally express general reservations to this requested relief, but did not file a formal objection on the docket. So the debtor is not certain as to the specific nature of the U.S. Trustee's objection, but I understand that Ms. Champion did want to be heard on this matter.

THE COURT: Certainly.

Ms. Champion?

MS. CHAMPION: Your Honor, there's really no valid reason this motion can't be heard on a final basis at a further hearing, I believe maybe March 18th we have other matters on. The U.S. Trustee should have the opportunity to file a formal

objection based on the noncompliance with 345(a) and (b). The nature of our objection would be that the money market account is improperly collateralized. I mean, the Court can certainly, you know, allow a waiver of that requirement, but we did make some informal, I wouldn't say reservations, but you know we had objections, and I think we should be allowed at least to have something on the record indicating our objection.

THE COURT: Thank you.

Is there anyone else on the video who wishes to weigh in?

(No audible response)

THE COURT: With that record before it, the Court is going to adjourn that and grant the motion on a further interim basis through the 18th to correspond with the other hearings, recognizing that perhaps a little more information could make the U.S. Trustee and creditors' counsel more comfortable with that. Obviously, there's been a lot of moving parts with limited resources for this case, and the Court would like to make sure that the U.S. Trustee's objection is -- it certainly has been before the Court, even though not in an official paper form, and certainly recognizes that a waiver may be granted in certain circumstances, but perhaps with just the two weeks that gives the parties some opportunity to tweak some language to make the U.S. Trustee comfortable, perhaps without prejudice for a further application or something along the lines like

that.

So, the Court will grant the motion on a further interim basis through March 18th and will look to you, sir, for an order.

MR. BUCHTA: Understood. Thank you, Your Honor.

THE COURT: Thank you.

MR. BUCHTA: Your Honor, the next motion I will be presenting to you this afternoon is the debtor's motion seeking authority to continue its insurance and surety bond programs, including any premium financing agreements. This motion was originally filed at Docket Number 11, with interim orders entered at Docket Numbers 44 and 97. This motion also includes authority to obtain, renew, amend, or replace those policies, and satisfy certain fees and obligations owed to their brokers. All of this, Your Honor, is again in the ordinary course of business.

Your Honor, we have not received any objections to the debtor's insurance motion, nor have we received any comments other than those from the DIP lender that were incorporated prepetition.

Unless Your Honor has any questions for me, I would request entry of a final order authorizing the debtor to continue its existing insurance and surety bond programs.

THE COURT: Thank you.

Ms. Champion?

MS. CHAMPION: Your Honor, the United States Trustee did not file an objection to this motion.

THE COURT: Thank you.

Is there anyone on video who wishes to weigh in on the insurance motion?

(No audible response)

THE COURT: Hearing none, the Court will grant your relief on a final basis and will look to you for an order on that.

MR. BUCHTA: Thank you, Your Honor.

Your Honor, the final motion that I will be presenting to you this afternoon is the debtor's employee wages and benefits motion, which was originally filed on the docket at Number 14, with the first and second interim orders entered at Docket Numbers 41 and 99 respectively.

I'd like to start, Your Honor, with an administrative matter relating to the employees motion. Your Honor saw that we filed a supplement to our employees motion on March 2nd, which is at Docket Number 108. That supplement covers limited additional relief that relates to the debtor's employees motion where post-petition the debtor completed its review of its 2025 safety records. After that review of the debtor's safety bonus program -- and pursuant to the debtor's safety bonus program, two of the mines -- because two of the mines went the entire year without safety incidents, employees are entitled to $100

bonuses. Those bonuses are ordinary course for the debtor, and we intend to seek Your Honor's blessing to honor those bonuses that recognize our employees' commitment to safety. To that end, we filed an application to shorten time and have the relief requested in that supplement heard at the March 18th hearing, which application Your Honor granted at Docket Number 112.

I defer to Your Honor as to how Your Honor would like to proceed today, but I would propose that we proceed to have the employees motion heard on a final basis today with the supplement treated as a separate supplement request for relief that will be heard on March 18th.

THE COURT: Unless there's an objection, the Court doesn't have an issue with that. It's important that these employees get their wages finalized and done to move on to other motions, but does the U.S. Trustee have a position regarding that?

MS. CHAMPION: We take no position on that, Your Honor. Thank you.

THE COURT: Thank you.

Is there anyone by video who wishes to weigh in on the primary wage motion?

(No audible response)

THE COURT: The Court will grant the original relief requested on a final basis, recognizing the supplemental safety

programs will be heard on March 18th, and however you would like to craft that in your order is fine, or we can just do a separate stand-alone order after the 18th, assuming that that relief is granted on that date.

MR. BUCHTA: But, Your Honor, one thing I would like to flag for Your Honor is on a final basis we do have two pieces of relief that were not present in the interim orders, one is the debtor's sales incentive program and the other is the debtor's non-insider retention bonus program. I'm happy to walk Your Honor through those or, if Your Honor is comfortable with them, you know, I'm happy to cede the podium to my colleague.

THE COURT: No, please walk through those because I believe that a couple of those exceeded the --

MR. BUCHTA: Yes.

THE COURT: -- $17,000 limits.

MR. BUCHTA: That's right, Your Honor.

So, Your Honor, by this motion, the debtor does seek customary relief to continue its employee wages and benefits program and, as I mentioned, this does track the relief that Your Honor granted on the 17th and 25th with two primary exceptions, in addition to the supplement that we filed on Monday.

The first is the debtor's non-insider retention bonus program. There are two employees, Your Honor, that participate

in this program, one of whom is a paralegal and the other of which is the director of research and development for the debtor. These are two employees who are critical to maintaining value through the sale process and through the Chapter 11 process. There are no prepetition amounts that are actually owed on account of the non-insider retention bonus program, but the amounts are paid out quarterly, but accrue monthly, and so there is a month's accrual prepetition that is not due and hasn't been paid, but out of an abundance of caution we wanted to seek Your Honor's permission to allow that amount, given that it was earned prepetition, even if it wasn't due and owing prepetition.

The second is the debtor's sales incentive program. The debtor seeks authority, but not direction, to honor the amounts owed under the debtor's 2025 sales incentive program, where in the ordinary course of business the debtor and its sales team enter into individual annual performance plans. Pursuant to those plans, the members of the sales team agree to perform its metrics for both individual performance and the company's performance for the coming year.

Participants in the sales incentive program can earn bonuses ranging from 14 and a half percent to 22 percent of their base salaries, and about 80 percent of this bonus comes from the larger company performance metrics, with 20 percent of that amount coming from the individual performance metrics that

each individual enters into.

There are six employees who participated in and earned bonuses under the 2025 sales incentive program, one of those is a manager on the debtor's board of managers and is an insider. The debtor is not proposing to pay this employee on account of the sales incentive program, only the remaining five non-insider sales employees.

As of the petition date, the debtor owes $103,213 in the aggregate to the five non-insider employees who participated in the 2025 sales incentive program. Of these five employees, four of the awards under the sales incentive program would be above the priority cap of $17,150 found in Section 507(a)(4) of the Bankruptcy Code, in the amounts of $24,831, $22,071, $22,193, and $23,332. It is possible that the fifth, after accounting for other prepetition compensation and prepetition benefits may end up at or above the statutory cap in the aggregate as well. The debtor does request authority to pay these employees the amounts under the sales incentive program in full.

Your Honor, the debtor submits that the sales incentive program and the non-insider retention bonus program represent the ordinary course continuation of the debtor's prepetition practices authorized under Section 363(c) of the Bankruptcy Code, and constitute a sound exercise of the debtor's business judgment.

Section 503(c)(1) of the Bankruptcy Code is inapplicable here as such provision applies only to insiders, of which the debtor is not proposing to pay under either program. To the extent applicable, the debtors submit that Section 503(c)(3) of the Bankruptcy Code is satisfied, which requires that the contemplated payments be justified by the facts and circumstances of this case.

Your Honor, the debtor submits that the facts and circumstances of this case justify such contemplated payments on the basis that the loss of the debtor's sales team and the two participants in the non-insider retention bonus program would be detrimental to the debtor's estate and proposed sale process, and would be value-destructive to the debtor's sale process.

Your Honor, we did not receive any comments or objections to this motion and, unless Your Honor has any questions, I would request that the Court enter the proposed order on a final basis, subject to the supplement that we've discussed previously.

THE COURT: Thank you, and the Court -- thank you for that record.

Ms. Champion, does that --

MS. CHAMPION: Thank you, Your Honor. The United States Trustee is not taking a position on this, but anything with respect to the debtor's business judgment I think the

committee should be able to weigh in on, but, again, I just defer on that issue to the Court.

THE COURT: Thank you, Ms. Champion.

Again, as indicated, the Court believes it is important to have some finalization for these wage and benefit programs, as well appreciates the recitation of the facts regarding the sales and the other compensation structure that's out of the ordinary course of wages, and will grant that relief on a final basis.

MR. BUCHTA: Thank you very much, Your Honor.

THE COURT: Thank you.

MR. BUCHTA: And, with that, I will now cede the podium to my colleague Mr. Corcoran.

THE COURT: Thank you.

MR. CORCORAN: Good afternoon, Your Honor, Matt Corcoran with Jones Day on behalf -- the proposed counsel for the debtor. As Mr. Reynolds previewed, I'd just like to present some evidence to the Court in support of the bidding procedures motion.

THE COURT: Certainly.

MR. CORCORAN: At the outset, the debtor would like to call Mr. Mendelsohn to the stand.

THE COURT: Thank you.

THE CLERK: Raise your right hand. State your full name and spell your last.

THE WITNESS: Sure, it's Eric Mendelsohn, M-e-n-d-e-l-s-o-h-n.

ERIC MENDELSOHN, DEBTOR'S WITNESS, SWORN

THE CLERK: Thank you. You may be seated.

THE WITNESS: Thank you.

MR. CORCORAN: May I proceed, Your Honor?

THE COURT: You may.

DIRECT EXAMINATION

BY MR. CORCORAN:

Q Mr. Mendelsohn, can you introduce yourself to the Court?

A Sure, I'm Eric Mendelsohn, I am the company's investment banker, and I work for Greenhill, where I'm Co-Head of Financing, Advisory and Restructuring.

Q Can you tell the Court generally about Greenhill's role in the debtor's sale process?

A Sure. We were retained in August of 2025 to seek financing on behalf of the company, and also to look into selling the company's assets.

Q Were you at the hearing in Utica for this case two weeks ago?

A Yes, I was.

Q Did you hear Mr. Agay's statement that, quote, "The debtor came to us through its advisers seeking financing and asking us if we wanted to buy the company, and they were the ones who said to us, oh, you need these other assets to sort of complete

the package," close quote?

A Yes, I heard that statement.

Q Do you agree with that statement?

A I do not.

Q Why not?

A We went out to potential financing parties and acquirers with a lot of information about the company's operations, and the assets that were proposed to be collateral, the assets that were proposed to be sold were only those that were owned by the company.

Q And how did it come to be that the non-debtor assets became part of the stalking horse bid?

A Sure. They're an important part of the company, they are part of the assets through which the company produces VEEGUM, which is one of its core products, and so of course our materials do describe those products and also describe the way in which the company sourced those products, which included the assets that were owned or continue to be owned by parent affiliates.

Q And did any of the bids that Greenhill received for the assets include bids on the non-debtor assets?

A Yes, the bids included bids on the non-debtor assets.

Q Did Greenhill also seeks bids for substantially all the debtor's assets without the non-debtor assets?

A Yes, that's all we sought.

Q And did Greenhill receive any bids for substantially all the debtor's assets without the non-debtor assets?

A We did not.

Q Would you have considered any such bids if Greenhill had received them?

A Absolutely.

Q And can you describe generally the principal non-debtor assets that are included in the stalking horse bid?

A Sure, there are two assets. There is a mine called Lyles, which is actually operated by Minerals, and the mineral rights are actually owned by an affiliate of the parent that mines saponite, which is one of the key minerals that goes into the products.

The second is a processing plant in Murray, Kentucky we call Murray, and that is a processing plant that is part of a broader plant and its operations that are owned by the parent affiliate as well, and that plant processes all of the minerals that go into making the VEEGUM product.

Q I'd like to change subjects a little bit. Mr. Mendelsohn, do you believe the bid protections of a $2 million break fee and up to $1 million of expense reimbursement are reasonable?

A Yes, I do.

Q How did you come to that conclusion?

A Sure, I thought about it three ways. First, we ran an auction prepetition, and bidding procedures were very much a

part of the negotiations, in addition to the purchase price. So, when we were negotiating with buyers and as described in my declaration, there were two bidders at the end of our process that were actively bidding against each other, and we took into consideration the size of the bidding procedures versus the size of the total purchase price, and came to the conclusion that with -- even with the bid protections of our stalking horse that their bid was far superior than the alternative.

So that was the first way we thought about it, the second was the stalking horse bidder, in my belief, actually provided a lot of value to the estate. This is not a simple asset sale. We were taking an operating company and selling it through 363. This is a carveout and, any time you have a carveout transaction, there are a lot of intercompany relationships; there's a transaction services agreement, there are supply agreements, diversify agreements have been described in some of the declarations, and both companies will still be somewhat dependent on each other for certain parts of their business going forward.

So that is a complex carveout to negotiate and our stalking horse bidder took the lead while negotiating that with our former parent. So that's a lot of cost, a lot of time they put into that, and now in the auction every bidder can step into their shoes and actually just sign their name at the bottom of those documents, and really piggyback on all the work

that our stalking horse bidder did.

And then the third was, I have been a restructuring banker for almost 30 years, I've done a lot of 363 sales, and I look back over my experience, as well as recent precedents with respect to bid protections, and I found that the bid protections that our stalking horse requested are within the range of what I have seen historically, both looking outside my own experience and with recent experience as well.

Q Do you think that the debtor's entry into the stalking horse agreement provides value to the debtor's estate?

A Yes, I do.

Q How so?

A So it really provides a floor to value, I think that is really critical to a company. Any company that goes in Chapter 11 is in a space where customers, employees, suppliers, you know, are not wedded to this company, and if you file without a stalking horse, over the course of my career, that does create a lot of risk to the enterprise and a lot of risk to value over time. I also think, again, it provides a floor to value, and $50 million is a lot of value. I have every incentive and every desire to maximize the value of this company, and I'm certainly hopeful there will be bidders at auction, but I'm also very thankful we have a bidder committed and on the hook, and I think that is a huge asset of the estate right now.

Q Mr. Mendelsohn, did you provide a declaration in support

of the DIP motion and the bidding procedures motion?

A Yes, I did.

MR. CORCORAN: Your Honor, I have a copy of that declaration, which was filed at Docket Number 18, I'd like to hand a copy up to the witness. May I approach?

THE COURT: You may.

(Pause)

BY MR. CORCORAN:

Q Mr. Mendelsohn, is what I just handed you a copy of your declaration?

A It is.

Q Was it true and correct to the best of your belief at the time you gave the declaration?

A Yes, it was.

MR. CORCORAN: Your Honor, I would move to admit into evidence Mr. Mendelsohn's declaration at Docket Number 18, subject to any cross.

THE COURT: Ms. Champion, any objection?

MS. CHAMPION: No.

THE COURT: I'll allow it.

(Declaration of Eric Mendelsohn admitted into evidence)

MR. CORCORAN: Thank you, Your Honor.

Subject to any redirect, I don't have any further questions. I thank you for your time, Mr. Mendelsohn.

MS. CHAMPION: Oh, I'm sorry, I do have a couple of

questions. I thought you were asking the declaration, I was just reading --

THE COURT: That's correct. No, you --

MR. CORCORAN: No, no, I was --

MS. CHAMPION: Oh, okay --

THE COURT: -- yes --

MS. CHAMPION: -- oh, okay.

THE COURT: -- you were correct, Ms. Champion.

MR. CORCORAN: Now I'm passing the witness.

MS. CHAMPION: Okay.

THE COURT: Now he's passing the podium for your cross-examination.

CROSS-EXAMINATION

BY MS. CHAMPION:

Q Good afternoon, Mr. Mendelsohn. My name is Erin Champion, I'm from the Office of the United States Trustee, I'm the Assistant U.S. Trustee assigned to this case.

A Good afternoon.

Q I'm going to ask you just a couple questions about your declaration that Counsel just referred you to at Docket Number 18.

On page 5, paragraph 10, it says that the debtor engaged Greenhill in August 2025 as its investment banker; can you tell me who on behalf of the debtor approached Greenhill regarding that engagement?

A Yes, I was initially approached by Jones Day.
Q And then throughout the declaration in a couple of instances -- and I'll tell you where they are exactly, but it says that the debtor, with the assistance of Greenhill and its other professionals, and then also at some instances the debtor and its other professionals, I'm going to ask you about who those professionals are, but I'll direct you where I'm going with that.
A Sure.
Q So, for example, in paragraph 22, that's page 9. Paragraph 22, it states, "after I conferred with the debtor and its other professionals about the sale bids," who did Greenhill -- or actually you, I think it says I conferred -- who did you negotiate with in concluding that the debtor's ability to sell its assets would be compromised without the sale of non-debtor assets as well?
A I'm sorry, can you repeat the question? So, who did I negotiate with?
Q Yeah. It says, "after I conferred with the debtor and its other professionals," so who were you conferring with, what other professionals --
A Okay, sure.
Q -- are you referring to?
A On the company's side, it would be Jones Day, as well as the company's CRO, Mr. Vomero.

Q Did you negotiate with any of the non-debtor affiliates whose assets are being proposed to be sold as part of the process?

A I did not.

Q Did Greenhill?

A No.

Q So, how did you come to that conclusion then that the non-debtor assets would have to be made part of the sale to make it competitive?

A Sure. So, when we went out for the sale, as I briefly described, we were clear that the assets to be sold are assets that were owned by the debtor. We also recognized that the VEEGUM family of products is a very important contributor to the company's profitability, and bidders of course would want to own that asset as well at minimum in the condition it was now, which was based off of -- included an arrangement with the parent affiliates with respect to minerals at Lyles mine and with respect to the processing facility, Murray.

So there is -- you know, the company currently operates with arrangements right now for those products, and that was the way we marketed it. However, every proposal that we received required that the bidder actually own both of those assets so they could control the supply and the processing of what is one of the company's key assets and will only be more important in the future as well.

Q Okay, thank you.

So, again, a similar question to, you know, regarding who Greenhill conferred with or negotiated with. In paragraph 23, page 9, it says, "The debtor, with the assistance of Greenhill and its other professionals, has engaged in negotiations and discussions with all three bidders," can you tell me what you mean by with the assistance of Greenhill and its other professionals, what that means?

A Sure. I think the other professionals all have a role in the M&A process. Mr. Vomero, for example, is present for due diligence conversations. Jones Day assists us when we're looking at indications of interest, when we're looking at terms of an asset purchase agreement. When there are core legal issues to the bids that are not just financial, then Jones Day would certainly get involved as well. So that's what I mean.

Q Okay. Did you confer with the Special Independent Committee of the debtor's board of directors?

A I certainly made presentations to the board of directors on which the independent or -- well, Mr. Pickering, independent director, is a part of that board.

Q Okay. And did you have discussions or negotiations with Mr. Pickering regarding the bids or the sale process as you described them in your declaration?

A I certainly had discussions with the whole board, I wouldn't call them negotiations with the board. The

negotiations were with the counter party, we were representing the debtor.

Q Gotcha. Okay, thank you.

So then let's go to paragraph 25. So, again, after the debtor conferred with Greenhill and the debtor's other professionals about ongoing negotiations, the debtor instructed Greenhill and its other professionals to further focus their efforts on negotiating terms with the stalking horse bidder, and the debtor with the assistance of Greenhill and its other professionals, can you just again tell me in general who was involved in those negotiations and discussions?

A Sure. I mean, most of the negotiations and discussions were really driven by Greenhill and Jones Day. To this point we're talking about key financial terms of the purchase price and other economic terms, as well as at this point we're also talking about a credit agreement and an asset purchase agreement, so Jones Day was intimately involved of course in drafting those and returning drafts and in negotiating the final legal points in both those key documents. So, it was really a joint effort where we're very engaged around all the key economic issues and Jones Day on core legal issues.

Q And, let's see, that would have been -- I'm just looking for a date on that. So the sale process, I think in your declaration at paragraph 18, it says that it was launched in November of 2025. So, by that time, the concept of the non-

debtor assets coming into the sale, that would have been negotiated or discussed or, you know, resolved, I guess, as far as what was going to be part of the sale process?

A No.

Q No?

A No, that's not correct.

Q Okay. So, just kind of then explain to me then, what did that sale process look like as far as like what assets were being proposed?

A Okay. So, the assets we went out to the market with were only those that were owned by the debtor.

Q Okay.

A And, as I described, because VEEGUM is an important part of the debtor's products and they rely on a counter party for both saponite and the Lyles mine, as well as processing Murray, of course our materials do reference those counter parties and describe a little of information about that relationship.

So, in November of 2025, we just went out to sell the debtor's assets and it was only after that, when we got the feedback from the buyers it became clear that we needed to sell the -- those two assets in order for bidders to make a bid for a whole and maximize value.

Q Okay. So, after that process is when the debtor reached out to the affiliates about including their assets in a potential sale?

A Actually, I don't recall when the debtor would have reached out on those assets. I will say it was not a surprise to me that a buyer would want to own those assets given what we knew about the operations and given what we knew about the importance of VEEGUM to the company's financial profile, but I don't recall when the company started those discussions.

Q So, did you have any discussions or negotiations with any professionals on behalf of the non-debtors and selling the non-debtor assets?

A No. At Greenhill, I don't recall any interaction with non-debtor affiliate professionals that I had.

(Pause)

MS. CHAMPION: I'm sorry, I'm just reviewing my notes, Your Honor.

THE COURT: Certainly. Take your time.

BY MS. CHAMPION:

Q So, at what point in time then -- because you had the November sale -- I'm sorry, the November sale process of the debtor assets, and then at some point in time, under paragraph 21, you state that, "Although the debtor did not own the non-debtor assets at the beginning of the marketing process, I concluded based on feedback from potential bidders that the debtor's ability to sell its assets was compromised unless the debtor could package them with the non-debtor assets."

So, when did you come to that conclusion?

A So, we launched the DIP process before we launched the sale process, and that was in October. We received proposals on the DIP in early November, and at that point we did have feedback that -- we had some feedback that the potential investors, slash, lenders would want to own those assets.

Q So, how did you learn what those assets consisted of?

A I'm sorry, which --

Q The non-debtor assets.

A As part of investors' and buyers' diligence, they came to us and said we want to own these assets, and it was primarily the Lyles mine and the Murray processing plant.

Q And then one last question regarding who Greenhill was conferring with. At paragraph 27, it says, "After conferring with the debtor and its professionals, I informed the stalking horse bidder and the other bidder," et cetera, et cetera.

So, who did you confer with?

A I remember conferring with Jones Day and Mr. Vomero.

MS. CHAMPION: Okay, that's all I have, Your Honor.

THE COURT: Thank you, Ms. Champion.

Go ahead.

MR. CORCORAN: Thank you, Your Honor. For the record, Matt Corcoran with Jones Day. I have no further questions for Mr. Mendelsohn and would ask that he be excused.

THE COURT: The Court has a couple of questions --

MR. CORCORAN: Oh, sure.

THE COURT: -- I just wasn't sure if you had any redirect, sir.

Mr. Mendelsohn, did the debtor -- did you receive any proposals for just the debtor's assets?

THE WITNESS: For like substantially all the debtor's assets --

THE COURT: Yes.

THE WITNESS: -- or for individual assets?

THE COURT: Excluding the affiliates' assets.

THE WITNESS: We received no proposals for substantially all of the debtor's assets, we received a small number of proposals for discrete smaller assets, very small portions of the company's assets.

THE COURT: Thank you. And were you involved at all with the stalking horse procedures in terms of the timelines and the deadlines for the submission of bids and sale hearing and things like that, were you involved in that process?

THE WITNESS: Yeah, the timeline and the dollars associated with bid protections were all part of what was being negotiated in totality, inclusive of the total purchase price. So, yes.

THE COURT: Thank you. And is the Court's understanding of the bid protections for the proposed stalking horse correct that it's the 50 million, you know, setting aside the proposed DIP loan coming out of that, the three million for

the stalking horse bid protections and expense reimbursement, and then another 750,000 as the first incremental bid, that then drops down to 400,000, is that --

THE WITNESS: That is correct, and I believe that 400,000, the debtor has discretion afterwards to modify the 400,000.

THE COURT: Okay. Thank you. You're excused.

THE WITNESS: Thank you, Your Honor.

(Witness excused)

MR. CORCORAN: Your Honor, Matt Corcoran with Jones Day again. I would now like to move into evidence the declaration of Mr. Dean Vomero in support of the bidding procedures and DIP financing motions, which is at Docket Number 19, subject to any cross-examination.

THE COURT: Thank you.

MS. CHAMPION: Your Honor, I have no objection.

THE COURT: No objection? Okay. The Court will admit it.

(Declaration of Dean Vomero admitted into evidence)

MR. CORCORAN: Thank you, Your Honor, and that concludes the presentation of evidence. I will now turn the podium over to Mr. Reynolds.

THE COURT: Thank you.

MR. REYNOLDS: For the record, Your Honor, Dan Reynolds, Jones Day, proposed counsel to the debtor. And so,

with that, we are ready to move to the bidding procedures motion, which is found at Docket Number 16.

For the record, the declarations in support of the bidding procedures motion, which were just entered into evidence today, can be found at Docket Numbers 18 and 19. The objection of the certain law firms is at Docket Number 131 -- excuse me, 113, and the objection of the United States Trustee can be found at Docket Number 121.

Early this morning, the debtor filed a reply in support of the bidding procedures motion, and that can be found at Docket Number 123. However, Your Honor, I also want to acknowledge Belluck Law, LLP's letter to the Court that was filed at Docket Number 118 asking this Court to adjourn the bidding procedures hearing until March 18th. The debtor opposes this request for a number of reasons, both procedural and substantively.

First, we disagree with the letter's concern that going forward today will significantly prejudice the unsecured creditors in this case. This really goes more towards the merits of the motion, which I will hopefully present soon, but I would just point out, as we highlighted in our statement in support of our bidding procedures motion, it is very common for Bankruptcy Courts to enter bidding procedure orders granting substantively similar to relief as to what the debtors seek today prior to a committee being formed. We cite a number of

examples in paragraph 14 of our statement in support.

The primary reason why is straightforward, and Mr. Mendelsohn just testified to it. When a debtor is seeking a sale of substantially all of its assets, as the debtor is doing here, the estate and all of its stakeholders are far better off when the debtor has a bidder on the hook during the post-petition marketing process for a bunch of very good reasons. First, it gives a signal to additional bidders of what the floor of the auction will be, so they continue to do work to see if they can provide a higher and better bid, but just as important, if not more importantly, it signals to the debtor's customers and the debtor's vendors that there will be an ongoing operation here and, in doing so, provide strong incentive for them to continue to do business and thus maximize value during the sale process.

Second, while the letter filed at Docket 118 correctly cites Local rule of Bankruptcy Procedure 7040-2, we respectfully submit that the letter does not comply with the spirit of the rule as the debtor did not receive a request to adjourn the hearing by any party in advance of the letter being filed. Frankly, Your Honor, we respectfully submit that it is not proper for a party to request an adjournment of a hearing that has been scheduled for more than two weeks when that party has appeared at multiple hearings in advance just before midnight the day before the hearing after attorneys and

witnesses have come into town for the hearing, and doing so without so much as asking for an adjournment or even providing notice of the letter. Luckily, we get docket alerts and that's how we got it.

Therefore, the debtor respectfully requests that to the extent that the letter is a properly asserted motion that the Court deny the motion and that today's hearing proceeds as scheduled.

THE COURT: Well, the Court has obviously allowed the testimony to proceed for that, but we're going to hear oral argument on the substance of the objections as well. So, we'll get to the adjournment request kind of at the tail end of all of that to see where we stand at the end of the objections.

MR. REYNOLDS: Understood, Your Honor.

With that, then we'll turn to the bidding procedures motion itself. Today, we are seeking six different and specific sets of relief in the bidding procedures order. First, we are seeking approval of the bidding procedures attached as Exhibit 1 to the motion; second, we are asking the Court to designate Commodore Materials, LLC as the stalking horse bidder, and authorize the debtor to provide the bid protections outlined in the stalking horse APA; third, we are asking the Court to schedule the auction and the sale hearing; fourth, we are asking the Court to approve our sale notice procedures; fifth, we are asking for approval of our assumption

and assignment procedures for executory contracts; and, sixth and finally, approving the related noticing procedures regarding the assumption and assignment of executory contracts.

Your Honor, the debtor respectfully submits that the relief it is seeking today is a reasonable exercise of the debtor's business judgment and in the best interest of the debtor's estates.

As discussed in both the Vomero and Mendelsohn declarations and through the live testimony today, the debtor engaged in a very thorough prepetition marketing process, which included a mini-auction to become the stalking horse bidder, which resulted in a significant increase in the value of the bid currently on the table from Commodore. By designating Commodore as the stalking horse bidder today and providing them with the bidding protections that was negotiated as part of the min-auction, the estate is receiving a floor for the valuation of the stalking horse assets.

In addition, the bidding procedures provide a schedule for the post-petition marketing process that balances the needs of the debtor to maximize the sale proceeds, keep interested bidders engaged and part of the process, all while trying to avoid spending undue time in Chapter 11, which will cause the amount of sale proceeds available to the debtor's unsecured creditors to be needlessly reduced by the cost of staying in Chapter 11.

Reviewing the objections of the six sets of relief the debtor seeks today, the objections filed by the United States Trustee and the certain law firms appear to focus on two of the issues, the scheduling issues and the bidding protections, they do not appear to object to the other provisions of the bidding procedures or any aspect of our noticing procedures, or the process to assume and assign executory contracts. However, both objections also discuss issues that won't be in front of this Court until after an auction when the debtor seeks to consummate a transaction at the sale hearing. Other than a few housekeeping points on those topics that I'll discuss at the end of my presentation, I'll defer any commentary on those for rebuttal.

On the bidding protections, the debtor seeks to provide the stalking horse bidder with two sets of bidding protections: First, a breakup fee of $2 million; second, an expense reimbursement capped at $1 million. Given that the debtor values the stalking horse bid at $53 million, after taking into account liabilities that the stalking horse bidder has agreed to assume, the maximum amount of bidding protections would be approximately 5.6 percent of the current bid.

These bidding protections are well within the range of protections approved by courts within and outside of this circuit, and we cite numerous examples in paragraph 28 of the bidding procedures motion from this district, the Second

Circuit, the Third Circuit, the Fifth Circuit, and the Eleventh Circuit of cases where higher bid protections have been approved. Your Honor, given the facts and circumstances of this case, the debtor respectfully represents that the bid protections provided to the stalking horse bidder in this case are reasonable and securing the stalking horse bid as the floor to the auction is in the best interest of the estate.

On the timeline, Your Honor, I want to make a few points. First, as discussed in the Mendelsohn and today, the debtors have engaged in a months-long prepetition marketing process that included a mini-auction to become the stalking horse bidder. The debtor's professionals are well aware of what parties may be interested in submitting a higher and better bid, and what additional information, if any, they require to submit their highest and best bid. As provided for in the testimony submitted to the Court today, the debtor believes that the timeline provided in the bid procedures is sufficient to extract the highest and best bid from the market.

Second, there is of course an interplay between the scheduled provided for in the bidding procedures and the milestones in the DIP. The debtor and its advisers believe that the negotiated timeline balances the need to provide adequate notice to parties and effectively market the assets with the need to quickly and efficiently consummate the sale transactions.

The objections and the counsel to certain law firms have inferred that the schedule is being dictated by the non-debtor affiliates, but that is simply not the case. The DIP milestones were solely products of the negotiations between the debtor and the DIP lenders, slash, stalking horse bidder. The DIP lender demanded tight timelines and, in response, the debtor negotiated a timeline that it was comfortable would extract the highest and best bid for the assets, and is comparable to timelines approved in other similar cases. We cite numerous examples from similar shorter timelines in paragraphs 24 and 25 of the bidding procedures motion.

In addition, while the committee has just been formed, granting the relief we seek today does not in any way prejudice the committee's ability to negotiate or object to the milestones that are a part of the relief related to the entry of the final DIP order. We've said this at every hearing, Your Honor, but I would also point out that Article 9 of the bidding procedures reserves the debtor's right, in consultation with the consultation party, which includes the DIP lender and the UCC, to modify the bidding procedures. Therefore, if either by negotiation or litigation the milestones in the DIP change, the dates in the bidding procedures would be able to follow suit, assuming that we can build consent amongst the relevant parties in interest. In other words, Your Honor, to the extent that parties are concerned that whether or not the committee will

have a bite of the apple regarding the scheduling of this case, that bite of the apples still exists, as we promised it would, and it still exists to the preservation of the UCC's rights to object to the milestones as part of the final DIP order.

Further, by making this representation explicit, as we have done in each of the hearings in this case, no party would effectively be able to argue that the entry of this bidding procedures order in any way preordain the entry of the settlement or the final DIP order, or foreclosed any argument against the entry of such orders or the terms thereof.

Before I cede the podium, Your Honor, I just want to highlight a few additional points that we raised in our statement in support early this morning.

First, both objections state that the bidding procedures motion should not be entered because the stalking horse assets have not been properly valued. We disagree with this point for two reasons. First, that is truly a sale objection and, if any party in interest does not believe that the eventual sale price is sufficient consideration for the stalking horse assets, the sale hearing is the proper time to raise that objection. Second, that point is also contrary to establish Second Circuit and Supreme Court of the United States precedent, which make clear that arm's length market negotiations between third parties remain the best valuation tool available. That is exactly what we have here between the

debtor and Commodore.

Second, both objections raised issues with the possible purchase of avoidance actions and insurance policies. We've listened to these, and we've discussed the issue with Commodore and have made two important clarifications.

First, the debtors have obtained the stalking horse bidder's agreement that the stalking horse assets do not include any insurance policies with coverage for claims made or occurrences prior to January 1st, 2013. Second, the stalking horse bidder has also clarified that it is not seeking to purchase all avoidance actions, just non-insider avoidance actions against third parties who have a present relationship with the debtor's operating business like customers, vendors, and employees. Such a purchase of avoidance action is common in 363 cases as purchasers of assets want to make sure that their customers and vendors are not later sued by some liquidating trust and then they have to explain that it's -- with their customers and vendors, it's not us that are suing you, I can't stop this, it's some trust that I don't control. These purchases are in the ordinary course of modern 363 transactions.

Finally, I would like to let the Court know we did receive one informal objection from one of the debtor's union, the United Steelworkers, and we resolved that objection with some additional language to the bidding procedures and the

bidding procedures order that clarifies an agreement regarding the United Steelworkers' ability to review qualified bids and attend the auction. With that resolution, the informal objection of the United Steelworkers has been resolved.

With that, Your Honor, I'm happy to answer any questions you have regarding the bidding procedures or cede the podium to any other party in interest.

THE COURT: Thank you, Mr. Reynolds.

Can you explain to the Court the January 1st, 2023 information, because we were in 1982 and another provision, and I just want to make sure I understand exactly what insurance is being excluded from a sale.

MR. REYNOLDS: Absolutely, Your Honor. So, in about 2013, as has been discussed in Mr. Vomero's first day declaration, there was a corporate reorganization, and our company began its existence as the successor to a previous company. So, given 2013 as the date where our company came into existence and 2008, when our predecessor in interest stopped mining talc, what we have said is, any -- what this serves to do functionally is that any insurance policies that would have come to the debtor through its predecessor in interest would be excluded from the sale, and we believe that what that does is that if any policy would cover a talc claim, it would fit within this carveout. And so insurance policies that would cover talc claims are not being purchased by the

stalking horse bidder, is how we asked to set this up.

The 1986 designation from an earlier hearing was a different way to handle a similar problem, and that difference was the difference between occurrence-based policies and claims-made policies. Our occurrence-based policies stopped being written in about 1986, and that's where most of these insurance policies who have remaining value, they would have been written before 1986. But when speaking with our M&A colleagues and negotiating with the stalking horse bidder, and understanding the concern about what really matters here is any insurance proceeds that could lead to distributions for talc claimants, we thought this was the better way to write the carveout.

THE COURT: Thank you. Nothing further.

MR. REYNOLDS: Thank you, Your Honor.

THE COURT: Thank you.

Ms. Champion.

MS. CHAMPION: Thank you, Your Honor. Erin Champion on behalf of the United States Trustee.

Your Honor, the United States Trustee objects to approval of the bidding procedures in any form today. At this very early stage of the case, the Court simply does not have enough reliable information to determine that the proposed procedures will produce the highest and best value for the estate. This claimed urgency, Your Honor, is not real. The

request for an accelerated process is premised on urgency, but, again, the record does not demonstrate that the debtor is facing an operational crisis that requires such a rushed sale and, to the contrary, what was filed in this case is the culmination of months of planning among the debtor and its professionals, and of course the non-debtor affiliates.

The debtor was not forced into bankruptcy because of a liquidity collapse. Instead, the case was structured in advance with the transaction already largely negotiated well before the filing.

Your Honor, in that context, the Court should be cautious about allowing an expedited sale process, including bidding procedures that limit the ability of creditors to meaningfully evaluate the transactions and the proposed procedures. I reiterate the point that I made last week that my office, we have used as quickly as possible, expeditiously, dropping everything, you know, to make sure we got a committee formed, and we were able to do that and got that filed this morning. It's not unreasonable to ask for a little bit of time for that committee to get counsel and to weigh in on these procedures.

Your Honor, I think it can be agreed here by everybody that the goal here is to maximize value through a fair and transparent process, but what is transparent I think is the issue, it is not to lock in a prearranged deal as

quickly as possible before the primary constituency here has had an opportunity to look at that process

Your Honor, again, as I argued last week, the proposed sale process is so intertwined with the debtor's DIP financing. Here, we've got the DIP lender that's also the stalking horse bidder, and that creates a structure in which the same party is financing the case, it sets the milestones governing the timeline, and stands to acquire the assets. And when those roles converge, Your Honor, the Court must scrutinize that process to ensure that the terms and sale procedures are not steering the case toward a predetermined outcome, and I submit that it is, Your Honor.

The committee must have a fair chance to evaluate all of those facets globally, the DIP terms, the settlement terms, and the proposed sale transaction, because those arrangements are all inseparable; it is a three-legged stool, I'll use Counsel's analogy again that was made on the first day.

The debtor and affiliates are asking for relief that has deep implications in the outcome of this case and, by comparison, what the U.S. Trustee and creditors are asking here is for simply to have a chance to peel back some of the layers and to look at these proposals. The Court is being asked to approve a sale process before the estate's assets have been fully disclosed or investigated, schedules and statements haven't been filed, we have not held a 341 meeting, the

estate's assets have not been fully identified, and prepetition intercompany transfers have not been investigated, and that's key here, Your Honor. Those transfers are particularly important because they may affect what property belongs to the estate and whether additional value could be recovered for creditors and, until those issues are examined, it's impossible to determine whether the stalking horse bid really reflects the true value of the assets.

The Court is also being asked to approve breakup fees and other stalking horse protection without a reliable understanding of what the value of those underlying assets are. Breakup fees are often evaluated as a percentage of the transaction value, as we all have looked at before, but, again, if the asset value is uncertain, how can we say what's a fair percentage. Without a clear picture of what the estate actually owns and without an investigation of claims, insurance rights, affiliate transactions, the Court cannot reasonably determine if the protections are reasonable themselves or whether they risk chilling a competitive bidding process. And even if those issues could ultimately be resolved, they can't be reliably measured with the compressed timeline proposed by the debtor here.

Your Honor, the APA also raises additional substantive concerns that further underscore why approval of bidding procedures in any form is premature. For example, as

was mentioned, the APA contemplates transfer of avoidance actions that belong to the estate. The estate constituency should be the one saying whether, you know, they're okay with those, with those terms of the APA. The agreement lacks sufficient detail. And then the debtor suggests that a form of marketing or prepetition, you know, process that was conducted, that should be sufficient for the Court to determine that the proposed procedures are reasonable. But, Your Honor, I can't underscore this enough and the testimony that you heard today makes it so much more unequivocally clear that it's the non-debtor affiliates that are holding the puppet strings in this case through counsel, Jones Day.

Mr. Vomero's declaration at Docket Number 3, he became the chief restructuring officer of the debtor in May of 2025, he's also currently the managing director of Applied Business Strategies, which he co-founded and is the managing director. Paragraph 4, in March 2025, Vanderbilt Holding Companies -- Holdings -- and Jones Day jointly engaged Mr. Vomero's firm, and then in May of 2025 the debtor engaged Mr. Vomero's firm.

So essentially, Your Honor, you heard Mr. Mendelsohn said over and over in response to my questions about who was consulted, who did he speak with, it was Mr. Vomero and Jones Day -- the professionals, Jones Day, those original parties, Your Honor, were engaged by the debtor's parent, that alone

should give this Court pause and at least allow the committee to come in and say, okay, well, let me take a look at these documents, even just that the bidding procedures level, they deserve to have, you know, a seat at that table to determine whether these procedures are fair because they're certainly not transparent.

Your Honor, in addition, in that mini-auction process, the creditors that really have the stake in this case, they had no visibility into the terms, you know, the potential bids or the manner in which it was conducted. The committee didn't exist at the time to independently assess whether it was legitimate. A debtor cannot rely on a private prepetition process to justify short-circuiting the transparent, court-supervised process that the Chapter 11 code mandates. If anything, the existence of that prepetition mini-auction underscores why the committee should now be given an opportunity to independently assess whether it was truly competitive and what diligence was actually completed, they should not just have to take the debtor's self-serving word for it.

Your Honor, this Court is being asked to approve bidding procedures that would effectively lock in this framework of a multi-faceted transaction before the basic building blocks of transparency and valuation are in place, at the same time the debtor relies on a claimed urgency that does

not appear to be market-driven and on a prepetition process that occurred outside any scrutiny of the Court or creditors. Chapter 11 exists to bring these transactions into the open so that value can be tested through a fair and transparent process. The estate should not be rushed into a transaction before stakeholders have had a chance to understand what is being sold and whether the proposed price reflects its true value.

For those reasons, Your Honor, the United States Trustee respectfully submits that approval of the bidding procedures at any level is premature, and request that the entirety of the motion be adjourned to allow sufficient time for the committee to review and respond.

Thank you.

THE COURT: Thank you.

Is there anyone on video who wishes to be heard?

MR. BELLUCK: Yes, Your Honor.

THE COURT: Please proceed.

MR. BELLUCK: My name is Joseph Belluck, I am the founder of Belluck Law, and I represent a number of talc claimants, including Linda Weaver, whose sister Anna Bishop passed away from mesothelioma, which is the subject of the trial in St. Lawrence County.

And I apologize to the Court for not following the proper procedure, requesting the adjournment, but in some ways

I think Mr. Reynolds makes the point that we're trying to make; we're just simple personal injury lawyers, we're not bankruptcy lawyers. I don't appear regularly in Bankruptcy Court, in fact I think this is the first time that I've actually made any type of argument before a Bankruptcy Judge. Collectively, our clients and their lawyers have been involved in most of the asbestos bankruptcy cases over the past 20 years and we know how to select good counsel, but we don't know how to effectively do the discovery, respond to all the arguments that the debtor is making, and this -- these bidding procedures are going to be incredibly wasteful.

We appreciated so much Your Honor's concern about attorneys' fees at the last hearing and we shared that with the counsel that we're interviewing, but if we go through this process and after discovery, which we think is likely, Your Honor declines to approve this, this is going to be an awful waste of the debtor's assets to pay their lawyers to go through this -- through all this procedure.

So, the talc claimants had interviews on Thursday, Friday, and Monday with the Trustee's Office. We were notified Monday afternoon which talc claimants were selected for the committee. We had a charge meeting with the Trustee's Office yesterday with our clients and their counsel and received the charge from the Trustee. Immediately following that, we had an organizational call. We have received five inquiries from law

firms, all who are familiar with handling representation of claimants committees, and we have interviews scheduled with those counsel Thursday afternoon, and I feel comfortable we'll be able to select counsel by Friday.

In the 25 years I've been doing this, I have not been involved in a single bankruptcy trust matter like this that has moved this quickly. This is at an unbelievable rate of speed that we've been able to even get as organized we are, and I would submit to you that our rights and our clients' rights will be incredibly prejudiced if we start down this path. These bidding procedures are intrinsically linked to releasing these affiliates with broad settlement releases and, once the horse leaves the barn, it's going to be very difficult to get any -- this any way back in.

So, again, I'm not a bankruptcy lawyer, I apologize my arguments aren't as sophisticated as counsel that's in your courtroom. I'm very impressed with their advocacy for their client, but my clients deserve that same level of advocacy. I promise you, the firms that we're interviewing, you will get the best representation possible in the country for claimants, but we need time and we're requesting Your Honor grant that time to the committee members and let us get counsel in place.

THE COURT: Thank you.

Is there anyone else on the video who wishes to be heard?

(No audible response)

THE COURT: Hearing none, Mr. Reynolds, did you want to respond briefly?

MR. REYNOLDS: Yes, Your Honor, just briefly. There's a lot there but I think there are two overarching points. The first point is that this is not the sale hearing, this is the hearing to start the bidding procedures process and to designate the stalking horse bidder. Many of the complaints that I have heard would be justified objections at the sale hearing, for instance avoidance actions, for instance valuation, and what I would say is that it's important for all stakeholders to keep this process moving. And that leads into my second point, which is -- I think Mr. Mendelsohn said it, I've said it -- we have a fish on the hook for everyone's benefit. We have Commodore here and today we can get them on the hook and keep a $50 million floor on this auction for everyone's benefit, and we don't have that hook indefinitely.

And I can look at Mr. Agay and say, honestly, I hope your client loses the auction. I want a competitive bidding process where the bids go up and all stakeholders are better off, but the likelihood of a competitive auction is greatly increased by having a stalking horse bidder and the downside risk is greatly reduced by having a stalking horse bidder on the hook, knowing that we can all be certain that there is at least $50 million coming to the estate. And as far as horses

leaving the barn, I don't know how more clear the debtor can be that the committee will have its rights to object to the sale process and the DIP milestones specifically at the final DIP hearing and nothing about today in any way impacts the eventual hearing on the settlement agreement that will be submitted by Katten, the independent counsel for the Independent Director.

All of those objection rights are preserved, but what we are doing today for the benefit of everyone is creating a floor, so that as we move forward through this case all the parties in interest and all of their differing perspectives can know what that floor is and have certainty of that. That floor doesn't last forever and we can't make Mr. Agay and his client stay forever while we wait for that. And so we have a hook and we have a fish, and what we're asking for the Court today is to allow us to hook the fish and have a floor to the process.

So, unless Your Honor has any further questions for me, I would respectfully request that the Court order the bidding procedures order today.

THE COURT: Thank you. The Court has no further questions.

It is about 3:21. The Court is going to take a brief 15-minute recess. We will regroup at 3:35 right back here.

THE CLERK: All rise. The Court will take a brief recess.

(Recess at 3:21 p.m./Reconvened at 3:35 p.m.)

THE CLERK: All rise.

You may be seated. Continuing with the 2:00 p.m. calendar.

THE COURT: Mr. Reynolds. At the outset, the Court's initial impression is that the stalking horse bid protections are reasonable and customary for a transaction of this nature. The Court notes that an auction and marketing process as described in the motion is generally the best indication of value and a stalking horse bid provides a floor for a competitive sale process. However, the Court shares the concerns of the certain law firms and the United States Trustee, and recognizes the committee was just appointed, which is without counsel yet.

The Court believes the time frames imposed by the debtor and/or DIP lender, Commodore, are not reasonable. This is not a traditional sale transaction, but instead involves a 9019 settlement with years of complex insider transactions. The timing concerns are significantly magnified by the fact that the insider affiliate issues have been examined by since Applied Business Solutions was retained by the parent, R.T. Vanderbilt Holding Company, and Jones Day a year ago in March of 2025, and then ABS was later retained by only the debtor to serve as chief restructuring officer in May of 2025.

In addition, these transactions have been contemplated since last fall when the investment banker

Greenhill, Jones Day, and Mr. Pickering were retained in September of 2025. After investigating and negotiating these deals and advancing a marketing and sale process for many months outside of bankruptcy, the debtor now wants to fast-track this process; the Court will not allow that.

The Court understands the debtor's need for cash and for a sale, and must balance that with a need for the transparency and opportunity to be heard by the creditors, who are primarily the talc claimants and voicing the loudest objections right now. In addition, the issues regarding the sale of the Chapter 5 causes of action and insurance could impact the bidding and sale of assets.

With that said, the Court cautions the certain law firms on behalf of the talc claimants and the U.S. Trustee. They must recognize the risk in adjourning and continuing the bidding procedures today, which practically speaking may result in a default under the DIP milestones. In the event the DIP lender and stalking horse Commodore decides to declare a default and withdraw its stalking horse offer without resurrecting a back-up DIP lender and stalking horse bidder, the debtor may be forced to delay any sale and/or sell assets in a piecemeal fashion, which may garner less revenue, have additional expenses, and have other consequences. This may place the debtor in a far worse position than if the bidding procedures motion was granted today to the detriment of the

talc claimants and other creditors. The Court assumes that counsel for those parties have considered those possible ramifications.

The Court is going to continue the bidding procedures motion to March 18th at 2 o'clock, recognizing that delay impacts all of the other dates in the proposed sale process and the DIP documents. To let the parties know what the Court is thinking for a time frame, if the stalking horse and DIP lender stays in the game, the Court envisions a sale hearing on Thursday, May 7th at 10:00 a.m., and backing into the other proposed DIP milestones and bidding procedures dates from there.

This is a bit longer than the Court envisioned, but the Court is in trial April 23rd and 24th, and out of town on court-required business the week of April 20th, and has a full calendar in Utica on May 5th. So, May 7th is the next best date the Court is available.

The Court is going to take a brief recess to allow the parties to digest this ruling and to see if further procedures are needed are needed today, or if we need to go in a different direction based on that ruling.

Does that make sense?

MR. REYNOLDS: It does, Your Honor. I just have one question on your ruling and I have no authority to know whether or not this will be sufficient, but given the Court's finding

regarding the bidding procedures, would we be able to bifurcate the bidding procedures order and today have the entry of the designation of the stalking horse bidder and the bidding protections entered today, and then the remainder of the bidding procedures, including the schedule, be adjourned until March 18th?

THE COURT: That is a valid question, Mr. Reynolds, the Court appreciates that. Why don't we take a brief recess and you determine if you have authority for that and perhaps consult with the U.S. Trustee, and then the Court will come back on the bench and make a ruling on that.

So, you are simply saying the two million, one million, the designation of Commodore as the stalking horse, essentially, and then the schedule and all of those things are adjourned?

MR. REYNOLDS: Yes, I think the other relief regarding the sale notice, the assumption and the assignment notice, and the other pieces of relief I think can wait, but given the finding of the reasonableness of the bidding protections -- again, I need to talk to a number of people, so we appreciate the Court allowing us some time to do so -- I think that would be a possible path.

THE COURT: Certainly, Mr. Reynolds, and the Court appreciates that. So, while we take a recess, I guess the Court would request when we come back to say exactly which

portions, I think you had the five or six pieces, what exactly you are looking for, so the Court can make a very specific finding, limited finding in that regard and doesn't wind up granting something that it isn't going to grant today. Does that make sense?

MR. REYNOLDS: Understood, absolutely, Your Honor.

THE COURT: Okay. Ms. Champion, did you have -- oh, go ahead.

MR. AGAY: Your Honor, may I --

THE COURT: Certainly, absolutely. Please come forward.

MR. AGAY: Thank you, Your Honor, David Agay on behalf of Commodore Materials, Commodore Funding, the DIP lender and the stalking horse buyer. I just -- I have questions, not statements.

Your Honor's comments I believe reflected concern around the time frame, and I'm asking this just so I know that when counsel and I are talking at a recess and I'm then talking to my client --

THE COURT: Yes.

MR. AGAY: -- specifically your concerns. I just want to understand and ensure like it's really about the time frame here and not the affiliated non-debtors where Your Honor is raising concerns, it's not about the other bid protections.

THE COURT: I think I can -- I think I can answer

that, I'm not quite sure. The Court has had it represented before by you that there is no insider or other --

MR. AGAY: Correct.

THE COURT: -- affiliated relationship --

MR. AGAY: Correct.

THE COURT: -- between your client and the debtors.

MR. AGAY: Correct.

THE COURT: So I don't believe that anybody is insinuating through any papers that there is one, and the Court has no reason to doubt any of those statements. So, to the extent that I think what Mr. Reynolds is hoping to accomplish is to give your client the protections that you are the designated stalking horse bid and that the three million, the two million-plus up to one million, are those protections to incentivize your client to stay in the game, so to speak, and the timing is really that.

And, again, this is not a traditional stalking horse/ DIP lending situation because of this third prong of the settlement --

MR. AGAY: I understand.

THE COURT: -- with the insiders, so that has just brought a whole other level of scrutiny to this case that is making the Court put its brakes on this week.

MR. AGAY: I understand. I hear you loud and clear, Your Honor.

The other moving part here is, under the DIP, I believe it's March 9th is the milestone for entry of the bid procedures. So, essentially, you would be asking -- or everybody would be asking us to move that milestone to March 18th in exchange for these other protections?

THE COURT: Correct.

MR. AGAY: Okay.

THE COURT: That is correct. And essentially the DIP milestones flow a couple days after -- you know, they run parallel. So what -- the Court didn't run through dates particularly when it was scanning its calendar and unfortunately, fortunately for the committee, the Court -- the end of April is really not an option. I recognize April 7th was the original sale date, it just so happens that the Court is going to need approximately a month. So I would envision all of those days go for a sale on May 7th, that was what the Court was proposing.

MR. AGAY: I hear everything you're saying, Your Honor. Let me go consult with my client. I appreciate --

THE COURT: Thank you.

MR. AGAY: -- your indulgence.

THE COURT: Thank you. So, we are -- Ms. Champion, did you --

MS. CHAMPION: Your Honor, I don't think that I'm going to be able to agree to that --

THE COURT: Understood.

MS. CHAMPION: -- because, again, this is just a very global kind of complex problem that we have, and we still have the issue of, you know, certain parties, including the U.S. Trustee, don't believe that $15 million of financing is required in this case, you know, we've got the credit bid, we've got the asset sale. So we're not really comfortable, you know, as far as the protections, the break-up fee, the termination piece, you know, what percentage of that it attaches to and is that number even real.

So, I'm just saying, I don't think that the U.S. Trustee and certainly I can't speak for the committee, but we would not be on board with that.

MR. REYNOLDS: If I may make one clarifying point for the record on that? If you look at the APA, the purchaser is not taking retained cash. So, let's say we have a $15 million DIP, but we only use eight million of that and we have $7 million of cash left, that $7 million of cash remains with the estate and is available for distribution to unsecured creditors.

MS. CHAMPION: That doesn't change my position, Your Honor.

THE COURT: I understand, I understand, and I'm not ruling saying that I will. I'd like to know exactly what the minimum protections to give you some comfort that you have made

clear, and then the Court -- the Court may not grant that, but that was a halfway -- not a halfway point, but a small point that then we would have to adjust all of the DIP milestones as well as the sale hearing date. Understood.

How much time do you think that you need, Mr. Reynolds?

MR. REYNOLDS: It is 3:45 now --

COUNSEL: About 15 minutes, Your Honor.

MR. REYNOLDS: -- apparently 15 minutes, Your Honor.

THE COURT: Okay. So, why don't we come back at 4:05, that gives about 20 minutes, and we will hopefully have some proposal before the Court in there.

MR. REYNOLDS: Thank you, Your Honor.

THE COURT: Thank you.

THE CLERK: All rise. Court will take a brief recess.

(Recess at 3:46 p.m./Reconvened at 4:04 p.m.)

THE CLERK: All rise.

You may be seated. Continuing with the 2:00 p.m. calendar.

MR. REYNOLDS: Good afternoon, Your Honor. For the record, Dan Reynolds from Jones Day.

We'd like to thank the Court for its guidance. We asked for 15 minutes, in about 14 -- after about 14 minutes, we do have a proposal that we have reached agreement between the

debtor and the stalking horse bidder. In conversations prior to that, discussions with the Office of the United States, I understand that they are not in a position to consent to this proposition. And I apologize to the counsel for certain law firms, we did not get an opportunity to give them a ring before this because we came in under the wire. So this will be, in fairness to them, news to them.

But with that, Your Honor, we have a proposal that the stalking horse bidder, slash, DIP lender Commodore has agreed to, and that would be, if Your Honor would entertain today an order that only designates Commodore as the stalking horse bidder and authorized the debtors to grant Commodore the bidding protections, specifically the $2 million breakup fee and the $1 million capped expense reimbursement, Commodore would agree to adjourn the hearing on the remainder of the bidding procedures motion until the hearing on March the 18th, and agree to move the milestone in the DIP credit agreement until March the 19th.

THE COURT: And, Mr. Agay, since you are here, what are we doing with the DIP? The Court is concerned that we have DIP -- that those milestones are similarly built into the DIP facility -- right, we have different --

MR. REYNOLDS: So, those --

MR. AGAY: Yes, yes, Your Honor.

THE COURT: Everything would move accordingly in both

orders?

MR. REYNOLDS: Yes.

MR. AGAY: Yes.

THE COURT: Okay.

MR. REYNOLDS: The milestones I was talking about amending were in the DIP credit agreement. I apologize for not being specific.

THE COURT: Okay. I wasn't sure if there were milestones within -- I don't think in the asset purchase agreement as well. I think there might have been a closing milestone, but --

MR. REYNOLDS: There may be --

THE COURT: -- or a sale order --

MR. REYNOLDS: -- there may be a walkaway right and to the extent that we need -- we'll work together, but to the extent there needs to be a tweak that does nothing more substantive than we have agreed to, then --

MR. AGAY: Well, Your Honor, cross-defaults between the APA and the DIP. So, we'll make sure that as it relates to both the DIP and APA it is clear that everything remains the status quo pending the March 18th hearing.

THE COURT: Thank you, that's notwithstanding anything contained to make it easy for the Court --

MR. AGAY: Sure.

THE COURT: -- so the Court doesn't have to scour

those documents because that was really the Court's hesitation that there was something either in the DIP or the actual -- the other documents that I'm creating more -- I'm creating more problems for this debtor than I recognize by trying to kind of craft a solution in court.

Ms. Champion, I know that you're opposed to any relief being granted today, so why don't we have you put that on the record.

MS. CHAMPION: Yes, Your Honor, I would oppose entry of an order that would even allow those bid protections at that -- those numbers, that's six percent, that breakup fee of the total transaction, that's the $50 million transaction, which is typically higher than this Court ever typically would authorize under bidding procedures. And I don't know what the percentage of it is based on the $35 million, but even at the 50 million that's six percent, which I think is significantly higher than what we've seen before.

THE COURT: Thank you.

Mr. Belluck, did you --

MR. BELLUCK: Judge, can I just also go on the record, please --

THE COURT: Yes.

MR. BELLUCK: -- on behalf of the committee that we would strongly object to what the debtor is proposing. They are essentially asking you to delay all the non-critical parts

of this that -- and approve and lock in the things that we are most concerned about, which is the stalking horse, including the settlement, and the breakup fee obviously is going to potentially be locked in now if you approve parts of this. So, what they are proposing gives no comfort to us. We still feel like we should be entitled to have counsel and address all of this before anything is entered.

Thank you.

THE COURT: Thank you, Mr. Belluck.

As indicated before, the Court shares many of the concerns from the U.S. Trustee, as well as Mr. Belluck and the committee, but also recognizes that we may be at risk of losing a transaction that has a floor, that the Court does believe that the auction and marketing process with established investment bankers is the best way to maximize these type of assets, especially that are so very niche assets in a very niche business that probably has a very narrow band of people who may be interested with that.

With the representations on the record regarding the waiver of default, that we're not creating a default that all of those deadlines will roll through, the Court will grant the revised motion to designate Commodore as the stalking horse bid, as well as those bid protections, recognizing that there are also assumed liabilities and different numbers going into that calculation, and perhaps the expense reimbursement that

won't hit that $1 million that's going to put it more traditionally in the $5 million -- excuse me, the five percent range that this Court customarily would grant, and recognizes that that is established throughout the Second Circuit and the different courts as well.

The objection of the U.S. Trustee and the committee is duly noted. I think the Court has made it clear that the Court's timeline is going to be vastly different than what's been requested by the debtor-in-possession and Commodore in this situation, in the hopes that we can get committee on board, recognizing they have a lot to dig through. And to the extent that I know the independent investigation has been offered and all of those things behind the scenes to be exchanged to allow the process to proceed, the Court certainly will follow up with that and hopes that the parties are able to do that without Court intervention in sharing that information.

The Court will look to you for an order. And, obviously, the U.S. Trustee's objection is noted, and all of the other qualifying reservations of rights that you've put on the record before that you also reiterated in your reply at 6:31 this morning, Mr. Sullivan, the Court appreciates to make sure that those are in there and would request that you run that by the U.S. Trustee as well.

Is there anything further for today?

MR. REYNOLDS: I just want to make sure I understand

that last part perfectly. Would you like us to restate those reservations in the proposed order?

THE COURT: Yes.

MR. REYNOLDS: Then we will do so.

THE COURT: Yes. Is there anything further?

MR. REYNOLDS: No, Your Honor, thank you very much for your guidance.

THE COURT: One of the things that the Court would just note with the DIP hearing on the 18th, the Court would like a breakdown. The witnesses in the prior DIP hearing did indicate what the restructuring expenses were, that's obviously a huge part of the budget and the DIP lender, and would like a supplement with a breakdown as to those professionals and those amounts that I think are going to be important to weigh in with respect to the cash flow needs and the DIP lending of the debtor to see what the next timelines look like.

MR. REYNOLDS: We absolutely will do that, Your Honor, and I will let you know that that number will of course be modified with negotiations with the committee.

THE COURT: Certainly, yes, we recognize the committee will need some additional funding.

Is there anything further, Ms. Champion?

MS. CHAMPION: Nothing further.

THE COURT: Thank you.

Anything further?

(No audible response)

THE COURT: Anything further from anyone by video?

MR. BARNOWSKI: Your Honor, this is Dan Barnowski for the independent manager, I just had a question about the timing. As of now or as of yesterday we had a settlement hearing scheduled for the 18th, is that still on the calendar?

THE COURT: Everything is on -- the only thing the Court continued the stalking horse, the bidding procedures portion of the sale motion to the 18th, everything else is on that date. I am not going to opine as to what's going to happen on the 18th, but I think the Court gave some idea as to what the Court is looking at in terms of a time frame, so I will just leave it at that.

MR. REYNOLDS: We appreciate your guidance, Your Honor.

MR. BARNOWSKI: Thank you, Your Honor.

THE COURT: Thank you.

MR. BELLUCK: Judge, I just wanted to thank you again for your courtesies. Hopefully, from this point on, committee counsel will be taking the laboring oar and I will not be appearing before you as counsel. So, I just wanted to thank you so much for allowing us to participate this way up to now.

THE COURT: Thank you. And, Mr. Belluck, just for the record, the Court will need to issue a text order or a stamp denying your motion for an adjournment, recognizing the

Court did the continuance on its own --

MR. BELLUCK: Yes.

THE COURT: -- just to make sure that the record is clear in case anyone looks to see what happens with that. So that's --

MR. BELLUCK: Thank you.

THE COURT: -- just a process problem.

Okay. Thank you.

THE CLERK: All rise. Court is adjourned.

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C E R T I F I C A T I O N

I, TRACEY J. WILLIAMS, Court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, and to the best of my ability.

/s/ Tracey J. Williams

TRACEY J. WILLIAMS, CET-914

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