

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	
)	Chapter 11
PLASTIQ INC., <i>et al.</i> , ¹)	
)	Case No. 23-10671 (BLS)
Debtors.)	
)	(Jointly Administered)
)	
)	Ref. Docket No. 23

DECLARATION OF STEVEN W. BREMER IN SUPPORT OF DEBTORS’ MOTION FOR ENTRY OF (A) AN ORDER (I) APPROVING BIDDING PROCEDURES IN CONNECTION WITH THE SALE OF THE DEBTORS’ ASSETS AND RELATED BID PROTECTIONS, (II) APPROVING FORM AND MANNER OF NOTICE, (III) SCHEDULING AUCTION AND SALE HEARING, (IV) AUTHORIZING PROCEDURES GOVERNING ASSUMPTION AND ASSIGNMENT OF CERTAIN CONTRACTS AND UNEXPIRED LEASES, AND (V) GRANTING RELATED RELIEF; AND (B) AN ORDER (I) APPROVING THE PURCHASE AGREEMENTS, AND (II) AUTHORIZING A SALE FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS

I, Steven W. Bremer, make this declaration (this “**Declaration**”) under 28 U.S.C. § 1746 and state as follows:

1. I am a Managing Director of Portage Point Partners, LLC (“**Portage Point**”) with principal offices located at 300 North LaSalle, Suite 1420, Chicago, Illinois 60654. Triple P RTS, LLC is wholly owned by Portage Point, and is the proposed provider of a chief restructuring officer and other associated personnel to the debtors and debtors-in-possession (collectively, the “**Debtors**”) in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”).

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PlastiQ Inc. (6125), PLV Inc. d/b/a/ PLV TX Branch Inc. (5084), and Nearside Business Corp. (N/A). The corporate headquarters and the mailing address for the Debtors is 1475 Folsom Street, Suite 400, San Francisco, California 94103.



2. I submit this Declaration in support of the relief requested in the motion [Docket No. 23] (the “**Bidding Procedures Motion**”)² filed by the Debtors seeking, among other things, entry of an order approving (i) certain bidding procedures (the “**Bidding Procedures**”) and assumption and assignment procedures; (ii) entry into an asset purchase agreement with the stalking horse bidder, subject to higher and better bids; and (iii) certain bidding protections (the “**Bid Protections**”).

3. Except as otherwise indicated, all statements in this Declaration are based upon my review of relevant documents, my discussions with the Debtors and their professionals, my discussions with other members of the Portage Point team working on this engagement, and my personal knowledge and experience. If I were called upon to testify, I could and would testify to each of the facts set forth below.

A. Qualifications

4. Portage Point is a business advisory, interim management, investment banking, and financial services firm whose professionals have a wealth of experience in providing financial advisory, restructuring advisory, and turnaround management services and enjoys an excellent reputation for services it has rendered on behalf of debtors and creditors throughout the United States, both in chapter 11 proceedings and in out of court restructurings. The Portage Point team is comprised of operators and advisors with proven skills necessary to identify, preserve, and create value in the most challenging and complex situations. Portage Point’s professionals have extensive experience across a wide range of industries.

² Capitalized terms used but not otherwise defined herein shall have the meanings given to such terms in the Bidding Procedures Motion.

5. I received both a Bachelor of Science degree and a Master of Science degree in Systems Engineering from the University of Virginia and an MBA from the Wharton School at the University of Pennsylvania. I have over fifteen (15) years of experience advising and executing on financing and restructuring transactions, as well as mergers and acquisitions. My experience includes representing companies, boards, creditors, and other stakeholders in a variety of situations. Prior to joining Portage Point, I was a partner in the restructuring and debt advisory group of Centerview Partners, a director at Millstein & Co., and a vice president at Miller Buckfire & Co.

6. In addition to acting as an advisor to the Debtors in these Chapter 11 Cases, I have provided advisory services in connection with the in-court restructuring of numerous companies, including In re Patriot Coal Corp., Case No. 15-32450 (KLP) (Bankr. E.D.V.A.); In re Peabody Energy Corp., Case No. 16-42529 (BSS) (Bankr. E.D. Mo.); In re Dendreon Corp., et al., Case No. 14-12515 (LSS) (Bankr. D. Del.); In re Energy Future Holdings Corp., Case No. 14-10979 (CSS) (Bankr. D. Del.); In re Lenox Grp., Inc., Case No. 08-14680-ALG (Bankr. S.D.N.Y.); In re Glob. Brokerage Inc., Case No. 17-13532 (MEW) (Bankr. S.D.N.Y.); In re Aspect Software, Inc., Case No. 16-10597 (MFW) (Bankr. D. Del.); In re Seventy Seven Energy Inc., Case No. 16-11410 (LSS) (Bankr. D. Del.); In re SunEdison, Inc., Case No. 16-10992 (SMB) (Bankr. S.D.N.Y.); In re Blackhawk Mining LLC, et al., Case No. 19-11595 (LSS) (Bankr. D. Del.); Westmoreland Coal Company, et al., Case No. 18-35672 (DRJ) (Bankr. S.D. Texas); In re Synergy Pharmaceuticals Inc., et al., Case No. 18-14010 (LGB) (Bankr. S.D.N.Y.); In re Westinghouse Electric Company LLC, et al., Case No. 17-10751 (MEW) (Bankr. S.D.N.Y.); and In re Performance Powersports Group Investor, LLC, Case No. 23-10047 (LSS) (Bankr. D. Del.).

B. Portage Point's Engagement and Prepetition Involvement with the Debtors

7. On January 13, 2023, the Debtors retained Portage Point to provide a chief restructuring officer and associated personnel. In this role, Portage Point has, among other things, (a) analyzed and discussed potential strategic alternatives with the Debtors' management and board of directors; (b) negotiated and evaluated potential transactions with the Prepetition Secured Parties, (c) assisted the Debtors in developing and refining their business plan, (c) developed and discussed potential restructuring solutions (including numerous interactions with the Prepetition Secured Parties and their advisors), (d) solicited third-party interest in a purchase of the Debtors, (e) assisted the Debtors with negotiating and documenting the DIP Facility, including assisting management in developing the Approved Budget, (f) assisted the Debtors in developing the Bidding Procedures for their postpetition marketing process, and (g) assisted the Debtors and their counsel in the preparation for the commencement of these chapter 11 cases. Throughout its engagement, Portage Point has worked closely with the Debtors' management and other restructuring professionals and has become well acquainted with the Debtors' business operations.

C. Prepetition Marketing Process

8. As part of the consideration of potential strategic alternatives, in February 2023, Portage Point, with assistance from management, undertook a targeted marketing effort and began soliciting indications of interest for the sale of the Debtors' assets. In particular, Portage Point crafted detailed marketing materials and assembled related diligence information for a confidential electronic data room (the "**Data Room**") and a confidential information memorandum (the "**CIM**") with the assistance of the Debtors and their other professional advisors. The Debtors and their advisors contacted approximately 14 prospective buyers.

9. Thereafter, 7 parties executed non-disclosure agreements (each, an “**NDA**”). Parties who executed an NDA were provided the CIM and access to the Data Room, which contained diligence information about the Debtors and their assets. Portage Point responded to various inquiries and, together with the Debtors’ management team, conducted virtual and in-person meetings with several of the potential buyers who executed NDAs in order to offer them the opportunity to ask questions about the Assets and the Debtors’ operations.

10. As described more fully in the First Day Declaration, on March 9, 2023, the Debtors received a non-binding letter of intent (the “**LOI**”) from Priority Holdings, Inc. (“**Priority**”) to pursue a potential out-of-court merger transaction. Over the following two weeks, the Debtors, Blue Torch Finance LLC, as agent for the Debtors’ prepetition secured lenders (“**Blue Torch**”), and Priority negotiated the terms and conditions of the LOI. On March 28, 2023, the necessary parties executed the LOI with Priority.

11. On April 22, 2023, after being informed by Priority that it no longer was willing to consummate the proposed transaction outside of a chapter 11 process, and that it had not completed its due diligence, the Debtors, after consultation with the Prepetition Secured Parties, terminated the LOI. Following termination of the LOI, the Debtors continued discussions with Priority regarding a potential stalking horse bid. In addition, on April 24, 2023, the Debtors re-initiated their marketing efforts. In particular, as of the Petition Date, the Debtors, with the assistance of Portage Point, had contacted approximately 101 strategic buyers and 79 financial buyers. Of these, approximately 12 strategic buyers and 20 financial buyers had signed NDAs.

D. The Stalking Horse Agreement

12. The Debtors determined, after considering all circumstances and in consultation with their professional advisors, that the Sale of the Assets through the Chapter 11 Cases would

provide the best opportunity to maximize the value of the Assets. After extensive arms'-length negotiations, on May 23, 2023, the Debtors and PlastiQ, Powered by Priority, LLC (the "**Stalking Horse Bidder**"), an acquisition vehicle formed by Priority, agreed on the terms of a stalking horse bid, and executed the asset purchase agreement, attached to the Motion as Exhibit B (the "**Stalking Horse Agreement**"), which serves as the baseline bid for the Sale. The Stalking Horse Agreement provides that the Stalking Horse Bidder will provide the following consideration to acquire substantially all of Debtors' Assets, in addition to the assumption by Stalking Horse Bidder of the Assumed Liabilities:

- a. a cash payment to the Debtors equal to \$27.5 million (the "**Cash Payment**");
- b. pay to Blue Torch the consideration as described in the Exchange Agreement Terms attached to the Stalking Horse Agreement as Exhibit A, in accordance with the terms and conditions of the Exchange Agreement; and
- c. pay to Colonnade Acquisition Corp. II ("**Colonnade**") the consideration as described in the Letter Agreement Terms attached so the Stalking Horse Agreement as Exhibit B, in accordance with the terms and conditions of the Letter Agreement.

13. The Stalking Horse Agreement provides the best option to maximize value for stakeholders. The Debtors, with the assistance of Portage Point and the Debtors' other professional advisors, engaged in good-faith, arms'-length negotiations with the Stalking Horse Bidder regarding the Stalking Horse Agreement. The Debtors' entry into the Stalking Horse Agreement permits the Debtors to conduct a value-maximizing sale process that is backstopped by the proposed Stalking Horse Agreement. The Debtors' consummation of a sale pursuant to the terms of the Stalking Horse Agreement is subject to higher or otherwise better offers (in whole or through a combination of bids) that the Debtors may receive for the Assets pursuant to the Bidding Procedures. Accordingly, there is a strong business justification for the Debtors' entry into the Stalking Horse Agreement.

14. Further, the Stalking Horse Agreement benefits the Debtors by serving as a floor for an overbid process to ensure that the Debtors receive the highest or otherwise best offer for the Assets. Accordingly, if the Debtors were to continue to market the Assets without the benefit of a Stalking Horse Agreement serving as the floor, the Debtors might encounter greater challenges in their pursuit of the highest or otherwise best offer for the Assets.

E. The Postpetition Marketing Process

15. To date, Portage Point has contacted approximately 199 potentially interested parties, including various parties that had been contacted prior to the Petition Date, regarding the Assets and the Sale. Portage Point continues its efforts to market the Assets and ensure that the Debtors are able to obtain the highest and best value for the Assets. Thus far, approximately thirty nine (39) parties have executed a NDA, and were granted access to the Data Room. Upon the Court's approval of the Bidding Procedures, Portage Point, with the assistance of the Debtors' professionals, will continue to market the Assets and ensure a robust and competitive sale process that maximizes value for the Debtors' stakeholders.

F. The Bidding Procedures and Sale Timeline

16. I have reviewed and am familiar with the Bidding Procedures Motion and the related Bidding Procedures. It is my opinion that the Bidding Procedures and the Debtors' proposed sale timeline (the "Sale Timeline") will allow the Debtors to obtain the highest or otherwise best value for the Assets under the circumstances of the Chapter 11 Cases. The Debtors, with Portage Point's assistance, began the marketing of the Debtors' Assets prior to filing the Chapter 11 Cases, and continued marketing the Assets post-filing, therefore, the Sale Timeline provides sufficient time for potentially interested parties to formulate bids. The proposed postpetition sale process contemplated by the Debtors is a continuation of a comprehensive

prepetition initiative. The Debtors have already made contact with 199 potentially interested parties, including the eight (8) identified by the Committee, set up a Data Room with diligence documents, provided a confidential informational presentation, and, since filing the Chapter 11 Cases, have subsequently reengaged with potentially interested parties, as well as fielded inquiries from new potential buyers.

17. The Bidding Procedures are designed to provide the Debtors with flexibility to solicit proposals, negotiate transactions, hold an auction, and consummate a transaction for the highest or best value. The Bidding Procedures are intended to strike an appropriate balance between ensuring that there is a full and fair opportunity for the Debtors and their stakeholders to review and consider proposed transactions, managing the Debtors' operational and liquidity needs, and maintaining ongoing customer engagement. It is my understanding that the Debtors simply do not have sufficient liquidity to engage in a prolonged postpetition sale and marketing process, and I believe such a process is unnecessary under the circumstances given the Debtors' prepetition sale efforts. Extending the sale process as requested by the Committee would be value destructive, as I understand that the Debtors would incur upwards of \$700,000 in operating expenses per week if the sale timeline is extended into August.

G. The Bidding Protections

18. As a key inducement to the execution of the Stalking Horse Agreement, the Debtors have agreed, subject to Court approval, to provide the Stalking Horse Bidder with certain Bid Protections, should the Debtors consummate an alternative transaction for the Assets with another bidder. The Bid Protections include a break-up fee of 3% of the Purchase Price and an expense reimbursement of reasonable, actual, and documented out of pocket expenses, which together with the break-up fee, is not to exceed 5% of the Purchase Price. The Bid Protections were the subject

of good faith negotiations. Without the Bid Protections, the Stalking Horse Bidder would not have agreed to serve as a stalking horse at the values reflected in the Stalking Horse Bid, which may have degraded the value of the Assets and imperiled a postpetition sale process.

19. Based on my substantial experience and personal knowledge of the Debtors' sale and marketing efforts, I believe the proposed Bid Protections are (a) reasonable under the circumstances; (b) designed to encourage bidding and obtain the best price for the Assets; and (c) in the best interests of the Debtors, their creditors and their estates.

H. The Debtors' Sale Process Is Intended to Maximize Value and Should be Approved

20. In conclusion, for the reasons discussed above, I believe that approval of the proposed Bidding Procedures, Sale Timeline, and Bid Protections will enable the Debtors to obtain the highest or otherwise best offer for the Assets under the circumstances and will thereby maximize value for the benefit of all stakeholders in the Chapter 11 Cases.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: June 20, 2023

/s/ Steven W. Bremer
Steven W. Bremer