

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FT. LAUDERDALE DIVISION
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In re:

Case No.: 15-16388-BKC-JKO

HIGH RIDGE MANAGEMENT CORP., et al.,

Chapter 11
Jointly Administered

Debtors.

UNITED STATES TRUSTEE'S OBJECTION TO DEBTORS' EMERGENCY MOTION FOR ENTRY OF (1) AN ORDER APPROVING (A) BIDDING PROCEDURES, (B) ASSUMPTION PROCEDURES, (C) THE FORM AND MANNER OF NOTICES, (D) SALE AGREEMENTS WITH STALKING HORSEBIDDER, AND (E) SCHEDULING AN AUCTION, A SALE HEARING, AND ESTABLISHING DATES AND DEADLINES RELATED THERETO; (2) AN ORDER (A) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS, FREE AND CLEAR OF LIENS, CLAIMS, AND ENCUMBRANCES, (B) GRANTING THE PURCHASER THE PROTECTIONS AFFORDED TO A GOOD FAITH PURCHASER, AND (C) GRANTING RELATED RELIEF [D.E.#13]

Guy G. Gebhardt, Acting United States Trustee for Region 21 (the "United States Trustee"), in furtherance of the administrative duties imposed pursuant to 28 U.S.C. § 586(a), hereby submits his objection to *Debtors' Emergency Motion For Entry Of (1) An Order Approving (A) Bidding Procedures, (B) Assumption Procedures, (C) The Form And Manner Of Notices, (D) Sale Agreements With Stalking Horse Bidder, And (E) Scheduling An Auction, A Sale Hearing, And Establishing Dates And Deadlines Related Thereto; (2) An Order (A) Authorizing The Sale Of Substantially All Of The Debtors' Assets, Free And Clear Of Liens, Claims, And Encumbrances, (B) Granting The Purchaser The Protections Afforded To A Good Faith Purchaser, And (C) Granting Related Relief [D.E.#13]* (the "Motion to Approve"), and in support thereof states as follows:

1. On April 8, 2015 (the “Petition Date”), the Debtors¹ filed petitions (the “Petitions”) for relief under Chapter 11 of the Bankruptcy Code.

2. The Petitions were signed by Tamir Zury (Mr. Zury) as “Director” of the Debtors.

3. The United States Trustee has not appointed a committee of unsecured creditors as of the date of filing of the instant motion.

4. The meeting of creditors pursuant to 11 U.S.C. § 341 (the “341 Meeting”) is scheduled to be held on May 7, 2015.

5. On April 9, 2015, the United States Trustee also notified Debtors’ counsel that the Initial Debtor Interview (“IDI”) of the Debtors would be held on April 22, 2015.

6. On April 10, 2015, the United States Trustee sent correspondence to Debtors’ counsel explaining the requirements under the United States Trustee’s Operating Guidelines And Reporting Requirements For Debtors In Possession And Trustees (“Guidelines”) and requesting that the Debtor submit all documents and/or information required by the Guidelines (the “Guideline Documents”) within fourteen (14) days of the Petition Date.

7. On April 10, 2014, the Debtors filed the Motion to Approve in the above-captioned cases seeking this Court’s approval of substantially all of the debts of two of the Debtors.

8. The Motion to Approve has been set for hearing on April 24, 2015 (the “Hearing”).

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion to Approve.

9. Prior to the IDI, the United States Trustee received most of the Guideline Documents.

10. Included among the Guideline Documents are documents purporting to contain financial information of the Debtors.

11. Appearing for the Debtors at the IDI were the Debtors' bankruptcy counsel and Mr. Zury.

12. At the IDI, the United States Trustee learned that Mr. Zury did not know what was contained in the Guideline Documents because all of the Guideline Documents produced to the United States Trustee came directly from the Receiver and were sent to Debtors' counsel.

13. And with respect to financial information about the Debtors that pre-dated the appointment of the Receiver, the period in which Mr. Zury served as Chief Administrative Officer of the debtors, when questioned, Mr. Zury indicated that he did not know important information regarding the Debtors' financial affairs, such as the gross revenue of the Debtors.

14. Exhibit 1-C to the Motion to Approve is the Sale Agreements that memorialize the terms of the proposed sale.

15. Mr. Zury is the signatory for the Seller on all of the Sale Agreements.

16. As the Debtors' representative that signed the Petition and the Sale Agreements, Mr. Zury appeared to have surprisingly limited knowledge about the Debtors' historic and current financial information.

17. For example, Mr. Zury did not know anything about e.g. the \$ 1.197 million write-off for "Dynast Trust bad debt" contained in the 2013 Federal Income Tax Return for High Ridge.

18. Indeed, it was represented to the United States Trustee in the IDI, that money always flowed from the owners of High Ridge to the Debtors, and never the other way around.

19. The Debtors have not yet filed schedules and as represented in the *Debtors' Emergency Motion To Extend Time to File Schedules, Statements And Payroll Report* [DE#41], the schedules will not be filed prior to the Hearing.

20. Where Debtors' representatives who signed the Petition and negotiated the proposed sale, have not been in control of these Debtors for more than a year, how can the Court be certain that the creditors matrix is accurate and/or complete?

21. The Motion to Approve requests that this Court approve fast-track procedures for a proposed sale that will necessarily impact the rights and remedies of various constituents in these cases, where there is no assurance that all creditors have been noticed.

22. Moreover, as outlined below, key information relevant to this Court's consideration of the proposed sale has not yet been provided to parties in interest.

23. The Sale Agreements propose to sell substantially all of the assets of two (2) separate Debtors to "1200 NORTH 35TH AVENUE, LLC" ("1200"), but there is no disclosure of the principal(s) behind this entity – How can anyone be sure that 1200 is not an affiliate of the Debtors?

24. The United States Trustee also learned in the IDI that the negotiation of the proposed sale has been principally handled by Mark Albright, counsel that was retained by the owners of the Debtors but is performing these services for the Debtors.

25. There has been no disclosure to this Court or to creditors of Mr. Albright's role in the proposed sale or even the most basic information about the terms of his retention.

26. The Sale Agreements call for a purchase price of \$17 million but there is no information as to whether the Buyer has the financial wherewithal to pay \$17million.

27. The Sale Agreements do not indicate how the \$17 million will be allocated among the Debtors and there is no indication how any creditor will be paid.

28. Absent schedules or any other financial information about the Debtors, it is impossible for creditors to determine if the proposed sale makes sense or will generate sufficient proceeds to pay their claims.

29. Also troubling is the structure of the bid procedures proposed in the Motion to Approve.

30. As outlined in the Auction Terms contained on page 6 of the Motion to Sell (the "Auction Terms"), the Sellers propose to pay the Stalking Horse a Break Up Fee of \$595,000 plus an Expense Reimbursement of \$75,000 for a total of \$670,000 which represents approximately 3.94% of the Purchase Price.

31. Additionally, the Auction Terms contain a curious provision that will give the Stalking Horse "a credit in the amount of the Breakup Fee and Expense Reimbursement through each round of bidding" that could result in a significant reduction in the Purchase Price should the Stalking Horse become the winning bidder.

32. This bidding structure begs the question--is the \$17million Purchase Price the actual price that the Buyer is willing or able to pay?

33. Additionally, will such a generous compensation structure for the Stalking Horse chill the bidding.

34. The significant unknowns outlined herein, in addition to the unusual bid procedures that this Court is being urged to approve at lightning speed, do little to engender confidence that the proposed sale is in the best interest of creditors.

WHEREFORE, the United States Trustee objects to the Motion to Approve and respectfully requests entry of an Order denying the Motion to Approve and granting such other relief as the Court deems just and proper.

DATED: April 22, 2015

Guy G. Gebhardt
Acting United States Trustee
Region 21

/s/ Zana M. Scarlett
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Objection has been served on the following parties on April 22, 2015, electronically through CM/ECF, on parties having appeared electronically in the instant matter and that a copy hereof shall be served by U.S. Mail, postage prepaid, on parties not appearing electronically as listed on the attached service list:

/s/ Zana M. Scarlett
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