

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

In Re:

Procom America, LLC

**Case No.: 8:20-03522-MGW
Chapter 7 Case**

Debtors.

**TRUSTEE’S MOTION TO ESTABLISH CERTAIN NOTICE,
CASE MANAGEMENT AND ADMINISTRATIVE PROCEDURES**

Douglas N. Menchise (hereinafter the “Trustee”), as Chapter 7 Trustee for the debtor, Procom America, LLC (“Procom” or “Debtor”), by and through his undersigned counsel, hereby files this Motion To Establish Certain Notice, Case Management And Administrative Procedures pursuant to 11 U.S.C. §§ 102(1) and 105(a) and Fed. R. Bankr. P. 2002(m), 9007 and 9036, and, in support thereof, states as follows:

PROCEDURAL BACKGROUND

1. On May 1, 2020 (hereinafter the “Petition Date”), creditors filed an involuntary petition for relief against Procom, under Chapter 7 of Title 11 of the United States Code (hereinafter the “Bankruptcy Code”), .

2. On May 7, 2020, Procom filed its Consent to Order for Relief (Doc. 7), and on May 8, 2020, this Court entered its Order for Relief (Doc. 9) against Procom.

3. The Trustee was appointed and currently serves as the permanent Chapter 7 Trustee for the Debtor’s bankruptcy estate.

4. As of July 27, 2020, 437 Proofs of Claim, in the aggregate amount of \$ 3,013,610.58, were filed with this Court. There were 5 secured claims, 5 priority unsecured

claims, and 1,973 unsecured claims in the amount of \$13,493,628.25 scheduled in the Petition filed on May 1, 2020.

RELIEF REQUESTED

5. The Trustee seeks to establish certain notice, case management and administrative procedures (hereinafter referred to collectively as the “Case Management Procedures”) in order to minimize the burden and expense on the bankruptcy estate while preserving the due process rights of creditors and other parties in interest.

6. The Trustee’s proposed Case Management Procedures would provide a means for appropriate notice and service requirements for (a) all notices, motions, applications, other requests for relief and any documents filed in support thereof (hereinafter referred to collectively as the “Pleadings”); (b) objections, responses or any documents filed in opposition to Pleadings (hereinafter referred to collectively as the “Objections”); and (c) replies to Objections (hereinafter the “Replies”), filed in the main bankruptcy case (“Pleadings,” “Objections,” and “Replies,” shall hereinafter be referred to collectively as the “Documents”), without unnecessarily burdening the Trustee or counsel with hundreds or thousands of dollars of noticing expense for every motion, notice or response filed, when, in ordinary cases noticing such creditors and parties in interest is less burdensome to an estate.

7. In this case, the Trustee believes at least \$10,000,000 of estate property was transferred, converted or stolen. There will be a fair amount of motion practice and asset recovery work in this case.

8. In particular, the Trustee expects to file motions to approve compromises of controversies (hereinafter the “Motions to Approve Compromises”) which would ordinarily be served on all creditors and parties in interest.

9. The Trustee anticipates that numerous adversary proceedings will need to be filed to avoid certain fraudulent and preferential transfers with this Court and several courts throughout Europe (hereinafter the “Avoidance Actions”).

11. The Trustee’s proposed Case Management Procedures also seek to facilitate noticing via authorization to establish a website.

12. That website would be disclosed to all scheduled and filed creditors and other parties in interest advising them that significant filings, notices and deadlines will be posted on the website as a means to enable the creditors and other parties in interest to access without charge, review and, if appropriate, download Documents filed in the main bankruptcy case within five business days of their filing.

13. It is anticipated a postcard, with the website address and the need for creditors and parties in interest to monitor the website in order to have access to filings, motions, order, notices and deadlines, would be served on all creditors and parties in interest.

14. The undersigned counsel will file an appropriate Certificate of Posting to notify this Court of the posting of appropriate filings to the website.

THE CASE MANAGEMENT PROCEDURES

15. To reduce administrative costs, the Trustee respectfully requests authorization to limit service of the Documents by establishing a core group of creditors and other parties in interest to receive notice of all Documents filed in the main bankruptcy case. The core group includes: (a) the Debtor and its counsel (if any); (b) the Office of the United States Trustee for the Middle District of Florida; (c) the Trustee and his counsel; and (d) any party with a particularized interest in the particular relief at issue (hereinafter referred to collectively as the “Core Group”).

16. All other parties in interest may obtain service of the Documents by filing a notice of appearance and request for service pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure, filing the same through CM/ECF to receive notices electronically (hereinafter the “Rule 2002 Group”). The Trustee respectfully requests that the Rule 2002 Group be deemed to consent to service via the Court’s Case Management/Electronic Case Filing system (hereinafter “CM/ECF”) and that such service shall be deemed sufficient for all purposes.

17. The Trustee also intends to establish a website www.shumaker.com/beyond-band-of-brothers-bankruptcy through which the general public will be able to access without charge to review and download appropriate Documents filed in the main bankruptcy case, and related adversary proceedings within five business days of their filing.

18. The Case Management Procedures would limit the administrative and financial burdens on the Debtors’ estates by limiting service of the Documents to the Core Group and the 2002 Group.

19. The Case Management Procedures will not, however, affect the Trustee’s obligation to provide reasonable and adequate notice to all creditors and parties in interest of: (a)

the time fixed for filing proofs of claim pursuant to Rule 3003(c) of the Federal Rules of Bankruptcy Procedure; and/or (b) and notice of any hearing on conversion or dismissal of any of these cases in accordance with Rule 2002(a)(4) of the Federal Rules of Bankruptcy Procedure. The Trustee will otherwise also comply with Rules 4006 and 4007 of the Federal Rules of Bankruptcy Procedure.

BASIS FOR RELIEF

20. Rule 2002(m) of the Federal Rules of Bankruptcy Procedure provides that “[t]he court may from time to time enter orders designating the matters in respect to which, the entity to whom, and the form and manner in which notices shall be sent except as otherwise provided by these rules.” *See also*, Fed. R. Bankr. P. 9007 (“When notice is to be given under these rules, the court shall designate, if not otherwise specified herein, the time within which, the entities to whom, and the form and manner in which the notice shall be given.”)

21. Similarly, Rule 9036 of the Federal Rules of Bankruptcy Procedure authorizes parties in interest to request that “all or part of the information required to be contained in the notice be sent by a specified type of electronic transmission. . . .”

22. Section 105(a) of the Bankruptcy Code also provides in pertinent part that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.”

23. Finally, Section 102(1) of the Bankruptcy Code provides that where the Bankruptcy Code provides for an action to occur “after notice and a hearing,” such action may occur “after such notice as is appropriate in the particular circumstances, and such opportunity for a hearing as is appropriate in the particular circumstances. . . .”

24. For the foregoing reasons, the Trustee respectfully submits that the proposed Case Management Procedures are necessary, appropriate, and in the best interests of the Debtors' bankruptcy estate.

WHEREFORE, the Trustee respectfully requests this Honorable Court to enter an Order establishing the foregoing Case Management Procedures and for such other and further relief as the Court may deem just and proper.

Dated: July 29, 2020

Respectfully Submitted

SHUMAKER, LOOP & KENDRICK, LLP

By: /s/ Steven M. Berman
Steven M. Berman (FBN: 856290)
Primary email address – sberman@shumaker.com
Secondary email address – bgasaway@shumaker.com
101 E. Kennedy Blvd., Suite 2800
Tampa, Florida 33602
Phone: (813) 229-7600
Facsimile: (813) 229-1660

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 29, 2020, the foregoing was furnished by CM/ECF notice to all counsel of record, and served via U.S. Mail to:

United States Trustee - TPA7, 7
Timberlake Annex, Suite 1200
501 E Polk Street
Tampa, FL 33602

Viking Bond Service, Inc.
22601 N. 19th Ave., #210
Phoenix, AZ 85207

ProCom America, LLC
Alberto F Gomez, Jr.
Johnson Pope Bokor Ruppel & Burns, LLP
401 East Jackson Street, Suite 3100
Tampa, FL 33602

ProCom America, LLC
400 N. Ashley Drive
Suite 1010
Tampa, FL 33602

/s/ Steven M. Berman
Attorney