

ORDERED.

Dated: November 18, 2022



Catherine Peek McEwen
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
(TAMPA DIVISION)
www.flmb.uscourts.gov

In re:

CASE NO: 8:20-bk-03522-CPM
CHAPTER 7

PROCOM AMERICA, LLC, d/b/a
Beyond Band of Brothers d/b/a BBOB,

Debtor.

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**ORDER GRANTING (i) CHAPTER 7 TRUSTEE'S MOTION TO APPROVE
SETTLEMENT AND COMPROMISE OF CONTROVERSY WITH THE
DEBTOR'S FORMER ACCOUNTANTS AND (ii) REQUEST FOR
APPROVAL AND PAYMENT OF \$210,000 EARNED CONTINGENCY FEE
TO TRUSTEE'S CO-SPECIAL LITIGATION COUNSEL¹ [DOC. 439]**

THIS MATTER came before the Court for hearing on November 17, 2022 at 9:30 a.m. on the Motion of Douglas N. Menchise (the "Trustee"), Chapter 7 Trustee of the estate (the "Estate") of the above-captioned Debtor, Procom America, LLC (the "Debtor"), pursuant to Fed. R. Bankr. P. 9019, to Approve Settlement and Compromise of Controversy with the Debtor's Former Accountants

¹ Unless otherwise noted, all capitalized terms herein shall have same the definition as set forth in the 9019 Motion.

and Request for Approval and Payment of \$210,000 Earned Contingency Fee to the Trustee's Co-Special Litigation (the "Motion") [Doc. 439]. The Court, having reviewed and considered the Motion, the Settlement, and the record in this case, having heard the representations and argument of counsel, and having noted no objection to the relief requested in the Motion, finds that: (a) it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (b) consideration of the Motion is a core proceeding pursuant to 28 U.S.C. § 157; (c) venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; (d) due and proper notice of the Motion was provided and no further notice need be given; (e) the Settlement is reasonable within the parameters established by the Eleventh Circuit Court of Appeals in *In re Justice Oaks II, Ltd.*, 898 F.2d 1544, 1549 (11th Cir. 1990) *cert. denied*, 111 S. Ct. 387, 498 U.S. 959; (f) the Settlement is in the best interests of the Estate of the Debtors; (g) the Trustee has exercised prudent business judgment in reaching the Settlement; and (h) there is good cause for granting the relief requested in the Motion because the terms of the Settlement are fair and equitable. Accordingly, and for the reasons stated on the record, it is

ORDERED that:

1. The Motion is GRANTED.
2. The Settlement Agreement attached to the Motion, and all of its terms and conditions, is APPROVED.
3. The Parties are authorized and directed to take any and all actions necessary to effectuate the terms of the Settlement Agreement.
4. The request in the 9019 Motion for authorization and approval to pay the earned 40% Contingency fee in the amount of \$210,000 (the "Contingency Fee") to the Trustee's Co-Special litigation counsel, Cimo Mazer Mark, PLLC ("CMM") and Fox Rothschild LLP ("FR")

(“collectively, the “Law Firms”), from the Settlement Payment, in accordance with the terms of their respective retention orders [Docs. 232 & 255], is GRANTED.

5. The Trustee shall be and is hereby authorized, without further order of the Court, to make the following payments from the gross proceeds of the Settlement Payment: (i) \$105,000 to CMM, and (ii) \$105,000 to FR. The award of fees hereunder is without prejudice to the filing of expense applications by the Law Firms in compliance with applicable Bankruptcy Code provisions, Local Rules, and U.S. Trustee Guidelines prior to the closing of the Estate.

6. The Court reserves jurisdiction to enforce the terms of the Settlement Agreement and regarding the interpretation, effectuation, and enforcement of the terms of this Agreement and the Final Order approving this Agreement.

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Attorney David C. Cimo is directed to serve a copy of this Order on all interested parties who do not receive service via CM/ECF and file a proof of service within three (3) days of entry of the order.