

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
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In re:

PROCOM AMERICA, LLC,

Debtor.

Chapter 7

Case No. 8:20-bk-03522-MGW

*****EMERGENCY HEARING REQUESTED*****

**CHAPTER 7 TRUSTEE'S EMERGENCY MOTION
TO COMPEL TURNOVER OF ESTATE PROPERTY**

COMES NOW, the Chapter 7 Trustee, Douglas N. Menchise (the "Trustee"), by and through his undersigned and attorney and moves submits this Emergency Motion to Compel Turnover of Estate Property (the "Motion"), and in support thereof, states as follows:

BACKGROUND

1. On May 1, 2020, an involuntary petition was filed against the Debtor Procom America, LLC (the "Debtor"). The Debtor filed a consent, and an order for relief was entered on May 8, 2020 [Doc. 8].

2. Prior to the commencement of this case, the Debtor previously operated a travel company that sold World War II tours.

3. On the date the order for relief was entered, a substantial number of individuals had placed deposits with the Debtor for trips that were scheduled to take place in late 2020 or

2021.

4. As of the date of this filing, approximately \$9 million of the deposits are unaccounted for; it is believed that these monies have been improperly transferred to the Debtor's sole member, Peter Gaal.

5. After learning of the Debtor's going out of business, many of the Debtor's customers have demanded refunds of their deposits from their credit card companies and banks. As of the date of this filing, credit card companies and banks have issued over \$2 million in refunds and are entitled to reimbursement from the Debtor, and the number continues to grow daily.

6. Certain creditors and third parties have proposed a plan to purchase the business or parts of the business and fulfill all customer trips.

7. However, in order to understand the viability of any transaction, the Trustee needs additional information in the possession of the Debtor or individuals and entities related to the Debtor, including the packages booked by customers, the amounts deposited by each customer, and the amounts paid by the Debtor or related companies in connection with each tour package (collectively, the "Customer Information").

8. This Customer Information needs to be obtained as soon as possible so that customers may be promptly contacted regarding the proposed purchase plan and given the opportunity to book through the purchasing company, which will likely reduce the overall debt of the and given the opportunity to book through the purchasing company, which will likely reduce the overall debt of the estate.

9. A significant amount of Customer Information can be reviewed by the Trustee

and his professionals if the Trustee and his professionals had access to the Debtor's website and Computer system.

10. Other Customer Information will need to be provided by the Debtor and related companies and individuals.

11. To date, the Debtor has not turned over any assets to the Trustee despite multiple requests.

12. Assets that should be turned over to the Trustee include:

- a. Administrative controls over the website;
- b. Access to the CRM software system that tracks the Customer Information;
- c. All books and records;
- d. All Customer Information; and,
- e. Access to the Debtor's banking account records.

13. The assets identified in paragraphs 5 through 9 above are either property of the Estate under 11 U.S.C. § 541 or fall within the scope of the Debtor's obligation to account for property of the Estate under § 542(a) and to surrender any recorded information relating to property of the Estate under § 521(a)(4).

14. The assets are currently in the possession of the Debtor's accountant, Kevin Riggs, and the Debtor's sole member Peter Gaal.

RELIEF REQUESTED

15. The Trustee seeks entry of an order compelling the Debtor, the Debtor's accountant Kevin Riggs, and the Debtor's sole member Peter Gaal to turn over the assets, information, books, and records identified in paragraphs 5 through 9 above to the Trustee.

Pursuant to 11 U.S.C. § 542(a) “an entity . . . in possession, custody, or control, during the case, of property that the trustee may use, sell, or lease under section 363 of this title . . . shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate.” The property identified above is of consequential value and benefit to the estate.

16. Additionally, under 11 U.S.C. § 521(a)(4), the Debtor shall “surrender to the trustee all property of the estate and any recorded information, including books, documents, records, and paper, relating to property of the estate.”

17. Accordingly, both turnover under 11 U.S.C. § 541(a) and surrender under § 521(a)(4) are appropriate and warranted in this case.

18. The Trustee therefore seeks entry of an order compelling the Debtor, its accountant Kevin Riggs, and its sole member Peter Gaal to turn over the assets, information, books, and records identified in paragraphs 5 through 9 above to the Trustee in accordance with 11 U.S.C. §§ 542 and 521.

WHEREFORE, the Trustee respectfully requests that the Court enter an order compelling the Debtor, its accountant Kevin Riggs, and its sole member Peter Gaal to turn over the assets, information, books, and records identified in paragraphs 5 through 9 above to the Trustee in accordance with 11 U.S.C. §§ 542 and 521.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of May, 2020, the foregoing _____ has been provided by ___ U.S. Mail, postage prepaid; ___ Facsimile; X CM/ECF and/or ___ Hand Delivery to: The Office of the United States Trustee and all parties receiving CM/ECF Notices.

/s/ Stuart Jay Levine
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