

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

Body Contour Ventures, LLC,

Debtor.

Chapter 11

Case No. 19-42510-pjs

Hon. Phillip J. Shefferly

**DECLARATION OF MIKE PIVOZ IN SUPPORT OF GOOD FAITH AND ADEQUATE
ASSURANCE FINDINGS IN PROPOSED ORDER (I) AUTHORIZING DEBTORS TO
ENTER INTO AGREEMENT FOR SALE OF SUBSTANTIALLY ALL OF THE
DEBTORS' ASSETS WITH SUCCESSFUL BIDDER; (II) APPROVING THE ASSET
PURCHASE AGREEMENT BETWEEN DEBTORS AND RVB INVESTMENT GROUP,
L.L.C.; (III) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF DEBTORS'
ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND
ENCUMBRANCES AND TRANSFERRING LIENS TO PROCEEDS THEREOF; (IV)
AUTHORIZING AND APPROVING THE ASSUMPTION AND ASSIGNMENT OF
CERTAIN OF THE DEBTOR'S EXECUTORY CONTRACTS AND UNEXPIRED
LEASES; AND (V) GRANTING RELATED RELIEF**

I, Mike Pivoz, state as follows:

1. I am the Chief Financial Officer ("CFO") of RVB Investment Group, LLC ("Purchaser"). I have personal knowledge of the facts stated in this Declaration. I submit this Declaration in support of the Debtors' proposed sale and assumption and assignment of certain assets to Purchaser.

2. Purchaser is a Michigan Limited Liability Company which, upon completion of the proposed sale, will be operating nonsurgical cosmetic laser centers acquired from the Debtor, Body Contour Ventures, LLC and its affiliates ("Debtors")

3. As CFO, my scope of duties includes having responsibility for the Purchaser's proposed acquisition of non-residential real property leases and certain related assets from the Debtors

4. I am a certified public accountant, as well as an attorney. I have practiced as a CPA for 45 years. I have provided extensive business services to clients in a wide range of industries, including professional service firms such as medical practices, law firms and consulting firms. I am a member of the American Institute of CPAs, the Michigan Association of CPAs, the American Association of Attorneys and CPAs, the American Bar Association Federal Tax Committee and the Forensic Accountants Society of North America.

5. Shortly before Debtors' bankruptcy filing on February 22, 2019, the Purchaser began negotiations with the Debtors to purchase certain assets of the Debtors, including Assumed Leases, Assumed Contracts, inventory, equipment and other assets (collectively, the "Purchased Assets").

6. The Purchaser engaged in negotiations with Richard Morgan, the principal officer of Debtors, as well as Debtors' counsel and financial advisors.

7. On March 28, 2019, Debtors and Purchaser executed that certain Asset Purchase Agreement (the "Asset Purchase Agreement") whereby Debtors agreed to sell and Purchaser agreed to purchase the Purchased Assets (as such term is more specifically defined in the Asset Purchase Agreement).

8. The Asset Purchase Agreement provided that Purchaser would be the Stalking Horse Purchaser, and required Debtors to file a motion seeking authority to sell the Purchased Assets to Purchaser as Stalking Horse Purchaser, and seeking approval of certain Bid Procedures for a possible Auction of the Purchased Assets.

9. I am informed and believe that by order dated March 28, 2018 [DE 267], as Amended on May 9, 2019 [DE 405], the Court approved certain procedures (the "Bid Procedures") that govern the sale of the Purchased Assets to the highest or best bidder.

10. I was personally involved in the negotiations with Debtors which culminated in the Asset Purchase Agreement, and have been personally involved in ongoing negotiations related to the Assumed Leases.

11. Consistent with the Bid Procedures, Debtors noticed the sale of the Purchased Assets as required by the Court, and sought Qualified Bids for the Purchased Assets by the Bid Deadline of April 30, 2019.

12. I am informed and believe that the Debtor received no Qualified Bids for the Purchased Assets, and therefore no auction was held.

13. Accordingly, Purchaser was declared the highest or best bidder for the Purchased Assets.

14. Purchaser is ready and able to close and to perform its obligations under the terms and conditions of the Asset Purchase Agreement.

15. The Asset Purchase Agreement is a good faith bona fide offer from Purchaser to consummate the purchase of the Purchased Assets, subject to the terms and conditions of the Asset Purchase Agreement (including, but not limited to, approval of the purchase of the Purchased Assets free and clear of any and all liens, claims, interests and encumbrances within the meaning of Bankruptcy Code Section 363 and entry of the form of Bankruptcy Sale Order attached to the Asset Purchase Agreement).

16. At all times during the Purchaser's communications and negotiations with the Debtor, the Purchaser acted in good faith. The Purchaser never engaged in any collusion with respect to the Asset Purchase Agreement, the Bid Procedures, the submission of bids or the cancellation of the Auction. The Purchaser's negotiations with the Debtor and their respective representatives and advisors were at arms' length at all times. The Purchaser do not have any

sort of understanding or agreement with another bidder or any other person or entity for the Purchased Assets that is intended to affect the price paid for the Purchased Assets by the Purchaser. I believe I would be aware of any such understanding or agreement that might exist in my capacity as Purchaser's CFO.

17. Furthermore, the Purchaser has not exerted control or undue influence over the Debtor. The Purchaser does not, and will not, share any common officers with the Debtor. Purchaser may retain Richard Morgan as a consultant, but there are no present agreements between the parties, and Purchaser shall maintain independent management.

18. Purchaser consists of a number of investors, some of whom (including myself) were investors in certain Debtors. All relationships between investors in the Purchaser and the Debtors have been disclosed to the Court, and none of the investors in the Purchaser have had an active role in management with any of the Debtors.

19. In accordance with the Bid Procedures, the Purchaser timely provided information regarding adequate assurance of its future performance (the "Adequate Assurance Information") to the Debtors and to counterparties to the Assumed Contracts and Assumed Leases. The Adequate Assurance Information contained information supporting their ability to comply with the requirements of Section 365 of the Bankruptcy Code, including the following:

- a. Identification of the Purchaser's management team, together with highlights of the business experience of Vincent Spica, CEO, Mike Pivoz, CFO, Shannon Griffin, the Director of Operations and others. A copy of the management team biographies and information is attached as Exhibit "A";

- b. Description of the growth opportunities in the nonsurgical cosmetic procedures industry and the Purchaser's business plan. A copy of this information is attached as Exhibit "B";
- c. Projections of future operations for the balance of 2019 and 2020 which show significant operating revenue and EBITDA. A copy of those projections are attached as Exhibit "C". The projections are consistent with the upward trend in Debtors' post-petition operations;
- d. Using the same financial information as provided in the Adequate Assurance Information, Purchaser has obtained over \$1,900,000 in investment funds to purchase the Debtors' assets. Obviously, the investors in Purchaser believe that the Purchaser will be able to meet all obligations under the Assumed Leases as they would not invest substantial sums into Purchaser if the investors expected Purchaser to be unable to meet their lease obligations.
- e. All leases will be guaranteed by RVB, with primary liability from the entity operating that location. RVB currently has \$144,424.31 in its bank account with firm commitments for additional \$456,000 by May 22, 2019 for a total of \$600,000 to cover, among other things, the payment of any required cure costs at closing.
- f. No significant changes in the store operations are planned. It is anticipated that financial condition and operating performance of RVB will be similar, on a store-to-store basis from the debtor at the time debtor signed any Assumed Lease. To the extent that there are percentage rent obligations under any Assumed Lease, the Debtors' operations are projected to increase revenue over the prepetition period, which would increase any percentage rent.

- g. The assumption and assignment of the Assigned Leases will involve no change to lease provisions governing radius, location, use or exclusivity and, to RVB's knowledge, will not breach any provision contained in any other lease, financing agreement or master agreement relating to the shopping center;
- h. The assumption and assignment of the Assigned Leases will not disrupt any tenant mix or balance in any shopping center; and
- i. Purchaser will comply with all required insurance obligations in any Assigned Leases.

20. Based upon the Purchaser's projections and anticipated business operations, the Purchaser expects that Purchaser will be a good and productive tenant for the affected landlords under the Assumed Leases and a valued contract counterparty for the Assumed Contracts.

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 this 16th day of MAY, 2019.


MIKE PIVOZ