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Editorial Office
230 Park Ave., 7th Floor, New York, NY 10169 (800) 543-6862
www.lexisnexis.com

MATTHEW BENDER

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U.S. Bankruptcy Court Denies Stalking Horse Bidder's Motion to Disregard Late Filed Overbids

By Robert Klyman and Riley Sissung*

In this article, the authors discuss a recent bankruptcy court order that serves as a reminder to parties engaging in the bankruptcy sale process that bankruptcy courts have authority and may be willing to exercise their broad discretion in achieving the highest possible value for the debtor's estate.

The U.S. Bankruptcy Court for the Northern District of Ohio (the Bankruptcy Court), in *In re Parkcliffe Development, LLC*,[1] entered an order on January 28, 2025 denying a stalking horse bidder's motions to disregard competing break-up bids submitted after the bid deadline established in court approved sale procedures (Stalking Horse Denial Order). In so doing, the court held that the belated and non-compliant higher value bids should be considered in order to maximize the value of the debtor's estate.

BACKGROUND

Parkcliffe Development, LLC (Debtor) provides long-term residential care to residents in two facilities it owns. The Debtor faced weakened demand for its services and filed for relief under chapter 11 on April 30, 2024. On August 16, 2024, the Debtor filed a motion to sell its assets to STVJ, LLC (Stalking Horse) and establish bidding procedures and Stalking Horse bidding protections. The Debtor sought approval of the motion on an expedited basis; ultimately, the Bankruptcy Court approved the stalking horse purchase agreement and related bidding procedures on November 12, 2024. The court order (Stalking Horse Order) authorized the Debtor to sell substantially all of its assets to the Stalking Horse for $2.2 million subject to, among other provisions, a requirement that the Debtor receive any overbid by December 12, 2024 (Competing Bid Deadline) and such overbid must exceed the Stalking Horse bid by at least $200,000 (such overbids, a Qualified Bid).

The bidding procedures expressly provided that the Debtor "may modify the bidding procedures as necessary or appropriate to maximize value for [the estate]." The Stalking Horse Order further provided that it is "designed to maximize the recovery on, and realizable value of" the Debtor's assets.

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* The authors, attorneys with DLA Piper, may be contacted at robert.klyman@us.dlapiper.com and riley.sissung@us.dlapiper.com, respectively.

[1] In re Parkcliffe Development, LLC, Case No. 24-30814 (JPG) (Bankr. N.D. Ohio Jan. 28, 2025).

The Debtor received two bids prior to the Competing Bid Deadline. One bid was from Dr. Abdulmalek Sadah (Doctor One) that mirrored and exceeded the Stalking Horse bid by the required $200,000, but did not otherwise comply with the bid requirements (such as making a deposit with a specified title agency and adding an inspection contingency). The second bid was from another doctor (Doctor Two), who used a form prepared by the Debtor's broker, Signature Associates (Broker), that did not comply with most of the bid requirements. In accordance with the bidding procedures, the Debtor filed a notice of receipt of a breakup bid from Doctor One and extended the bidding deadline another 30 days to January 13, 2025 (Extended Bid Deadline).

Ultimately, the Debtor received several more bids by the Extended Bid Deadline that all used a defective form prepared by the Broker, none of which complied with the requirements of the bidding procedures. Some of the bidders withdrew their bids or lost interest (including Doctor One and Doctor Two), while others increased their offers. The highest bid received by the Extended Bid Deadline was from Spectranet Holdings, LLC (Spectranet), which offered $2.65 million for the Debtor's assets. Other than a purchase price that exceeded the price offered by the Stalking Horse, Spectranet's bid failed to comply with the requirements of the bid procedures.

THE STALKING HORSE BIDDER'S MOTIONS TO DISREGARD BREAK UP BIDS AND TO STAY THE AUCTION

The Stalking Horse filed two motions on the Extended Bid Deadline: (i) to disregard Doctor One's bid, along with the subsequent bids, and order the sale of the Debtor's assets to the Stalking Horse, and (ii) another to stay the auction process. The Stalking Horse argued that because Doctor One's bid was non-compliant and defective under the bidding procedures, the Competing Bid Deadline should not have been extended and all bids received after the Competing Bid Deadline, including Spectranet's bid, should not be considered. Therefore, according to the Stalking Horse, the Stalking Horse bid should be considered the winning bid and the Debtor's assets sold to the Stalking Horse bidder.

In light of these motions, the Bankruptcy Court identified the question before it as "whether to address late bids with harshness, to discourage them, or with flexibility, to accommodate the messy realities of the bankruptcy marketplace."

THE BANKRUPTCY COURT RULED THAT (A) SPECTRANET'S LATE BID SHOULD BE CONSIDERED, AND (B) THE AUCTION PROCESS MAY PROCEED

Upon review of the evidence presented and the parties' arguments, the Bankruptcy Court denied the relief sought by the Stalking Horse and entered the Stalking Horse Denial Order which (a) held that the case law strongly weighed in favor of considering Spectranet's late non-compliant bid, and (b) denied any stay of the auction. In so ruling, the Bankruptcy Court held that the stalking horse process should be evaluated according to its intended purpose: "to maximize the recovery on, and realizable value" of the Debtor's assets.

The Bankruptcy Court relied on the following analysis:

- A court must balance considerations of finality in the bidding process and fairness to bidders against the creditors' interest in securing the highest possible bid;
- Strict adherence to bidding procedures should not be elevated over "the substance of the bankruptcy court's principal responsibility, which is to secure for the benefit of creditors the best possible bid;"
- Courts regularly recognize that debtors "in conducting the sale process, have a fiduciary duty to maximize the value of their estates;"
- Courts have the power to reject a debtor's proposed sale if aware of a competing bid which "from the estate's perspective, is better or more acceptable;" and
- The foregoing analysis is more compelling where the court has approved only procedures and "not entered an Order approving the Debtor's sale of assets."

In rejecting the relief sought by the Stalking Horse, the Bankruptcy Court also focused on the different steps leading up to the sale process. According to the Bankruptcy Court, an essential element of court approval is a finding of "adequate price." Therefore, if the Debtor knew of a superior bid, the Debtor would have a fiduciary duty to support it. In light of the foregoing, the Bankruptcy Court concluded that the best course of action was to move to the auction phase and to require the bidders, including Spectranet, to submit new written offers in compliance with the bidding procedures.

THE AUCTION RESULTED IN A MATERIALLY HIGHER PURCHASE PRICE

Subsequent to entry of the Stalking Horse Denial Order, the Debtor reopened the sale process and received three qualified bids in addition to the Stalking Horse bid, as follows:

- $2.45 million – Doctor One;
- $2.50 million – Parkcliffe Toledo, LLC (Parkcliffe Toledo); and
- $2.65 million – Spectranet.

On February 3, 2025, the Debtor held an auction and determined that the increased bid of $3,909,000 made by Parkcliffe Toledo constituted the highest and best bid (Successful Bid). The Stalking Horse bid in the amount of $3,906,000 came in second and was deemed the backup bid (Backup Bid).

On February 4, 2025, the Debtor filed its notice of acceptance of the Successful Bid. On February 5, 2025, the Debtor filed its motion to (i) approve the Successful Bid and Backup Bid, and (ii) authorize the closing of the transaction (Motion to Approve Bids and Auction Sale Order).

In accordance with the bidding procedures, absent any objections within three business days, the Debtor requested that the Bankruptcy Court approve the Motion to Approve Bids and Auction Sale Order without a hearing. To date, no objections have been filed and the Motion to Approve Bids and Auction Sale Order remains pending before the Bankruptcy Court.

KEY TAKEAWAYS

The Bankruptcy Court's ruling serves as a reminder to parties engaging in the sale process that courts have authority and may be willing to exercise their broad discretion in achieving the highest possible value for the debtor's estate. Particularly before the closing of an auction, courts may consider, among other things, belated and otherwise non-compliant higher value offers.