

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re

BURGESS BIOPOWER, LLC, *et al.*<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-10235 (LSS)  
(Jointly Administered)

**ORDER (I) AUTHORIZING THE DEBTORS TO RETAIN APPLIED BUSINESS STRATEGY, LLC TO PROVIDE A CHIEF RESTRUCTURING OFFICER FOR THE DEBTORS; (II) DESIGNATING DEAN VOMERO AS THE DEBTORS' CHIEF RESTRUCTURING OFFICER, *NUNC PRO TUNC* TO THE PETITION DATE; AND (III) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")<sup>2</sup> of the above-captioned debtors an debtors in possession (together, the "Debtors") for entry of an order (this "Order") (i) authorizing the Debtors to retain and employ Applied Business Strategy, LLC ("ABS") to provide a Chief Restructuring Officer ("CRO") to the Debtors; (ii) designating Dean Vomero as the Debtors' CRO, *nunc pro tunc* to the Petition Date, pursuant to sections 105(a) and 363(b) of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), Rule 9013-1 of the Local Rules for the District of Delaware (the "Local Rules"); and (iii) granting related relief; and the Court having reviewed the Motion, the *Declaration of Dean Vomero in Support of the Debtors' Chapter 11 Petitions and First Day Pleadings* ("First Day Declaration"), the *Declaration of Dean Vomero In Support of the Debtors' Motion for Entry of an Order (I) Authorizing the Employment and Retention of Applied Business Strategy, LLC to Provide Interim Management and Restructuring Services and (II) Designating*

<sup>1</sup> The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number are: Burgess BioPower, LLC (0971) and Berlin Station, LLC (1913). The Debtors' corporate headquarters are located at c/o CS Operations, Inc., 631 US Hwy 1, #300, North Palm Beach, FL 33408.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

*Dean Vomero as the Debtors' Chief Restructuring Officer, Nunc Pro Tunc to the Petition Date* (the "Vomero Declaration"); and the Court having found that: (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (c) venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; (d) the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and (e) the Debtors provided adequate and appropriate notice of the Motion under the circumstances and that no other or further notice is required; and the Court having reviewed the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and any objections to the relief requested herein having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor; it is hereby

ORDERED THAT

1. The Motion is APPROVED as set forth herein.
2. The Debtors are authorized to retain and employ ABS to provide a CRO to the Debtors, and Dean Vomero is designated as the Debtors' CRO, on the terms described in the Motion, *nunc pro tunc* to the Petition Date, subject to the following terms, which apply notwithstanding anything in the Motion or any exhibits related thereto to the contrary:
  - a. ABS and its affiliates shall perform the Services and not act in any other capacity (for example, and without limitation, as a financial advisor other than with respect to the Services, claims agent/claims administrator, or investor/acquirer) in connection with the above-captioned cases.

- b. In the event the Debtors seek to have ABS personnel assume executive officer positions that are different than the position disclosed in the Motion, or to materially change the terms of the engagement by either (i) modifying the functions of the Engagement Personnel, (ii) adding new personnel, or (iii) altering or expanding the scope of the engagement, a motion to modify the retention shall be filed.
- c. ABS shall file with the Court and serve copies to (a) the United States Trustee (the "U.S. Trustee"), (b) all official committees, and (c) counsel to the Senior Secured Lenders (collectively, the "Notice Parties") by the fifteenth (15th) day of each month a report of staffing on the engagement for the previous month (each, a "Staffing Report"). Such Staffing Report shall include the names and functions filled of the individuals assigned. The U.S. Trustee shall have fourteen (14) days after the date a Staffing Report is served on the U.S. Trustee to object to such Staffing Report. All staffing shall be subject to review by the Court in the event an objection is filed.
- d. No principal, employee or independent contractor of ABS and its affiliates shall serve as a director of any of the above-captioned Debtors during the pendency of the above-captioned cases.
- e. ABS shall file with the Court, and provide notice to the Notice Parties, reports of compensation earned and expenses incurred on a monthly basis (each, a "Compensation Report"). Such Compensation Reports shall contain summary charts which describe the services provided, identify the compensation earned by each executive officer and staff employee

provided, and itemize the expenses incurred. Time records shall (i) be appended to the reports, (ii) contain detailed time entries describing the task(s) performed, and (iii) be organized by project category. Where Engagement Personnel are providing services at an hourly rate, the time entries shall identify the time spent completing each task in 1/10/hour increments and the corresponding charge (time multiplied by hourly rate) for each task; where Engagement Personnel are providing services at a “flat” rate, the time entries shall be kept in hourly increments. The U.S. Trustee shall have fourteen (14) days after the date a Compensation Report is served on the U.S. Trustee to object to such Compensation Report. All compensation shall be subject to review by the Court in the event an objection is filed.

- f. Success fees, transaction fees, or other back-end fees shall be approved by the Court at the conclusion of the case on a reasonableness standard and are not being pre-approved by entry of this Order. No success fee, transaction fee or back-end fee shall be sought upon conversion of the case, dismissal of the case for cause, or appointment of a trustee.
- g. The Debtors are permitted to indemnify those persons serving as executive officers on the same terms as provided to the Debtors’ other officers and directors under the corporate bylaws and applicable state law, along with insurance coverage under the Debtors’ D&O policy.
- h. There shall be no indemnification of ABS or its affiliates.

- i. For a period of three years after the conclusion of the engagement, neither ABS nor any of its affiliates shall make any investments in the Debtors or the Reorganized Debtors.
- j. ABS shall disclose any and all facts that may have a bearing on whether the firm, its affiliates, and/or any individuals working on the engagement hold or represent any interest adverse to the Debtors, their creditors, or other parties in interest. The obligation to disclose identified in this subparagraph is a continuing obligation.
3. The Retainer held by ABS may be held as security through these Chapter 11 Cases securing final payment of ABS's invoices for services rendered and expenses incurred, and the advance will be returned upon payment in full of ABS's outstanding invoices or applied to any outstanding invoices at the conclusion of the engagement.
4. All fees and expenses incurred by ABS that are approved by the Court shall be treated as administrative expenses under Bankruptcy Code section 503.
5. Debtors are authorized and empowered to take such actions as may be necessary and appropriate to implement the terms of this Order.
6. If there is any inconsistency between the terms of the Motion, the Vomero Declaration, and this Order, this Order shall govern.
7. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.
8. This Court shall retain jurisdiction with respect to all matters related to the interpretation or implementation of this Order.

Dated: April 10th, 2024  
Wilmington, Delaware



LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE