

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF KENTUCKY
Lexington Division

In re:

Lexington Blue, Inc.

Debtor.

Case No. 25-50863
Chapter 11

Motion of the United States Trustee to Convert Case

Paul A. Randolph, Acting United States Trustee, moves the Court to convert the above-captioned case to chapter 7. In support of this motion, the United States Trustee states as follows:

Notice of Hearing

Please take notice that this Motion will be heard by the Court on August 21, 2025 at 9:00 a.m. in the Second Floor Courtroom, U.S. Bankruptcy Court, 100 East Vine Street, Lexington, KY 40507.

Jurisdiction and background

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. § 1409. This matter is a core proceeding.
2. The United States Trustee has standing to bring this Motion pursuant to 11 U.S.C. §§ 307.
3. On June 16, 2025, the Debtor filed a voluntary petition for relief under chapter 11. The Debtor remains in possession.

4. On July 15, 2025, Bradley Pagel, the corporate representative of the Debtor, provided testimony under oath in the United States Bankruptcy Court for the Eastern District of Kentucky. If a statement within this Motion is based on Pagel's July 15, 2025 testimony, the United States Trustee will denote that statement as originating from the "Pagel Testimony." The audio of Pagel's testimony is available at ECF Nos. 102, 103.¹

I. Lexington Blue's Business History and Case Overview

5. Pagel started Lexington Blue, Inc. on or around January 1, 2015 to provide roofing repair services. *Pagel Testimony*, ECF No. 102. At its height, Lexington Blue employed approximately fifty separate salespeople. *Pagel Testimony*, ECF No. 102. Most of the roofing repair work was provided by independent subcontractors, with Lexington Blue directly providing only limited warranty work. *Pagel Testimony*, ECF No. 102.

6. Before closing, the Debtor took downpayments on roof repairs from at least 263 separate customers (the "LB Customers"). Lexington Blue did not purchase roofing supplies or complete any physical repair work for any of these LB Customers. While the true amount of the deposits the Debtor

¹ The United States Trustee does not currently have a transcript of Pagel's July 15, 2025 testimony. References to the *Pagel Testimony* are based on the United States Trustee's review of the audio published in ECF.

received from the LB Customers is unknown, a matrix provided by the Debtor lists approximately \$1.1 million in total LB Customer deposits.

7. Lexington Blue closed around April of 2025. *Pagel Testimony*, ECF No. 102. The business closure was accelerated by a series of negative news reports, many of which highlighted that numerous customers that provided deposits to Lexington Blue never received a repaired roof in return.

8. According to court filings, Lexington Blue filed for bankruptcy to assume and sell the contracts listed on the LB Customer Matrix. Even though Lexington Blue has already received and expended the down payment amount associated with each roofing contract, the Debtor believes the amounts remaining on each contract will allow a subcontractor to complete the work with an acceptable profit leftover.

9. In summary, Lexington Blue's bankruptcy plan revolves around a series of sales of "bundles" of the LB Customer contracts. The Debtor's bankruptcy path is unclear after it completes the sale of the contracts. Counsel for the Debtor stated that there is no plan to proceed towards plan confirmation, and even specifically stated that the Debtor's case "bears the hallmarks of a chapter 7 rather than a chapter 11 reorganization. ECF No. 92, at 1.

10. As highlighted below, the United State Trustee does not believe the Debtor can successfully sell the LB Customer contracts, both because the

underlying information and reported cost structure are grossly inaccurate. Instead, the Debtor's most valuable asset are recovery actions against insiders. Each LB Customer's only realistic shot at recovery is conversion to chapter 7, where an experienced chapter 7 trustee can evaluate the case, prosecute fraudulent, preferential, and other transfers, attempt to recover on accounts receivable, and liquidate other potential assets.

II. Cause is Present to Convert the Debtor's Case to Chapter 7

11. As outlined over the following sections, the United States Trustee believes "cause" is present to convert the above captioned case to a case under chapter 7 of the United States Bankruptcy Code. Specific examples of cause include the Debtor's: failure to maintain accurate financial records; failure to file accurate bankruptcy schedules; failure to accurately report its cost structure; gross mismanagement of the business; and significant dissipation of company assets.

a. Lexington Blue's Accounting Systems are Inaccurate and are Not Reliable

12. Lexington Blue primarily maintained two accounting systems, one with QuickBooks and the other with AccuLynx, a customer relationship management system. *Pagel Testimony*, ECF No. 102. When preparing financial information, Lexington Blue would rely exclusively on these two systems. *Pagel Testimony*, ECF No. 102.

13. Pagel is not familiar with the QuickBooks or AccuLynx records for Lexington Blue, as before the bankruptcy Pagel was never involved in the accounting. *Pagel Testimony*, ECF No. 102. Pagel also admitted that the Debtor's QuickBooks, AccuLynx, and bank statements do not reconcile with each other. *Pagel Testimony*, ECF No. 102. Pagel did not appear to have direct knowledge of the discrepancies in Lexington Blue's accounting records, as when asked by the United States Trustee to verify that the accounting records do not reconcile Pagel stated "from what I'm being told, yes." *Pagel Testimony*, ECF No. 102.

14. When specifically asked where the most accurate information regarding Lexington Blue can be found, Pagel answered that AccuLynx is likely the most accurate. *Pagel Testimony*, ECF No. 102. But when pressed on this issue and asked by the United States Trustee if the information within AccuLynx was accurate, Pagel responded "I wish I could say with any certainty, but I would like to think that [AccuLynx] would be more accurate than QuickBooks at this point." *Pagel Testimony*, ECF No. 102.

15. The Debtor's failure to maintain accurate accounting records has caused significant problems within the bankruptcy case, as the Debtor's Statement Regarding Small Business Documents (11 U.S.C. 1116) states that the Debtor "cannot verify all of the information maintained in the company's bookkeeping records and therefore cannot produce a recent balance sheet or

statement of operations.” ECF No. 2. Pagel similarly testified that Lexington Blue is unable to generate an accurate income statement or balance sheet based on the state of its accounting records. *Pagel Testimony*, ECF No. 102.

16. On July 11, 2025, the Debtor filed its bankruptcy schedules and statement of financial affairs (the “SOFA”). While Pagel admitted he was unfamiliar with the Debtor’s financial records, he did state that he “glanced” at the Debtor’s QuickBooks file in preparation for the bankruptcy case.

However, the Schedules that were filed raise significant questions:

- a. Question 41 of Schedule A/B does not attempt to value office furniture and other equipment.
- b. SOFA question 1 does not list any income amounts for calendar years 2024 or 2025.
- c. SOFA question 4 does not disclose any transfers to insiders in the one-year prepetition.
- d. SOFA question 16 states that the Debtor does not retain any PII, even though significant hearings have been held on that exact issue.
- e. Insider transfer amounts on SOFA question 30 include very unusual timeframes, such as disclosing \$56,000 in transfers to Wide Awake Consulting (an entity owned by Pagel) between

November 7, 2024 and December 30, 2024 (a period of less than two months).

17. Pagel’s testimony on July 15, 2025, affidavits signed by Pagel under oath, and statements made by the Debtor’s counsel in court filings² all indicate that the Debtor does not have the records needed to file accurate schedules. Before accurate schedules can be filed, the “Debtor will have to hire a third-party bookkeeping service to clean up [QuickBooks] and reconcile with AccuLynx, and the company’s bank statements.” ECF No. 92, ¶ 5. The timeframe on this reconciliation is unknown, but considering an employment application has not been filed, accurate schedules are, at best, months away.

18. It is also important to recognize that Lexington Blue is not a small company with limited operations. At its height, it employed fifty salespeople as well as significant office and accounting staff. In calendar year 2023, the most recent year in which a tax return has been filed, Lexington Blue had \$6.3 million in revenues. Preliminary information reviewed by the United States Trustee suggests that income amounts in 2024 were larger than those earned in 2023. Lexington Blue was a large operation with significant income and expenses, the type of business where accurate and complete accounting

² “The bank statements are incomplete and not reconciled with [QuickBooks]. Likewise, a comparison of AccuLynx with [QuickBooks] show discrepancies that indicate that the information stored in these two sources are not reconciled with one another.” ECF No. 92, ¶ 4.

records must be maintained. *See In re Kandel*, 2015 WL 1207014, at *6 (Bankr. N.D. Ohio 2015) (describing a debtor’s record keeping responsibility as a “sliding scale, with one end consisting of large businesses that must maintain in-depth records, and the other end consisting of unsophisticated consumer debtors requiring far less documentation” and that the debtor’s location on that scale “is very important to the amount and sophistication of records a court will require a debtor to produce”).

b. Lexington Blue’s LB Customer Matrix is Inaccurate

19. As part of its Motion for Entry of an Interim and Final Order Authorizing the Filing of the Consumer Mailing List Under Seal Pursuant to Fed. R. Bankr. 9037(f), the Debtor filed a LB Customer Matrix listing approximately 263 customers. ECF No. 8. Pagel testified that the information in this LB Customer Matrix was pulled from AccuLynx, which is the most accurate information available to the Debtor. *Pagel Testimony*, ECF No. 102.

20. Amazingly, when specifically presented with the LB Customer Matrix, Pagel testified that he had never actually seen the document before. *Pagel Testimony*, ECF No. 103. In other words, Pagel has never looked at the document that is the stated reason for the entire bankruptcy case. Pagel also could not recall when he allegedly requested that the Debtor’s staff compile the LB Customer Matrix. *Pagel Testimony*, ECF No. 103. Pagel never

attempted to verify any of the information within the LB Customer Matrix.

Pagel Testimony, ECF No. 103.

21. The Commonwealth questioned Pagel regarding specific items within the LB Customer Matrix, and why the information within the LB Customer Matrix did not match underlying contract data. In response to that line of questioning, Pagel could not explain why the LB Customer Matrix did not match the underlying contract data contained within AccuLynx. *Pagel Testimony*, ECF No. 103.

22. When pressed by the Commonwealth about the value of any specific LB Customer contract, Pagel stated that by reviewing AccuLynx he could determine if a customer's contract is viable and has value for a potential subcontractor. *Pagel Testimony*, ECF No. 102. However, before filing the bankruptcy case Pagel failed to review the LB Customer Matrix or AccuLynx system in any manner.

23. Similarly, the United States Trustee presented Pagel with three proofs of claim from Lexington Blue roofing customers. Each of the proofs of claim contain information materially different than the information on the LB Customer Matrix. Pagel was unable to explain why the debt amounts included within the proofs of claim are significantly different than the amounts within the LB Customer Matrix. *Pagel Testimony*, ECF No. 102.

24. Additionally, many of the LB Customers have likely already paid another roofing company to complete necessary roof repairs. A significant portion of the LB Customer contracts are from 2023 and 2024, and parties with the funds to pay another contractor would not voluntarily live in a residence with a hole in the roof for over a year. The Debtor has not made any attempt to verify which LB Customers are in need of roof repairs.

25. The LB Customer Matrix is untrustworthy, as every contract reviewed by the United States Trustee or the Commonwealth differs substantially from the information in the matrix. Pagel was unable to explain any of the highlighted discrepancies. The Debtor cannot sell contracts when it cannot verify the underlying information. The Debtor's main asset is illusory.

c. Lexington Blue Has Not Accurately Described Its Cost Structure

26. According to Pagel, in a normal roofing contract the materials, labor, and sales commission would account for approximately 55% of the total roofing contract price. *Pagel Testimony*, ECF No. 102. Of that 55% in direct costs, approximately 10% is for a commission, 27% is allocated to labor, and the remaining 18% is for materials. *Pagel Testimony*, ECF No. 102. Pagel believes that if a roofing contract has 45% of the total value remaining, that contract has value to a potential subcontractor and Lexington Blue will be able to sell that contract. *Pagel Testimony*, ECF No. 102.

27. Pagel's description of the direct costs of a roofing contract, specifically the commission, labor, and materials equaling approximately 55% of the contract price, is incorrect based on the most accurate information available. Lexington Blue's 2023 federal income tax return, prepared by the local accounting firm Dean Dorton Allen Ford, PLLC, lists the following:

Gross Receipts or Sales	\$6,299,920
Purchases	\$2,655,257
Cost of Labor	\$1,551,620
Other	\$7,896
Cost of Goods Sold	\$4,214,773
Total Income (Loss)	\$2,085,647

28. When the 2023 federal income tax return is evaluated, purchases (inventory) account for 42% of total sales and cost of labor accounts for 25% of sales. When the relatively immaterial "other" amount is included, direct costs account for 67% of total costs, a significant difference from Pagel's 55% estimate. And considering that Pagel has not been directly involved in Lexington Blue's management for a two-year period, the information within the tax return is the most accurate information available.

29. Therefore, for a subcontractor to break even on a roofing contract, the contract would need to have sufficient funds remaining to fully pay all direct costs. Lexington Blue's 2023 federal income tax return places those direct costs at 67%.

30. When explaining why the LB Customer contracts have value, Pagel testified that the contractors that will purchase the LB Customer contracts will have a cheaper cost structure than Lexington Blue. While that is likely true from an office and overhead perspective, the same does not appear accurate for direct costs.

31. First, Lexington Blue did not do its own roofing repair work but instead subcontracted the jobs to various independent crews. If Lexington Blue was hiring independent subcontractors to do its repair work, any firm bidding on the LB Customer contracts would have a very similar cost structure to those subcontractors. Second, regarding material costs, Lexington Blue was a relatively large roofing company with assumedly some bargaining power with local suppliers. Any independent contractors that purchases the LB Customer Contracts will not have that same negotiating leverage, and will likely pay the same, if not more, for roofing supplies.

32. This information is reinforced by the contract between the Debtor and Skyline GC LLC (“Skyline”). Pagel testified that each of the LB Customer contracts was sold to Skyline for \$.01 in total. *Pagel Testimony*, ECF No. 103. However, Skyline backed out of the contract and did not complete any repair work for the LB Customers.

d. Pagel's Claimed Lack of Knowledge of Lexington Blue's Financial Condition Defies Reality, But At Best, Demonstrates Gross Mismanagement

33. According to his testimony, Pagel was not intimately involved with the day-to-day operations of Lexington Blue for approximately two years before the company closed, meaning Pagel's significant involvement with Lexington Blue ended around April of 2023. *Pagel Testimony*, ECF No. 102. Over this two-year period Pagel's main involvement was attending sales meetings approximately two times each month and a once-a-week telephone call with management. *Pagel Testimony*, ECF No. 103. Pagel also specifically testified that he has not known the name of any customer over the past two years and was similarly unaware that the company was behind on its roofing contracts. *Pagel Testimony*, ECF No. 103. Overall, in the two years before the business closed, Pagel stated that his knowledge of Lexington Blue's business was very limited and he never reviewed accounting documents. *Pagel Testimony*, ECF No. 103.

34. When specifically questioned by the United States Trustee about the \$1.65 million accounts receivable listed within the Debtor's schedules, Pagel testified that the entire amount relates to work that had already been completed. *Pagel Testimony*, ECF No. 102.³ When asked by the United States

³ When discussing this same accounts receivable, the Debtor's status report states something very different: "Deeper research into Debtor's [QuickBooks] reveals that Debtor could be owed up to \$1.6M for work that has

Trustee why the receivables were not collected prepetition, Pagel stated that he was simply unaware of the existence of the accounts receivable and therefore did not know why the amounts were not collected. *Pagel Testimony*, ECF No. 102.

35. Assumedly due to his alleged hands-off handling of the company, Pagel stated that he believed Lexington Blue was doing well until shortly before it closed in April of 2025. *Pagel Testimony*, ECF No. 103. Pagel stated that he only learned that Lexington Blue was in real trouble when various negative news reports surfaced.

36. However, around January of 2025 Pagel sold his personal residence. *Pagel Testimony*, ECF No. 103. Upon information and belief, the sale of Pagel's residence did not result in any cash being placed into Lexington Blue's accounts, but instead repaid a judgment lien on Pagel's personal residence related to a Lexington Blue debt that Pagel personally guaranteed. *Pagel Testimony*, ECF No. 103. The Debtor's schedules also note that Pagel sold Toyota Tacoma trucks in the fourth quarter of 2024 for approximately \$108,000. ECF No. 83, at 17.

been completed but unpaid. . . . Because of the real possibility that some of the accounts receivable include open balances on contracts never performed, recovering any amounts for unpaid work can only be pursued after a careful three-way reconciliation of the bank accounts, AccuLynx, and [QuickBooks].”

37. It strains belief that Pagel would sell his personal residence based on a personal guarantee of a Lexington Blue debt, but at the same time fail to check on the company's operations. In fact, Pagel testified that he thought the company was operating as normal up until he learned of various news reports in and around April of 2025. *Pagel Testimony*, ECF No. 103. Assuming Pagel's statements about his knowledge of Lexington Blue's operations are accurate, his failure to provide any effective oversight demonstrates, at best, gross mismanagement.

e. Even While Not Being Significantly Involved with Lexington Blue, Pagel Received Substantial Transfers from the Company

38. Question thirty of the Debtor's Statement of Financial Affairs (the "SOFA") requires the Debtor to disclose transfers to insiders within one year of the petition date. ECF No. 83, at 22. In response to that question, the Debtor disclosed payroll payments of \$40,487, but noted that these payments are only from January 18, 2025 to April 10, 2025. ECF No. 83, at 22. When asked by the United States Trustee why only a three-month payroll period was disclosed, Pagel stated that he "[does not] understand why it would say it like that on there." *Pagel Testimony*, ECF No. 103.

39. The Debtor also disclosed \$16,846 in "Draws by owner Brad Pagel" that were transferred to his spouse, Courtney Pagel, between June 17, 2024 and June 16, 2025. ECF No. 83, at 22. Finally, the Debtor disclosed \$56,000 in payments to "Wide Awake Consulting" described as an "Ownership draw"

between November 7, 2024 and December 30, 2024. ECF No. 83, at 22. Wide Awake Consulting is an entity wholly owned and controlled by Pagel.

40. In total, SOFA question 30 discloses \$113,333 in payments from the Debtor to Brad Pagel in the year prepetition, but as noted above, the included time frames are very sporadic. For example, the Debtor discloses \$56,000 in payments to Wide Awake Consulting over an approximately two-month timeframe, which if annualized, would result in \$336,000 in annual payments. Similarly, Pagel's \$40,487 in payroll amounts disclosed in SOFA question 30 are over an approximate three-month period, and if this amount is annualized, Pagel would receive salary payments of \$161,948 in the year prepetition. If Pagel's annualized payroll and transfers to Wide Awake Consulting are combined, Pagel would have received \$497,948 in distributions in the year prepetition, all during a period where Pagel claims to have had very little actual involvement with the Debtor.

41. The United States Trustee's estimated distributions are in-line with Pagel's past payment history. Based on the Debtor's 2023 federal income tax return filed within the Court record, Pagel's spouse received \$43,500 in salary payments and Bradley Pagel received \$370,000 in distributions from Lexington Blue. ECF No. 2, at 15. The same tax return also lists \$313,039 in expenses for "professional fees." ECF No. 2, at 13. Upon information and belief, a significant portion of these "professional fees" relate to payments

from Lexington Blue to other entities owned or controlled by Pagel. These significant payments from the Debtor to Pagel cover a timeframe where Pagel had little involvement in company's operations. Upon information and belief, Lexington Blue also made payments on personal vehicles for Brad Pagel and his spouse.

42. The Debtor has not filed its 2024 federal income tax return. But the United States Trustee suspects that Lexington Blue's payments to Pagel in calendar year 2024 are similar to, or potentially larger than, payments from Lexington Blue to Pagel in calendar year 2023. The Debtor's schedules strongly suggest that Lexington Blue continued to make significant transfers to Pagel in 2024, including \$56,000 in payments to Wide Awake Consulting between November 7, 2024 and December 30, 2024. ECF No. 83, at 23.

43. The transfers in 2023 and 2024 occurred during a time when Pagel had removed himself from active management. These transfers were not commensurate to the value Pagel contributed to Lexington Blue. Additionally, during this timeframe Lexington Blue was likely insolvent. A chapter 7 case trustee will likely have significant fraudulent and preferential transfer claims against Pagel and other insiders.

III. The Bankruptcy Code Requires Conversion of Lexington Blue's Chapter 11 Case to a Chapter 7 Case

44. The United States Trustee, as set forth in the following paragraphs, believes that "cause" is present convert the case to chapter 7.

a. The Debtor's Failure to File Accurate Schedules Constitutes a Failure to Comply with Statutory Filing Requirements

45. Section 1112(b)(4) includes a non-exhaustive list of items that, if present, constitute “cause” to convert a case to chapter 7. Section 1112(b)(4)(F) states that cause is present for a debtor’s “unexcused failure to satisfy timely any filing or reporting requirement.” Section 1112(b)(4)(H) states that cause is also present for a debtor’s “failure timely to provide information” to the United States Trustee.

46. On June 17, 2025, the Court issued the Order to File/Amend, requiring the Debtor to file schedules and statement of financial affairs by no later than July 1, 2025. ECF No. 5. The Debtor was unable meet the July 1, 2025 deadline, leading to the Debtor’s filing of the Motion to Extend Time to File Schedules and Other Documents, where the Debtor requested an extension of the deadline to file schedules and other documents to July 14, 2025. ECF No. 56. The United States Trustee objected to the extension. ECF No. 67. On July 3, 2025, the Court issued an Order requiring the Debtor to file schedules by no later than July 11, 2025. ECF No. 74. The Debtor filed its schedules and statement of financial affairs on July 11, 2025. ECF No. 83.

47. However, as noted in Parts II.a and II.b above, Lexington Blue does not have accurate financial data and therefore has filed grossly inaccurate

bankruptcy schedules and has similarly filed grossly inaccurate information regarding the values of the LB Customer contracts.

48. As admitted at the July 15, 2025 hearing, the Debtor's accounting systems are so inaccurate that it cannot generate an income statement, balance sheet, or statement of cash flows, and similarly the Debtor does not have access to the information needed to file accurate bankruptcy schedules. Simply filing documents within the court record is not sufficient, as "[f]iling a piece of paper is meaningless if the content is inaccurate, misleading, or wrong." *In re Exigent Landscaping, LLC*, 656 B.R. 757, 771 (Bankr. E.D. Mich. 2024); see also *In re Tucker*, 411 B.R. 530, 535 (Bankr. S.D. Ga. 2009) (holding that "inconsistencies and omissions [in schedules and monthly operating reports] constitute a failure to timely provide information within the meaning of 11 U.S.C. § 1112(b)(4)(H) & (F)").

49. The Debtor's inaccurate schedules do not meet the standard of accuracy required by the Bankruptcy Code and this court. Cause exists to convert the Debtor's case under 11 U.S.C. § 1112(b)(F) and (H).

b. Bradly Pagel has Grossly Mismanaged the Debtor

50. Based on Pagel's own testimony, he was very "hands off" and uninvolved with the day-to-day operation of Lexington Blue for at least the two years before the company closed. However, during this same timeframe,

Pagel took very significant distributions out of the company, either as ownership draws or transfers to related entities.

51. Over this timeframe where Pagel was allegedly uninvolved, Lexington Blue ran into numerous financial problems that would have been plainly obvious to all but the most willfully blind owners. For example, in late 2024 Lexington Blue sold its entire automobile fleet. In early 2025 Pagel sold his personal residence due to a personal guarantee on a business debt. But even with these significant asset sales, Pagel claims he believed that the company was doing well and was only experiencing typical business hiccups. In fact, Pagel stated he only learned the company was doing poorly when news reports related to unfinished roofing repairs were first published.

52. When a company is experiencing significant cash flow issues, as was the case with Lexington Blue, a competent owner would analyze the company's finances. A cursory review of the Debtor's financial information would reveal \$1.6 million in uncollected accounts receivables, amounts, that if successfully collected, would have eliminated the Debtor's cash flow problems. But when questioned about the accounts receivable balance, Pagel stated that he was completely unaware the balance existed. Pagel was also completely unfamiliar with the LB Customer contract list.

53. For at least the past two years, Pagel claims to have been a hands-off owner who conducted essentially no effective oversight. He admitted that he

never reviewed accounting or other financial information. But even while contributing nothing of value to the company, he withdrew significant amounts for salary and owner distributions.

54. Pagel has grossly mismanaged the Debtor's finances, justifying conversion of the above-captioned case under 11 U.S.C. § 1112(b)(4)(B). *In re Visicon Shareholders Trust*, 478 B.R. 292, 310 (Bankr. S.D. Ohio 2012) (finding cause when the "Debtor apparently never reviewed its own paper records and let stand an overwhelming record of gross financial mismanagement"); *In re Zamora-Quezada*, 622 B.R. 865, 884 (Bankr. S.D. Tex. 2017) (finding gross mismanagement based on the Debtor's owner's significant prepetition insider transfers); *In re Colby Const. Corp.*, 51 B.R. 113, 117 (Bankr. S.D.N.Y. 1985)) ("gross mismanagement exists under § 1104(a)(1) where the debtor's accounting system fails to reflect its financial condition and when the condition of its books and records is in shambles").

c. Lexington Blue Does Not Have any Chance at Rehabilitation

55. At the first-day hearings in the above-captioned case, counsel for the Debtor stated that he intended to assume, sell, and assign "bundles" of the LB Customer contracts. After those contract sales were completed, the Debtor did not intend to move forward with a bankruptcy plan, but instead would likely dismiss the case. Leaving aside the appropriateness of filing a

bankruptcy case solely to assume and assign contracts, the Debtor is wholly unable to actually sell the LB Customer contracts.

56. First, it is undisputed that Lexington Blue attempted to sell the LB Customer contracts to Skyline for \$.01, but was unable to consummate that transaction.

57. Second, the amounts contained within the LB Customer contract list are inaccurate. The United States Trustee highlighted that deposit amounts within three proofs of claim do not match the information within the LB Customer list. The Commonwealth similarly highlighted that the actual contracts from AccuLynx do not match the information on the LB Customer list. When confronted with this information, Pagel was unable to explain the discrepancies and amazingly stated that he had never actually seen or reviewed the LB Customer list.

58. Third, the cost structure Pagel outlined within his testimony is inconsistent with the Debtor's 2023 tax return. Actual material and labor costs are more expensive than Pagel testified, essentially eliminating any potential profit margin for a new contractor.

59. Lexington Blue's fanciful attempt to sell customer contracts does not constitute a "reasonable likelihood of rehabilitation" under 11 U.S.C.

§ 1112(b)(4)(A). The case of *In re Exigent Landscaping* is instructive, where the "cornerstone" of the debtor's plan was selling one new swimming pool

each month. 656 B.R. 757, 767 (Bankr. E.D. Mich. 2024). However, the Debtor had not sold a new pool in six months, leading the Court to determine that there was no reasonable likelihood of rehabilitation. *Id.* In the present case the Debtor attempted to sell the LB Customer contracts for \$.01, but was unable to do so. Now the Debtor claims it can sell the same LB Customer contracts for substantial sums, enough to pay counsel and a third-party accountant. The longer the case stays within chapter 11, the larger the administrative insolvency. Cause exists to convert the case to chapter 7.

IV. Conversion to Chapter 7 is in the Best Interests of All Creditors

60. Once “cause” has been established, the court must determine what path is in the best interests of all creditors, either conversion to chapter 7 or dismissal of the case. 11 U.S.C. § 1112(b)(1). The United States Trustee believes that conversion to chapter 7 is in the best interests of all creditors.

61. Lexington Blue’s creditors consist of many different types of claims, including the LB Customers, past employee wage claims, EEOC claims, supplier claims, landlord claims, among others. If the Debtor’s bankruptcy case is dismissed, each of these creditors will need to “race to the courthouse,” attempting to place themselves in the best possible position. Bankruptcy alleviates this inequity, providing an orderly distribution structure.

62. After the case is converted, an experience chapter 7 trustee will review the case and take appropriate action to identify, liquidate, and distribute

funds to all creditors. Specifically, a chapter 7 trustee has access to expansive and powerful chapter 5 claims, where significant funds may be pulled into the bankruptcy estate. A chapter 7 trustee will also have the ability to evaluate and potentially collect past-due accounts receivables.

63. And while the Debtor's schedules are inaccurate, they nevertheless list potentially significant assets available for distribution in chapter 7. A chapter 7 trustee should be given the chance to review the Debtor's assets and hopefully make a significant and fair distribution to all creditors.

WHEREFORE, the United States Trustee respectfully requests that an order be entered converting this case to chapter 7.

Dated: July 23, 2025

Paul A. Randolph
Acting United States Trustee

By: /s/ Bradley M. Nerderman
Tim Ruppel
Assistant U.S. Trustee
Bradley M. Nerderman
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Certificate of Service

I certify that on July 23, 2025, I served a copy of the foregoing via ECF noticing upon all parties registered to receive notice electronically. A certificate of service for mail service will be filed separately.

/s/ Bradley M. Nerderman
Bradley M. Nerderman

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF KENTUCKY
Lexington Division

In re:

Lexington Blue, Inc.,

Debtor.

Case No. 25-50863
Chapter 11

Order Converting Case to Chapter 7

Upon consideration of the motion of the United States Trustee to convert the above captioned case to chapter 7, after notice and a hearing, and it appearing for the reasons stated on the record that the motion should be granted, it is hereby

ORDERED that the motion is granted, and it is further

ORDERED that the above-captioned case is converted to a case under Chapter 7 of the Bankruptcy Code, and it is further,

ORDERED that, within 30 days following the entry of this Order, the Debtor shall file a final report and account and otherwise comply with Fed. R. Bankr. P. 1019.