

# **EXHIBIT 5**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF IOWA

IN RE: )  
 ) CHAPTER 11  
 ) BANKRUPTCY NO. 08-2751  
AGRIPROCESSORS, INC. )  
 )  
Debtor )

**STATUS REPORT OF JOSEPH E. SARACHEK,  
CHAPTER 11 TRUSTEE OF AGRIPROCESSORS, INC.**

Joseph E. Sarachek, as Chapter 11 trustee (the "Trustee") of the Agriprocessors, Inc. (the "Debtor") states:

I. Procedural Background.

1. The Debtor filed a voluntary petition for relief under the Bankruptcy Code with the United States Bankruptcy Court for the Eastern District of New York (the "New York Court") on November 4, 2008 (the "Petition Date").

2. On November 14, 2008, the United States Trustee for Region 2 moved for appointment of a Chapter 11 Trustee in the case. On November 18, 2008, the New York Court entered an Order Directing the Appointment of a Chapter 11 Trustee. On November 20, 2008, the United States Trustee for Region 2 filed its Notice of Appointment of Joseph E. Sarachek as Chapter 11 Trustee. By Order dated November 20, 2008, the New York Court approved my appointment as Trustee.

3. On November 19, 2008, the United States Trustee for Region 2 appointed an Official Committee of Unsecured Creditors in this case (the "Committee").

4. By motion dated November 6, 2008, First Bank Business Capital, Inc, f/k/a FB Commercial finance, Inc. ("First Bank"), the Debtor's pre-petition and post-petition lender, moved to transfer venue of this case to this Court (the "Venue Motion").

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With the exception of the Debtor, all major creditor constituencies in the case, including the Trustee, joined in or otherwise supported the relief requested in the Venue Motion. By Order dated December 12, 2008, the Venue Motion was granted and venue of the case was transferred to this Court.

II. Post-Petition Financing

5. To date, I have financed the Debtor's operations (as discussed herein) and administered the case through advances under an emergency secured post-petition financing facility from First Bank.

6. By motion dated November 26, 2008 (the "Post-Petition Financing Motion"), I moved for entry of an order approving a \$2.5 million secured emergency financing facility through First Bank. The financing facility was needed to fund the administration of the case and to ensure continued operation of the business, subject to the terms of a budget. The Post-Petition Financing Motion provided for funding through and including December 12, 2008 (the "Funding Period"). By Order dated December 1, 2008 (the "Emergency Order"), the New York Court approved the Post-Petition Financing Motion and scheduled a final hearing on the relief requested for December 12, 2008 at 9:30 a.m.

7. By motion dated December 10, 2008 (the "First Financing Extension Motion"), I moved to extend the Funding Period under the Emergency Order through December 19, 2008 and, in connection therewith, sought authority to obtain additional advances from First Bank of up to an additional \$869,400. By Order dated December 12, 2008, the New York Court approved the First Financing Extension Motion.

8. As a result of asserted claims by poultry and livestock growers under the Packers and Stockyards Act (aggregating up to \$6 million) (discussed below), I have not used any Cash Collateral and, in accordance with the Emergency Order, will not use Cash Collateral unless and until funds have been accumulated and escrowed to satisfy the asserted claims of poultry and livestock growers under the Packers and Stockyards Act. Accordingly, all financing to date has been through direct advances from First Bank under the Emergency Order.

9. The post-petition financing facility expires, by its terms, on Friday, December 19, 2008.

III. Operations by the Trustee.

10. Immediately upon my appointment, I took steps to protect and preserve the Debtor's assets at the facility in Postville, Iowa and elsewhere. Since my appointment, I have spent most of my time at the Postville facility securing books and records, meeting with personnel and employees and other matters.

11. I have had the opportunity to spend considerable time at the Debtor's meat processing plant in Postville, Iowa since my appointment. During my time there, I have met with many of the displaced Agriprocessors workers and certain of the Debtor's vendors, both one-on-one and in town hall style meetings. I have also met with the United States Trustee for Region 12, and various local, state and federal officials, including the Lieutenant Governor of Iowa, the Honorable Patricia Judge, the Mayor of Postville, the Honorable Robert Penrod and the Iowa Department of Economic Development. Finally, I and my proposed counsel have met with the United States Attorney for the Northern District of Iowa.

12. With respect to the Debtor's operations, I have engaged the services of two veteran poultry and meat industry operators to assist me in running the day-to-day operations of the Postville plant. After consulting with them, I determined to re-commence operations, on a limited basis, to process the Debtor's 750,000 chicken and hen inventory. Since the Petition Date, the chicken and hen inventory have been sustained through direct payments by First Bank to growers for feed at a cost of approximately \$50,000 per day. Processing started on December 3<sup>rd</sup> and continues to date. Processing is up to 22,000 chickens per day and increasing. I have been able to re-hire in excess of 200 workers at the Postville facility to provide services in connection with the processing operations. To date, the facility has processed approximately 140,000 chickens and hens.

13. I am also selling current production, as well as existing inventory of meat and poultry. Sales through December 15, 2008 have been approximately \$948,000. The New York warehouse was re-started in December 10, 2008. 11 employees have been retained.

14. I am also supervising the collection of outstanding accounts receivable. Since November 21, 2008, the estate has collected approximately \$2 million in accounts receivable (which are being held subject to claims asserted under the Packers and Stockyards Act). I have opened a new post-office box under my control to receive customer remittances. The Trustee and First Bank have executed and sent a joint letter to the Debtor's known customers informing them that all payments should be sent to the aforementioned post office box.

IV. Claims Under the Packers and Stockyards Act.

15. As noted above, there are claims asserted by poultry and livestock growers under the Packers and Stockyards Act. The asserted claims aggregate up to \$6 million. I, through my staff and attorneys, are working closely with the United States Department of Agriculture (the "USDA") to verify allowable claims under the statute. The USDA has audited claims asserted by livestock growers and are currently auditing claim filed by poultry growers. I hope to be in a position to bring on an appropriate motion before the Court seeking payment of such claims in the near future. I have also met with representatives from the offices of Senator Harkin and Congressman Braley with regard to the claims under the Packers and Stockyards Act.

V. Federal Indictment of the Debtor.

16. Prior to my appointment, the United States filed an indictment in the United States District Court for the Northern District of Iowa against the Debtor (and other individuals) alleging 12 counts of violations of Titles 8 and 18 of the United States Code. The indictment has been amended several times, including a third superseding indictment filed on December 11, 2008 that added a forfeiture allegation, which provides for a potential forfeiture of the Debtor's assets to the United States upon conviction of one or more of the offenses contained in the indictment. The criminal trial is scheduled to take place in September 2009.

17. I and my proposed criminal counsel attended the initial hearings before the federal district court on the indictment on December 5, 2008 to monitor the proceedings and to protect the estate's interest with respect to any fines and/or penalties that could eventually be imposed in connection with that proceeding.

18. As noted above, I and my counsel, have met with the United States Attorney on several occasions since my appointment to discuss the indictment and its effect on the bankruptcy proceeding, including but not limited to, a sale under section 363 of the Bankruptcy Code.

VI. Marketing Efforts.

19. In my capacity as Chapter 11 Trustee, I intend to maximize the value of the estate so as to afford its creditors the greatest possible recovery. I believe that such value can only be achieved through an open, fair and transparent 363 sale process before this Court.

20. Although no formal marketing efforts have been undertaken at this juncture, I have been approached by no fewer than twelve parties that have expressed an interest undertaking due diligence in connection with a potential proposal to acquire all or a portion of the Debtor's assets. One of the issues of concern to potential buyers is the interplay of the potential forfeiture remedy and the 363 sale process.

VII. Pending Procedural Motions.

21. Since my appointment, I, through my proposed counsel, have filed the following applications, which remain pending to date:

- a. The Trustee's application to retain Halperin Battaglia Raicht, LLP, as bankruptcy counsel to the Trustee; the application was scheduled for presentment on December 9, 2008, with no objections filed to the relief requested;
- b. The Trustee's application to retain Elderkin & Pirnie, PLC, as co-bankruptcy counsel to the Trustee; the application was

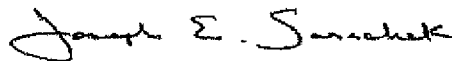
scheduled for presentment on December 9, 2008, with no objections filed to the relief requested; and

- c. The Trustee's application to retain Kelley Drye & Warren, LLP, as criminal counsel to the Trustee the application is scheduled for presentment on December 22, 2008.

22. I intend to file an application to retain Triax Capital Advisors, LLC to assist me in connection with respect to day-to-day financial and operational issues.

23. In order administer the case, I may need to retain additional consultants to assist me marketing efforts for the sale of the Debtor's assets and property.

Executed on: Postville, Iowa  
December 17, 2008



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Joseph E. Sarachek