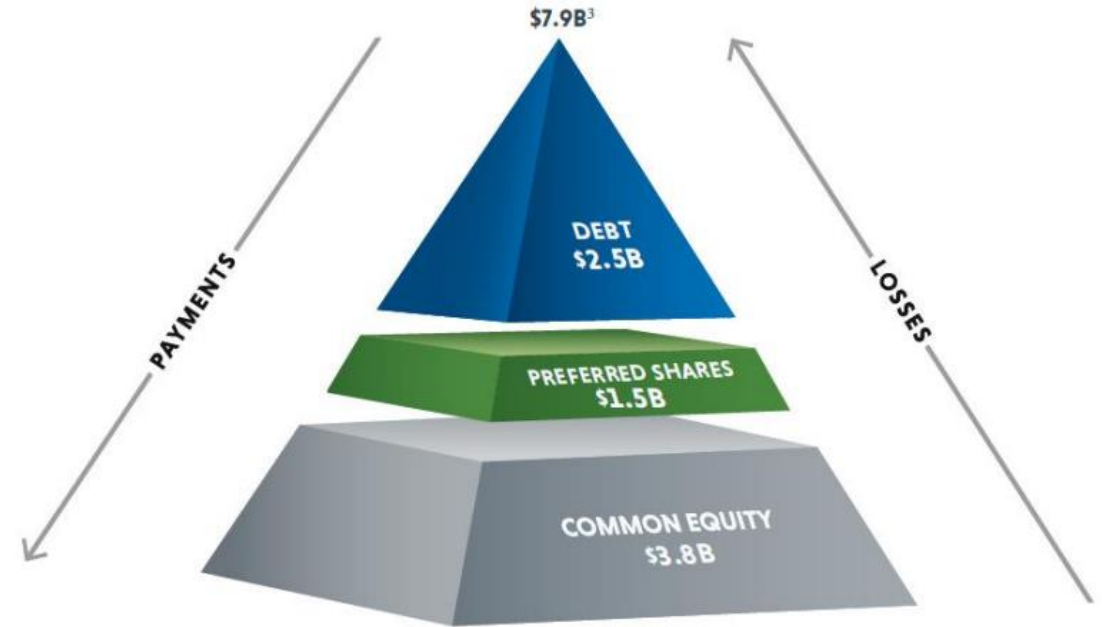




Active **Short** Prospect Corporation (“PSEC”)

Case Study: Aggressive Marks on PGX Holdings, Inc.

December 6, 2023



Source: <https://pcsalts.com/wp-content/uploads/2023/11/PSEC-Client-Presentation-September.pdf>

PROSPECT CAPITAL

HEDGEYE REITs

ROB SIMONE, CFA

Managing Director

rsimone@hedgeye.com

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PGX | HISTORY & BACKGROUND OF PGX HOLDINGS, INC. (“PGX”)

- **PGX Holdings, Inc. (“PGX”)** operates in the “**credit repair**” industry via the “**creditrepair.com**” and “**credit.com**” brands and the **Lexington Law Firm**. PGX was a portfolio company of private equity firm H.I.G. Capital (“HIG”).
- **On 5.2.19, the Consumer Financial Protection Bureau (“CFPB”) filed a complaint against PGX** in the U.S. District Court for the District of Utah, **alleging various unlawful and deceptive business practices** by PGX and misleading statements made by third-parties that refer customers to PGX. PGX denied the allegations and for years vigorously defended the lawsuit.
- **On 7.21.21, despite the above complaint, PSEC participated in PGX’s refinancing** via 1L and 2L senior secured floating rate term loans.
- **On 3.10.23 the District Court granted partial summary judgment**, and in response PGX shut down approximately ~80% of its business operations. CFPB demanded nearly ~\$3 billion in restitution or refunds and other monetary relief and requested certain injunctive relief.
- This put severe stress on PGX’s business. PGX began negotiating with secured lenders regarding a potential restructuring transaction, including in Fall 2022. **In December 2022, HIG effectively gave up on its investment and transferred ownership to PSEC.**
- **On 6.4.23, PGX voluntarily filed for Chapter 11 bankruptcy protection.**
- **Similar to National Property REIT (“NPRC”), we view PGX as representative of PSEC’s willingness to aggressively mark its investments at “fair values” well-above reasonable levels. It may further call into questions all of PSEC’s marks, and supports the need for a broader investigation of the portfolio.**

PGX | PGX WAS PSEC'S 4TH LARGEST POSITION AS OF 2Q23

Prior to 2Q23 PGX was transferred to “non-control” investments with a FV of \$287.8 million, then marked up to ~\$303.4 million (~7.7% of NAV) as of the end of 12.31.22, via (1) PIK interest accruals and (2) likely upward revaluation of the “TopCo” Class B units.

(41) As defined in the 1940 Act, we are deemed to be an “Affiliated company” of these portfolio companies because we own more than 5% of the portfolio company’s outstanding voting securities. Transactions during the six months ended December 31, 2022 with these affiliated investments were as follows:

Affiliated Companies	Fair Value at June 30, 2022	Gross Additions (Cost)(A)	Gross Reductions (Cost)(B)	Net unrealized gains (losses)	Fair Value at December 31, 2022	Interest income	Dividend income	Other income	Net realized gains (losses)
Nixon, Inc.	—	—	—	—	—	—	—	—	—
PGX Holdings, Inc. (C)	340,253	—	(288,494)	(51,759)	—	15,003	—	133	—
RGIS Services, LLC	17,004	—	(4,987)	(4,073)	7,944	31	1,374	—	—
Targus Cayman HoldCo Limited	36,007	—	(2,805)	(33,202)	—	—	—	—	16,143
Total	\$ 393,264	\$ —	\$ (296,286)	\$ (89,034)	\$ 7,944	\$ 15,034	\$ 1,374	\$ 133	\$ 16,143

(A) Gross additions include increases in the cost basis of the investments resulting from new portfolio investments, PIK interest, and any transfer of investments.

(B) Gross reductions include decreases in the cost basis of investments resulting from principal collections related to investments repayments or sales, impairments, and any transfer of investments.

(C) The investment was transferred to non-control investment classification at \$287,751, the fair market value of the investment at the beginning of the three month period ended December 31, 2022.

	First Lien Term Loan	7/21/2021	12.59% (3M SOFR + 7.75%)	1.50	7/21/2026	70,639	70,639	70,639	1.8%	(8)(10)
	Second Lien Delayed Draw Term Loan - \$30,000 Commitment	12/28/2022	12.00% PIK	—	12/31/2025	—	—	—	—%	(39)(15)
	Second Lien Term Loan	7/21/2021	12.00% PIK	—	7/27/2027	174,688	174,688	174,688	4.4%	(39)
	Class B of PGX TopCo LLC (999 Non-Voting Units)	12/28/2022			N/A			58,246	1.5%	(16)
						245,327	303,573	7.7%		

PGX | PSEC RECORDED PGX AT ~124% OF COST AS OF 2Q23

Including the quarter-end value ascribed to the Class B TopCo units, which were transferred from HIG to PSEC on 12.28.22, **PSEC effectively carried PGX at ~124% of its cost basis** despite PGX being a distressed situation.

(\$ in 000s)

Investment	Date Issued	Coupon / Yield	PGX Position at 12.31.22		
			Cost / Principal	PSEC Fair Value	Implied Mark
1L Term Loan	7/21/2021	12.59% (3-Mo. SOFR + 775bps); 1.50% SOFR Floor	70,639	70,639	100.00
2L DD Term Loan - \$30M Commitment	12/28/2022	12.00% PIK	-	-	-
2L Term Loan	7/21/2021	12.00% PIK	174,688	174,688	100.00
Class B Non-Voting Units of PGX TopCo	12/28/2022		-	58,246	-
Total / Wtd. Avg.			245,327	303,573	123.74

PGX | WAS THIS 12.31.22 MARK JUSTIFIED?

The 2Q23 mark was recorded despite: (1) significantly worsening operating performance, (2) the CFPB complaint “overhang,” (3) “imminent liquidity need and likelihood of defaults” in Fall 2022, and (4) transfer of ownership to PSEC before the end of the quarter.

D. Recent Operational, Governance, and Financial Developments at the Debtors.

50. *PGX’s Prepetition Restructuring Transactions.* By the fall of 2022, with persistent headwinds to the credit repair industry, as the temporary benefits of the COVID stimulus payments waned, and with the overhang of the ongoing CFPB Litigation, PGX again faced an imminent liquidity need and the likelihood of defaults under the First Lien Facility and the Second Lien Facility with respect to liquidity covenant tests and interest payments. In September 2022, PGX re-engaged with its advisors to explore possible recapitalization or restructuring transactions. Following preliminary discussions with key stakeholders throughout the capital structure, Prospect approached PGX with a transaction proposal whereby, in exchange for amendments to the credit facilities that would provide certain covenant relief and additional liquidity to ameliorate the liquidity crunch, HIG would transfer its equity ownership in PGX to an entity formed for the benefit of the Second Lien Lenders.

51. Negotiations surrounding this framework would eventually culminate in the December 28, 2022 transactions, which included (i) the Transfer Agreement discussed above, by which Prospect (through PGX TopCo, LLC) obtained majority equity ownership in PGX; (ii) the provision of \$45 million of new liquidity by the First Lien and Second Lien Lenders, which included \$15 million of an incremental term loan funded on December 28, 2022, and an additional

C. PGX’s Equity.

35.^I Before January 29, 2023, H.I.G. Capital, LLC, through its subsidiary H.I.G. Progrexion, LLC (“HIG”), was a majority stockholder of Debtor PGX Holdings, Inc. On December 28, 2022, PGX Holdings, Inc., H.I.G, Progrexion, LLC, and non-Debtor PGX TopCo LLC entered into that certain Transfer Agreement (the “Transfer Agreement”), pursuant to which, effective January 28, 2023, HIG transferred its shares to non-Debtor PGX TopCo LLC. Non-Debtor PGX TopCo LLC is a subsidiary of Prospect.

PGX | ADVERSE COURT RULING IN MARCH 2023

On 3.10.23, a material portion of PGX’s business was effectively deemed illegal via an adverse ruling for partial summary judgment in the CFPB complaint. PGX responded by shutting down ~80% of its business, increasing financial distress.

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CLERK
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

BUREAU OF CONSUMER FINANCIAL
PROTECTION,

Plaintiff,

v.

PROGREXION MARKETING, INC., et al.,

Defendants.

**ORDER GRANTING PLAINTIFF’S
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Case No. 2:19-CV-00298-BSJ

District Judge Bruce S. Jenkins

by Defendants’ advertising online and through hotswap partners, as detailed above⁵⁵). The rule text does not offer any exception to the six-month waiting period for telemarketers who do not offer “promised results.” Rather, romanette (ii) of the advance-fee provision assumes that a telemarketer promises a result of some sort. This seems a reasonable assumption on the part of its drafters. It is reasonable to presume a practice is abusive if that practice consists of charging a customer money and then offering them no result of any kind in return. Close examination reveals the advance-fee provision requires a particular result: one measurable in “a consumer report from a consumer reporting agency.” Defendants deny that they provide, or are even able to provide, any such result. Rather than finding the lack of promised results somehow absolves Defendants from compliance with the advance-fee provision, the court finds it evidences Defendants’ failure to comply with the advance-fee provision of the TSR.

PGX | PGX DEFAULTED ON THE PSEC PREPETITION 1L & 2L TERM LOAN FACILITIES ON 3.31.23...

53. The resulting change to the Debtors' operations drastically altered the Debtors' liquidity outlook. In addition to looming liabilities as a result of the CFPB Litigation, the PGX Debtors faced a \$7.7 million interest payment under their existing Prepetition Facilities, due March 31, 2023. PGX requested that Prospect fund the \$30 million of delay draw term loans; however, Prospect did not fund, citing that the Company had not satisfied all conditions precedent to such advance. The Company defaulted on March 31, 2023 but these developments brought all stakeholders back to the negotiating table.

PGX | ... BUT PSEC CONTINUED CARRYING ITS PGX INVESTMENTS AT ~75% OF PAR

PSEC filed its 10-Q for the quarter ending 3.31.23 on 5.9.23. PSEC wrote down the Class-B TopCo units to zero, marked down the 2L Term Loan, but continued carrying the 2L Term Loan at ~\$114 million or ~65 cents on the dollar despite the PGX default.

(\$ in 000s)

Investment	Date Issued	Coupon / Yield	PGX Position at 3.31.23		
			Cost / Principal	PSEC Fair Value	Implied Mark
1L Term Loan	7/21/2021	12.91% (3-Mo. SOFR + 775bps); 1.50% SOFR Floor	70,639	70,639	100.00
2L DD Term Loan - \$30M Commitment	12/28/2022	12.00% PIK	-	-	-
2L Term Loan	7/21/2021	12.00% PIK	174,688	114,017	65.27
Class B Non-Voting Units of PGX TopCo	12/28/2022		-	-	-
Total / Wtd. Avg.			245,327	184,656	75.27

PGX | PGX FILED CHAPTER 11 ON 6.4.23

The Chapter 11 plan for PGX filed on 8.24.23 contemplated no recovery to the prepetition 2L claims, and possible >10% impairment to the prepetition 1L claims.

The Proposed Restructuring Transaction.

56. **The Restructuring Support Agreement.** Although aligned on the general guiding principles, the Debtors, First Lien Lenders, and Prospect engaged in a series of negotiations to implement a comprehensive restructuring transaction. While tenuous at times, these hard-fought negotiations ultimately proved fruitful. On June 4, 2023, the Debtors, each of the First Lien Lenders, and Prospect (in its capacity as Second Lien Lender and majority equityholder) executed a Restructuring Support Agreement, attached hereto as **Exhibit C**. As contemplated by the Restructuring Support Agreement, the Debtors commenced these chapter 11 cases to execute a value-maximizing section 363 sale to sell these assets free and clear of all claims and interests, followed by a liquidating chapter 11 plan if the Debtors determine that a liquidating chapter 11

Class	Claim/Equity Interest	Treatment of Claim/Equity Interest	Projected Amount of Claims	Projected Recovery
		Other Secured Claim; (iii) Reinstatement of such Holder's Allowed Other Secured Claim; or (iv) such other treatment rendering such Holder's Allowed Other Secured Claim Unimpaired.		
3	Other Priority Claims	Except to the extent that a Holder of an Allowed Other Priority Claim agrees to less favorable treatment, in full and final satisfaction, compromise, settlement, and release of and in exchange for such Allowed Other Priority Claim, on or as soon as practicable after the later to occur of (i) the Effective Date and (ii) the date such Claim becomes Allowed (or as otherwise set forth in the Plan), each Holder of an Administrative, Priority or Priority Tax Claim will either be satisfied in full, in Cash, or otherwise receive treatment consistent with the provisions of section 1129(a)(9) of the Bankruptcy Code.	N/A	N/A
4	Prepetition First Lien Claims	Except to the extent that a Holder of a Prepetition First Lien Claim agrees to less favorable treatment, in the event the Sale Transaction is a Credit Bid Transaction, after payment in full in Cash of all Administrative and Priority Claims and Other Priority Claims and funding of the Wind-Down Budget, in full and final satisfaction, compromise, settlement, release, and discharge of its Claim (unless the applicable Holder agrees to a less favorable treatment), Holders of Prepetition First Lien Claims shall receive their Pro Rata share of the Distributable Proceeds, up to the Allowed amount of such Prepetition First Lien Claims; <i>provided</i> that the Prepetition First Lien Deficiency Claims shall be subordinated and junior to all Other General Unsecured Claims for purposes of distributions under the Plan; <i>provided, further</i> that such subordination shall be capped at \$10 million (including Other Assets subsequently monetized pursuant to the terms and conditions of the Creditor Trust) distributed to Other GUC Claimants under the Plan, after which the Prepetition Secured Lenders shall receive their <i>pro rata</i> share of any distribution to Holders of Other General Unsecured Claims on account of such Deficiency Claims (except for any distribution on account of the PIK Notes) and shall	219.7 million ³	88.7% ⁴

³ The projected amount of Class 4 Prepetition First Lien Claims has been adjusted from the original total prepetition amount of approximately \$262.4 million to \$219.7 million to account for (i) the \$39.9 million roll-up into the superpriority DIP and (ii) the \$2.9 million transfer of bridge loan principal and related prepetition interest into the superpriority DIP.

PGX | PSEC CARRIED 1L TERM LOAN AT PAR AS OF 6.30.23

Despite possible impairment to the 1L Term Loan implied by the plan filed prior to PSEC's 10-K filing on 9.8.23, **PSEC continued carrying the 1L Term Loan at par.** PSEC wrote the 2L Term Loan down to zero.

(\$ in 000s)

Investment	Date Issued	Coupon / Yield	PGX Position at 6.30.23		
			Cost / Principal	PSEC Fair Value	Implied Mark
1L Term Loan	7/21/2021	12.85% (3-Mo. SOFR + 775bps); 1.50% SOFR Floor	70,639	70,639	100.00
DIP Term Loan	12/28/2022	13.99% (3-Mo. SOFR + 850bps); 1.50% SOFR Floor	4,376	4,376	100.00
2L DD Term Loan - \$30M Commitment	12/28/2022	12.00% PIK	-	-	-
2L Term Loan	7/21/2021	12.00% PIK	179,986	-	-
Class B Non-Voting Units of PGX TopCo	12/28/2022		-	-	-
Total / Wtd. Avg.			255,001	75,015	29.42

- 12.31.22 → **PSEC carried PGX well-above par**, despite deepening financial distress + “imminent liquidity need and likelihood of defaults” in Fall 2022.
- 3.31.23 → PGX defaulted on the 1L + 2L Term Loans on 3.31.23, but PSEC marked the 1L at par and the 2L at ~65 cents. Taken together, **PSEC recorded its combined PGX investment at ~75 cents as of 3.31.23 and filed on 5.9.23, despite the PGX default.**
- 6.30.23 → **PSEC recorded the 1L Term Loan at par** in its 10-K filed on 9.8.23, despite a plan filed with the BK court on 8.24.23 contemplating >10% impairment to the prepetition 1L claims.
- As the controlling shareholder, PSEC would have been intimately involved with this lengthy restructuring process and related negotiations.
- In our view, given the timing these facts illustrate aggressive valuations and reluctance to take write-downs, further calling into question all of PSEC's marks.

For more information, contact us at:

sales@hedgeye.com

(203) 562-6500