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Gemini Systems looks to sell assets to Essex for \$4M

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Computer software provider Gemini Systems LLC has filed for bankruptcy protection with plans to auction its assets. The New York company on Wednesday, March 11, submitted a Chapter 11 petition in the U.S. Bankruptcy Court for the Southern District of New York in Manhattan. Gemini on Thursday filed motions for use of \$500,000 in debtor-in-possession financing from Essex Technology Group Inc. and for approval of bidding procedures based on a \$4.43 million offer from Essex affiliate ETGI Inc. Judge Sean H. Lane was set on Thursday afternoon to consider the first-day motions. Under the proposed bidding procedures, ETGI of Rochelle Park, N.J., would receive a \$132,900 breakup fee and up to \$200,000 in expense reimbursement if it lost at auction. Rival offers would need to be at least \$4.86 million and accompanied by a 5% deposit. Bids at auction would have to increase in increments of at least \$100,000. Gemini did not request a specific sale timetable, but it envisioned the auction taking place in April. The debtor looks to operate through the sale with the DIP, which would carry a 7.5% interest rate. The loan would mature on the earliest of June 1, confirmation of a Chapter 11 plan and the closing of an asset sale. ETGI would credit-bid the DIP and roughly \$700,000 in prepetition debt as part of its offer. According to court papers, Essex and Gemini have been in talks for 18 months over a sale of Gemini's assets. "As a result of this extensive and protracted negotiating period, the Debtor has not done extensive marketing of its assets," the bidding procedures motion said. Essex first expressed interest in an acquisition in September 2013, and in January 2014 it announced the planned acquisition of Gemini's U.S. operations. On April 16, Essex and Gemini entered into an agreement that included the prospective purchaser funding certain payroll expenses. Essex ultimately retained Appraisal Economics Inc. to provide a fair market value of Gemini's business as of Nov. 30. Taking the appraisal and the "deteriorating financial position" of Gemini into account, court papers show, Essex came up with the opening offer. Founded in 1987 by CEO Simon Leung, Gemini specializes in providing information technology services based on IBM Corp. (IBM) software. It gets about two-thirds of its revenue from the resale of IBM software, according to court papers, and also works with Essex and Arrow Electronics Inc. According to CEO Simon Leung's first-day declaration, Gemini could not find a source of capital to fund its business. Though its software resale business was expanding, the company suffered a loss of revenue in its consulting services area after losing some key employees through attrition that it could not replace. Debt kept piling on, and in April 2014, the company lost a line of credit from American Express Co. (AXP). In January, Gemini's only product resale distributor would not do any more transactions because of unpaid debt. Gemini listed \$1 million to \$10 million in assets and liabilities in its petition. It did not file a list of its largest unsecured creditors. Its liabilities include the \$700,000 in advances from Essex and a \$750,000 secured line of credit from Citibank NA. Gemini also owes \$1.09 million to the Internal Revenue Service and \$56,663 to the New York State Department of Taxation and Finance for unpaid employment taxes. The company has 51 employees. Debtor counsel Tracy L. Klestadt and Brendan M. Scott of Klestadt Winters Jureller Southard & Stevens LLP could not be reached for comment. Essex marketing director Jennifer Blauvelt and Richard E. Weltman of Weltman & Moskowitz LLP, counsel to the proposed purchaser, were unavailable for comment.

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---- **Index References** ----

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