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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	Chapter 11
MERIT STREET MEDIA, INC.,[1]	Case No. 25-80156 (SWE)
Debtor.	

PROFESSIONAL BULL RIDERS LLC'S REPLY IN FURTHER SUPPORT OF PARTIAL JOINDER IN SUPPORT OF TRINITY BROADCASTING OF TEXAS, INC. AND TCT MINISTRIES, INC.'S EMERGENCY MOTION FOR AN ORDER: (1) DISMISSING DEBTOR'S CHAPTER 11 CASE, (II) CONVERTING THE CASE TO CHAPTER 7, OR (III) APPOINTING A CHAPTER 7 TRUSTEE

Professional Bull Riders LLC ("**PBR**"), by and through its undersigned counsel, hereby submits this Reply (the "**Reply**") in further support of its Partial Joinder in Support of Trinity Broadcasting of Texas, Inc. and TCT Ministries, Inc.'s Emergency Motion for an Order: (1) Dismissing Debtor's Chapter 11 Case, (II) Converting the Case to Chapter 7, or (III) Appointing a Chapter 7 Trustee (the "**Joinder**") [Doc. 151] to Trinity Broadcasting of Texas, Inc. and TCT

[1] The last four digits of the Debtor's federal tax identification number are 8990. The Debtor's mailing address is 5501 Alliance Gateway Fwy, Fort Worth, TX 76177.

Ministries, Inc.'s Emergency Motion for an Order: (1) Dismissing Debtor's Chapter 11 Case, (II) Converting the Case to Chapter 7, or (III) Appointing a Chapter 7 Trustee (the "**Motion**") [Doc. 100].[2] In support of this Reply, PBR respectfully states as follows:

PRELIMINARY STATEMENT

1. "The only real creditor [MSM] has is me."[3] I am … filing Ch. 11 for MSM."[4] "I shut it down for [the] sole purpose of getting away from TBN."[5] "It will wipe out PBR's claims against MSM but our claims against them will survive."[6] "We are immediately relaunching on Monday the 7th in a new joint venture with publicly traded media company—MediaCo in a new 65,000 sq. ft. broadcast center only 15 min. away … We intend to make this a jump to hyperspace. As of Monday or soon thereafter we will be available in over 90Mil homes and devices. And NO TBN!"[7] "Just want you to know we think we [are] 'Free At Last.' Very happy."[8]

2. These boasts—every word penned by Dr. Phil on the eve of bankruptcy or in its immediate aftermath—reveal the true motive underlying this case (the "Chapter 11 Case"). This proceeding was never designed to aid all creditors, rehabilitate the Debtor, or serve any other legitimate purpose. Rather, it was the culmination of a months-long plot to rid the Debtor of TBN, squelch PBR's $180 million dollar claim, and smuggle personnel and key content from the Debtor to Dr. Phil's new, unencumbered media enterprise.

3. By mid-2025, tensions between Dr. Phil and TBN were mounting. Rather than trying to resolve their differences in a forthright manner, Dr. Phil dispatched his underlings to commence secret negotiations with MediaCo about a joint venture. Beginning in early May,

[2] Capitalized terms not defined shall have the meanings given to them in the Partial Joinder.
[3] Ex. 1, PETESKI0005200.
[4] Ex. 2, PETESKI0005842.
[5] Ex. 1, PETESKI0005200.
[6] Ex. 2, PETESKI0005842.
[7] Ex. 1, PETESKI0005200.
[8] Ex. 2, PETESKI0005842.

Dr. Phil's confederates—including Ken Solomon, the Debtor's CEO—carried out two months of clandestine talks with MediaCo. By late May, the pillars of a plan were in place. Production of Dr. Phil's show and other content would be transferred to MediaCo's Irving, Texas studio. MediaCo would provide facilities, advertising support, a mobile app, and shared services. In connection with the anticipated move, the Debtor would dramatically reduce its headcount. Dr. Phil would issue a press release about the MediaCo joint venture to defray negative publicity associated with the reduction in force. And he would sue TBN for its alleged breach of a letter of intent relating to the Debtor's operations and its supposed failure to pay the Debtor's distribution fees. By June, Mr. Solomon was discussing the "TBN reset"[9] and Joel Cheatwood, the Debtor's COO, was preparing for "life after TBN."[10] During the entirety of May and June, Dr. Phil's cabal never uttered a word to TBN about the intensifying MediaCo negotiations.

4. But Dr. Phil and his associates faced a fundamental obstacle. If they shifted the Debtor from its studios at the Plex to MediaCo's building in Irving, TBN would still partially own the Debtor. And presumably, Dr. Phil would have to seek TBN's permission to consummate the move. Further, the newly relocated and downsized Debtor would still be subject to PBR's potent $180 million dollar breach of contract claim in a pending arbitration.[11]

5. In mid-June, Dr. Phil and the Debtor devised a new stratagem to circumvent these roadblocks. On Tuesday June 17 and Wednesday June 18, Dr. Phil spent seventeen hours in meetings with a bevy of lawyers to discuss "damage control" and the most "agile way to move forward."[12] On June 18, over Jackson Walker's vehement objections, a retired Judge ordered Dr. Phil to sit for a full-day deposition in the PBR Arbitration. That same day, Dr. Phil retained

[9] Ex. 3, PETESKI0001840.
[10] Ex. 4, MSM0002041.
[11] *Professional Bull Riders, LLC v. Merit Street Media, Inc.*, JAMS Case No. 5310001058 (the "PBR Arbitration").
[12] Ex. 5 PETESKI0003210.

Gary Broadbent as Chief Restructuring Officer. Within 72 hours, by June 22, Dr. Phil's team had chosen the name Envoy for a new company and had begun experimenting with Envoy logos. On June 23, Dr. Phil held a meeting with Mr. Broadbent to discuss whether to file for Chapter 11 or conduct an informal workout, which he dubbed "decision day" and the "threshold day in our company's history."[13] Shortly thereafter, on June 24 or 25, Dr. Phil led another meeting, during which he informed Mr. Solomon, Mr. Cheatwood, and other key stakeholders that he was putting the Debtor into Chapter 11.

6. The implication of this sequence of events is clear. Dr. Phil was deeply immersed in the decision to file the Chapter 11 Case and concocted it as a means of implementing a self-serving scheme that had been germinating for months. Everyone acknowledged the outline of that scheme, including Mr. Cheatwood, before the July 2 petition: Envoy would be incorporated and enter into a joint venture with MediaCo, Chapter 11 would be initiated, press releases would be issued to offset negative publicity, the Debtor would lay off the bulk of its employees and rehire the most critical subset at Envoy, production would be shifted to MediaCo's Irving studio, PBR's claim would be extinguished, the Debtor would sue TBN, the litigation would be funded by a Peteski DIP that would enable it to credit bid for the Debtor's intellectual property, which would then be spirited to Envoy, and the Debtor would be relegated to a rerun loop destined to be quickly "sunsetted."[14] It is certainly no coincidence that every single element of this bankruptcy scheme—from the MediaCo joint venture, to switching production facilities, to reducing headcount, to suing TBN—perfectly mirrors decisions Dr. Phil and his collaborators made weeks before Mr. Broadbent was appointed as CRO.

7. In the hours before and after the Chapter 11 filings, Dr. Phil brazenly bragged about

[13] Ex. 6 MSM0022965.
[14] Ex. 7 MSM0002245.

the scheme and its aims. He told multiple friends and business associates—including the New York City Chief of Police and a sitting judge—that "I shut down the current configuration" and "I...filed for Chapter 11."[15] He crowed that Chapter 11 would wipe out PBR's claim without any arbitration. Over and over, he celebrated his ill-gotten "freedom"[16] from TBN, which would liberate him to immediately "relaunch"[17] his media platform under the Envoy banner using much of the exact same branding and premium content, at the expense of the Debtor's creditors.

8. Following the filing of the petition, Dr. Phil, Mr. Solomon, and Mr. Cheatwood spearheaded the execution of the scheme. The overwhelming majority of the Debtor's employees were indeed fired on July 2 and told they might be rehired by Envoy. Some of the most talented already have been. Envoy anticipates onboarding yet more. Meanwhile, the skeleton crew left to stand vigil over the rerun zombie Debtor acted as double agents, doing work for Envoy while being paid by the Debtor. Mr. Solomon, the Debtor's CEO, and Mr. Cheatwood, the Debtor's COO, readied the MediaCo Irving facilities for Envoy production, spoke with the Debtor's talent on Envoy's behalf, drafted Envoy staffing and hiring plans, talked to distributors about transitioning from the Debtor to Envoy, planned Envoy content, negotiated salaries for Envoy employees and contractors, made certain that valuable IP and content of the Debtor were set aside for Envoy, and corresponded on behalf of Envoy, among other things, all while pocketing their salaries from the Debtor. Much of this activity was conducted behind a veil of secrecy. Participants in the scheme were admonished to discuss Envoy only in texts and personal emails. Mr. Cheatwood confessed in more than one of those texts that public affiliation with Envoy while serving as an officer of the Debtor would be problematic. To this day, Mr. Solomon and Mr. Cheatwood continue to build

[15] Ex. 8, PETESKI0004529; Ex. 9, PETESKI0004532.
[16] Ex. 8 PETESKI0004529.
[17] *Id.*

Envoy, awaiting the moment when it can appropriate the rest of the Debtor's IP through a credit bid and launch.

9. Bankruptcy should not be used as an incubator for Dr. Phil's new business to the detriment of the Debtor's legitimate creditors. Using Chapter 11 as a vehicle for effectuating Dr. Phil's longstanding desire to excommunicate TBN from the Debtor, seize control of its assets, extinguish PBR's valid contract claim, enter into a joint venture with MediaCo, shift production to Irving, and relaunch his network free and clear is not a valid bankruptcy purpose. Dr. Phil filed the case in bad faith. It should be converted to Chapter 7.

10. Indeed, through this entire scheme, no regard whatsoever has been paid to the Debtor's liabilities and the unsecured creditors to whom they are owed. These are the creditors for whose benefit a Chapter 11 case must be run, and these are the creditors who will receive the least in this case. Allowing an out-of-the-money equity owner to walk away with the Debtor's assets in exchange for a credit bid of the secured DIP Loan, and possibly little more, leaving unsecured creditors with little to no recovery on their claims, lacks a proper bankruptcy purpose and smacks of bad faith.

11. Ordinarily, unsecured creditors in a Chapter 11 case can rely on the official committee of unsecured creditors to protect their rights and challenge any overreach by the out-of-the-money equity owner. But that is not the case here, further supporting the need for conversion. The Committee was originally formed with three members: (i) PBR, (ii) Darcy Ribman, and (iii) Steve Borden. The Debtor immediately objected to PBR's service on the Committee, complaining to the U.S. Trustee ("UST") that PBR was conflicted from serving because the Debtor sought to sell its meritless counterclaims against PBR. PBR made every effort to offer accommodations to avoid even the appearance of impropriety, including unequivocally

stating that it would not bid on the Debtor's claims against it. But PBR would not disavow its right to bid on the Debtor's other assets, as it had no obligation to do so. Such a disavowal would also not have been in the best interests of unsecured creditors. Indeed, more bidders generally leads to a higher purchase price and thus a greater recovery for unsecured creditors. Nevertheless, the UST dismissed PBR from the Committee shortly after its appointment, leaving Ribman and Borden as the only members.

12. The only objection the Committee has filed in this case was a joinder to the Debtor's objection to PBR's request for an emergency hearing.[18] Indeed, the Committee has walked lock step with the Debtor and Peteski during the entire pendency of this case. That is not surprising because neither Ribman nor Borden has any interest in discharging their fiduciary duties to general unsecured creditors. Around the time the Debtor filed this Chapter 11 Case, Dr. Phil guaranteed his good friends, the Ribmans, a 100% recovery on their claim against the Debtor out of his own pocket. He also invited the Ribmans to invest in Envoy. Further, just before his Committee appointment, Steve Borden asked the Debtor to artificially amend his non-executory contract with the Debtor to make it executory in the hopes that the Debtor would assume the contract and assign it to Envoy, thereby requiring the Debtor to pay Borden's company the full amount of its prepetition claim as a cure cost, giving Borden a leg up over other unsecured creditors. While the Committee abdicates its responsibility to protect general unsecured creditors, PBR has been left to shoulder this responsibility (at its own cost) for the benefit of itself and other similarly situated unsecured creditors.

13. PBR does not advocate for conversion to Chapter 7 lightly. PBR is aware that Chapter 7 will make the amount and timing of unsecured creditor recoveries uncertain. But PBR

[18] Doc. 198.

believes that the uncertainty of Chapter 7 is a worthwhile risk to ensure that the Debtor's assets will be placed in the hands of a truly independent trustee that can investigate and prosecute estate causes of action and conduct a fair and arm's length sale of the Debtor's assets. PBR seeks no unilateral advantage through conversion. The Debtor's claims against PBR would exist in Chapter 7 the same as they exist in Chapter 11. The alternative would be to take the same risks in terms of amount and timing of recovery under the Plan to be filed by the Debtor. Except that the risk is much greater because the Debtor proposes to borrow at least $9 million on a senior secured basis to try to confirm the Plan. The fact that the Debtor is willing to put this risk on unsecured creditors to procure a release for Peteski and Dr. Phil from estate causes of action is further evidence of bad faith. This simply is not an ordinary Chapter 11 case and should not be treated as such. In fact, this case should have been filed as a Chapter 7 from the outset. This Chapter 11 Case, under the superficial control of Mr. Broadbent, is ultimately being steered by Dr. Phil and Peteski, and seeks only to advocate and foster Peteski's rights, which is not a proper bankruptcy purpose.

FACTUAL BACKGROUND

I. The Relevant Players.

14. The Debtor is a multi-platform destination media company spearheaded by Dr. Phil and self-branded as Dr. Phil's Merit TV.[19] The Debtor launched operations on April 2, 2024.[20]

15. At the outset, TBN owned a 70% share of the Debtor and Peteski, Dr. Phil's company, owned the other 30%.[21] Peteski is also the proposed DIP lender in this action.[22]

16. PBR is an international professional bull riding organization, the Debtor's largest

[19] Ex. 10, MSM0001960.
[20] Ex. 11, MSM0008188.
[21] Ex. 12, First Day Hearing Tr. 38:20-23; Ex. 13, MSM0008104.
[22] Doc. 11, ¶ 5.

unsecured creditor (by far), and a good faith bystander in Peteski's power struggle with TBN.[23]

II. PBR Contracts With The Debtor And Becomes Stuck In The Middle of The Dr. Phil-TBN Dispute.

17. On May 3, 2024, PBR and the Debtor entered a Media Rights Agreement, under which the Debtor was required to pay PBR a sizable rights fee in exchange for the right to broadcast select PBR events.[24] The Debtor began broadcasting PBR's content in July 2024.[25] PBR went above and beyond in performing its obligations under the Agreement, with the Debtor timely paying the monthly rights fee from May through August 2024.

18. Unbeknownst to PBR, sometime in the summer of 2024, Peteski and TBN began quarreling over their mutual ownership of the Debtor and the obligation to contribute working capital for the Debtor's operations. Indeed, as early as June 2024, Dr. Phil was looking to rid himself of TBN. In a June 30, 2024 text conversation with Jamie Ribman (husband of Committee Chair Darcy Ribman), whom Dr. Phil has described as a close personal friend,[26] Dr. Phil told Mr. Ribman that he was "working on the project of getting rid of TBN."[27] In an August 6, 2024 email exchange with Frank Amedia of TBN, Dr. Phil complained that TBN had allegedly "default[ed] on [his] last fee" and that TBN was allegedly "failing to pay even routine vendor invoices and basic expenses necessary to conduct the business of a professional network."[28] Around this time, Peteski and TBN began negotiating a new framework for the Debtor's operations and Dr. Phil's personal services to the Debtor.[29]

19. On August 8, 2024, TBN and Peteski swapped ownership interests in the Debtor,

[23] Doc. 97, ¶ 6.
[24] Doc. 97, ¶ 8.
[25] *Id.*
[26] Ex. 14, Transcript of the Deposition of Phillip C. McGraw ("McGraw Dep."), 104:24-105:11; Ex. 2, PETESKI0005841.
[27] Ex. 15, PETESKI0007916
[28] Ex. 16, PETESKI0001184
[29] Doc. 100, ¶ 19.

with Peteski assuming a 70% stake and TBN assuming 30%.[30] Originally, the Debtor had elected Matt Crouch (TBN), Dr. Phil (Peteski), and Samuel Smadja (TBN) as its directors. Peteski claims that, after the ownership swap in August 2024, Dr. Phil became the Debtor's sole director until it retained its Chief Restructuring Officer, Gary Broadbent, and appointed him to the Board.[31] TBN claims that Peteski did not have corporate authority to remove Crouch and Smadja from the Board. (Doc. 100, ¶ 47.)

20. More pertinent for PBR's purposes, immediately after Dr. Phil assumed majority control of the Debtor in August 2024, the relationship between the Debtor and PBR soured. In September 2024, the Debtor requested, and PBR permitted, a one-time extension of the payment deadline for the monthly rights fee. On September 3, 2024, two days after the Debtor missed its first monthly rights fee payment, Dr. Phil acknowledged that, "obviously [PBR] has to be paid," but that he was "playing some 11th hour poker" with TBN and trying to force it to finance PBR's monthly rights fee payment.[32] In October 2024, the Debtor missed its payment of the monthly rights fee and never cured its breach.[33] The Debtor also missed its payment of the monthly rights fee in November 2024.[34] Due to the Debtor's repeated failures to pay the monthly rights fee, PBR terminated the Agreement in November 2024 and commenced the PBR Arbitration against the Debtor, alleging breach of contract and seeking damages in the amount of $181,427,483.00.[35]

III. Dr. Phil Solicits Friends And Family Investors, Including Jamie and Darcy Ribman.

21. While PBR and the Debtor were engaged in arbitration, Dr. Phil sought to raise additional capital for the Debtor by soliciting a friends and family round of investments in the late

[30] Doc. 100, ¶ 19.
[31] Ex. 12, First Day Hearing Tr. 45:02-22.
[32] Ex. 17, MSM0023470.
[33] Doc. 97, ¶ 8.
[34] *Id.*
[35] *Id.*

fall of 2024 through early 2025.[36] Dr. Phil circulated an investor presentation, in which he touted the Debtor's valuable intellectual property assets and top-level talent, such as himself, Nancy Grace, and Steve Harvey.[37]

22. Among the potential investors Dr. Phil approached were Darcy and Jamie Ribman, his close friends with whom he had previously shared his desire to rid the Debtor of TBN in June 2024. In December 2024, through a family trust, the Ribmans invested $5 million in the Debtor via a convertible note.[38]

IV. Short On Options, Dr. Phil Explores A Relationship With MediaCo And Soo Kim.

23. In the face of the failed family and friends round, his disintegrating relationship with TBN, and the walls closing in on him in the PBR Arbitration, Dr. Phil began exploring a potential business relationship with a publicly traded company located in the Dallas-Ft. Worth Metroplex called MediaCo. The largest stockholder of MediaCo is Standard General, L.P., which is a hedge fund owned and operated by Soo Kim.[39]

24. By early May 2025, Dr. Phil and his team had begun discussing a potential business relationship with Kim. The team Dr. Phil mobilized for this endeavor included Solomon (Debtor's CEO), Jay and Jordan McGraw (Dr. Phil's sons), and Phil McIntyre (Dr. Phil's long-time business consultant and advisor who has served as an intermediary on various Dr. Phil deals, including the Debtor's formation and the stock swap with TBN).

25. On May 10, 2025, Dr. Phil emailed Solomon, who confirmed that Kim was "flying

[36] Ex. 18, MSM0002834.
[37] *Id.*
[38] Ex. 19, MSM0001876; Ex. 20, MSM0001874; Ex. 21, TBN0006381.
[39] *See, e.g.*, http://www.standardgenerallp.com/ (listing Soo Kim as "Firm's Managing Partner and Chief Investment Officer."). MediaCo's FY2024 10-K explained that Standard General "beneficially owns shares representing approximately 96.1% of the outstanding combined voting power of all classes of our common stock." MediaCo Holding, Inc., Annual Report (Form 10-K) (Apr. 15, 2025).

in tomorrow" and that he was an investment candidate.[40] Solomon also noted that Kim "might be a big part of our future if he comes in."[41] On May 13, Kim texted McIntyre and asked for "a short call" so that Kim could "create a draft term sheet that summarizes all the ways we could work together."[42] McIntyre then facilitated Dr. Phil's visit to Kim's studio space.[43] At all times throughout the discussions with Kim, Dr. Phil was kept informed and often participated in the discussions.[44]

26. The initial discussions between Dr. Phil's team and MediaCo personnel involved a potential joint venture between the Debtor and MediaCo.[45] Another possibility was the Debtor or a Dr. Phil entity "rolling into" MediaCo.[46] Kim proposed a strategy that was characterized as "crawl, walk, run."[47] Dr. Phil planned to discuss the "crawl, walk, run" strategy with Kim in more detail on May 16, and that morning Jay McGraw texted Dr. Phil, his father, some thoughts.[48] Specifically, Jay[49] focused on "the process of creating value" and Kim's strategy "for the exit here."[50] Later that day, Dr. Phil told McIntyre and Solomon that he had "a lot of questions" about the potential relationship with MediaCo.[51] Solomon assured Dr. Phil that a framework would be "put on paper today."[52]

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[40] Ex. 22, PETESKI0009132.
[41] *Id.*
[42] Ex. 23, MCINTYRE-PETESKI0008649.
[43] Ex. 24, MCINTYRE-PETESKI0008720; Ex. 25, MCINTYRE-PETESKI0008729.
[44] *See, e.g.*, Ex. 26, PETESKI0009208, Ex. 27, JAYMCGRAW_PETESKI0008927, Ex. 28, PETESKI0009131, Ex. 29, PETESKI0003156, Ex. 30, MCINTYRE-PETESKI0008544, and Ex. 31, PETESKI0005369.
[45] Ex. 14, McGraw Dep. at 20:5–10 ("Q. Okay. And one of the conversations that was taking place in May of 2025 concerned a potential joint venture between MediaCo and MSM, correct? A. That would be one possibility that he's discussing here…"); *see also* Ex. 26, PETESKI0009208.
[46] Ex. 26, PETESKI0009208.
[47] *Id.*
[48] Ex. 27, JAYMCGRAW_PETESKI0008927.
[49] Because Jay McGraw and Jordan McGraw share the same last name, all references to them will be to their first name to distinguish between them. No disrespect or familiarity is intended.
[50] Ex. 27, JAYMCGRAW_PETESKI0008927.
[51] Ex. 32, MCINTYRE-PETESKI0008576.
[52] *Id.*

27. As promised, on May 16, Kim emailed McIntyre a "very rough strawman" of a framework between MediaCo and McGraw Media.[53] The framework was divided into "crawl, walk, run" sections and includes an initial distribution plan and new "studio/headquarters" (crawl), followed by an app and interactive content (walk), and then news, gameshows, and sports (run).[54] The framework also had an "ALIGNMENT" section that contemplated a "[n]ew subsidiary that can be taken by [Dr. Phil] at his option" and a provision that "McGraw Media merges into Mediaco."[55] Post-merger, new investors "can invest in [MediaCo Holdings, Inc.] and funding will be committed for content creation strengthening distribution."[56] The next day, on May 17, McIntyre, Dr. Phil, and Jay planned to meet Kim to "discuss structure."[57] Dr. Phil specifically wanted Jay present at the meeting to "size [Kim] up and ask pertinent Qs."[58] After the call, Jay emailed Dr. Phil to say that "[t]his guy is legit. I like him. I like the plan."[59] Dr. Phil then foisted his negotiating imprimatur on Jay, stating it is "best to leave it to you so you can pimp me in my absence."[60] Jay texted McIntyre and Dr. Phil that he would go to New York to "sit with [Kim] and hammer out the deal."[61]

28. At the same time, Dr. Phil and his team were still seeking outside investors for the Debtor. On May 18, McIntyre shared with Jay that the "collective opinion" was to close an "investment round with Jamie [Ribman] and co asap inside Merit" while they simultaneously "start the first phase with Soo [Kim] to move to his studio."[62] In other words, Dr. Phil and his team were

[53] Ex. 33, MCINTYRE-PETESKI0008399; Ex. 34, MCINTYRE-PETESKI0008400.
[54] Ex. 34, MCINTYRE-PETESKI0008400.
[55] *Id.*
[56] *Id.*
[57] Ex. 35, MCINTYRE-PETESKI0008584.
[58] *Id.*
[59] Ex. 36, MCINTYRE-PETESKI0008523.
[60] Ex. 37, PETESKI0009252. Notably Jay promised to "run the points by you as a strategy."
[61] Ex. 38, MCINTYRE-PETESKI0008586.
[62] Ex. 36, MCINTYRE-PETESKI0008523.

engaged in dual-track negotiations: they were seeking short-term funding for the Debtor while looking for a longer-term solution involving MediaCo to move their operations out of the Plex and into a studio owned by MediaCo.[63] One of the concerns with raising capital for the Debtor, however, was that it would "get eaten up by deferred payments."[64]

29. After Jay met with Kim to "hammer out the deal," he sent an email to Dr. Phil with the subject "Merger Thoughts," laying out a "rough outline that we can possibly work off of."[65] The "rough outline" included the following provisions: the Debtor and MediaCo "find shared resources such as sales and distribution," "MediaCo provides facilities," and the Debtor "runs its business based on the current model."[66] There was one problem with the plan: Kim was hesitant because of the Debtor's cash burn. As Jay told his brother Jordan, Kim "isn't willing to merge with a business that isn't at least moving towards being profitable."[67]

30. At the same time, the Debtor's distributors were getting more aggressive. On May 20, Solomon had "the hardest conversation" that he's ever had with Terry Crosby, CEO of CNZ Communications, Inc., one of the Debtor's distributors. Crosby led discussions on behalf of the Debtor's distributors who were threatening to cut off the Debtor's distribution.[68] Solomon managed to talk Crosby "back from the ledge," but they knew something had to be done.[69]

31. On May 21, Solomon asked McIntyre and Dr. Phil for a meeting to discuss the CNZ situation and the potential deal with Kim. Solomon informed Dr. Phil that Crosby and the faith of the Debtor's distributors was waning because of the alleged issues with TBN. At this

[63] *See, e.g.*, Ex. 39, MSM0022970 (text from Ken Solomon to Phil McIntyre noting "facilities switch" and "latest on Bridge $").
[64] *Id.*
[65] Ex. 40, PETESKI0003156.
[66] *Id.*
[67] Ex. 41, JAYMCGRAW_PETESKI0008934.
[68] *Id.*
[69] *Id.*

point, Dr. Phil had already decided to sue TBN and told Solomon to ask the distributors to "join us in pursuing a claim against TBN."[70] The plan to sue TBN was corroborated by Phil Gilligan, the Debtor's acting CFO, on June 3, 2025, when he texted that the Debtor had "a fractured relationship with TBN," and was "going to [sue] them in two weeks."[71]

V. Dr. Phil Finalizes The MediaCo Deal And Plots Bankruptcy Long Before Broadbent.

32. As early as May 23, nearly a month before the Debtor retained Broadbent or bankruptcy counsel, the specter of bankruptcy was already in the works. On that day, Dr. Phil set his plan in motion, emailing Cheatwood and others that a "major purge" of the Debtor's employees was a necessary first step in effectuating his plan. Dr. Phil testified that "major purge" meant a substantial reduction in force at the Debtor.[72] Further, McIntyre texted Kim that Dr. Phil was "completely aligned with what you were saying today," and Kim expressed sympathy for Solomon regarding the "hard restructuring" on the horizon.[73] McIntyre then promised to call Kim to fill him in on McIntyre's "conversation with [Dr. Phil] and his next steps / plans."[74]

33. Meanwhile, Jay continued to attempt to hammer out a deal with Kim regarding a partnership. At this point, both Dr. Phil and Kim were on the same page regarding future operations. As Jay put it when texting with his brother Jordan, "the changes that [Kim] is looking for need to happen anyway or there is zero chance of this working even for a year."[75]

34. Dr. Phil's "next steps / plans" involved a consolidation with MediaCo, including a "65K square foot studio."[76] But given Kim's skepticism over a merger involving the Debtor, it soon became obvious to Dr. Phil and his team that they would need to create a new company to

[70] Ex. 42, PETESKI0005423.
[71] Ex. 43, MSM0023193.
[72] Ex. 12, McGraw Dep. 47:1–6.
[73] Ex. 44, MCINTYRE-PETESKI0008667.
[74] *Id.*
[75] Ex. 41, JAYMCGRAW_PETESKI0008934.
[76] Ex. 45, PETESKI0009215.

consummate the relationship with MediaCo. To that end, on May 24, Solomon texted a friend that he was "building a brand new media company" with Dr. Phil.[77] The key players on Dr. Phil's MediaCo negotiation team—Solomon, McIntyre, Jordan, and Jay—planned a "quick retreat, reset" before their next meeting with Kim.[78] A few days later, McIntyre emailed Kim and introduced him to Dr. Phil's media lawyer at Manatt, Phelps & Phillips, LLP so they could discuss "how to paper the first phase" of the partnership.[79] On May 28, McIntyre and Soo have a meeting and Dr. Phil tells McIntyre "give my best to Soo [Kim]."[80] The next day, McIntyre used ChatGPT to help him clean up a note to Kim that lays out more concrete steps to the crawl phase.[81] On May 29, McIntyre sent the note to Kim, the Manatt lawyer, and then on May 30 forwarded it to Jay.[82] By June 2, Dr. Phil's team was in detailed discussions with MediaCo personnel to execute the plan.

35. On June 4, Solomon emailed Cheatwood and Gilligan, explaining that they "are now a startup that has no affiliate license fees."[83] By June 10, Dr. Phil's MediaCo execution team had grown to include David Jeong, the Debtor's head of technology. Jeong sent a lengthy list of technical specs to one of MediaCo's team members for the Debtor's then-current operations and which projected moving away from TBN's infrastructure.[84] Meanwhile, Dr. Phil and Solomon were preparing lists of Debtor employees to cut and to keep as part of their new venture. When describing a "draft new staff list" to Dr. Phil, Solomon referenced the "TBN reset and move."[85] The next day, Solomon texted McIntyre about "OPERATION RECHARGE" that was tied to the

[77] Ex. 46, MSM0022666.
[78] Ex. 47, MCINTYRE-PETESKI0008638.
[79] Ex. 48, MCINTYRE-PETESKI0008497.
[80] Ex. 49, PETESKI0009217.
[81] Ex. 50, MCINTYRE-PETESKI0008776.
[82] Ex. 51, MCINTYRE-PETESKI0008494.
[83] Ex. 52, MSM0003818.
[84] Ex. 53, MCINTYRE-PETESKI0008351.
[85] Ex. 3, PETESKI0001840.

reduction in force, stating that they still had to work on "TBN timing, plan narrative" and the "Soo Kim Deal."[86]

36. By mid-June, the plan to separate from the Debtor was cast in stone. But the Debtor's officers and employees working on the scheme realized it wasn't prudent to effectuate their plan to eradicate the Debtor while using their Debtor e-mail addresses. On June 12, a sales VP at Debtor wrote to Solomon and Jeong (among others)—using their personal email addresses—following a "very productive call with Media Co" that they were "sending all the necessary assets today from our personal emails so they can begin building."[87] Later, as the bankruptcy filing approached, Jeff Miller, who to this day is the Debtor's head of HR, confirmed the reason for the secrecy: they did not "want to tip off or [to] make it back to TBN about the new company."[88] They were also working on preparing their systems "for an easy switch when the time comes" to get away from TBN's infrastructure.[89]

37. On June 15, Cheatwood added two new members to the team. He emailed them on June 16 about "the process of restructuring the company for life after TBN."[90] He cautioned them that the information was "not for public consumption" and that they were to keep it to themselves.[91] The next day, Solomon texted McIntyre that there was still a lot of "engineering and work to figure out" how to execute the plan, including getting "the RIF [reduction in force] lined up with potential office move," and "firm[ing] up Medi[a]Co partnership details."[92]

[86] Ex. 54, MCINTYRE-PETESKI0008614.
[87] Ex. 55, MCINTYRE-PETESKI0008343 (emphasis in original).
[88] Ex. 56, MSM0007497.
[89] Ex. 55, MCINTYRE-PETESKI0008343.
[90] Ex. 4, MSM0002041.
[91] *Id.*
[92] Ex. 57, MSM0022972.

VI. Dr. Phil Executes His Plan In The "Most Agile" Way: A New Entity And Chapter 11.

38. The next step in Dr. Phil's plan to jettison TBN and stiff PBR involved forming a new company to partner with MediaCo. But he had to determine how to "strip" the Debtor's assets for the new company to exploit.[93] The first step was an initial round of layoffs beginning in mid-June—set in motion before the Debtor retained Broadbent or bankruptcy counsel—which Cheatwood testified was the first "action step towards a bankruptcy."[94] Cheatwood also testified that Steve Borden of Borden Media Co., who would later join the Committee, consulted with the Debtor during this timeframe "to assist in the reorganizing of staff and with downsizing."[95] Finally, Cheatwood testified that by June 20, he "had met with the department heads of" the Debtor "and let them know that we were going to have to reorganize staff due to the insolvency of the company and that there would be additional cuts coming."[96]

39. On June 17 and 18, Dr. Phil spent 16 hours "with a bevy of lawyers" performing "damage control" and trying to figure out the "most agile way to move forward."[97] The result: Chapter 11. As Solomon told Dr. Phil on June 17, they still had to "get the org design lined up with the new office move" and "firm-up MediaCo partnership details to dovetail with the new plant and staff."[98] The reduction in force was directly tied to moving everyone away from TBN and into a partnership with MediaCo. Cheatwood explained to Miller that the determination of who to lay off at the Debtor "was predicated on relocation to the other facility."[99] Cheatwood did not base the list off the Debtor's operational needs, but rather the operational needs

[93] Ex. 58, MSM0009992; Ex. 59, Deposition of Joel Cheatwood ("Cheatwood Dep."), 142:11–24.
[94] Ex. 59, Cheatwood Dep. 31:16–20; Ex. 60, MSM0010412.
[95] Ex. 59, Cheatwood Dep. 43:4–21; Ex. 61, MSM0010369.
[96] Ex. 59, Cheatwood Dep. 42:21–25.
[97] Ex. 5, PETESKI0003210.
[98] Ex. 62, PETESKI0009240.
[99] Ex. 60, MSM0010412.

of a new entity at a new facility.[100]

40. Also on June 18, in the PBR Arbitration, PBR and the Debtor participated in a critical discovery hearing before a retired Judge. During that hearing, PBR prevailed on every substantive issue, including compelling Dr. Phil to sit for a seven-hour deposition, the Debtor's production of Jordan McGraw's personal emails and text messages, and the Debtor's production of its financial information in the form of documents and corporate designee deposition testimony, all over Jackson Walker's vociferous objections. The Debtor contacted Broadbent the same day and inquired about his interest in becoming its Chief Restructuring Officer.[101]

41. At the same time, Dr. Phil expressed concern about the slow pace of the plan's execution and limiting the number of Debtor employees who would move to the new entity. Dr. Phil told Solomon on June 19, "[w]e are going to tear it down and buil[d] it back," and that he would not "move with 97 people."[102] Negotiations with distributors were no longer about salvaging the relationship with the Debtor but about setting up new deals for a new company. Solomon pithily referred to it as a "SWITCH PITCH," where he would pitch "cut[ting] out the middle man," TBN, to "do a deal directly" with the new entity.[103]

42. Dr. Phil enlisted Cheatwood, the Debtor's COO, to put the execution phase into action. Cheatwood worked to ensure that TBN did not discover Dr. Phil's plans while simultaneously preparing to shift the Debtor's employees to a new entity at a moment's notice. For example, on June 20, Cheatwood explained that they should "have everyone back up their laptops" because they "could lose them all with very little notice."[104] Cheatwood's explanation

[100] *See, e.g.*, Ex. 63, MSM0004012 (an MSM segment director referring to "architects of the new venture").
[101] Doc. 14, ¶ 1.
[102] Ex. 5, PETESKI0003210.
[103] Ex. 64, PETESKI0003143.
[104] Ex. 61, MSM0010369.

for the backup mandate was to ensure that employees would not lose personal photos and the like, which strains credulity.[105] A more plausible reason for the backup mandate was to preserve access to the Debtor's valuable IP for purposes of transitioning it to the new entity.

43. Meanwhile, McIntyre (with the help of ChatGPT) began working on a name for the new company.[106] Jordan McGraw texted a logo designer on June 22 to say that he was "starting a digital media type company" named "Envoy Media," requesting some "logo options."[107] Jordan shared those logo options with McIntyre the next day,[108] and a week later he shared them with Dr. Phil.[109]

44. On June 22, Dr. Phil texted Solomon and McIntyre that he was planning to retain Broadbent as Dr. Phil drove the Debtor towards either "a full on Ch. 11 or an informal workout."[110] The next day, Dr. Phil met with Broadbent, referring to the meeting as "decision day" and "probably THE threshold day in our company's history."[111] Shortly thereafter, on either June 24 or 25, Dr. Phil led a meeting with lawyers from Jackson Walker, Solomon, Cheatwood, Jay, and Bill Dawson (Debtor's legal counsel) where Dr. Phil explained that "there would be a bankruptcy filing within the next few days."[112] Cheatwood confirmed that Dr. Phil led the meeting on June 24 or 25, and that he expressed an intent to file for bankruptcy and "create a new media company" as soon as possible.[113]

45. Once Dr. Phil could "stand up newco immediately after filing" bankruptcy the plan was to transform the Debtor into a zombie IP holding company, with "no new production of any

[105] Ex. 59, Cheatwood Dep. 50:1–11.
[106] *See, e.g.*, Ex. 65, MCINTYRE-PETESKI0007669 (asking ChatGPT to "play with using envoy").
[107] Ex. 66, PETESKI0006016.
[108] Ex. 67, PETESKI0005807.
[109] Ex. 31, PETESKI0005369.
[110] Ex. 68, PETESKI0005323.
[111] Ex. 6, MSM0022965; Ex. 14, McGraw Dep: 85:1–86:25.
[112] Ex. 59, Cheatwood Dep. 17:14–18:8.
[113] Ex. 59, Cheatwood Dep. 17:9–18:8; 19:10–20:11; 22:6–14; 22:19–23:14; 27:19–28:1; 54:3–13; 66:1–14; 67:1–4.

kind," and a recursive loop rerun "playlist" on 8-hour repeat.[114] Cheatwood had to hand select the skeleton crew to press the play button at the zombie Debtor,[115] driven by his mandate to "launch newco with 60 people total."[116]

46. The ultimate goal was to "sunset MSM after 30 days," allowing "newco [to] bid to buy the MSM program library."[117] Dr. Phil was directly involved in the plan to turn the Debtor into a zombie IP holding company,[118] with the intent of having the new company credit bid on the Debtor's assets in bankruptcy.[119] By this time, the Debtor's management had committed to "shut down MSM" because there was "no hope financially."[120]

47. By this time, Cheatwood was devoted to helping set up the new company,[121] because the process was intensive and would "require pulling a few rabbits out of our collective hats."[122] Cheatwood proposed setting up a "war room" at MediaCo because it was "likely" that they would "need to start conducting some business there almost immediately."[123] While Cheatwood helped oversee the execution of the plan, Solomon and McIntyre worked on negotiating the specifics of the actual relationship between Envoy and MediaCo. On June 27, Solomon shared a first draft of a letter of intent with MediaCo.[124]

48. While the decision to file for bankruptcy had already been made, the question of when to completely shutter the Debtor had not yet been finalized. Nevertheless, it was evident

[114] Ex. 69, MSM0010031.
[115] Ex. 59, Cheatwood Dep. 31:16–32:6.
[116] Ex. 70, MSM0004230; *see also* Ex. 71, MSM0010426 (Cheatwood confirming Jeff Miller's question that "there will be a small MSM crew remaining" and "a crew going to newco").
[117] Ex. 69, MSM0010031.
[118] *Id.* (Cheatwood explaining that he had a "long chat with [Dr. Phil] this afternoon confirming what we talked about earlier – 8 hour programming loops using only programs owned by MSM or from the DP library").
[119] Ex. 59, Cheatwood Dep. 71:4–7.
[120] Ex. 59, Cheatwood Dep., Tr. at 63:8-11.
[121] They also sometimes referred to it as "Merit 2.0" instead of NewCo. *See, e.g.*, Ex. 72, PETESKI0006184.
[122] Ex. 73, MSM0010095.
[123] Ex. 74, MCINTYRE-PETESKI0008821.
[124] Ex. 75, MCINTYRE-PETESKI0008312.

before the bankruptcy was ever filed that Envoy would replace the Debtor, which would not survive. On June 27, Cheatwood explained that MSM would "possibly" continue for up to three months, but MSM "won't shut down until we have newco up and running in some shape or form."[125] Cheatwood also noted "[Dr. Phil's] desire to vacate asap," with John Perry, Debtor's director and executive producer, emphasizing Dr. Phil's "desire to have something up immediately" (to which Cheatwood replied "exactly").[126] Accordingly, the week before the petition date, the Debtor's leadership team knew that it was only a matter of time before the Debtor would shut down completely.

49. As the plan to "stand up" Envoy took shape, Dr. Phil and Cheatwood discussed how to recruit the Debtor's on-air talent to Envoy.[127] On June 29, Cheatwood approached Nancy Grace's management team, explaining that Dr. Phil wanted her to "be a part of the new venture."[128]

50. As the petition date approached, the key members of Dr. Phil's inner circle worked on messaging the plan to the Debtor's staff. On June 30, Solomon sent draft talking points to McIntyre, stating that they "shut THIS partnership down" and "are compelled to suspend ops here today" to "end this dysfunctional connection to TBN."[129] The talking points also envisioned the announcement of a "NEW JOINT VENTURE with MEDIACO."[130] Dr. Phil later modified the talking points slightly, reaffirming their intent to "suspend ops here today" and to "dissolv[e] this company under court supervision."[131] The inner circle—on the advice of Coley Brown, Debtor's retained financial advisor—decided that all "communication involving timing of events, strategies,

[125] Ex. 76, MSM0010027.
[126] *Id.*
[127] Ex. 77, MSM0016635.
[128] Ex. 78, MSM0009870.
[129] Ex. 79, MCINTYRE-PETESKI0008621.
[130] *Id.*
[131] Ex. 80, PETESKI0003213.

etc." should not involve their Debtor email addresses but should be relegated to "text instead."[132]

51. On July 1, Envoy Media Co., Inc. incorporated in Delaware.[133] The same day, Dr. Phil texted his friend Jamie Ribman (and husband of Committee Chair Darcy Ribman) that *he* "was also filing Ch. 11 for MSM" to "wipe out PBR's claim against MSM" and to "free us from TBN's debt for distribution."[134] Disregarding that the Debtor owes PBR $181 million, Dr. Phil claimed he was the Debtor's "biggest creditor," the second largest being the "distributor group," and the third largest being the Ribmans.[135] Dr. Phil also guaranteed that the Ribmans' "investment is 100% safe," and that he would personally "reimburse the [Ribmans] via wire transfer at a moment's notice," because he said he did not care "what the court does."[136]

52. The day before the Debtor filed its petition, Dr. Phil wrote that he was busy working on the Debtor's adversary complaint against TBN because "the lawyers just can't get it right."[137]

VII. The Debtor Files Chapter 11 And Dr. Phil Boasts He's Free of TBN.

53. On July 2, the Debtor filed for Chapter 11, listing the PBR Arbitration as one of its bases for seeking bankruptcy protection. (Doc. 200, ¶ 58.) Also on July 2, Cheatwood, Solomon, Broadbent, and others held a pivotal meeting with the Debtor's employees at the Plex, carrying out Dr. Phil's personal outline and agenda for the meeting that he had devised in the days leading up to the bankruptcy filing.[138] Specifically, Dr. Phil wanted the Debtor's executive team to inform the Debtor's employees that the bankruptcy filing would impact everyone, short and long term; that TBN was the sole cause of the Debtor's financial woes; that the Debtor "filed a serious Federal

[132] Ex. 71, MSM0010426.
[133] Ex. 81, PETESKI0005385.
[134] Ex. 2, PETESKI0005841. Notably this text message does not appear in the actual conversation with Jamie Ribman and appears to have been deleted. *Compare id. with* Ex. 82, PETESKI0006892 (text chain between Dr. Phil and Ribman where Dr. Phil's text is omitted but Ribman's reply is present).
[135] Ex. 2, PETESKI0005841.
[136] *Id.*
[137] Ex. 83, MSM0009871.
[138] Ex. 84, MSM0010543.

lawsuit against TBN" for fraud and breach of contract; that "BUT FOR THE TENS OF MILLIONS OF DOLLARS LOANED FROM PETESKI PRODUCTIONS TO COVER PAYROLL," they "WOULD NOT HAVE BEEN PAID"; that "WE are GOING TO LAUNCH an incredibly exciting NEW JOINT VENTURE with AN AMAZING media company based right here in DFW"; that he hoped "to offer most if not all of you positions at THE NEW network AS WE GET IT built out," and that they should "PUT OUT A SIGN IN SHEET TO MAKE SURE WE KNOW WHO IS MISSING."[139] Cheatwood testified that at the meeting the Debtor's leadership team delivered the message exactly as Dr. Phil had laid it out for them.[140] On July 3, Dr. Phil began working on a "statement from me about free at last, free at last," announcing that, in his view, he was finally free of TBN.[141]

54. Also on the petition date, Dr. Phil treated his good friend Jamie Ribman to a VIP tour of Envoy's new space at the MediaCo facilities. Broadbent joined this tour.[142]

55. Dr. Phil's own words after the petition date demonstrate that he and his inner circle never intended for the Debtor to remain a going concern. A mere two days after the Debtor petitioned for Chapter 11 relief, Dr. Phil wrote to the New York City Chief of Police and a sitting judge that *he* "shut THE CURRENT configuration down . . . for the sole purpose of getting away from TBN."[143] He went on to explain that MSM itself does not have one creditor that it can't and won't pay" because "[t]he only real creditor is me."[144] Both Dr. Phil and Cheatwood testified that the intent was to shut down the Debtor.[145]

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[139] *Id.* MSM0010544–45.
[140] Ex. 59, Cheatwood Dep. 89:2–8; Ex. 84, MSM0010543.
[141] Ex. 85, PETESKI0009228.
[142] Ex. 86, Deposition of Gary Broadbent Volume I ("Broadbent Dep."), 186:22-187:17.
[143] Ex. 1, PETESKI0005199; Ex. 8, PETESKI0004529; Ex. 9, PETESKI0004532.
[144] Ex. 8, PETESKI0004529.
[145] Ex. 14, McGraw Dep. 116:22–117:12; Ex. 59, Cheatwood Dep. 71:4–7 ("Q. And so the intent was in fact to shut down MSM. A. At that point, with no hope financially, yes."); *id.* 55:2–9 ("Q. Perhaps Envoy wouldn't have been a

VIII. Cheatwood And Others Work As Double Agents For The Debtor And Envoy.

56. Almost immediately after the Debtor filed the petition, the Debtor's key personnel kicked the Envoy execution plan into high gear. Indeed, the same day the Debtor filed the petition, the Debtor's employees continued transitioning operations to Envoy. For example, Cheatwood discussed changing "all the releases" for a Debtor project "from our merit name to the new company."[146] Cheatwood also emailed a Peteski representative from his Debtor email address, asking for the name of the new company so he could "adjust releases for the Dr. Sophy pilot shoots."[147] Instead of responding to Cheatwood's Debtor email address, the Peteski representative instructed Cheatwood to "check [his] text messages."[148] Later that day, Cheatwood sent a draft email announcing Envoy's launch to Broadbent, who signed off on the language.[149] The morning after the petition date, a distributor emailed Solomon a list of the Debtor's distributors "likely to switch to [Dr. Phil]'s new network."[150] And on July 4, Solomon emailed several people at Samsung that Envoy would include "all the IP from before."[151]

57. Since before the petition date, Cheatwood and others have been moonlighting as double agents for the Debtor and Envoy, completing considerable work for Envoy during business hours while collecting their salaries from the Debtor. This work includes touring the new Envoy space at MediaCo, negotiating the lease, setting up infrastructure, layout, and acquiring equipment, establishing bank accounts, identifying and engaging in discussions with potential advertisers, formulating budgets, preparing staffing plans, evaluating content, discussing distribution channels,

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competitor because the intent was to shut down MSM, correct? A. At this point the intent was to gain financial relief. There was an assumption that that would lead to eventually the shutdown of MSM.").

[146] Ex. 87, MSM0010051.
[147] Ex. 88, MSM0004258.
[148] Ex. 89, MSM0004259.
[149] Ex. 90, MSM0010526.
[150] Ex. 91, MSM0016636; Ex. 92, MSM0016637.
[151] Ex. 93, MSM0013874.

setting employee compensation, acquiring Envoy domain names, branding the logo, and soliciting the Debtor's talent to join Envoy.[152]

58. Cheatwood testified that, *while he served as an officer of the Debtor*,[153] he personally assisted Envoy with recruiting many of the Debtor's top performers to move to Envoy;[154] he drafted Envoy staffing plans that almost exclusively included the Debtor's former employees;[155] he and Dr. Phil solicited the Debtor's on-air talent, such as Steve Harvey, Nancy Grace, Lyndsay Keith, and others to switch to Envoy, which was chronicled in a press release that the Hollywood Reporter picked up;[156] he enticed the Debtor's distributors, such as United Teleports and CNN, to move to Envoy;[157] he negotiated salaries for Envoy's newly-minted personnel;[158] he negotiated with vendors and reviewed lease terms with MediaCo for Envoy;[159] and that he performed a laundry list of other general work items for Envoy.[160]

59. A major focus of the Envoy double-agents' post-petition conduct was "stripping" the Debtor's valuable IP and siphoning it to Envoy.[161] For example, when Cheatwood learned that dozens of Dr. Phil's post-petition podcasts were posted to the Debtor's channels instead of Envoy's, he described it as a "nightmare scenario," as he wanted Envoy to exploit that valuable IP instead of the Debtor.[162] Cheatwood also admitted that the Debtor's employees downloaded its valuable IP and data onto drives and that a Debtor employee attempted to upload via FTP certain

[152] Ex. 59, Cheatwood Dep. 190:7-196:19; 198:19-199:1.
[153] Ex. 59, Cheatwood Dep. 14:22–25.
[154] Ex. 59, Cheatwood Dep. 132:15–133:5;
[155] Ex. 59, Cheatwood Dep. 126:1–13; 139:14–23; Ex. 94, MSM0013972-73.
[156] Ex. 59, Cheatwood Dep. 104:19–105:7; 110:8–111:13; Ex. 95, MSM009850; Ex. 96, MSM0009896; *see also* Alex Weprin, *Dr. Phil Returns: Launches Envoy Media Co. in Comeback Bid*, THE HOLLYWOOD REPORTER (July 14, 2025, 6:36 AM), https://www.hollywoodreporter.com/business/business-news/dr-phil-returns-launches-envoy-media-co-citizen-journalism-1236313554/.
[157] Ex. 59, Cheatwood Dep. 197:8–19; 221:6–23.
[158] Ex. 59, Cheatwood Dep. 193:4–5.
[159] Ex. 59, Cheatwood Dep. 221:6–23; 239:20–240:1.
[160] Ex. 59, Cheatwood Dep. 179:25–180:6; 190:7–196:19; 198:19–199:1.
[161] Ex. 58, MSM0009992; Ex. 59, Cheatwood Dep. 142:11–18.
[162] Ex. 58, MSM0009992; Ex. 59, Cheatwood Dep: 144:25–145:16.

Debtor data to Envoy's servers.[163]

60. As with their pre-petition activities, the key members of Dr. Phil's inner circle knew that their post-petition activities were improper. For example, Cheatwood instructed a Debtor employee that "for any emails that include any discussion of newco or related strategies let's use everyone's personal email."[164] Cheatwood later wrote that he and Solomon "have to be very careful with our public activities associated with Envoy since we are still full and active employees of MSM. Activities that would indicate we are more focused on Envoy could be problematic if called into question."[165] Cheatwood also explained that "[a]s a remaining officer of MSM I've been advised not to do anything public to indicate an attachment to Envoy."[166]

61. Despite the obvious impropriety of surreptitiously creating a new entity that would feast on the Debtor's carcass to the detriment of unsecured creditors, on July 14, Envoy and MediaCo executed a memorandum of understanding. The memorandum of understanding was largely consistent with the parties' pre-petition negotiations.

62. The Ribmans were not the only unsecured creditors who received a guarantee from Dr. Phil that he would personally pay their debts outside of this Court's supervision. He did the same for his personal friend, Nancy Grace, and Red Seat Ventures, both of whom are going to Envoy.[167] Further, it is no surprise that the Debtor seeks to avoid its contracts with Steve Harvey and Red Seat Ventures, because Dr. Phil and his team want to release them to pursue new agreements with Envoy.[168]

63. Additionally, after the Debtor filed its petition, Steve Borden (who is a Committee

[163] Ex. 59, Cheatwood 151:10–154:10; 159:8–12; Ex. 97, MSM0010547.
[164] Ex. 98, MSM0010494.
[165] Ex. 99, MSM0010378.
[166] Ex. 100, MSM0010380.
[167] Ex. 59, Cheatwood Dep. 107:22-109:6; MSM0009869.
[168] Ex. 59, Cheatwood Dep. 113:15–17; 115:5–11; 129:15–22.

member) engaged in clandestine negotiations with Solomon to try and fraudulently amend the terms of his contract with the Debtor to receive preferential treatment.[169] Borden explained to Solomon that these negotiations were "CONFIDENTIAL" and for his "EYES ONLY," admonishing him to please "not share the email below with anyone."[170] Borden offered an interpretation of "executory contract" under the bankruptcy code that would allow the Debtor "to pay the full amount owed (the 300k+)," or would allow "assumption and assignment to Newco with full payment to come from Newco."[171] It is unclear if Solomon agreed to Borden's plan on the Debtor's behalf.

64. On August 2, both Cheatwood and Solomon entered independent contractor agreements with the Debtor,[172] ending their extended roles as double agents serving as officers of the Debtor while simultaneously acting as principal agents of Envoy.

IX. Dr. Phil Packs The Committee With His Cronies Who Have No Risk Of Loss.

65. The UST appointed the current Committee on August 6, consisting of Darcy Ribman and Steve Borden.[173]

66. As discussed above, Dr. Phil fully and personally guaranteed the $5 million investment of the Ribmans, whom he has described numerous times as his close personal friends. Dr. Phil also invited the Ribmans to invest in Envoy. Indeed, on the same day that Dr. Phil put the Debtor into bankruptcy, Dr. Phil (along with Broadbent) gave Mr. Ribman a preview of that potential investment vis-à-vis an exclusive VIP tour of Envoy's new facilities at MediaCo.[174]

67. Further, as discussed above, Steve Borden negotiated with the Debtor's erstwhile

[169] Ex. 101, MSM0016729.
[170] *Id.*
[171] *Id.*
[172] Ex. 59, Cheatwood Dep. 11:21–12:7; 246:8-18.
[173] Doc. 170.
[174] Ex. 86, Broadbent Dep. Vol I. 186:22-187:17.

CEO, Solomon, to amend his contract with the Debtor post-petition to obtain preferential treatment. It is unclear whether the Debtor acquiesced to Borden's proposed scheme, but he has demonstrated no reluctance to pursue improper means to gain an advantage over other unsecured creditors and unquestionably been given access to the Debtor's decisionmakers that is not available to general unsecured creditors.

REPLY

68. The Debtor and Peteski filed objections to the Motion and the Joinder. See Doc. 197 (the "Peteski Objection"), 200 (the "Debtor's Objection"). The Committee filed a Reservation of Rights [Doc. 376] (the "Committee Reservation of Rights") and the Ad Hoc Committee of Distributors filed a Statement in Opposition to the Motion [Doc. 205]. For the reasons set forth herein, the Court should overrule the objections and oppositions to the Motion and Joinder.

LEGAL STANDARD

69. "Section 1112 of the Bankruptcy Code governs the conversion or dismissal of Chapter 11 cases."[175] It provides that courts "shall convert a case under [Chapter 11] to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause."[176]

70. "Although the Bankruptcy Code does not define 'cause,' § 1112(b)(4) sets forth numerous examples of 'cause' that would support dismissal or conversion."[177] While not specifically enumerated, "it is well established in the Fifth Circuit that a Chapter 11 case is subject to dismissal or conversion for 'cause' under § 1112(b) if it was not filed in good faith."[178]

[175] *In re Delta AG Grp., LLC*, 596 B.R. 186, 193 (Bankr. W.D. La. 2019).
[176] 11 U.S.C. § 1112(b)(1).
[177] *Delta AG Grp.*, 596 B.R. at 194; *accord In re Traxcell Techs., LLC*, 657 B.R. 453, 459 (W.D. Tex. 2024) (noting Section 1112(b)(4) "provides a non-exclusive list of scenarios that may constitute cause for dismissal").
[178] *Delta AG Grp.*, 596 B.R. at 194; *accord Traxcell*, 657 B.R. at 459 ("The Fifth Circuit treats a debtor's bad faith in filing a case as cause for dismissal under § 1112(b).") *In re Nat'l Rifle Ass'n of Am.*, 628 B.R. 262, 270 (N.D. Tex.

71. Additionally, as relevant here, cause exists mandating dismissal or conversion when there is a "substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation."[179]

72. In determining whether cause exists to dismiss or convert a case under Section 1112, courts apply a burden shifting analysis. "[T]he moving party bears the initial burden to establish cause' by a preponderance of the evidence."[180] "Once the movant shows 'cause,' the burden shifts to the debtor to establish the exceptions in § 1112(b)(2)."[181] "If the movant establishes 'cause' and the non-movant fails to meet its burden of proving the statutory exceptions under § 1112(b)(2), dismissal or conversion is mandatory, *unless* the court determines the appointment of a chapter 11 trustee or an examiner is in the best interests of creditors and the estate."[182]

73. PBR submits that the Movants, through the Motion to Dismiss, the Partial Joinder, the Reply, and TBN's Reply [Doc. 401] have satisfied their initial burden of establishing cause for dismissal or conversion.[183] This showing will be bolstered at the hearings to be held starting on September 16.

74. Neither the Debtor's Objection nor the Peteski Objection overcome or rebut that showing of cause or demonstrate that any exception to dismissal or conversion after a finding of cause applies here. And to the extent that the Debtor argued that allegations in the Motion to Dismiss and the Partial Joinder lacked support, such support has been laid out extensively herein. As such, the Court should find that "cause" exists for the Debtor's Chapter 11 Case to be converted

2021) ("[T]he Fifth Circuit Court of Appeals has held that the term 'cause' affords flexibility to the bankruptcy courts and can include a finding that the debtor's filing for relief is not in good faith.").
[179] 11 U.S.C. § 1112(b)(4)(A).
[180] *Delta AG Grp.*, 596 B.R. at 194.
[181] *Id.*
[182] *Id.*
[183] PBR will not restate the contents of its Partial Joinder in this Reply, but incorporates them herein by reference.

to chapter 7 or dismissed.

ARGUMENT

I. Cause Exists to Convert The Chapter 11 Case to a Chapter 7 Case Because the Debtor Filed for Bankruptcy Without A Proper Bankruptcy Purpose and in Bad Faith.

75. Before addressing the arguments made by TBN and PBR in support of a finding of bad faith, the Debtor makes several self-serving and unavailing arguments to support the chapter 11 filing. First, the Debtor says that "it could no longer rely on emergency funding from Peteski to meet ongoing payroll and operational expenses, especially in light of the failed attempts to secure third-party equity or financing due to litigation and operational instability."[184] While this may mean that the Debtor would not be able to continue as a going concern, it does not justify the decision to file a chapter 11 case that would cause the Debtor's assets to become encumbered by $21 million in secured debt that would in no way preserve or create value for the benefit of unsecured creditors. Instead, this secured debt would just reduce the ultimate recovery (if any) that unsecured creditors would receive.

76. And, it is disingenuous for the Debtor to complain that its attempts to secure third-party financing failed because Peteski and/or the Debtor wanted them to fail. The Debtor's investment banker, Lisa Lansio, testified at her deposition that on June 28 or 29 she reached out to 8 parties (excluding Peteski) to solicit interest in providing DIP financing to the Debtor.[185] None were interested because:

> lack of a stalking horse bid; lack of a filed or to-be-filed capital P plan; i.e., a plan or reorganization; a, you know, lack of understanding about the collateral value if, for example, the case did not go well and they had to foreclose on the assets; lack of significant hard assets; lack of substantial receivables.[186]

[184] Debtor's Obj., ¶ 47.
[185] Ex. 102, Lansio Dep., 24:18-20.
[186] *Id.* 25:12-17.

No efforts were made to cure any of these deficiencies.

77. Furthermore, June 28 and 29 are a Saturday and a Sunday, which means that the Debtor first sought third party proposals for DIP Financing only 2 business days prior to the Petition Date, July 2, despite having provided a draft DIP term sheet to Peteski at least 2 days earlier on June 26, 2025 (the terms of which may have been negotiated even earlier).[187]

78. Peteski needed to be the Debtor's DIP Lender to control the Chapter 11 Case because it had to hand over technical authority to the Debtor's newly hired independent director, Gary Broadbent, who was appointed by Dr. Phil as the sole member of the Special Committee of the Debtor's board, in order to cloak transactions between the Debtor and Peteski with a façade of being arm's length negotiations. But, by continuing to control the purse-strings (as will be discussed below, the Debtor had no net revenue from which it could have supported its chapter 11 case), including the Debtor's ability to pay Mr. Broadbent's compensation, Peteski remained firmly in control of the Debtor. For example, the initial DIP Term Sheet required that the Debtor proceed with a sale of its assets on an extremely short time frame that would permit a non-insider little time to conduct diligence to determine whether to file a competing bid.

79. Next, the Debtor argues that it should be permitted to remain in chapter 11 because "Merit Street remains in business as a streamlined enterprise continuing to air content."[188] However, on the Petition Date, the Debtor projected $0 in post-petition revenues – which is the amount that should be relevant to the determination of whether the filing was in bad faith and

[187] Ex. 103, PETESKI0002202-03 (email dated June 26, 2025 from John E. Cupit V to attorneys at Jackson Walker providing the draft DIP Financing Term Sheet).

[188] Doc. 200, Debtor's Obj., ¶ 48. The Debtor's Objection was filed a month ago on August 12, 2025 and said then that the Debtor expects to earn $244,375-$287,500 per month in ad revenues plus $38,000-$48,000 from other sources. *Id.* On September 13, the Debtor filed a new DIP Budget that projects that the Debtor generate $115,000 in gross operating revenues every two weeks for the remainder of the budget period and at the end of such period, the Debtor will have cumulative operating revenue of negative $957,000 (prior to factoring in proposed additional restructuring costs in the amount of $9.3 million). [Declaration of Coley Brown [Doc., 392], Exhibit A].

lacked a legitimate bankruptcy purpose.[189] And, the Court has previously rejected the Debtor's attempt to characterize its business as operating.[190] Even if the Debtor's de minimis revenues are considered, the Debtor provides no explanation as to how those revenues inure to the benefit of unsecured creditors, when the operating costs of generating those revenues is 50% greater than the revenues.[191]

80. Finally, the Debtor says that this "Chapter 11 Case furthers important bankruptcy purposes of maximizing assets available to pay creditors and preventing a 'race to the courthouse,' and was therefore not filed in bad faith.[192] No support or explanation whatsoever is provided for this sentence. Simply stating bankruptcy truisms without demonstrating that they apply to this case, which is rife with insider influence, does not overcome the allegations that this Chapter 11 Case lacks a proper bankruptcy purpose and was filed in bad faith.

A. The *Little Creek* Factors Demonstrate That the Debtor Filed in Bad Faith.

81. The requirement that a debtor file in good faith "is necessary to legitimize the delay and costs imposed upon parties to a bankruptcy."[193] As explained by the Fifth Circuit:

> Requirement of good faith prevents abuse of the bankruptcy process by debtors whose overriding motive is to delay creditors without benefitting them in any way or to achieve reprehensible purposes. Moreover, a good faith standard protects the jurisdictional integrity of the bankruptcy courts by rendering their powerful equitable weapons (i.e.,

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[189] *See* Doc. 11, Debtor's Emergency Motion for Entry of Interim and Final Orders (I) Authorizing (A) Postpetition Financing, and (B) the Use of Cash Collateral; (II) Granting Liens and Providing Superpriority Administrative Expense Claims; (III) Modifying the Automatic Stay; (IV) Scheduling a Final Hearing; and (V) Granting Related Relief [Doc. No. 11], Ex. A (DIP Budget) (the "Original DIP Budget")]; *see also* Ex. 104, MSM0000845 ("Our only revenue is de minimis ad revenue trickling into the Wells Fargo Brokerage Account. On rare occasion, de minimis revenue will come into a TBN controlled account, but it is so rare we do not expect any to come in during the course of this case.").

[190] Ex. 105, Aug. 14, 2025 Hearing Tr. at 63:7-8.

[191] *See* Doc. 392, Declaration of Coley Brown In Support of the Debtor's DIP Motions [Doc. No. 392], Ex. A. ("New DIP Budget").

[192] Doc. 200, Debtor's Obj., ¶ 49.

[193] *Little Creek Dev. Co. v. Commonwealth Mortg. Corp. (In re Little Creek Dev. Co.)*, 779 F.2d 1068, 1072 (5th Cir. 1986).

> avoidance of liens, discharge of debts, marshalling and turnover of assets) available only to those debtors and creditors with "clean hands."[194]

The Fifth Circuit could have added a few more "equitable weapons" to its list, such as authorizing the sale of estate assets free and clear of liens, claims and encumbrances and granting releases to insiders from estate causes of action, which the Debtor and Peteski are weaponizing in this case. Thus, to protect creditors and safeguard the public interest, bankruptcy courts have a "responsibility to enforce a standard of good faith."[195]

82. To do so, courts consider "the totality of the debtor's circumstances."[196] The analysis includes an "on-the-spot evaluation of the debtor's financial condition, motives, and the local financial realities," and is "based on a conglomerate of factors rather than on any single datum."[197] Further, once the movant "satisfies the initial burden of making a prima facie showing of a lack of good faith in filing, the burden shifts to the debtor to demonstrate good faith."[198]

83. In *Little Creek*, the Fifth Circuit identified "certain recurring but non-exclusive patterns" that evidence bad faith.[199] Those factors, as they have evolved and been modified by later cases, include:

> (1) The debtor has few or zero employees, except for the principal(s);
>
> (2) The debtor has engaged in improper pre-petition conduct;
>
> (3) The debtor has little or no cash flow;
>
> (4) The debtor has little to no cash to sustain a plan of reorganization or make adequate protection payments;
>
> (5) There are only a few unsecured creditors with relatively small claims;

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[194] *Id.*
[195] *Id.*
[196] *Traxcell*, 657 B.R. at 459.
[197] *Little Creek Dev. Co*., 779 F.2d at 1072.
[198] *Nat'l Rifle Assoc. of Am*., 628 B.R. at 270.
[199] *Little Creek Dev. Co*., 779 F.2d at 1072.

> (6) The case is a two-party dispute between the debtor and a single creditor (or consolidated group of creditors); and
>
> (7) The debtor's primary asset is about to be sold or transferred, and the debtor has failed to prevent the sale or transfer in state court.[200]

Importantly, not all factors are applicable to every case, and they do not all need to be present for bad faith to exist.[201]

84. Finally, the Debtor says that this "Chapter 11 Case furthers important bankruptcy purposes of maximizing assets available to pay creditors and preventing a 'race to the courthouse,' and was therefore not filed in bad faith.[202] No support or explanation whatsoever is provided for this sentence. Simply stating bankruptcy truisms without demonstrating that they apply to this case, which is rife with insider influence, does not overcome the allegations that this Chapter 11 Case lacks a proper bankruptcy purpose and was filed in bad faith.

85. Here, numerous *Little Creek* factors point to the undeniable conclusion that the Debtor filed its Chapter 11 Case in bad faith.

1. The Debtor Has Few Employees (Factor 1).

86. The Debtor terminated all but six employees on the Petition Date.[203] Of those that remain, nearly all are currently working for both the Debtor and Envoy. This satisfies factor 1. And, of those that were laid off, many were immediately offered employment at Envoy.[204] The mass layoffs for the purpose of Envoy being able to hire such employees, which robbed the Debtor of whatever going concern value it may have had, is even further evidence of bad faith.[205]

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[200] *Traxcell*, 657 B.R. at 459; *In re 1701 Commerce, LLC*, 477 B.R. 652, 657-58 (N.D. Tex. 2012).
[201] *1701 Commerce, LLC*, 477 B.R. at 658 n.18.
[202] Doc. 200, Debtor's Obj., ¶ 49.
[203] *See, e.g.*, ¶¶ 58-60, *supra*.
[204] *See, e.g.*, ¶ 59, *supra*.
[205] Even if the Court is willing to allow the Debtor to remain in chapter 11, there would be a serious question as to whether Peteski could qualify as a good faith purchaser of the Debtor's remaining assets given its conduct to date, as illustrated by its orchestration of lay offs in order to facilitate its launch of Envoy.

87. As such, factor 1 supports a finding of bad faith both because of the Debtor's limited number of employees, as well as due to their dual loyalties and the reason the Debtor's previously larger workforce was reduced.

2. The Debtor Engaged in Improper Pre-Petition Conduct (Factor 2).

88. Finally, the Debtor says that this "Chapter 11 Case furthers important bankruptcy purposes of maximizing assets available to pay creditors and preventing a 'race to the courthouse,' and was therefore not filed in bad faith.[206] No support or explanation whatsoever is provided for this sentence. Simply stating bankruptcy truisms without demonstrating that they apply to this case, which is rife with insider influence, does not overcome the allegations that this Chapter 11 Case lacks a proper bankruptcy purpose and was filed in bad faith.

89. Prior to its ultimate bankruptcy filing, the Debtor engaged in serious misconduct, and this factor militates strongly in favor of a finding of bad faith.

90. Discovery has revealed that the Debtor, through its principal stockholder and officers, engaged in a premeditated (but, as of yet, unconsummated, thanks to the pending Motion) scheme to extract the Debtor's assets from the Debtor for the benefit of a new media company, Envoy, which is wholly owned by Peteski. Discovery has revealed the glaring impropriety of this scheme, including the extent to which it predated the Chapter 11 filing.[207]

91. This scheme would allow Peteski to extract the Debtor's assets and leave behind the Debtor's liabilities (other than from preferred creditors that Peteski or Envoy chose to assume or backstop, such as Committee Chair Darcy Ribman's claim for $5 million).[208] In short, the

[206] Doc. 200, Debtor's Obj., ¶ 49.
[207] *See* ¶¶ 21-53, *supra*.
[208] Ironically, despite this guarantee, the Committee tries to portray itself as an inpartial and independent party in this case by claiming that it "lacks TBN's and PBR's complicated history and business relationships with the Debtor and Peteski". Committee Reservation of Rights, ¶ 1. The Court should reject the Committee's false characterization of its member's history and business relationships with the Debtor and Peteski. Moreover, the other member of the

Debtor's insiders sought to rid themselves of the Debtor's debts to legitimate creditors and shed an unwanted business partner, all while continuing the exact same business.

92. The Debtor attempts to rebut these allegations of prepetition misconduct, not by denying them (which they do not), but by saying that the Debtor now has separate counsel from Peteski and Dr. Phil and an independent fiduciary with "full decision-making authority over this Chapter 11 Case."[209] However, as already noted, Mr. Broadbent's independence is constrained by the fact that the Debtor is beholden to Peteski, in its capacity as DIP Lender, as the Debtor needs the DIP Financing to remain in Chapter 11.

93. Therefore, factor 2 firmly supports a finding of bad faith.

3. The Debtor Has Little or No Cash Flow (Factor 3) and The Debtor Has Few Unsecured Creditors (Factor 5).

94. The third and fifth factors are related in their support of a finding that the Debtor's case was filed in bad faith. At the outset of the Chapter 11 Case, the Debtor presented itself to the Court as having no revenues, and few unsecured creditors with relatively small claims.[210] This, with nothing more, would support a finding that the chapter 11 filing was made in bad faith.

95. But the inquiry does not end there. Subsequently, after the Motion was filed, the Debtor changed its tune and started characterizing itself as an operating company with up to 300 creditors with claims of up to $72 million.[211] These revised assertions deepen the Debtor's bad faith, as they are designed to make the Debtor's bankruptcy filing appear legitimate and proper in the face of allegations of a bad faith filing.

96. And, if these mischaracterizations were deliberate—the evidence suggests that they

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Committee, Steve Borden, sought modifications of a non-executory contract with the Debtor to give his company, Borden Media, a leg up over other unsecured creditors. *See* ¶ 67–68, *supra*.

[209] Doc. 200, Debtor's Obj., ¶ 63.

[210] Ex. 12.

[211] Doc. 200. In fact, based on a review of the claim register following the bar date, it appears that approximately 80 unsecured claims have been filed against the Debtor.

were—to portray the case as one that did not merit scrutiny, this is even further evidence of the Debtor's bad faith filing.[212]

97. Even if the Debtor's post-petition ad revenues are considered by the court in assessing *Little Creek* factor 3, they are nominal and significantly less than the cost of producing them, which still supports a finding of bad faith under the *Little Creek* factors.[213]

98. While the Debtor may have more creditors than it indicated at the first day hearing, following the passage of the September 12, 2025 bar date to file claims against the Debtor, the claim register indicates that the Debtor has less than 100 unsecured creditors.

4. The Debtor Has No Cash to Sustain a Plan of Reorganization or Make Adequate Protection Payments (Factor 4).

99. It has been clear from the Petition Date that the Debtor has no ability to confirm a plan or make adequate protection payments (which it should not be permitted to make) unless it incurs additional debt from Peteski, which Peteski is offering to provide on a senior secured basis, to the detriment of general unsecured creditors. According to the Debtor's most recent DIP Budget, it estimates needing another $9 million in DIP Loans just to try to confirm a plan. However, the Debtor should not be permitted to incur any further liability under the DIP Facility

[212] The Debtor concedes that it knew about the potential to receive ad revenues but it did not include the revenues on the first DIP budget because it did not know if the revenues would be collected. But, once it become advantageous to forecast the collection of ad revenues, the Debtor suddenly changed its tactics and started including ad revenue on its budget. The Debtor filed its schedules of assets and liabilities a month after the Petition Date, where it revealed more than 80 creditors. (Doc. 162.)

[213] *See Traxcell*, 657 B.R. at 460 (holding the fact that "most, if not all" of debtor's licensing revenue had dried up and that it did not have sufficient income to reorganize contributed to its finding of bad faith); *In re M.A.R. Designs & Constr., Inc.*, 653 B.R. 843, 867 (Bankr. S.D. Tex. 2023) (holding debtor's "little to no cash flow" was "indicative of bad faith"). Given that the Debtor would have been marginally better off if it forfeited the ad revenue and ceased broadcasting altogether from and after the Petition Date, it seems that there are two possible reasons the Debtor is doing this, each of which further support a finding that the Debtor's chapter 11 case was filed in bad faith. First, the Debtor employees and consultants all have a vested interest in seeing Envoy, Dr. Phil's new media enterprise, succeed. Thus, it may behoove them to keep Dr. Phil's programming on the air until Envoy can launch to avoid, as Dr. Phil characterized it, "dead air." Second, the Debtor seems to think that calling itself an operating debtor will give it an aura of good faith. Either way, the limited revenue that the Debtor is generating is not in any way preserving the value of the Debtor media library, the value of which is untethered to what is currently on MSM's air.

as it has made no showing that that the incurrence of such debt will create or preserve any value for the benefit of unsecured creditors (as opposed as for the benefit of Peteski).

100. As such, Factor 4 also supports a finding that the Debtor filed its Chapter 11 Case in bad faith.

5. Two-Party Dispute (Factor 6)

101. While this case does not fit neatly into the category of cases that are really just two-party disputes, this factor still favors a finding of bad faith. The Debtor justified its filing, in part, as a means to provide a forum for resolution of the litigation claims. But, it has become clear that this was not its actual intent; this was just more smoke and mirrors to distract the Court and parties-in-interest from determining the Debtor's actual malintent of shifting assets that would otherwise have been available to satisfy unsecured claims either away from the Debtor (to Envoy) or encumbering them for the benefit of bankruptcy professionals. The Debtor has no intention of using the bankruptcy case as an efficient forum in which to drive resolution of litigation. It intends to resolve those litigations by making the Debtor judgment proof. As such, Factor 6 also supports a finding that the Debtor filed the Chapter 11 Case in bad faith.

102. In sum, the *Little Creek* factors that are relevant to this case, taken together, weigh overwhelmingly in favor of a finding that the Debtor's bankruptcy filing was made in bad faith.

B. The Debtor Filed Its Petition in Bad Faith with Ulterior Motives, Lacking Any Valid Bankruptcy Purpose.

103. In addition to assessing the *Little Creek* factors, courts employ a "'valid bankruptcy purpose' test to determine good faith."[214] "Good faith implies an honest intent and genuine desire

[214] *In re Ozcelebi*, 639 B.R. 365, 396 (S.D. Tex. 2022); *see also Nat'l Rifle Assoc. of Am.*, 628 B.R. at 280 (holding part of "totality of the circumstances" test includes an assessment of "whether the petition serves a valid bankruptcy purpose") (citing *In re 15375 Mem'l Corp.*, 589 F.3d 605, 618 (3d Cir. 2009)).

on the part of the petitioner to use the statutory process to effect a plan of reorganization and not merely as a device to serve some sinister or unworthy purpose."[215]

104. As definitively established herein, the purpose of the Debtor's Chapter 11 Case was to further a scheme for the benefit of Peteski and Dr. Phil, not to maximize value for the benefit of unsecured creditors.

105. The Debtor's superficial platitudes that it filed bankruptcy to "to centralize the resolution of all Merit Street's open disputes in a coordinated fashion, preventing a race to the courthouse and ensuring equitable treatment of creditors under the Court's supervision, and to facilitate the sale or orderly disposition of some or all of the Debtor's assets"[216] should be rejected as false. This is a generic statement that sounds as if it was pulled from a bankruptcy treatise on the legitimate purpose of bankruptcy. Yet, the Debtor cites no evidence to demonstrate the truth of these assertions in this case. In fact, the Debtor does not seek a resolution of the "open disputes" it seeks to squash them by removing all assets from the Debtor that would otherwise have been available to satisfy the Debtor's liabilities, thereby making resolution unnecessary. There is no need to resolve a dispute for which there is no ability to pay.

106. Invoking bankruptcy paradigms and repeatedly paying lip service to proper and valid uses of chapter 11 does not magically make this Chapter 11 Case proper. Equally unavailing is Debtor's citation to a handful of inapposite cases that do not involve an insider serving as the DIP Lender and launching a competing enterprise on the Debtor's petition date.[217]

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[215] *Ozcelebi*, 639 B.R. at 396.
[216] Doc. 200, Debtor's Obj., ¶ 56.
[217] *See In re Johns-Manville Corp.*, 36 B.R. 727, 737-38 (Bankr. S.D.N.Y. 1984) (collecting cases) (making no mention of insider participation or competition, but emphasizing that a good faith analysis is necessary where "the jurisdiction of the bankruptcy court has been abused," like where a debtor did not operate legitimately or filed to shield assets and delay creditors); *In re LTL Management, LLC*, 64 F.4th 84 (3d Cir. 2023) (making no mention of insider participation or competition); *In re Cohoes Indus. Terminal, Inc.*, 931 F.2d 222 (2d Cir 1991) (same); *In re Roman Cath. Church of Archdiocese of New Orleans*, 632 B.R. 593, 601 (Bankr. E.D. La. 2021) (using factors such as cash reserves, recent

107. The instructive and relevant cases in this case are those cited in the Motion and the Partial Joinder.

108. Likewise, the Debtor's proposed settlement that purports to provide "guaranteed value to general unsecured creditors" with Peteski, an insider, and the Committee, which is chaired by a close friend of Dr. Phil's and potential investor in Envoy, does not establish a valid bankruptcy purpose where one was lacking on the Petition Date.[218] Moreover, that "guaranteed value" is dependent on (1) confirmation of a Plan, which will include releases for Peteski and Dr. Phil from all estate causes of action and (2) the Debtor being permitted to incur no less than $9 million in additional secured debt. Recognizing these contingencies, the Committee more appropriately describes the proposed recovery not as guaranteed, but merely "hope that unsecured creditors can receive meaningful recovery on their respective claims."[219]

109. In any event, as of the filing of this Reply, no Plan or disclosure statement has been filed.

110. Finally, the Debtor's financial distress cannot save it.[220] That financial distress is merely being used as a pretext to conceal the true intent behind the chapter 11 filing: the transfer of MSM's assets to Envoy free and clear of MSM's liabilities and procuring a release from estate causes of action for Peteski and Dr. Phil so there will be no consequences to this bad faith scheme or any other actionable prepetition or post-petition conduct.

financial performance, and the proportion of debt owed to insiders to make a good faith finding but making no mention of insider participation or competition).

[218] Doc., 200 Debtor's Obj., ¶ 56.

[219] Doc. 376, Committee Reservation of Rights ¶ 4.

[220] *See, e.g.*, *In re Rent–A–Wreck of Am., Inc.*, 580 B.R. 364, 375 (Bankr. D. Del. 2018) ("[F]inancial distress is a part of—if not itself a predicate to—a good faith analysis.").

II. Cause Exists Because There Is a Substantial and Continuing Diminution of the Estate and No Reasonable Likelihood of Rehabilitation.

111. In addition to joining TBN's bad faith arguments supporting conversion or dismissal, PBR also seeks conversion or dismissal under Section 1112(b)(4)(A), which provides that cause exists when there is "[1] substantial or continuing loss to or diminution of the estate and [2] the absence of a reasonable likelihood of rehabilitation."[221] Both elements were present at the time the Partial Joinder was filed and continue to be present now.

112. The Debtor has incurred, and continues to incur, operating losses. The DIP Budget projects that the Debtor will earn slightly less than $2 million from the Petition Date through the middle of November at a cost of $3 million, ultimately causing the Debtor to lose $1 million.

113. The Debtor counters with a bankruptcy truism that maintaining operations will enhance value.[222] But it offers no proof of how this is true here, where the operating losses are not creating or preserving any value. The Debtor's Sale Motion seeks to sell litigation claims, intellectual property, and its media library.[223] It is unclear how the sale of any of these assets would be enhanced or even preserved by airing reruns or incurring operating losses to do so.

114. In addition to the continuing operating losses, the Debtor has accrued—and seeks to continue to accrue—substantial restructuring costs that diminish the value of the Debtor's estate. The Debtor has already borrowed in excess of $14 million to pay professional fees, which has irreversibly diminished the value of the Debtor's estate, and it seeks to borrow at least $9 million more to pay professional fees projected to be incurred if the Motion is denied, which would cause substantial continued depletion of the value of the estate. As such, the first prong of Section 1112(b)(4)(A) is clearly satisfied here. With respect to the second prong of Section 1112(b)(4)(A),

[221] 11 U.S.C. § 1112(b)(4)(A).
[222] Doc. 200 at 35]
[223] Doc. 44, Bid Procedures Motion.

despite the representation in the Committee Reservation of Rights that a Plan would be filed, nothing has been filed yet. Even if the Debtor does intend to file a Plan, that alone would not establish a reasonable likelihood of rehabilitation. It would merely be a Hail Mary to try to avert conversion or dismissal, not a good faith effort to propose a confirmable Plan or justification for the substantial diminution of the Debtor's estate due to the continuing operating losses and substantial restructuring costs.

115. The Debtor offers no response or rebuttal to the foregoing. Instead, the Debtor repeats the same truisms (i) that the case was filed in an effort to maximize value of its assets, (ii) it will maintain operations throughout the Chapter 11 Case and (iii) it has assumed executory contracts that benefit the ongoing operations.[224] The Debtor then goes on to argue why a Chapter 7 trustee, in the Debtor's opinion, would undermine the Debtor's efforts to "enhance estate value through continued operations" and would not benefit creditors, which is ironic, since PBR, an actual creditor, believes it would.[225]

116. The Debtor's failure to provide any substantive and on-point response to this basis for cause to dismiss or convert the case is telling. The Debtor **is** suffering substantial and continuing losses, which become more substantial the longer the chapter 11 case continues. And, the Debtor has not demonstrated any reasonable likelihood of rehabilitation.

117. If the Court finds cause, it must convert the case to chapter 7 or dismiss it. The Debtor prefers dismissal (since it does not favor conversion). But it does not in any way refute or dispel the substantial and continuing losses being suffered by the Debtor due to the filing of the Chapter 11 Case. And the Debtor does not demonstrate any value or purpose for allowing those

[224] Doc. 200, Debtor's Obj., ¶ 75. PBR is not clear how the assumption of contracts is relevant here but, in any event, PBR is also not aware that the Debtor has assumed any contracts or leases in its Chapter 11 Case. It has only filed a schedule of contracts that could be assumed in connection with a sale of the Debtor's assets.
[225] *Id.* at ¶ 76.

losses to continue or any reasonable likelihood of rehabilitation. As such, the facts and circumstances demonstrated in this case clearly demonstrate that there is cause for conversion or dismissal under Section 1112(b)(4)(A) of the Bankruptcy Code.

III. The Requirements of Section 1112(b)(1) are not Satisfied.

118. Pursuant to Section 1112(b)(2):

> (2) The court may not convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter if the court finds and specifically identifies unusual circumstances establishing that converting or dismissing the case is not in the best interests of creditors and the estate, and the debtor or any other party in interest establishes that--
>
> (A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, or if such sections do not apply, within a reasonable period of time; and
>
> (B) the grounds for converting or dismissing the case include an act or omission of the debtor other than under paragraph (4)(A)--
>
> (i) for which there exists a reasonable justification for the act or omission; and
>
> (ii) that will be cured within a reasonable period of time fixed by the court.[226]

119. The Debtor has presented no unusual circumstances that would justify allowing the Chapter 11 Case to continue if cause is established. That should end the inquiry regarding whether Section 1111(b)(2) could avert conversion or dismissal if cause is found. However, for the sake of completeness, the Debtor also has not shown (i) a reasonable likelihood that a plan will be confirmed within a reasonable time[227] or that (ii) there is a reasonable justification for the bad faith that may be found (Section 1112(b)(2) does not allow conversion or dismissal to be averted if the basis for cause is substantial or continuing losses without a reasonable likelihood of rehabilitation under Section 1112(b)(4)(A)).

120. The Debtor's Objection alleges that Section 1112(b)(2) would prevent conversion

[226] 11 U.S.C. § 1112(b)(2).
[227] *See* Section II, *supra*

or dismissal. But, the Debtor does not accurately cite the requirements of the section. First, it fails to acknowledge the requirement that it present unusual circumstances in order to even make Section 1112(b)(2) applicable. It has presented none. Second, the Debtor fails to acknowledge that a finding of cause under Section 1112(b)(4)(A) cannot be overridden even if unusual circumstances are demonstrated. As such, the Debtor has not provided grounds under which the Debtor's case could remain in chapter 11 even if the Court finds cause to convert or dismiss due to the filing have been made in bad faith or because of the substantial and continuing losses being suffered by the Debtor without a likelihood of rehabilitation.

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

121. "Upon finding cause, a court must decide whether conversion or dismissal is in the best interest of the creditors and the estate."[228] While no "bright line test" exists for this determination,[229] for the reasons set forth in the Limited Joinder,[230] the best interests of creditors will be served by conversion to Chapter 7 in this case.

CONCLUSION AND RESERVATION OF RIGHTS

For the foregoing reasons, PBR respectfully requests that the Court convert this Chapter 11 Case to Chapter 7. PBR reserves all of its rights, waiving none.

[228] *Ozcelebi*, 639 B.R. at 425; 11 U.S.C. § 1112(b)(1).
[229] *Id.*
[230] Doc. 151 Partial Joinder, ¶¶ 26–27.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 15, 2025, a true and correct copy of the foregoing document was served by the Court's ECF noticing system on all parties that consent to such service via electronic filing.

/s/ Jason M. Rudd
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