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

In re:

VIDANGEL, INC.,

Debtor.

Case No. 17-29073

Chapter 11

Judge Kevin R. Anderson

**DEBTOR'S MOTION FOR AUTHORITY TO
LIMIT NOTICE AND TO ESTABLISH NOTICE
PROCEDURES**

VidAngel, Inc., the above-captioned debtor and debtor-in-possession (the “**Debtor**” or “**VidAngel**”) hereby moves the Court (the “**Motion**”) under section 105 of Title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 2002, 6003 and 6004(h) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and Rule 2002-1 of the Local Rules of Practice for the United States Bankruptcy Court for the District of Utah (the “**Local Rules**”) for entry of an order authorizing but not requiring the Debtor to limit notice and to establish notice procedures in this Chapter 11 case (this “**Case**”). This Motion is supported by the arguments and authorities set forth below, the *Declaration of Patrick Reilly in Support of the Debtor's Chapter 11 Petition and*

Requests for First-Day Relief (the “**First-Day Declaration**”), and the entire record before the Court in this Chapter 11 case (this “**Case**”). A proposed order is submitted herewith as Exhibit A.

I.
SUMMARY OF RELIEF REQUESTED

1. The Debtor is requesting entry of an order granting it authority to limit notice and to establish notice procedures for this Case. The Debtor has identified more than 250,000 service subscribers who could conceivably be entitled to notice under the Bankruptcy Code, the Bankruptcy Rules, and/or this Court’s Local Rules. Such notice would be extremely burdensome to the Debtor, costly to its estate, and inefficient, as in many instances certain motions would be of no interest to most of the parties receiving notice. Rather, the notices would serve to confuse and burden such parties. The procedures proposed herein will promote the Debtor’s efforts in this Case by preserving assets that otherwise would be consumed by unnecessary copying, postage, and other related expenses. Accordingly, the relief requested is in the best interest of the Debtor, its estate, creditors, and other parties in interest.

2. The Debtor proposes certain procedures, described in more detail herein, to ensure that relevant parties receive notice while also not overburdening the Debtor’s estate with notice obligations that would not be in the interests of justice. These procedures include creating a master service list (the “**Master Service List**”), which would include the following: (a) the Office of the United States Trustee for the District of Utah; (b) the Official Committee of Unsecured Creditors, if such a committee is appointed; (c) any party whose interests are directly affected by a specific pleading; (d) any party who has formally appeared and requested service in this Case under Bankruptcy Rule 2002; and (e) any government agency to the extent required by the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules.

3. In addition, the Debtor will serve certain pleadings on each party in interest as provided by Bankruptcy Rule 2002.

4. Finally, as the Debtor has a large subscriber base that is accustomed to receiving communications regarding the Debtor and its legal battles through email communications, the Debtor will email its subscribers notices of important events, including the commencement of this Case, major milestones accomplished in the Case, any disclosure statement and proposed plan of reorganization, and other significant developments. Further, the Debtor will establish an information website, which will be prominently featured with a link on the Debtor's website, www.vidangel.com, on which the Debtor will post all public docket items and notices, provide a calendar of hearing dates, and provide updates to any person interested in the Case. This website will be overseen by the Debtor's proposed chapter 11 counsel and will have content similar to websites customarily maintained by service providers such as KCC or Epiq in large or prominent chapter 11 cases with a large number of interested parties.

5. The statutory predicates for the relief sought herein are section 105 of the Bankruptcy Code and Bankruptcy Rules 2002, 6003 and 6004 and Local Rule 2002-1.

II. **JURISDICTION**

6. This Court has jurisdiction to consider the relief requested in this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b) and venue is proper in the District of Utah under 28 U.S.C. §§ 1408 and 1409.

III. **RELEVANT BACKGROUND**

A. General.

7. On the date hereof (the "**Petition Date**"), the Debtor filed a voluntary petition for relief under the Bankruptcy Code. The Debtor continues in possession of its properties and is

operating and managing its businesses as a debtor-in-possession under sections 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner and a creditors' committee has not yet been appointed in this Case.

8. The Debtor is the worldwide leader in video filtering technology. The Debtor's services allow its subscribers to filter potentially objectionable content (such as profanity, nudity, and violence) in motion pictures (including television shows) and stream such content for its subscribers' private viewing. The Debtor is also an original content provider, and it provides a streaming service to view the content it produces. The Debtor's original comedy series, Dry Bar Comedy, has had more than 16 million minutes viewed in the 7 days prior to the Petition Date. The Debtor's services give subscribers and their families choice over the content they view and share with their families.

9. From late 2014 through late December 2016, VidAngel used a purchase model to provide video to its customers (the "**Disc Ownership Model**"). Under the Disc Ownership Model, VidAngel purchased DVDs and Blu-ray discs and sold them to its customers. VidAngel would decrypt the contents of the purchased discs and stream the content to the owner of such discs, filtered as each customer individually requested. VidAngel's proprietary technology enabled (and required) users to filter the video for various types of potentially objectionable content, which were silenced or deleted when the video was streamed. Once purchased, a customer could opt to sell the video disc back to VidAngel, or keep the actual physical disc, which VidAngel would ship to purchasers, on request, or store for the customer in a secure vault.

10. VidAngel's Disc Ownership Model was popular and growing, with more than 1 million viewers as of December 2016. However, in June 2016, Disney Enterprises, Inc., Lucasfilm Ltd. LLC, Twentieth Century Fox Film Corporation, and Warner Bros. Entertainment Inc. (the "**Studios**") sued VidAngel in the United States District Court for the Central District of

California, Case No. 2:16-cv-04109-AB-PLA (the “**Copyright Action**”), for copyright infringement of approximately 80 of the Studios’ copyrighted works. The Studios alleged that VidAngel’s decryption of its works was a technical violation of the Digital Millennium Copyright Act (“DMCA”), 17 U.S.C. § 1201(a), and that VidAngel’s filtering and streaming violated their exclusive rights to make copies of and publicly perform their works in violation of 17 U.S.C. § 106. On December 12, 2016, the District Court granted the Studios’ Motion for a Preliminary Injunction. VidAngel complied with the preliminary injunction, shutting down VidAngel’s and its customers’ use of the Disc Purchase Model. The Studios have amended their complaint to add additional plaintiffs and allege the infringements of additional motion pictures before pursuing the Copyright Action to a judgment. The Studios rejected VidAngel’s Statutory Offer to Allow the Entry of Judgment against it.

11. Six months after the issuance of the preliminary injunction, VidAngel launched a new streaming-based service (the “**Stream-Based Model**”), which avoids any decryption of the Studios’ copyrighted works, and does not involve any physical video discs. Subscribers who use the Stream-Based Model select video content from third-party services such as Amazon, Netflix, and HBO using their own accounts with those third-party streaming services.¹ Using VidAngel’s proprietary technology, subscribers can elect to have VidAngel remove or silence various types of potentially objectionable content when they view the selected video.

12. To ensure that the new Stream-Based Model does not violate the any provision of the Copyright Act, VidAngel initiated a declaratory relief action in the United States District Court for the District of Utah, Case No. 2:17-cv-00989-EJF (the “**Declaratory Relief Action**”), and

¹ Users must maintain and pay the third-party content providers directly.

named various copyright owners whose copyrighted works might be streamed and filtered. The Declaratory Relief Action is in its early stages, and none of the defendants have answered.

13. At this time, the Debtor requires the breathing space of the Automatic Stay of section 362(a) of the Bankruptcy Code after the disruption of its previous business and to reorganize around the new Stream-Based Model. The Studios are pressing forward with the preliminary injunction in the California District Court, attempting to apply it to enjoin VidAngel's new Stream-Based Model. The Declaratory Relief Action is in its early stages, and the Utah District Court needs an opportunity to consider the issues and confirm that the Stream-Based Model does not violate any rights of motion picture copyright owners. Further, the Stream-Based Model, which is profitable, will provide sufficient revenue to enable the Debtor to reorganize its business and pay its creditors.

B. Facts Specific to the Motion.

14. VidAngel has a database of its subscribers, which contains approximately 251,822 subscription accounts, which database has been provided to its proposed counsel, Parsons Behle & Latimer. Although all of the accounts have an email address associated with them, nearly half of the accounts do not have a first and last name associated with the account, and many appear to use fictitious names. There is no physical address, telephone number, or other contact information associated with the accounts. Nevertheless, VidAngel customarily communicates with its subscribers through email, and it even provides regular updates regarding the Copyright Action and Declaratory Relief Action to its subscribers through email.

15. As the Debtor has a large subscriber base that is accustomed to receiving communications regarding the Debtor and its legal fight with the Studios through email, the Debtor proposes to email its subscribers notices of important events, including the commencement of this

Case, major milestones accomplished in the Case, any disclosure statement and proposed plan of reorganization, and other significant developments.

16. Finally, the Debtor will establish an information website, which will be prominently featured with a link on the Debtor's website, www.vidangel.com, on which the Debtor will post all public docket items and notices, provide a calendar of hearing dates, and provide updates to any person interested in the Case. This website will be overseen by the Debtor's proposed chapter 11 counsel and will have content similar to websites customarily maintained by service providers such as KCC or Epiq in large or prominent chapter 11 cases with a large number of interested parties.

IV. ARGUMENTS & AUTHORITIES

A. Debtor's Proposed Notice Procedures.

The Debtor proposes implementing the following procedures to ensure interested parties receive proper notice while also preserving its estate and conserving resources:

First, notice would be provided to all entities and individuals on the Master List. As noted previously, the Master List would include the following: (a) the Office of the United States Trustee for the District of Utah; (b) the Official Committee of Unsecured Creditors, if such a committee is appointed; (c) any party whose interests are directly affected by a specific pleading; (d) any party who has formally appeared and requested service in this Case under Bankruptcy Rule 2002; and (e) any government agency to the extent required by the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules.

Second, in addition to providing notice to all parties identified on the Master Service List, the Debtor will serve any party whose interests are directly affected by a specific pleading.

Third, the Debtor proposes providing notice regarding certain matters to each party-in-interest, consistent with the full notice obligations of Bankruptcy Rule 2002. Specifically, the Debtor would limit notice of all matters governed by Rule 2002 in this Case to those parties on the Master Service List only, except for notice regarding the following matters: (a) notice of commencement of this Case (which has already been sent); (b) notice of the first meeting of creditors under Section 341 of the Bankruptcy Code (which has already been sent); (c) notice of any deadline for filing proofs of claim pursuant to Bankruptcy Rule 3003(c); (d) notice of any deadline to object to a disclosure statement or Chapter 11 plan; (e) notice of any hearing to consider approval of a disclosure statement; (f) notice of a hearing to consider confirmation of a Chapter 11 plan; and (g) notice of the proposed sale of all or substantially all of the Debtor's assets. The foregoing proceedings would be noticed to each party-in-interest as provided by Bankruptcy Rule 2002 at its last known address as provided by the Debtor unless otherwise ordered by the Court or prescribed by the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules. Except for these exceptional pleadings, the Debtor will only send notice to the parties in interest on the Master Service List and any party whose interests are directly affected by a specific pleading.

Nevertheless and notwithstanding any of the foregoing, the Debtor will only send required notices by email to its more than 250,000 subscribers, many of which only have email addresses and, in some cases, no first or last names associated with such subscription accounts. In addition, pleadings and notices will be posted on the aforementioned informational website.

B. Basis for Relief.

17. The Debtor respectfully submits that the relief requested herein is appropriate under the Bankruptcy Code. Under Section 105(a) of the Bankruptcy Code, “[t]he court may issue any order, process or judgment that is necessary or appropriate to carry out the provisions” of the

Bankruptcy Code. The establishment of the above-described notice procedures will promote the Debtor's efforts in this Case by preserving assets that otherwise would be consumed by unnecessary copying, postage, and other related expenses. In addition, given that Such relief will benefit the Debtor's estate and its creditors by conserving resources without prejudicing the rights of any parties-in-interest.

18. There are more than 250,000 individuals and entities whom the Debtor would normally be required to serve under applicable rules or statutes, the vast majority of whom will not need to be notified of the routine aspects of the Debtor's Case. Printing and postage to that many parties will cost tens of thousands of dollars for each mailing and would be of little benefit to the estate and its creditors. Further, for the overwhelming majority of the subscriber accounts, the Debtor does not even have physical mailing information, making mailings impossible. Instead, the estate's best interest will be served by mailing only to those interested parties who put themselves on the Master Mailing List by requesting such notice under Bankruptcy Rule 2002. By these means the parties on the Master Mailing List, who adequately represent the various interests in the estate, will be given good and adequate notice of the important events in this Case.

19. Establishment of the above-described notice procedures is also consistent with this Court's practice in other cases. *See, e.g.,* Order Granting Authority to Limit Notice and to Establish Notice Procedures, *In re Vector Arms, Corp.*, No. 15-21039 (Bankr. D. Utah) (granting debtor's request to limit notice).

20. Thus, the Debtor submits that the relief requested herein is in the best interest of the Debtor, its estate, creditors, and other parties-in-interest and will foster the efficient and economic administration of this Case.

V.
NOTICE

21. The Debtor has provided notice of this Motion to (a) the Office of the United States Trustee for the District of Utah; (b) the entities listed on the List of Creditors Holding the 20 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); (c) all ECF notice parties and parties who have requested notice on the Court's docket; and (d) the Debtor's full mailing matrix. In light of the nature of the relief requested in this Motion, the Debtor respectfully submits that no further notice is necessary.

VI.
CONCLUSION

22. For the reasons stated above, the Debtor requests that the Court grant the Motion and enter the Order lodged herewith.

Respectfully submitted,

/s/ Brian M. Rothschild

Brian M. Rothschild

J. Thomas Beckett

PARSONS BEHLE & LATIMER

Proposed Attorneys for VidAngel, Inc.

Exhibit A

Proposed Order

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

In re:

VIDANGEL, INC.,

Debtor,

Case No. 17-29073

Chapter 11

Judge Kevin R. Anderson

**ORDER GRANTING DEBTOR'S MOTION FOR AUTHORITY
TO LIMIT NOTICE AND TO ESTABLISH NOTICE
PROCEDURES**

Upon consideration of the motion (the "**Motion**") of the above-captioned debtor and debtor-in-possession (the "**Debtor**") for an order granting it the authority to limit notice and to establish notice procedures; and it appearing that the relief requested in the Motion is appropriate in the context of this case and in the best interest of the Debtor and its estate, creditors, and other all parties in interest; and it appearing that notice of the Motion was adequate and proper under the circumstances of this case, and it appearing that no other or further notice need be given; and after due deliberation and sufficient cause appearing, therefore

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Motion is granted as set forth herein.

2. The Debtor is authorized to limit notice of all matters in this case to (a) the Office of the United States Trustee for the District of Utah; (b) the Official Committee of Unsecured Creditors, if such a committee is appointed; (c) any party whose interests are directly affected by a specific pleading; (d) any party who has formally appeared and requested service in this Case under Bankruptcy Rule 2002; and (e) any government agency to the extent required by the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules; provided, however, that the Debtor will provide notice as required by Fed. R. Bank. P. 2002(a) regarding the following matters: (i) commencement of this case (which has already been sent); (ii) the first meeting of creditors pursuant to Bankruptcy Code Section 341 (which has already been sent); (iii) any deadline for filing proofs of claim pursuant to Bankruptcy Rule 3003(c); (iv) any deadline to object to a disclosure statement or Chapter 11 plan; (v) any hearing to consider approval of a disclosure statement; (vi) any hearing to consider confirmation of a Chapter 11 plan; and (vii) any proposed sale of all or substantially all of the Debtor's assets.

3. Nevertheless and notwithstanding any of the foregoing, the Debtor is authorized to limit notice to its list of subscribers by sending such subscribers email notices of any matter required under Fed. R. Bank. P. 2002(a). In addition, all such pleadings and notices required by Fed. R. Bank. P. 2002(a) will be posted on the Debtor's informational website.

4. The Debtor shall periodically update the Master Service List to include any party who has formally appeared and requested service in this case pursuant to Bankruptcy Rule 2002 and shall reflect any updates on its proofs of service as appropriate.

5. The Debtor may, in its discretion, serve any pleadings or papers by e-mail upon any service parties for which they have e-mail contact information.

6. The Debtor shall submit to the Court either an affidavit of service or certificate of service, including the list of all parties receiving notice, upon the completion of noticing.

7. The Debtor shall serve a copy of this Order on all known parties in interest by mail (where possible, *i.e.*, using the creditor matrix) or by email (*i.e.*, to its subscribers) within five (5) business days of the date this Order is entered.

8. This Court shall retain jurisdiction over all matters arising from or related to the interpretation and implementation of this Order.

[END OF DOCUMENT]