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

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In re:

VIDANGEL, INC.,

Debtor.

Case No. 17-29073

Chapter 11

Judge Kevin R. Anderson

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**DEBTOR'S MOTION FOR AN ORDER ESTABLISHING  
PROCEDURES FOR INTERIM COMPENSATION AND  
REIMBURSEMENT OF EXPENSES FOR RETAINED  
PROFESSIONALS**

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VidAngel, Inc., the above-captioned debtor and debtor-in-possession (the “**Debtor**” or “**VidAngel**”) hereby moves the Court (the “**Motion**”) pursuant to Sections 105, 330, 331, 361, 362, 363, 364, 1107, and 1108 of Title 11 of the United States Code (the “**Bankruptcy Code**”) and Rule 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) for entry of an order establishing procedures for interim compensation and reimbursement of expenses for retained professionals. 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**”).

**I.**  
**SUMMARY OF RELIEF REQUESTED**

1. By this Motion, the Debtor requests entry of an order, substantially in the form attached as Exhibit A hereto, under sections 105(a), 330, and 331 of the Bankruptcy Code and Bankruptcy Rule 2016 establishing an orderly, regular, and transparent process for the allowance and payment of compensation for professional services rendered and reimbursement of expenses incurred by estate's attorneys and other professionals (the "**Professionals**"). Specifically, the Debtor proposes that the payment of compensation and reimbursement of expenses of the Professionals retained in the Chapter 11 case be structured in accordance with the procedures attached hereto as Exhibit 1 to the proposed order (the "**Compensation Procedures**").

**II.**  
**JURISDICTION**

2. 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.**

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.<sup>1</sup> 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.

8. 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 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.

9. 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

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<sup>1</sup> Users must maintain and pay the third-party content providers directly.

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.**

10. The Debtor has filed 2 applications to employ professionals under section 327 of the Bankruptcy Code: (1) Parsons Behle & Latimer, as bankruptcy counsel to the Debtor; and (2) Rocky Mountain Advisory, LLC, as financial advisors to the Debtor. The Debtor anticipates that it will seek to retain other Professionals in this case, including its pre-Petition Date litigation counsel in the Copyright Action, certain professional lobbying firms, tax and outside bookkeeping services and advisors, and other attorneys and consultancies that historically have provided professional services to VidAngel. In addition, if an official committee of unsecured creditors is appointed in this Case, it may seek to retain and employ other Professionals compensated from the Debtor's estate. Each of these Professionals will be required to submit interim and final applications in accordance with sections 330 and 331 of the Bankruptcy Code. The Debtor estimates that as many as 10-12 firms will ultimately be required to file compensation applications in this case.

11. In order to streamline the administration of this Case and otherwise expedite the bankruptcy process for the Court, the U.S. Trustee, and all parties in interest, the Debtor proposes that the Court enter the proposed order establishing uniform compensation procedures.

12. The Debtor is working diligently to reorganize itself and to consolidate and resolve all of its liabilities in the Copyright Litigation and the Declaratory Relief Action, and it will need to propose, solicit, and confirm a plan and disclosure statement. These tasks require extraordinary time and effort by the estate's Professionals.

**IV.**  
**ARGUMENTS & AUTHORITIES**

**A. Proposed Compensation Procedures**

The Debtor proposes the following procedures for the estate's Professionals to file interim and final applications for compensation (the "**Compensation Procedures**"), which will streamline the application process while maintaining the requisite transparency and providing appropriate notice of all applications for compensation during the Case:

On the last day of each month, each Professional may prepare a monthly billing statement describing the services provided and the fees and costs incurred (the "**Monthly Statement**") during the prior month (the "**Compensation Period**"). Each Professional will provide its Monthly Statement to (a) the Debtor, c/o Brian M. Rothschild, Parsons Behle & Latimer, 201 S. Main St., Ste 1800, Salt Lake City, UT 84111, (b) the Office of the United States Trustee for the District of Utah (the "**U.S. Trustee**"); and (c) the Official Committee of Unsecured Creditors, if any, appointed in this Case (collectively, the "**Notice Parties**").

At the expiration of the 10-calendar day period (with no extra days for mailing), the Debtor will promptly pay 100% of the expenses and 80% of the fees that each Professional requested in the Monthly Statement, except such fees or expenses as to which an objection has been served as provided in the following paragraph.

If any of the Notice Parties has an objection to the compensation or reimbursement sought in a particular Monthly Statement, that party must serve the respective Professional and the other Notice Parties, so as to ensure receipt within 10 days of the mailing date of the particular Monthly Statement, a written "Notice of Objection to Fee Statement" setting forth the specific objection and the dollar amount in dispute. The objecting party and the Professional whose Monthly Statement is objected to shall seek to resolve the objection informally. If the parties are unable to

reach an agreement on the amount to be paid within one week of receipt of the objection, the objecting party must within three (3) business days file its objection with the Court and serve it upon the respective Professional and the Notice Parties whereupon the Court will consider and determine the objection under section 331 of the Bankruptcy Code. If no timely objection is filed with the Court, the Debtors will promptly pay 100% of the expenses and 80% of the fees that such Professional requested in the Monthly Statement.

In order to continue participating in the receipt of monthly payments, after submitting four consecutive Monthly Statements, each of the Professionals must file with the Court and serve on the Notice Parties, an application for interim Court approval and allowance of compensation under 11 U.S.C § 331 (the “**Interim Fee Applications**”).

The filing of an Interim Fee Application prior to submitting a first Monthly Statement shall not preclude a Professional from participating in the Interim Procedure for subsequent months.

The pendency of an Interim Fee Application or the pendency of any Notice of Objection to Monthly Statement will not disqualify a Professional from the future submission and payment of fees and expenses under the Interim Procedures described above. Neither the payment of, nor the failure to pay, in whole or in part, compensation and reimbursement as provided in these procedures, will bind any party in interest or this Court with respect to any Monthly Statement with respect to the final allowance of compensation and reimbursement of Professionals in accordance with the foregoing Interim Procedures.

**B. Basis for Approving Compensation Procedures**

The Debtor believes that the proposed Compensation Procedures will enable the Debtor to closely monitor the costs of administering this Case, and reduce wasteful, duplicative, and time-consuming review of Professionals’ fee applications. Moreover, the proposed Compensation

Procedures will streamline the administration of this Case and otherwise expedite the bankruptcy process for the Court, the U.S. Trustee, and all parties in interest.

**C. Supporting Authority**

Section 331 of the Bankruptcy Code provides, in relevant part, as follows:

a debtor's attorney, or any professional person employed under section 327 or 1103 of this title may apply to the court not more than once every 120 days ... or more often if the court permits, for such compensation for services rendered before the date of such an application or reimbursement for expenses incurred before such date as is provided under section 330 of this title.

11 U.S.C. § 331. Section 330 of the Bankruptcy Code provides, in relevant part, as follows:

[a]fter notice to the parties in interest and the United States Trustee and a hearing, and subject to sections 326, 328 and 329, the court may award to . . . a professional person employed under section 327 or 1103-- (A) reasonable compensation for actual, necessary services rendered . . . and (B) reimbursement for actual, necessary expenses.

11 U.S.C. § 330. Further, section 105(a) of the Bankruptcy Code authorizes a court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code],” thereby codifying the bankruptcy court’s inherent equitable powers. 11 U.S.C. § 105(a).

The Debtor’s request to approve the Compensation Procedures by which the Professionals may be reimbursed on a monthly basis is comparable to similar procedures established in other chapter 11 cases in this district. *See, e.g., In re Naartjie Custom Kids, Inc.*, Case No. 14-29666 (WTT) (Bankr. D. Utah Dec. 23, 2014).

The Compensation Procedures will allow the Professionals to avoid having to accrue and carry burdensomely large fees and expenses for long periods of time, while still allowing the fees and expenses to be monitored monthly and periodically reviewed fully under the normal fee application procedures. The Compensation Procedures will allow the Court and the key parties in

interest, including the U.S. Trustee, to insure the reasonableness and necessity of the compensation and reimbursement sought pursuant to such procedures. As a result, the Debtor believes the relief requested herein will aid the efficient administration of this Case and is warranted under the circumstances.

The Debtors submit that the efficient administration of this Case will be significantly aided by establishing the Compensation Procedures. 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 its Case.

**V.**  
**NOTICE**

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); and (c) all ECF notice parties and parties who have requested notice on the Court's docket. In light of the nature of the relief requested in this Motion, the Debtor respectfully submits that no further notice is necessary.

No previous motion for the relief sought herein has been made to this or any other Court.

**VI.**  
**CONCLUSION**

For the reasons stated above, the Debtor requests that the Court grant the Motion and enter an order, substantially in the form attached as Exhibit A hereto, granting the relief requested herein and such other and further relief as is just and proper under the circumstances.

Dated this 18th day of September, 2017.

Respectfully submitted,

/s/ Brian M. Rothschild

Brian M. Rothschild

J. Thomas Beckett

**PARSONS BEHLE & LATIMER**

*Proposed Attorneys for VidAngel, Inc.*

**Exhibit A**

**Proposed Order**

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**IN THE UNITED STATES BANKRUPTCY COURT  
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In re:

VIDANGEL, INC.,

Debtor,

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Chapter 11

Judge Kevin R. Anderson

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**ORDER ESTABLISHING PROCEDURES FOR INTERIM  
COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR  
RETAINED PROFESSIONALS**

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Upon the motion (the “**Motion**”)<sup>1</sup> filed by the above-captioned debtor and debtor-in-possession (the “**Debtor**”), for entry of an order (this “**Order**”) under sections 105(a), 330, and 331 of the Bankruptcy Code, and Bankruptcy Rule 2016, establishing compensation procedures for compensation and reimbursement of expenses of Professionals retained in this Case, all as further described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to under 28 U.S.C. § 157(b)(2); and venue being proper in this Court under 28 U.S.C. §§ 1408 and 1409; and due and

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

proper notice of the Motion being adequate and appropriate under the particular circumstances; and a hearing having been held to consider the relief requested in the Motion (the “**Hearing**”); and upon the First Day Declaration, the record of the Hearing, and all proceedings heard before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtor’s estate, its creditors, and other parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and any objections to the requested relief having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED as follows:

1. The Motion is granted to the extent provided herein.
2. Except as otherwise provided in an order of the Court authorizing the retention of a particular Professional, the Professionals specifically retained by an order of the Court in this Case may seek interim payment of compensation and reimbursement of expenses in accordance with the following procedures (the “**Compensation Procedures**”):
  - a. On the last day of each month, each Professional may prepare a monthly billing statement describing the services provided and the fees and costs incurred (the “**Monthly Statement**”) during the prior month (the “**Compensation Period**”). Each Professional will provide its Monthly Statement to (a) the Debtor, c/o Brian M. Rothschild, Parsons Behle & Latimer, 201 S. Main St., Ste 1800, Salt Lake City, UT 84111, (b) the Office of the United States Trustee for the District of Utah (the “**U.S. Trustee**”); and (c) the Official Committee of Unsecured Creditors, if any, appointed in this Case (collectively, the “**Notice Parties**”).
  - b. At the expiration of the 10-calendar day period (with no extra days for mailing), the Debtor will promptly pay 100% of the expenses and 80% of the fees that each Professional requested in the Monthly Statement, except such fees or expenses as to which an objection has been served as provided in the following paragraph.

- c. If any of the Notice Parties has an objection to the compensation or reimbursement sought in a particular Monthly Statement, that party must serve the respective Professional and the other Notice Parties, so as to ensure receipt within 10 days of the mailing date of the particular Monthly Statement, a written “Notice of Objection to Fee Statement” setting forth the specific objection and the dollar amount in dispute. The objecting party and the Professional whose Monthly Statement is objected to shall seek to resolve the objection informally. If the parties are unable to reach an agreement on the amount to be paid within one week of receipt of the objection, the objecting party must within three (3) business days file its objection with the Court and serve it upon the respective Professional and the Notice Parties whereupon the Court will consider and determine the objection under section 331 of the Bankruptcy Code. If no timely objection is filed with the Court, the Debtors will promptly pay 100% of the expenses and 80% of the fees that such Professional requested in the Monthly Statement.
- d. In order to continue participating in the receipt of monthly payments, after submitting four consecutive Monthly Statements, each of the Professionals must file with the Court and serve on the Notice Parties, an application for interim Court approval and allowance of compensation under 11 U.S.C § 331 (the “**Interim Fee Applications**”).
- e. The filing of an Interim Fee Application prior to submitting a first Monthly Statement shall not preclude a Professional from participating in the Interim Procedure for subsequent months.
- f. The pendency of an Interim Fee Application or the pendency of any Notice of Objection to Monthly Statement will not disqualify a Professional from the future submission and payment of fees and expenses under the Interim Procedures described above. Neither the payment of, nor the failure to pay, in

whole or in part, compensation and reimbursement as provided in these procedures, will bind any party in interest or this Court with respect to any Monthly Statement with respect to the final allowance of compensation and reimbursement of Professionals in accordance with the foregoing Interim Procedures.

3. All time periods referenced in this Order and in the Compensation Procedures shall be calculated in accordance with Bankruptcy Rule 9006(a).

4. The Debtor is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

5. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

**[END OF DOCUMENT]**