

J. Thomas Beckett, USB #5587
Brian M. Rothschild, USB #15316
PARSONS BEHLE & LATIMER
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111
Telephone: 801.532.1234
Facsimile: 801.536.6111
TBeckett@parsonsbehle.com
BRothschild@parsonsbehle.com
ecf@parsonsbehle.com

Proposed Attorneys for VidAngel, Inc.

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

In re:	Case No. 17-29073
VIDANGEL, INC.,	Chapter 11
Debtor.	Judge Kevin R. Anderson

**DEBTOR’S MOTION FOR ENTRY OF INTERIM AND
FINAL ORDERS (1) AUTHORIZING CONTINUED USE OF
BANK ACCOUNTS, BUSINESS FORMS, CASH
MANAGEMENT SYSTEM, AND PRE-PETITION
CUSTOMER CREDIT PROGRAM, (2) WAIVING CERTAIN
INVESTMENT AND DEPOSIT GUIDELINES, AND
(3) GRANTING RELATED RELIEF**

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 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) for entry of interim and final orders (the “**Interim Order**” and “**Final Order**,” respectively) (1) authorizing but not directing the Debtor to continue using its existing bank accounts, business forms, cash management system, and pre-petition customer credit program, (2) waiving certain investment and deposit guidelines of the

Office of the United States Trustee (the “**Guidelines**”), and (3) granting such further relief as is required to effectuate the foregoing.

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. U.S Trustee Guidelines require that a debtor-in-possession, among other things, (a) close all existing bank accounts, (b) open new debtor-in-possession bank accounts, (c) establish one debtor-in-possession account for the payment of taxes, including payroll taxes, and (d) obtain checks and other forms bearing the designation “Debtor-in-Possession,” the case number, and the type of account. Through this Motion, the Debtor requests that the Court waive these and other requirements as specified herein.

2. The Debtor also seeks to maintain its existing cash management system. In the ordinary course of its business, the Debtor maintains a cash management system comprised of four bank accounts (collectively, the “**Bank Accounts**”) and certain procedures with respect to the Bank Accounts. A list of the Bank Accounts used by the Debtor is attached hereto as Exhibit A, and their relationship is summarized below and in the flow chart attached hereto as Exhibit B. In addition to the Bank Accounts, the Debtor’s cash management system includes a variety of business forms, including, without limitation, checks, letterhead, envelopes, and promotional materials (collectively, “**Business Forms**,” and together with the Bank Accounts, the “**Cash Management System**”).

3. Reorganization of the Debtor's Bank Accounts and Business Forms consistent with the U.S. Trustee Guidelines would be disruptive to the Debtor's estate, the Debtor's employees, contractors, vendors, and other stakeholders. It would be expensive and wasteful to discard the existing Business Forms and replace them. Waiving those requirements and allowing the Debtor to maintain and use its existing Cash Management System would reduce expense, ensure efficient post-petition administration of the Debtor's estate, and mitigate the risk of harm to the value of the estate.

4. The statutory predicates for the relief sought herein are Section 105 of the Bankruptcy Code, and Bankruptcy Rules 6003 and 6004. Specifically, This Court has the authority to "issue any order . . . that is necessary or appropriate to carry out the provisions of" chapter 11 of the Bankruptcy Code. 11 U.S.C. § 105(a). Here, an order waiving the above requirements of the Guidelines is both necessary and appropriate to ensure the efficient post-petition administration of the Debtor's estate.

II. **JURISDICTION**

5. 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.

6. 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.

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 series, Dry Bar Comedy, has had over 16 million minutes viewed in the 7 days before 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.

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

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 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. The Debtor maintains the following Bank Accounts in the ordinary course of business:

- a. *First*, the Debtor maintains a Business Interest Checking Account at Zions Bank, account number XXXXXX1843. This account is an operations account that is swept every day in order to maintain a zero dollar (\$0) balance. All transactions go through this account.
- b. *Second*, the Debtor maintains a Commercial Business Account at Zions Bank, account number XXXXXX3514 that is used for investment escrow. The account currently has a balance reserved for an investor who the

Debtor has been unable to return funds to; the money is likely subject to Utah's unclaimed property statutes.

- c. *Third*, the Debtor maintains an Gold Business Sweep (operational cash savings) Account at Zions Bank, account number XXXXXX0646. Funds are automatically transferred from this account daily in order to meet the Debtor's cash operational needs.
- d. *Fourth*, the Debtor maintains a Business Money Market Account at Zions Bank, account number XXXXXX0890. This account was set up as part of an agreement with Mr. David Quinto, the Debtor's General Counsel, under Mr. Quinto's employment agreement. The funds in this account are restricted, and can be used only for the purposes outlined in the agreement between Mr. Quinto and the Debtor, specifically, the payment of Mr. Quinto's salary during the term of the agreement.

15. In addition to these accounts and the relationship between the summarized above and in Exhibit B, the Debtor's Cash Management System includes the routine use of Business Forms. Those Business Forms include, without limitation, checks, purchase orders, letterhead, envelopes, electronic credentials used by employees, and promotional materials. All of the Debtor's check information is printed on black check stock using accounting software. Sales documents are printed on blank plain paper or cash register tape. Purchase orders and receiving reports are printed on plain paper in a consistent format.

16. The Debtor's subscribers interface with the Debtor almost exclusively via the Internet. The Debtor has on the Petition Date notified its subscribers of the Chapter 11 petition by a press release in an email message, and will continue to place prominently positioned notices on its online materials to notify its subscribers of the Debtor's status as a debtor-in-possession.

17. Because of the preliminary injunction relating to the Disc Ownership Model, VidAngel has approximately 250,000 current and former subscribers owed an average of approximately eighteen dollars (\$18.00) each for a total aggregate amount in excess of \$4.7 million in credit for VidAngel services. VidAngel allows its subscribers to use this credit to pay the fees for the new Stream-Based Model (the “**Pre-Petition Customer Credit Program**”). The Pre-Petition Customer Credit Program is beneficial to VidAngel because it incentivizes former subscribers and customers to subscribe to the new Stream-Based Model and it amortizes this outstanding credit, which, if it became a cash liability, would be one of VidAngel’s largest liabilities.

IV. ARGUMENTS & AUTHORITIES

Absent a court order to the contrary, the U.S. Trustee Guidelines require a Chapter 11 debtor-in-possession to (a) close all existing bank accounts and open new accounts, designated as debtor-in-possession accounts, in financial institutions authorized as depositories by the U.S. Trustee, (b) establish separate debtor-in-possession accounts for the payment of taxes and for cash collateral, and (c) obtain and use new checks for all debtor-in-possession accounts bearing the designation “Debtor-in-Possession.” Notwithstanding these Guidelines, this Court has the authority to “issue any order . . . that is necessary or appropriate to carry out the provisions of” Chapter 11 of the Bankruptcy Code. 11 U.S.C. § 105(a).

The Court should exercise its authority in this Case because “[a] debtor in possession under Chapter 11 is generally authorized to continue operating its business.” *In re Amdura Corp.*, 75 F.3d 1447, 1453 (10th Cir. 1996) (citing 11 U.S.C. §§ 363(c)(1), 1107, 1108). Here, an order waiving the above requirements of the Guidelines is both necessary and appropriate to

ensure the efficient post-petition administration of the Debtor's estate and to mitigate the risk of counterproductive harm to the value of the estate.

A. Maintenance of the Debtor's Existing Cash Management System Is in the Best Interest of the Estate.

The Debtor seeks an order waiving the requirement that it close its existing Bank Accounts to open others, and the requirement that it open new accounts devoted only to tax payments. As to both, the benefit of waiving those requirements far outweighs any benefit of requiring compliance.

The Debtor's Cash Management System allows it to (a) control and monitor corporate funds; (b) ensure cash availability; and (c) reduce administrative expenses by facilitating the movement of funds and the development of timely and accurate balance and presentment information. Permitting the Debtor to continue using its existing Cash Management System will assist the Debtor in its effort to maintain its operations and the value of its estate as a going concern and confirmation of a Chapter 11 plan.

Conversely, requiring the Debtor to close its Bank Accounts only to open new accounts would unnecessarily disrupt the Debtor's business operations, force the Debtor's limited and already overburdened staff to re-create an already functioning system, burden the estate with additional post-petition professionals' expenses in order to comply, all at a potentially high cost to its estate. In addition to the likely confusion associated with the adoption of a new Cash Management System, the burden of taking this step would increase the work required of the Debtor's small accounting staff, who already must deal with the many and varied issues and information requests related to this Case. This additional burden, expense, and risk of harm to the Debtor's estate would not be attended in this Case by any discernible benefit to the estate or

to the Debtor's creditors, particularly because its turn as a debtor-in-possession is likely to be brief and given that the Debtor does not generally deal directly with retail customers.

The Debtor's Bank Accounts at Zions Bank are already located at FDIC-insured depository institutions. Zions Bank is an authorized depository with standing agreements with the U.S. Trustee. As such, the Bank Accounts bear very little risk. Accordingly, no other security need be provided to ensure that the Debtor's Bank Accounts comply with Section 345 of the Bankruptcy Code and the Guidelines.

Further, allowing the Debtor to make use of its existing Cash Management System post-petition will not prejudice any party-in-interest. If the relief requested herein is granted, the Debtor will not pay, and each of the banks at which the Bank Accounts are maintained will be instructed not to pay, any debts incurred before the Petition Date unless specifically authorized by this Court (*e.g.*, under the Utility Motion or the Employee Wages Motion filed contemporaneously herewith).

Likewise, the Debtor's tax obligations can and will be paid most efficiently out of the Debtor's existing Bank Accounts, into, out of, and among which the U.S. Trustee can adequately monitor the flow of funds. The creation of new debtor-in-possession accounts designated solely for tax obligations is, therefore, unnecessary and inefficient.

Additionally, continuation of the Pre-Petition Customer Credit Program would relieve VidAngel of its \$4.7 million obligation, offer benefits to both VidAngel and its customers, and avoid any destruction of goodwill by otherwise ending the credit program. Accordingly, continued use of the Pre-Petition Customer Credit Program is beneficial to VidAngel's continued business operations.

In Chapter 11 cases involving similar circumstances, courts have routinely exercised their authority to waive the Guidelines, recognizing that such requirements are often impractical and

potentially detrimental to a debtor's post-petition business operations and restructuring efforts. *See, e.g., In re All Resort Group, Inc.*, Order, Docket No. 57, D. Utah Bankruptcy Court Case No. 17-23687 (granting motion for order authorizing debtor to continue use of existing bank accounts and business forms); *In re III Exploration II LP*, Order, Docket No. 53, D. Bankruptcy Court Case No. 16-26471 (same).

B. The Continued Use of the Debtor's Business Forms is in the Best Interests of the Estate.

The Debtor also requests authority to continue using its checks and business forms relating to the Bank Accounts. In the ordinary course of business, the Debtor uses blank check stock on which it prints the details of each checking transaction on an as-needed basis. As such, and as required by the Guidelines, the Debtor will add "Debtor-in-Possession" to all checks.

However, as of the Petition Date, the Debtor also has a large stock of Business Forms that it uses in the ordinary course of business and that do not include the designation "Debtor-in-Possession." Reprinting its Business Forms to indicate that the Debtor is a "Debtor-in-Possession" would impose an unnecessary burden and expense on the Debtor, particularly because the expense would benefit no one and would only impose additional costs and administrative burden. The Debtor's subscribers interface with the Debtor almost exclusively via the Internet. The Debtor has on the Petition Date notified its subscribers of the Chapter 11 petition by a press release in an email, and will continue to place prominently positioned notices on its online materials to notify its subscribers of the Debtor's status as a debtor-in-possession.

Recognizing the expense and inconvenience of altering or disposing of all pre-petition business forms, courts frequently grant authority to continue using existing checks and business instruments in Chapter 11 cases. *See, e.g., In re Johnson*, 106 B.R. 623, 624 (Bankr. D. Neb. 1989) (debtor not required to obtain new checks imprinted with "Debtor-in-Possession" legend).

There is little doubt that the parties with whom the Debtor does business will quickly become aware that the Debtor is a Chapter 11 debtor-in-possession as the Debtor is notifying all potential parties-in-interest on its creditors' matrix. As such, there is simply no reason to force the Debtor to incur the disruption and expense of placing the "Debtors-in-Possession" designation on all of its Business Forms or to hamper administration of a Chapter 11 case to the further economic detriment of creditors, while new forms are generated. Accordingly, the Court should authorize the Debtor's continued use of its Business Forms, notwithstanding the fact those forms are not designed with "Debtor-in-Possession."

C. The Order Should Be Immediately Effective.

Although it most likely does not apply to the relief sought in this Motion, Bankruptcy Rule 6003 provides that "[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, grant . . . a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition" For the reasons discussed herein, if the Debtor is not able to continue using its existing Cash Management System on an uninterrupted basis, the result would be immediate and irreparable harm to the Debtor and its business operations. Significant changes to the Cash Management System would needlessly cost the Debtor time and money with no discernable benefit. Accordingly, the interim relief requested herein is consistent with Bankruptcy Rule 6003, to the extent Rule 6003 even applies.

Further, to implement the foregoing successfully, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the fourteen-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h), to the extent these rules are applicable.

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.

VI.
CONCLUSION

For the reasons stated above, the Debtor requests interim and final orders (1) authorizing but not directing the Debtor to continue using its existing Bank Accounts, Business Forms, Cash Management Systems, and the Pre-Petition Customer Credit Program; (2) waiving the U.S. Trustee Guidelines as described herein, and (3) granting such further relief as is required to effectuate the foregoing and for such other relief as is just and proper under the circumstances. The Debtor requests that the Court grant the Motion and enter the proposed Interim Order (attached hereto as Exhibit C) and, after holding the Final Hearing, enter the proposed Final Order (attached hereto as Exhibit D).

Respectfully submitted,

/s/ Brian M. Rothschild

J. Thomas Beckett

Brian M. Rothschild

PARSONS BEHLE & LATIMER

Proposed Attorneys for VidAngel, Inc.

Exhibit A

List of Bank Accounts

<u>Bank Account</u>	<u>Financial Institution</u>	<u>Account Number¹</u>
Business Interest Checking Account	Zions Bank	XXXXXX1843
Commercial Business Account	Zions Bank	XXXXXX3514
Gold Business Sweep Account	Zions Bank	XXXXXX0646
Business Money Market Account	Zions Bank	XXXXXX0890

Notice Addresses

Zion's First National Bank

180 N University Ave, 4th Floor
Provo, UT 84601

Contact: Emily J. Lee

Email: emily.lee@zionsbank.com

Phone: (877)-657-7071

¹ Account numbers are redacted for security purposes.

Exhibit B

Cash Management Flow Chart

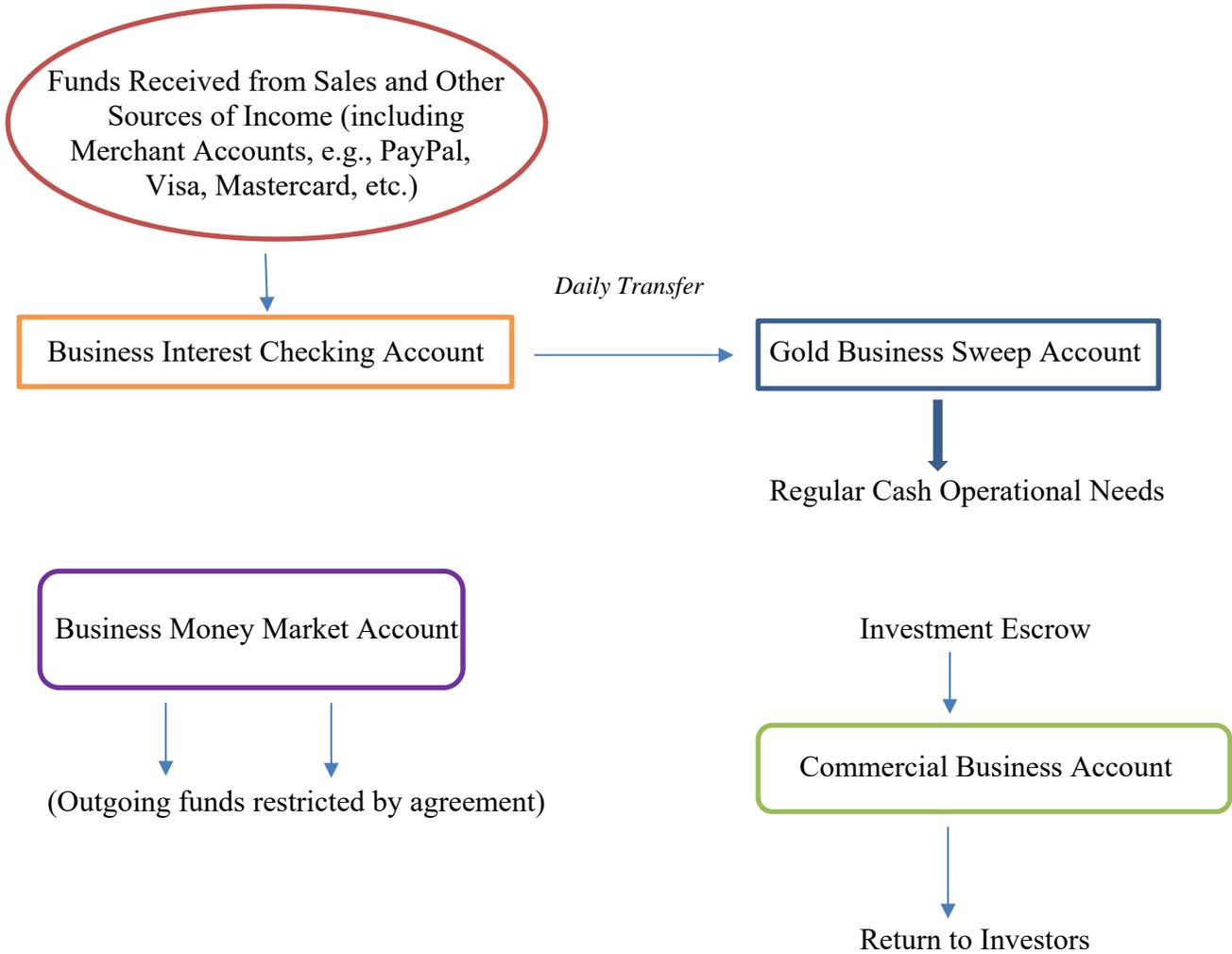


Exhibit C

Proposed Interim Order

[See attached.]

**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
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**INTERIM ORDER GRANTING DEBTOR’S MOTION FOR
ORDER (1) AUTHORIZING CONTINUED USE OF BANK
ACCOUNTS, BUSINESS FORMS, CASH MANAGEMENT
SYSTEM, AND PRE-PETITION CUSTOMER CREDIT
PROGRAM (2) WAIVING CERTAIN INVESTMENT AND
DEPOSIT GUIDELINES, AND (3) GRANTING RELATED
RELIEF**

Upon the motion (the “**Motion**”)¹ filed by the above-captioned debtor and debtor-in-possession (the “**Debtor**”) under Section 105 of Title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) for entry of interim and final orders (the “**Interim Order**” and “**Final Order**,” respectively) (1) authorizing but not directing the Debtor to continue using its existing bank accounts, business forms, and cash management system, (2) waiving certain investment and deposit guidelines of the Office of the United States Trustee (the “**Guidelines**”), and (3) granting such further relief as is required to effectuate the foregoing; and the Court, having reviewed the Motion and having heard the statements of counsel in support of the relief requested in the

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

Motion at the hearing before the Court (the “**Hearing**”), finds that the Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334, that this is a core matter under 28 U.S.C. § 157(b)(2), that notice of the Motion and the Hearing were sufficient under the circumstances and that no further notice need be given; and the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein and that such relief is necessary to avoid immediate and irreparable harm to the Debtor’s estate,

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on an interim basis to the extent provided herein pending the hearing on the Final Order granting the Motion.

2. Any objection to the Motion must be filed in the Court and served on counsel to the Debtor so that such objection is received no later than **October 31, 2017, at 5:00 p.m. (Prevailing Utah Time)** (the “**Objection Deadline**”). If any party in interest files an objection, the Court will hold a hearing on the relief sought in the Motion on a final basis on **November 14, 2017, at 10:00 a.m. (Prevailing Utah Time)** (the “**Final Hearing**”) at the United States Bankruptcy Court, Frank E. Moss, U.S. Courthouse, 350 South Main Street, Courtroom 376, Salt Lake City, Utah 84101. If no objections are filed to the Motion, this Court may enter a Final Order on the Motion without holding the Final Hearing.

3. Entry of this Interim Order is without prejudice to the rights of any party in interest to interpose an objection to the Motion, and any such objection will be considered on a *de novo* basis at the final hearing.

4. In the interim, the Debtor is authorized and empowered to take all actions necessary to implement the relief granted in this Interim Order.

5. The Debtor is authorized, but not directed, to maintain and use its existing Cash Management System, as more fully set forth in the Motion. In connection with the ongoing

utilization of the Cash Management System, the Debtor shall continue to maintain strict records with respect to all transfers so that all transactions may be readily ascertained, traced, recorded properly, and distinguished between pre-petition and post-petition transactions, and to provide same to the U.S. Trustee on a monthly basis.

6. Subject to the provisions of this Order, the Debtor is authorized to maintain and use the Bank Accounts in the name and with the account numbers existing immediately prior to the Petition Date.

7. The Bank Accounts will continue to be governed by the pre-petition account agreements (collectively, the “**Account Agreements**”) between the Debtor and each of the banks holding the Bank Accounts (collectively, the “**Banks**”), including related fees due thereunder to the Banks; provided, however, that any Bank seeking to modify or terminate any of the Bank Accounts or related services must provide the Debtor with sixty (60) days written notice of such modification or termination.

8. The Banks in the ordinary course of business without the need for further order of this Court, are authorized to debit the Bank Accounts with such Bank, for (a) all fees and costs that are due and owing, or that may become due and owing, to such Bank in connection with the Bank Accounts, (b) all checks drawn on the Debtor’s Bank Account that were at such Bank’s counters or exchanged for cashier’s checks by the payees thereof prior to the Petition Date, (c) all checks or other items deposited by the Debtor in any of the Bank Accounts with such Bank (whether pre-petition or post-petition) that are or have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, and (d) all ordinary and customary fees and costs for services rendered by the Banks to the Debtor.

9. Any payment from a Bank Account at the request of the Debtor made by a Bank prior to the Petition Date (including any ACH transfer that such Bank is or becomes obligated to

settle), or any instruments issued by such Bank on behalf of the Debtor pursuant to a “midnight deadline” or otherwise, shall be deemed to be paid pre-petition, whether or not actually debited from the Bank Account pre-petition.

10. The requirement in the Guidelines that the Debtor establish a specific new bank account for tax payments is waived.

11. The Debtor shall retain the authority to close certain of its Bank Accounts and open new debtor-in-possession accounts, or otherwise make changes to its cash management system as it deems necessary to facilitate this Chapter 11 Case and post-petition operations, to the extent and consistent with the terms of and requirements of any post-petition financing facility and any orders(s) of this Court relating thereto. In the event that the Debtor opens or closes any additional bank accounts, such opening or closing shall be timely indicated on the Debtor’s monthly operating reports, notice of such opening or closing shall be contemporaneously provided to the Office of the United States Trustee for the District of Utah and any official committees(s) appointed in this Chapter 11 Case, and any such new post-petition bank account shall be subject to the terms of this Order and any account agreement relating thereto.

12. The Debtor is authorized to deposit funds in and withdraw funds from its Bank Accounts by all usual means including, without limitation, checks, wire transfers, automated clearinghouse transfers, electronic funds transfers, and other debits and to treat the Bank Accounts for all purposes as debtor-in-possession accounts.

13. The Debtor is authorized to continue to use its correspondence and Business Forms, including, without limitation, purchase orders, letterhead, envelopes, promotional materials, and other Business Forms, substantially in the forms existing immediately prior to the Petition Date, without reference to the Debtor’s debtor-in-possession status; provided, however,

upon depletion of the Debtor's pre-printed check stock, the Debtor will obtain new check stock reflecting its status as a debtor-in-possession; provided further, that with respect to checks which the Debtor or its agents print themselves, the Debtor shall print the "Debtor-in-Possession" legend on such items.

14. The Banks and any and all other financial institutions receiving or transferring funds from the Debtor are hereby authorized and directed to continue to service and administer the Bank Accounts of the Debtor as a debtor-in-possession without interruption and in the usual and ordinary course, and to receive, process, honor, and pay any and all checks, drafts, wires, or ACH transfers drawn on the Bank Accounts by the holders or makers thereof, to the extent the Debtor has sufficient funds in such accounts to satisfy payment thereof.

15. For Banks at which the Debtor holds Bank Accounts that are party to a uniform depository agreement with the Office of the United States Trustee for the District of Utah, within fifteen (15) days of the date of entry of this Order the Debtor shall (a) contact each Bank, (b) provide the Bank with the Debtor's employer identification number, and (c) identify each of its Bank Accounts held at such Bank as being held by a debtors-in-possession in a bankruptcy case.

16. For Banks at which the Debtor holds accounts that are not party to a uniform depository agreement with the Office of the United States Trustee for the District of Utah, the Debtor shall use its good-faith efforts to cause the Banks to execute a uniform depository agreement in a form prescribed by the Office of the United States Trustee within forty-five (45) days of the date of this Order. The United States Trustee's rights to seek further relief from this Court on notice in the event that the aforementioned Banks are unwilling to execute a uniform depository agreement in a form prescribed by the United States Trustee are fully reserved.

17. The preceding two paragraphs of this Order apply to any Bank Accounts opened by the Debtor subsequent to entry of this Order; provided, however, that the deadlines referenced in the paragraphs shall run from the respective dates on which the accounts are opened.

18. The Debtor shall identify all pre-petition checks, drafts, wires, and other transfers that should not be honored (*i.e.*, that are not subject to a specific order of the Court to honor) and direct the Banks, in writing, not to honor them. Notwithstanding anything to the contrary in any other order of this Court, the Banks (a) are authorized to accept and honor all representations from the Debtor as to which checks, drafts, wires, or ACH transfers should be honored or dishonored, consistent with any order(s) of this Court and governing law, whether such checks, drafts, wires, or ACH transfers are dated prior to, on, or subsequent to the Petition Date, and whether the Banks believe the payment is or is not authorized by an order of this Court, (b) have no duty to inquire as to whether such payments are authorized by an order of this Court, and (c) have no duty to make such payments unless the Debtor has good funds standing to its credit with such Bank.

19. The Debtor is authorized to continue use the Pre-Petition Customer Credit Program, as set forth more fully in the Motion, but the Debtor is not authorized to refund customers such credits in cash.

20. Rule 6003 of the Bankruptcy Rules has been satisfied to the extent applicable.

21. Notwithstanding Bankruptcy Rules 6004, 7062, or 9014, the terms and conditions of this Order shall be immediately effective upon its entry. This Order shall be binding on the Debtor's successors and assigns, including, but not limited to, any trustee that may be appointed in this Chapter 11 case.

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

[END OF DOCUMENT]

Exhibit D

Proposed Final 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

**FINAL ORDER (1) AUTHORIZING CONTINUED USE OF
BANK ACCOUNTS, BUSINESS FORMS, CASH
MANAGEMENT SYSTEM, AND PRE-PETITION
CUSTOEMR CREDIT PROGRAM, (2) WAIVING CERTAIN
INVESTMENT AND DEPOSIT GUIDELINES, AND
(3) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)¹ filed by the above-captioned debtor and debtor-in-possession (the “**Debtor**”) seeking entry of an order (1) authorizing but not directing the Debtor to continue using its existing bank accounts, business forms, and cash management system, (2) waiving certain investment and deposit guidelines of the Office of the United States Trustee (the “**Guidelines**”), and (3) granting such further relief as is required to effectuate the foregoing; and the Court, having reviewed the Motion and having heard the statements of counsel in support of the relief requested in the Motion at the hearing before the Court (the “**Hearing**”), finds that the Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334, that this is a core

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

matter under 28 U.S.C. § 157(b)(2), that notice of the Motion and the Hearing were sufficient under the circumstances and that no further notice need be given; and the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein and that such relief is necessary to avoid immediate and irreparable harm to the Debtor's estate,

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as provided herein on a final basis.
2. The Debtor is authorized, but not required, to maintain and use its existing Cash Management System, as more fully set forth in the Motion. In connection with the ongoing utilization of the Cash Management System, the Debtor shall continue to maintain strict records with respect to all transfers so that all transactions may be readily ascertained, traced, recorded properly, and distinguished between pre-petition and post-petition transactions, and to provide same to the U.S. Trustee on a monthly basis.
3. Subject to the provisions of this Order, the Debtor is authorized to maintain and use the Bank Accounts in the name and with the account numbers existing immediately prior to the Petition Date.
4. The Bank Accounts will continue to be governed by the pre-petition account agreements (collectively, the "**Account Agreements**") between the Debtor and each of the banks holding the Bank Accounts (collectively, the "**Banks**"), including related fees due thereunder to the Banks; provided, however, that any Bank seeking to modify or terminate any of the Bank Accounts or related services must provide the Debtor with sixty (60) days written notice of such modification or termination.
5. The Banks in the ordinary course of business without the need for further order of this Court, are authorized to debit the Bank Accounts with such Bank, for (a) all fees and costs that are due and owing, or that may become due and owing, to such Bank in connection with the Bank Accounts, (b) all checks drawn on the Debtor's Bank Account that were at such Bank's counters or exchanged for cashier's checks by the payees thereof prior to the Petition Date, (c) all checks or other items deposited by the Debtor in any of the Bank Accounts with such

Bank (whether pre-petition or post-petition) that are or have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, and (d) all ordinary and customary fees and costs for services rendered by the Banks to the Debtor.

6. Any payment from a Bank Account at the request of the Debtor made by a Bank prior to the Petition Date (including any ACH transfer that such Bank is or becomes obligated to settle), or any instruments issued by such Bank on behalf of the Debtor pursuant to a “midnight deadline” or otherwise, shall be deemed to be paid pre-petition, whether or not actually debited from the Bank Account pre-petition.

7. The requirement in the Guidelines that the Debtor establish a specific new bank account for tax payments is waived.

8. The Debtor shall retain the authority to close certain of its Bank Accounts and open new debtor-in-possession accounts, or otherwise make changes to its cash management system as it deems necessary to facilitate its Chapter 11 case and post-petition operations, to the extent and consistent with the terms of and requirements of any post-petition financing facility and any orders(s) of this Court relating thereto. In the event that the Debtor opens or closes any additional bank accounts, such opening or closing shall be timely indicated on the Debtor’s monthly operating reports, notice of such opening or closing shall be contemporaneously provided to the Office of the United States Trustee for the District of Utah and any official committees(s) appointed in this Chapter 11 case, and any such new post-petition bank account shall be subject to the terms of this Order and any account agreement relating thereto.

9. The Debtor is authorized to deposit funds in and withdraw funds from its Bank Accounts by all usual means including, without limitation, checks, wire transfers, automated clearinghouse transfers, electronic funds transfers, and other debits and to treat the Bank Accounts for all purposes as debtor-in-possession accounts.

10. The Debtor is authorized to continue to use its correspondence and business forms, including, without limitation, purchase orders, letterhead, envelopes, promotional materials, and other Business Forms, substantially in the forms existing immediately prior to the

Petition Date, without reference to the Debtor's debtor-in-possession status; provided, however, upon depletion of the Debtor's pre-printed check stock, the Debtor will obtain new check stock reflecting its status as a debtor-in-possession; provided further, that with respect to checks which the Debtor or its agents print themselves, the Debtor shall print the "Debtor-in-Possession" legend on such items.

11. The Banks and any and all other financial institutions receiving or transferring funds from the Debtor are hereby authorized and directed to continue to service and administer the Bank Accounts of the Debtor as a debtor-in-possession without interruption and in the usual and ordinary course, and to receive, process, honor, and pay any and all checks, drafts, wires, or ACH transfers drawn on the Bank Accounts by the holders or makers thereof, to the extent the Debtor has sufficient funds in such accounts to satisfy payment thereof.

12. For Banks at which the Debtor holds Bank Accounts that are party to a uniform depository agreement with the Office of the United States Trustee for the District of Utah, within fifteen (15) days of the date of entry of this Order the Debtor shall (a) contact each Bank, (b) provide the Bank with the Debtor's employer identification number, and (c) identify each of its Bank Accounts held at such Bank as being held by a debtors-in-possession in a bankruptcy case.

13. For Banks at which the Debtor holds accounts that are not party to a uniform depository agreement with the Office of the United States Trustee for the District of Utah, the Debtor shall use its good-faith efforts to cause the Banks to execute a uniform depository agreement in a form prescribed by the Office of the United States Trustee within forty-five (45) days of the date of this Order. The United States Trustee's rights to seek further relief from this Court on notice in the event that the aforementioned Banks are unwilling to execute a uniform depository agreement in a form prescribed by the United States Trustee are fully reserved.

14. The preceding two paragraphs of this Order apply to any Bank Accounts opened by the Debtor subsequent to entry of this Order; provided, however, that the deadlines referenced in the paragraphs shall run from the respective dates on which the accounts are opened.

15. The Debtor shall identify all pre-petition checks, drafts, wires, and other transfers that should not be honored (*i.e.*, that are not subject to a specific order of the Court to honor) and direct the Banks, in writing, not to honor them. Notwithstanding anything to the contrary in any other order of this Court, the Banks (a) are authorized to accept and honor all representations from the Debtor as to which checks, drafts, wires, or ACH transfers should be honored or dishonored, consistent with any order(s) of this Court and governing law, whether such checks, drafts, wires, or ACH transfers are dated prior to, on, or subsequent to the Petition Date, and whether the Banks believe the payment is or is not authorized by an order of this Court, (b) have no duty to inquire as to whether such payments are authorized by an order of this Court, and (c) have no duty to make such payments unless the Debtor has sufficient funds on deposit therewith.

16. The Debtor is authorized to continue use the Pre-Petition Customer Credit Program, as set forth more fully in the Motion, but the Debtor is not authorized to refund customers such credits in cash.

17. Notwithstanding Bankruptcy Rules 6004(h), 7062, or 9014, the terms and conditions of this Order shall be immediately effective upon its entry. This Order shall be binding on the Debtor's successors and assigns, including, but not limited to, any trustee that may be appointed in this Chapter 11 case.

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

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