

This order is SIGNED.

Dated: February 9, 2018

Kevin R. Anderson
KEVIN R. ANDERSON
U.S. Bankruptcy Judge



**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH**

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| <p>In re VIDANGEL, INC.,</p> <p>Debtor.</p> | <p>Case No. 17-29073</p> <p>Chapter 11</p> <p>Honorable Kevin R. Anderson</p> |
|---|---|

**ORDER GRANTING DEBTOR’S MOTION TO ASSUME
(I) STORAGE SPACE LEASE WITH VPS PROPERTY
MANAGEMENT INC AND (II) OFFICE SPACE LEASE
WITH FIG REAL ESTATE HOLDINGS LLC**

On the Debtor’s Motion for an Order Authorizing the Debtor’s Assumption of (I) Storage Space Lease with VPS Property Management, Inc; and (II) Office Space Lease with Fig Real Estate Holdings” (the “**Motion**”) under section 365(a) of the Bankruptcy Code, and notice of the Motion having been good and proper and sufficient in all respects and adequate under the circumstances, and no party having objected to the relief requested in the Motion, and any objections thereto having been duly considered and are hereby overruled, and good cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED;
2. The Court finds that the assumption of the leases is within the sound business judgment of the Debtor.
3. The Debtor is authorized to assume the Storage Space Lease with VPS Property Management, a copy of which is attached as Exhibit A;
4. The Debtor is authorized to assume the Office Space Lease with FIG Real Estate Holdings, LLC, a copy of which is attached as Exhibit B; and
4. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

[END OF ORDER]

Exhibit A
Storage Space Lease Agreement

LEASE AGREEMENT

This Lease Agreement hereinafter the "Lease" is made and entered into as of June 21, 2015 by David Wayne Close whose address is 201 West 1400 South, Orem Utah, 84058 hereinafter "Landlord" and VidAngel, Inc. whose address is 249 and 251 North University Ave. Provo, Utah 84601 hereinafter known as "Tenant"

Article 1 Commencement

1.1 Month to month with 30 day written notice of termination by either party commencing July 1, 2015 hereinafter the "Commencement Date"

Article 2 Rent

2.1 Tenant shall Pay in full the 1st Months rent of \$1700.00 on or before July 1, 2015 and each Month thereafter the rent will be due on the 1st day of the month and late on the 15th with a fifty dollar late charge.

Article 3 Security Deposit

3.1 Tenant shall deposit with Landlord \$500.00 to be kept if Tenant defaults with respect to any provision of this lease. The \$500.00 will be included in the payment due July 1, 2015

Tenant. Further agrees to deliver up said unit to landlord at the expiration of said term in good condition, with reasonable use and wear.

Tenant. Further agrees to made no charges are modifications to unit without Landlords approval.

Tenant. Shall be responsible for his bathroom supplies and in sharing the cleaning of kitchen and bathrooms.

Responsibility shall be as indicated: Tenant responsible T, Landlord responsible L, Roof L, Exterior Walls L, Interior Walls T, Structural Repairs L, Interior Decorating T, Exterior Walls L, Yard L, Plumbing Equipment L, Electrical Equipment L, Light Globes and Tubes T, Glass Breakage T, Trash Removal T, Snow Removal L, Janitor T, Power L, Heat L, Water L, Sewer L, Telephone T, Real Property L, Personal Property T, Fire Insurance Personal Property T, Glass insurance T, Clean Air Filters T.

Each party shall be responsible for losses resulting from negligence of misconduct of himself, his employees or invitees.

Furniture, fixtures and personal property of tenant may not be removed from premises until rent and other charges are fully paid.

In case of failure to faithfully preform the terms and covenants herein set forth, the defaulting party shall pay all costs, expenses and reasonable attorney fees resulting from the enforcement of this agreement or any right arising out of such breach.

Lessor



date July 1,2015

David Wayne Close

Tenant



date

7/8/15

~~Neil Harmed, CEO, VidAngel~~

LIZ ELLIS, COO, VIDANGEL

Exhibit B
Office Space Lease Agreement

Utah Commercial Lease Agreement

In consideration of the Landlord's leasing of the premises to the Tenant, the Tenant's leasing from the Landlord the premises, and the mutual benefits and obligations conferred by this lease on the Parties, and in recognition of the receipt and sufficiency of said consideration, the Parties hereby agree to the following terms and conditions:

I. The Parties – Lease agreement is between Lessor under the individual/entity (hereinafter known as the "Landlord") known as FIG Real Estate Holdings LLC and the Lessee under the individual/entity (hereinafter referred to as the "Tenant") known as VidAngel, Inc.

II. Premises – The space/property being leased shall be described as:

295 W Center St

Provo, UT 84601

Main level and mezzanine of main level accessible from the front entry doors going South in Lobby, as well as Basement storage.

(Hereinafter referred to as the "Premises").

III. Space Rented - The space described includes all space currently leased by the current tenant, **approx. 16,000 Square Feet**, of which roughly 2,000 [SF] is basement storage.

IV. Term – The term of the lease shall be 5 years beginning on the 15th day of December 2016 and ending on the 31st day of December 2021. ***During the first 12 months of the lease agreement, the tenant can cancel the contract with a 90-day notice with a minimum of a 4-month lease commitment to the landlord.*** The tenant shall gain access to the premises beginning December 5th for the purpose of tenant improvements with no cost during this time. The partial rental month of December shall be pro-rated.

V. Rent – Rent shall be paid on the 1st of every month in the amount of Fifteen-Thousand Dollars (\$15,000). Rent shall not be considered late if paid prior to the 5th of the month.

Rent shall increase three percent (3%) on an annual basis.

VI. Common Areas – The Tenant, along with any of their employees, may use the following common area(s) along with other inhabitants:

- All Parking Space(s) as available, however Tenant shall not have access to less than half the available spaces at any time during the Term.
- Entrance(s) (Incl. Stairs & Elevators)
- Conference/Meeting Room(s) (in RE/MAX office space as needed with prior approval)
- Trash Area(s)

VII. Renewals

Tenant shall have the option to renew the lease for 5 year(s) under the following conditions: Same 3% increase shall apply as current lease terms.

VIII. Security Deposit – The Tenant is required pay **Fifteen-Thousand** Dollars (\$15,000) as a Security Deposit (This deposit shall be held in the RE/MAX Equity Brokerage Trust Account. If the Tenant follows the terms and conditions of this agreement in good faith and without damaging the Premises, the Security Deposit will be returned within ten (30) business days. Otherwise, any repairs needed for the Premises will be deducted from the Security Deposit.

IX. Condition Upon Move-In

The Tenant agrees to take tenancy of the property on an "as is" basis, willing to make all fit-ups (if needed) on the Premises at the expense of the Tenant. ***A pre-lease walk through of accepted condition shall be signed by both parties prior to occupancy for record-keeping and to protect the tenant/landlord rights to deposits.***

Note the Americans with Disabilities Act (ADA): All businesses that are open to the public or employ 15 or more people require that the premises be accessible by persons with disabilities. In the event that the premises must be altered for ADA compliance, the cost of improvements, alterations, and/or modifications necessary for compliance with the ADA shall be the responsibility of the Landlord. Any modifications or improvement to the premises made by the Tenant shall also be in compliance with the ADA.

X. Improvements During Lease Term - The Tenant, with written approval of the Landlord that may not be unreasonably withheld, shall be able to make any type of improvement to the Premises suited for the purposes of expanding the professional office space, or adapting the space to meet the needs of Tenant's business. Improvements with a cost less than \$2,000 do not require Landlord approval.

The Landlord will cover the cost of lighting upgrades to professional office standards agreed upon by the Tenant. Should the Tenant opt out of their contract on the early termination clause they shall split the expense for this upgrade with the Landlord.

XI. Use – The Tenant will occupy the Premises for the following use:

Office space for VidAngel.

XII. Utilities and Other Expenses

Tenant shall pay \$1,500 towards utilities per month.

Tenant shall pay for maintenance and janitorial services for their leased space. Repairs due to structural deficiency shall be covered by the Landlord. Repairs due to commercial usage shall be covered by the Tenant.

XIII. Landlord's Representations -The Premises shall not have been used for the storage or disposal of any toxic or hazardous substances, and the Landlord has received no notice from any governmental authority concerning removal of any toxic or hazardous substances from the property.

XIV. Landlord's Responsibility

- Landlord shall maintain and make any and all necessary repairs to: (1) the roof, structural components, exterior walls, and interior common walls of the premises.
- Landlord will regularly clean and maintain (including snow removal) the parking areas, yards, common areas, and exterior of the building and remove all litter so that the premises will be kept in an attractive condition.
- Landlord shall be responsible for plumbing, electrical and HVAC systems functionality and/or deficiencies.

XV. Tenant's Responsibility

- Tenant shall keep the Premises clean and well maintained at all times, so that the Premises shall be in marketable condition.
- Tenant shall be responsible for maintenance of personal plumbing, electrical and HVAC systems.

XVI. Insurance

Landlord agrees to carry fire and hazard related coverage insurance for the Premises. Tenant agrees to carry general liability insurance that includes the Landlord as an insured party for personal injury.

The coverage the Tenant shall provide will be in the amount(s) of:
\$1,000,000 per occurrence

This agreement automatically releases the Landlord and Tenant from each other in reference to liability for property, loss, damage, personal injury, or anything else covered by the insurance plan.

XVII. Taxes

- Landlord *Tenant - Real Property Taxes (Fees shall be split 50/50)
 Landlord Tenant - Personal Property Taxes

XVIII. Subletting – The Tenant does have the right to sublet the Premises. Any new Tenant under a sublease must meet the approval of the Landlord and such approval shall not be unreasonably withheld.

XIX. Damage to the Premises – The Tenant may terminate the lease agreement if necessary repairs due to fire, flood, or any natural catastrophe keep the Tenant from being open for over sixty (60) days, or prevents the Tenant from making full, or customary, use of the Premises.

- If the Tenant is not able to be open for the sixty (60) day period due to damage to the Premises, there will be no rent paid during said period.

XX. Default – If the Tenant defaults on the lease agreement for non-payment of rent or for any other reason, the Landlord agrees to give notice to the Tenant giving the Tenant the right to cure the issue(s). If the Tenant does not cure the issue(s) within the amount of time stated in the notice, then the Landlord has the right to take legal action.

XXI. Notice of Quiet Enjoyment – During the term of the lease agreement, the Tenant has the right of quiet enjoyment of the Premises.

XXII. Eminent Domain – The lease automatically becomes void if the Premises are taken by eminent domain. During the process, the Tenant will have to right to claim:

- Value of the Lease Agreement
- Loss of Business Revenue
- Moving and Relocation Expenses

XXIII. Holding Over – If the Tenant remains in possession of the Premises after the lease agreement ends, the tenancy shall continue on a month-to-month, or “Tenancy at Will,” basis unless the Landlord gives notice for the Tenant to vacate.

XXIV. Disagreements During the Lease Period – If a disagreement arises during the lease period, the following actions shall take place:

Mediation with Possible Arbitration – If there is a dispute between the Landlord and Tenant, all parties agree to attempt to come to an agreement through the use of an agreed upon mediator.

- It is agreed that the cost(s) involved in hiring the mediator shall be shared equally and that each party shall cooperate in a good faith attempt to reach a resolution. Both parties agree that they shall allow the mediator thirty (30) days from the first (1st) meeting to reach a compromise before going to the arbitrator.
- The arbitrator selected will be a third (3rd) party to be mutually agreed upon. The arbitrator shall decide all costs directed towards hiring the arbitrator.

The Landlord shall not have to attend the mediation or arbitration process unless Tenant is current with the rental payments, either submitting to the Landlord directly or depositing the funds in an escrow account.

XXV. Additional Agreements – Landlord and Tenant additionally agree to the following:

- In the event the tenant gives notice that they will not move forward with continuing the full lease terms within the first 6 weeks they shall have no claim to the property improvements they have installed and shall have full responsibility for any damages.
- **Brokerage information:** Tenant representation by David Nixon with JLL Commercial brokers. The commission for David shall be paid upon an official notice that the full term of the lease is going to be fulfilled. If notice of cancellation is given in the first 6 weeks than commission shall only be for the active time the tenants are satisfying lease terms.

XXVI. Entire Lease Agreement – This document supersedes any other writings in relation to the Premises and has authority over any oral agreements made between the Landlord and Tenant.

XXVII. Successors and Assignees – All assignees of the parties including heirs, successors, or anyone else that may be considered is mutually bound by this lease agreement.

XXVIII. Notices – All notices in relation to the Premises or this lease agreement shall be in writing and delivered to the following address below via Certified Mail with Return Receipt:

Landlord

FIG Real Estate Holdings, LLC
295 W Center St Suite A
Provo, UT 84601

Steven Bond-801.400.6580 steve@Fig.us Steven Bond is a Broker/Owner of RE/MAX Equity and Mike Miller the other partner of FIG Real Estate Holdings LLC is a builder/developer.

Tenant

VidAngel, Inc.
295 W Center St
Provo, UT 84601

XXIX. Governing Law – This lease agreement will be governed by and construed in accordance with the laws in the State of Utah.



XXX. Counterparts and Modifications

- The Landlord and Tenant agree that they shall sign several identical counterparts of this lease and any fully signed counterpart shall be treated as an original.
- Only writing(s) signed by the party against whom such a modification is sought to be enforced shall modify this lease.

XXXI. Waiver - If either Landlord or Tenant waives any term or provision of this lease at any time, that waiver will be effective only for the specific instance and specific purpose for which the waiver was given. If either party fails to exercise or delays exercising any of its rights or remedies under this lease, that party retains the right to enforce that term or provision at a later time.

XXXII. Severability - If any court determines that any provision of this lease is invalid or unenforceable, any invalidity or unenforceability will affect only that provision. It will not make any other provision of this lease invalid or unenforceable, and shall be modified, amended, or limited only to the extent necessary to render it valid and enforceable.

Signatures

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|--------------------------|---|---------------------------|--|
| Landlord |  | Tenant |  |
| Name: <u>Sandra Bond</u> | | Name: <u>Doreen Ellis</u> | |
| Date: <u>3/13/2017</u> | | Date: <u>3/13/2017</u> | |

Broker(s)

| | | | |
|---|--|-------------|--|
|  | | | |
| Name: _____ | | Name: _____ | |
| Date: _____ | | Date: _____ | |

PROOF OF SERVICE

I hereby certify that on February 8, 2018, I caused a true and correct copy of the foregoing Motion and Notice to Assume Leases to be served as follows:

I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

- J. Thomas Beckett tbeckett@parsonsbehle.com, ecf@parsonsbehle.com;brothschild@parsonsbehle.com;kstankevitz@parsonsbehle.com
- Lev E. Breydo lev.breydo@mto.com
- Laurie A. Cayton tr laurie.cayton@usdoj.gov, James.Gee@usdoj.gov;Lindsey.Huston@usdoj.gov;Suzanne.Verhaal@usdoj.gov
- Michael R. Johnson mjohanson@rqn.com, docket@rqn.com;dburton@rqn.com
- David H. Leigh dleigh@rqn.com, dburton@rqn.com;docket@rqn.com
- Grace S. Pusavat gpusavat@parsonsbehle.com
- Todd J. Rosen todd.rosen@mto.com
- Brian M. Rothschild brothschild@parsonsbehle.com, ecf@parsonsbehle.com
- United States Trustee USTPRegion19.SK.ECF@usdoj.gov

I mailed copies to the following parties:

VPS Property Management, Inc.
180 N. University Ave. Ste 240
Provo, UT 84601

FIG Real Estate Holdings, LLC
295 W Center Street Ste A
Provo, UT 84601

Kelly M. Klaus
Munger, Tolles & Olson, LLP
350 South Grand Avenue, 50th Floor
Los Angeles, CA 90071-3426

Respectfully submitted,

/s/ Grace S. Pusavat

Grace S. Pusavat

PARSONS BEHLE & LATIMER

Proposed Attorneys for VidAngel, Inc.