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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 REPLY TO THE CALIFORNIA STUDIOS' RESPONSE TO
THE DEBTOR'S MOTION TO EMPLOY CALL & JENSEN AS
SPECIAL COUNSEL UNDER SECTIONS 327(e) AND 328(a) OF THE
BANKRUPTCY CODE**

VidAngel, Inc. (the "Debtor" or "VidAngel"), by and through its undersigned counsel, respectfully submits this reply to the California Studios' Response [docket #287] to the Debtor's Motion to Employ Call & Jensen as Special Counsel [docket #277].

REPLY

The Debtor's application to retain Call & Jensen, replacing Baker Marquart, is reasonable and necessary. The Debtor has complied with §§ 327(e) and 328(a) of the Bankruptcy Code through the filing of the required application, accompanied by a retention letter and declaration of Mark Eisenhut. The Court should view the Studios' response skeptically, as they are the

adversaries in the California litigation for which the Debtor seeks to engage Call & Jensen. The Court should grant the application.

COMPENSATION PROCEDURES

First and foremost, the Debtor seeks authorization to compensate Call & Jensen pursuant to the order entered by this Court establishing procedures for retained professionals [docket #100]. Call & Jensen is aware of the requirement that it must submit invoices on a monthly basis for Court approval. The Debtor and its retained professionals will continue to comply with the Court-approved compensation procedures as they have done throughout the course of this case.

RETENTION IS REASONABLE

Retention of Call & Jensen is reasonable, within the sound business judgment of the Debtor, and necessary to protect the interests of the Debtor and its estate in the impending damages phase of its litigation with the Studios in California. The determination of those damages, if any, is the last impediment to the Debtor's reorganization.

a. Trial Counsel

The Debtor is not endeavoring to employ duplicative trial counsel. Due to several considerations, including the schedules and availability of Baker Marquart and the Debtor, it became necessary to find replacement trial counsel. Upon the filing of Call & Jensen's appearance in the California litigation, all other counsel representing VidAngel, including Baker Marquart, withdrew from the case. The Debtor thus requires Call & Jensen's engagement.

Baker Marquart should not and cannot be expected to cease representation of the Debtor without any transitionary period whatsoever. It would be illogical for the Debtor to incur twice the expense in legal fees, simply to have multiple law firms fulfilling the same role. On the contrary, the Debtor is seeking to reduce legal fees by bringing Call & Jensen up to speed as quickly as it

can and relieving Baker Marquart of its duties to the greatest extent possible. The Debtor is doing this while providing Baker Marquart with the opportunity to withdraw while upholding its ethical and professional responsibilities. The transition process has been smooth.

b. Compensation

The Studios' representation of the compensation structure for Call & Jensen is inaccurate. A great deal of thought went into a payment framework that would be feasible for the Debtor and provide commensurate compensation to Call & Jensen, given the substantial task at hand. The compensation framework is more than an amount reduced to one potential number to be viewed only in the context of a single cost estimate. The arrangement with Call & Jensen includes both cash and stock in a semi-contingent structure dependent on actual results.

Call & Jensen has agreed to discount its normal rate and assume the risk of potentially receiving reduced compensation. While it is true that there is an upside for Call & Jensen upon earning a favorable result, there is also a potential downside that was not provided for in the Debtor's engagement with Marquart.

c. Role of In-house Counsel

As noted in the application to retain Call & Jensen, the Debtor's longstanding in-house attorney, David Quinto, is a witness at trial and is constrained in his ability to participate on behalf of the Debtor in the California litigation. Therefore, Morgan Philpot has assumed the role of overseeing the trial on behalf of the Debtor's office of general counsel. The Debtor requires the services of in-house counsel in connection with its current litigation and Mr. Philpot's employment is in no way excessive or duplicative.

DISCLOSURE

The Debtor has provided an unredacted copy of the Call & Jensen retention letter to both the Court and the United States Trustee. Indeed, the Debtor offered unredacted copies of that letter to the Court and the United States Trustee concurrent with its filing of the redacted letter.

EFFECT ON THE DEBTOR

The Studios assert that the reasonableness of Call & Jensen’s retention could hinge in part on its effect on confirmation. In support of that position, they cite a case from the District of Massachusetts (*In re High Voltage Engineering Corp.*, 311 B.R. 320 (Bankr. D. Mass. 2004)). But that case does not support that position. In that case, the Debtor sought to retain financial advisors to be paid in part with success fees. The court did express concern about confirmation of a proposed plan “in [the] stringent time frame set forth in [a] Restructuring Agreement.” *Id.* at 333. But the court was more concerned with the lack of information it had been provided on the financial advisors’ proposed assignment or skills, or why they were even necessary, so it denied the application without prejudice. *Id.* at 335. In this case, on the other hand, Call & Jensen’s engagement can only aid confirmation, and there is no question that Call & Jensen is necessary.

CONCLUSION

The Court should grant the Debtor’s application to retain Call & Jensen as special counsel.

Dated this 8th day of March, 2019.

/s/ J. Thomas Beckett

J. Thomas Beckett

PARSONS BEHLE & LATIMER

Attorneys for VidAngel, Inc., debtor and debtor-in-possession.

PROOF OF SERVICE

I hereby certify that on March 8, 2019, I caused a true and correct copy of the foregoing **DEBTOR'S REPLY TO THE CALIFORNIA STUDIOS' RESPONSE TO THE DEBTOR'S MOTION TO EMPLOY CALL & JENSEN AS SPECIAL COUNSEL UNDER SECTIONS 327(e) AND 328(a) OF THE BANKRUPTCY CODE** 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:

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On March 8, 2019, I caused a true and correct copy of the foregoing documents to be served on the following parties by First Class Mail, postage prepaid:

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