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debtor-in-possession.*

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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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**DECLARATION OF NEAL S. HARMON**

**SUPPORTING**

**DEBTOR'S OBJECTION TO THE STUDIOS' MOTION FOR  
CONVERSION TO CHAPTER 7**

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1. I am the Chief Executive Officer of VidAngel, Inc.
2. After the California District Court preliminarily enjoined it from using its disc-based technology in December 2016, VidAngel totally abandoned that technology. Its revenues entirely dried up. Lightning had struck.
3. Post-petition, the Debtor's first priority was to win a declaratory judgment in Utah (where it resides) that its new "stream-based" content filtering technology complied with copyright law. With that judgment, the Debtor believed it could reorganize its business around its new

technology. The Debtor has been criticized for not prosecuting this lawsuit in California (where the Studios reside, but where the Debtor has no other contacts), but it was very wary of its possible treatment in Hollywood.

4. Post-petition, the Debtor's stream-based business has earned \$9.2 million in revenues. Those revenues would be much higher, but the Debtor does not offer that technology for titles that are owned by the Studios. Nevertheless, the Debtor fully expects the Studios to make every effort to have the permanent injunction aspect of a judgment (if and when one is entered on the California docket) cover and enjoin VidAngel's stream-based technology in addition to the disc-based technology that it abandoned long ago.

5. After the dismissal of its declaratory judgment action in Utah, the Debtor focused its reorganization efforts on developing original content (including Dry Bar Comedy and The Chosen) and its consulting and services businesses in the family-friendly entertainment crowdfunding space.

6. When the trial occurred many months after January, in June 2019, the Studios called seven witnesses to the stand, including three experts, after conducting six depositions. (The Studios sought 14 depositions, but the Magistrate Judge restricted them.) The number of titles on which they alleged infringement ballooned from 104 to 819, and the number of documents offered increased commensurately.

7. Just prior to trial, the Studios rejected the Debtor's settlement offer (and second offer for entry of judgement) that included a \$4,500 per work damages award, permanent injunction and attorney's fees. This offer would have paid the studios more than any revenue VidAngel ever earned from the Studios' content. Perhaps, it would have paid more to the Studios than their cost of trial. The Studios refused to accept this offer not because \$3.7 million plus

attorney's fees was not enough to satisfy justice, but because those numbers would surely allow the Debtor to reorganize (not be put out of business).

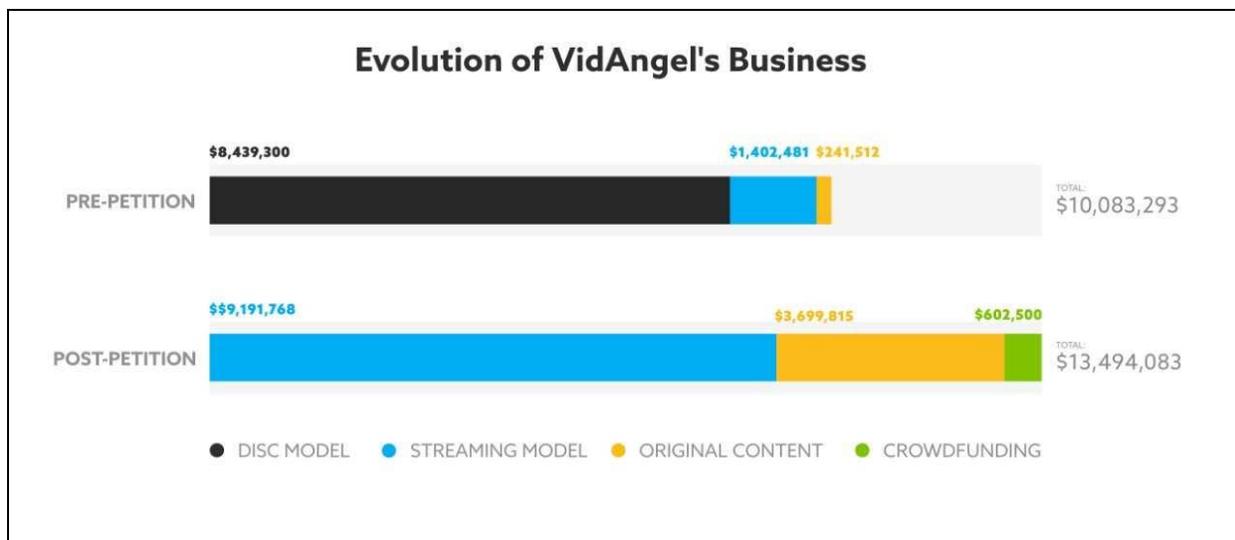
8. The Debtor intends, consistent with its fiduciary duties, to seek a new trial or remittitur and, most likely, an appeal (expedited, if possible) to the Ninth Circuit. The Debtor does not expect any judgment in the California action to be entered before next fall.

9. VidAngel has always been entirely transparent that its motivation is to provide family-friendly entertainment as expressly allowed by the Family Movie Act of 2005. Its punishment for having done so is unprecedented and unwarranted. The Debtor believes it has very good grounds for appeal.

10. The Studios ignore the fact that that prediction was predicated on the California trial being delayed until their reorganization took hold. It was not.

11. Finally, the Debtor's earning potential has grown *substantially* since the petition date. Since then, Dry Bar Comedy has generated over 1.5 billion views and \$3.5 million in revenues. The Chosen, a TV series, rated 9.8 on IMDB, was funded with nearly \$10 million by over 16,000 investors. Finally, since the petition date, the Debtor has created a FINRA-qualified broker-dealer (application pending) and a crowdfunding portal, both of which will allow VidAngel Studios to realize further revenue growth going forward.

12. VidAngel has grown and reorganized its business substantially while operating under the protection of the Bankruptcy Code. Prepetition, the Debtor derived nearly all its revenues from the disc-based technology that it has since abandoned. Post-petition, the Debtor has derived *all* its revenues from its three new lines of business:



*I declare, under penalty of perjury, that the foregoing is true and correct.*

Dated this 12th day of July, 2019.

*/s/ Neal S. Harmon*

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**PROOF OF SERVICE**

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I hereby certify that on July 12, 2019, I caused a true and correct copy of the foregoing **DECLARATION OF NEAL S. HARMON IN SUPPORT OF THE DEBTOR'S OBJECTION TO THE STUDIOS' MOTION FOR CONVERSION TO CHAPTER 7** 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:

- Laurie A. Cayton tr laurie.cayton@usdoj.gov,  
James.Gee@usdoj.gov;Lindsey.Huston@usdoj.gov;Suzanne.Verhaal@usdoj.gov
- Rose Leda Ehler rose.ehler@mto.com, cynthia.soden@mto.com
- Michael R. Johnson mjohanson@rqn.com, docket@rqn.com;dburton@rqn.com
- Kelly M. Klaus kelly.klaus@mto.com
- David H. Leigh dleigh@rqn.com, dburton@rqn.com;docket@rqn.com
- United States Trustee USTPRegion19.SK.ECF@usdoj.gov

On July 12, 2019, I also caused a true and correct copy of the foregoing documents to be served on the following parties by email:

**Brent O. Hatch**  
Johnson & Hatch  
10 West Broadway  
Suite 400  
Salt Lake City, UT 84101

*/s/ J. Thomas Beckett*

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**PARSONS BEHLE & LATIMER**

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