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Chapter 11 Trustee

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

In re

VIDANGEL, INC.,

Debtor.

Bankruptcy No. 17-29073 (KRA)

Chapter 11

Honorable Kevin R. Anderson

**TRUSTEE'S APPLICATION TO EMPLOY STRONG & HANNI, P.C. AS SPECIAL
COUNSEL AND DECLARATION OF PROPOSED ATTORNEY**

George Hofmann, in his capacity as Chapter 11 Trustee (the "Trustee") of the bankruptcy estate (the "Estate") of VidAngel, Inc. (the "Debtor"), moves this Court for an order authorizing the Trustee to employ Joseph M. Shapiro ("Shapiro") and the firm of Strong & Hanni, P.C. ("Strong & Hanni") as his special counsel pursuant to Bankruptcy Code § 327(e), and in support of this application respectfully represents as follows:

1. The Debtor commenced this case under Chapter 11 of the Bankruptcy Code by filing a voluntary petition on October 18, 2017 (the "Petition Date").
2. On August 28, 2019, the Court entered its Order appointing the Trustee, and the Trustee was appointed as the Debtor's Chapter 11 Trustee on that same date.

3. Prior to the Petition Date, the Debtor employed Strong & Hanni to assist it in patent prosecution matters (the "Patent Matters"). The Debtor continued to employ Strong and Hanni for the Patent Matters subsequent to the Petition Date. The Debtor did not, however, seek Court approval for its employment of Strong & Hanni. The Trustee identified this as a potential issue for Strong & Hanni and notified Strong & Hanni that the Estate may have claims against it, including for the disgorgement of fees. The Trustee intends to employ Strong & Hanni for future services related to the Patent Matters. Thus, the potential claim for disgorgement of fees earned for past services is not a claim "with respect to the matter on [Strong & Hanni] is to be employed," and accordingly, the Trustee believes that Strong & Hanni is authorized to serve the Estate pursuant to the safe harbor set forth in Bankruptcy Code § 327(e).

4. The Patent Matters are very important for the Debtor and the Estate, as they relate directly to the Debtor's business model, and the Trustee believes that Strong & Hanni is the law firm best suited to provide the Trustee with assistance in the Litigation. Among other reasons, Strong & Hanni is familiar with the factual and legal issues in the Patent Matters and can carry out its services in a manner that is efficient and economical for the Estate.

4. For the foregoing and all other necessary and proper purposes (except for his general administration of the Estate), the Trustee desires to retain Strong & Hanni as special counsel to represent him.

5. The employment of Shapiro and the firm of Strong & Hanni may be authorized by this Court pursuant to Bankruptcy Code § 327(e), and in the Trustee's

opinion, the employment of Shapiro and Strong & Hanni is in the best interest of the Estate.

6. As required by Bankruptcy Code § 327(e), the Trustee anticipates that the Estate will benefit from the employment of Shapiro and Strong & Hanni as special counsel because Shapiro is an experienced patent prosecutor who specializes in the issues that are related to the Patent Matters. He and the firm of Strong & Hanni also have substantial experience with the Patent Matters, and it would be expensive and inefficient to ask another attorney to “come up to speed” on the Patent Matters.

7. Based upon the attached Declaration of Joseph Shapiro, the Trustee believes that Shapiro and the firm of Strong & Hanni do not hold or represent any interests adverse to that of the Trustee or the Debtor’s Estate with respect to the Patent Matters.

8. The Trustee is informed that Strong & Hanni’s normal hourly billing rates at the time of this Application range from \$200 per hour to \$450 per hour for attorneys and from \$100 per hour to \$150 per hour for paraprofessionals. Joseph Shapiro’s billing rate is \$285 per hour. It is contemplated that Shapiro and the firm of Strong & Hanni will seek compensation based upon normal and usual hourly billing rates. It is further contemplated that Shapiro and the firm of Strong & Hanni will seek interim compensation during the case as permitted by Bankruptcy Code § 331.

9. The Court has power to authorize employment of Joseph Shapiro and the firm of Strong & Hanni pursuant to Bankruptcy Code § 327(e) which states in pertinent part:

The trustee, with the court's approval, may employ, for a specified special purpose, other than to represent the trustee in conducting the

case, an attorney that has represented the debtor, if in the best interest of the estate, and if such attorney does represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.

WHEREFORE, the Trustee prays that he be authorized to employ Shapiro and the firm Strong & Hanni as his special counsel to render services in the areas described above with compensation to be paid as an administrative expense in such amounts as this Court may hereinafter determine and allow.

DATED September 12, 2019.

/s/ George Hofmann
Chapter 11 Trustee

CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2019, I electronically filed the **TRUSTEE'S APPLICATION TO EMPLOY SPECIAL COUNSEL AND DECLARATION OF PROPOSED ATTORNEY** with the United States Bankruptcy Court for the District of Utah by using the CM/ECF system. I certify that the parties of record in this case as identified below, are registered CM/ECF users, and will be served notice of entry of the foregoing Order through the CF/ECF System:

- J. Thomas Beckett tbeckett@parsonsbehle.com, ecf@parsonsbehle.com;brothschild@parsonsbehle.com;kstankevitz@parsonsbehle.com
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- United States Trustee USTPRegion19.SK.ECF@usdoj.gov

By U.S. Mail: In addition to the parties of record receiving notice through the CM/ECF system, the following parties should be served notice pursuant to Fed. R. Civ. P. 5(b).

None.

Other:

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All parties on the Court's official case matrix

/s/ George Hofmann

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/s/ George Hofmann

**DECLARATION OF JOSEPH M. SHAPIRO IN SUPPORT OF
THE TRUSTEE'S APPLICATION TO EMPLOY SPECIAL COUNSEL**

I, Joseph M. Shapiro, declare and submit the following statements and disclosures as my Declaration in support of the Trustee's Application to Employ Counsel:

1. I am an attorney duly admitted to practice before the state courts of Utah and this Court.
2. I am a member of Strong & Hanni, P.C. ("Strong & Hanni"), the law firm that the Trustee is seeking to employ as special counsel by the Application to which this Declaration is attached.
3. The law firm of Strong & Hanni has extensive experience with Patent Prosecution and especially with VidAngel's Patent Prosecution Matters. More specifically, Strong & Hanni has represented the Debtor in its Patent Prosecution since 2015 and is well-acquainted with the legal and factual issues present in the Patent Matters. The firm is well qualified to represent the Trustee as special counsel and is willing to accept employment on the basis set forth in the annexed Application. As set forth in the Application, my normal hourly billing rate is \$285 per hour. The rates presently charged by the firm's attorneys range between \$200 and \$450 per hour.
4. As mentioned, Strong & Hanni represented the Debtor both pre- and post-Petition Date. Strong & Hanni did not seek Court approval of its employment after the Petition Date. The Trustee has informed me that the Estate may have a claim against Strong & Hanni for the disgorgement of fees paid by the Debtor. Strong & Hanni disputes that the Estate has claims against it, and Strong & Hanni expressly reserves all

rights and defenses related to the same. Importantly, however, the Trustee has advised me that he seeks to employ Strong & Hanni for legal services moving forward, and I have agreed to provide those services and seek Court approval for payment of Strong & Hanni's fees incurred. Thus, the firm of Strong & Hanni, its members and its associates, do not hold any interest adverse to the Debtor or the above-entitled estate with respect to the Patent Prosecution matters for which Strong & Hanni is to be employed.

5. Strong & Hanni has a prepetition claim against the Estate in the amount of \$72. However, this is not an interest adverse to the Estate with respect to the matter for which Strong & Hanni will be employed.

6. Strong & Hanni has no interest adverse to the Estate with respect to the Litigation, and does not (and will not) represent any person or interest adverse to the Estate with respect to the Litigation.

Executed September 10, 2019.

A handwritten signature in black ink, reading "Joseph Shapiro". The signature is written in a cursive, flowing style.

Joseph Shapiro