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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

In re:	§	**Chapter 11**
	§	
SPHERATURE INVESTMENTS LLC, *et al.*,	§	**Case No.: 20-42492**
	§	
	§	
Debtors.	§	**Jointly Administered**
SPHERATURE INVESTMENTS LLC, *et al.* d/b/a WORLDVENTURES HOLDINGS, LLC[1]	§	
	§	
	§	
Plaintiffs,	§	
	§	**Adversary No. 21-04058**
vs.	§	
	§	
Kenneth E. Head,	§	
	§	
Defendant.	§	

NOTICE OF FILING WITNESS AND EXHIBIT LIST
FOR MARCH 8, 2021 HEARING

[1] The "Plaintiffs" and "Debtors" in the above-captioned jointly administered chapter 11 bankruptcy cases and adversary proceeding are: Spherature Investments LLC ("Spherature") EIN#5471; Rovia, LLC ("Rovia") EIN#7705; WorldVentures Marketing Holdings, LLC ("WV Marketing Holdings") EIN#3846; WorldVentures Marketplace, LLC ("WV Marketplace") EIN#6264; WorldVentures Marketing, LLC ("WV Marketing") EIN#3255; WorldVentures Services, LLC ("WV Services") EIN#2220.

The Official Committee of Unsecured Creditors (the "Committee") hereby submits the following Witness and Exhibit List for the hearing scheduled on March 8, 2021 at 10:00 a.m. (CT), in the above-styled, jointly administered bankruptcy cases and adversary case (the "Cases") before the Honorable Brenda T. Rhoades, United States Bankruptcy Judge, 660 North Central Expressway, Plano, Texas 75074.

WITNESS LIST

The Committee may call the following witnesses:

1. Any witness listed, offered, or called by any other party.

2. Any witness required for rebuttal or impeachment.

EXHIBIT LIST

Exhibit No.	Description	Offered	Objection	Admitted	Disposition After Hearing
1.	*Declaration of Erik Toth in Support of Voluntary Petitions and First Day Motions* [Docket No. 20]				
2.	Transcript of February 24, 2021 Proceedings in *Spherature Investments LLC et al. v. Kenneth Head*				
3.	Any exhibits listed, designated, or offered by any other party.				
4.	Any exhibits necessary for rebuttal.				

The Committee reserves the right to modify, amend or supplement this Exhibit and Witness List at any time. The Committee reserves the right to ask the Court to take judicial notice of pleadings, transcripts and/or documents filed in or in connection with these Cases, to offer rebuttal exhibits, and to supplement or amend this Witness and Exhibit List at any time prior to the March 8, 2021 Hearing. Designation of any exhibit above does not waive any objections the Committee may have to any exhibit listed on any other party's exhibit list.

Dated: March 3, 2021

Respectfully submitted,

/s/ Michael D. Warner

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-and-

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Proposed Counsel for the Official Committee of Unsecured Creditors

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of March, 2021, a true and correct copy of the above and foregoing has been served on all parties that are registered to receive electronic transmission through this Court's CM/ECF filing system in these cases.

/s/ Michael D. Warner
Michael D. Warner

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

In re:	§	**Chapter 11**
	§	
SPHERATURE INVESTMENTS LLC, *et al.*	§	**Case No.: 20-42492**
	§	
	§	
Debtors.[1]	§	**Joint Administration Requested**

DECLARATION OF ERIK TOTH IN SUPPORT OF VOLUNTARY PETITIONS AND FIRST DAY MOTIONS

I, Erik Toth, hereby declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury that the following statements are true and correct and within my personal knowledge:

1. My name is Erik Toth ("Toth"). I am the Chief Restructuring Officer of SPHERATURE INVESTMENTS, LLC d/b/a WORLDVENTURES HOLDINGS, LLC ("WorldVentures"). I have held this position since November 17, 2020. My business address and telephone number are as follows:

Larx Advisors, Inc.
Attn: Erik Toth, Managing Partner
2600 Network Blvd, Suite 600
Frisco, TX 75034
Phone: 972.294.5884

2. I submit this Declaration based on personal knowledge in support of (a) the voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") filed by the Debtors on December 21, 2020 (the "Petition Date") before the United States Bankruptcy Court for the Eastern District of Texas, Sherman Division ("Bankruptcy

[1] The "**Debtors**" in the above-captioned jointly administered chapter 11 bankruptcy cases ("**Cases**") are: Spherature Investments LLC ("**Spherature**") EIN#5471; Rovia, LLC ("**Rovia**") EIN#7705; WorldVentures Marketing Holdings, LLC ("**WV Marketing Holdings**") EIN#3846; WorldVentures Marketplace, LLC ("**WV Marketplace**") EIN#6264; WorldVentures Marketing, LLC ("**WV Marketing**") EIN#3255; WorldVentures Services, LLC ("**WV Services**") EIN#2220. The Debtors' corporate headquarters and service address in this district is 5100 Tennyson Parkway, Plano, TX 75024.

Court") at the lead case number 20-42492 (joint administration requested) ("Cases"); and (b) the following motions:

A. MOTION FOR JOINT ADMINISTRATION [DKT. 3];

B. NOTICE OF DESIGNATION AS COMPLEX CHAPTER 11 BANKRUPTCY CASE [DKT. 7];

C. MOTION TO EXTEND TIME TO FILE SCHEDULES AND STATEMENTS [DKT. 8];

D. MOTION TO ESTABLISH INTERIM NOTICE PROCEDURES [DKT. 9];

E. MOTION FOR ORDER (I) AUTHORIZING THE DEBTORS TO (A) MAINTAIN EXISTING INSURANCE COVERAGE AND EXISTING INSURANCE PREMIUM FINANCING AGREEMENTS, (B) SATISFY ALL PREPETITION OBLIGATIONS RELATED TO THAT INSURANCE COVERAGE IN THE ORDINARY COURSE OF BUSINESS, AND (C) RENEW, SUPPLEMENT, OR ENTER INTO NEW INSURANCE COVERAGE IN THE ORDINARY COURSE OF BUSINESS, AND (II) GRANTING RELATED RELIEF [DKT. 10];

F. MOTION FOR ORDER (I) AUTHORIZING THE DEBTORS TO HONOR PREPETITION OBLIGATIONS TO CUSTOMERS, (II) AUTHORIZING THE DEBTORS TO INCUR AND ENTER NEW CUSTOMER OBLIGATIONS IN THE ORDINARY COURSE, AND (III) AUTHORIZING THE DEBTORS TO MAINTAIN AND ADMINISTER CUSTOMER PROGRAMS AND PREPETITION OBLIGATIONS RELATED THERETO [DKT. 13];

G. MOTION TO PAY PRE-PETITION SALARIES AND WAGES [DKT. 16];

H. MOTION FOR AUTHORITY TO PAY TAXES / MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE PAYMENT OF CERTAIN PREPETITION TAXES AND FEES AND (II) GRANTING RELATED RELIEF [DKT. 17];

I. MOTION FOR ENTRY OF INTERIM ORDER AUTHORIZING USE OF CASH COLLATERAL [DKT. 18];

J. MOTION PURSUANT TO 11 U.S.C. SECTION 366, FOR ENTRY OF INTERIM ORDER DETERMINING ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES AND RESTRAINING UTILITY COMPANIES FROM DISCONTINUING, ALTERING OR REFUSING SERVICE [DKT. 19]; and

K. MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE USE OF EXISTING CASH MANAGEMENT SYSTEM, (B) MAINTAIN EXISTING BANK ACCOUNTS, (C) CONTINUE TO PERFORM INTERCOMPANY TRANSACTIONS, (D) MAINTAIN EXISTING BUSINESS FORMS; (II) EXTENDING TIME TO COMPLY WITH SECTION 345 OF THE BANKRUPTCY CODE; AND (III) GRANTING RELATED RELIEF ("TREASURY AND CASH MANAGEMENT MOTION").

The foregoing are collectively the "First Day Motions."

3. I further submit this Declaration to assist this Court and parties-in-interest in understanding the circumstances that compelled the commencement of the Debtors' Cases.

4. The relief sought in the First Day Motions should enable the Debtors to effectively administer their bankruptcy estates ("Estates"). I have reviewed the First Day Motions, and I believe the requested relief is necessary to ensure the success of the Debtors' reorganization efforts.

5. Except as otherwise indicated, all facts as set forth in this Declaration are based upon my personal knowledge, my review of relevant documents (including all First Day Motions), or my opinion based upon experience, knowledge, and information concerning the Debtors. If called upon to testify, I would testify competently to the contents set forth in this Declaration.

PROCEDURAL BACKGROUND

6. On December 21, 2020, the Debtors commenced these Cases by filing voluntary petitions under chapter 11 of title 11 of the United States Code.

7. The Debtors have continued to operate and manage their businesses and affairs as debtors-in-possession, pursuant to Bankruptcy Code sections 1107 and 1108(a).

8. The Office of the United States Trustee (the "U.S. Trustee") has not appointed an official committee of unsecured creditors in this Case.

RELEVANT FACTUAL BACKGROUND

A. The Debtor's History

9. October 5, 2005, the Debtor organized solely for the purpose of providing access to unique travel and lifestyle experiences through a membership based direct sales business and later acquired a wholly-owned travel product and fulfilment company. WorldVentures provides its travel products and services to individual and group leisure and corporate travelers in the United States and abroad. The company is made up of ninety-four (94) wholly owned legal entities operating as branches, offices, and subsidiaries across the world and is collectively managed as WorldVentures. The company markets its products and services through a network of Independent Sales Representatives ("Sales Reps") which market and sell travel memberships and associate travel packages across multiple subscription levels.

10. Each of the Debtors is a limited liability company organized under the laws of the State of Nevada. WorldVentures is governed by three managers comprising the board ("Board") (Wayne T. Nugent, James Calandra and Russell Nelms) and its officers. James Calandra and Russell Nelms were added as independent Board members on December 3, 2020, to advise on the filing of these Cases and the related restructuring of the Debtors' assets and liabilities.

11. In addition to the Spherature Investments LLC (f/k/a World Ventures), WorldVentures retains ownership in the following affiliated Debtor parties to these Cases: (a) Rovia, LLC (wholly-owned subsidiary of WorldVentures); (b) WorldVentures Marketing, LLC (wholly-owned subsidiary of WorldVentures; (c) WorldVentures Services, LLC (wholly-owned subsidiary of WorldVentures Marketing Holdings, LLC); (d) WorldVentures Marketing Holdings, LLC (wholly-owned subsidiary of WorldVentures); and (e) WorldVentures Marketplace, LLC (wholly-owned subsidiary of WorldVentures Marketing Holdings, LLC) (collectively, "WorldVentures", "Debtors" or "Petition Entities"). WorldVentures acts as a consolidated

management entity for the Debtors and their subsidiaries and affiliates, providing oversight, direction, and governance support, and may provide forms of financial assistance.

B. The Debtors' Assets and Operations

12. WorldVentures' primary revenue stream, in order of significance to the Debtors, is as follows: membership sales, travel sales, representative business system sales, and other marketing and promotions sales. The Debtors' primary markets, in order of significance to the Debtors, are the Americas, Asia, Europe, and Africa. WorldVentures' revenue is derived solely from its Sales Reps and the membership and travel related sales they generate.

A. Membership Sales: The sale of memberships allows the purchasers to access exclusive travel opportunities at discounted rates compared to retail costs. Memberships are offered to purchases in four tiers, each with increasing levels of access to travel amenities and benefits. Membership dues are billed to the purchaser monthly generally through recurring transactions.

B. Travel Sales: Travel products and services are offered on a stand-alone and package basis primarily through the merchant and agent business models.

i. Under the merchant model, the Debtors facilitate the booking of hotel rooms, airline seats and destination services from travel suppliers and acts as the merchant of record for such bookings. The majority of the Debtors' merchant travel transactions relate to the sales of packaged vacations.

ii. Under the agent model, the Debtors act as the agent in the transaction, passing reservations booked by the purchaser to the relevant travel provider. The Debtors receive commissions or ticketing fees from the travel supplier and/or purchaser. For certain agency, airline, hotel and car transactions, the

Debtors may also receive fees from global distribution system partners that control the computer systems through which these reservations are booked.

C. Representative Business System Sales: In accordance with the Representative Agreements, details provided below, each Sales Rep is required to pay a one-time enrollment fee and a recurring monthly fee for their own replicated website which provides access to online training tools, presentations, important product documents, and other assets that help the Sales Reps manage their WorldVentures business.

D. Other Marketing and Promotions Sales: The Debtors provide Sale Reps with access to purchase sales aides and other promotional and marketing materials to facilitate the growth of the Sales Reps' business. Sales Reps are also provided with opportunities to participate in training conventions for an up-front attendance fee.

13. As of the Petition Date, the WorldVentures global enterprise employs 105 employees (the "Employees") globally, 85 employees are affiliated with the Petition Entities. Additionally, the Debtors contract with approximately 60,000+ Independent Sales Representatives whose commissions are calculated based on the current published commissions plan, and terms of their subcontract agreement are outlined in their Independent Sales Representative Contracts.

14. The Debtors' "going concern" "assets" are predominately the Sales Reps themselves as the primary source of revenue to the enterprise; however, there is a cache of inventories that is made up of promotional merchandise, training materials, apparel, and other merchandise offered to customers at convention events or through online purchasing. Property and equipment consist of leasehold improvements, computer, and video equipment, furniture,

fixtures, software, and other equipment at the Debtors' facilities. The Debtors' assets also include merchant reserves, cash deposits and accounts receivable.

15. The Debtors' day-to-day management is led by a complement of corporate officers and supported by an organization of general and administrative staff.

C. The Independent Sales Representative Contracts

16. Individual that wish to become and Independent Sale Representatives enter into a 1-year auto renewable agreement (the "Representative Agreements") and pay an initial fee and make monthly payment(s) (the "RBS Fees") in exchange for full access to the WorldVentures Representative Business System ("RBS") platform.

17. Sales Reps are under no obligation to purchase any products of services of the Debtors. The Sales Reps receive commissions on membership sales to end-use customers. No commissions are paid for recruiting new Sales Reps and there is no compensation derived from a Sales Rep's personal purchase. Commissions are paid weekly and monthly based upon performance. Performance, and therefore commissions, is measured on a tiered basis with caps on weekly and monthly compensation.

18. Representative Agreements contain certain terms and conditions that govern the relationship. In particular, each Sales Rep agrees to non-solicit and non-compete provisions during and for a period of 1-year following the termination of their agreement with the Debtors. The relationship is also governed by Policies and Procedures ("Policies") agreement. The purpose of these Policies is to define the relationship between the Debtors and the Sales Reps, to set standards of permissible business conduct and practices, to protect the business relationships, goodwill, trade secrets, confidential information, including the Debtors' business methods and strategies, and to protect and support Sales Reps via the ethical and compliant building of their business.

D. The Debtors' Pre-Petition Date Indebtedness

(i) Secured Notes Payable

19. On November 3, 2017, the Debtors entered into that certain Security Agreement ("Initial Security Agreement") which provided for multiple secured notes ("Notes") issued by various individuals and entities ("Secured Parties") as listed below. The Debtors also entered into that certain Note and Warrant Purchase Agreement as of November 3, 2017, which provided for the right to purchase membership interest units exercisable at $0.012 per unit. The Notes then totaled $3,100,000, with an original maturity of November 3, 2018. The Debtors subsequently repaid $100,000 of principal and the remaining balance was extended to November 3, 2019. On October 30, 2019, the Debtors executed that certain First Amendment to the Security Agreement ("Amended Initial Security Agreement") in which they amended the maturity to November 30, 2020 ("Maturity"). On December 31, 2019, the Debtors entered into an Amended and Restated Security Agreement ("Restated Security Agreement") by and between Montgomery Capital Advisers, LLC, a Texas limited liability company, as Collateral Agent on behalf of the Secured Parties. The Security Agreement extended the maturity date to November 30, 2020 and expanded the total principal balance of the Notes to $5,500,101. In conjunction with the Restated Security Agreement, the Debtors executed a certain Amended and Restated Note and Warrant Purchase Agreement and Warrant Agreement with each of the Secured Parties. These certain agreements, dated December 31, 2019, provided for the right to purchase membership interest units exercisable at $0.02199598 per unit. The Notes bear an annual interest rate of 16% payable quarterly. No principal payments are made until maturity, when the full principal balance plus all accrued interest is due.

20. The Secured Parties and the associated outstanding principal balance and Warrant Units are listed in the table below:

Investor	Principal	%	Warrant Units
Montgomery Capital Partners II, LP	$ 1,239,629	22.5%	563,571
Jae W. Chung	1,068,145	19.4%	485,609
Bowling Capital Partners, Ltd.	505,000	9.2%	229,587
Montgomery Capital Partners, LLC	435,766	7.9%	198,112
Montgomery Capital Advisers, LLC	167,383	3.0%	76,097
B. Terrell Limited Partnership	223,177	4.1%	101,463
STRATA Trust Co, Custodian FBO TAM IRA	200,000	3.6%	90,926
Steven A. Hall Irrevocable Trust	250,000	4.5%	113,657
Maribess Miller	100,000	1.8%	45,463
TWL Group, LP	200,000	3.6%	90,926
Boog-Scott Family LP	200,000	3.6%	90,926
Massoud Bayat AR Sole/Sep Prop Trust	100,000	1.8%	45,463
Reza Bayat & Khatereh Tabandeh Trust, Rev	100,000	1.8%	45,463
MA Ceres LLC	100,000	1.8%	45,463
Type A Management LLC	250,000	4.5%	113,657
Mulkey Holdings LLC	250,000	4.5%	113,657
TBF Loose Holdings LLC	111,000	2.0%	50,464
	$ 5,500,101	**100.0%**	**2,500,503**

21. The Debtors' obligation to repay the loans from the Secured Parties was evidenced by seventeen (17) separate promissory notes. The Notes were secured (a) on a parity basis with each other; (b) by a lien on and security interest on all the Debtors' assets pursuant to the Restated Security Agreement; and (c) a lien on the federal income tax refund for 2016 of Wayne Nugent and Susan Nugent, residents of the State of Texas.

(ii) The 2020 Payroll Protection Program Loans

22. On or about March 27, 2020, Congress enacted, and the President signed the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), and § 1102 of the CARES Act established the Paycheck Protection Program (the "PPP") as a convertible loan program under § 7(a) the Small Business Act (15 U.S.C. § 363(a)). The travel and leisure industry which the Debtors operate was particularly hard hit by the global pandemic as geographical regions went into various stages of lockdown and implemented travel restrictions. As a result, the Debtors

applied for relief with the SBA under the program. The Debtors received $6,526,604 in funding under the program across five (5) separate legal entities as provided from in the table below. The Debtors believe that they have complied with all the provisions and requirements for loan forgiveness. As of the Petition Date, the Debtors have not yet submitted to their lending institutions the SBA Form 3508 requesting loan forgiveness. The first opportunity for the Debtors to submit an application for forgiveness will occur in the first quarter of 2021 once the fourth quarter 2020 IRS Form 940/941 filings are complete.

Legal Entity	**PPP Loan Amount**
WorldVentures Holdings, LLC	$ 4,150,886
WorldVentures Services, LLC	1,619,757
WorldVentures Marketing, LLC	464,097
Rovia, LLC	269,103
Rovia Corp Services, LLC	22,761
	$ 6,526,604

(iii) The Related Party Payables

23. Incorporated in the Accounts Payable and Representative Commissions current liability accounts are payables to majority owner Mr. Wayne Nugent. As of November 20, 2020, these payables totaled $5,177,625.85. Under the Accounts Payable account $1,862,219.88 related to a compensation plan tied to revenue generation ($1,773,430.78) and the reimbursement for travel, meals, entertainment, and other incidentals associated with normal course of business activity ($88,789.10). Additionally, $3,315,405.97 related to the unpaid commissions earned by Mr. Nugent attributable to the Representative Commissions compensation plan then in place.

E. Events Leading to Chapter 11

24. The Debtors' operating model is based on an international sales force of independently contracted representatives that actively solicit program memberships that provide access to discounted travel and leisure experiences that range from group travel, individual travel, corporate events, and concierge services. The representatives receive compensation in the form of commissions based on the level of sales of memberships they achieved on a weekly and monthly basis. A majority of travel sales are transacted via credit card on the Debtors' online travel platform operated under the affiliate Rovia, LLC and available at www.dreamtrips.com. Membership transactions are achieved when a person signs up to be a customer through the Debtors' online membership platform operated under the affiliate WorldVentures Marketing, LLC and available at www.worldventures.biz. Individuals have the opportunity to sign-up to be a Sales Rep through this same platform. Members pay in initial sign-up fee and a recurring membership charged to the member's credit card. Each Sales Rep pays an initial sign-up fee and a recurring business system fee charged to the Sales Rep's credit card.

25. Starting in 2015 and continuing until December 2016, revenue grew 32.9% from $612 million to $813 million as the business expanded into new international markets. During this period of rapid growth, business leadership did not implement proper systems and controls to monitor profitability and cash flow. A flawed commission structure was exploited by bad actors; in addition, around the same timeframe, overzealous Sales Reps in new markets began to aggressively market products in markets where the Debtors were not authorized to conduct business. This behavior was most prevalent within the Asian markets and the aggressive nature resulted in a higher commissionable rate than any other region. As a result, gross profit dropped from 30.2% in 2015 to 11.9% in 2016. During that same period operating expenses only increased 27% from $124.4 million to $158.3 million; however, net income dropped from a profit of $47.6

million to a loss of $66.4 million. In an effort to absorb losses, the business began to accumulate past due trade payables and commissions. To compound the liquidity issues, on or about April 2017 to May 2018, the Debtors were exposed to additional questionable activity in which stolen credit cards were used to book memberships and travel packages for non-members; this abuse resulted in approximately a 30% cancellation rate of trips. Revenue declined from $533 million in 2017 to $341 million in 2018. Without adequate fraud and abuse management systems in place to provide monitoring, the Debtors experienced investigations by regulatory bodies in multiple markets resulting in fines and penalties. Moreover, individual Sales Reps were investigated by regulatory bodies, which further exacerbated the negative impact on the brand's reputation as penalties, fines, and damaging press, were levied upon the system. In response to the dramatic impact to liquidity, the Debtors continued to withhold commissions payments and accumulated over $42 million of an unpaid commission liability.

26. In 2018, as revenue declined to $341 million the Debtors took further actions to adjust pricing, yielding an 11% improvement in gross profit from 26% in 2017 to 37% in 2018, and reduced operating expenses by $53 million in an attempt to preserve liquidity and recover from the devastating incident. The Debtors returned to profitability in 2018 and ended the year with $17 million in net income. By 2019, revenues seemed to stabilize at $335 million and operating expenses were cut by another $14 million. In an effort to increase revenue, earned commissions were permitted to deviate programmatically from the published contractual structure without the desired benefit causing gross profit margin dropped from 37% to 29% and net income margin was down to only 2%. By March 2020, the situation deteriorated to the point where the then Chief Executive Officer resigned, and the Debtors were left to regroup and bring in a new

leadership. The Debtors hired Mr. Michael Poates as Chief Operating Officer to lead a reorganization and restructuring of the business.

27. The COVID-19 global pandemic decimated the travel and leisure industry and the ensuing lockdowns, travel restrictions and economic downturn created a compounding effect that had a material adverse financial impact on the Debtors. Many factors, including the steep decline in the travel and leisure market, which has impaired the ability of Sales Reps to sell travel products and memberships, have resulted in the failure of the Debtors to attract and retain members and customers as originally forecasted.

28. All the above factors led to the Debtors' inability to service their debt obligations.

29. Before the Petition Date, and as a result of discussions among the Debtors and the Collateral Agent, on behalf of the Secured Parties, the parties agreed that the Debtors would conduct negotiations with another direct sales business, Seacret Direct, LLC ("Seacret"), regarding a possible acquisition or merger of the two. On July 22, 2020, the Debtors and Seacret executed a Co-Marketing Agreement where the Debtors' Sales Reps were permitted to purchase and sell Seacret's products with no reciprocity provided to the Debtor. This relationship appeared to be mutually aligned and beneficial and therefore on November 10, 2020, the Debtors and Seacret executed a non-binding Letter of Intent ("LOI") agreement to outline the proposed transaction considerations in an effort to consummate a definitive asset purchase agreement by an undefined day in November 2020. Subsequently, on November 11, 2020, the Debtors' Chief Executive Officer, under financial duress and against the guidance of the Debtor's Chief Legal Officer and Chief Operating Officer, among others, executed a Limited Solicitation Agreement ("Solicitation Agreement") with Seacret. This agreement, among other provisions outlined in the LOI, gave exclusive right to Seacret to "solicit any WVM (WorldVentures Marketing, LLC, an affiliate of

the Debtor) Sale Representatives and enlist only such WVM Sales Representatives to join Seacret's downline organization and otherwise be associated with Seacret, as independent contractors, in order to sell current and future Seacret products and services and directly receive a commission or other form of compensation from Seacret for such sales." Furthermore, the agreement purports to require WorldVentures to "waives, and agrees not to enforce, any non-competition provisions or similar restrictions that might exist in any agreement between WVM and the WVM Sales Representatives."

30. Since the second quarter of 2020, the Debtors have pursued strategic alternatives to bolster their liquidity and position their business for a possible sale, absent the existence of any alternative to recapitalizing the Debtors. As the deterioration of sales and the acceleration of migration of Sales Rep to Seacret continued, the Debtors hired Erik Toth ("Toth") and Larx Advisors, Inc. ("Larx") to serve as Chief Restructuring Officer ("CRO") to the Debtors to review, develop and implement strategic alternatives including the possibility to seek the projections of bankruptcy.

31. As discussions and negotiations with Seacret stalled and an agreement on the terms and conditions of a purchase agreement seemed too distant, the Debtors, in conjunction with Larx, developed and distributed solicitation documents to a pool of over two hundred potentially interested parties. The marketing process also included the Collateral Agent. Collaborative discussions with the Collateral Agent resulted in a two-week extension to the Maturity date of the Notes.

32. The Debtors filed these Cases to effectuate a sale of their assets and/or equity interests. The filing of these Cases and the confirmation of the plan are the Debtors' best option

to preserve and maximize the value of their assets and business and create the greatest return to the Debtors' creditors.

THE FIRST DAY MOTIONS

33. I have read each of the First Day Motions in detail. All of the relief requested in the First Day Motions is necessary and critical to preserve the delicate status quo of the Debtors as fledgling debtors-in-possession under 11 U.S.C. 1107 and 1108. The Debtors' filed each of the First Day Motions for the purpose of minimizing disruptions to the Debtors' ordinary course of business operations. All of the relief requested in the First Day Motions is vital to minimize disruptions to the Debtors' ordinary course of business operations. The Debtors believe that all of the relief requested in the First Day Motions is an exercise of sound business judgment in the best interests of the Estates, their creditors and all parties in interest to these Cases. The Debtors request the relief sought in the First Day Motions in good faith and with the goal to streamline operations as debtors-in-possession for the sole purpose of preserving the going concern value of their assets in order to maximize the return to their creditors. All relief requested in the First Day Motions is necessary to achieve these goals. Without the relief requested in the First Day Motions, the Debtors' ordinary course of business operations would be substantially and materially disrupted, leading to imminent and irreparable harm to the value of the Debtors' assets. At this critical phase of these Cases, the Debtors need to instill confidence in their customers, employees, Sales Reps, vendors and related third parties doing business with the Debtors in the ordinary course. All of the relief requested in the First Day Motions is required to instill such confidence and preserve the integrity of these business relationships. Without that confidence and preservation of the status quo of the Debtors' ordinary course of business operations, the Debtors will suffer irreparable harm due to the disruption of their business operations.

A. Notice of Complex Designation

34. The Debtors submit that these Cases qualify as "Complex Chapter 11 Cases" because:

(a) The Debtors have a total debt of more than $10 million;

(b) There are more than 50 parties-in-interest in this case; and

(c) The Debtors have a significant need for simplification of noticing and hearing procedures to reduce delays and expense.

B. Treasury and Cash Management Motion

35. In their Treasury and Cash Management Motion, the Debtors request permission to: (a) continue to use their Cash Management System (as defined below); (b) honor certain pre-petition obligations related to the use of the Cash Management System; (c) continue using debit, wire, credit card and ACH payments as warranted; (d) maintain certain existing bank accounts and existing forms; and (e) continue the use of intercompany treasury systems employed in the ordinary course of business prior to the Petition Date. The Cash Management System facilitates the Debtors' cash monitoring, forecasting, and reporting, and enables the Debtors to maintain control over the administration of their bank accounts. Without the requested relief, the Debtors would be unable to maintain their financial operations effectively and efficiently, which would cause significant harm to the Debtors' operations and its estate.

36. Before commencing these Cases, the Debtors managed their cash receivables and payables through a domestic cash management system (the "Cash Management System") maintained by Prosperity Bancshares, Inc. ("Prosperity"), Citibank, N.A. ("Citibank") and Titan Bank, N.A. ("Titan," and collectively with Prosperity and Citibank, the primary "Cash Management Banks"). Given limitations on banking institutions in the State of Hawaii, the Debtor is compelled to maintain an account with a de minimis balance at the Bank of Hawaii to facilitate

operations in that State. A list of the accounts in the current Cash Management System, including the Bank of Hawaii account, is described in detail in the Treasury and Cash Management Motion.

37. In the Treasury and Cash Management Motion, the Debtors have also requested authority to (a) maintain and continue to use any or all of their existing accounts in the names and with the account numbers existing immediately before the Petition Date; provided, however, that the Debtors have reserved the right to close some or all of their existing accounts and operate new debtor-in-possession accounts; (b) deposit funds in and withdraw funds from any such accounts by all usual means, including checks, wire transfers, automatic clearinghouse transfers, electronic funds transfers, or other debits; and (c) treat their existing bank accounts (and all accounts opened post-petition) for all purposes as debtor-in-possession accounts.

38. The Debtors' Cash Management System constitutes an ordinary course and essential business practice and provides significant benefits to the Debtors and their estate, including, among other things, the ability to control corporate funds, ensure the maximum availability of funds when necessary, and reduce borrowing costs and administrative expenses by facilitating the movement of funds and by providing more timely and accurate account balance information. Specifically, in the ordinary course of business prior to the Petition Date, the Debtors routinely operate on a detailed infrastructure of intercompany transfers to one or more foreign affiliates to assist in the finance of the WorldVentures enterprise's global revenue. The Debtors receive millions of dollars per month from foreign operations. From time to time, in order to preserve the integrity of those foreign operations and the substantial revenue derived therefrom, the Debtors' Cash Management System requires intercompany transfers to fund payments to foreign affiliates of the Debtors for bridge financing of ordinary course of business expenditures. If the intercompany treasury system was interrupted, the substantial revenue stream obtained from

the foreign affiliates and global operations would likely be substantially diminished. In order to preserve the status quo of those international operations and substantial foreign revenue stream, the Debtors seek temporary preservation of the intercompany treasury system and Cash Management System until such time as the Debtors can work with the U.S. Trustee's office concerning satisfaction of 11 U.S.C. 345 and the U.S. Trustee's guidelines. With a brief continuance and "breathing room" to assess the most efficient restructuring of the Cash Management System, the Debtors can ensure the foreign revenue stream continues to benefit the Estates.

39. Having to replace the current Cash Management System immediately on the Petition Date would be costly and disruptive of the orderly collection of revenues by the Debtors, resulting in a significant adverse effect on the Debtors' operations and sale efforts.

40. In addition, the Debtors, in the Treasury and Cash Management Motion, have requested that the Court grant further relief from the U.S. Trustee Guidelines to the extent they require the Debtors to make all disbursements by check as the Debtors conduct many transactions through ACH and wire transfers and other similar methods. If the Debtors' ability to conduct transactions by debit, wire, ACH transfer, or other similar methods is impaired, the Debtors may be unable to perform under certain contracts, their business operations may be unnecessarily disrupted, and their Estates may incur additional costs.

41. The Debtors also request that the Court authorize the Cash Management Banks to (a) continue to maintain, service, and administer the Bank Accounts as accounts of the Debtors as debtors-in-possession, without interruption and in the ordinary course of business and only to the extent authorized by order of the Court and (b) accept and honor all representations from the Debtors as to which checks, drafts, wires, or ACH transfers should be honored or dishonored

consistent with any order of the Court and governing law, whether such checks, drafts, wires, or ACH transfers are dated before or subsequent to the Petition Date and that such bank not be deemed to be liable to the Debtors or their estate on account of such pre-petition check or other item honored post-petition.

42. As part of the Cash Management System, the Debtors utilize numerous business forms in the ordinary course of their business operations. To preserve funds and assist in the efficient administration of their Estates, the Debtors have sought authority to use pre-existing business forms and check stock; provided, however, that once the Debtors' current stock of business forms has been exhausted, the Debtors will, when reordering, require the designation "Debtor-in-Possession," the corresponding case number, and all other related information required by the Guidelines.

43. The U.S. Trustee has pre-approved at least two (2) of the Cash Management Banks, Prosperity Bank and Citibank, as authorized depositories which is backed by the Federal Deposit Insurance Corporation (the "FDIC").

44. Titan and Bank of Hawaii, the other Cash Management Banks, while not an authorized depository, are FDIC insured and intend to execute a depository agreement with the U.S. Trustee and take any necessary steps to comply with section 345 of the Bankruptcy Code.

C. Emergency Motion for Use of Cash Collateral: (A) Interim and Final Orders (I) Authorizing the Debtor's Limited Use of Cash Collateral Pursuant to 11 U.S.C. § 363, and (II) Granting Adequate Protection to Pre-petition Lender Pursuant to 11 U.S.C. §§ 361, 362, 363, and (B) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001 (the "Cash Collateral Motion")

45. The Debtors have an immediate need to use the Pre-Petition Lenders' cash collateral (the "Cash Collateral") to continue the operation of their business. Without such funds, the Debtors will not be able to pay costs and expenses, including but not limited to wages, salaries, commissions, professional fees, general and administrative operating expenses, lease operating

expenses, utilities, taxes, insurance premiums, and technology costs that arise in administration of these Case sand in the ordinary course of the Debtors' business operations.

46. The Debtors are without sufficient funds, other than the Cash Collateral, to continue operations until a final Cash Collateral hearing. Failure to obtain interim approval of their request to timely pay ongoing costs and expenses will result in immediate and irreparable harm to the Debtors and their Estates. The request for interim authorization seeks only that amount of Cash Collateral necessary to avoid immediate and irreparable harm to the Debtors' assets pending a final hearing.

47. Absent the ability to use the Cash Collateral, the Debtors will be forced to shut down their operations abruptly, which will negatively impact the value of their assets and reduce or eliminate any prospect for a successful reorganization and confirmation of the Debtors' Chapter 11 Plan. Accordingly, the Debtors request authority to (a) use the Cash Collateral on an interim basis in accordance with the proposed interim budget and interim order attached to the Cash Collateral motion; (b) use the Cash Collateral on a final basis; and (c) provide adequate protection to the Pre-Petition Lenders.

48. To protect the Pre-Petition Lenders' interest in the Cash Collateral, the interim order proposes to grant them adequate protection in the form of an equity cushion, valid and perfected additional and replacement security interests and liens and a super priority administrative expense claim to the extent of any diminution of value in their collateral, subject to the terms and conditions of the proposed interim order.

49. The total debt owed to the Pre-Petition Lenders under the Notes does not exceed $5,695,392.00 as of the Petition Date. This amount is comprised of $5,500,101.00 in principal and $195,291.00 in accrued and unpaid interest, as of the Petition Date. The Pre-Petition Lenders assert

a lien on the Debtors' assets to secure the alleged indebtedness. The Debtors' assets included in the Pre-Petition Lenders' asserted liens are, among others, cash, accounts receivable, merchant reserves and inventory. I have reviewed the Debtors' books and records extensively concerning the status and current value of these assets. As of the Petition Date, these assets alone totaled:

Asset Category	Dollar Value
Cash (Unrestricted)	$3,327,220
Accounts Receivable	$1,222,031
Merchant Reserves	$5,625,964
Inventory	$343,285
Total	**$10,518,500**

50. As such, as of the Petition Date, the Pre-Petition Lenders hold an equity cushion of not less than $4,823,108.00. The equity cushion completely protects the Pre-Petition Lenders during the entire 13-week Budget period for the entirety of the projected cash diminution. The Pre-Petition Lenders are never under-secured. Thus, the replacements are not even necessary. However, out of an abundance of caution, the replacement liens are granted along with a super-priority administrative expense claim under 11 U.S.C. 503 and 507 to ensure almost zero risk that the Pre-Petition Lenders' collateral position as of the Petition Date is preserved.

51. The Debtors reserve all rights to challenge the amount of the Pre-Petition Lenders' alleged indebtedness and the extent, validity, and/or priority of the alleged liens asserted by the Pre-Petition Lenders against the Debtors' assets. None of the recitals herein shall be deemed to be an admission or waiver of the Debtors' rights, remedies, disputes, claims, causes of action, objections or other challenges to the claims, debts, liens or other rights asserted by the Pre-Petition Lenders against the Debtors. Rather, the recitations of the Petition Date balance of the Pre-Petition Lenders' claim and the Petition Date value of the asserted collateral are provided solely for the purpose of demonstrating the equity cushion available to the Pre-Petition Lenders as more than

sufficient adequate protection under 11 U.S.C. 361 for the Debtors' use of the Pre-Petition Lenders' Cash Collateral.

D. Emergency Motion for an Order Authorizing (a) Payment of Pre-Petition Employee Wages, Salaries, Commissions, and Payroll Taxes, and (b) Honoring of Existing Benefit Plans and Policies in the Ordinary Course of Business (the "Wage Motion")

52. As more fully detailed in the Wage Motion, the Debtors' workforce consists of 85 employees. In the Wage Motion, the Debtors seek Court authority to: (a) pay any and all pre-petition wages due to the Debtors' Employees and Sales Reps for work performed pre-petition, whether accrued or currently due and payable that would qualify for priority treatment under 11 U.S.C. 507(a)(4) (collectively, the "Compensation Obligations"); (b) continue to honor any and all of the Debtors' pre-petition Employee Benefit Obligations (the "Benefit Obligations"), including but not limited to, insurance payments, 401(k) matches, cell phone plans, credit cards, and any benefit premiums incurred in connection with these Benefit Obligations; (c) continue paying the Compensation Obligations, Benefit Obligations, Employee Reimbursement Obligations, Payroll Tax Obligations, and all fees and costs incident to the foregoing, including amounts owed to third-party administrators and governmental authorities (collectively, the "Employee Obligations"); and (d) continue administering all of the Employee Obligations in the ordinary course of business, at their discretion. The Debtors further seek an order directing all Cash Management Banks to receive, process, honor, and pay any and all checks, electronic fund transfers, and automatic payroll transfers drawn on the Debtors' disbursement accounts (collectively, the "Disbursement Accounts"), whether such checks were presented or fund transfer requests were submitted before or after the Petition Date, to the extent that such checks or transfers related to any of the Employee Obligations.

53. The Debtors seek to minimize the personal hardship that would be visited upon Employees if they are not paid when due and to maintain the morale of its essential workforce at

this critical time. The Debtors will have sufficient funds to pay all requested amounts as and when due, assuming they are granted authority to use cash collateral.[2] All payments made on account of the Employee Obligations and programs will be made in accordance with any budget approved by this Court with respect to the use of cash collateral.

54. In the ordinary course of business, the Debtors outsource their payroll and related functions to Automatic Data Processing Inc dba ADP LLC ("ADP") pursuant to the Client Service Agreement dated February 6, 2018 (the "Agreement").

55. The Debtors, through ADP, ordinarily pay Employees bi-weekly. The amount of the bi-weekly payroll for the Debtor fluctuates each pay period.

56. The Employees were most recently paid on December 18, 2020. The Debtors have funded this payroll by depositing funds with ADP before the Petition Date. Consequently, the Debtors are current on payroll through December 18, 2020.

57. The Debtors provide a 401(k) matching contribution program and other employee benefits to their Employees through ADP (the "401(k) Program").

58. Additionally, the Debtors provide various vacation and insurance benefits to their Employees.

59. The Debtors, in the ordinary course of business, reimburse Employees for a variety of expenses, which include, among other things, business-related travel and business-related expenses.

60. The Debtors maintain eight (8) company credit cards with AMEX with a $50,000.00 combined spending limit (the "AMEX Credit Cards"). The AMEX Credit Cards are used for routine business charges. Although charges may fluctuate from month to month, the

[2] Contemporaneously with the filing of the Wage Motion, the Debtor has sought authority to use cash collateral.

Debtors expend approximately $32,000.00 per month to pay off the charges made to the AMEX Credit Cards. As of the Petition Date, the Debtors are current for charges that have been incurred but either not yet billed, or billed, but not yet paid.

61. The Debtors' Employees are central to their ordinary course business operations. A significant deterioration in employee morale at this critical time undoubtedly would have a devastating impact on the Debtors, their Sales Reps, customers, and vendors, the value of the Debtors' assets and going concern enterprise value, and the ability to continue operations. The total amount sought to be paid herein is relatively modest compared with the size of the Debtors' overall business and the importance of the Employees.

62. In addition to the Employees, the Debtors use the Sales Reps to drive revenue in the ordinary course of the Debtors' business operations. In exchange for the revenue generated by the Sales Reps, the Debtors owe sales commissions to the Sales Reps. Pursuant to 11 U.S.C. 507(a)(4)(A), sales commissions earned by an individual within the 180 days prior to the Petition Date are entitled to priority payment. In these Cases, among the approximately 60,000 Sales Reps working as independent contractors to the Debtors, a ***maximum*** total of $15,858.20 in unpaid sales commissions were earned during the week prior to the Petition Date.

63. At a maximum, the Sales Reps can earn up to a weekly total of $37,000.00 in sales commissions in the aggregate. The sales commissions are calculated on a weekly basis beginning on the Saturday of each week. The Debtors were current on all domestic sales commissions earned prior to the week-ended prior to the Petition Date. The Petition Date was after business hours on Monday, December 21, 2020. As such, the prepetition sales commission week is 3 days (Saturday, December 19, 2020; Sunday, December 20, 2020; and Monday, December 21, 2020). Three (3) days out the seven (7)-day total of $37,000.00 = $15,858.20 (3/7 = 42.86%; 42.86% x $37,000 =

$15,858.20). Thus, among the total 60,000 Sales Reps, only a maximum of $15,858.20 in sales commissions could possibly be earned but unpaid as of the Petition Date. This amount split among the 60,000 Sales Reps is certainly under the $13,650.00 priority cap imposed by section 507(a)(4) of the Bankruptcy Code.

64. As such, the Debtors respectfully request permission to pay a maximum of $15,858.20 in sales commissions earned by the Sales Reps prior to the Petition Date in compliance with and under the $13,650.00 per person priority cap imposed by section 507(a)(4) of the Bankruptcy Code.

E. Emergency Motion to Authorize (a) Continued Liability, Property, and Other Insurance Programs, (b) Payment of All Obligations in Respect Thereof, and (c) The Ability to Enter into Premium Financing Agreements in the Ordinary Course of Business (the "Insurance Motion")

65. In the Insurance Motion, the Debtors request authorization to (a) continue various Insurance Policies uninterrupted, in the ordinary course of business; and (b) enter into Premium Financing Agreements in the ordinary course of business.

66. In connection with the operation of their businesses, the Debtors maintain business, cyber and travel related insurance. Instead of paying the entire insurance premium related to the policies in a lump sum, the Debtors have entered into a Premium Financing Agreement with AFCO, which allows the Debtors to pay their annual premium in 10 monthly installments. The Debtors' annual financed premiums are $356,569.02, with $71,794.00 down payment, interest at 5.04% and 10 payments of $29,139.47 per month.

67. The nature of the Debtors' businesses makes it essential to maintain their Insurance Programs on an ongoing and uninterrupted basis. The non-payment of any premiums, deductibles, or related fees under any of the Insurance Programs could result in termination of existing policies,

declination to renew insurance policies or refusal to enter into new insurance agreements in the future.

F. Motion for Interim and Final Orders (a) Authorizing Adequate Assurance of Payments to Utilities; (b) Prohibiting Utilities from Altering, Refusing, or Discontinuing Services; and (c) Establishing Procedures for Resolving Requests for Additional Assurance of Payment (the "Utilities Motion")

68. In the Utilities Motion, the Debtors request authority to make adequate assurance payments to utility companies currently providing or that will provide services to the Debtor (the "Utility Companies"), prohibiting the Utility Companies from altering, refusing, or discontinuing services to the Debtors on account of the bankruptcy filing or the non-payment of pre-petition amounts owed and establishing certain procedures for resolving utility company requests for additional assurance of payment.

69. A list of the Debtors' Utility Companies is attached as an exhibit to the Utility Motion. On average, the Debtor's current aggregate monthly utility usage is approximately $279,200.00. Uninterrupted utility services are critical to the Debtors' ability to operate, provide services to their Sales Reps and customers, maintain the value of their businesses and to maximize value for the benefit of their creditors. The Utility Services provided to the Debtors are incurred in the Debtors' ordinary course of business. The Utility Services are essential, critical and necessary to preserve the Debtors' ordinary course of business operations. Without any and all of the Utility Services provided by the Utility Companies, as set forth in the Utilities Motion, the Debtors' operations would be disrupted and irreparably harmed. These ongoing post-petition costs for Utility Services are included in the Budget proposed for the Debtors' cash collateral usage to finance its ordinary course of business operations.

70. Having uninterrupted access to the technology-based Utility Services that the Utility Companies provide is essential to the Debtors' ongoing operations due to the digital nature

of the Debtors' business. Access to such Utility Services is also critical for the Debtors to maintain and maximize the value of their businesses for the benefit of their creditors. The Debtors rely on these technology services to communicate and facilitate interactions with employees, sales representatives and customers, host the Debtors' data in offsite and secure locations, and manage the Debtors' robust technological infrastructure. Should any of these Utility Companies refuse or discontinue service, even for a brief period, the Debtors would face a prohibitive increase in costs necessary to ongoing operations. The Debtors would also be unable to compete with other travel business within their industry because the travel business industry heavily relies on online marketing and the ability for customers and sales representatives to book travel reservations virtually in locations across the globe. Lastly, the cost of locating alternative providers and reestablishing the data hosting services would be prohibitively expensive and time-consuming during a crucial period in the Debtors' reorganization. As fledgling debtors-in-possession, the Debtors must conserve all resources during the first month of these Cases to ensure minimal disruption to ordinary business operations and maintain its revenue stream to maximize the reorganization process.

71. As mentioned above, the Debtors must maintain the ability to run their computer servers and communications equipment on a near-constant basis, and the Debtors cannot continue to operate without the cooperation of the Utility Companies. Should any Utility Company discontinue service, even for a brief period of time, the Debtors would likely experience a significant disruption to their operations and suffer irreparable harm during such interruption. Such a cessation would be detrimental to the Debtors' operations, result in a substantial loss of revenue, and irreparably harm and jeopardize the Debtors' reorganization efforts.

72. The Debtors have proposed adequate assurance of payment to each identified Utility Company. In most cases, payment of additional amounts above the proposed Adequate Assurance is unnecessary. I anticipate that the cash flow from operations, cash on hand, and the assets described in this Declaration will be sufficient to pay all post-petition obligations to the Utility Companies.

G. Motion for Order Authorizing the Debtor to Pay Pre-petition Sales, VAT, Use, Property, and Other Taxes And Related Obligations (the "Tax Motion")

73. By the Tax Motion, the Debtors seek (a) authority, but not direction, to pay pre-petition taxes to the respective taxing authorities (collectively, the "Taxing Authorities") listed on the exhibit attached to the Tax Motion ("Taxes"); (b) authority to pay any pre-petition Taxes for which the applicable payment was remitted, but had not cleared the Debtors' bank accounts as of the Petition Date; and (c) authorization for the Debtors' banks to receive, honor, process and pay any and all checks drawn, or electronic fund transfers requested relating to the Taxes.

74. The relief is being requested as certain Taxes may constitute "trust fund" taxes and thus are not property of the Debtors' Estates, and the failure to pay certain Taxes could result in a lien being placed on the Debtors' property and/or such taxes constitute priority claims. The failure to pay the Taxes could disrupt the Debtors' operations and reorganization efforts and impair their successful reorganization. Further, some or all of Taxes will qualify for priority treatment under 11 U.S.C. 507(a)(8), and as such, the Taxes will have to be paid in full before a distribution to general unsecured creditors can be made.

75. To my knowledge, the Debtors have sufficient liquidity to pay such amounts as they become due in the ordinary course of business. The relief sought in the Tax Motion is necessary to the continued operation of the Debtors' businesses and preservation the value of the Debtors' Estates.

H. Emergency Motion Seeking an Extension of Time to File Schedules, Lists, and Statements of Financial Affairs (the "Extension Motion")

76. Pursuant to Bankruptcy Rule of Procedure 1007(a)(5), the Debtors seek an extension of time in which it is required to file its Schedules of Assets and Liabilities ("Schedules") and its Statement of Financial Affairs ("SOFAs").

77. Due to the complexity of the Debtors' Cases, total assets and liabilities, and the large number of creditors, including Sales Reps, the Debtors need additional time in which to create accurate Schedules and SOFAs as of the Petition Date.

78. The requested extension of time to file Schedules and SOFAs in these Cases is not sought for the purposes of delay and will not prejudice any party in interest to these Cases. The requested extension is sought to ensure the most orderly administration of the Estates.

CONCLUSION

79. Approval of the First Day Motions is in the best interests of the Debtors, their Estates, their creditors and all parties in interest to these Cases.

80. I have reviewed this Declaration and I hereby declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury that the foregoing statements are true and correct and within my own personal knowledge.

81. Declarant further sayeth not.

Executed this 22 day of December, 2020.

/S/ ERIK TOTH
Erik Toth
Chief Restructuring Officer
Spherature Investments LLC f/k/a
WorldVentures Holdings, LLC

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:	BK. NO: 20-42492-BTR
SPHERATURE INVESTMENTS, LLC	
D E B T O R.	
SPHERATURE INVESTMENTS, LLC, et al, v. KENNETH HEAD	ADV. NO: 21-04058

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TRANSCRIPT OF PROCEEDINGS

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BE IT REMEMBERED, that on the 24th day of February, 2021, before the HONORABLE BRENDA T. RHOADES, United States Bankruptcy Judge at Plano, Texas, the above styled and numbered cause came on for hearing, and the following constitutes the transcript of such proceedings as hereinafter set forth:

P R O C E E D I N G S

COURTROOM DEPUTY: Spherature Investments, et al., versus Head. Adversary case number 21-04058. Main case, 20-42492. Motion for temporary restraining and preliminary injunction, and motion -- emergency motion for expedited discovery.

THE COURT: Okay. Appearances.

MR. SLOVAK: Good morning, Your Honor. This is Rob Slovak along with Stephen Jones of Foley & Lardner appearing on behalf of the debtors.

MR. HOODENPYLE: Your Honor, this is Todd Hoodenpyle with my partner, Michelle Shriro, on behalf of Kenneth Head. And Mr. Head is also on the line.

MR. LAMBERSON: Good morning, Your Honor. This is Phillip Lamberson on behalf of Seacret Direct.

MR. FEINSTEIN: Good morning, Your Honor. This is Robert Feinstein, Pachulski Stang Ziehl & Jones. We're proposed counsel to the Official Committee. I believe my partner, Michael Warner, is on the line, as well.

THE COURT: All right. Thank you.

Any other appearances?

All right. Where are we?

MR. SLOVAK: Your Honor, this is Rob Slovak speaking on behalf of the debtors.

As a preliminary matter, I believe my colleague,

Stephen Jones, needed to advise the Court about the need to continue the March 2nd hearing on cash collateral. Would it be okay to take that up, that issue up now,or would you prefer to do it after we hear the TRO and the motion for expedited discovery?

THE COURT: Well, since the main case is not set for hearing today, this is just the adversary, I'll hear you about the need to continue. But let's do that after we take up the matters that are on the docket. Okay?

MR. SLOVAK: Thank you, Your Honor. Again, Rob Slovak on behalf of the debtors here.

What the debtors seek is a narrowly tailored restraining order to enforce what's a narrowly tailored non-competition restriction against Kenneth Eddie Head, who was WorldVentures, the debtors', former president and chief strategy officer.

Notably, the injunctive relief that the debtors ask this Court to impose are near verbatim reproductions of the actual restrictive covenants in Mr. Head's employment agreement, which we'll talk more about in a moment. Specifically, what we ask this Court to do is enjoin Mr. Head from working in a term defined as a competing business in his employment agreement as an entity that provides services which are very narrowly defined as membership-based travel services marketed through direct sales.

And so not only are the restraints that we ask this Court to impose near batim -- near verbatim reproductions of his employment agreement, they're narrowly tailored versions of substantially similar restrictions upheld by Eastern District Courts under analogous circumstances. We've cited the Court to some of these cases and we'll talk more about them in detail later. But one of them is the Keurig Dr. Pepper versus Chenier case, as well as the TransPerfect Translations case.

Of course we'll talk more about why we asked for the restrictions. But in simple terms, within weeks of Mr. Head's resignation from the debtors, he publicly announced his new position as the president and chief business development officer of an entity called Seacret. And thereafter within a few weeks, Seacret announced an attempt to launch its own membership-based, multi-level marketing travel product, which is nearly identical to that of the debtor. Before Mr. Head was affiliated, Seacret had never provided membership-based travel services marketed through direct sales. Indeed, before they announced Head's departure and intent to serve as the president of their membership-based travel services marketed through direct sales, Seacret had only marketed dietary, nutritional, and skin care products. So it did not market any travel services at all, much less any membership-based travel services of the

proprietary and successful nature of WorldVentures. So the debtors don't believe that Seacret had any travel vendor relationships, that they had any sales representatives with experience in travel, and simply no foundation for this foray into direct sales. And that it is only through Mr. Head's effort and alignment with Seacret that they could make such a speedy entry into this business.

And less the Court have any doubt about Mr. Head's role in the formation and launch of Seacret's travel services, Mr. Head appears in a video on January the 29th with Seacret's founder, a gentleman by the name of Isaac Ben Shabat, who announced that Seacret is taking one of the unique travel experiences in the world and implementing it over at Seacret.

MR. HOODENPYLE: Your Honor, I hate to interrupt -- this is Todd Hoodenpyle -- but I -- because of the way I read Rule 65(a)(2), we do have some objections to some of the evidence that they're going to rely on. And I want to make that clear on the record, because I don't want any -- the admission of any evidence in this temporary restraining order hearing to become part of the trial record over -- without our objection being noted.

THE COURT: All right. Thank you.

At this point I'm simply hearing the arguments. Anything you say before we get to the evidentiary phase is

simply your argument. Okay? So all I want at this point is just an opening argument of the movant, and then I'll hear the opening arguments of anybody in support. And then I'll hear response of anybody objecting. Okay?

MR. SLOVAK: Thank you, Your Honor. Again, Rob Slovak. Is it okay to continue, Your Honor?

THE COURT: You may.

MR. SLOVAK: Thank you.

So Mr. Head's role in putting together Seacret's travel program and competing -- creating this competing business, we believe clearly violates the restrictive covenants he specifically agreed to in his employment agreement with WorldVentures. We'll discuss it in a moment, but we don't see in their response, nor do we expect Seacret or Mr. Head to deny that they are launching this competing business with Mr. Head at the helm, because they're going to argue that somehow we waived the non-compete restrictions in the employment agreement, but have not and cannot offer any evidence of this, because it never happened.

Indeed, Mr. Head acknowledged the existence of these restrictions in writing when he resigned at the end of December. And we have provided that evidence to the Court and will be able to make the evidentiary introduction, as you mentioned a moment ago. But to be clear, what the debtors ask the Court to do is just enforce Mr. Head's contractually

agreed upon restrictions through a narrowly tailored TRO that restricts him from participating either directly or through an affiliate, as that term is defined in the employment agreement; in or with a competing business, as that term is defined in his employment agreement; during the non-compete period, as that term is defined in his employment agreement. And including, but not limited to that, participation with Seacret Direct, LLC. And also from recruiting or encouraging directly or through an affiliate current or former WorldVentures' employees, customers, sales representatives, vendors, or suppliers to work in a competing business during the non-complete period.

As I mentioned to Your Honor, the relief mirrors nearly verbatim two of the non-compete provisions in its employment agreement, which are actually before the Court as Exhibit A-1. We'll offer those in during -- at the conclusion here. The restrictions that the debtors seek are not only reasonably tailored, but they're necessary to prevent further destruction of the very asset that's available to protect the creditors and the estate. That asset is the downline. WorldVentures makes its money through multi-level marketing sales. And the downline is the asset. And we believe that the launched -- the imminent launch of the travel business at Seacret is calculated to take that downline. And Mr. Head is planning to, if not already, actively involved in soliciting

people to come to Seacret to propagate an identical business to the one at WorldVentures, which would leave the credit -- leave the creditors holding the bag.

We believe it's no coincidence that Seacret was able to launch it, this business within a few short weeks, when it has no history at all in travel, much less in membership-based travel experiences that they're promoting. It's hardly a stretch to believe that the proposed stalking horse bid was low, because they already had knowledge of the downline information that debtors -- that could potentially drive the value down of other bids.

To understand this a little better, Your Honor, I think it's important to understand the nature of this business and how we got to this point. WorldVentures is a -- the debtor, in this case, is a multi-level marketing company. And what it sells are lifestyle membership-based products and services. But they sell trips that curated over years of experience to provide their members travel experiences they can't get in other places. It's a very specific product marketed with brands that are trademarked and copyright. Some of those trademarks and copyrights are also appearing in promotional videos offered by people that are purporting to act on behalf of Seacret these days.

WorldVentures' main business, as I said, was to provide these membership-based products and services through the

network sales representatives. And that downline, those network of sales representatives are, indeed, the most valuable asset of the debtors. WorldVentures and the debtors operate in a number of 50 countries that Mr. Poates talks about in his declaration. Again, we'll talk about it in a moment. And the revenue that it drives, the going-concern assets are the downline. It's tightly protected and controlled. And Mr. Head, himself, has recently offered testimony to in support injunctive relief in the Eastern District Courts against the unauthorized use of the downline in a circumstance where someone came in to evaluate a potential deal with what's now the debtor, and then turned around and tried to open a competing business. Which is what we believe is exactly happening here.

Travel sales are booked for on-line travel platform that are operated by an affiliate called Rovia. And one of the purportedly exclusive vendors of Rovia through its travel is booked as an agent called Top Tier Travel owned by someone named Virginia Trask, who now has incorporated a separate entity within the last few weeks called Grouply, that operates a similar looking website and offers membership-based travel services to Seacret's members. So we don't believe that the manner -- not only that the manner is identical, but many of the trips that now they intend to offer, that Mr. Head is promoting, are identical. And we

don't believe it's coincidence that these other agents are involved.

So Mr. Head was the president of WorldVentures in 2017 and then became the chief strategy officer in October of 2017. The fact that he had a title change is important to the consideration argument that we'll talk about in a minute. But on July of 2018, Mr. Head executed this employment agreement, Your Honor, that we would offer into evidence at this time as Exhibit A-1.

Well, never mind. I'll do it at the evidentiary phase. I apologize. You said you wanted to do it that way.

But the employment agreement paid Mr. Head a large base salary and percentage of equity in the company that gave him bonuses and benefits. He was afforded unrestricted access to the debtors' confidential and proprietary information. Stuff about their travel products, and their customers, and services, and members. And all of the information managed in a direct selling platform called Exigo, which contains information about the downline that we have mentioned before, Your Honor. And as the president, he had access to a full array of financial statements, all of the proprietary businesses and methodologies, as well as the strategies. And this is the information that's vital to the debtors' business and potentially devastating in the hands of a competitor. And he agreed in his employment agreement that this

information was tightly controlled and that it was not supposed to be used in the hands of a competitor. He was supposed to return this information, upon resignation from his employment. We don't believe he has. And it is a topic for which expedited discovery is requested.

As I mentioned to the Court before, he not only agreed not to compete with WorldVentures, but he agreed to non-solicitation provisions, as well as restrictions on mis-use of confidential information. And the non-compete provisions themselves, the solicitation provisions and the non-compete, are limited to a 24-month period. And specifically defined to include the services which are membership-based travel services marketed through direct sales.

We are not asking that this Court prohibit Mr. Head from working. We are asking that it enforce a non-compete that very narrowly follows his prohibition not to work in membership-based travel services marketed through direct sales.

Under Head's leadership, there was a decline in revenue in March of 2020 amplified by the pandemic. And what that led to is a series of agreements that Mr. Head was intricately involved in, purportedly to save the business. And, again, I want to emphasize for the Court that Seacret during all of this had never sold travel services. Had never

sold any membership-based travel services. But sold dietary, nutritional, and skin care products. So under the guise of setting up something beneficial to save the business, Seacret and the debtor entered into a series of agreements, one of them was a co-marketing agreement. The idea was that sales representatives from our membership-based travel service business could sell skin care products to our customers and help save the business.

There wasn't in the co-marketing agreement some allowance of solicitation of the debtors' sales representatives or employees, and certainly no waiver of non-compete restrictions. But that changed when under direction and pressure from Mr. Head on November 10th of 2020, WorldVentures and Seacret entered a letter of intent for an asset purchase agreement that was supposed to be evidence of Seacret's intent to purchase the assets and terminate the co-marketing agreement. And the very next day, the parties entered into something called a limited solicitation agreement negotiated in part by Mr. Head. And under that limited solicitation agreement, Seacret was permitted to use WorldVentures' sales representatives to sell Seacret's dietary nutritional and skin care products. And in exchange, was supposed to pay up to $12 million. To date, the amount that's been paid is a little more than 535,000 of that $12 million.

Under the SLA, WorldVentures was required to give Seacret access to confidential and proprietary information. And all of this was based on representations, including from Mr. Head, that they would help the debtors' network overcome the prolonged reduction in sales, because they were selling different products. Had anyone disclosed that the intent here was for Mr. Head to jump ship and go to a competitor and start our business again for that competitor, to recruit our most valuable assets, no one would have entered into that agreement, period. So for that reason, we have claims for both breach of fiduciary duty and violation of the non-compete.

The bankruptcy in this case was filed -- we brought in an independent restructuring officer on December the 21st and filed voluntary petitions for relief under Chapter 11. Ten days later, Mr. Head resigned. And within days of his last day of employment -- so he resigned on December 31st and on January the 14th, he resurfaces as the president and chief development officer of Seacret. He appears in a video in January sitting next to the managing partner -- sorry, Seacret's managing member and CEO then announcing that within weeks of leaving our business, Seacret is now launching one of the most unique travel experiences in the world. And implementing that travel experience which, by the way, is our's, at Seacret. So it's beyond refute. And they don't, I

believe, dispute that Head is leading implementation of our travel platform.

Indeed, Seacret's public founder in videos has commented about what Head has done in putting together travel with the vendors. In reference to the travel promotional, Seacret's founder has talked about leveraging community power. And there's a campaign in these videos, Your Honor, it's not all the time, they're all out on YouTube publicly available, judicially noticeable under Federal Rule of Civil Procedure 201. And what happens in these promotional campaigns is telling, because there are admissions that -- by Mr. Head, himself, that they're grooming a global team. That they want to partner with the best suppliers and vendors around the planet for this travel business and uphold and protect this brand. Which we believe the global team is our people, our downline, our most valuable assets. We believe that brand is our brand, because some of these videos also demonstrate representatives promoting our brands.

So by leave of this effort, we believe that Mr. Head breached his confidentiality and non-compete obligations. And we also believe that he breached his fiduciary duties. Because had he disclosed as he sat in the leadership position negotiating agreements that were purportedly for our best interests, that there was an intent for Seacret to open up a competing business and for him to emerge as its head, had he

disclosed that, quite obviously there would have been different actions taken by the debtor.

Talking about the enforceability of his non-competes. Your Honor is well aware that reasonable restrictions of a question of law and the inquiries depend on the facts and circumstances of the company and the interest being protected in the marketplace. And notably we've cited Your Honor to the TransPerfect case that held that a former employee's knowledge of a unique customer base and knowledge of products used by each of the employees, customers are legitimate protectable interests. And that information concerning acquisitions, strategies, composition, benefits, formulas, and payment can be considered protectable interests in support of a non-compete. And that is, in fact, what happened in the TransPerfect case.

The non-compete provisions here are ancillary to Mr. Head's employment agreement. You will hear, undoubtedly, Mr. Head's lawyers argue that they were not supported by independent consideration, which is inaccurate. Indeed, the independent consideration was the continuing access to confidential information throughout his employment. And we have cited to case law and we'll cite to some more here in a moment to overcome that, I suspect, in reply to any arguments that they make.

The non-compete provisions protect the confidential

information. He received consideration for them. And as I mentioned to Your Honor, the Keurig versus Dr. Pepper -- Keurig Dr. Pepper, Inc., versus Chenier case out of the Eastern District in 2019 granted Dr. Pepper a TRO where its former VP of sales accepted a job with a competing company that he provided while providing services at Dr. Pepper. And after his resignation, Dr. Pepper advised him that his non-compete prohibited him from working for a competing company. That actually happened here, as well. And in that case, the Court found the one year non-compete, which was narrowly tailored like the one here, to be reasonable.

Similarly, the Eastern District found in the In re Electro-Motor case granting a preliminary injunction where its former GM resigned a few days after EMI filed its second Chapter 11 petition and started working for a competing company a week later. And in that case, the Court found that the threat of irreparable injury was satisfied because within a week of employment at the competing company, that former GM had brought in business from customers he had formerly provided services for at EMI. We believe that this case law is strikingly similar to what's happened in this particular case. And we have tailored the restrictions to address that issue.

There's no question that his (indecipherable word) in the travel industry is competing business. There's no

question that he knew. We have emails, Your Honor, that demonstrate that Mr. Head was communicating with representatives of Seacret about the release of some press releases talking about the lifestyle experience that Seacret was going to create and make them the largest group seller of travel in the world. So he knew while he was still our employee of what was about to happen and certainly didn't disclose it, which we believe is a violation of his fiduciary duties. To the extent that he is continuing to solicit our customers and vendors, that is a use of (indecipherable few words due to someone flipping pages) of opportunity. That is also a breach of his fiduciary duty.

We are going to suffer imminent, irreparable harm without a TRO and an injunction. Namely, we have offered this Court evidence, or we'll introduce it in a moment, that shows that Seacret plans to offer a training program this weekend with our former training executive. And Mr. Head is scheduled to speak at that training program where they are going to launch this travel business. And in Texas injury resulting from breach of a non-compete is the epitome of irreparable injury. That's, in fact, what the Court found in the Dr. Pepper case.

In the Electro-Motor case the Court found that proof of a highly trained employee continuing to breach a non-compete gives rise to a rebuttable presumption that the applicant is

suffering irreparable injury. And we are entitled to that rebuttable presumption and Mr. Head cannot overcome it. The narrow non-compete that we ask this Court to enter is exactly what he had agreed to. If he continues to work for Seacret's multi-level marketing travel business and assist them in obtaining and running its own competing business, the bankruptcy estate is going to suffer immediate and irreparable consequences because the diminution of value of the business as a going concern. And it's going to disrupt the bidding process.

Your Honor, likewise, we'll suffer irreparable harm because of the irreversible loss of goodwill of customer and sales representatives, and from the potential disclosure and continuing disclosure of confidential information that Mr. Head acquired during his tenure. Again, the TransPerfect Translations case that we cited Your Honor to holds just that. The injury to the business and bankruptcy reorganization outweighs any harm that's going to result in this circumstance. Why? Because Mr. Head is not prohibited from working. He simply is prohibited from doing what he agreed to do, and that is not working in a multi-level marketing membership-based travel company. He can work in travel. He can work in the MLN industry. He just can't work for a membership-based travel services company in the MLN industry. And so the balance of equities favors the debtor

in this circumstance.

And, Your Honor, we have cited to the In re OGA Charter's case from the Southern District of Texas Bankruptcy Court explaining that preventing the dissipation of assets belonging to the debtors in the public interests. And we believe that that balances in our favor.

Again, the relief we request is to enjoin him from participating either directly or through an affiliate as a defined term in or with a competing business, again, a defined term. And a non-compete period, a defined term, of 24 months. And then from recruiting or encouraging either directly or through an affiliate current or former WorldVentures' employees, customers, sales representatives to perform work as an independent contractor for a competing business.

And, Your Honor, that concludes my opening argument. I would leave it to the Court, but we have -- the only evidence we intend to offer is the declaration of Mr. Poates and its attachments, which is Exhibit A and then A-1 through 6, which we also have a B through K, which are really just links to videos that are already part of Mr. Poates' application that we believe you can take judicial notice of all of those videos under Federal Rule of Civil Procedure 201. And then the declaration of Emily Shanks, which is Exhibit L. And that declaration is simply proving up another video, as well

as a website. But, again, we believe that under 201 you can take judicial notice of those websites, as well. So I don't know if you want to take that up at this point, but we plan to simply offer those into evidence. We're not calling live witnesses, because it's a temporary restraining order hearing. And Your Honor well knows that the standard of admissibility in a preliminary injunction stage is not the same as admissibility at trial. The Sierra Club case out of the 5th Circuit in 1993 at 992 F.2d 545 talks to that issue. So we plan to offer Exhibits A through L, inclusive of A-1 to A-6 and L-1 into evidence at this time.

THE COURT: All right. I'll take up the admission of evidence after I hear opening arguments. I just want to know what the arguments are so that we can then get to the evidence. And I'll hear you on closing after that. So you can offer your exhibits when I get to that point. Okay?

MR. SLOVAK: Yes, Your Honor.

THE COURT: So I'll hear -- does anyone wish to speak in support of the motion for an injunction?

MR. FEINSTEIN: Your Honor, it's Robert Feinstein, Pachulski Stang, proposed counsel for the Creditor's Committee.

Let me just say briefly, Your Honor, that with the matters at issue here are essential to this bankruptcy case.

The Committee is concerned that while the debtor is going through a sale process to sell its business, that its business may have leaked out already, been usurped. So the matters here could not be of any greater importance to the bankruptcy estate and to creditors. And in that regard, we support the debtors.

Thank you.

THE COURT: Thank you.

Okay. Let me hear from the parties objecting, then.

MR. HOODENPYLE: Your Honor, this is Todd Hoodenpyle. And forgive me, Your Honor, but that sounded a lot like a closing argument. And I hate that we're going to have to both go through a couple of more rounds of this. So I'm going to ask the Court to give me a little leeway in my opening and perhaps we can agree that our opening will basically end with -- be our closing, too, after we go through evidence so that we're not spending the Court's time on a TRO hearing, which is really supposed to be a little bit shorter proceeding.

But, Your Honor, I represent Kenneth Head. He goes by Eddie. And just to give the Court a cast of the characters. Mr. Head is now at Seacret Direct and previously was the president and before that had several different roles at WorldVentures. He's worked for WorldVentures since 2007. Wayne Nugent is the CEO for the debtors, for WorldVentures.

Eric Haynes is a chief legal officer. There's an email attached to our response from Mr. Haynes. And Isaac Ben Shabat, if I'm saying his name correctly, Your Honor, he is the CEO of Seacret Direct. And as we go along, I may have some other people to introduce, Your Honor.

But it's our position, looking at the application for TRO, that the debtors are not likely to succeed on the merits. And they don't get to probability, they don't get to possibility. Their application is based on inadmissible evidence. It's based on hearsay. It's based on hearsay within hearsay. It's based on illegitimate and unfounded allegations in Mr. Poates' declaration. And we've got these videos that have been referenced, which the Court cannot take judicial notice of these videos. We'll get to our objections in a minute, Your Honor.

But to give a little bit more of a chronological history that gives a better perspective of this matter. Mr. Head started in 2007 and worked there -- he did not sign an employment agreement when he was hired. And he was exposed to all of their information for about 10 years when he transitioned to president. In 2017 he became president. He did not sign an employment agreement. He did not have a non-compete agreement. Yet he had access to the database and all of the confidential information. And a year and a half later, they decided to have him sign an employment agreement

that contained a non-compete agreement.

In 2018 through 2020, the -- I guess there's a dispute in the testimony about how the company was doing. But what is not in dispute for anybody that's been alive for the last year and lived through something that hasn't happened in 100 years, we all know that the world changed and COVID hit. And it hit hard in the travel industry. And WorldVentures has a single service or product. It's travel based. It's a lifestyle membership selling travel. And so their business, as I think the CRO put in his declaration, their business was decimated because of COVID. And going through 2020, Mr. Nugent reached out to Seacret and Mr. Ben Shabat that led to a co-marketing agreement. And they did that so that WorldVentures' sales representatives who were fleeing by the dozens, because they had nothing to sell, needed a product to sell. And they signed them up and they started selling Seacret's products, the dietary and nutritional products.

Well, things were not improving late into the year. And the co-marketing agreement was not negotiated by Mr. Head. It was negotiated by Mr. Ben Shabat and Mr. Nugent. And you get to late October, early November 2020, there were discussions about a letter of intent and there were discussions between Mr. Nugent and Mr. Ben Shabat about combining or merging their companies. And there was a letter of intent that was issued. And that letter of intent

came not from Seacret, but from Mr. Nugent. And that letter of intent was not created by Mr. Head. It was created by Mr. Nugent and his lawyers. And Mr. Head was not involved in that negotiation. The next day they did -- they did sign a limited solicitation agreement. That agreement was not negotiated by Mr. Head. It was negotiated by Mr. Nugent and his lawyers, and by Sea (sic) Direct and their lawyers. Mr. Head was not there at that time. He was not pressuring anyone. Mr. Nugent, the CEO, made those decisions on his own.

And a week after the limited solicitation agreement -- you have to keep in mind, Your Honor, that they were negotiating a potential merger or asset purchase agreement. A week later there was an email that went out that we have attached to our response. I think it's a business record of the debtors and of Sea (sic) Direct that shows that the debtors gave permission for Sea (sic) Direct to hire a number of employees, including Mr. Head. And the email does not have any qualifications or reservations. It was a full waiver of their rights to enforce any non-compete agreement against anyone, to the extent they had any valid agreement. And it was permission for them to -- it was all alluding to this merger where everybody thought they were going to come together. But they never rescinded that letter or that waiver of their rights.

Then we go back to the limited solicitation agreement, Your Honor. We've quoted some of the language in our response. And you can look at their exhibit. The debtors in the limited solicitation agreement, the LSA, they granted Sea (sic) Direct permission for Sea (sic) Direct to put all of the debtors' sales representatives under -- in their downline. Actually, they moved all of the Sea (sic) Direct downlines over to Sea (sic) Direct. And all of that was put into their own database. So that was voluntarily given by Sea (sic) Direct.

What you don't have is any evidence that Mr. Head gave any information to Sea (sic) Direct. I keep saying Sea Direct, Your Honor. I've got that name stuck in my head. Seacret. There's no evidence that Mr. Head gave anything to Seacret. It all came voluntarily from the debtors. And the document says that Seacret has unfettered rights to use that information. And it's a perpetual right to use that information. They have not rescinded it. And Mr. Slovak indicated, the debtors are actually benefiting from that agreement. They continue to benefit from that agreement. In fact, they probably wouldn't have a business right now but for Seacret stepping up and allowing them to move all of their sales representatives over to Seacret's downlines and sell Seacret's products, because the travel market has not come back. And their sales representatives were fleeing by

the minute.

In 2000 -- in December of 2020, the parties were still negotiating this asset purchase agreement. And then towards the end of the year, they hired their CRO. They filed for bankruptcy. There's no doubt that Mr. Head gave his resignation. They have an email exchange between Mr. Head and I think it's Mr. Poates where Mr. Poates reminds Mr. Head of his restrictive covenants. And Mr. Head understood that with the exception of Seacret, because it had been specifically excluded by that email, that he would be bound by his agreement. And Mr. Head is not a lawyer. And whether or not his employment agreement is enforceable is a matter I'll talk about in a second.

Everybody knew -- I think everybody knew that Mr. Head was going over to Seacret. It was no secret that he was going over there. He went on the 14th and he was there working for some time. There's also information that Seacret had been working on -- planned to put out a travel product. And there's no dispute, Your Honor, that they intend to launch -- I don't think there's a dispute that they intend to launch -- I don't want to speak for Seacret. But I think there's no dispute they intend to launch a travel product, but they don't currently have one. It may be short in the making, I don't know. But I don't think it's relevant at this point, because it's not there. They waited for over a

month to file this lawsuit and this temporary restraining order application, so there was no emergency, Your Honor.

To get to some of the legal points, Your Honor. They do not have a substantial likelihood of succeeding on the merits on their two claims. They have a claim for breach of fiduciary duty and a claim for breach of contract. On their breach of fiduciary duty claim, they're not entitled to an injunction to prevent Mr. Head from working for anyone. They can get -- at most, they'd be able to prevent disclosure of confidential information, if they can even show that information was confidential or what that is.

The other claim, Your Honor, is the employment agreement, the breach of contract agreement. And we've stated in our response, Mr. Head worked for ten years and he had access to all of the information that they claim is confidential for many years without having a non-compete agreement. And then they had him sign an employment agreement where, as Mr. Slovak put it, he got paid more money and he got access to confidential information. Well, under Texas law, you can't get an enforceable non-compete agreement by paying somebody money. And it's also Texas law that past consideration for non-compete agreement is insufficient. In fact, I think something we all probably learned in law school that you can't keep giving somebody consideration for that to be enforceable for other new agreements. And that's the case

in this case. You can't -- Mr. Head had all of this information before he had a non-compete agreement. So there was no consideration for the agreement. And even if there were consideration for the agreement, the debtors intentionally relinquished their right to enforce that when they gave Seacret permission to hire Mr. Head. So they don't have an enforceable contract.

Add to the fact the problem they can't succeed -- part of their argument is, well, Mr. Head went over and gave Seacret all of this confidential information. Well, on the face of their own lawsuit, they gave information to Seacret. I don't know that I've ever seen a non-compete case, Your Honor, where a party gives their -- another entity access to confidential information and then comes back and tries to say that somebody else gave it to them. There's not any evidence that Mr. Head has given Seacret anything that the debtors didn't -- excuse me -- that the debtors didn't give them themselves.

Give me one second, Your Honor. Mr. Slovak had many points and I'm trying to make sure I get a good response so we're not spending time after the fact.

They say that they need the information returned. And what it looks like, Your Honor, is they're trying to get out of their agreement with Seacret under the LSA. It's notable here, Your Honor, that they didn't sue Seacret. If they want

out of the LSA, then they should file a lawsuit against Seacret and try to get released from that. They're not trying to prevent Seacret from upgrading with this travel product. They didn't -- they're not -- Seacret is not a party here. In fact, if you look at that, Seacret filed a response on the emergency motion for discovery. Seacret tried to get clarification from the debtors of whether or not they're trying to enforce this against Seacret. Apparently there's no response on that. And Seacret clearly is not a party here.

There are other people who the debtors could be suing right now under so-called non-compete agreements. There are other employees -- I think Mr. Slovak referenced some of them -- that went from WorldVentures over to Seacret. And to the extent that those people have non-compete agreements, then the debtor -- they can't meet their burden to enforce the non-compete agreement. Part of the non-compete statute is for the debtor to show that they need to protect their good will or their other business interest. If you're letting other people that have non-compete agreements to go out and compete with you, if you're not enforcing those, then you're not showing that you need to protect your goodwill or other business interests. So there's multiple reasons why the employment agreement is not enforceable. And that they can't get the relief that they want. Clearly they just want

to prevent Mr. Head from working in the industry. I mean, this is what he's done for the last 10, 12 years. And that's the relief that they're seeking.

On the irreparable injury, Your Honor. It's really the same thing. They say the same thing each time, that we need to protect this confidential information. And again, Your Honor, it's information that they willingly and voluntarily gave to Seacret. And Seacret has a perpetual right to use it under the LSA.

Your Honor, they've mentioned a couple of times that Mr. Head is out there soliciting sales representatives and vendors. There's no evidence in their application that Mr. Head has solicited any sales representatives. There's no evidence alleged in their application that Mr. Head has solicited any vendors.

Mr. Slovak talked about preventing of the destruction of the asset. And the sole asset that they've identified is the downline. And, again, they voluntarily gave that downline to Seacret. But another point on that, Your Honor, is they claim they have -- the bid by the stalking horse is low. Well, there's not any evidence in the application of that. And what has not been stated is that Seacret was actually anticipated to be the stalking horse. And now the debtors are not going with that. In fact, the Seacret has tried to get the debtors to do fulfillment on some of these

products and the debtors have refused to do the fulfillment on these -- on this MLN product. And they're creating their own situation, when they don't want to enter into an agreement to do fulfillment where they could have made more additional money. And you hear the Creditor's Committee come in support of it, but I wonder if they've addressed that issue with the debtors and the fact that they walked away from an opportunity to make money that could have brought value to the estate and paid the creditors.

Your Honor, Mr. Slovak talked about Mr. Head giving testimony in another case. He was testifying that they have confidential information. But I don't think that's pertinent here because of the voluntary disclosure by the debtors.

THE COURT: All right. Anything further?

MR. HOODENPYLE: Excuse me, Judge, one second. I'm just trying to look through and see if there's anything else that was addressed. I want to make sure we don't have to come back on this.

Your Honor, due to the emergent nature of this motion, we haven't had a chance to read and brief the TransPerfect cases. There are a couple of those cases that they cited that there was evidence where the executive actually solicited people and had actually taken business over to the new employer. We don't have those facts here. There's no facts here. There's no evidence of that.

The emails, Your Honor, I guess we can get into. I can make it part of my objection. But a couple of the emails they're talking about are from sales representatives. And the sales representatives -- I'm sure the Court is familiar with these multi-level marketing companies where these companies have certain employees, they have a limited number of employees. And the largest part of the asset, as Mr. Slovak says, is the downline. The downline are sales representatives that are independent contractors. They're not employees or authorized representatives of these multi-level marketing companies. And the emails that they are trying to get into evidence are emails by the sales representatives that have been forwarded to other people. And we'll get into that being hearsay within hearsay in a minute, Your Honor.

Finally, Your Honor, on the -- two things, on the damage and the bond. There's no evidence that they've been damaged. There's no evidence that they've lost any business. There's not any evidence that they will lose any business in the immediate future. They've got their sales hearing coming up. And there's no evidence -- they're basically trying to get a start up to -- actually, they're only trying to prevent an executive of a company that's starting a new line. And there's no evidence that that would actually cause them any imminent harm. There's no damage.

But, Your Honor, if the Court is inclined, which we think there's no basis to enjoin, especially before a preliminary injunction hearing, to prevent Mr. Head from working for Seacret. If the Court is inclined to do that, then the debtor should be required to post a bond. I know they cited to Rule 65(c) and 7065(c) and they may not be required to as a debtor in possession. The key word in that statute is may. If they're going to basically un-employ Mr. Head, then they should be willing to post a bond in the amount of his salary that he's going to lose for the next year while we're litigating this lawsuit.

And, Your Honor, that's all I have at this time.

THE COURT: Okay. Thank you.

Does anyone else wish to make any opening arguments?

MR. LAMBERSON: Your Honor, this is Phillip Lamberson on behalf of Seacret. I'll be very brief. Mr. Hoodenpyle did a good job, I think, of laying out Mr. Head's position, which does cross over some with some of the issues related to Seacret here.

As the debtor actually noted itself, to some extent, Mr. Slovak effectively sort of presented their case today at a TRO hearing without evidence. Understanding he's given the Court the benefit of the issues. But it is important to focus on the fact that what's presented today is a TRO that as presented in the pleadings and as Mr. Slovak presented

only relies on Mr. Head's alleged breach of non-competition restrictions in his employment agreement with WorldVentures. It did not relate to any of the other, frankly, very salacious accusations made in the complaint. And I will note, as Mr. Hoodenpyle did, that Seacret is not a party to this adversary proceeding, notwithstanding the allegations made against it. So it is not appropriate for the injunction to cover Seacret.

So to that point, I did reach out to counsel to request the scope. They indicated that the language in their proposed TRO order was consistent with Rule 65(d). That's fair enough. But I would just tell the Court and the parties that Seacret intends to interpret -- to the extent that the Court issues an injunction, which we also believe is not appropriate, that's obviously Mr. Head's issue as the party here, that we intend to interpret any language in that order that talks about active participation or active concert with parties with 5th Circuit precedent, which is that Rule 65(d) prohibits parties from aiding and abetting a named enjoined party from violating an injunction. That it would not be a standalone injunction as to Seacret, prohibits Seacret's actions independent of Mr. Head. Specifically, that this is not a backdoor attempt to enjoin the limited solicitation agreement or any legal rights that Seacret has that, again, don't involve Mr. Head's participation.

As Mr. Hoodenpyle indicated if the debtors really believe that they have claims related to the solicitation agreement, they need to assert an action to avoid that, (indecipherable word), or something like that. They shouldn't try to do anything through an injunction process via Mr. Head. And I have to be very clear that, of course, my client had no intention of aiding and abetting any violation, to the extent the Court does enter a TRO. But that is the way we're going to interpret this. And just to be clear, we do not perceive anything that happens here to be a direct standalone restraint of our actions, because that would be completely inappropriate.

THE COURT: All right.

MR. LAMBERSON: That's all I have right now, Your Honor.

THE COURT: Thank you.

All right. Before we turn to the evidentiary phase, I have a quick question for the parties. Have the parties discussed any form of standstill for some short period of time to have a more fully developed preliminary injunction hearing just to kind of get to that point, or have the parties discussed it and they don't believe that the parties can reach an agreement on that?

MR. SLOVAK: Your Honor, this is Rob Slovak.

I will -- I know Mr. Helt has had some conversation

with Seacret, but I don't believe that it concerned any injunctive relief. And I know Mr. Lockhart, he had to step off because he had a doctor's appointment, had had some conversation with Mr. Head's counsel, but I don't believe that substantively it involved would there be some agreed restraint or discovery. So I think -- I'm not trying to be evasive at all, Your Honor. I just think the answer is substantively we have not discussed can we agree to any sort of restriction or discovery.

THE COURT: Okay. Is that accurate?

MR. HOODENPYLE: Your Honor, this is Todd Hoodenpyle.

I've been involved in this case for about two days now. And we've had no such discussion on behalf of Mr. Head. I don't know what discussions have happened. But specific to Mr. Head, we've not.

THE COURT: Okay. So given the hour, since you all have not had that discussion, I think what we should do is take a noon recess and also give you all just a little bit of time to visit. What I'm looking for and I guess my question goes to, it seems to me that all we're looking to do today is some form of temporary injunction to kind of get to a preliminary injunction hearing. I don't have any -- you know, this is all new to me too. So I don't have any ideas about whether the parties could reach at least some form of

standstill, some form of limited, quote/unquote, injunction to kind of get to a more fully developed hearing.

So I'd like you all to visit about that. See if you can -- because I don't know if there's anything that's significant that's going to be happening in the next two weeks and you need to get an injunction now, or if there's nothing that's anticipated in the next couple of weeks and parties can reach an agreement about some form of standstill. So I think you all should have that conversation and then we can have you all back. And then at that point in time if you don't have an agreement, we will just take the evidence and then I'll hear any closing. Okay. Does that seem like a good plan?

MR. HOODENPYLE: Your Honor, this is Todd Hoodenpyle.

Just in terms of time, I didn't expect a TRO hearing like this, so I have a 1:00 doctor's appointment too. I can move it, if I need to. Are we coming back -- how soon?

THE COURT: Well, we can do it later on this afternoon. How about -- let me double check. I think we could do it about 4:00. Is that good? Does that give you all some time to visit, as well as to have your hearing? Because I actually have a 1:00 conference, as well.

MR. HOODENPYLE: 4:00 would be fine for Mr. Head, yes.

THE COURT: Okay. Does that work for everybody, 4:00 Central?

MR. SLOVAK: Your Honor, this is Rob Slovak on behalf of the debtors.

I'll make it work. I have something at 4, but I'll cancel it and reschedule.

THE COURT: Okay. Well, thank you. Okay. All right. So we'll recess until 4:00 and the parties will visit during that time period about whether they can reach some form of standstill agreement, some sort of restraint agreement to get you to a 14-day period so you can have a little more notice and time for a more full hearing. And we're looking at a hearing date in obviously the first or second week of March. Let's do that. And then I'll hear you when you get back. Okay?

MR. SLOVAK: Thank you, Your Honor.

MR. HOODENPYLE: Thank you, Your Honor.

THE COURT: Thank you.

MALE SPEAKER: Your Honor, is it the same dial-in information this afternoon?

THE COURT: Yes. Everything will be the same, yes.

MALE SPEAKER: Okay. Thank you, Your Honor.

THE COURT: Thank you. We stand in recess.

(Recess ensued.)

COURTROOM DEPUTY: Spherature Investors, LL -- Investments, excuse me, LLC, versus Head. Adversary case number 21-4058. Motion for temporary restraining and preliminary injunction and motion -- emergency motion for expedited discovery.

THE COURT: Okay. Appearances.

MR. HOODENPYLE: Your Honor, this is Todd Hoodenpyle. I believe Michelle Shriro is on, also, and my client, Kenneth Head is also on.

I know, Your Honor, Ms. Shriro and Mr. Head both had a little bit of an issue getting back in, so I don't know if that's having an issue.

THE COURT: Okay. Yeah, there seems to be some kind of static on the line when you're speaking, Mr. Hoodenpyle.

MR. HOODENPYLE: Yes, Your Honor. That static has been there since everybody called in and we called back in. I'm on a land line, so I'm not sure why that's happening.

THE COURT: Okay.

MS. SHRIRO: Your Honor, Michelle Shriro for Eddie Head, as well.

THE COURT: Thank you.

MR. LAMBERSON: Your Honor, this is Phillip Lamberson on behalf of Seacret Direct.

MR. FEINSTEIN: Your Honor, Robert Feinstein and Michael Warner, Pachulski Stang, proposed counsel for the Creditor's Committee.

THE COURT: Thank you.

MR. HEAD: Your Honor, this is Kenneth Head.

THE COURT: Okay. Is there counsel present for the debtor?

MR. SLOVAK: Yes, Your Honor, this is Rob Slovak on behalf of the debtor, Foley & Lardner. I believe Steven Lockhart may also be on the line.

MR. JONES: Your Honor, this is Stephen Jones also on the line for the debtors with Foley & Lardner.

THE COURT: Okay. Is Mr. Slovak on the line?

MR. SLOVAK: I am, Your Honor. Can you hear me okay?

THE COURT: I can now. Thank you.

All right. So where are we?

MR. SLOVAK: So, Your Honor, this is Rob Slovak.

While we were working on a deal from our side, tried to get an interim resolution, the CRO is not willing to agree to the deal. We had discussions with counsel for Mr. Head and I think an agreement as to the discovery generally. The proposal that we had made to Seacret on the discovery --

THE COURT: Hold on just one moment,

Mr. Slovak.

Does everybody else hear that same static on the line?

MR. HOODENPYLE: Yes, Your Honor. Todd Hoodenpyle. I hear it.

MALE SPEAKER: Yes.

THE COURT: Okay. Thank you.

Okay. When you started talking, it went -- we started hearing static again. You can't isolate where it's coming from?

I'm sorry, guys. We need to start this over again. I don't think you all need to hang up, but we're going to have the Court's recording shut down and then restart it here in just a moment. Okay?

MS. RASCO: Judge, this is Shirley. Everyone will need to hang up so we can clear the conference line.

THE COURT: They do?

MS. RASCO: Yes.

THE COURT: Okay. I'm sorry. We're going to have to call back in.

(Brief recess ensued.)

COURTROOM DEPUTY: Spherature Investments, LLC versus Head. Adversary case number 21-4058. Document 2, motion for a temporary restraining and preliminary injunction; document 3, claimant's emergency motion for expedited discovery.

THE COURT: All right. I'm sorry about our snafu with the electronic system.

All right. Mr. Slovak, you were speaking when we last --

MR. SLOVAK: Thank you, Your Honor. Can you hear me okay now?

THE COURT: I can.

MR. SLOVAK: Okay. Yes. The parties were still in discussions as the hearing started about an agreement on the TRO. Unfortunately, we do not have an agreement on the interim relief. I believe we still have at least an agreement in principle with Mr. Head on the scope of expedited discovery that the parties would be willing to deal with. The proposal that we have made to Seacret's counsel about the scope of expedited discovery limitations with Seacret, we haven't heard back. So I candidly don't know if we have an agreement on that issue or not.

THE COURT: Okay. So when you said you were having a discussion when we -- at the start of this hearing, are you saying you ran out of time, or are you saying you all concluded you could not reach an agreement?

MR. SLOVAK: We were awaiting word from the CRO as to whether he would agree to the proposal that was on the table. And the text message that came to us once the hearing started was that we did not have a deal.

THE COURT: Okay.

MR. HOODENPYLE: Your Honor, this is Todd Hoodenpyle.

We had discussions going up and we had really reached an agreement, I think, on the fundamental relief that they're seeking in terms of having Mr. Head being separated from the travel aspect and just one sticking point of whether the parties would agree mutually not to use that for public posturing. And that seems to be the sticking point, Your Honor, whether or not people are going to use the TRO order for public posturing. We were proposing that the parties not do that.

THE COURT: All right. What's the CRO's position on that, or what's the issue?

MR. SLOVAK: The issue is, Your Honor, that the CRO had to approve the deal that was proposed. And our primary dialogue -- this is Rob Slovak, again -- was with their CLO. And he had to get approval from the CRO who said, no.

THE COURT: Okay. Where is the CRO? Who represents the CRO?

MR. SLOVAK: We do, Your Honor. We just weren't in direct communication with the CRO. That was going through our client representative, who is our CLO, Eric Haynes.

THE COURT: Essentially, the debtor could not reach an agreement -- would not accept whatever the proposal was that's on the table; is that right?

MR. SLOVAK: That is correct, Your Honor.

THE COURT: Okay. All right. You may proceed.

MR. SLOVAK: Okay, Your Honor. Rob Slovak, again, on behalf of the debtor.

Your Honor, I think that we are -- just a point of clarification from Your Honor. I believe at this point we are finished with opening. Would you like me to proceed with the evidence in the case and then have a short closing; am I correct on that?

THE COURT: That's where we are.

MR. SLOVAK: Thank you, Your Honor.

The debtors would offer into evidence Exhibit A, which is the declaration of Michael Poates, along with Exhibits that are proved up by virtue of that declaration, A-1 through A-6.

THE COURT: Okay. Hold on just one moment.

And for the record, that was filed where?

MR. SLOVAK: Your Honor, it was filed yesterday as part of the exhibits to -- it's on the exhibit list that cross-references to docket number 2 on page 24.

THE COURT: Okay. Hold on just one moment.

Okay?

So this is the exhibit and witness list that has been docketed as docket number 10 on the Court's docket; is that correct?

MR. SLOVAK: Yes, Your Honor. And Exhibit A is actually -- it's on docket number 2. It was attached to our application, the plaintiffs' emergency application for a temporary restraining order. It was attached to it as Exhibit A. And that docket number is docket number 2.

THE COURT: Okay. You're saying it was attached to the motion for TRO?

MR. SLOVAK: Yes, Your Honor.

THE COURT: Okay. And it's not the same as Exhibit A to your exhibit and witness list that you filed?

MR. SLOVAK: It is, Your Honor. We just didn't re-file it, because it was already attached. We were trying not to over complicate the record and duplicate.

THE COURT: All right. Thank you.

Now after we finish this hearing, I would like you to contact the Clerk's Office about the proper way to file attachments to the document -- to documents that you file with the Court. They have to be separately filed. They're filed together, but as separate pdf's instead of one single pdf. And the reason we do that is so that it doesn't take me a significant amount of time to dig through 122 page document

to find where these different exhibits are. Okay? So if you'll contact the Clerk's Office, I'm sure they'd be happy to show you how to get that done, or whoever it is in your office that's getting that done for you.

Okay. So Exhibit A has been filed as Exhibit A to docket number 2 on the Court's adversary docket. Is there any objection?

MR. HOODENPYLE: Yes, Your Honor. This is Todd Hoodenpyle on behalf of Mr. Head.

We would object to portions of Mr. Poates' declaration, any references to links or videos. We object that all of the testimony there is hearsay and lacks foundation and has not been authenticated. There's several references in his declaration to different links throughout which are also part of the exhibits that we will be objecting to, as well. And then we've objected -- the evidence that he testifies to harm is all conclusory.

MR. SLOVAK: May I respond, Your Honor?

THE COURT: You may.

MR. SLOVAK: The standard -- the standard admissibility of evidence at the preliminary injunction stage is not the same as admissibility at the trial. As the Court well knows, at the injunction stage the Court can rely on evidence that would otherwise be inadmissible hearsay at trial and the Court may rely on hearsay evidence to support

the injunction. The Sierra Club case out of the 5th Circuit actually supports that proposition. It's 992 F.2d 545. As does 835 F.2d 554 and others.

In this particular circumstance, I'm not exactly sure, based on that objection, what paragraphs of Mr. Poates' affidavit are at issue. But let me address what I think I heard as the specific objection.

The first was to links to videos which were objected to as hearsay. The rule -- it is common for Courts to take judicial notice of factual information on the internet. And, in fact, Courts take judicial notice of links to videos on YouTube pursuant to Federal Rule of Evidence 201(b) where the videos can be readily accessed by following the links. Citations in support of that proposition are MD versus Abbott, 2020 West Law 7485018 at Star 13 and Shapiro versus Hasboro, which is 2016 West Law 9176559.

The statements at issue within the videos themselves are admissions by a party opponent in the case of the videos with Mr. Head. And so they are also excepted under the hearsay rule.

With respect to the objection to conclusory information about harm. The statements in Mr. Poates' declaration about the harm that's being suffered or being made by the chief operating officer based on his analysis of company records and the business, which is properly authenticated in the

exhibit itself. I'm not exactly sure what specific paragraphs they're raising the objection to, Your Honor.

MR. HOODENPYLE: Paragraph 20.

MR. SLOVAK: What Mr. Poates has testified to in his deposition is based on his personal knowledge, as well as his position as the COO. It is about the impact on WorldVentures' travel business. It certainly is well founded. And it is not speculation, Your Honor.

THE COURT: Okay. Objection is overruled. Exhibit A, along with its attachments, will be admitted for the purposes of this TRO hearing only. All right.

MR. SLOVAK: Okay. Your Honor, we also offer into evidence --

MR. HOODENPYLE: Your Honor, I'm sorry to interrupt you.

You said the attachments to the declaration. There are other attachments that are not the links or the -- there are documents that we have other objections to.

THE COURT: Okay. I didn't hear them. He offered those and you didn't object. So tell me what are those objections, or which documents are you talking about?

MR. HOODENPYLE: I apologize. I misunderstood him, then, Your Honor.

We object to Exhibit Number A-2. And that is hearsay and it's also hearsay within hearsay. It's -- you've got two

different emails there, Your Honor. One -- and neither of them are from Mr. Head. One of them is to Mr. Head from Mr. Shabat, Ben Shabat. The other one is an external email from someone else. And then there's an attachment that is hearsay in addition to that. And there's no foundation for that attachment, either.

MR. SLOVAK: May I respond, Your Honor?

THE COURT: You may.

MR. SLOVAK: The exhibit that's been proven up by Mr. Poates in the declaration that you have already admitted as a business record of WorldVentures the debtor. And the statements as offered into evidence are not being offered for the truth of the matter asserted. They are being offered to demonstrate Mr. Head's state of mind with regard to the allegations, themselves, that he breached his fiduciary duty by virtue of having knowledge that Seacret planned to open a competing business. And failed to disclose that to the uninterested, disinterested members of the board of directors, which constitutes evidence of a breach of fiduciary duty.

MR. HOODENPYLE: Your Honor, there are no statements in Exhibit A-2 made by Mr. Head. It couldn't be about his state of mind. He didn't make any statements in Exhibit A-2. In fact, the only thing he did was receive an email.

MR. SLOVAK: Your Honor, the statements are actually on the -- what is in document 2, page 52 of 122. And they're statements that were sent to Mr. Head that talk about Seacret launching a program for 2021 that will establish the company as the largest seller to group travel in the world. And it goes on to describe it. And what I'm suggesting, Your Honor, is that it's not being offered for the truth of the matter asserted. It's being offered for the state of mind, the impact on the state of mind of the listener, which is Eddie Head. And it is being offered to demonstrate that he had knowledge of the competing travel program while he was still an employee of our enterprise. Failed to disclose that. And, thereby, breached his fiduciary duty.

THE COURT: Objection is overruled. Exhibit A-2 is admitted.

MR. HOODENPYLE: Your Honor, we don't have any -- well, taking the rulings of the Court on the links, those are all of the objections, outside of the objections to Ms. Shank's affidavit in Exhibit L and L-1.

THE COURT: Okay. And just so we're all clear, the Court is admitting exhibits for the purposes of this hearing only. Okay? To the extent that those same documents are offered at other later hearings, we'll take up any objections in that context there. Okay?

MR. SLOVAK: And so, Your Honor, this is Rob Slovak. I apologize. Is the -- I think there's now -- what I think I heard was that B through K, which are exhibit links are no longer being objected to, based on the Court's prior ruling. But there is an objection being lodged to Exhibit L, which is docket number 9, the declaration of Emily Shanks.

MR. HOODENPYLE: Your Honor, that is not what I said. I didn't say we were withdrawing our objections. We're saying we have those objections and we understand the Court's ruled on those objections.

THE COURT: Right. So I've admitted Exhibit A with all of the attachments thereto. I have not heard you offer Exhibit B through K and whatever else.

MR. SLOVAK: Okay. Then, Your Honor, I apologize. I was -- I misunderstood that.

Let's start with Exhibit B, which is an affidavit from Mr. Head given in an similar case where Mr. Head testified that he was -- that WorldVentures, the debtor, was entitled to injunctive relief against a company that took its confidential information under the auspices of potentially doing a deal with them, and then sought to enjoin that company, as well as other employees, under non-compete agreements that are substantially similar to the one that's at issue in this case. And we are offering that affidavit as an admission by a party opponent. And so we would offer

Exhibit B into evidence, Your Honor.

MR. HOODENPYLE: Your Honor, this is Todd Hoodenpyle.

We would object on relevance. It couldn't be a statement by a party opponent, because it was made by Mr. Head as a representative of the debtors at that time. But we don't know the circumstances in that case, what the facts were or anything. So we would object as irrelevant.

THE COURT: All right. I'm going to admit the document. You'll have to connect the relevance in the context of your closing.

MR. SLOVAK: Thank you, Your Honor.

We would then at this time offer Exhibits C through K, which are links to the videos that we articulated earlier, Your Honor. And for the same reasons about taking judicial notices and the cases we cited under Federal Rule of Evidence 201(b), we would ask that the Court admit those, as well.

THE COURT: Okay. What page is that on?

MR. SLOVAK: On plaintiffs' exhibit list, Your Honor, which is docket 10. It is Exhibit C through K on pages 2 --

THE COURT: Okay. So those documents are attached to your exhibit and witness list, Exhibit C through K?

MR. SLOVAK: Yes, Your Honor.

THE COURT: Wait a minute. I don't see any documents attached to your exhibit and witness list.

MR. SLOVAK: They're live links to videos, Your Honor.

THE COURT: Okay. But I'm trying to find it. Where are they?

MR. SLOVAK: If you literally -- it's a hyperlink to the video, Your Honor.

THE COURT: I understand. It's listed -- it's embedded with your exhibit list itself, right?

MR. SLOVAK: Yes, Your Honor. I apologize. I'm not articulating the technology very well.

THE COURT: I'm just trying to make sure the record is -- unfortunately for you all, since we're doing this in the virtual world, I'm just trying to make sure the record is clear about where to find it. Okay?

So this is Exhibit C through K listed in the debtors' -- I'm sorry, in the debtors' witness and exhibit list embedded in the actual list itself. The links are there. And that is docket number 10 of the adversary docket, right?

MR. SLOVAK: Yes, Your Honor.

THE COURT: All right. Are the objections the same, Mr. Hoodenpyle?

MR. HOODENPYLE: Yes, Your Honor. We object

to Exhibit C through K. They're hearsay. There's a lack of foundation, authentication. And the Court is -- these are not facts that are just generally known in the Trial Court's territorial jurisdiction or facts that cannot be reasonably questioned. And so we don't think the Court can take judicial notice under Federal Rule of Evidence 201.

THE COURT: I think -- correct me if I'm wrong, Mr. Slovak. What I'm understanding is you're asking the Court to take judicial notice of the existence of those videos, not the -- you're not asking the Court to take judicial notice of the factual allegations in those videos. Is that correct?

MR. SLOVAK: Not entirely.

THE COURT: Okay. What --

MR. SLOVAK: Certain of those factual -- I'm sorry, Your Honor. I didn't mean to speak over you. I apologize.

THE COURT: Okay. So tell me what is it that you're asking the Court to take judicial notice of?

MR. SLOVAK: Judicial notice of the videos themselves. And to admit into evidence the portions identified on the exhibit list, for example in C, 547 through 558, which are statements being made in the video by Mr. Head, which are admissions by a party opponent, which are more specifically characterized within the briefing, Your

Honor.

THE COURT: You're asking the Court to simply take judicial notice of the video where Mr. Head is making certain comments in that video? Is that what you're asking the Court to do?

MR. SLOVAK: Yes, Your Honor. And to consider and take into evidence, as evidence, the admissions by a party opponent at those specific instances identified on the plaintiffs' exhibit list.

THE COURT: Okay. So, Mr. Hoodenpyle, do you deny that those are your client? Is there a dispute about that, or are you simply objecting because it's a video?

MR. HOODENPYLE: Well, I guess part and partial both, Your Honor. Some of these videos that I've been sent are about two hours long, so I haven't had a chance to really review any of them. And so I don't know. Some of these may include comments or statements by Mr. Head. I don't know.

THE COURT: Okay. But that's the only part that Mr. Slovak is asking the Court to take judicial notice of; is that correct, Mr. Slovak?

MR. SLOVAK: Yes, Your Honor.

MR. HOODENPYLE: And, Your Honor --

THE COURT: Okay.

MR. HOODENPYLE: I'm sorry. I apologize. But

with that, I don't know if there's other context around those comments that would be relevant for the Court to consider all of the elements -- the relevant evidence.

THE COURT: All right. I'm going to admit the documents for the limited purpose of reviewing any videos of statements made by Mr. Head. Okay?

MR. SLOVAK: Okay. Thank you, Your Honor. Rob Slovak speaking again, for the record to be clear.

I also offer into evidence the declaration of Emily Shanks, which is Exhibit L. It's actually filed as docket number 9, Your Honor. It is a document that simply proves up as a true and correct copy of screenshots of a website for Seacret Direct which promotes the training that is going to take place this weekend where Mr. Head is going to be a speaker at that training, which we believe is evidence of why imminent and irreparable harm is about to ensue, when they launch a travel program with Eddie Head as the leader of the travel program. And just so the Court understands, I heard opposing counsel argue multiple times this morning that they don't deny that the travel program is, in fact, going to launch and that Eddie Head is the president of the travel program at Seacret. And so I think this is just additional evidence to support that not only is the non-compete being violated by virtue of him serving as the president of a competing travel business, but we're going to have imminent

and irreparable harm as a result of them launching that program over this weekend and allowing Mr. Head to be a key note speaker.

And for the same reasons, Your Honor, that I cited to you about taking judicial notice of the videos, it's common for the Court to take judicial notice of the factual information that's on the internet. And that's all this website is. Ms. Shanks also proves up a video link, a separate video link that involves an individual by the name of Jessie McPherson and two refined statements from that video link in paragraph 3. So we offer L into evidence for those reasons, Your Honor.

MR. HOODENPYLE: Your Honor, Todd Hoodenpyle.

We object to Exhibit L and Exhibit L-1. Ms. Shanks is an attorney with the debtors' counsel. ANd she's gone and done some research and now she's -- the information she's trying to, or they're trying to put in is hearsay and hearsay within hearsay. The screenshot that they have is not Mr. Head. It's someone else. And then Mr. or Mrs. McPherson, I don't know if it's a male or female, my understanding is not an employee or an agent of Sea (sic) Direct and does not speak on behalf of the entity. And it's not a statement by Mr. Head. This is pretty attenuated and hearsay within hearsay and there's a lack of foundation.

THE COURT: All right. Exhibit L is the declaration of Emily Shanks, correct?

MR. SLOVAK: That is correct, Your Honor.

THE COURT: That's what we're talking about. Now, within that is a screenshot of the program, that's what the first one is, right? Is there some objection to that, Mr. Hoodenpyle?

MR. HOODENPYLE: Yes, Your Honor. If you scroll down after the declaration, you can see the screenshot. And that is Mark Asseta. There's no testimony of who he is. There's nothing related to Mr. Head in that screenshot.

THE COURT: I think this is just showing that Seacret is having some kind of event, right, some sort of training event. Is there a dispute about that?

MR. HOODENPYLE: No, Your Honor. I don't know that there's a dispute about -- I don't know if there's an event. There may not be a dispute that there's an event planned.

THE COURT: Okay. So is there a dispute that your client, Mr. Head, is supposed to speak at that event?

MR. HOODENPYLE: No, Your Honor.

THE COURT: Okay. What was the other objection you were trying to make?

MR. HOODENPYLE: But, Your Honor, I don't know

that Mr. Head is speaking about travel at that event. There are other Seacret products that he could speak about. We don't have any evidence of that. There's no dispute that he's going to speak at it. I just don't know that he's talking about travel.

MR. SLOVAK: Your Honor, this is Rob Slovak.

To sort of tie this together. The other paragraph that concerns the YouTube video and the statement being made by Seacret representatives sort of puts this into context. Mark Asseta, for the Court's knowledge, was our trainer. And Mark Asseta is now there training for Seacret. And --

MR. HOODENPYLE: Your Honor, I'm going to object to the testimony by counsel.

THE COURT: Sustained.

MR. SLOVAK: The video from Mr. McPherson talks about that the two pieces that are valuable are Mark Asseta's leadership development and training program in the curated trips and then talks about that the trips are put together by Mr. Head.

MR. HOODENPYLE: Your Honor, I object to categorizing Mr. McPherson as a representative of Seacret. There's no evidence that Jessie McPherson is employed by or an authorized representative of Seacret.

MR. SLOVAK: Your Honor, he --

MR. HOODENPYLE: -- a multi-level marketing

industry, but there are sales representatives that do all kinds of things out there that make comments that may or may not be viable. But there's no evidence that this person is an authorized representative of Seacret.

THE COURT: Okay. I'm going to --

MR. SLOVAK: Your Honor --

THE COURT: Hang on.

I'm admitting the exhibits. I'm overruling the objection, at least for the purposes of this hearing.

MR. SLOVAK: Thank you, Your Honor. That is all of the evidence that the debtors intend to offer in support of its application for temporary restraining order before the Court today.

MR. HOODENPYLE: Your Honor, the defendant, we just have four exhibits, Your Honor, Exhibits A through D that are at docket number 12, 12-1 through 12-4. And these are all email communications between the debtor and Seacret. So we have admissions and business records for each one of these emails.

THE COURT: Any objection to A through D?

MR. SLOVAK: Yes, Your Honor.

There is nothing proving these up. There's no declaration. There's no testimony. And so standing up and saying that these are authentic or that they're business records and attaching them, the argument from counsel just

doesn't prove them up. So they haven't been authenticated and they're hearsay and contain hearsay within hearsay and are therefore inadmissible.

MR. HOODENPYLE: Your Honor, if I could respond to that.

THE COURT: No. I don't need to hear anything further, Mr. Hoodenpyle.

The objection is overruled. The exhibits are admitted.

MR. HOODENPYLE: Thank you.

THE COURT: Okay. Is there any other evidence anyone else wishes to present?

MR. HOODENPYLE: Your Honor, that's -- this is Todd Hoodenpyle. That's all of the evidence that we have.

THE COURT: Thank you.

All right. I'll hear closing then.

MR. SLOVAK: Thank you, Your Honor. Rob Slovak, again, on behalf of the debtors.

We had admissions from Mr. Head's counsel that he is now the president of Seacret and that Seacret, if it has not already, is going to launch a competing business. His non-compete prohibits Mr. Head from serving as an affiliate -- participating either directly or indirectly through an affiliate in or with a competing business during the non-compete period. That competing business is defined, as we've mentioned in opening, as membership-based travel

services marketed through direct sales. The specific prohibited language is before the Court. It is in Exhibit A-3, Your Honor. And it is on page 7 and 8 of the non-compete agreement. We are simply asking, based on the admissions of counsel and the evidence before this Court, to enjoin Mr. Head from doing what he is admittedly doing and participating in this competing business. We're also asking for this Court to enjoin Mr. Head from encouraging either directly or through an affiliate current or former WorldVentures' employees, customers, sales representatives, vendors and suppliers looking at that competing business, because he is also prohibited under the same restrictive covenants in Section 3.02 of what's now been admitted before the Court as Exhibit A-3.

We have talked to the Court earlier today about cases that support this relief. And one thing that I want to emphasize to the Court is what is imminent in this particular circumstance is that Eddie Head is about to get up in front of the Seacret universe, which includes WorldVentures' sales representatives. And I can't offer you evidence of exactly what he's going to talk about, Your Honor. I don't know. But the point is, he's the president of what is a competing business and violating his non-compete, if he stands up and talks about travel. And we're asking that the Court enter an injunction to prohibit him from operating in that competing

business. And we've cited you to the Keurig versus Dr. Pepper case. We cited you to the In re Electro-Motor case, as well as the TransPerfect Translations cases, which are substantially similar factually where injunctive relief has been entered by Courts to enforce non-competes. And, in fact, in the Dr. Pepper case, the language -- it's 219 West Law 3958154 at Star 11. What the Court says is injury resulting from breach of non-compete covenants is the epitome of irreparable injury. And in the Electro-Motor case the Court found, and I'm quoting from page 870 of this opinion from the Eastern District of Texas, 2008, 390 Bankruptcy 859 is the cite, Your Honor. The Court said, proof that a highly trained employee is continuing to breach non-competition covenants gives rise to a rebuttable presumption that the applicant is suffering irreparable injury.

So we are, and we have proven, and they have admitted that he's violating the non-compete. The case law supports the irreparable injury that we are going to suffer in this particular circumstance, if he continues to work for Seacret in their MLN travel business, assisting in it obtaining and running its own competing business. Our bankruptcy estate is going to suffer immediate and irreparable consequences, as well. And an injunction, in that circumstance, is appropriate. The harm, the balancing of the harm here favors the debtors. The only harm to Mr. Head would be to prevent

him from engaging in a competing business for the non-compete period, which he has already expressly agreed to, in this particular circumstance.

You heard counsel for Mr. Head argue somehow that he wasn't afforded sufficient consideration in exchange for the non-compete, which is just not correct. Mr. Head -- the evidence before the Court is that Mr. Head has continued to obtain confidential information. The argument made to you is that he had access to it at the time that he signed the non-compete. Your Honor, the confidential information that we're talking about is -- it's not static. It changes over and over. It updates every day. It updates consistently. And it's that continuing access that is consideration. He also was getting paid annually, so it wasn't a one-time payment. It was continued access.

As the president and chief strategy officer, he necessarily used confidential information belonging to us and our customers. And it would be impossible for him to do his job at Seacret without -- sorry, at WorldVentures without that information. And, frankly, the case law supports this notion, Mann Frankford Stein & Lipp Advisors versus Fielding at 289 SW.2d 844 out of the Texas Supreme Court held that if in the performance of an employee's job would involve the provision of confidential information, the law will deem that employee to impliedly promise to provide such confidential

information, therefore, supporting as consideration.

In the Electro-Motor case that we've talked about already, Your Honor, the Court held that although the agreement had no expressed provision where the employer promised to provide confidential information, and didn't provide for a definite term, that under what is (indecipherable few words) case, and I'm quoting from the Court here, an employee's promise not to disclose confidential information (inaudible word) to an otherwise enforceable agreement when it's excepted by the employee's subsequent performance of tendering that information. Other cases that support this idea of continuing consideration of receipt of the confidential information, Beasley versus Hub City Texas, 2000 West Law 2254692 at 5 to 6.

There are two cases that opposing counsel has cited for the notion that past consideration doesn't support the enforcement of a non-compete. One is called Powerhouse Products case and the other is Truit Software. They're both distinguishable because in those cases the -- they were at-will employment agreements. Here we have contractual agreements. And the only consideration exchanged in each of those has to do with payment, and payment only, not be exchanged with confidential information and continuing exchange and receipt of confidential information.

And so, Your Honor, the other argument that has been

advanced by Mr. Head about why his non-compete should be unenforceable is an argument that somehow -- that we waived the enforcement of the non-compete. And the only evidence that has been offered in that respect is an email that was admitted over objection a moment ago as Exhibit A by Eddie Head in which Eric Haynes, who is the CLO for the debtor indicated in an email that pursuant to the limited solicitation agreement that we talked about earlier, Your Honor, that there was a section in the limited solicitation agreement that was waived. If the Court were to look at that limited solicitation agreement in detail what the Court will easily find is -- and by the way, the limited solicitation agreement is Exhibit A-6.

What the Court will find is that the limited solicitation agreement, itself, says absolutely nothing about Mr. Head's employment agreement, nor does this email say anything about Mr. Head's employment agreement. And to the contrary, what Mr. Head has admitted in Exhibit A-3, which is an email before the Court, is at the time of his resignation, he was sent a communication from the same CLO, Eric Haynes, who said that, please be aware that certain provisions within your employment agreement, including without limitation Article 3, confidentiality and non-compete, survived the termination of your employment at WorldVentures. We wish you well in your future endeavors. To which Mr. Head responded,

received and understood.

Your Honor, the argument simply doesn't carry water. It is undisputable here, now with the admissions, that he is operating in a competing business and should be enjoined from doing so, under the circumstances. So we would ask that Your Honor enter the limited temporary restraining order that we have filed with the Court as docket number 2-1, that enters injunctive relief based specifically on the language drawn from the covenants and the restrictive covenants in the employment agreement before this Court. Because sufficient evidence has been offered of all elements to support injunctive relief.

Thank you, Your Honor.

THE COURT: Thank you.

Does anyone else wish to speak in favor of the motion?

MR. FEINSTEIN: Your Honor, since Your Honor asked, this is Robert Feinstein, proposed counsel for the Committee. Just briefly, Your Honor.

As I said at the outset, this is -- the matters that are, you know, affected by this litigation, go to the heart of the debtors' business. And, you know, our fear -- and I don't think the evidence has (inaudible word) with that and hoping Your Honor enters an order. Our fear is that if Mr. Head were to get up in front of this large group of people and taught a travel business this weekend, that really

could be potentially the death knell for the debtors' business. That people will have gravitated there for cosmetics and stayed for the travel.

And I'll just close by saying, Your Honor, that comments by Mr. Head's counsel that, well, we don't know what he was going to talk about there. If you look at the entirety of the evidence, Your Honor, the context, I think we know exactly what he was going to be speaking about. So obviously it's a limited evidentiary record, Your Honor, on a temporary restraining order. But we urge Your Honor to preserve the status quo by granting the debtors' request.

Thank you.

THE COURT: Okay. All right.

Then I'll hear anyone in opposition. Let's start with Mr. Hoodenpyle.

MR. HOODENPYLE: Thank you, Your Honor. Todd Hoodenpyle on behalf of Kenneth Head.

Your Honor, as we said in our very long opening statement, the debtors cannot show a substantial likelihood of succeeding on the merits in this case. And if you look at the history of this matter, it just -- I guess it's a little bit ironic that you have debtors that are coming here and going after a principal of a company that kept them alive to be where they're at today. But Mr. Head was a long-time employee of WorldVentures and had confidential information

for years and never had a non-compete agreement. Even after he became president, he had access to all of this information. And they never said, you know, we need a non-compete agreement. And now they want to come back to argue that there's some kind of continuing consideration for the new non-compete that he signed, Your Honor. Which goes completely against Texas law. And the cases that Mr. Slovak has cited, I think they've been misconstrued and I want to explain those cases a little bit from an employment law perspective.

Your Honor, there was a long history, and you can stop me, Judge, if you don't want to hear the employment law history of this. But it's relevant because of their argument that there's some kind of continuing consideration that goes on. But there was supposed to be some kind of consideration given at the time the non-compete was signed. And the Supreme Court basically said under the White case that it had to be done contemporaneously. And that causes a lot of confusion over the years. Well, in the early 2000s the Supreme Court came back and re-visited that and said, well, you can sign a non-compete agreement and then later the employer can give you the confidential information. And then you will have a binding non-compete agreement. And the cases that they're citing, that's exactly the point that it goes to, which is completely not the point of this case. Because

Mr. Head had confidential information for years without having a non-compete agreement, which goes to basic contract law. You can't give somebody consideration they've already had and try to bind them by it.

And the two points of consideration that Mr. Slovak spoke to is that he's brought some continuing right to get confidential information. And the other point was that he is -- he gets paid periodically. Well, it's never been the law in Texas that money will give rise to a non-compete agreement. So both of their attempts to have some kind of consideration for this non-compete agreement fail under Texas law.

If we look at waiver, Your Honor, and we look at the particular documents that show waiver, if you look at Section 1.5 of the limited solicitation agreement that I believe Mr. Slovak directed us to at A-6, it -- of course it doesn't mention Mr. Head's employment agreement. It doesn't mention anybody's employment agreement. But it's a general prohibition that Seacret will not solicit WorldVentures' executives. And that changed within a week. And that's why we have our Exhibit A. Mr. Haynes, the chief legal officer that we heard earlier about that we discussed the settlement option with, sent an email out to Mr. Nugent, the CEO of WorldVentures and Mr. Ben Shabat, the CEO of Seacret, that says, I'm sending this email pursuant to Section 1.5 of the

limited solicitation agreement. WorldVentures hereby waives Section 1.5, but only with respect to the following current and former employees. Number one on the list is Eddie Head. And that couldn't be more clear of an intentional relinquishment of known right. They waived their right to enforce a non-compete agreement against Mr. Head, along with these other employees, including Justin Call, which I understand is also an employee over there who had a non-compete agreement. There are a couple of people working at Seacret that had non-compete agreements and they're not enforcing these non-compete agreements against those people, which is another aspect of employment law in Texas. That if you have to have a non-compete, it has to be necessary to protect the goodwill and other business interests of your company. And if you're allowing all of your other employees to go out and compete with the same entity, then it's hard -- you'd be hard pressed to say that they're protecting the goodwill and other business interests of the company.

To go to what Mr. Feinstein raised. He said, well, this goes to the heart of the business. Well, they're not even going to get the relief that they would need by this lawsuit. They're arguing that Seacret is going in -- there is this competitor that shouldn't be able to go out there and do this, but they're not even suing Seacret. There's no lawsuit against Seacret. This has been brought up time nad

again by Seacret. And the debtors haven't explained why they haven't brought Seacret into this case. And it's a mystery. It's a secret, I guess. But then he says, look at the context. He says -- Mr. Feinstein said, look at the context. There's no evidence and there's no allegation in the original complaint, there's no allegation in the application for the TRO that Mr. Head is doing travel or about to talk about travel, as opposed to Seacret's other products.

The -- another point, Your Honor, for where Mr. Slovak ended and where Mr. Feinstein picked up is they're claiming that this is necessary for the sale process. That this is somehow a hinderance to the sale process. And being new to this, Your Honor, I'm not sure exactly where this bankruptcy is. But from what I understand, they've already -- they already have solicited bids. And if there was a hinderance to the sale process from this, then you would think that they would have some allegation to that affect. But there's not a single allegation to that affect. There's nothing for the Court to go on for that.

Your Honor, they also can't show harm on the confidential information because they failed to show, or allege, that Mr. Head gave Seacret information that they did not give themselves. They talk about that I've admitted that Mr. Head is the CEO and that they're doing travel. Well, everybody has known that Mr. Head is the CEO -- not the CEO,

the president. Everybody's known that for months, or a month, or so, and they took no action. The facts that I have so-called admitted, everybody knew. But on the other hand, we've got the debtors that they don't have any evidence that Mr. Head is actually out there going to talk about the travel program or whether he's going to talk about something else. Whether he's even involved in that. So that's a hole in their case, Your Honor, in terms of their allegations.

Your Honor, on the bond, they're basically required to put up a bond, if they're going to get this relief. But they're not entitled to this relief. And I'll end with this, Your Honor. Mr. Slovak's statement that we don't know what Mr. Head is going to get up and talk about, he said, I don't know. You don't get an injunction on I don't know. Your Honor, they have not shown that they're likely to succeed on the merits. They have not shown harm. The only paragraph in Mr. Poates' declaration was completely conclusory. And we'd ask the Court to deny the relief.

THE COURT: Anything further from any other party?

MR. LAMBERSON: Your Honor, this is Phillip Lamberson on behalf of Seacret. I'm going to be very, very brief, because we're after 5:00 now and still have another motion to plow through.

I'm going to just state what I think the Court is

probably thinking, which is really that the core of this complaint isn't really a cause of action. It's seller's remorse. But fundamentally, the debtors, WorldVentures, were absolutely aware months before that Mr. Head was going to join Seacret. They approved that. Mr. Hoodenpyle just showed that unequivocally. And now they don't like that. They've got (inaudible word) to stop him. As Mr. Feinstein says, if Mr. Head gets up in front of this large group of people, it could be the death knell for the debtor. I think that's probably hyperbole. I don't think that's really correct. But that's the concern that they've got.

So I think it's important to keep this in the right context which is, this wasn't a surprise to WorldVentures. They were aware and agreed to the fact that Mr. Head is going to join Seacret. He is now Seacret's president. He's involved in the various product lines that Seacret has, which at this point actually are not travel at all. Although to be fair, likely will be soon. And so really what's going on here is not a cause of action, it's the fact that they feel like they shouldn't have entered into agreements, entered into consent, (indecipherable two words) done things in the past. So hopefully Your Honor sees that that's really kind of the main thrust here and not necessarily that Mr. Head is acting in any kind of inappropriate or illegal way.

THE COURT: All right. I'd like to hear from

the -- Mr. Hoodenpyle, I guess, about what harm, if any, would accrue to Mr. Head if an injunction were to issue for the next 14 days.

MR. HOODENPYLE: I guess there's two parts to that, Your Honor. One part, if he were just enjoined not to do travel and he could work there in other aspects, that would be one thing. But if he's completely enjoined and he's going to be out his income -- I'm sure Seacret's not going -- I don't know that they're going to agree to pay him when he's not working, so he will lose income.

THE COURT: Okay. All right. Just so I know, what is his income that he would lose for 14 days?

MR. HOODENPYLE: I would have to get Mr. Head to provide that information to Your Honor.

THE COURT: Okay. Mr. Head is present, correct?

MR. HOODENPYLE: Yes, Your Honor, I believe he's on the line.

THE COURT: Mr. Head, can you tell me what -- if you were not permitted to work for the next 14 days, how much is the income that you would lose?

MR. HEAD: Net of taxes in the neighborhood of 12, $12,500, or so.

THE COURT: Okay. Thank you, sir.

MR. HEAD: You're welcome.

THE COURT: All right. Mr. Slovak, are you asking that Mr. Head be enjoined from conducting any business that's not related to the travel industry?

MR. SLOVAK: Your Honor, we are asking that he be enjoined from doing business for a multi-level marketing company that is offering membership-based travel services, which -- at what stage those are being offered and if they're being offered now and all of those things are, I don't know. But clearly we're not suggesting, and we have said to Your Honor from the beginning, that he was enjoined from working in travel or working to sell skin care products. He just can't be working on behalf of a multi-level marketing company offering membership-based travel services. That's what WorldVentures is. That's what Mr. Head is apparently now doing. And no one is denying that that's the case. And it's the specific restriction that was in his non-compete.

Your Honor, with a second of indulgence, I just need to make something abundantly clear. At the time that Mr. Head gave some indication that he was going to work for Seacret, Seacret was not in the travel business. They were not --

THE COURT: I understand. I understood the point that was made earlier about that. Okay?

So all I need to understand is, is Seacret currently a company that is -- that is in the multi-level, membership travel related business? Is that what Seacret is currently

doing, or is that what Seacret is in the process of launching in the future at some point in time?

MR. SLOVAK: Your Honor, we believe that --

MR. HOODENPYLE: Your Honor --

THE COURT: Hold on. Let me hear from Mr. Hoodenpyle, please.

MR. SLOVAK: Okay. Thank you.

MR. HOODENPYLE: Your Honor, Todd Hoodenpyle.

You might need to get this from Seacret or from Mr. Head. But my understanding is they are not currently in that business. They're in the process of potentially launching. But my understanding is they're not currently selling a product or service. And it's in the launch phase, but they're not actually engaged in that service.

THE COURT: Okay.

MR. SLOVAK: Your Honor, may I? This is Mr. Slovak.

The videos that you have had admitted into evidence, the multi-level marketing membership-based travel program is being promoted all over. Hundreds of videos per day with people that identify themselves as representatives of Seacret, who are putting on the screen power points, that are promoting trips using our brands; DreamTrips, Rovia, talking about all the excitement around the launch of this travel program. We believe that launch is coming this weekend. We

believe that launch is coming as part of this training that's going to happen this weekend. I don't know, because I have discovery and I don't work for Seacret. And that's part of the reason why we believe that the harm is imminent and irreparable and that's why we need to take discovery in the immediate term to discern Mr. Head's involvement from the beginning of how this travel program went from inception to a launch in this exceptionally short period of time in a business that had absolutely no experience whatsoever in travel. That is the fundamental -- this is not buyer's remorse. This is about a president that we believe sold us a story that wasn't true and had the intent to basically walk away from this business. Open up a competing business with someone who wasn't competing before. And we believe he did it using confidential information to take from us our most valuable assets and leave the creditors holding the bag.

And we ask that the Court put an end to that quickly. Because we believe that it's imminently launching and it would be devastating to the business in the absence of injunctive relief. And we'll get the chance, hopefully if an injunction is coming, to hear the motion on expedited discovery. And we'll get to ask these questions to determine when and how it's actually going to launch. Right now, we don't know, because we don't have that evidence.

THE COURT: All right.

MR. LAMBERSON: Your Honor, this is Phillip Lamberson. I'm sorry, go ahead, Your Honor.

THE COURT: Okay. I'll hear from you, Mr. Lamberson.

MR. LAMBERSON: Just very, very quickly.

Mr. Slovak said several things there about my client right after saying he doesn't know anything about my client. I think you know that about their interest in travel, their experience in travel, how long they may have been looking at doing travel. So I just wanted to point that out that, you know, there's been a lot of testifying by attorneys in this hearing. That happens in bankruptcy hearings. I totally get it. But that's really not correct.

THE COURT: Okay. Let me just ask specific questions, given the late hour. Okay?

So is the debtor seeking to stop Mr. Head from conducting any business on behalf of Seacret, or just related to the multi-level marketing business related to -- let's see, how do you say it, membership-based travel business?

MR. SLOVAK: Yes, Your Honor. The exact definition in his non-compete is a competing business is defined where a person provides services. And services are defined as membership-based travel services marketing --

THE COURT: You're not answering --

MR. SLOVAK: We're seeking --

THE COURT: Are you seeking an injunction that would prevent Mr. Head from conducting any business for Seacret that is not a part of the travel-related business?

MR. SLOVAK: No, Your Honor.

THE COURT: Okay. So we're not doing that, right? Because I think what I heard Mr. Hoodenpyle say is if it's not related to the travel business, if he's able to work for Seacret on matters that are not related to the multi-level, membership-based travel business that there would not necessarily be any harm to Mr. Head.

Is that correct, Mr. Hoodenpyle?

MR. HOODENPYLE: Well, yeah. That's what I said, Your Honor. I guess with one qualification, that's whether or not he would be able to serve business related. But I think for the most part, that's correct.

THE COURT: Okay. And I'm just talking about the next 14 days. Because we're here on a TRO. So that's all I'm taking up. And there may be bigger issues after we get past that and discovery has been had and we have more information. But I'm just talking about the issues -- as you all know, one of the factors the Court looks at in the context of an injunction is the harm to the party. So that's what I'm trying to understand.

Okay. So I'm going to grant the TRO for a period of 14 days. As articulated by the debtor on the record today,

Mr. Head is enjoined from participating in any work or disclosing any information related to the multi-level travel -- multi-level, membership-based travel business, as stated in the employment agreed. So I'm going to grant the motion, but it's limited to the multi-level, membership-based travel business. And I understand from the debtors' counsel that that's all they're asking for, at this point in time. I'm going to grant you a 14-day injunction, a TRO. And we're going to have a preliminary hearing on the motion for preliminary injunction on March 8th --

MR. SLOVAK: I'm sorry, Your Honor, this is Mr. Slovak. You cut out. What date? I apologize.

THE COURT: March 8th at 10 a.m. That's the 14th day.

MR. SLOVAK: Thank you, Your Honor. I apologize.

THE COURT: Okay. So now let's talk about the discovery that needs to be had to be able to make that March hearing.

MR. SLOVAK: Thank you, Your Honor. Again, Rob Slovak speaking on behalf of the debtor.

The discovery that we seek in this particular case is four depositions. And just to tell the Court what I told you before we started this hearing, I believe that at least with respect to the scope of discovery, that we have an agreement

in principle with Mr. Head's counsel. I don't yet know what Seacret's position is.

But the agreement that we reached with Mr. Head's counsel was four depositions per side, limited to three hours each. And each party could serve 15 requests for production. The endeavor would be to serve those this Friday and then respond and produce documents by next Thursday. And then the parties would work together in a cooperative fashion and attempt to take the depositions the following week, in advance of the injunction hearing. So that's the proposal, as it concerns the scope of discovery between Head and the folks on the debtors' side.

We've also asked the Court to allow us to take expedited discovery to include a deposition of a representative of Seacret on topics that are identified in our motion, specifically in Exhibit B to our motion which is filed at docket 3. The thrust of the topics for examination are focused on the circumstances and terms surrounding Mr. Head's employment with Seacret and the launch of the travel business. The access to and use of WorldVentures' confidential information in connection with that travel business. And Seacret's recruitment and solicitation of WorldVentures' sales agents, customers, employees, or vendors, as well as efforts to trade off of relationships with contracts and sales agents and customers.

And the idea, Your Honor, of course is to test Mr. Head's involvement in the launch of the competing business, as well as the efforts to remove our assets, being our employees, and sales customers, and representatives from the business. And to the extent that that evidence shows that Seacret knew about it, or was actively involved in it, of course, the evidence will show what it shows. There's been lots made here about why we haven't sued Seacret. And with all due respect to the arguments being made, we're going to evaluate very carefully if we have claims against Seacret. And may, in fact, assert those claims against Seacret. But certainly for now, the evidence that we have asked for concerns Mr. Head's involvement with launching this competing business in violation of his non-compete and a breach of his fiduciary duty.

We had proposed the discovery with respect to Seacret, as I mentioned, would be one deposition. And then we in Exhibit C to -- I'm sorry, yeah, Exhibit C to docket 3, which is our expedited motion, we had identified, I'm sorry, 15 requests for production that we propose to serve on Seacret. In our discussions with counsel for Seacret, we proposed to limit those requests to a period of January the 1st of 2020 forward, because there was an issue raised with the timing. And we agreed to limit request for production number 7, as it concerns communications and documents between and among Head

and WorldVentures' representatives concerning Seacret's travel business. We had agreed to take out paragraph -- I'm sorry a phrase in request 11 concerning Seacret's Legacy business. And that was the proposal that was on the table. As I understand it, Seacret's counsel had not agreed to that proposal. I don't know what their position is. But we believe that the requests and the topics are reasonably tailored to explore the issues that are going to be necessary for this Court to evaluate the injunctive relief.

And as the Court recognized, Your Honor, we are seeking broader relief in the injunction, including to prevent solicitation that was prohibited under the employment agreement. To mandate return of confidential information that may be in Mr. Head's possession. He had an obligation to return. And to prevent the mis-use or disclosure of that confidential information, as well as to prohibit disparagement, all of which are also obligations in the employment agreement. And so the discovery concerns those issues. And we believe it is narrow and reasonably tailored. And as the Court of course knows, because we have an imminent injunction hearing that good cause exists to take this discovery on an expedited basis in a narrowly tailored fashion. And that's what we've asked the Court to allow us to do in this circumstance.

THE COURT: All right. Let me hear from the

other parties.

MR. LAMBERSON: Your Honor, this is Phillip Lamberson on behalf of Seacret.

Mr. Slovak mentioned we did talk shortly before the hearing. I did have a chance to follow up with my client, but did not have a chance to get back in contact with WorldVentures' counsel.

So we're not a party here, as you know. And so in terms of depositions, we're not taking any. In terms of requests for production, we're not serving any. We're just going to be a punching bag, basically, for purposes of providing discovery. But in that connection, I do want to put this in context.

So if based on the fundamental fact of WorldVentures' case, Seacret is a competitor of WorldVentures, right? What makes all of their claims go is their allegation that Seacret is one of their competitors. Okay. And so the Court needs to understand that all of this discovery is being propounded to Seacret as a non-party on a highly expedited basis. They want all of this produced in seven days. And their own admission, we're their competitor. Okay. So I just want to make sure that there's the proper context here --

THE COURT: Well, wait a minute. Hold on a second. I thought the discovery was in part to determine whether you are their competitor.

MR. LAMBERSON: Yes, Your Honor. Yes. But I'd like to raise that because -- I'm sorry, Your Honor.

THE COURT: All right. You may continue.

MR. LAMBERSON: I'm sorry. It's very difficult to tell when you're talking. As you know, this is not a great setup.

So I mention that, Your Honor, because that is exactly the one topic that we told the debtor -- the debtors that we were happy to provide discovery on. We recognize that whether we're a competitor, the status of the travel program, the scope of the travel program is something that's not in their purview. It's not something in Mr. Head's purview. That's information they have to get from us. And so that is actually the one topic that even when we talked earlier today, I told WorldVentures' counsel that's a fair topic for discovery.

To be fair, we may end up agreeing to that. We may not need to have any discovery on that. We may be able to just say, yeah, you're right, we're a competitor for purposes of the definition in Mr. Head's employment agreement. That that's exactly right.

The other aspect that we've agreed to -- and this is after we talked earlier today -- is we'll provide any communications with Mr. Head -- I'm sorry, any communications between Seacret and Mr. Head while he was an employee of

WorldVentures. And we'd like to limit it from July 2020 forward. The reason being, Your Honor, is that's roughly the date of the first agreement that they're challenging, or complaining about, which is the co-marketing agreement. Again, we do only have about seven days to produce those. We are going to have to make it something that's feasible. You know, we don't -- at least for purposes of what we're doing in providing discovery, we don't want to set ourselves up for failure and end up back in front of Your Honor because we've tried to produce more, tried to provide more than we can practicably get done. So that's basically what we have proposed.

I will point out that Mr. Slovak has really significantly glossed over their production here in terms of it being narrowly tailored and only related to the injunction. Your Honor, if you look at the debtors' motion for expedited discovery, this is actually the very last page, it's page 3. These are -- I'm just looking at request number 13. This is Seacret's internal documents and communications concerning the creation, launch, and implementation of Seacret's travel business. Not only did Mr. Head -- that's prior -- that's a prior request. This is basically just, hey, competitor, tell us what you're doing. Tell us how you're doing it. And when you're going to do it.

There's only (inaudible few words) like item number 7,

number 11, which basically wants all discovery related to the limited solicitation agreement, the LOI, the co-marketing agreement. Basically they're asking for all of the counter-parties information related to the negotiation of those documents. But they're not related to WorldVentures, related to us. As well as all information related to our business, Legacy business and travel business. But these aren't narrowly tailored. That's really not correct.

The other thing I'll point out, Your Honor, is that this is the beginning of this case. Right? This case was filed not even a week ago. It was filed on Monday. There's going to be normal discovery on a normal timeline. I fully expect that at some point in the future, we're going to get a Rule 45 subpoena. And obviously we'll comply with that at that time. What we're dealing with now is highly expedited discovery that relates to the preliminary injunction. And so to the extent that something is not directly related to the preliminary injunction and, frankly, isn't something that they can practicably get from Mr. Head, who is the defendant, you know, then it might be fair game. But, you know, just sending us with respectively a case in chief, you know, months before trial, discovery requests and asking us to comply with it in seven days is just, it's utterly unreasonable.

Your Honor, finally, we stated this in our objection.

Judge Jordan has recently stated the standards in the Eastern District for expedited discovery of third parties. They're basically whether the plaintiff has made a prima facie case of actionable harm, specificity of the discovery request. As noted, we very much dispute that this request is specific. The absence of alternative means to obtain the subpoenaed information. Again, to the extent that they can get information from Mr. Head related to their allegations regarding communications or disclosure of information, or solicitation, or whatever, then they should. We fully understand that that probably requires Mr. Head to produce Seacret emails that relate to his account. That's fine. But that's discovery to him, not to us.

Judge Jordan also pointed out the necessity of the subpoenaed information to advance the claim. Again, Your Honor, this has got to be tied to the temporary injunction hearing. It can't be evidence and discovery related to the case in chief. And then finally the user's expectation of privacy. Again, according to the debtors, their entire case revolves around the idea that we're their competitor. So we obviously have a significant expectation of privacy of our information as it relates to one of our competitors.

So, Your Honor, I think what we've proposed, which is basically discovery related to whether Seacret qualifies as a competitor, fair game. We may end up agreeing to that.

Discovery that relates to communications between Seacret and Mr. Head while he was a WorldVentures' employee after July 2020, again, we can produce those. And we think we can get that done in the next seven days.

THE COURT: All right. So which part of discovery is there still an objection to?

MR. LAMBERSON: Your Honor, I don't -- if you're asking me, I don't think WorldVentures has agreed to what I've proposed. I think what they want is all of our internal information related to our travel business. They want communications completely unrelated to Mr. Head. They want communications, internal communications about documents that were negotiated with them. We're not -- we're not -- we don't think that's relevant to where we are. We don't think it's reasonable to produce it in the time frame we have related to the injunction hearing. So we're not in agreement on that.

MR. HOODENPYLE: Your Honor, this is Todd Hoodenpyle.

There were separate calls, despite my request. The debtors had a separate call with Seacret, so we had different calls on discovery. But in our call, one part of it is along the lines of what Mr. Lamberson is saying in terms of the scope. And suggested that we needed to limit the scope just for the preliminary injunction hearing, because the breach of

fiduciary duty claims and these communications about a co-marketing agreement really don't seem to be on point for what we're going to do at a preliminary injunction hearing where they're really just trying to prevent Mr. Head from working in the travel business for Seacret or any other MLN. So we're looking for some kind of limitation there, especially given the limited time frame.

And, Judge, it's been a long day. I know the Court has probably said this two or three times already. I just wanted to make sure I heard right that the hearing is set on March 8th. But then I thought I heard the Court say that is 14 days.

THE COURT: It is March 8th. By 14 days, what I meant was that the TRO will still be in effect. It will be the last day.

MR. HOODENPYLE: Okay. I understand. That makes sense.

THE COURT: I get the hearings when the parties need them, but also give you as much time as possible to conduct your discovery.

MR. HOODENPYLE: Thank you, Judge. That clears up my misunderstanding about that. It makes sense now. But we were -- when I had this discussion with Mr. Slovak, we were talking about the time frames of exchanging discovery and we'd theoretically thrown out, let's

get a request out on Friday and respond by Thursday and then depositions the following week. We might need to modify that. I was thinking we would have a little bit more time the following week for depositions.

THE COURT: Okay. Why don't we do this. The scope of the discovery is limited to those issues that are relevant to this preliminary injunction hearing. Okay? It's not -- the scope of the discovery for right now is not anything and everything that is subject of the underlying dispute between the parties. You can have a more normal discovery in the context of the case progression normally. Then let me -- all we're talking about at this point is the preliminary injunction issue.

I think that a discovery schedule propounding discovery by close of business Friday, producing by close of business next week, whether Thursday is agreeable to the parties, and then conducting the four depositions seems to me to be adequate. As far as the scope of the discovery, it is limited to the issues that are germane to the preliminary injunction issues. If you all want to reach a more detailed agreement, or a slightly different schedule that accommodates the needs of all of the parties, you can do that and upload an order consistent with the Court's instruction, which is that the scope of the discovery will be limited. If there's an objection to the scope of the question, whether it be in

the context of the deposition or in the context of a request for production, you can assert that objection. Having said that, if I disagree with you, I'm going to assume the opposite for purposes of the preliminary injunction hearing.

Do you all understand what I'm saying?

MR. LAMBERSON: Your Honor, this is Phil Lamberson. I'm sorry, I don't understand what you mean --

THE COURT: What I'm saying is, if you fail to produce a particular document that is relevant to the preliminary injunction and the debtor, for example in this case, does not have the information because the discovery was not produced, for purposes of the hearing, I'm going to assume certain facts for issuing the preliminary injunction. Then we'll get the permanent injunction issue later. But given that there's a shortened amount of time, the debtor has their burden, the creditors have their burden, their objection, you can't withhold documents and then turn around and say, well, I withheld documents or withheld discovery and, you know, now they can't prove their case. Right?

MR. LAMBERSON: Okay. I understand. Thank you, Your Honor.

THE COURT: Okay. So I think that the point is, and I think some of you all practice in this court fairly regularly, so you all know that I expect all of the parties to cooperate and be reasonable in providing discovery that is

appropriate and timely. Okay? And usually what I find is that when there's a disagreement, it's usually somebody is being unreasonable. And there are consequences with that.

So as I've said, I'm limiting the discovery to the issues that are germane to the motion for preliminary injunction. The request for production can be propounded by close of business Friday. The responses have to be submitted by close of business next Thursday, a week from this Thursday. And then the depositions can be held the following week. The parties are instructed to visit. Just for those of you who aren't here normally. We do more visiting than having meetings or conferences. So I expect you all to visit about setting mutually convenient date and time for the depositions. Four depositions being 3 hour limits in time, as well.

MR. SLOVAK: Four depositions per side, Your Honor?

THE COURT: Yes.

MR. SLOVAK: Okay.

THE COURT: Okay. And I think the debtors suggested a 15 request for production. That seems appropriate. Again, the parties make sure that the requests and the depositions are narrowly tailored to the issues that are relevant to the motion for preliminary injunction. Okay?

MR. HOODENPYLE: Your Honor, this is Todd

Hoodenpyle.

I hate to raise this. But just for Mr. Head's benefit on the temporary injunction, the temporary restraining order is preventing him from working for Seacret related to travel, but the other areas that he performs services for for Seacret are -- he's still able to continue in that role.

THE COURT: Correct.

MR. HOODENPYLE: Okay. Thank you.

THE COURT: And my understanding is that he -- that the debtor didn't ask otherwise.

MR. HOODENPYLE: Thank you.

THE COURT: The debtor did not ask for an injunction with respect to any other services he's providing to Seacret. Okay?

All right.

MR. SLOVAK: Your Honor, this is debtors' counsel, Rob Slovak, again.

Would you like for us to submit a proposed order to you?

THE COURT: You may. And, again, if you all reach an agreement with respect to the discovery issues, you can submit it as an agreed form of order, since you all have some time to get that uploaded after the hearing. Okay? The injunction order, the movant is instructed to upload the order consistent with the Court's ruling. Make sure that the

other parties have an opportunity to review it before you upload it. Okay?

MR. SLOVAK: Thank you, Your Honor.

THE COURT: Okay. Is this -- is there anything further?

MR. SLOVAK: Your Honor, I hate to burden the Court any longer, but I know Mr. Jones was waiting to address the cash collateral motion. Sorry for the late hour. But I think he's still on the line, if you'll all indulge our patience in that regard.

MR. JONES: Judge Rhoades, I'm on the line.

THE COURT: You may proceed.

MR. JONES: Thank you for the Court's time today, Judge.

This is just a brief matter that pertains to the lead bankruptcy case, 20-42492. The debtors and the parties in interest to this case, counsel for the secured lenders, proposed counsel for the Committee, as well as the counsel for the purported stalking horse bidder have agreed to a motion to continue the March 2nd hearing on the debtors' cash collateral motion and the bid procedures motion. Docket number 18 and 92. And we would request that the Court reschedule those matters for March 16th, or some other time that is available for the Court. And, likewise, extend the deadline for responses and objections to both of those

motions to March 9th.

And I'm happy to answer any questions the Court has in that regard.

THE COURT: All right. Did you visit with my courtroom deputy about the date and time that you're requesting?

MR. JONES: Yes, Your Honor, I did. I spoke with Ms. Marzek this morning.

THE COURT: Okay. Thank you. Let me check.

Okay. So that's a docket day. Are you expecting that you're going to have a contested hearing? Are you going to need a lot of time on the Court docket?

MR. JONES: Your Honor, I expect that we're going to be able to make quite a bit of progress. That's part of the basis for requesting the continuance, just do to the weather events that happened on the week of the 15th of February. We believe that this time will help us to get to possibly a resolution of at least the cash collateral motion and make additional progress on the bid procedures motion. So to answer the Court's question, I believe -- I don't believe that it will be a very long hearing. But I don't want to commit to that.

THE COURT: Okay. Well, it's a docket day. So what we will do is we will set this over on March 16th at 2:30 p.m. is fine. But it's 2:30 because we have a docket

earlier in the day. Okay?

MR. JONES: Yes, Your Honor.

THE COURT: All right. But here's the thing. Because this is not done at the regular date and time of the hearing, we can't just continue it. You're going to have -- we're going to continue it now, but you're going to have to re-notice it out completely in terms of the dates and time. Okay. The objection deadline for the 9th is fine and continuing it to the 16th at 2:30 is also fine. We have time for you then. But just make sure you re-notice it out.

MR. JONES: Thank you very much, Your Honor. I'll file the -- I'll file the motion and the agreed order. And once the Court enters the order, I'll file the amended notice of the hearing date and time.

THE COURT: You don't need to file the motion. You just need to send an amended notice of the hearing. Okay?

MR. JONES: Okay. Perfect.

THE COURT: Normally in terms of proceedings before this Court, if we have -- if you make an announcement at the hearing, so that's already been noticed out and anybody objecting to it would be at the hearing and we notice it out that we have continued it, we don't require re-noticing. Okay? But if we're doing it in advance of the hearing, you're going to have to re-notice.

MR. JONES: Okay.

THE COURT: Okay.

MR. JONES: Yes, Your Honor. Thank you very much for accommodating us on that.

THE COURT: All right. That's just fine. All right. Anything further?

MR. SLOVAK: Nothing from the debtors.

THE COURT: I'm glad there's no comments. Thank you. Parties are excused and I believe we're adjourned.

(End of Proceedings.)

C E R T I F I C A T E

I, CINDY SUMNER, do hereby certify that the foregoing constitutes a full, true, and complete transcription of the proceedings as heretofore set forth in the above-captioned and numbered cause in typewriting before me.

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