

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

In re:	)	
	)	Chapter 11
AMERIMARK INTERACTIVE, LLC, <i>et al.</i> , <sup>1</sup>	)	
	)	Case No. 23-10438 (TMH)
Debtors.	)	
	)	(Joint Administration Requested)
	)	

---

**DECLARATION OF STUART NOYES IN SUPPORT  
OF CHAPTER 11 PETITIONS AND FIRST DAY PLEADINGS**

I, Stuart Noyes, declare under penalty of perjury:

1. I am the Chief Restructuring Officer of AmeriMark Interactive, LLC (“AmeriMark Interactive”), a Delaware limited liability company, and each of the other above-captioned debtors and debtors in possession (collectively, the “Debtors,” or the “Company”). The Debtors operate a catalog based direct marketing business, selling apparel and footwear, furniture and home décor, general merchandise, health, beauty and wellness products, and garden products for the U.S. 50 and older market. The Debtors sell products through a multi-channel platform across nine catalog titles, ecommerce websites, and third-party marketplaces.

2. As the Chief Restructuring Officer of the Debtors, I am responsible for, and am materially engaged with, the Debtors’ operational and financial management including, among other things: (a) restructuring activities and initiatives of the Company; (b) cash management and liquidity forecasting; (c) the development of, or revisions to, the Company’s business plan, including assistance with the sale process described herein; (d) engagement with creditors and other stakeholders; and (e) contingency planning.

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the Debtors’ federal tax identification number (if applicable), are: AmeriMark Interactive, LLC (8556), AmeriMark Intermediate Sub, Inc. (0032), AMDRL Holdings, Inc. (8195), AmeriMark Intermediate Holdings, LLC (N/A), AmeriMark Direct LLC (9045), Dr. Leonard’s Healthcare, LLC, (0683), and L.T.D. Commodities LLC (4665). The corporate headquarters and the mailing address for the Debtors is 6862 Engle Road, Cleveland, Ohio 44130-7910.

3. In October 2022, the Debtors engaged my firm Riveron Management Services, LLC (“Riveron”) to provide restructuring advisory services. On November 10, 2022, the Debtors appointed me as Chief Restructuring Officer.

4. I am currently a Senior Managing Director at Riveron, a professional services firm with offices located at 265 Franklin Street, 10<sup>th</sup> Floor, Boston, Massachusetts 02110. I have more than 25 years of experience in various management positions and serving as a financial advisor and providing restructuring and performance improvement services to companies, equity owners, and directors of underperforming companies. I have previously served in the following roles in industries similar to the Debtors: Chief Executive Officer of Summer Infant (a designer, marketer, and distributor of products for infants and children); Chief Restructuring and Executive Officer of Incipio, LLC (a designer and manufacturer of mobile accessories and technology); and Chief Restructuring Officer of Pacific World Corporation (an innovator and supplier of proprietary beauty care products).

5. Except as otherwise indicated, I base all facts set forth in this declaration (this “Declaration”) on my personal knowledge, my review of business records, discussions with the Company’s management team, or my opinion based on my experience, knowledge, and information concerning the Debtors’ operational and financial condition. If called to testify, I could testify competently to the facts set forth in this Declaration, which I am authorized to submit on behalf of the Debtors.

6. On the date hereof (the “Petition Date”), the Debtors commenced voluntary cases (the “Chapter 11 Cases”) under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware to, among other things, conclude one or more sales of the Debtors’ assets.

7. As discussed in further detail below, these Chapter 11 Cases were necessitated by,

among other things, unanticipated catalog printing delays and deficiencies by a key vendor immediately following a change of ownership of the Debtors (a current subject of litigation), fluctuations in the availability of inventory through the supply chain, extreme fluctuations in demand caused by the COVID-19 pandemic and its aftermath, inflationary pressures, and rising interest rates. Despite a change in senior management in late Summer 2022 and Riveron's engagement in Fall 2022, and positive operational changes made by these groups working together, these factors—together with a prepetition sale process that did not generate an acceptable going-concern offer for the Debtors' businesses as a whole—all ultimately culminated in the Debtors' chapter 11 filing and the Debtors' determination, in an exercise of their business judgment, to pursue a postpetition liquidation sale of their assets.

8. I submit this Declaration to describe the Debtors' background and the circumstances that led to these Chapter 11 Cases. I also submit this Declaration in support of the relief requested by the Debtors in the "first day" applications and motions filed with the Court (collectively, the "First Day Pleadings").

9. By the First Day Pleadings, the Debtors seek to, among other things:
- a. allow for the continued payment of wage and tax obligations;
  - b. engage a claims and noticing agent;
  - c. ensure the continuation of the Debtors' cash management system without interruption;
  - d. provide adequate assurance of payment to the Debtors' utility providers;
  - e. continue their insurance programs; and
  - f. obtain approval of certain creditor matrix and noticing procedures.

10. I am familiar with each of the First Day Pleadings. Absent the relief requested in the First Day Pleadings, I believe that the Debtors would suffer immediate and irreparable harm

that would jeopardize their ability to consummate one or more value-maximizing sale transactions. I further believe that the relief sought in the First Day Pleadings is critical to the Debtors' efforts to transition into chapter 11 efficiently. Finally, I believe that the First Day Pleadings reflect the thorough and targeted analyses of the Debtors' management team and their professional advisors, and capture relief that is critical to the success of these proceedings.

11. This Declaration is divided into three parts. **Part I** describes the Debtors' business, organizational structure, and prepetition indebtedness. **Part II** describes the circumstances leading to the commencement of these Chapter 11 Cases and the Debtors' plan for these cases. **Part III** summarizes the First Day Pleadings and explains why the relief requested in those pleadings is appropriate under the circumstances and necessary to avoid immediate and irreparable harm to the estates, as applicable.

## **I. DESCRIPTION OF THE DEBTORS**

### **A. The Debtors' Business**

12. The Debtors are a leading national catalog retailer, focusing on U.S. consumers over 50 years old. The Debtors trace their business roots back to 1969, when TransAmerica Mailings was founded. Over the years, under various changes in ownership, the Debtors have expanded their business lines and catalog titles. The Debtors sell a diverse array of goods, ranging from apparel to home and garden products to beauty and wellness products. The Debtors also offer affinity marketing memberships to their customer base.

13. Immediately prior to the Petition Date, the Debtors were operating nine active catalog titles under two main divisions. The LTD division, which generates approximately half of the Debtors' revenue, includes the catalog and ecommerce business of the Company's LTD Commodities and Lakeside Collection titles. The main product lines for this division are furniture and home décor, garden, general merchandise, and toys and entertainment. The LTD

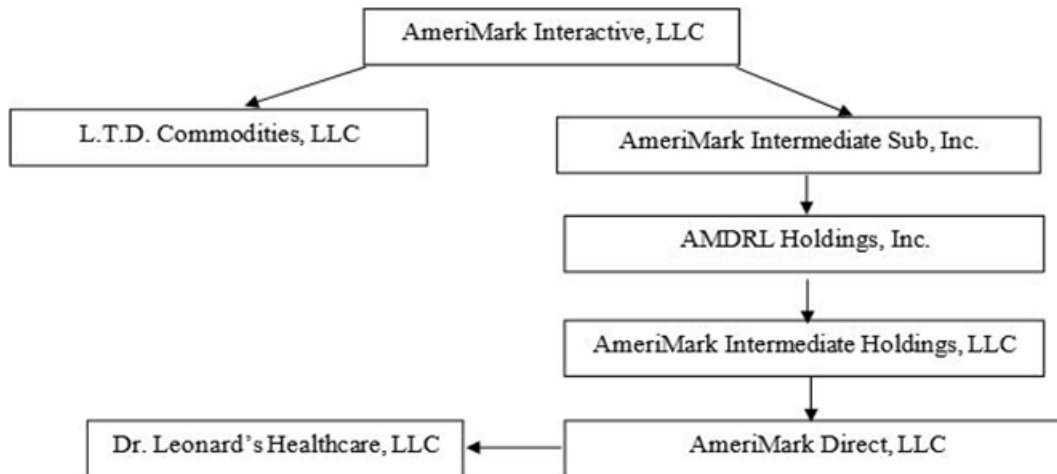
division's core customers are primarily empty-nesters who embrace shopping across both digital and print channels. The average age of LTD customers is approximately 59. More than 18 million customers have made at least one purchase from this division, with approximately 1.7 million customers making purchases over the past 12 months.

14. The AMD division comprises the other half of the Debtors' business. This division includes the catalog and ecommerce businesses of seven titles, which are Carol Wright Gifts, Dr. Leonard's, Healthy Living, FeelGoodStore.com, Harriet Carter, Essentials by Anthony Richards, and Beauty Boutique. The primary product lines for the AMD division are apparel, health, beauty, and wellness, footwear, furniture and home décor, "as seen on TV," and general merchandise. AMD's core customers are older than LTD's customers (on average in the high 60s) and have somewhat lower income. AMD has over 24 million customers over its history, with more than 1.9 million making purchases in the past 12 months.

15. The Company had total revenue of more than \$850 million in 2020 and 2021 before dropping to approximately \$475 million in 2022. As of January 2023, the Debtors, on a consolidated book-value basis, had total assets of approximately \$220 million and total liabilities of approximately \$400 million.

#### **B. Formation and Organizational Structure**

16. A chart illustrating the Debtors' organizational structure is below:



17. AmeriMark Interactive was organized in Delaware on August 3, 2021, and is the ultimate parent of all of the Debtors. AmeriMark Interactive is the sole member of L.T.D. Commodities, LLC (“L.T.D.”) and the sole shareholder of AmeriMark Intermediate Sub, Inc. (“AIS”). AIS is the sole shareholder of AMDRL Holdings, Inc. (“AMDRL”). AMDRL is the sole member of AmeriMark Intermediate Holdings, LLC (“AIH”). AIH is the sole member of AmeriMark Direct, LLC (“AmeriMark Direct”). AmeriMark Direct is the sole member of Dr. Leonard’s Healthcare, LLC (“Dr. Leonard’s”).

### C. Management Team

18. Lance Reese is the Chief Executive Officer of the Company, and Michael Nelson is the Chief Financial Officer. Mr. Reese joined the Company at the end of August 2022. As mentioned above, I am the Chief Restructuring Officer.

19. AmeriMark Interactive is owned by CSC Generation Holdings, Inc. (“CSC”), which among other things owns other retail and consumer-facing companies. However, in October 2022, to promote independence, the AmeriMark Interactive Board of Directors formed

an independent committee and named director Larry Gottlieb to that committee. In addition, since that time, all CSC non-independent directors have resigned, and John Kolleng and Bruce Crain were appointed to the Board. Messrs. Gottlieb, Kolleng, and Crain are all independent and are the only directors of AmeriMark Interactive. Messrs. Gottlieb and Kolleng also serve on the boards of all other Debtors, and Mr. Reese also serves on the boards of certain of the other Debtors.

#### **D. The Debtors' Prepetition Capital Structure**

20. As of the Petition Date, the Debtors' capital structure consists of outstanding secured funded-debt obligations in the aggregate principal amount of approximately \$240 million including under the Pre-Petition Secured Loan Facility, associated Pre-Petition Revolving Credit Facility and Pre-Petition Term Loan Facility, and the Pre-Petition Subordinated Note (as each is defined below). The Debtors' funded-debt obligations are further summarized below:

##### **(i) Pre-Petition Revolving and Term Loans**

21. On October 15, 2021, the Debtors, as borrowers (the "Pre-Petition Borrowers") entered into that certain Credit Agreement (as amended, restated, modified, or supplemented from time to time, the "Pre-Petition Credit Agreement")<sup>2</sup> with: (a) the financial institutions as lenders thereto from time to time (the "Pre-Petition Secured Parties"); (b) PNC Bank, National Association, as Administrative Agent, Swing Line Lender, Arranger and Book Runner ("PNC"), and Crystal Financial LLC, d/b/a SLR Credit Solutions, as Term Agent ("SLR"). Pursuant to the Pre-Petition Credit Agreement, the Pre-Petition Secured Parties extended to the Debtors revolving debt, term debt, a swing line, and letters of credit, collectively in the aggregate amount

---

<sup>2</sup> On January 18, 2023, pursuant to that certain Seventh Amendment to Credit Agreement, Debtor AMDRL Holdings, Inc., became a guarantor of the Pre-Petition Loan Facility (the "Pre-Petition Guarantor").

of \$238,000,000, under one credit facility (the “Pre-Petition Secured Loan Facility”). The Pre-Petition Secured Loan Facility is structured as a unitranche debt instrument with separate waterfalls with respect to different types of categories of collateral. Furthermore, the Pre-Petition Secured Loan Facility are governed by certain Interlender Provisions (defined below), as more fully described below.

(a) **Pre-Petition Revolving Credit Facility**

22. Pursuant to the Pre-Petition Credit Agreement and related loan documents, and as part of the Pre-Petition Secured Loan Facility, certain of the Pre-Petition Secured Parties and PNC (together, the “Pre-Petition Revolving Credit Lenders”) provided the Debtors with certain revolving credit loans, letters of credit, and swing line loans (collectively, the “Pre-Petition Revolving Credit Loans”) in the maximum aggregate amount of up to \$70,000,000 (the “Pre-Petition Revolving Credit Facility”). Availability under the Pre-Petition Revolving Credit Facility is subject to a borrowing base comprised of certain percentages of the Debtors’ receivables and inventory, subject to reserves and adjustments.

23. Under the Pre-Petition Revolving Credit Facility, the Debtors can choose between SOFR Rate or Base Rate Loans, plus the Applicable Margin.<sup>3</sup> With respect to SOFR Rate-based loans, payments of interest-only are due and payable quarterly, or, specifically, on the last day of each interest period. For Base Rate loans, payments of interest-only are due and payable on the first day of the month with respect to interest that accrued through the last day of the immediately preceding month. Currently, the Pre-Petition Revolving Credits Loans accrue interest at 10.75%.

---

<sup>3</sup> On April 4, 2023, the Debtors and Pre-Petition Secured Parties executed that certain Eighth Amendment to Credit Agreement that, among other things, deleted, in their entirety, all references to LIBOR and LIBOR Rate Loans, replacing them, in each instance, with SOFR and SOFR Rate Loans. Swing line loans bear interest at a rate per annum equal to the Base Rate, plus an Applicable Margin.



24. The obligations under the Pre-Petition Revolving Credit Facility (the “Pre-Petition Revolving Credit Loan Obligations”) are secured by a first priority lien on substantially all of the Debtors’ working capital assets, including, without limitation, the Debtors’ inventory, accounts (including receivables), deposit and security accounts, all cash and cash equivalents, general intangibles, chattel paper, instruments, payment intangibles, guarantees, letters of credit, books and records related to the foregoing, in addition to all substitutions, accessions, products and proceeds of any kind related to the foregoing (the “Pre-Petition Revolving Credit Priority Collateral”).

25. As of the Petition Date, the Debtors estimate that approximately \$43,868,256.13 in principal and accrued and unpaid interest is outstanding under the Pre-Petition Revolving Credit Facility, which matures on the earlier of (a) October 15, 2026, or (b) ninety (90) days prior to the maturity date of the Pre-Petition Subordinated Note Debt (as defined below) (the “Maturity Date”).

**(b) Pre-Petition Term Loan Facility**

26. Pursuant to the Pre-Petition Credit Agreement and related loan documents, and composing the remaining balance of the Pre-Petition Secured Loan Facility, certain of the Pre-Petition Secured Parties (the “Pre-Petition Term Lenders”) provided the Debtors with term loans (collectively the “Pre-Petition Term Loans”) in the aggregate amount of \$168,000,000.00 (the “Pre-Petition Term Loan Facility”).

27. Interest on the Pre-Petition Term Loans accrues on the outstanding principal amount at a rate per annum equal to the Adjusted Term SOFR, plus the Applicable Margin.<sup>4</sup>

Interest payments on the Pre-Petition Terms Loans are due and payable on the first day of each

---

<sup>4</sup> Pursuant to the Sixth Amendment to Credit Agreement, dated December 30, 2022, interest on the Pre-Petition Term Loans accrued at a rate per annum equal to the LIBOR Rate (now Adjusted Term SOFR), plus the Applicable Margin, plus the Default Rate of 2.00%.

month with respect to interest accrued through the last day of the immediately preceding month.<sup>5</sup> Furthermore, repayment of the Pre-Petition Term Loans by the Debtors is subject to certain payments in predetermined amounts of: (i) \$3,000,000.00 on each of January 1, 2022, and July 1, 2022; (ii) \$5,000,000 on October 1, 2022; (iii) \$13,000,000 on June 1, 2023; and (iv) \$5,000,000 on the first day of each calendar quarter thereafter until the aggregate amount of outstanding principal balance of the Pre-Petition Term Loans equals \$50,000,000.

28. The obligations under the Pre-Petition Term Facility (the “Prepetition Term Loan Obligations”) are secured by a first priority lien on substantially all of the Debtors’ non-working capital assets; specifically, all assets that do not compose the Pre-Petition Revolving Credit Priority Collateral (the “Prepetition Term Loan Priority Collateral”), in addition to lien rights on the proceeds of the Pre-Petition Revolving Credit Priority Collateral, though only after the Prepetition Revolving Obligations have been paid in full.

29. As of the Petition Date, the Debtors estimate that approximately \$178,631,565.60 in principal and accrued and unpaid interest is outstanding under the Pre-Petition Term Loan Facility, which matures on the earlier of (a) the Maturity Date, or (b) the date of the acceleration of the Pre-Petition Term Loans pursuant to the terms of the Pre-Petition Credit Agreement.

**(c) Interlender Provisions**

30. The Pre-Petition Revolving Credit Facility and the Pre-Petition Term Loan Facility are governed by certain provisions, as more fully described in the Pre-Petition Credit Agreement (the “Interlender Provisions”), that address the relative rights and priorities of the Pre-Petition Revolving Lenders and Pre-Petition Term Lenders in circumstances in which the Debtors are subject to any proceeding with respect to, among other things, the Bankruptcy Code.

---

<sup>5</sup> Pursuant to the Eighth Amendment to Credit Agreement, all interest accruing on the Prepetition Term Loans, through May 31, 2023, paid in kind, is to be paid, in cash, on June 1, 2023.

31. Among other things, the Interlender Provisions address payments or proceeds received with respect to Pre-Petition Revolving Credit Priority Collateral and the Pre-Petition Term Loan Priority Collateral (together, the “Pre-Petition Collateral”) and their application to the outstanding Pre-Petition Revolving Credit Loan Obligations and Pre-Petition Term Loan Obligations. Furthermore, the Interlender Provisions provide for the exercise of certain remedies, the use of cash collateral, adequate protection, and credit bidding. The Debtors are not a party to the Interlender Provisions.

**(ii) Pre-Petition Subordinated Note**

32. On October 15, 2021, the Debtors entered into that certain Subordinated Secured Promissory Note (as amended, restated, modified, or supplemented from time to time, the “Pre-Petition Subordinated Note”) with ZG Lending SPV, LLC (“ZG Lending”). ZG Lending is an affiliate of CSC.

33. Under the Pre-Petition Subordinated Note and related loan documents, ZG Lending provided secured funding to the Debtors in the original principal amount of \$15,682,605.28 for, among other things, operational costs. Interest on the Pre-Petition Subordinated Note accrues at a fixed rate of fourteen percent (14%) per annum, with interest due and payable on the last business day of each calendar quarter. Of that amount, seven and one-half percent (7.5%) is to be paid-in-kind by capitalizing the interest and adding to the then-current outstanding principal balance of the Pre-Petition Subordinated Note. The balance, or six and one-half percent (6.5%), is to be paid in cash by the Debtors.

34. The obligations under the Pre-Petition Subordinated Note (the “Pre-Petition Subordinated Obligations”) are secured by a subordinate lien on Pre-Petition Collateral.

35. As of the Petition Date, the Debtors estimate that \$15,682,355.28 in principal, plus accrued and unpaid interest in the amount of \$3,626,724.20, is outstanding under the Pre-

Petition Subordinated Note, which matures on April 14, 2027.

**(iii) Pre-Petition Lien of Central National Gottesman Inc.**

36. Central National Gottesman, Inc. ("Gottesman") is a provider of certain paper and packaging products to the Debtors. Gottesman has filed several UCC-1 Financing Statements with respect to certain of the Debtors, describing its collateral as paper, pulp, and other related products delivered for the account of Gottesman or any of its divisions or operating units to or at the direction of Debtors AmeriMark Direct, L.T.D., and Dr. Leonard's (the "Gottesman Collateral"). As of the Petition Date, the Debtors believe that all or substantially all of Gottesman Collateral has been consumed by the Debtors in the ordinary course of business.

**(iv) Other Debt**

37. Other than as described above, the Debtors do not believe they have any other secured, funded-debt obligations as of the Petition Date. The Debtors also have substantial unsecured debt, including approximately \$22.5 million of note debt owed to the seller of the companies in the 2021 transaction, as well as nearly \$100 million of other general unsecured debt.

**II. EVENTS LEADING TO THE COMMENCEMENT OF THESE CHAPTER 11 CASES AND PLAN FOR THE CASES**

38. As mentioned above, the Debtors' business has encountered a series of challenges that ultimately could not be overcome without filing these Chapter 11 Cases.

**A. The 2021 Acquisition and Fraud Claim**

39. In October 2021, AmeriMark Interactive purchased the companies that now make up the Debtors for \$322.5 million. The timing of the closing was planned so that AmeriMark Interactive could capture 2021 fourth quarter sales and earnings, as the fourth quarter is the most profitable for the Debtors' business. One of the most critical components of the transaction was

the ongoing relationship with a key vendor, LSC Communications US, LLC (“LSC”), which printed catalogs for the Debtors’ businesses. It was only after the closing that AmeriMark Interactive learned that LSC had given the seller written notice of a “Force Majeure” event that was expected to result in a material diminishment in LSC’s ability to print and mail catalogs for the Debtors in the fourth quarter of 2021. The seller and certain of its officers are alleged to have concealed this information from AmeriMark Interactive, causing damages estimated to be at least \$60 million and perhaps permanently damaging the Debtors’ relationships with many customers who did not receive catalogs for that important season. AmeriMark Interactive has initiated litigation in Delaware Chancery Court regarding this matter.

**B. COVID-19 and Macroeconomics**

40. The Debtors have also suffered from the COVID-19 pandemic and macroeconomic forces. The Debtors experienced a surge in orders in 2020 and 2021, in primary part due to COVID-19. The Debtors’ business is catalog and ecommerce driven, which was well-suited to withstand the pandemic, especially for a company with an older clientele that is more susceptible than average to serious illness from the virus. However, with COVID came serious supply chain issues that affected the Company, as happened to many businesses. To meet expected demand, and anticipating continued supply chain concerns, the Company purchased significant quantities of inventory in advance, which negatively impacted availability under its loan facility. When demand was not as high as expected, the Debtors’ liquidity concerns were exacerbated. Recently, inflation has also had an impact on the Debtors, who have a senior customer base, many of who are on a fixed income. Finally, rising interest rates have increased the Debtors’ debt service costs.

**C. The Prepetition Marketing of the Debtors' Business and Assets and Proposed Sale Process**

41. In December 2022, the Debtors retained Consensus Advisory Services LLC and Consensus Securities LLC (collectively, "Consensus"), a leading boutique investment banking firm with a specialty in the consumer brands industry, to provide investment banking services in connection with evaluating and executing strategic and restructuring transactions.

42. The Debtors, with Consensus's assistance, undertook a marketing process to identify strategic and financial buyers. More specifically, Consensus contacted and sent material to nearly 100 potential acquirers (collectively, the "Interested Parties"). Fifty-six Interested Parties executed non-disclosure agreements and gained access to the Debtors' electronic data room. Four parties submitted written expressions of interest to acquire all or part of the Company or invest in the Company. The Company hosted two management presentations at its Aurora, Illinois facility and held numerous video meetings with each party to facilitate their respective diligence of the Company. Based on my discussions with Consensus and my experience, I am not aware of parties outside the Interested Parties contacted by Consensus who were interested in purchasing the Company as a going concern.

43. As of mid-March 2023, the Debtors had not received any executable offers to purchase the business as a going concern. Thereafter, the Debtors began exploring a chapter 11 process under which the Debtors would sell their assets in various lots, including all or part of their: (a) accounts receivable portfolio; (b) inventory; and (c) intellectual property, including brand names and customer lists (one or more such sales, a "Sale Transaction"). Consensus and the Company contacted or re-contacted parties who might not have had interest in the business as a going concern, but would have interest in some or all of these assets. Numerous possible asset buyers engaged in and are continuing to engage in due diligence for the Company's assets. On a

parallel path, Consensus continued to work hard with the remaining potential going concern buyers, including attempting to develop going concern offers under which potential buyers would partner with SLR in an acquisition. While the Debtors hope that during this chapter 11 process a going concern buyer will emerge, there is no such buyer today. Immediately prior to the Petition Date, and in an effort to maximize recoveries for creditors, the Debtors ceased sales operation and terminated most of their employees.

44. The Debtors believe that a sale process culminating in one or more auctions to be held near the end of May will maximize the value of their assets. Accordingly, the Debtors will request that the Court consider entry of bidding procedures at a hearing to be held during the week of April 24, 2023, to ensure that the Debtors are in a position to close the proposed sale by May 30, 2023, thereby complying with their obligations under the DIP Facility (as defined below) and minimizing the deterioration of their accounts receivable portfolio. As the Debtors will support with further evidence, the Debtors have determined that it is necessary to seek expedited consideration of the bidding procedures given, among other things, limited available funding for the postpetition sale process, certain milestones imposed by their DIP Lender, and the length and scope of the prepetition marketing process. In this context, the Debtors will propose the following timeline for approval of the Sale Transactions:

<b>Event</b>	<b>Timing</b>
Bidding Procedures Hearing	Week of April 24, 2023
Bid Deadline	May 10, 2023, at 5:00 p.m. (ET)
Auction	May 18, 2023, at 10:00 a.m. (ET)
Hearing to Approve the Sale Transaction	On or about May 25, 2023
Closing Deadline	May 30, 2023

45. The Debtors believe, and I agree based on my experience, that completing the Sale Transaction through chapter 11 and on an expedited basis will provide the best chance of maximizing value for the Debtors and their estates and creditors.

**D. The DIP Loan**

46. For the foregoing reasons, the Debtors concluded, in their business judgment, that filing the Chapter 11 Cases and seeking approval of the sale process will maximize the value of their estates. However, the Debtors require immediate access to additional liquidity to provide sufficient working capital to administer the Debtors' estates in the Chapter 11 Cases and consummate the Sale Transactions.

47. Accordingly, and as discussed in further detail in the Debtors' Motion for Entry of Interim and Final Orders pursuant to U.S.C. §§ 105, 361, 362, 363, 364, and 507 (I) Authorizing the Debtors to Obtain Postpetition Financing; (II) Granting Liens and Superpriority Administrative Expense Claims; (III) Authorizing the Use of Cash Collateral; (IV) Granting Adequate Protection to Prepetition Secured Parties; (V) Modifying the Automatic Stay; (VI) Scheduling Final Hearing; and (VII) Granting Related Relief (the "DIP Motion"), and my declaration regarding the DIP Motion, each filed contemporaneously herewith, PNC Bank, National Association ("PNC") has agreed to provide a new senior secured superpriority debtor-in-possession term loan credit facility (the "DIP Facility"). I believe that the DIP Facility is appropriate and in the Debtors' best interests.

**III. SUMMARY OF THE FIRST DAY PLEADINGS**

48. Concurrently with the filing of these Chapter 11 Cases, the Debtors have filed the First Day Pleadings.<sup>6</sup> Having reviewed each of the First Day Pleadings or had their contents explained to me, I believe that the Debtors would suffer immediate and irreparable harm if the relief requested in the First Day Pleadings is not granted on the terms proposed. In my opinion, approval of the relief sought in the First Day Pleadings is critical to the Debtors' efforts to

---

<sup>6</sup> Capitalized, but otherwise undefined, terms used in this Section III shall have the meanings ascribed to such terms in the applicable First Day Pleading.



prosecute a value-maximizing sale process and conduct these Chapter 11 Cases efficiently, thus permitting the Debtors to preserve and maximize value for the benefit of all stakeholders.

49. Several of the First Day Pleadings request authority to pay certain prepetition claims. I am told by the Debtors' legal advisors that Bankruptcy Rule 6003 provides, in relevant part, that the Court may not consider motions to pay prepetition claims during the first 21 days following the filing of a chapter 11 petition, "except to the extent relief is necessary to avoid immediate and irreparable harm." In light of this exception, the Debtors have limited their requests for immediate authority to pay prepetition claims to those circumstances where the failure to pay such claims would cause immediate and irreparable harm to the Debtors and their estates. Consequently, certain aspects of the relief sought in the First Day Pleadings will be deferred for consideration at a later hearing, as indicated therein. With respect to the other First Day Pleadings, set forth below is the reasons why I believe it is imperative that the Court grant the relief requested.

**A. Joint Administration Motion**

50. Pursuant to the Joint Administration Motion, the Debtors seek entry of an order directing joint administration of these Chapter 11 Cases for procedural purposes only. The Debtors operate as an integrated business with common ownership and control. The Debtors also share the same financial and operational systems. As a result, many, if not all, of the motions, hearings, and orders that will arise in these cases will affect all Debtors. Therefore, I believe joint administration of these Chapter 11 Cases will reduce fees and administrative burdens by avoiding duplicative filings, objections, notices, and hearings. This, in turn, would save the Court, the Debtors, and other parties in interest substantial time and expense when preparing and filing such documents. Further, joint administration would protect any parties in interest by ensuring that they will be apprised of the various motions filed with the Court with

respect to each of the Debtors' cases.

51. Because the Debtors seek only administrative, not substantive, consolidation of the estates, joint administration would not adversely affect the Debtors' respective estates. I believe the relief requested in the Joint Administration Motion will not only preserve individual creditors' rights, but also provide those creditors the benefit of cost reductions associated with joint administration.

**B. Stretto Application**

52. Pursuant to the Claims Agent Retention Application, the Debtors seek, among other things, authority to employ and retain Stretto, Inc. ("Stretto") as the Claims and Noticing Agent, effective as of the Petition Date. I understand that the Debtors and their advisors obtained and reviewed engagement proposals from two other court-approved claims and noticing agents to ensure selection through a competitive process. Based on all engagement proposals obtained and reviewed, I believe that Stretto's rates are competitive and reasonable given Stretto's quality of services and expertise, and therefore the Debtors selected Stretto to act as the Debtors' Claims and Noticing Agent. I further believe that the retention of Stretto as Claims and Noticing Agent is necessary and in the best interest of the estates. Indeed, Stretto will relieve the Debtors of the burdens associated with claims and noticing services, allowing them to devote their full attention and resources to maximize value for their stakeholders and facilitate the orderly administration of these Chapter 11 Cases. I have also reviewed Stretto's engagement letter and the description of the services that Stretto has agreed to render and the compensation and other terms of the engagement as provided in the Stretto Application. Based on that review, I believe that the Debtors' estates, creditors, parties in interest, and this Court will benefit as a result of Stretto's experience and cost-effective methods.

53. Finally, it is my opinion that no parties in interest would be prejudiced by the

employment of Stretto as of the Petition Date because Stretto will provide valuable services to the Debtors' estates in the interim period.

**C. Wages Motion**

54. Pursuant to the Wages Motion, the Debtors seek, among other things: authority (a) to pay certain prepetition wages, salaries, and other compensation, taxes and withholdings, and reimbursable employee expenses, (b) to honor and continue benefit programs for employees, and (c) for the Debtors' banks and financial institutions at which the Debtors maintain disbursement and other accounts (collectively, the "Banks") to receive, process, honor, and pay all checks issued and electronic payment requests made related to such employee obligations.

55. As of the Petition Date, the Debtors employ approximately 33 employees (collectively, the "Employees"), all of whom are full-time Employees. Thirty-one Employees are salaried and two are hourly. All Employees are employed by Debtors AmeriMark Direct, LLC, L.T.D. Commodities LLC, or Dr. Leonard's Healthcare, LLC. Immediately prior to the Petition Date, the Debtors terminated more than 600 employees. The remaining Employees were and continue to be integral to the Debtors' operations. They perform a wide variety of functions critical to the Debtors' operations during the sale and wind down process, both at the Debtors' corporate headquarters, and at the Debtors' distribution centers and call center. As a whole, the Employees have an essential working knowledge of the Debtors' business that cannot easily be replaced during the proposed sale and wind down process. The efforts of these Employees will ensure a smooth transition into chapter 11 and preservation of the value of the Debtors' assets.

56. Upon information and belief, the vast majority of Employees rely exclusively or primarily on the Employee Compensation and Benefit Programs to pay their daily living expenses and support themselves and/or their families. Thus, Employees will face significant financial consequences if the Debtors cannot continue the Employee Compensation and Benefits

Programs in the ordinary course of business. The Debtors seek to minimize the personal hardship that the Employees would suffer if employee obligations are not paid when due and, consequently, submit that the relief requested is necessary and appropriate. The Debtors do not believe that any prepetition amounts owed to any Employees on account of the Employee programs exceeds \$15,150.00, and do not seek authority to pay any Employee in an amount exceeding \$15,150.00 on account of prepetition claims.

57. I believe that any delay in payments to the Employees could cause the Debtors to lose the benefit of the Employees' services, which would jeopardize the Debtors' sale process, which I believe would likely lead to a rapid deterioration in the value of the Debtors' assets.

58. The Debtors utilize the services of a third-party payroll processor Paylocity Holding Corporation ("Paylocity") to process employment taxes, provide remittance services for the Employees and administer payroll and several other employee-related benefits programs. Paylocity charges the Debtors a flat monthly service fee plus a per user fee (the "Payroll Processing Fees"). On an average monthly basis, the Debtors pay Payroll Processing Fees of approximately \$20,000.00 to Paylocity. In light of the reduction in the number of users during the postpetition period, the Debtors anticipate that the Payroll Processing Fees will be approximately \$10,000.00 per monthly postpetition. As of the Petition Date, the Debtors estimate that the amount of accrued but unpaid Payroll Processing Fees is approximately \$2,000.00, all of which is expected to come due during the period prior to the final hearing on the Wages Motion.

59. Prior to the Petition Date, the Debtors intended to wire funds to Paylocity sufficient to pay all of the Debtors' outstanding prepetition payroll obligations to their prepetition employees. However, the Debtors' April 10, 2023 wire was inadvertently sent from

the wrong bank account and the wire was returned due to insufficient funds. Nevertheless, Paylocity processed the Debtors outstanding prepetition payroll obligations by paying the Debtors' prepetition employees \$183,214.64 in the aggregate. Accordingly, the Debtors have an outstanding obligation to Paylocity in the amount of \$183,214.64 (the "Paylocity Funding Obligation").

60. Paylocity provides integral services to the Debtors in providing third-party payroll processing services. If the Debtors do not pay the Paylocity Funding Obligation, the Debtors believe Paylocity will stop providing payroll services to the Debtors. If the Debtors are forced to obtain a new payroll processor, it is possible that the Debtors would not be able to obtain these services on terms as favorable as those offered by Paylocity, and there could be delays in paying Employees at this critical juncture in these Chapter 11 Cases. Furthermore, the Debtors would be forced to use their limited Employee resources to retain a new third-party payroll processor when the Debtors' and their Employees' focus should be on these Chapter 11 Cases and the proposed marketing and sale process.

61. The Debtors seek authority, but not direction, to pay the prepetition Payroll Processing Fees and the Paylocity Funding Obligation to Paylocity and to continue Paylocity's services post-petition in the ordinary course.

62. I believe that the relief requested in the Wages Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest, and will enable the Debtors to maximize the value of their assets. Accordingly, the Debtors respectfully request that the relief set forth in the Wages Motion be approved.

#### **D. Taxes Motion**

63. Pursuant to the Taxes Motion, the Debtors seek, among other things, authority (a) to pay certain prepetition Taxes and related obligations; and (b) authority for banks and other

financial institutions to honor and process checks and transfers related to such prepetition taxes and related obligations. More specifically, the Debtors seek authority to pay prepetition taxes and related obligations up to a maximum of \$1.5 million on an interim basis and \$2.7 million on a final basis.

64. In the ordinary course of business, the Debtors are subject to various taxes, regulatory fees and assessments, and related obligations (collectively, the “Taxes”) that are payable directly to various taxing authorities (collectively, the Taxing Authorities”). The Debtors seek interim and final authority (but not direction) to pay various unpaid taxes, fees, and related obligations that accrued or assessed before the Petition Date, up to a maximum of \$1.5 million on an interim basis, and \$2.7 million on a final basis.

65. The Debtors are currently reviewing potential liability for approximately \$1.1 million for sales and use taxes that may have been incurred for the period of 2019 through 2022, and remain unpaid due to a potential misclassification issue (that is, the classification of whether certain of the Debtors’ products were subject to sales tax). The potential miscalculation issue was discovered in an audit conducted last year. The estimated \$1.1 million figure is included in the estimated \$2.525 total prepetition accrued and unpaid sales and use tax amount in the Taxes Motion as a contingency, in case it is determined that such amounts are owed in various states after future audits are completed. While these amounts are included as a contingency, due to the trust-fund nature of the taxes, it is imperative that the Debtors pay these amounts if and when the liability issue is finally determined.

66. Satisfaction of the prepetition Taxes in the ordinary course of business is necessary to preserve the Debtors’ resources, thereby better positioning the Debtors to realize maximum value from the sale process. Delayed payment of the Taxes may cause the Taxing

Authorities to take disruptive actions, including audits, lien filings, moving for relief from the automatic stay, and other administrative procedures, all of which would consume valuable time and resources and divert the Debtors' attention from their business operations and sale efforts. Prompt and regular payment of the Taxes will avoid these avoidable distractions. Moreover, payment of certain of the prepetition Taxes is necessary for the Debtors to maintain their good standing to operate in the jurisdictions in which they do business throughout the sale and wind down process.

67. Thus, the Debtors' failure to pay the Taxes could have a material adverse impact on the Debtors' ability to maximize the value of their assets for the benefit of all stakeholders. Even if the Debtors could avoid payment of certain accrued Taxes, I believe that the collateral consequences on the Debtors' proposed sale and wind down process would vastly exceed whatever modest short-run cost savings the Debtors might achieve. Accordingly, the Debtors respectfully request that the relief set forth in the Taxes Motion be approved.

**E. Cash Management Motion**

68. Pursuant to the Cash Management Motion, the Debtors seek authority, but not direction to, among other things: (a) continue using their existing centralized cash management system (the "Cash Management System"), and pay certain prepetition obligations and Service Charges related thereto; (b) open and close Bank Accounts; and (c) maintain and use existing Business Forms; (d) perform and continue making Intercompany Transactions consistent with historical practice and in the ordinary course of business, and granting administrative expense priority status to certain Intercompany Claims.

69. A chart depicting the flow of funds within the Cash Management System, and a consolidated list of the Debtors' Bank Accounts, are attached to the Cash Management Motion as Exhibit C and Exhibit D, respectively.

70. As described in greater detail in the Cash Management Motion, in the ordinary course of business, the Debtors utilize a centralized Cash Management System to collect funds from their operations and pay operating and administrative expenses in connection therewith. The Cash Management System constitutes a customary and essential business practice, and is similar to those commonly employed by entities of comparable size and complexity. It allows the Debtors to control and monitor corporate funds, ensure cash availability, and reduce administrative expenses by facilitating the movement of funds and the development of timely and accurate account balances and presentment information.

71. The Debtors' continued use of these accounts is critical to a seamless transition to operation as debtors in possession. Without continued use of Cash Management System, the Debtors could experience significant disruption in their cash receipts from customers, which would cause interruption of payments to vendors and other cash transactions that happen on a daily basis. Further, the Debtors' sale efforts will be facilitated by preserving the "business as usual" atmosphere and avoiding the distractions that would inevitably be associated with a substantial disruption in the Cash Management System.

72. The Cash Management System includes a 26 Bank Accounts, mostly at PNC, held by three of the Debtors. Three Bank Accounts may hold funds in excess of \$250,000.00 from time to time. The Debtors are in the process of opening new Bank Accounts to hold utility deposits and the Carve-Out funds for the professionals subject to the Carve-Out. I believe it is important for the Debtors to have authority to open and close Bank Accounts, and enter into any ancillary agreements relating to the foregoing, in accordance with the terms and conditions set forth in the proposed orders granting the Cash Management Motion.

73. In my opinion, requiring the Debtors to close their current Bank Accounts and



open new postpetition bank accounts, would be time consuming, expensive, and disruptive to their business and marketing and sales efforts. I believe that it would likewise be unnecessary and inefficient to require the Debtors to establish specific debtor in possession accounts for tax payments (including payroll taxes) and to deposit in such accounts sufficient funds to pay any tax liability (when incurred) associated with the Debtors' payroll and other tax obligations.

74. In the ordinary course of business, the Debtors pay and incur Service Charges. If the Debtors fail to pay the Service Charges, the Banks and the credit card processors will likely refuse to continue working with the Debtors, which would cause immediate and possibly irreparable harm.

75. Prior to the Petition Date, as part of the Cash Management System, the Debtors provided approximately 43 of their employees with access to American Express credit cards for approved non-out-of-pocket business expenses and supplies (the "Credit Cards"). As of the Petition Date, the Debtors' employees will no longer be using the Credit Cards.

76. In the ordinary course of business, the Debtors use their Business Forms to purchase goods and supplies from vendors and otherwise conduct business. Any disruption to the use of their existing Business Forms during this critical transition period could cause confusion or concern with the Debtors' vendors and contract counterparties. To the extent that the Debtors print any new checks themselves, they will include the designation "Debtor in Possession" and the lead case number. In addition, to the extent the Debtors use any electronic Business Forms, to the extent reasonably practicable, the Debtors will ensure that such forms are clearly labeled "Debtor in Possession."

77. Historically, in the ordinary course of business, the Debtors engage in a variety of Intercompany Transactions that are monitored and recorded on the Debtors' books and records.

In general, these Intercompany Transactions occur through the Cash Management System: (a) to and from the Debtors; and (b) to and from one or more of the Debtors and one or more non-Debtor affiliates of the Debtors. Each Debtor participant maintains an aggregate intercompany balance against the applicable counterparty (subject to certain de minimis exceptions). Typically, Intercompany Transactions are netted and settled once or twice a month. The Intercompany Transactions are an essential component of the Debtors' business operations. The Debtors have instituted procedures to segregate prepetition and postpetition Intercompany Transactions. The Debtors will continue to maintain such records during their Chapter 11 Cases and provide the reports required by the proposed orders granting the Cash Management Motion.

78. The Debtors do not have any investments or money-market accounts.

79. I believe that it is both essential and in the best interests of the Debtors' estates that the Cash Management System be maintained, as it constitutes a customary and essential business practice, and the Debtors' continued use is critical to a successful chapter 11 process.

80. Accordingly, the Debtors respectfully request that the relief set forth in the Cash Management Motion be approved.

#### **F. Insurance Motion**

81. Pursuant to the Insurance Motion, the Debtors seek, among other things, authority to honor their prepetition and postpetition obligations (the "Insurance Obligations") under their insurance program (the "Insurance Program"), including under their insurance premium finance agreement (the "Premium Finance Agreement"), on an uninterrupted basis in the ordinary course of business.

82. The Debtors' Insurance Program is comprised of (a) the commercial insurance policies maintained by the Debtors, a summary of which is attached as Schedule 1 to the Insurance Motion (each, a "Commercial Insurance Policy," and collectively, the "Commercial

Insurance Policies”), that are administered through various insurers (the “Insurers”), and which provide coverage for, among other things, automobile, crime, cyber liability, director and officer liability, employment practices liability, fiduciary liability, general liability, property, workers compensation, umbrella, and excess third party liability; and (b) the Premium Finance Agreement.

83. For the 2023-24 policy period, the Debtors anticipate that they will incur approximately \$2 million in annual premiums relating to the Commercial Insurance Policies, including associated fees and taxes. The Debtors have diligently reviewed their records, as of the Petition Date, and believe that there are no outstanding amounts owed in premiums to their Insurers under the Commercial Insurance Policies.

84. Maintenance of the Insurance Program is essential to the continued operation of the Debtors’ business through the proposed sale process. Moreover, the Debtors are required to maintain insurance coverage, like the coverage provided in the Insurance Program, under the U.S. Trustee’s Operating Guidelines, the laws of the various states in which the Debtors operate, applicable federal law, and certain of the Debtors’ contracts and leases.

85. Therefore, the Debtors submit that they should pay their Insurance Program obligations as they come due in the ordinary course of business. The Debtors’ maintenance of their relationships with the Insurers is critical to ensuring the continued availability of insurance coverage and reasonable pricing of such coverage.

86. Non-payment of the Insurance Obligations could result in cancellation of the Insurance Program, and the Debtors may be unable to find alternative insurance coverage, or find such alternatives, but only at a much higher cost than the Debtors currently incur. In addition, the Debtors would be in default under certain key contracts and applicable law, which require

that the Debtors maintain adequate insurance coverage.

87. In the ordinary course of business, the Debtors employ RSC Insurance Brokerage Inc. and Lockton Financial Services as their insurance brokerage firms (the “Brokers”), to assist the Debtors in procuring and negotiating elements of the Debtors’ Insurance Program. The Brokers are essential to the Debtors’ ability to secure insurance coverage, as they structure and manage the Insurance Program in a reasonable and prudent manner and enable the Debtors to realize considerable savings in the procurement of aspects of the Insurance Program. The Debtors do not have access to certain key markets unless represented by the Brokers as of the date hereof. The Debtors believe that they are current in their obligations to the Brokers.

88. The Debtors finance certain of their insurance policy premiums through an insurance premium finance agreement (the “Finance Agreement”) with IPFS Corporation (the “IPFS”), which is attached as Schedule 2 to the Insurance Motion. The Debtors believe that they are current on amounts due under the Finance Agreement as of the Petition Date. In my opinion, the terms of the Finance Agreement represent fair and reasonable terms for financing the premiums of the Commercial Insurance Policies under the circumstances, and the Debtors’ estates will benefit by maintaining this low-cost financing from the IPFS. Moreover, any interruption of payments might adversely affect the Debtors’ ability to obtain financing for future policies on favorable terms, to the extent needed. I believe that it is in the best interest of the Debtors’ estates to honor their obligations under the Finance Agreement. Any other alternative would likely require considerable cash expenditures and would be detrimental to the Debtors’ chapter 11 efforts.

89. For the foregoing reasons, the Debtors respectfully request that the relief set forth in the Insurance Motion be approved.

**G. Utilities Motion**

90. Pursuant to the Utilities Motion, the Debtors seek, among other things: (a) approval of the Debtors' proposed form of adequate assurance of postpetition payment to the Utility Companies, which includes depositing approximately \$101,000 in estimated utilities expenses into a segregated Bank Account (the "Utility Deposit Account"); (b) approval of procedures for resolving any objections by the Utility Companies relating the Debtors' proposed adequate assurance procedures set forth in the Utilities Motion (the "Adequate Assurance Procedures"); and (c) a prohibition on the Utility Companies from altering, refusing, or discontinuing their services (collectively, the "Utilities Services") to, or discriminating against, the Debtors solely on the basis of (i) the commencement of these Chapter 11 Cases, (ii) a debt that is owed by the Debtors for services rendered prior to the Petition Date, or (iii) on account of any perceived inadequacy of the Debtors' proposed adequate assurance.

91. Should any Utility Company alter, refuse, or discontinue service, even for a brief period, the Debtors' remaining business operations could be severely disrupted, and such disruption would jeopardize the Debtors' proposed sale and wind down efforts. Without the protections afforded by the Adequate Assurance Procedures, the Debtors could be forced to address *ad hoc* requests by Utility Companies in a disorganized manner in the initial, critical stages of chapter 11, when their efforts should be focused on the marketing and sale process and maximizing value for all of their stakeholders. The orderly process contemplated by the Adequate Assurance Procedures is necessary for a smooth transition by the Debtors into chapter 11 and will aid in their proposed sale efforts. Moreover, the Adequate Assurance Procedures will establish a fair process that will ensure all parties act in good faith.

92. Accordingly, the Debtors respectfully request that the relief set forth in the Utilities Motion be approved.

#### **H. Individual Sealing Motion**

93. Pursuant to the Individual Sealing Motion, the Debtors seek, among other things, authority to seal certain personally identifiable information for the Debtors' individual creditors and interest holders. The Debtors propose to provide an unredacted version of the Creditor Matrix and any other applicable filings in accordance with the terms of the proposed order granting the Individual Sealing Motion. The Debtors submit that it is appropriate to redact from any paper filed or to be filed with the Court in these Chapter 11 Cases the home addresses of the Debtors' individual creditors and interest holders because such information could be used, among other things, to perpetrate identity theft or locate survivors of domestic violence or stalking who have otherwise taken steps to conceal their whereabouts.

94. For the foregoing reasons, the Debtors respectfully request that the relief set forth in the Individual Sealing Motion be approved.

#### **I. Refund Party Notice Motion**

95. Pursuant to the Refund Party Notice Motion, the Debtors seek approval of, among other things: (a) the form and manner of the Notice of Commencement and meeting of creditors pursuant to section 341 of the Bankruptcy Code; and (b) limited notice requirements for individuals who have, or who may have had, Refund Checks.

96. The Debtors estimate that they have approximately 5,800 creditors on a consolidated basis. This number, however, is exclusive of the approximately 60,000 customers (collectively, the "Refund Parties") with outstanding refund checks from the Debtors (the "Refund Checks"), issued up to approximately four years prior to the Petition Date, on account of Refund Parties' returns under the Debtors' refund and exchange program and certain of the Debtors' various membership programs.

97. The vast majority of Refund Checks outstanding and issued to Refund Parties

range from \$5 - \$30 in amount. However, in the aggregate, the Debtors estimate that the amount of outstanding Refund Checks equals approximately \$1.5 million. The Debtors believe that the majority of the Refund Checks are older than 30 days and some may have expired. The Debtors are not requesting authority at this time to continue any customer programs (including honoring prepetition refund checks).

98. The Debtors estimate that the cost of serving multiple notices to the Refund Parties would increase the cost of service in the Chapter 11 Cases substantially. Accordingly, permitting service of the Notice of Commencement, and otherwise providing notices the Rebate Parties, in the form and manner described in the Refund Party Notice Motion will result in significant savings to the Debtors.

99. For the foregoing reasons, the Debtors respectfully request that the relief set forth in the Refund Party Notice Motion be approved.

**J. Conclusion**

100. For the reasons stated herein, and in each of the First Day Pleadings filed concurrently or in connection with these Chapter 11 Cases, the Debtors respectfully request that each First Day Pleading be granted in its entirety, together with such other and further relief as the Court deems just and proper.

*[Remainder of Page Intentionally Left Blank]*

**CONCLUSION**

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: April 11, 2023

*/s/ Stuart Noyes*

---

Stuart Noyes  
Chief Restructuring Officer  
AmeriMark Interactive LLC