

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

Consolidated Wealth Holdings, Inc.,  
*et al.*<sup>1</sup>

Debtor.

Case No. 22-90013 (DRJ)

Chapter 11

(Joint Administration Requested)

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**DECLARATION OF W. MARC SCHWARTZ IN SUPPORT OF  
VOLUNTARY PETITIONS AND FIRST DAY MOTIONS**

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TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

I, W. Marc Schwartz, hereby declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury as follows:

1. I submit this Declaration based on personal knowledge in support of the voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) filed by the above referenced Debtors on the date hereof (the “Petition Date”). I further submit this Declaration to assist this Court and parties-in-interest in understanding the circumstances that compelled the commencement of the Debtors’ chapter 11 cases (the “Cases”).

2. The relief sought in the First Day Motions should enable the Debtors to administer their estates effectively. I have reviewed the First Day Motions, and I believe the requested relief is necessary to ensure the success of these Cases.

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<sup>1</sup> The debtors and debtors in possession these chapter 11 cases, along with the last four digits of their respective Employer Identification Numbers, are as follows: Consolidated Wealth Holdings, Inc. (8786), Consolidated Wealth Management, LTD (2913), Coordinated Wealth Management, LLC (0518), and Granite Financial, Inc. (9135). The Debtors’ mailing address is: 11200 Broadway St., Suite 2705, Pearland, TX 77584.

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

4. My name is W. Marc Schwartz.

5. I am a founder of Schwartz & Associates, LLC ("SALLC"). SALLC has its principal offices at 712 Main Street, Suite 1830, Houston, Texas. SALLC has been engaged in business since 2019. The primary business of SALLC is bankruptcy and financial restructuring consulting, serving as financial/economic experts in civil litigation matters and, serving as court appointed receivers in federal and state court matters. The firm is also licensed as an Investigations Company by the Texas Department of Public Safety.

6. SALLC's services include financial forensics, supervising business operations as a trustee, examiner with expanded powers or receiver, valuing business assets and income tax related services. My firm represents individuals, companies and courts in a variety of assignments including as Chief Restructuring Officers, financial advisers, trustees and examiners in bankruptcy matters; working as testifying or consulting experts on damages and economic issues for parties involved in litigation and as a special master for courts where litigation matters are pending; serving as court appointed receivers in state and federal courts.

7. I earned a Bachelor of Arts degree from Princeton University and a Master's in Business Administration degree from the University of Chicago Booth School of Business. I am licensed in Texas as a Certified Public Accountant, Certified in

Financial Forensics by the American Institute of Certified Public Accountants, a Certified Fraud Examiner, and a Licensed Private Investigator.

8. I have extensive experience serving as a fiduciary in bankruptcy cases as either a Chapter 11 Trustee, a Chief Restructuring Officer, or an Examiner with expanded powers. I have also acted as a receiver over several individuals and entities under state law.

9. On March 8, 2022, the Debtors retained me as the Debtors' Chief Restructuring Officer (the "CRO") and Schwartz & Associates, LLC as their financial advisors.

### **RELEVANT FACTS AND PROCEDURAL BACKGROUND**

#### **A. The Debtors**

10. On the Petition Date, (a) Consolidated Wealth Holdings, Inc. ("CWH"); (b) Granite Financial, Inc. ("Granite"); (c) Coordinated Wealth Management, LLC, previously known as Consolidated Wealth Management, LLC ("LLC"); and (d) Consolidated Wealth Management, Ltd ("Limited") (each individually a "Debtor" and collectively "Debtors") filed petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") with the United States Bankruptcy Court, Southern District of Texas, Houston Division (the "Bankruptcy Court").

11. CWH is a Delaware corporation, incorporated on October 17, 2007, and has its principal office location at 11200 Broadway, Suite 2705, Pearland, Texas 77584.

12. Granite is a Delaware corporation, incorporated on April 7, 2008, and has its principal office location at 11200 Broadway, Suite 2705, Pearland, Texas 77584.

13. LLC is a Texas corporation, incorporated on January 8, 2007, and has its principal location at 11200 Broadway, Suite 2705, Pearland, Texas 77584.

14. Limited is a Delaware corporation, incorporated on September 15, 2014, and has its principal office location at 11200 Broadway, Suite 2705, Pearland, Texas 77584.

## **B. The Debtors' Owners and Management**

15. Deanna Osborne and John Spalding each own 50% of Limited. Ms. Osborne owns 50% of CWH, LLC, and Granite; the remaining 50% interest in these entities owned equally between John and Laura Spalding.<sup>2</sup>

16. Ms. Osborne has been the sole manager of the Debtors since early 2020; prior to that, the Debtors were primarily co-managed by Ms. Osborne and Mr. Spalding. Between 2007 and 2010, Scott Osborne and Laura Spalding also participated in the management of the Debtors.

17. Ms. Osborne manages the business of the Debtors with a staff of 3, comprised of Ms. Osborne managing business operations, Chris Roberts working with client management, and Melissa Baker primarily handling administrative tasks.

## **C. The Present Business of the Debtors**

18. In contrast to what the founders envisioned back in 2007, the present business of the Debtors has been solely to manage a portfolio of roughly 28 life

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<sup>2</sup> Laura Spalding is John Spalding's former wife. She worked with the Consolidated Entities from 2007 to 2009 and stopped after suffering mental health issues. Laura retained a 25% interest in CWH, LLC, and Granite following her divorce from John. Since the divorce, she has not acted on behalf of the companies or had any communication about the companies. John acts as a 50% owner and covers Laura's share of tax obligations.

settlement contracts with 380 investors. The Debtors are no longer engaged in the sale of new life insurance today. The Debtors ceased doing so back in early 2020.

#### **D. Genesis of The Debtors**

##### **i. CWH, LLC and Granite**

19. In late 2007, Deanna Osborne, Scott Osborne, John Spalding, and Laura Spalding decided to enter the life settlement contracts business. They created three companies: CWH in 2007, LLC in 2007, followed shortly after by Granite (together, the “Original Debtors”).

20. The Original Debtors sold life settlement investment instruments throughout the United States. The Original Debtors purchased life insurance policies from persons who no longer wanted to maintain their policies (“Viators”), identified and aggregated investors, and then sold investors fractional interests in the life insurance policies (as further described below). On occasion, the Debtors also retained some interests in the life insurance policies.

21. Investors paid proportional shares of the purchase price of the life insurance policies and also made contributions to cover the policy premiums for the projected life expectancy of the Viator. In exchange, investors received a fractional interest in the maturity value of the life insurance policies upon the death of the Viator. If the Viator outlived his or her life expectancy under the policies, the investments were backed by bonds issued by Provident Capital Indemnity (“PCI”). The PCI bond was designed to pay the maturity value of the investment.

22. During the projected life expectancy of the Viator, the Original Debtors handled payment of premium funds, monitored the Viators, submitted death benefit

claims to insurance companies when Viators died, and passed along the pro-rata death benefits to investors.

23. The fractionalized policy interests sold by CWH were unique in that they were not treated as securities, allowing CWH to sell them in all 50 states without dealing with the high barrier to entry necessary to sell securities. However, when a Texas appellate court ruled that the bonded settlements were securities, CWH stopped selling fractionalized interests in Texas, and Granite was formed to sell fractionalized interests in Texas that did not constitute securities.

**ii. Industry Issues and Fraud**

24. When the Original Debtors entered the life settlement business in 2007, the industry was still in its infancy and subject to little regulation. Unfortunately, that provided an opportunity for frauds that victimized life settlement companies and investors alike.

25. In the Original Debtors' case, they and their investors were the subject of frauds perpetrated by Christian Allmendinger ("Allmendinger"), who falsified life expectancy data on the life insurance policies sold to the Original Debtors (the "LE Fraud"), and by the PCI principals who sold the Original Debtors "reinsurance bonds" on which PCI could not perform (the "PCI Bond Fraud"). These types of fraudulent actions were not unique to the Original Debtors but were instead abundant throughout the industry at the time.

26. Both types of fraudulent actions were abundant throughout the industry. As soon as the Debtors started their business in 2007, they became victims of both the LE Fraud and the PCI Bond Fraud.

27. **The LE Fraud.** Allmendinger's purpose for presenting fraudulently low life expectancy estimates was to cause the Original Debtors and their investors to pay prices for policies which far exceeded their actual market values. Allmendinger and his co-conspirators then pocketed the difference between the actual and real values. Lower life expectancies also made it much more likely that the cash premium reserve would not be sufficient to cover future premiums – and that investors would be required under a life settlement agreement to pay their pro-rata share of premiums when the insured outlived the life expectancy plus one year.

28. Shortly after the Original Debtors discovered the LE Fraud perpetrated by Allmendinger in late 2008, they reported it to the Texas State Securities Board (the "**TSSB**"). The TSSB investigated and did not bring any proceedings against the Original Debtors or their principals.

29. Other state governmental entities also investigated the Original Debtors. Many states closed investigations without any action, while others issued agreed orders that had no material impact on the business of the Original Debtors.

30. Following the discovery of the LE Fraud in late 2008, CWH and Granite ceased selling and buying fractional interests in life insurance policies.

31. Although the Original Debtors were not the cause of the underlying fraud, and although they had no contractual obligation to do so, the Original Debtors and their owners made premium payments through February 2018 on behalf of the investors affected by the LE Fraud and the PCI Bond Fraud. Those voluntary payments were approximately \$6,000,000.

32. **PCI Bond Fraud.** The LE Fraud was not the end of the Debtors' problems with unscrupulous actors in the life settlement industry in 2007-2008. In addition to the

LE Fraud, PCI fraudulently represented that it would pay the full death benefit on investment policies that did not mature by an expected death date.

33. As for the PCI Bond Fraud, its owner and its accounting auditor were arrested and convicted for fraud covering about 200 reinsurance bonds PCI sold throughout the United States and overseas.

34. The Original Debtors cooperated with the FBI, the SEC, IRS, and prosecuting attorney in the prosecutions against PCI's owner and auditor. Those prosecutions ultimately resulted in convictions and lengthy prison sentences.

35. In 2012, the Original Debtors notified investors of the PCI Bond Fraud and assisted the federal government in communicating directly with affected investors.

iii. **LLC and Limited**

36. LLC continued to purchase policies and sell fractional life settlement interests in those policies through 2013. Relying in part on a Texas appellate court decision, the Original Debtors had not considered the sale of life settlements to constitute the sale of securities under Texas and federal law. A later Texas Supreme Court case, however, overruled the court of appeals decision and held that life settlements are securities under Texas law.

37. Limited was then established to sell fractionalized life settlements through private placement memoranda from 2014 through 2020 pursuant to an exemption from registration under Section 4(a)(2) of the Securities Act, including Regulation D, Rule 506.



### **E. Current Operations of the Debtors**

38. CWH last bought a life insurance policy for resale in 2008; Granite last bought a policy in 2009; LLC last bought one in 2013; and Limited last purchased one in 2018. All the Debtors have ceased selling interests in life insurance policies.

39. There are approximately 380 investors with active investments remaining.

40. All the Debtors are operated by one management team headed by Deanna Osborne. All the books and records of all the Debtors are maintained by Deanna Osborne and her staff at 11200 Broadway, Suite 2705, Pearland, Texas 77584.

### **F. The Current Policies**

41. As of the Petition Date, Limited manages twenty-eight (28) insurance policies on behalf of Debtors in which investors have an interest ("Current Policies").<sup>3</sup>

42. When the Original Debtors wound up operations, the policies they sold continued to be managed through LLC. After LLC wrapped up operations, management of its policies and those of the Original Debtors was taken over by Limited. As such, the Current Policies managed by Limited include policies originally sold by CWH, LLC, and Limited.

43. TVPX ARS, Inc, ("TVPX"), a securities intermediary, is the record owner of all the Current Policies on the books and records of the life insurance companies. TVPX is also the named beneficiary of all the Current Policies. TVPX pays the premiums to the life insurance companies, receives any sales proceeds or death benefits, and distributes any proceeds from the policy to investors according to their interest.

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<sup>3</sup> Third parties currently own over \$7 million in maturity value in eleven Current Policies. These third parties either own policy interest outright or have separate agreements with TVPX under which TVPX owns the legal interest as Securities Intermediary on their behalf.

### **G. Policy Management and Premium Payment**

44. Presently, the Debtors use ITM 21st, LLC (“ITM/21st”), a leading industry provider, to assist in management of the Current Policies. The ITM/21st website provides detailed information about both the policies and the persons insured thereunder, including the current standing, past premium payments, future premium due, and cash values. ITM/21st calls the insurance carriers on a monthly basis to confirm receipt of premium payments and to update policy values. Debtors also use ITM/21st to monitor deaths of persons under the life insurance policies and to maintain this real time information on their website.

45. The investors’ contracts generally require them to pay premiums after the premium reserve, set up at the time of the investment, has been exhausted. The Debtors send quarterly premium calls to investors on each policy 45 days in advance of the quarter for which premiums are due. The premium calls cover the investors’ share of premiums due for that quarter. For example, for policies with a quarter beginning January 1, 2021, the quarterly premium call was sent out in mid-November 2020. Most investors send their payments to the respective Debtor. The Debtors then deposit the payments into a dedicated bank account at Wells Fargo and maintain records showing the policy-by-policy breakdown of the investor money held in that account. They wire transfer the premium money to TVPX twice a month. TVPX places the investor premium money in a dedicated account, which it divides into sub-accounts on a policy by-policy basis. Some investors choose to pay premium calls directly to TVPX.

46. Actual premiums are paid monthly by TVPX. If there is not enough money in the TVPX dedicated premium policy sub-account to pay a premium when due,

TVPX notifies the Debtors. The Debtors then authorize TVPX to cover the shortfall from Debtors' main account at TVPX. Premiums are being paid on time.

47. For many years, the Debtors used premium optimization services provided by reputable third-party experts. These services determine how premium payments can be optimized to pay the least amount of premium (and thus reduce premium calls) while still maintaining the policy in force. ITM/21st currently provides this service to the Debtors.

48. Part of the optimization process entails using cash value whenever practical to pay or reduce premiums. As a result, cash surrender values tend to be relatively small. Some of the Current Policies are group or term policies and therefore have no cash value, and some of the universal policies do not permit the use of cash value to pay premiums. A large cash value in one policy cannot be used to pay premiums on another policy. That would be taking value from the cash-value policy – value for which investors in that policy paid – and using it to benefit investors in a different policy.

49. If an investor fails to pay his premium call, the Debtors contact the investor by email and telephone to remind them of the payment due and to discuss any concerns. An investor loses his policy interest only when it becomes clear that he does not intend to meet his premium obligations. The Debtors frequently advance premiums on behalf of an investor; for example, they may pay a premium call if the investor has short-term cash flow issues.

#### **H. The Rationalization Program – No Lapses of Investor Interests**

50. Beginning in 2018, the Debtors implemented a “rationalization program,” whereby various investors in life settlements sold by CWH, Granite, and LLC agreed in

writing to substitute an interest in a different policy for the interest they held in the original policy. The only policies that have lapsed were those in which, by virtue of such substitutions, no investor then held an investment or owned any policy interest. These lapses did not affect any investor or any investor interest. No policy in which an investor held an interest has ever lapsed.

51. In 2018, the Debtors implemented this program to rationalize the investments and maximize investor value in CWH, Granite, and LLC policies. The principal elements of the program were, (a) for some policies, the consensual sales of policies to third parties at prices approved by the investors, and (b) for some investors, the consensual substitution of a corresponding interest in a different policy for the interest held in the original policy.

52. In 2019, the Debtors ceased buying new policies for resale to investors. They have sold some of their interest in existing policies to third-party investors. In the meantime, the Debtors have streamlined operations by cutting costs to the bone. They operate today with a staff consisting of two long-time employees and Ms. Osborne. Monthly operating costs are now approximately \$35,000, excluding premiums on life insurance interests, \$420,000 per year. Ms. Osborne is paid a salary of \$115,000 per year.

53. The Debtors submit that the rationalization program has been successful. There have been 25 maturities since 2018, which have generated death benefits of over \$29 million. Most of these death benefits were paid by TVPX to the investors on the matured policies according to their percentage interest. Only three insurance policies affected by the alleged LE Fraud and PCI Bond Fraud remain on the books.

**I. Current Financial Condition of Debtors and Assets**

54. The maturity value of the Current Policies is about \$50.5 million. Investor interests in the Current Policies total about \$39.2 million, about 60% of which is in policies in which the insured is age 90 or older. For the seven CWH and LLC policies, the investor-owned interest is about \$25.1 million, all but \$180,000 of which is in policies in which the insureds' ages are 90, 90, 91, 93, 94, and 100.

55. The Debtors currently have a little over \$100,000 in cash, most of which is held at TVPX. The Debtors recorded profits of \$464,167 in 2019, a loss of \$99,930 in 2020, and profits of \$60,135 in 2021. The Debtors only source of income is from life policies in which the Debtors own an interest maturing. Debtors currently own policy interests with approximately \$4.6 million in maturity value and have no third-party debt.

56. Although implementation of the rationalization plan has improved the Debtor's financial condition, the arbitration proceedings, that began in late 2019 have substantially reduced the Debtors' liquidity and their ability to continue operating and administering Current Policies. The arbitration has continued for two and a half years with no discovery conducted and no end in sight. In the meantime, the Debtors have already spent several hundred thousand dollars on the arbitration, funds that were previously available to fund the Debtors' continued operation.

57. The Debtors' costs required to defend the arbitration have been rising and will not abate any time soon. The only potential for any monetization events is the deaths of insureds, which are impossible to predict with any certainty.

## **J. Investor Arbitration**

58. On September 23, 2019, two investors commenced arbitration with the Debtors, claiming violation of the Exchange Act of 1934 and Securities and Exchange Act Rule 10(b)-5. *See e.g., Sandra Vincent and Kyle O'Neal v. Consolidated Wealth Hldgs., et al*, Case No. 01-19-0002-5686 (Am. Arbitration Assoc. 2019). The Class Action complaint was filed on September 23, 2019, and brought on behalf of a class defined as investors that paid premiums on Respondent policies in the preceding three years. No class has been certified. As part of their arbitration demand, and through a subsequent motion, the plaintiffs seek appointment of a receiver over the Debtors or the policies. The Debtors oppose the receivership request.

59. On February 28 and March 1, 2022, the arbitration panel conducted two days of hearing on the investors' request for a receivership. The hearing was not completed, and its continuation has not yet been scheduled.

## **K. Status of Other Claims**

60. Aside from the motion to appoint a receiver, the Debtors have handled and amicably resolved all individual investor claims. The Debtors have also resolved all regulatory issues without any admission of liability. There are no pending regulatory cases or investigations, the last one having been resolved years ago. As mentioned above, the Debtors disclosed the LE Fraud in 2009 to its primary regulator, the TSSB, and the TSSB, did not take any action against the Debtors.

## **L. Reasons for Filing Bankruptcy**

61. The Debtor are running out of cash. After years of doing everything in their power to protect their investors, the ongoing arbitration costs have substantially

diminished the Debtors' operating ability and—despite the Debtors running on a skeleton crew and minimum budget—now threatens their ability to continue administering the policies through maturity.

62. The Debtors have commenced these Cases to effectuate a reorganization through a pre-negotiated chapter 11 plan sponsored by Life Opportunity Fund II, LP. ("Life-II"). Life-II is also the proposed DIP Lender. The goal of these cases is to effectuate a plan that protects investors by providing alternative paths to distribution that minimize risk.

63. Ever since the Debtors ceased selling interests in policies, their principal source of revenue has been their pro-rata portion of the death benefit distributed upon the maturity of a policy. The Debtors have used these funds to operate their businesses for several years. At the end of 2021, the Debtors had approximately \$1,3000,000 of cash to fund operations. Based on the size of the Debtors' staff and its operating costs, that cash and their share of death benefits from expected maturities would have sustained the Debtors through maturity of the Current Policies absent any unexpected, extraordinary expenses.

64. However, when the claimants moved forward aggressively on their receivership motion in early 2022, the Debtors began to incur very substantial legal expense. Debtors worked with counsel to prepare for and attend a scheduled two-day hearing on February 28 and March 1, 2022. During those two days, the claimants called only two witnesses, one of whose testimonies was not completed. The re-commencement of the receivership hearing, which is expected to last another three days, has not been scheduled. Moreover, additional legal costs may continue to be incurred for years even if, as expected, the receivership motion is denied. Discovery will be expensive (there has

been no discovery to date), as will responding to the motion to certify a class, any appeal of the ruling on that motion, and the defense on the merits if the class is certified. class certification. A pending Fifth Circuit appeal for the arbitrators' Partial Final Award on Clause Construction also remains pending.

65. Lane Gate ("LG"), an investment management practice based in Brooklyn, New York, expressed an interest in a transaction by which a fund it manages would offer investors the option to exchange their interest for a position in the Fund and in which Debtors would contribute their interest in the Policies for a Fund position. As a result of extensive negotiation and discussions, the Debtors developed a structure to offer the investors an opportunity to participate in Life-II.

66. The proposal with Life-II includes the following options: (1) a swap option (the "Swap") by which investors can exchange their fractional life settlement interests for, in effect, an interest in the fund; (2) a cash-out option by which investors can sell their fractional life settlement interests to the fund; and (3) a holder option by which investors may retain their life settlement interest and continue to pay their share of future premiums:

Swap Option. The plan will (a) provide investors with the option to offer an exchange of their fractional life settlement interests for a corresponding interest in Reorganized CWM, and (b) require CWM to offer an exchange of their fractional life settlement interests for a corresponding interest in Reorganized CWM. Reorganized CWM will then offer to the fund 100% of the collected fractional interests in return for a cash value position in the fund equal to 30% of the overall death benefits for the offered fractional interests. This cash value will be considered Reorganized CWM's initial investment in the fund and will be subject to standard client rules under a Private Placement Memorandum. Reorganized CWM will administer the cash value positions on behalf of investors who choose to participate in the Swap ("Swap Investors") and be paid by the fund an annual fee for that service equal to \$500 per Swap Investor. Each Swap Investor will have liquidation rights after two years for the value of



their position in the fund as if they owned the position directly and in accordance with the Private Placement Memorandum.

Cash Out Option. The plan will provide an option for investors to offer their fractional life settlement interests to the fund for 20% of their overall death benefit.

The Holder Option. Investors who do not swap or sell their fractional life settlement interests (“Holders”) will retain their percentage beneficial interests in the Policies, be required to pay their pro-rata share of future premiums and associated expenses and pay a \$500 annual fee per holder to Reorganized CWM for administrative services. The fund may, but is not required to, (a) at any time, offer to purchase any holder’s interest for cash, or (b) if the initial swap transaction fails to close, offer to any holder a new swap option on such terms and conditions as the fund may deem appropriate.

67. The Debtors incurred significant professional costs associated with negotiating with LG and preparing the Debtors for an orderly filing under chapter 11 of the Bankruptcy Code. The Debtors intend to expeditiously proceed to confirm a plan of reorganization to maximize recovery for its creditors. Prior to the Petition Date, the Debtors carefully explored restructuring the Debtors’ principal assets out of court. I believe that a restructuring of the Debtors under the Bankruptcy Code is now in the best interest of the Debtors, creditors, and investors.

68. Approval of the First Day Motions<sup>4</sup> and the DIP Motion<sup>5</sup> is in the best interests of the Debtors’ estates and essential to the implementation of the restructuring with Life-II, which is critical to maximizing recovery for all parties.

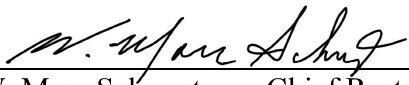
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<sup>4</sup> First Day Motions in this case are largely procedural as the Debtors were able to time most payments to allow for payment after the Second Day Hearings.

<sup>5</sup> DIP Motion refers to the Motion to Enter into Post-Petition Financing with LG that the Debtors intend to file immediately following the Petition Date.

I have reviewed the Declaration and declare under penalty of perjury that the foregoing is true and correct and within my personal knowledge.

Executed this 6th day of April 2022.

  
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W. Marc Schwartz, as Chief Restructuring  
Officer of the Debtors