

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1(b)

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Co-counsel to the Ad Hoc Group

In re:

WEWORK INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 23-19865 (JKS)

(Jointly Administered)

**AD HOC GROUP'S JOINDER TO THE
DEBTORS' REPLY IN SUPPORT OF THE
DEBTORS' MOTION FOR ENTRY OF INTERIM
AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO
OBTAIN NEW POSTPETITION FINANCING, (II) GRANTING LIENS
AND PROVIDING CLAIMS SUPERPRIORITY ADMINISTRATIVE
EXPENSE STATUS, (III) MODIFYING THE AUTOMATIC STAY,
(IV) SCHEDULING A FINAL HEARING, AND (V) GRANTING RELATED RELIEF**

¹ A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' claims and noticing agent at <https://dm.epiq11.com/WeWork>. The location of Debtor WeWork Inc.'s principal place of business is 12 East 49th Street, 3rd Floor, New York, NY 10017, and the Debtors' service address in these chapter 11 cases is WeWork Inc. c/o Epiq Corporate Restructuring, LLC 10300 SW Allen Blvd. Beaverton, OR 97005.

The Ad Hoc Group², by and through its undersigned counsel, submits this joinder (the “**Joinder**”) to the *Debtor’s Reply in Support of the Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain New Postpetition Financing, (II) Granting Liens and Providing Claims Superpriority Administrative Expense Status, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief* [Docket No. 1849] (the “**Debtors’ Reply**”)³, and respectfully states as follows:

1. Mr. Neumann’s latest effort to force a costly sale process that neither the Debtors nor any creditors want fails. The funding and equitization of the Exit DIP New Money Credit Facility, by its terms, cannot occur unless and until the Court confirms the Plan. The Objection’s core assertion that the interim relief sought in the DIP Motion will somehow “lock in” or “irrevocably dictate” the Debtors’ reorganization structure is therefore just wrong. Anyone who wishes to will have an opportunity to object to the Plan, and the Court will be able to consider such objection, at the confirmation hearing.

2. The Objection’s complaints regarding the marketing process supporting the DIP New Money Facilities ring equally hollow. As detailed in the Motion, the Debtors’ investment banker, PJT, conducted an extensive process to identify potential financing sources. *See* Motion at ¶¶ 15–16. As a part of that process, the Debtors engaged with Mr. Neumann and the Flow Parties and concluded, in their business judgment and in consultation with their creditors, that these parties were unlikely to be able to make a compelling proposal either to provide DIP financing or to make an equity investment in the reorganized debtors. *Id.* at ¶¶ 17–19. It is

² Members of the “**Ad Hoc Group**” are identified in the *Joint Verified Statement of Davis Polk & Wardwell LLP and Greenberg Traurig, LLP Pursuant to Federal Rule of Bankruptcy Procedure 2019* [Docket No. 144].

³ Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Debtors’ Reply.

axiomatic that a debtor may weigh reliability in its evaluation of alternative transaction proposals⁴ and in this case the Debtors and their creditors concluded that the very real cost of further engagement with the Flow Parties, including substantial additional professional fees, potential delay of emergence, and the risk of destabilizing the business at a critical juncture, outweighed the slim chance of a real and viable offer materializing.

3. For the above reasons, and for the reasons set forth in the Debtors' Reply, which the Ad Hoc Group hereby joins in and incorporates by reference, the Objection should be overruled, and the Motion should be approved on an interim basis.

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⁴ See *In re Nissley*, No. 13-04754, 2015 WL 6556983, at *3 (Bankr. M.D. Pa. Oct. 29, 2015) (holding that a bankruptcy trustee properly exercised its business judgment by accepting a more certain and definite transaction, which it characterized as “a bird in the hand,” in lieu of a transaction that was subject to contingencies, and stating that the trustee should not be “compelled to engaged in further marketing on the thin hope” that a better transaction would materialize); *In re Global Crossing Ltd.*, 295 B.R. 726, 744 (Bankr. S.D.N.Y. 2003) (holding that the debtors validly exercised their business judgment by pursuing the “bird in the hand,” instead of “looking for a bush with some birds in it,” in their response to a potential bidder); see also *In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (“Where the debtor articulates a reasonable basis for its business decisions [...] courts will generally not entertain objections to the debtor’s conduct.”).

Dated: May 6, 2024

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