

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

AGDP HOLDING INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 25-11446 (MFW)

(Jointly Administered)

Ref: Docket No. 12, 149, 309, 310, 311, & 312

**DEBTORS' OMNIBUS REPLY IN SUPPORT OF THE DEBTORS' (I) MOTION  
TO OBTAIN POSTPETITION FINANCING AND USE OF CASH COLLATERAL  
AND (II) MOTION TO APPROVE GLOBAL SETTLEMENT**

AGDP Holding Inc. and its affiliated debtors and debtors in possession (collectively, the “Debtors”) hereby submit this reply (this “Reply”) in support of the *Debtors’ Motion for Entry of Interim and Final Orders, Pursuant to Sections 105, 361, 362, 363, 364, 503, and 507 of the Bankruptcy Code (I) Authorizing the Debtors to Obtain Senior Secured Superpriority Postpetition Financing; (II) Granting (A) Liens and Superpriority Administrative Expense Claims and (B) Adequate Protection to Certain Prepetition Lenders; (III) Authorizing Use of Cash Collateral; (IV) Scheduling a Final Hearing; and (V) Granting Related Relief* [D.I. 12] (the “DIP Motion”),<sup>2</sup> and the *Debtors’ Motion Pursuant to Sections 105 and 363(b) of the Bankruptcy Code and Bankruptcy Rule 9019 for an Order Approving and Authorizing Settlement By and Among the Debtors, Axar Capital Management LP, and the Official Committee of Unsecured Creditors* [D.I. 149] (the “9019 Motion”), and in response to the objections filed by (a) White Star Funding Inc. d/b/a TVT Cap (“TVT Cap”) [D.I. 311, 312] and TVT Capital Source LLC, Insta Funding

<sup>1</sup> The Debtors in these chapter 11 cases, together with the last four digits of the Debtors’ federal tax identification number, are AGDP Holding Inc. (6504); Avant Gardner, LLC (6504); AG Management Pool LLC (9962); EZ Festivals LLC (8854); Made Event LLC (6272); and Reynard Productions, LLC (5431). The Debtors’ service address is 140 Stewart Ave, Brooklyn, NY 11237, Attn: General Counsel.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the DIP Motion and the 9019 Motion, as applicable.



LLC, and Pinnacle Business Funding LLC (collectively with TVT Cap, the “TVT Parties”) [D.I. 309, 310] (collectively, the “TVT Objections”). In further support of this Reply, the Debtors respectfully state as follows:

### **PRELIMINARY STATEMENT**

1. Through extensive litigation efforts and arms-length negotiations on the part of the Debtors, the Committee, and Axar, the Settlement Parties achieved a settlement that will ultimately provide the Debtors’ estates with sufficient funding to satisfy significant administrative claims, priority tax claims and allow a recovery to general unsecured creditors - including potential increased value in the go-forward business - in excess of what could be achieved in any other litigated outcome. Pursuant to the Settlement, Axar is committed to funding a process through which the Debtors’ estates will be wound down pursuant to a chapter 11 plan and recoveries will, with near certainty, be available to general unsecured creditors.

2. But the TVT Parties fail to appreciate the scope and benefit of the Settlement. In TVT Cap’s objection, TVT Cap makes the inaccurate assertion that “the Committee has seemingly resolved its objection to the DIP Motion and sale in exchange for, among other things, payment of up to \$2.5 million for Committee professionals and a cash contribution of \$3.3 million (over three years) for unsecured creditors.” [D.I. 311, ¶ 3]. The TVT Objections simply ignore the array of other benefits that the Settlement confers on the Debtors’ estates.

3. Contrary to the TVT Parties’ scant summary of a few points in the Settlement, the consideration being provided under the Settlement significantly exceeds the two economic points that are the focus of the TVT Objections. Under the Settlement, Axar has agreed, for the benefit of the Debtors’ estates and their creditors, to (a) fund (i) \$1.05 million upon closing of the Sale (ii) an additional \$2.25 million over the course of the next three years, and (iii) all allowed administrative expenses in these chapter 11 cases; (b) waive any right to distribution on their

approximately \$57 million deficiency claim; (c) cure all defaults under the Debtors' real property leases (which could total in excess of \$6 million); (d) fund a \$3.25 million wind-down budget, which is critical to the Debtors' efforts to confirm a chapter 11 plan; (e) increase the committee professional fee budget to \$2.5 million, (f) fund unpaid tax liabilities in the amount of approximately \$5 million that would otherwise likely be treated as priority claims in these chapter 11 cases, (g) work with certain Go-Forward Vendors, including artists, thus mitigating substantial trade claims, (h) assume the company's 401(k) plan and (i) leave with the Debtors' estates certain potential causes of action that will be delivered to a liquidating trust for the benefit of unsecured creditors. In addition, in a departure from what is typically seen in chapter 11 cases, Axar has agreed to give the post-confirmation liquidating trust a contingent value right in the purchaser of the Debtors' assets. In the aggregate, the floor of consideration provided by Axar under the Global Settlement is no less than \$20 million – and will likely be more when factoring in the claim waiver, assumption of administrative expenses, proceeds recovered by the causes of action, and the CVR.

4. With respect to the 9019 Motion, the TVT Parties provide no evidence, but instead regurgitate certain initial allegations (that the Debtors and Axar have consistently contested as unfounded) raised by the Committee in its motion to appoint a chapter 11 trustee, to dispute the settlement. The Debtors submit, and will present evidence to support, that the Settlement clearly satisfies the standard for approval of a compromise under Bankruptcy Rule 9019. The TVT Parties efforts to supplant, with no contrary evidence, the business judgment of the Debtors and the Committee is unavailing and the TVT Objections should be overruled. Accordingly, the 9019 Motion should be approved.

5. With respect to the DIP Motion, despite appearing at the first day hearing on August 4, 2025 and receiving notice of the DIP Motion, the TVT Parties waited more than two

months after service of the DIP Motion and approximately six weeks after the objection deadline passed to lodge their objection. The Debtors, the Committee, and the DIP Lender engaged in extensive discovery regarding the DIP Motion. The Court approved deadline to object to the DIP Motion was August 28, 2025 and the TVT Parties did not object, seek to participate in the discovery process, or even informally raise any issues to the Debtors or the DIP Lender with respect to the DIP Motion, all while four Interim Orders have already been entered. [D.I. 46, 128, 176, 259]. The TVT Parties' woefully late objection to the DIP Motion should be overruled on this basis alone.

6. Nevertheless, at the outset of these chapter 11 cases, in anticipation of potential concerns that the TVT Parties may raise, the Debtors made every effort to maintain *status quo* for the TVT Parties through the DIP Orders and the orders approving the use and continuation of their cash management system [D.I. 42, 124] (the "Cash Management Orders"). The Cash Management Orders are now final and non-appealable. In fact, counsel for TVT Capital Source LLC appeared at the first day hearing, stating (albeit with a reservation of rights): "[w]e appreciate the debtors, on its own initiative, proposing the segregation. . . we don't have any objection to the proposed segregation."<sup>3</sup> But to be clear, the Final DIP Order does not prime the interests of the TVT Parties or impair their ability to recover against the proceeds presently segregated pursuant to the Cash Management Orders. The Debtors have segregated and maintained the disputed proceeds exactly as was represented to the Court on the first day of the case (and consented to by TVT's counsel). Additionally, the Debtors negotiated with the DIP Lender to ensure that enough funding was available under the DIP Facility to cover all operational costs (including food and beverage

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<sup>3</sup> *In re Avant Gardner, LLC*, Case No. 25-11446 (MFW) Hrg. Transcript, 34:7–10, (Bankr. D. Del. Aug. 5, 2025) (an excerpt of the first day hearing transcript is attached hereto as Exhibit 1).

expenses) while enabling the Debtors to segregate and reserve Billfold sale proceeds for the benefit of the TVT Parties. This provides a substantial benefit to the TVT Parties if they ultimately prevail in the litigation.

7. The Debtors submit that, through the proposed Final DIP Order and the Cash Management Orders (and through evidence that will be presented at the hearing on the 9019 Motion and the DIP Motion), the Debtors have adequately protected any interest that the TVT Parties may have (to the extent one exists) in the segregated proceeds and that the DIP Motion should be approved as a sound exercise of the Debtors' business judgment.

### **9019 MOTION REPLY**

8. As noted above, the Committee, the Debtors, and Axar negotiated for a resolution of potential claims against Axar that resulted in at least \$20 million of upside for the Debtors' estates, in exchange for, among other things, releases of Axar and certain of the Debtors' current officers and directors. In the Debtors' view, the Settlement results in a recovery above what the Debtors or the Committee could have achieved in litigation, especially after factoring in the associated risk and cost of any such litigation and the fact that there would be an inability to operate the Debtors' business in the interim due to lack of available funding. The Debtors' ability to maintain operations is, ironically, the only reason there are funds available to be segregated for the potential benefit of the TVT Parties.

9. The Debtors' independent Directors (Hooman Yazhari and Pamela Corrie) and Gary Richards, the Debtors' CEO, oversaw the negotiation of the Settlement. In addition to the cash components of the Settlement, which are expected to provide a return for the Debtors' unsecured creditors, the Settlement, combined with the Sale, offers several other important benefits. Specifically, the TVT Objection overlooks the fact that the Settlement provides, or allows for the following:

- a. Preservation of jobs for the Company's employees;
- b. Stability for ongoing vendor and artist partnerships
- c. Payment of significant unpaid sales and use taxes, as well as artist withholding taxes
- d. Payment of all necessary amounts to cure defaults under the ground lease for the Company's entertainment venues;
- e. Payment of all administrative expense claims; and
- f. Assumption of the Company's current 401(k) plan.

Additionally, the Settlement preserves certain potentially valuable estate causes of action for pursuit by a Liquidating Trust (as defined in the Plan, defined below) and delivers a contingent value right to such Liquidating Trust. Furthermore, the releases that Axar and its affiliates receive under the Settlement are conditioned upon actually delivering the Settlement consideration to the Debtors to be held in accordance with the Settlement pending the confirmation of a chapter 11 plan.

10. While the Debtors were in negotiations with Axar prior to the Settlement, at that time, it was far from a certainty that a chapter 11 plan could be confirmed. The Settlement now provides a path to confirmation of a chapter 11 plan, along with a recovery to unsecured creditors who were likely otherwise out-of-the-money. Absent the Settlement, the Debtors may not have had sufficient cash to fund a chapter 11 plan process, and chapter 7 conversion was a significant risk. In that event, any value remaining in the Debtors' estates would have been used to satisfy administrative expenses, Axar's deficiency claim, and/or priority tax claims – thereby effectively eliminating any chance that unsecured creditors would receive a recovery.

11. As articulated in the 9019 Motion, the Settlement is fair, reasonable, and absolutely in the best interests of the Debtors' estates and creditors. Under Third Circuit precedent, courts should consider “(1) the probability of success in litigation; (2) the likely difficulties in collection;

(3) the complexity of the litigation involved and the expense, inconvenience and delay necessarily attending it; and (4) the paramount interest of the creditors.” *See Meyers v. Martin (In re Martin)*, 91 F.3d 389, 393 (3d Cir. 1996). Additionally, the Settlement is well within the reasonable range of litigation possibilities. *See World Health Alts.*, 344 B.R. 291, 296 (Bankr. D. Del. 2006).

12. The Settlement easily satisfies the *Martin* factors. In terms of the paramount interest of creditors, the Settlement provides certainty that administrative and priority claims will be satisfied and unsecured creditors will receive a recovery. In addition to the Purchaser’s assumption of administrative obligations in these chapter 11 cases and commitment to work with Go-Forward Vendors (including artists and their agents), the Settlement provides for the payment of cure costs and tax claims, a wind-down budget to bridge to plan confirmation, causes of action that may be prosecuted by a Liquidating Trust, a contingent value right, and funding of \$3.3 million for the benefit of unsecured creditors (in addition to preservation potentially valuable estate causes of action). This result has been accomplished without the risk, costs, and open-ended delay of litigating claims against Axar – to the extent any viable claims even exist. Any litigation against Axar concerning its prepetition actions would be complex, factually intensive, and hard fought, and there can be no assurance that any affirmative recovery would result.

13. Further, contrary to the arguments made by the TVT Parties that the Settlement is a “sub rosa plan,” the Settlement outlines the parameters by which the Debtors will wind down these Chapter 11 Cases and seek confirmation of a chapter 11 plan. Indeed, on October 15, 2025, the Debtors, with the consent of the Committee and Axar after significant arms’-length negotiations, filed the *Joint Chapter 11 Plan of Liquidation for AGDP Holding Inc. and Its Affiliated Debtors* [D.I. 317] (the “Plan”) and a related disclosure statement [D.I. 318]. As set forth in the Plan, the Wind-Down Amount (as defined in the Plan) ensures that all secured,

administrative, and priority claims are paid in full, and that the Liquidating Trust administers the Liquidating Trust Assets (as defined in the Plan) for the benefit of creditors. Accordingly, the TVT Parties' argument that the Settlement is a sub-rosa plan is wholly without merit.

14. The TVT Parties' attacks on Axar, which are solely supported by the TVT Parties' "adoption" of the unfounded and litigation-based allegations made in the Committee's chapter 11 trustee motion, is of no moment here. Both the Debtors and the Committee have evaluated the potential claims and causes of action, and have ultimately elected, in their business judgment, to settle them pursuant to the Settlement. The legal theories advanced by the TVT Parties are subject to a high evidentiary standard and cannot be supported by simply "adopting" the allegations made by the Committee. The TVT Parties have articulated no basis on which the Court should second-guess the Debtors' business judgment in entering into the Settlement. Accordingly, the Settlement should be approved.

#### **REPLY IN SUPPORT OF DIP MOTION**

15. While the TVT Objections to the DIP Motion should be overruled for substantive reasons, the Court should not consider the TVT Objections to the DIP Motion on the sole basis of timing. The DIP Motion was filed on August 4, 2025, and the Court approved the DIP Motion on an interim basis at the August 5, 2025 first day hearing – a hearing at which TVT Capital Source's counsel was present. Pursuant to paragraph 6.31 of the first Interim Order [D.I. 46], the deadline for parties to object to final approval of the DIP Motion was August 28, 2025. Rather than raise issues to the Debtors or otherwise file a timely objection to the DIP Motion, the TVT Parties – who have been active in these chapter 11 cases since the first day hearing – chose not to object to the DIP Motion on a timely basis. In light of the TVT Parties' conscious decision to not object by the court-approved objection deadline, the TVT Objections to the DIP Motion should be overruled on that basis alone.



16. Nevertheless, the Debtors submit that the TVT Objections to the DIP Motion can also be overruled on substantive grounds. Despite the TVT Parties' unsupported assertions that the Debtors' board of directors is comprised of Axar plants, Pamela Corrie, Hooman Yazhari, and Vikram Jindal are wholly independent from Axar. Accordingly, the business judgment rule applies to determine whether entry into the DIP Facility is appropriate. In determining whether to approve a debtor's request for financing pursuant to section 364 of the Bankruptcy Code, the terms must be fair and reasonable, the debtor must establish that is unable to obtain unsecured credit, and the transaction must be necessary to preserve the assets of the estate. As set forth in the DIP Motion, the Debtors have met this standard.

17. Courts in this district and others routinely hold that "[i]t is not appropriate to substitute the judgment of . . . objecting creditors [for] the business judgment of a debtor." *In re Spansion, Inc.*, 426 B.R. 114, 140 (Bankr. D. Del. 2010). Courts also grant a debtor considerable deference in exercising its business judgment in obtaining postpetition financing. *See, e.g., In re Barbara K. Enters., Inc.*, No. 08-11474, 2008 WL 2439649, at \*14 (Bankr. S.D.N.Y. June 16, 2008) (explaining that courts defer to a debtor's business judgment "so long as a request for financing does not 'leverage the bankruptcy process' and unfairly cede control of the reorganization to one party in interest") (quoting *In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990)). The significant latitude granted to the business judgment of a debtor is a tacit acknowledgement that a debtor is in a much more informed and educated position to make sound business decisions.

18. The DIP Facility is the best—and in fact, the only—postpetition financing option available to the Debtors.<sup>4</sup> Nevertheless, "adopting" the reckless and unfounded allegations made

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<sup>4</sup> See Golmont Decl., [D.I. 14], at ¶ 11.

by the Committee with no proof of their own, the TVT Parties allege the DIP Facility is an inappropriate exercise of the Debtors' business judgment and that they will be somehow prejudiced in the adversary proceeding if the Final DIP Order is entered.

19. The Debtors have ensured that the TVT Parties' rights are preserved through the Final DIP Order and the Cash Management Orders. *See* [D.I. 46, ¶ 2.1(b)] (providing that to the extent the TVT Parties hold a Permitted Prior Lien, such liens are not primed by the DIP Liens). The Cash Management Orders specifically authorize the Debtors to collect food and beverage sale proceeds from Billfold and deposit them in a segregated and restricted account pending the outcome of the litigation against the TVT Parties. [D.I. 124, ¶ 2]. Additionally, the Cash Management Orders authorized and directed any payment processors and banks to cease any holds on or redirection of the Debtors' cash. *Id.* The Debtors have complied with their obligations under the Cash Management Orders: all funds collected from Billfold on account of food and beverage sales have been deposited into the segregated and restricted account. Importantly, the TVT Parties raised no objection to entry of the Cash Management Orders, and, in fact, were supportive of the protections provided therein.

20. Nevertheless, to resolve the TVT Parties' issues with the DIP Motion, the Debtors propose inserting the following reservation of rights language into the Final Order approving the DIP Motion:

Notwithstanding anything to the contrary set forth in this Final Order, nothing set forth herein shall be construed to prejudice the legal theories and arguments made by the Debtors, the TVT Parties, or any other parties in interest in the adversary proceeding pending against the TVT Parties, assigned Adv. P. No. 25-51803 (MFW).

### **CONCLUSION**

21. For the foregoing reasons, the Debtors respectfully request that the Court

(a) overrule the TVT Objections and enter the Final Order approving the DIP Motion and the

Proposed Order approving the 9019 Motion, and (b) grant such other and further relief as the Court deems appropriate.

Dated: October 20, 2025  
Wilmington, Delaware

**YOUNG CONAWAY STARGATT & TAYLOR, LLP**

*/s/ S. Alexander Faris*

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**Exhibit 1**

**Excerpt from First Day Hearing Transcript**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

IN RE: Chapter 11  
AGDP HOLDING, INC., et al, Case No. 25-11446(MFW)  
824 Market Street  
Wilmington, Delaware 19801  
Debtors.  
Tuesday, August 5, 2025

TRANSCRIPT OF VIDEO HEARING ON FIRST-DAY MOTIONS  
BEFORE THE HONORABLE THOMAS M. HORAN  
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES VIA ZOOM: (On the Record)

For the Debtors: Sean M. Beach, Esq.  
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(Appearances Continued)

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For AG Acquisition 1, LLC: Adam C. Harris, Esq  
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919 Third Avenue  
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Also Appearing: Gary Richards  
AGDP HOLDING, INC.

Jeffrey Gasbarra  
Stephen Golmont  
PORTAGE POINT PARTNERS

1 THE COURT: All the segregated accounts are at the  
2 Flagstar?

3 MR. FARIS: Right now, Your Honor, I believe we are  
4 restarting an old dormant bank account with JPMorgan that we  
5 will use to segregate and restrict the funds. I believe it's  
6 going to be put into -- in just -- into just one account.  
7 And we'll maintain detailed records of the cash going in  
8 there.

9 THE COURT: Okay. Thank you.

10 MR. FARIS: No problem, Your Honor.

11 THE COURT: Does anyone else --

12 MR. FARIS: Next --

13 THE COURT: -- have any questions about --

14 MR. FARIS: Sure.

15 THE COURT: -- on that point? Or do you want to  
16 finish first?

17 MR. FARIS: I'm happy to take any questions if --  
18 or I'm happy to cede the podium if anyone else has questions.

19 But I will mention we did catch up yesterday with  
20 counsel for TVT, who is relatively new on the scene, I  
21 believe he was still getting up to speed on the matter. But  
22 I think I see him on the Zoom, Mr. Rappaport. We previewed  
23 to him what was going on and what we intended to do. And I  
24 acknowledge he was getting up to speed, but on that call, it  
25 sounded like there was no immediate, you know, problem that

1 they could raise. Although I do want to recognize he was  
2 still getting up to speed and appreciate the call yesterday.

3 MR. RAPPAPORT: Good afternoon, Your Honor. Logan  
4 Rappaport. I -- at this moment in time, I just represent TVT  
5 Capital Source. I may come on board for the -- one or two of  
6 the other entities that Mr. Faris has spoken to.

7 We appreciate debtors, on its own initiative,  
8 proposing the segregation. And although we reserve our --  
9 all our rights, we don't have any objection to the proposed  
10 segregation.

11 THE COURT: Thank you.

12 MR. RAPPAPORT: Thank you, Your Honor.

13 MR. FARIS: Thank you --

14 MR. HARRIS: Good afternoon --

15 MR. FARIS: -- Mr. Rappaport.

16 MR. HARRIS: -- Your Honor.

17 MR. FARIS: Oh, sorry. Go ahead, Mr. Harris.

18 MR. HARRIS: Good afternoon, Your Honor. It's Adam  
19 Harris from McDermott, Will & Schulte -- I'm still trying to  
20 figure out how to get -- roll that off my tongue --  
21 representing the pre-petition secured lender and the DIP  
22 lender, as well as the potential stalking horse purchaser.

23 Your Honor, I just want to clarify one thing that  
24 Mr. Farris said, which is that the funds that are going to be  
25 segregated here will be subject to the liens of, you know,