

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

In re:  AGDP HOLDING INC., <i>et al.</i> , <sup>1</sup>  Debtors.	Chapter 11  Case No. 25-11446 (MFW)  (Jointly Administered)  Re: Docket Nos. 404, 524, 525
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**STATEMENT AND JOINDER OF THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS IN SUPPORT OF CONFIRMATION OF  
THE DEBTORS' JOINT CHAPTER 11 PLAN OF LIQUIDATION**

The Official Committee of Unsecured Creditors (the “Committee”) of the above-captioned debtors and debtors-in-possession (together, the “Debtors” or “Avant Gardner”), by and through its undersigned counsel, submits this statement (this “Statement”) in support of confirmation of the *Joint Chapter 11 Plan of Liquidation for AGDP Holding Inc. and its Affiliated Debtors* [D.I. 404] (together with any exhibits, schedules, or supplements thereto, the “Plan”)<sup>2</sup> and in response to the objections to the Plan [D.I. 524 and 525] (the “Objections”) filed by (i) TVT Capital Source, LLC, Insta Funding, LLC, and Pinnacle Business Funding LLC (collectively, the “MCA Funders,” and such Objection, the “MCA Objection”) and (ii) White Star Funding d/b/a TVT Cap. (together with the MCA Funders, the “TVT Parties,” and such Objection, the “White Star Objection”). The Committee also joins the Debtors’ response (the “Debtors’ Response”), as set forth in the *Debtors’ Memorandum of Law in Support of Approval of the Disclosure Statement on a Final Basis and Confirmation of the Joint Chapter 11 Plan of Liquidation for AGDP Holding*

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<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 herein but not defined herein shall have the meaning ascribed to them in the Plan, the Objections, or the Global Settlement, as applicable.



*Inc. and its Affiliated Debtors*, to the Objections. In support of this Statement, the Committee respectfully states as follows:

**STATEMENT IN SUPPORT OF CONFIRMATION**

**A. Denying Confirmation of the Plan Would Pose an Existential Threat to the Hard-Fought Global Settlement Negotiated by the Committee**

1. The Objections filed by the TVT Parties seek to derail the Global Settlement that will provide general unsecured creditors (“GUCs”) with substantial recoveries in these cases. In approving that settlement, the Court overruled the TVT Parties’ objections and found that the Committee had obtained a “very good deal”:

The agreement to cover substantial priority claims, to cover substantial administrative claims, to fund the liquidating trust expenses, to convey to the liquidating trust what may be substantial causes of action[.] . . . The other consideration, the assurance of the recovery for general unsecured creditors by funding a substantial amount of money over a three-year period, as well as giving the contingent vesting rights, all convince me that this is a *remarkable settlement* and in the best interests of the estate.

Oct. 22, 2025 Hr’g Tr. [D.I. 365] at 93:7-18 (emphasis added). Holders of general unsecured claims clearly agreed with the Court’s assessment, as Class 4 (General Unsecured Claims) voted *overwhelmingly* in favor of the Plan. *See* Dkt. No. 486, Ex. A (voting results showing more than 82% of Class 4 (General Unsecured Claims) voted to accept the Plan).

2. Neither the U.S. Trustee nor any other party in interest objected to the Global Settlement. In that context, the TVT Parties stood alone in opposing the deal. *See* Dkt. Nos. 309, 311.<sup>3</sup> Fast forward several months later, with confirmation on the horizon, the TVT Parties agreed to engage in a mediation that did nothing but waste estate resources and increase the secured obligations of the Debtors owed to their DIP Lenders (thereby increasing the threshold amount

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<sup>3</sup> The TVT Parties also filed objections to the DIP Facility [D.I. 310 and 312] and the Sale [D.I. 335 and 336].

that must be cleared for the contingent value right (the “CVR”) under the Global Settlement to be in the money). The TVT Parties apparently have no qualms about burying GUC recoveries below DIP Loans.

3. Following the Debtors’ failed attempt to reach a resolution through mediation, the TVT Parties stand alone again in their continuing hostage campaign, apparently believing that the DIP Lenders will buckle and pay them the ransom they demand by driving up the costs of exiting chapter 11. But the real hostage is neither Axar nor the Debtors. It is the GUCs, whose Global Settlement and the “assurance of . . . recovery” that the Court recognized, the TVT Parties continue to threaten. The TVT Parties, again, have no qualms about destroying jobs and the prospect of continuing trade relationships with the Purchaser promised under the Global Settlement.

4. Denying confirmation of the Plan would have a catastrophic impact on the estates and threaten the viability of the Global Settlement. For example:

- the CVR entitling GUCs to 15% of all proceeds of the enterprise over and above a threshold amount consisting of Axar’s capital investments, which the Committee continues to view as the crown jewel of the Global Settlement, will vest in a post-confirmation trust (the “GUC Trust”) that will hold the CVR for the benefit of GUCs “*upon confirmation of a liquidating plan*”;
- the \$1.05 million initial cash contribution from Axar will be transferred to the GUC Trust “*upon confirmation of a liquidating plan*”;
- ongoing oversight of the Avant Gardner business post-chapter 11 for the benefit of GUCs in the form of a board observer at the Purchaser will be appointed by the trustee of the GUC Trust “*on the effective date of a liquidating plan*”; and
- the waiver of Axar’s ~\$57 million deficiency claim for purposes of distributions (thereby increasing ratable recoveries for allowed general unsecured claims), upon which Axar would otherwise be entitled to recover absent a successful challenge, is predicated on “*the liquidating plan becom[ing] effective*”.

See Dkt. No. 372-1, Ex. 1 at 2-5 (emphasis added).

5. To be clear, regardless of whether a liquidating plan becomes effective, Axar has agreed to issue the CVR to the Debtors, and to pay and/or fund the amounts agreed under the Global Settlement, and the Debtors and Axar will hold the CVR and such other amounts owing under the Global Settlement in trust for the benefit of the GUC Trust's intended beneficiaries. *See, e.g.,* Sale Order ¶ 29. The Committee reserves the right to take action to ensure such beneficiaries receive the GUC Trust property to which they are entitled from Axar, the Debtors, and any of the Debtors' successors.<sup>4</sup>

6. If the Plan is not confirmed, however, the Committee, the Debtors, and Axar would be forced to explore other mechanisms to effectuate the Global Settlement. Shifting gears at this late stage would likely cost millions of additional dollars in restructuring costs and, at a minimum, delay resolution of these cases by several weeks if not longer. Moreover, there is no guarantee that Axar would even be willing to consider alternatives to a liquidating plan, which could result in further litigation if the Committee has to enforce its rights under the Global Settlement. In light of these challenges, there is a very real possibility that absent confirmation of the Plan, these cases could convert to chapter 7, presenting the risk of a functional collapse of the Global Settlement. And, while the TVT Parties would also receive no recovery in that scenario, they apparently are willing to accept (or, perhaps, prefer) that result, as it would likely mean that they face a new adversary in the form of an under-funded chapter 7 trustee rather than the well-funded adversary that they currently face, Axar. In short, the TVT Parties are happy to burn their own house down with their GUC hostages inside.

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<sup>4</sup> The Global Settlement is binding upon any trustee appointed in these cases. Settlement Order ¶ 6.

7. The Court should not countenance this last-ditch effort by the TVT Parties to hijack GUC recoveries to obtain leverage against Axar. The TVT Parties' legal arguments fail, and the Objections should be overruled.

**B. The TVT Parties Objections are Meritless**

8. The Objections are primarily directed at feasibility, alleging, among other things, that the Debtors cannot satisfy the dubious administrative claims the TVT Parties contend are owing to them on account of "other" receivables beyond the receivables escrowed in the F&B Reserve, as they now argue that they purchased *all* receivables, not just food and beverage receipts. *See* MCA Obj. ¶ 11; White Star Obj. ¶ 17. As explained in the Debtors' Response, "[t]he TVT Parties' arguments on this point are speculative at best, and are legally flawed." Debtors' Response ¶ 115.

9. Even if, however, the TVT Parties were found to hold administrative claims in excess of amounts in the F&B Reserve, the Debtors assert that the Plan provides for sufficient funds to cover such claims. *See* Debtors' Response ¶ 117. To demonstrate feasibility, the Debtors need only show that, in their business judgment based on reasonable projections, the Plan is feasible and unlikely to be followed by liquidation or further reorganization. *See* 11 U.S.C. 1129(a)(11). The Debtors do not, as the TVT Parties seem to imply, need to prove the Plan's success with certainty. *See In re Alecto Healthcare Servs., LLC*, No. 23-10787, 2024 WL 1208355, at \*3 (Bankr. D. Del. Mar. 20, 2024), *aff'd*, No. 23-10787 (JKS), 2025 WL 961482 (D. Del. Mar. 31, 2025) ("[I]t is not necessary for plan success to be guaranteed, nor is the feasibility requirement generally viewed as rigorous."). Feasibility does not mandate the establishment of reserves for all potential administrative claims, no matter how speculative or hotly contested. *See In re VJGJ, Inc.*, Case No. 21-11332 (BLS) (Bankr. D. Del. July 13, 2022) (holding that the debtor had met its

burden of proof to show feasibility under sections 1129(a)(9) and (11) by demonstrating that it had “more than sufficient funds available . . . to satisfy allowed [administrative] claims.”<sup>5</sup>

10. Although the TVT Parties continue to take the position that they “purchased” the Debtors’ receivables, that claim is disputed. On the first day of these cases, the Debtors sued the TVT Parties and sought to recharacterize their arrangements with the TVT Parties as loans, rather than the sale of receivables. To the extent that the arrangements are recharacterized as secured loans, the Objections fail for two reasons.<sup>6</sup> *First*, the TVT Parties would not hold liens over the Debtors’ postpetition receivables. Section 552(a) of the Bankruptcy Code provides that after-acquired property of the estate, meaning property acquired after the commencement of a bankruptcy case, “is not subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.” 11 U.S.C. § 552(a); *see also In re Skagit Pac. Corp.*, 316 B.R. 330, 335 (B.A.P. 9th Cir. 2004) (“Section 552(a) cuts off security interests on property acquired by the debtor after the petition date even if there is an ‘after-acquired’ clause in the security agreement.”). Section 552(b) contains a narrow exception to this general rule by permitting prepetition liens to extend to the “proceeds, products, offspring, or profits” of prepetition collateral if the relevant security agreement provides that the liens attach to such after-acquired property.

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<sup>5</sup> Even if the Court were to accept the TVT Parties’ argument that a reserve is needed to cover their speculative administrative claims, the Debtors have stated that they intend to put on evidence at the confirmation hearing that the Post-Effective Date Debtors will have sufficient funds on hand to satisfy all allowed administrative claims, including any administrative claim held by the TVT Parties. *See* Debtors’ Response ¶ 117. Insofar as the value available to satisfy any such claims would come from value owing to the GUC Trust under the Global Settlement, the Committee reserves all rights to oppose the TVT Parties’ invasion of GUC recoveries or the reallocation of value owing to GUCs under the Global Settlement by the Debtors to address the TVT Parties’ claims.

<sup>6</sup> The Committee also submits that the “loans” are usurious for reasons advanced by the Debtors in their adversary proceeding against the TVT Parties and their claims should be disallowed.

11. The Debtors' postpetition receivables did not exist before the Petition Date and, therefore, no security interest could attach to them, and the exception under Section 552(b) does nothing to change this.<sup>7</sup> Although "proceeds" is not defined in the Bankruptcy Code, courts take guidance from the Supreme Court's decision in *Local Loan Co. v. Hunt*, 292 U.S. 234, 243 (1934), finding that "proceeds" does not include property acquired post-petition through *the debtor's labor or use of estate resources*. See, e.g., *In re Cafeteria Operators, L.P.*, 299 B.R. 400, 404-05 (Bankr. N.D. Tex. 2003) (holding that postpetition property acquired through the debtor's labor is not subject to a pre-petition lender's security interest); *Far E. Nat'l Bank v. United States Tr. (In re Premier Golf Props., LP)*, 477 B.R. 767, 776 (B.A.P. 9th Cir. 2012) (holding that postpetition property acquired "largely [as] the result of the [debtor]'s labor and own operational resources" did not constitute "proceeds" of prepetition collateral).

12. At their core, the Debtors' postpetition receivables were created through the efforts of the artists that performed at the Brooklyn Mirage that customers paid money to see, as well as the work performed by Avant Gardner's employees on behalf of the Debtors. Therefore, the receivables are not the proceeds of any prepetition collateral but new entitlements that are the fruits of the Debtors' labor. See, e.g., *Official Comm. of Unsecured Creditors v. UMB Bank, N.A. (In re Residential Cap.)*, 501 B.R. 549, 612 (Bankr. S.D.N.Y. 2013) (stating that the exception in section 552(b) only covers assets acquired post-petition that are "directly attributable to [the prepetition collateral], without addition of [estate] resources") (citing 5 COLLIER ON BANKRUPTCY ¶

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<sup>7</sup> The postpetition receivables are also not the products, offspring, or profits of prepetition collateral within the meaning of section 552(b). See, e.g., *In re Mintz*, 192 B.R. 313, 320 (Bankr. D. Mass. 1996) (The overall emphasis of the definition [of 'products'] is to physical items originating from other physical items [.]); *In re Sorrell*, 286 B.R. 798, 810 (Bankr. D. Utah 2002) (offspring refers to offspring of livestock); *In re W. Chestnut Realty of Haverford, Inc.* (products are "produce of the soil").

552.02[2][a] (16th ed. 2011)); *In re Premier Golf Props.*, 477 B.R. at 776; *In re Cafeteria Operators, L.P.*, 299 B.R. at 405.

13. The Debtors' postpetition receivables were generated by the substantial efforts by the Debtor's management, advisors, employees, and performing artists, involving significant "time, effort, and expense by the Debtor[']s estate[.]" *In re Residential Cap.*, 501 B.R. at 612. Here, as in *Residential Cap.*, the Debtor "did not merely take some [prepetition collateral] and convert it into [the Debtors' postpetition receivables] without any other resources." *Id.* Accordingly, pursuant to section 552 of the Bankruptcy Code, any prepetition liens of the TVT Parties would not attach to the Debtors' postpetition receivables.

14. Second, the Objections fail for the additional reason that the TVT Parties failed to timely request adequate protection. The TVT Parties have known since the *first day* of these cases that the Debtors were attempting to recharacterize their arrangements as loans. Despite being aware of this, the TVT Parties did not make any efforts to mitigate against the consequences of recharacterization or to seek protection against the diminution in value of their purported collateral. The Objections essentially seek compensation for diminution in value for the TVT Parties' purported "collateral" during the pendency of the cases (i.e., adequate protection), but a confirmation objection is not the proper vehicle to seek adequate protection. *See In re Best Prods. Co., Inc.*, 138 B.R. 155 (Bankr. S.D.N.Y. 1992) (cautioning against the danger of creditors waiting until late in the reorganization process to seek adequate protection and thereby attempting to control the plan confirmation process.), *aff'd*, 149 B.R. 346 (S.D.N.Y. 1992); *see also Matter of Cont'l Airlines, Inc.*, 134 B.R. 536, 544 (Bankr. D. Del. 1991) (holding that adequate protection is not available retroactively as "a secured creditor is only entitled to adequate protection payments from the date it so requests."); *In re Vista Marketing Grp., Ltd.*, 548 B.R. 502, 522 (Bankr. N.D.

Ill. 2016) (same); *In re Best Prods.*, 138 B.R. at 157 (same); *In re Waverly Textile Processing, Inc.*, 214 B.R. 476, 479 (E.D. Va. 1997) (same). Moreover, a secured party has the burden to request adequate protection, see *In re Vista Marketing*, 548 B.R. at 522 (citing *Thompson v. General Motors Acceptance Corp.*, 566 F.3d 699, 707 (7th Cir. 2009) (“[The] onus [is] on the creditor ... to seek judicial relief if it believes its interests are not adequately protected.”)), and they must do so in a timely manner. See *In re BIG3D, Inc.*, 438 B.R. 214 (9th Cir. BAP 2010) (“[I]t is well established that delays in filing a motion for adequate protection should not unfairly treat the debtor”); *In re Greives*, 81 B.R. 912, 965 (Bankr. N.D. Ind. 1987) (“[T]here is imposed on a secured creditor the obligation to be diligent in pursuing adequate protection”); *In re Hinckley*, 40 B.R. 679, 681 (Bankr. D. Utah 1984) (creditors should be encouraged to pursue their available remedies quickly and not to sit on their rights while the collateral diminishes in value); *In re Adams*, 2 B.R. 313, 314 (Bankr. M.D. Fla. 1980) (a secured creditor “should not be allowed to sit back and through his inaction compel the unsecured creditors to become insurers of any deficiency that may arise”). If a secured party fails to seek adequate protection, they are entitled to none. Here, the TVT Parties have not requested any adequate protection, and they have certainly not acted timely by sitting on their rights for nearly six months since the cases were commenced. Thus, to the extent that they have a lien on any post-petition receivables, they are not entitled to compensation for the diminution in the value thereof and their Objections should be denied.

### **JOINDER**

15. In addition to the arguments set forth herein, the Committee also joins and incorporates by reference the arguments and authority set forth in the Debtors’ Response in support of confirmation of the Plan.

**RESERVATION OF RIGHTS**

16. The Committee expressly reserves all rights to respond to all objections advanced by the TVT Parties and offer and present evidence and corresponding arguments during the hearing concerning confirmation of the Plan, any claims asserted by the TVT Parties to the value allocated to general unsecured creditor recoveries under the Global Settlement, and against all parties to enforce the terms of the Global Settlement.

**CONCLUSION**

For the foregoing reasons, the Committee respectfully requests that the Court overrule the Objections, confirm the Plan, and grant other relief as deemed just and appropriate.

*[Remainder of page intentionally left blank.]*

Dated: January 14, 2026

**MORRIS JAMES LLP**

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**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)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 14<sup>th</sup> day of January 2026, I caused to be filed with the Court electronically, and I caused to be served a true and correct copy of the *Statement and Joinder of the Official Committee of Unsecured Creditors in Support of Confirmation of the Debtors' Joint Chapter 11 Plan of Liquidation* upon the parties that are registered to receive notice via the Court's CM/ECF notification system, and an additional service was completed via electronic mail on the parties listed on the attached service list.

/s/ Eric J. Monzo

Eric J. Monzo (DE Bar No. 5214)

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<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.

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