

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

In re:

PROSOMNUS, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-10972 (JTD)

(Joint Administration Requested)

**Re: Docket No. 10**

**INTERIM ORDER AUTHORIZING PAYMENT OF (I) CERTAIN PREPETITION  
EMPLOYEE CLAIMS, INCLUDING WAGES, SALARIES, AND OTHER  
COMPENSATION, (II) CERTAIN EMPLOYEE BENEFITS AND CONFIRMING  
RIGHT TO CONTINUE EMPLOYEE BENEFITS ON POSTPETITION BASIS,  
(III) REIMBURSEMENT TO EMPLOYEES FOR PREPETITION EXPENSES,  
(IV) WITHHOLDING AND PAYROLL-RELATED TAXES, (V) WORKERS'  
COMPENSATION OBLIGATIONS, AND (VI) PREPETITION CLAIMS OWING TO  
ADMINISTRATORS AND THIRD-PARTY PROVIDERS**

Upon the motion (the “**Motion**”)<sup>2</sup> of the Debtors for entry of an interim order (this “**Interim Order**”) authorizing payment and/or performance of, as applicable, obligations relating to of (i) certain prepetition employee claims, including wages, salaries, and other compensation, (ii) certain employee benefits and confirming right to continue employee benefits on a postpetition basis, (iii) reimbursement to employees for prepetition expenses, (iv) withholding and payroll-related taxes, and (v) prepetition claims owing to administrators and third-party providers; the Court having reviewed the Motion and the First Day Declaration; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334(b) and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated as of February

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: ProSomnus, Inc. (8216), ProSomnus Holdings, Inc. (3855), and ProSomnus Sleep Technologies, Inc. (0766). The location of the Debtors’ principal place of business and the Debtors’ mailing address is 5675 Gibraltar Dr., Pleasanton, California 94588.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.



29, 2012; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), that the Debtors consent to entry of a final order under Article III of the United States Constitution, and venue of the Chapter 11 Cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefore, it is hereby

**ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is GRANTED on an interim basis, as set forth herein.
2. All objections to the entry of this Interim Order, to the extent not withdrawn or settled, are overruled.
3. The Debtors are authorized, but not directed to: (i) pay prepetition claims and honor obligations incurred or related to the Employee Obligations up to an amount of \$479,000; *provided, however*, that payments to or for the benefit of any individual Temp Worker or Employee on account of prepetition obligations will not exceed the amounts set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code; *provided further*, that the Debtors' Employees are authorized to use paid time off ("PTO") in accordance with the Debtors' policies and practices; *provided further*, that unless applicable state law requires such payment, the Debtors are prohibited from paying PTO upon an Employee's termination; and (ii) maintain, continue, and honor, in the ordinary course of business, the Employee Plans and Programs.
4. Nothing herein authorizes the payment of bonus or severance obligations that implicate section 503(c) of the Bankruptcy Code or otherwise; *provided* that nothing herein shall prejudice the Debtors' ability to seek approval of relief with respect to such obligations at a later time, on notice.

5. The Debtors are authorized to continue the programs and policies described in the Motion on a postpetition basis, except as otherwise set forth herein, and to make non-material alterations, modifications, or to discontinue such programs and policies as they deem necessary or appropriate in the ordinary course of business, without further notice to or order of the Court, subject to the limitations contained in this Order.

6. Except as otherwise set forth herein, the Debtors are authorized, pursuant to Bankruptcy Code sections 105(a) and 363(b), in the reasonable exercise of their business judgment and in the ordinary course of business, to pay and honor amounts on account of Compensation Obligations (inclusive of Withholding Obligations); *provided, however*, that without prejudice to the Debtors' right to seek additional payments, by way of a separate motion, the Debtors' payments to or for the benefit of any individual Temp Worker or Employee on account of prepetition obligations will not exceed the amounts set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code, absent further order of the Court.

7. The Debtors and any applicable third parties are authorized to continue to allocate and distribute Withholding Obligations to the appropriate third-party recipients or taxing authorities in accordance with the Debtors' stated policies and prepetition practices.

8. The Debtors are authorized to continue to honor their Reimbursable Expense Obligations including any prepetition obligations, and to continue in accordance with the Debtors' stated policies and prepetition practices; *provided, however*, that satisfaction of prepetition Reimbursable Expense Obligations shall only be allowed to the extent Employees have paid for such expenses directly from their own funds or are otherwise personally liable for such expenses.

9. Subject to the limitations set forth in this Interim Order, the Debtors are authorized to honor the Employee Benefits Plans in the ordinary course of business and in accordance with

the Debtors' prepetition policies and programs, and to coordinate necessary contributions to such programs and coordinate contributions to cover any unpaid premium, claim, or amount owed as of the Petition Date with respect thereto.

10. The Debtors are authorized to pay all processing and administrative fees associated with and all costs and expenses incidental to payment of the Compensation Obligations or the Employee Benefits Obligations, including the Administrative Fee Obligations.

11. Nothing in the Motion or this Interim Order, nor as a result of any payment made pursuant to this Interim Order, shall be deemed or construed as an admission as to the validity or priority of any claim against the Debtors, an approval or assumption of any agreement, contract or lease pursuant to Bankruptcy Code section 365, or a waiver of the right of the Debtors, or shall impair the ability of the Debtors, or any other party in interest, to the extent applicable, to contest the validity and amount of any payment made pursuant to this Interim Order.

12. Each of the Processors are authorized to receive, process, honor, and pay all checks and transfers issued or requested by the Debtors, to the extent that sufficient funds are on deposit in the applicable accounts, in accordance with this Interim Order and any other order of this Court.

13. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests in connection with any Employee Obligations that are dishonored or rejected and which are authorized to be paid by this Interim Order.

14. The requirements of Bankruptcy Rule 6003(b) are satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors.

15. Notice of the Motion as provided therein satisfies the requirements of the Bankruptcy Rules and the Local Rules.

16. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

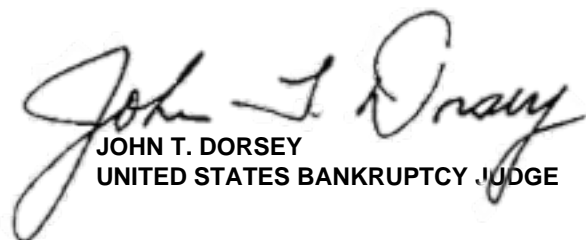
17. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Interim Order in accordance with the Motion.

18. The final hearing (the “**Final Hearing**”) to consider the entry of a final order granting the relief requested in the Motion shall be held on **June 5, 2024, at 10:00 a.m. Prevailing Eastern Time.**

19. Any objection to the entry of a final order granting the relief requested in the Motion shall be filed with the Court and served on the following parties **no later than 4:00 p.m. Prevailing Eastern Time on May 29, 2024**, (a) the Debtors, c/o ProSomnus, Inc., 5675 Gibraltar Dr., Pleasanton, California 94588; (b) proposed counsel to the Debtors, Polsinelli PC, 222 Delaware Avenue, Suite 1101, Wilmington, Delaware 19801, Attn: Shanti M. Katona (skatona@polsinelli.com) and Katherine M. Devanney (kdevanney@polsinelli.com); (c) counsel to the Sponsoring Noteholders and proposed DIP Lenders, Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York 10036, Attn: David M. Posner (dposner@ktslaw.com) and Gianfranco Finizio (gfinizio@ktslaw.com) and Morris James LLP, 500 Delaware Avenue, Suite 1500, Wilmington, Delaware 19801, Attn: Eric J. Monzo (emonzo@morrisjames.com) and Brya M. Keilson (bkeilson@morrisjames.com); (d) counsel to the Prepetition Agents, Pryor Cashman LLP, 7 Times Square, 40th Floor, New York, New York 10036, Attn: Seth H. Lieberman (slieberman@pryorcashman.com); (e) counsel to the proposed DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, NY 10004, Attn: Gregg Bateman (bateman@sewkis.com); and (f) the Office of the United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Jon Lipshie (jon.lipshie@usdoj.gov).

20. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Interim Order.

**Dated: May 9th, 2024**  
**Wilmington, Delaware**

  
**JOHN T. DORSEY**  
**UNITED STATES BANKRUPTCY JUDGE**