

**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)

(Jointly Administered)

**Re: Docket No. 157**

**AFFIDAVIT OF WILLIAM ARTHUR SMELKO IN SUPPORT OF ORDINARY  
COURSE RETENTION OF PROCOPIO, CORY, HARGREAVES & SAVITCH LLP**

I, William Arthur Smelko, being duly sworn, state the following:

1. I am a Partner in Procopio, Cory, Hargreaves & Savitch, LLP (the “**Firm**”), which maintains as the Firm’s principal or primary office location at 525 B Street, Suite 2200, San Diego, California.

2. Neither I, the Firm, nor any professional thereof, insofar as I have been able to ascertain, has any connection with the above-captioned debtors and debtors in possession (the “**Debtors**”), their creditors, any other party-in-interest, their respective attorneys and accountants, the United States Trustee or any person employed in the office of the United States Trustee, or any judge in the Bankruptcy Court or District Court for the District of Delaware or any person employed in the offices of the same, except as set forth in this affidavit.

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<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.



3. The Firm, through myself and other professionals and paraprofessionals of the Firm, has provided certain legal services to the Debtors with respect to the Debtors' domestic and international patents, intellectual property and patent portfolio.

4. The Debtors have requested, and the Firm has agreed, to continue to provide services to the Debtors pursuant to section 327 of Title 11 of the United States Code (the "**Bankruptcy Code**") with respect to such matters. Additionally, the Debtors have requested, and the Firm proposes, to render the following services to the Debtors:

5. The Firm provides patent investigation, patent protection, patent creation, patent prosecution and patent renewal services to the Debtors and has been asked by the Debtors to continue to provide those services.

6. The Firm's current customary rates are \$350-\$475 per hour for paraprofessionals and patent agents; \$550 to \$700 per hour for associates; and \$850-\$1,100 per hour for partners and senior counsel. In the normal course of business, the Firm revises its regular rates on January 1 of each year and requests that, effective January 1 of each year, the aforementioned rates be revised to the regular rates which will be in effect at that time.

7. Due to the international nature of patent work, it is necessary for the Firm to retain out of country lawyers, professionals, specialists and agents which the Firm pays and then bills the Debtors as a cost item, along with filing fees, extension fees and related costs.

8. In the past year, the Firm has rendered services to the Debtors for which the Debtors have been invoiced in the amount of \$73,949.51. On May 7, 2024, (the "**Petition Date**"), the Firm was owed \$73,949.51. Additionally, since the Petition Date, the Firm has provided services to the Debtors that have not yet been billed or that have been billed but for which payment has not been received. As of the date of this Affidavit, the value of such services does not exceed \$48,445.60.

9. Except as set forth herein, no promises have been received by the Firm as to compensation in connection with the Chapter 11 Cases other than in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware and any orders of this Court.

10. As of the Petition Date, the Firm was not party to an agreement that provides for indemnification.

11. Except for its affiliated entities, the Firm has no agreement with any entity to share any compensation received from the Debtors.

12. The Firm and its professionals may have in the past, currently, and may in the future provide services to entities that are creditors of the Debtors in matters totally unrelated to the matters with respect to which the Firm is to be engaged by the Debtors. However, neither I, the Firm, nor any professional thereof, insofar as I have been able to ascertain, holds or represents any interest adverse to the Debtors or their estates in the matters upon which the Firm is to be engaged.

13. The foregoing constitutes the statement of the Firm pursuant to Bankruptcy Code sections 329 and 504 and Bankruptcy Rule 2014.

14. I declare under penalty of perjury under the laws of the United States of America that, to the best of my knowledge and belief, and after reasonable inquiry, the foregoing is true and correct.

By:   
William Arthur Smelko  
525 B Street Suite 2200  
San Diego, CA. 92020