IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC,[1] Debtors.	Chapter 11 Case No. 20-10343 (LSS) (Jointly Administered)
BOY SCOUTS OF AMERICA, Plaintiff, v. A.A., *et al*.,[2] Defendants.	Adv. Pro. No. 20-50527 (LSS) **Related Adv. Docket Nos. 6, 7, 53, 54, 56, 57, 58, 74, 75, 77, 80**

THE BSA'S REPLY BRIEF IN FURTHER SUPPORT OF MOTION FOR A PRELIMINARY INJUNCTION PURSUANT TO SECTIONS 105(A) AND 362 OF THE BANKRUPTCY CODE

[1] The Debtors in these chapter 11 cases, together with the last four digits of each Debtors' federal tax identification number, are as follows: Boy Scouts of America (6300) and Delaware BSA, LLC (4311). The Debtors' mailing address is 1325 W. Walnut Hill Ln., Irving, Texas 75038.

[2] A full list of the Defendants in this adversary proceeding is included in redacted form on Exhibit A to the BSA's Verified Complaint for Injunctive Relief [A.D.I 14-1] to protect the privacy interests of abuse victims.

PRELIMINARY STATEMENT

Extension of the preliminary injunction temporarily staying the Pending Abuse Actions[3] and Further Abuse Actions as against the BSA Related Parties is critical to the progress the Debtors and other key constituencies continue to make towards resolving these chapter 11 cases. During the Standstill Period, notwithstanding the COVID-19 pandemic, the Debtors, the Committees, FCR and certain other interested parties have continued to work in good-faith with respect to (1) entry of a mediation order appointing three mediators to assist with the comprehensive resolution of issues and claims in BSA's chapter 11 case through a chapter 11 plan, and an initial meeting between those parties and the mediators (2) entry of a comprehensive protective order between the Committees, the Future Claimants' Representative (the "FCR") the Ad Hoc Committee of Local Councils of the BSA (the "Local Council Committee"), and certain of the Debtors' primary general liability insurers that will govern the treatment of discovery materials, including materials uploaded to the electronic data room; (3) the establishment of a bar date and comprehensive bar date noticing protocol; (4) exchanges of information and the production of documents with key stakeholders; (5) due diligence discussions and responses to numerous due diligence inquiries from the Committees and the FCR; (6) the appointment of mediators and the identification of various matters to be mediated; and (7) an agreement on the long-term use of cash collateral, all to advance a global consensual resolution of theses chapter 11 cases that would equitably compensate survivors of abuse and ensure the BSA is able to continue its mission.

[3] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the BSA's Opening Brief in Support of Motion for a Preliminary Injunction Pursuant to Sections 105(a) and 362 of the Bankruptcy Code (the "Opening Brief") [A.D.I. 7] or the *Consent Order Pursuant to 11 U.S.C. §§ 105(a) and 362 Granting the BSA's Motion for a Preliminary Injunction* [A.D.I. 54] (the "Consent Order").

Despite this progress, much remains to be accomplished in order to resolve the Pending and Further Abuse Actions, and these chapter 11 cases generally. To that end, pursuant to Paragraph 12 of the Consent Order, the BSA and the Committees have agreed on the terms of two Extension Notices, as set forth in the First Stipulation and Agreed Order (as defined below) and the Second Stipulation and Agreed Order (as defined below), extending the Standstill Period by a total of 182 days through and including November 16, 2020.

Four objections to the Second Stipulation and Agreed Order were filed.[4] The BSA has worked diligently and in good faith with each of these objecting parties, and has resolved (1) the objection contained in the Verified Answer of Defendant Frank Joseph Schwindler to Verified Complaint for Injunctive Relief [A.DI. 56, 57, 58]; and (2) Creditors KS-Doe-1 through KS-Doe-22's Objection to Stipulation and Agreed Order by and Among the Boy Scouts of America, the Official Committee of Survivors of Abuse, and the Official Committee of Unsecured Creditors Extending the Termination Date of the Standstill Period under the Consent Order Pursuant to 11 U.S.C. §§ 105(A) and 362 [A.D.I. 75], which have been withdrawn without prejudice. Despite these extensive good-faith efforts, however, at the time of this filing, the BSA has been unable to resolve the other two objections.

Permitting individual claims to go forward at this juncture, on the eve of meaningful, court-supervised mediation or substantive plan negotiations, would only kick-start the "race to the courthouse" the automatic stay and the preliminary injunction is designed to prevent, and threaten the orderly process the Debtors and the overwhelming majority of their creditors'

[4] Three of the objections were filed with respect to the First Stipulation and Agreed Order. Due to both the structure of the Consent Order as well as the close proximity between the objection deadline, the June 8, 2020 hearing date, and the requested extension of the Termination Date sought in the First Stipulation and Agreed Order, the BSA and the Committees agreed to also treat each of these objections as objections to the Second Stipulation and Agreed Order. Second Stipulation and Agreed Order, at ¶ 4. Each of those three objectors also consented to this procedure.

support. For the reasons stated below, both of the remaining Objections are without merit and should be overruled.[5]

BACKGROUND

I. THE CONSENT ORDER

On March 30, 2020, the Court entered the Consent Order staying each of the Pending and Further Abuse Actions through and including May 18, 2020. In addition to staying each of the Pending and Further Abuse Actions, the Consent Order established a procedure by which the Termination Date could be extended beyond May 18, 2020. Specifically, the Consent Order provides that the BSA, UCC, and the Tort Claimants' Committee may mutually agree to an extension of the Termination Date through a stipulation filed with the Court and served on the plaintiffs in various Pending and Further Abuse Actions. Consent Order ¶ 12. Importantly, although individual plaintiffs in Pending Abuse Actions or Further Abuse Actions may object to any such extension with respect to their own claims, the Consent Order provides that "[n]otwithstanding the filing of an Extension Objection by any plaintiff, the Termination Date shall be extended as to any plaintiff who does not object to the Extension Notice." *Id.*

Pursuant to the terms of the Consent Order, on May 18, 2020, the Court approved *Stipulation and Agreed Order By and Among the Boy Scouts of America, the Official Committee of Survivors of Abuse, and the Official Committee of Unsecured Creditors Extending the Termination Date of the Standstill Period under the Consent Order Granting the BSA's Motion for a Preliminary Injunction Pursuant to 11 U.S.C. §§ 105(A) and 362* [A.D.I. 72] (the "First

[5] The two remaining objections consist of: (1) the Objection to Stipulation and Agreed Order by and Among the Boy Scouts of America, the Official Committee of Survivors of Abuse, and the Official Committee of Unsecured Creditors Extending the Termination Date of the Standstill Period under the Consent Order Pursuant to 11 U.S.C. §§ 105(A) and 362 [A.D.I. 74] (the "I.G. Objection"); and (2) Objection of the Kentucky Defendants to Stipulation and Agreed Order by and Among the Boy Scouts of America, the Official Committee of Survivors of Abuse, and the Official Committee of Unsecured Creditors Extending the Termination Date of the Standstill Period under the Consent Order Granting the BSA's Motion for a Preliminary Injunction Pursuant to 11 U.S.C. §§ 105(A) and 362 [A.D.I. 80] (the "Kentucky Defendants' Second Objection" and, together with the I.G. Objection, the "Objections").

Stipulation and Agreed Order") extending the Termination Date by 21 days, through and including June 8, 2020.

On June 9, 2020, the Court approved the *Second Stipulation and Agreed Order By and Among the Boy Scouts of America, the Official Committee of Survivors of Abuse, and the Official Committee of Unsecured Creditors Modifying the Consent Order Granting the BSA's Motion for a Preliminary Injunction Pursuant to 11 U.S.C. §§ 105(A) and 362 and Further Extending the Termination Date of the Standstill Period* [A.D.I. 77] (the "Second Stipulation and Agreed Order"). The Second Stipulation and Agreed Order provides for a further extension of the Termination Date of 161 days, through and including November 16, 2020. In addition, the Second Stipulation and Agreed Order, among other things, (1) modifies the procedures for seeking further extensions of the Termination Date so as to require any future requests for extension to be filed at least twenty-five (25) days prior to the Termination Date, with objections thereto due within fourteen (14) days thereafter; and (2) sets forth procedures by which Local Councils must disclose information related to the transfer of assets as a condition to the continued application of the preliminary injunction to claims against such Local Councils.

II. PROCEDURAL POSTURE OF THE OBJECTIONS

A. The I.G. Objection

On February 19, 2020, I.G. commenced an action in Missouri state court against the BSA, the Ozark Trails Council, Inc., a local council of the BSA, and Scott Wortman asserting claims arising out of the alleged sexual abuse of the plaintiff by Scott Wortman. On March 3, 2020, the BSA removed the Missouri state court action to the United States District Court for the Western District Court of Missouri (the "Missouri District Court"). The case remains pending in the Missouri District Court and captioned *I.G. v. Ozark Trails Counsel, Inc. and Scott Wortman*,

Case No. 6:20-cv-03059-SRB (the "I.G. Action"). On March 24, 2020, I.G. voluntarily dismissed the BSA from the case and sought remand with respect to the remaining claims. I.G.'s remand motion is pending.

B. The Kentucky Defendants' Second Objection

Each of the Kentucky Defendants have commenced actions against the BSA, BSA Related Parties Learning for Life, Inc. ("LFL") and Lincoln Heritage Council, Inc., a Local Council of the BSA, and certain non-BSA Related Parties, including the police department of the city of Louisville, Kentucky, alleging sexual abuse in the United States District Court for the Western District of Kentucky. The Kentucky Defendants' abuse actions have been consolidated and are currently captioned as *B.L. v. Schummann, et al.*, 3:18-cv-00151 (W.D. Ky.) (the "Kentucky Defendants Action"). The Kentucky Defendants had previously objected to the entry of the Consent Order, but, following extensive negotiations with the BSA, withdrew their objection prior to the March 24, 2020 hearing in exchange for responses to various discovery requests related to the Kentucky Defendants Action as well as the removal of the Louisville Police Department and City of Louisville, Kentucky from the list of BSA Related Parties. *See* Defendants A.S., B.L., C.F., E.B., F.A., K.W., and N.C.'s First Memorandum in Opposition to Plaintiff's Motion for a Preliminary Injunction Pursuant to Sections 105(a) and 362 of the Bankruptcy Code [A.D.I. 25] (the "Kentucky Defendants' First Objection"). Because the Kentucky Defendants' Second Objection expressly incorporates that arguments made in the Kentucky Defendants' First Objection, *see* Kentucky Defendants' Second Objection at ¶ 1, the BSA addresses both herein.

ARGUMENT

I. RESPONSE TO I.G. OBJECTION

The I.G. Objection raises two principal arguments against an extension of the Termination Date: (1) that there are no shared insurance policies or other assets of the Ozark Trail Council that would be used to satisfy abuse claims through the bankruptcy process; and (2) the Court has no jurisdiction over the Ozark Trail Council because the BSA and the Ozark Trail Council are separate legal entities. Both arguments are without merit and should be rejected.

A. Shared Insurance Exists with Respect to I.G.'s Claims

I.G.'s argument that there is no evidence of shared insurance between the BSA and the Ozark Trail Council, or any indication the proceeds of such shared insurance would be used to satisfy abuse claims through the bankruptcy is simply incorrect. As the BSA has described in its numerous other pleadings, it has a shared insurance program with the BSA Related Parties, including the Ozark Trail Council and all other local councils. *See* Opening Br. at 10; Whittman Decl. at ¶¶ 12-15. While certain individual policies have been exhausted or settled, or are otherwise unavailable, there is still substantial excess insurance coverage available to the BSA and the BSA Related Parties for bodily injury claims (including the Pending Abuse Actions) for any given policy year since 1978. *See* Opening Br. at 12; Whittman Decl. at ¶¶ 10-11.

With respect to I.G.'s claims, I.G. alleges that the abuse began in 2012 and continued for four years. *See*, I.G. Obj., Ex. A. Because – as has previously been explained to the Court – the applicable insurance policies only provide coverage for the year in which the abuse first occurred, only the insurance policies for the 2012 policy year would be available to satisfy these claims.[6] *See* Declaration of Adrian C. Azer in Support of the BSA's Reply Brief in Further

[6] Although the BSA has not located the specific primary policy governing the 2012 policy year, the BSA does have, and has provided to counsel to I.G., the policies governing the 2013 policy year, which were simply renewals of the

Support of Motion for a Preliminary Injunction Pursuant to Section 105(a) and 362 of the Bankruptcy Code dated July 2, 2020 (the "Azer Decl."), ¶ 6. In 2012, there is a $1 million per-occurrence limit applicable to each claim, with no aggregate limit of liability. *Id.* ¶ 7. This primary policy is a "fronting" policy, whereby the deductible is equal to the limit of liability. *Id*. Moreover, there are available excess policies that may be used to satisfy claims from the 2012 policy year, including I.G.'s claim. *Id.* ¶ 8.

Accordingly, there is clear evidence of shared insurance for the 2012 policy year. The BSA and the Ozark Trail Council, along with all other local councils and covered entities, share in the limits of liability under these policies, and any payment on account of a claim against any local council, including the Ozark Trail Council, would either diminish the coverage available to pay claims against the BSA, or would result in a distribution of the BSA's pledged collateral through the "fronting" policies. Azer Decl, ¶ 10.

I.G.'s contention that, because it is currently the only party suing the Ozark Trail Council, it should be permitted to go forward in its Pending Abuse Action should be rejected. First, I.G. ignores the possibility of either (i) future claims being asserted against the BSA at any point prior to the November 16, 2020 bar date, or (ii) future lawsuits initiated against the Ozark Trail Council (or any other local council) pursuant to the terms of the Consent Order, which may implicate the same insurance coverage that would be used to satisfy I.G.'s claims. Second, permitting individual claims to go forward at this juncture, on the eve of meaningful, court-supervised mediation or substantive plan negotiations, would only kick-start the "race to the courthouse" the automatic stay and the preliminary injunction are designed to prevent, and would defeat the BSA's and the Committees' attempts to make consensual, good-faith progress in these

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policies in effect in 2012. Azer Decl, ¶ 6.

chapter 11 cases so as to equitably compensate survivors of abuse and ensure the continuation of the BSA's mission.

The BSA understands and appreciates I.G.'s concerns with respect to the availability of assets to cover abuse claims. It is for precisely that reason that the BSA has endeavored to (a) include a mechanism in its proposed plan that facilitates local council involvement in ongoing settlement negotiations; and (b) worked with the Committees and the Local Councils on a mechanism to disclose any assets that might be used to satisfy abuse claims, as reflected in the Acknowledgment and Agreement and incorporated into the Consent Order by Paragraph 6 of the Second Stipulation and Agreed Order.

B. The Court Has Jurisdiction Over I.G.'s Claims Against the Ozark Trail Council

I.G. further objects to the extension of the Termination Date on the grounds that this Court lacks jurisdiction over claims against the Ozark Trail Council because the Ozark Trail Council is a separately legal entity with its own assets and liabilities. The legal separation between the BSA and the Local Councils, which the BSA admits, has no bearing on the propriety of an extension of the Termination Date. This Court has already rejected this argument when, in granting the Motion over the objection of plaintiff LG 37 Doe to the Consent Order, the Court stated "there would be no need for a preliminary injunction if [the] BSA and the [Local Councils] were not separate entities." P.I. Tr. at 17:14-17.

As discussed above, there is clear evidence of shared insurance sufficient to establish jurisdiction over I.G.'s claims. Azer Decl, ¶¶ 5-10. Moreover, in addition to this shared insurance, I.G.'s complaint in the I.G. Action makes clear that the claims against the Ozark Trail Council and the BSA are inextricably intertwined such that the BSA, notwithstanding the protections of the automatic stay, would face a substantial risk of being bound by legal and

factual determinations made in the I.G. Action through collateral estoppel, record taint, and evidentiary prejudice. The claims and allegations I.G. has asserted against the Ozark Trail Council in the I.G. Action overlap entirely with the claims and allegations I.G. has asserted against the BSA. *See* I.G. Obj., Ex. A. Indeed, the vast majority of the allegations in I.G.'s complaint focus either entirely on the BSA's own conduct, or the conduct of *both* the BSA and the Ozark Trail Council. *See id.* There are no specific claims or allegations against the Ozark Trail Council that are not substantially directed towards, or do not substantially involve, the BSA. The simple fact that I.G. subsequently dismissed the BSA should not provide an avenue to avoid the stay of Pending and Further Abuse Actions.

Accordingly, the continuation of the I.G. Action against the Ozark Trail Council would create a substantial risk that insurance proceeds otherwise available to the BSA would be depleted and that the BSA would be bound by any adverse evidentiary rulings, factual findings, or legal conclusions made therein, thereby defeating the essential purposes of the automatic stay. As such, the I.G. Objection should be overruled.

II. RESPONSE TO THE KENTUCKY DEFENDANTS OBJECTION

A. This Court Has Authority to Extend the Preliminary Injunction and Further Stay the Pending Abuse Actions and Further Abuse Actions

It is beyond question that this Court had the authority to enter the Consent Order and has authority to extend the terms thereof pursuant to the Second Stipulation and Agreed Order. *See generally* Consent Order; First Stipulation and Agreed Order; Second Stipulation and Agreed Order; Transcript of March 30, 2020 Hearing, *Boy Scouts of Am. v. A.A.*, Adv. Case No. 20-50527 (Bankr. D. Del. Mar. 30, 2020) (bench ruling overruling objections and entering Consent Order) [A.D.I. 55]. The Kentucky Defendants' arguments to the contrary are wholly without merit.

The Kentucky Defendants argue that the Motion seeks "expansive and unprecedented relief" because the Pending Abuse Actions relate to abuse rather than products liability claims. Kentucky Defendants' First Obj. at 1. The Kentucky Defendants cite no cases suggesting a distinction between abuse claims and products liability claims in the context of a bankruptcy court's authority to issue or extend a preliminary injunction. In fact, the issuance of a preliminary injunction over litigation against nondebtors is an appropriate exercise of this Court's authority where such litigation would defeat the purposes of the automatic stay and affect the bankruptcy estate, regardless how the plaintiffs in such nondebtor litigation were harmed. *See Wedgewood Inv. Fund, Ltd. v. Wedgewood Realty Grp., Ltd. (In re Wedgewood Realty Grp., Ltd.)*, 878 F.2d 693, 701 (3d Cir. 1989) (noting that ability to use of 105(a) to extend protections of automatic stay protects interests of both creditors and debtors); *Midway Games, Inc. v. Anonuevo (In re Midway Games)*, 428 B.R. 327, 334 (Bankr. D. Del. 2010) (noting that the automatic stay is properly extended to nondebtors where the nondebtors and the debtor share an identity of interest "such that the debtor is the real party defendant and the litigation will directly affect . . . the debtor's assets or its ability to pursue a successful plan of reorganization").

The Kentucky Defendants also attempt to distinguish this Court's order extending the automatic stay to abuse claims pending against nondebtors in *In re Catholic Diocese of Wilmington, Inc.*, Case No. 09-13560 (CSS) (Bankr. D. Del. Feb. 4, 2010) because that order concerned 73 abuse cases pending only in the Superior Court for the State of Delaware. Kentucky Defendants' First Obj. at 3. Again, however, the Kentucky Defendants cite no case law to support a limitation of this Court's authority to enjoin to state court proceedings only within the state in which it sits. Indeed, the fact that the BSA and the BSA Related Parties face

litigation in dozens of jurisdictions across the country amplifies the need to continue to temporarily stay such litigation and allow the parties to come together and work towards a global resolution leading to a consensual plan of reorganization. To that end, this Court has already decided this issue and rejected the Kentucky Defendants' argument in overruling LG 37 Doe's objection and specifically applying the terms of the Consent Order to LG 37 Doe's underlying Pending Abuse Action in the Western District of New York. *See* Transcript of March 30, 2020 Hearing.

B. Shared Insurance Exists With Respect to the Kentucky Defendants' Claims

As with I.G.'s claim, the BSA has several shared insurance policies that would be used to satisfy the Kentucky Defendants' claims. The BSA's shared insurance program provides insurance coverage for the BSA itself, all Local Councils, including the Lincoln Heritage Council, and LFL. Each of the seven Kentucky Defendants allege that their abuse began between the years 2008 and 2014, and only insurance coverage for the year in which each such Kentucky Defendant was first abused is available to satisfy such Kentucky Defendant's claim. Azer Decl. ¶ 12. For each of these applicable years, there is a $1 million per-occurrence limit applicable to each claim, with no aggregate limit of liability. *Id.* ¶ 13. Each of these applicable primary policies are "fronting" policies, whereby the deductible is equal to the limit of liability. *Id.* In addition, there are available excess policies that may be used to satisfy claims from each applicable policy year, including the claims of each Kentucky Defendant. *Id.* at ¶ 14.

Accordingly, there is clear evidence of shared insurance for the 2008 through 2014 policy years. The BSA, LFL and the Lincoln Heritage Council, along with all other local councils and covered entities, share in the limits of liability under these policies, and any payment on account of a claim against any would either diminish the coverage available to pay claims against the

BSA, or would result in a distribution of the BSA's pledged collateral through the "fronting" policies. Azer Decl, ¶ 16.

C. This Court Should Extend the Terms of Consent Order Pursuant to the Second Stipulation and Agreed Order

The Kentucky Defendants argue that the BSA has not satisfied the four factor preliminary injunction test so as to warrant an extension of the stay period provided for in the Consent Order. The Kentucky Defendants' arguments are without merit and should be overruled.

First, to the extent the Kentucky Defendants suggest that the BSA has not demonstrated a likelihood of successfully reorganizing, the Kentucky Defendants arguments are belied by the clear progress the BSA has made in these chapter 11 cases. Notwithstanding the inherent complexities of a mass tort chapter 11 case, compounded by both the unique challenges presented in the non-profit context as well as an unprecedented global pandemic, as set forth above the BSA has continued to work with interested parties and key constituencies to advance the twin goals of these chapter 11 cases: to equitably compensate survivors of abuse and to ensure the continuation of the BSA's important mission. In light of this progress, there is no basis to conclude that the Debtors will be unable to successfully reorganize.

Second, the Kentucky Defendants' arguments that the failure to extend the terms of the Consent Order would not have an adverse impact on the BSA's estate or cause the BSA irreparable harm are similarly misplaced. For the reasons noted above, the Kentucky Defendants' continued emphasis on the corporate separateness between the BSA and the BSA Related Parties is irrelevant, has already been rejected by the Court and actually highlights the very reason the preliminary injunction, and the requested extension thereof, is necessary in the first place.

Moreover, the Kentucky Defendants' inconsistently and incorrectly claim that (1) the BSA has not disclosed sufficient information relating to its shared insurance program with the BSA Related Parties to demonstrate that it will be harmed absent an extension of the injunction; and (2) that the BSA's insurance policies for the years relevant to the Kentucky Defendants' claims would not be diminished as a result thereof. Not only has the BSA continued to make documents available, including documents related to the BSA's shared insurance, the BSA has continued to engage in good faith efforts to provide insurance and financial information to the Kentucky Defendants specifically as part of the resolution of the Kentucky Defendants' First Objection. Specifically, over the last three months, the BSA produced over 3000 pages to the Kentucky Defendants, including: (1) approximately three dozen shared insurance policies which may provide coverage for the Kentucky Defendants' claims; (2) numerous financial records, including registration and fee information related to LFL and the Explorers program; (3) organizational documents, including (i) the BSA's charter and bylaws, (ii) LFL's articles of incorporation and bylaws, and (iii) organizational charts depicting the relationship between the BSA and LFL; and (4) certain financing and security agreements between the BSA and Old Republic, and the BSA and JP Morgan. The BSA has also responded to a series of interrogatories and has provided information in dozens of phone conferences with counsel for the Kentucky Defendants.

The Kentucky Defendants' final contention that the claims against the BSA Related Parties in the Kentucky Defendants' Action are not inextricably intertwined with the claims against the BSA because the claims concern the "Explorers" program rather than traditional Scouting programs is similarly misguided. Although the Explorers program, which seeks to assist youth in career development and placement, is certainly distinguishable from core

Scouting programs in many respects, continuation of the Kentucky Defendants' Action would nonetheless subject the BSA, notwithstanding the protections of the automatic stay, to substantial risk of collateral estoppel, record taint, and evidentiary prejudice. As such, the Kentucky Defendants' claims against LFL and the Lincoln Heritage Council arising out of the Explorers program are inextricably intertwined with the Kentucky Defendants' claims against the BSA.

Third, the harm to the BSA should the Kentucky Defendants' claims be permitted to go forward against the BSA Related Parties outweighs the harm to the Kentucky Defendants should their claims remain stayed pursuant to the Second Stipulation and Agreed Order. As the BSA has noted repeatedly in its Opening Brief, its previous Reply Brief, and on the record at numerous hearings, a stay and global resolution of all Pending Abuse Actions and Further Abuse Actions is essential to a successful, and consensual, resolution of these chapter 11 cases. The ad hoc continuation of certain claims during the pendency of these chapter 11 cases, particularly during critical negotiations and mediation, threatens the orderly process the Debtors and the overwhelming majority of their creditors support. Indeed, the ad hoc continuation of claims against the BSA Related Parties would threaten the basic premise of any plan hoping to consensually resolve these chapter 11 cases: that the BSA Related Parties would contribute assets to satisfy the Pending Abuse Actions and Further Abuse Actions so as to resolve all liabilities with respect thereto.

These substantial threats to the integrity and feasibility of the BSA's reorganization efforts significantly outweigh the harm to the Kentucky Defendants should their claims remain stayed as to the BSA Related Parties. The only identifiable harm the Kentucky Defendants have pointed to is an upcoming discovery deadline on July 31, 2020. However, as the BSA has made clear in its numerous pleadings and hearing presentations, much of the discovery with respect to

the Scouting programs, including the shared insurance program, is in the exclusive possession of the BSA itself. To that end, as part of the resolution of the Kentucky Defendants' First Objection, the BSA has continued to work with the Kentucky Defendants in good faith to respond to several discovery requests over the last three months. Thus, the Kentucky Defendants have failed to demonstrate how a further stay of their claims against the BSA Related Parties would prejudice them in any demonstrable way sufficient to outweigh the substantial prejudice to the BSA of continued prosecution of the claims.

Finally, the public interest clearly supports an extension of the stay over the Kentucky Defendants' claims against the BSA Related Parties. As the BSA has repeatedly noted, courts have routinely acknowledged the paramount public interest in promoting the successful reorganization of a debtor. *See, e.g.* Opening Br. at 38-39; *A.H. Robins Co. v. Piccinin*, 788 F.2d 994, 1008 (4th Cir. 1986) (finding that the "unquestioned public interest in promoting a viable reorganization of the debtor can be said to outweigh any contrary hardship to the plaintiffs"). The public interest in a successful reorganization is particularly strong where, as here, the debtor is a non-profit entity with an extensive and successful history of cultural and community engagement that continues to be a positive force in the lives of millions of people across the country. Importantly, the BSA has recognized, and continues to recognize, the importance in holding parties accountable for abuse, which is why the BSA has never sought to stay claims against abusers themselves, and has worked diligently with its key constituencies to bring parties together through the bankruptcy and court-supervised mediation to equitably compensate survivors of abuse. Accordingly, an extension of the stay pursuant to the Second Stipulation and Agreed Order advances the public interest in all of these critical respects.

Accordingly, for all the reasons set forth therein, the Kentucky Defendants' arguments are without merit and should be rejected.

CONCLUSION

For the above reasons, and those stated in the Opening Brief, the BSA respectfully requests this Court overrule the remaining Objections, and grant all other relief as is just and proper.

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Dated: July 2, 2020
Wilmington, Delaware

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