

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

In re:

BOY SCOUTS OF AMERICA AND
DELAWARE BSA, LLC¹

Debtors.

Chapter 11

Case No. 20-10343 (LSS)

(Jointly Administered)

Objection Deadline: March 14, 2023 at 4:00 p.m. (ET)

Hearing Date: March 23, 2023 at 10:00 a.m. (ET)

**JOINT MOTION OF THE DEBTORS, OFFICIAL COMMITTEE OF TORT
CLAIMANTS, FUTURE CLAIMANTS' REPRESENTATIVE, AND COALITION OF
ABUSED SCOUTS FOR JUSTICE, PURSUANT TO 11 U.S.C. §§ 105(A) AND 363(B),
FOR ENTRY OF AN ORDER (I) AUTHORIZING THE DEBTORS TO ADVANCE
FUNDING TO FACILITATE THE ESTABLISHMENT OF THE SETTLEMENT
TRUST, (II) AUTHORIZING THE PSZJ FIRM TO ADVANCE FUNDING UNDER THE
PSZJ CONTRIBUTION TO FACILITATE THE ESTABLISHMENT OF THE
SETTLEMENT TRUST, (III) AUTHORIZING THE FUTURE SETTLEMENT
TRUSTEE AND CLAIMS ADMINISTRATORS TO BEGIN PREPARATORY WORK,
AND (IV) GRANTING RELATED RELIEF**

Boy Scouts of America (the “BSA”) and Delaware BSA, LLC, the non-profit corporations that are debtors and debtors in possession in the above-captioned chapter 11 cases (together, the “Debtors”), jointly with the Official Committee of Tort Claimants (the “TCC”), Future Claimants’ Representative (the “FCR”), and Coalition of Abused Scouts for Justice (the “Coalition” and, together with the Debtors, TCC, and FCR, the “Movants”) submit this motion (this “Motion”), and in support of this Motion submit the declarations of Brian Whittman, a Managing Director with Alvarez & Marsal North America, LLC (the “Whittman Declaration”), which is attached hereto as **Exhibit C**, and the Hon. Barbara J. Houser (Ret.) as the Settlement Trustee for the Settlement

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

Trust (each as defined herein) (the “Houser Declaration”), which is attached hereto as **Exhibit D**.

In further support of this Motion the Movants respectfully state as follows:

PRELIMINARY STATEMENT

1. Under the terms of the *Third Modified Fifth Amended Chapter 11 Plan of Reorganization (with Technical Modifications) for Boy Scouts of America and Delaware BSA, LLC* [D.I. 10296] (the “Plan”),² confirmed by the Bankruptcy Court on September 8, 2022 pursuant to the *Supplemental Findings of Fact and Conclusions of Law and Order Confirming the Third Modified Fifth Amended Chapter 11 Plan of Reorganization (with Technical Modifications) for Boy Scouts of America and Delaware BSA, LLC* [D.I. 10316] (the “Confirmation Order”), the Settlement Trust will be established to (i) assume all liability for Abuse Claims on the Effective Date, (ii) administer the Abuse Claims, and (iii) make distributions to holders of compensable Abuse Claims, in each case in accordance with the Trust Distribution Procedures and the Settlement Trust Agreement. In connection therewith, the Settlement Trust shall hold, manage, protect and monetize the Settlement Trust Assets (as defined in the Settlement Trust Agreement) in accordance with the terms of the Plan, Settlement Trust Agreement, Trust Distribution Procedures, and related documents (the “Settlement Trust Documents”) for the benefit of abuse survivors. Plan Art. IV.B.

2. Survivors have been waiting many years for compensation; some have been waiting decades. Many are in urgent need. This Motion is filed to aid in expediting the process of establishing the Settlement Trust so that steps may be taken at the direction of the Settlement Trustee for the Settlement Trust, the Hon. Barbara J. Houser (Ret.) (the “Future Trustee”), and the Claims Administrators, the Hon. Michael Reagan (Ret.) and Randi Ilyse Roth (the “Future Claims

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Plan.

Administrators”),³ (i) to prepare for the Effective Date of the Plan and (ii) for the Settlement Trust to engage in preparatory set-up work for the Settlement Trust so that it is in a position to make distributions to abuse survivors following the Effective Date, with limited cost to the Debtors’ estates. In furtherance of this goal, the Movants seek three forms of relief.

3. By this Motion, the Movants seek authorization for the Debtors to advance cash in order to aid in the establishment of the Settlement Trust in the amount of \$1,000,000 (the “Debtors’ Advance Funding Amount”) prior to consummation of the Plan. This will enable the Settlement Trust to undertake review of documents and other tasks required for the Plan to go effective, and to engage in advance set-up work to facilitate the Settlement Trust’s operations once the Effective Date occurs. The Debtors’ Advance Funding Amount will be disbursed directly to an escrow account to be overseen by the Future Trustee (the “Escrow Account”). The Escrow Account will be established by the Future Trustee at a reputable financial institution with a reputable escrow agent selected by the Future Trustee (the “Escrow Agent”).

4. Second, the Movants seek authorization for the firm of Pachulski Stang Ziehl & Jones LLP (the “PSZJ Firm”) to advance funding of \$2,912,750 (plus an additional amount from the PSZJ Firm, if requested by the Future Trustee as needed, not to exceed \$300,000) (the “PSZJ Advance Funding Amount”) prior to consummation of the Plan. The total of the Debtors’ Advance Funding Amount and the PSZJ Advance Funding Amount at this time is \$3,912,750 (the “Advance Funding Amount”).⁴ For the avoidance of doubt, the PSZJ Advance Funding Amount represents the advance funding of the funds that PSZJ currently holds in escrow pursuant to its agreement to

³ Prior to filing this Motion, on January 31, 2023, the Debtors notified parties pursuant to a letter filed on the Bankruptcy Court’s docket [D.I. 10948] that Ms. Roth would be replacing the Honorable Diane Welsh (Ret.) as one of two Future Claims Administrators for the Settlement Trust.

⁴ The PSZJ Advance Funding Amount may be increased in amount up to \$3,212,750, if requested by the Future Trustee, as needed.

contribute 10% of the fees it would otherwise be paid by the Debtors to the Settlement Trust (the “PSZJ Contribution”). The PSZJ Contribution was disclosed and approved in connection with the retention of PSZJ as counsel to the TCC.⁵ PSZJ has agreed to advance those funds to BSA and the Settlement Trust to facilitate the establishment of the Settlement Trust for the benefit of Survivors.⁶ The PSZJ Advance Funding Amount, together with the Debtors’ Advance Funding Amount, will enable the Future Trustee to undertake review of documents and other tasks required for the Plan to go effective, and to engage in advance set-up work to facilitate the Settlement Trust’s operations once the Effective Date occurs. The PSZJ Advance Funding Amount will be disbursed by the PSZJ Firm directly to the Escrow Account. The Escrow Agent shall account for each dollar disbursed from the Escrow Account as (i) 25.56% from the Debtors’ Advance Funding Amount and (ii) 74.44% from the PSZJ Advance Funding Amount, subject to adjustment if there is additional funding from the PSZJ Firm as described above.

5. Third, the Movants seek to allow the Future Trustee and the Future Claims Administrators to (i) undertake the activities and incur the expenses set forth in the proposed budget set forth on **Exhibit B** hereto (the “Proposed Budget”) as directed in an order substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), and (ii) cause the payment of such expenses from the Advance Funding Amount. Upon the Effective Date, (i) the Debtors’ Advance Funding Amount will be reimbursed directly to Reorganized BSA in full from either or a combination of (a) a reduction in the cash amount provided by the BSA as a part of the BSA

⁵ See *Application of the Official Tort Claimants’ Committee for Entry of an Order, Pursuant to 11 U.S.C §§ 328 and 1103, Fed. R. Bankr. P. 2014 and Local Rule 2014-1, Authorizing and Approving the Employment and Retention of Pachulski Stang Ziehl & Jones LLP as Counsel to the Tort Claimants Committee Effective as of March 4, 2020*, ¶ 9 (filed March 25, 2020) [D.I. 292]; *Order Authorizing and Approving the Retention of Pachulski Stang Ziehl & Jones LLP as Counsel to the Additional Tort Claimants’ Committee Effective as of March 4, 2020* (filed April 11, 2020) [D.I. 398].

⁶ See Plan, Ex. B (Settlement Trust Agreement) § 4.2.

Settlement Trust Contribution and (b) a reimbursement from other cash contributions owed to the Settlement Trust from other Protected Parties on the Effective Date and (ii) any unused portion of the PSZJ Advance Funding Amount shall roll over to the Settlement Trust. Should the Debtors become unwilling or unable to consummate the Plan after some or all of the Advance Funding Amount has been disbursed, such that the Effective Date does not occur, (i) any unused portion of the Debtors' Advance Funding Amount will be returned to the Debtors and (ii) any unused portion of the PSZJ Advance Funding Amount will be returned to the PSZJ Firm for further application as shall be determined at the time. The disbursed portion of both the Debtors' Advance Funding Amount and the PSZJ Advance Funding Amount shall thereafter be recharacterized for applicable purposes as a payment by the Debtors on account of claims asserted by the applicable creditors pursuant to section 502 or 506(b) of the Bankruptcy Code, provided that the rights of all parties to object to such characterization shall be preserved.⁷

6. The Advance Funding Amount will, among other things, enable the Future Trustee to (i) undertake the review of documents that will be required to be executed on the Effective Date, (ii) engage in diligence tasks for the Effective Date, such as the establishment of bank accounts and the identification and retention of a Delaware trustee for the Settlement Trust, that will be necessary to receive contributions on the Effective Date, (iii) prepare to take over the necessary record-keeping related to Abuse Claims and communications with the holders of Abuse Claims from the Debtors on the Effective Date, and (iv) make plans related to the start-up of the Settlement Trust on the Effective Date, including the design and establishment of a Settlement Trust website and claims portal, the design of procedures to identify fraudulent claims, and the engagement of

⁷ However, the Court's determination of any such objection shall not affect the Future Trustee's authority to have paid out funds pursuant to the Proposed Budget and Proposed Order, nor shall any recipient of such funds be required to return any monies already received for services performed.

other professionals such as a claim processor and other key advisors for the Settlement Trust.⁸ There is a great deal of preparatory work to be done in order to begin compensating abuse survivors, many of whom have waited years to have their claims considered and receive compensation. The completion of the tasks covered by the Proposed Budget will facilitate (i) the occurrence of the Effective Date (once the various conditions to the Effective Date are satisfied), and (ii) the handover of assets and duties of the Debtors, which will benefit both the holders of Abuse Claims and the Reorganized BSA. In addition, the commencement of this work prior to consummation of the Plan will help expedite the evaluation and processing of Abuse Claims after the Effective Date, both of which must be completed before distributions from the Settlement Trust can begin.

7. As set forth in greater detail below, the Confirmation Order specifically authorizes the Debtors and third parties, such as the Future Trustee and the Future Claims Administrators, to take actions necessary and appropriate to effectuate the Plan, and the relief requested herein is designed to expedite the establishment of the Settlement Trust and the attendant preparatory work. Therefore, this Motion is filed out of abundance of caution and is designed to facilitate the occurrence of the Effective Date as soon as possible following the satisfaction of the conditions to the Effective Date as well as to begin compensating deserving holders of Abuse Claims as soon as possible after the Effective Date favors granting the relief requested herein. There is a common interest in implementing the Plan as efficiently as possible following the Effective Date while also minimizing the burden on the Debtors' estates. This Motion seeks relief in furtherance of this common interest with low risk to the Debtors' estates. For the avoidance of doubt, nothing in this

⁸ In the event Movants seek to materially modify the Proposed Budget or seek additional advance funding, Movants will file a further motion with the Court requesting such relief.

Motion or the Proposed Order is intended to alter or waive in any manner any condition to the Effective Date.

STATUS OF THE CASES AND JURISDICTION

8. The Debtors commenced these cases on February 18, 2020, and they continue to operate their non-profit organization and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. These chapter 11 cases are being jointly administered for procedural purposes only pursuant to rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and rule 1015-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”).

9. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Debtors confirm their consent, pursuant to Local Rule 9013-1(f), to the entry of a final order or judgment by the Court in connection with this Motion if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. Venue is proper under 28 U.S.C. §§ 1408 and 1409.

10. The statutory and legal predicates for the relief requested herein are sections 105(a) and 363(b) of the Bankruptcy Code and Bankruptcy Rule 6004.

BACKGROUND

I. The Chapter 11 Cases, Plan, and Settlement Trust Documents

11. As noted above, on September 8, 2022, the Court entered the Confirmation Order approving the Plan, along with the Settlement Trust Agreement and the other Settlement Trust Documents.

12. Among other things, the Confirmation Order authorizes the Settlement Trust to be established on or prior to the Effective Date in order to effectuate the Plan:

This Order authorizes the Settlement Trust to be established in accordance with the Settlement Trust Agreement and Trust Distribution Procedures (as supplemented by any other applicable Plan Documents). The Settlement Trust may be established prior to the Effective Date to the extent necessary, desirable, or appropriate to effectuate the Plan.

Confirmation Order ¶ 12. The Confirmation Order also authorizes the appointment of the Settlement Trustee and Claims Administrators “effective simultaneously with the establishment of the Settlement Trust as set forth in the Plan.” Confirmation Order ¶¶ 13–14.

13. In addition, the Confirmation Order provides that “on, prior to the Effective Date, or as soon thereafter as is reasonably practicable, the Debtors or Reorganized BSA, as applicable, and any applicable non-Debtor parties, may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by or necessary to implement the provisions of the Plan.” Confirmation Order ¶ 3.

14. The Plan and Settlement Trust Documents describe a process by which the Settlement Trust will be established, and thereafter the Settlement Trustee and Claims Administrators will review Abuse Claims and make distributions, with the aid of additional professional advisors. The Movants are keenly aware that the survivor community urgently needs to expedite the process of compensation to survivors from the Settlement Trust. Holders of Abuse Claims have been waiting for years (in some cases, decades) for compensation; some have died

during the now three years these chapter 11 cases have been pending, and many survivors and their families have urgent need of funds. Survivors did not anticipate (nor could they have reasonably anticipated) that nearly a year after the start of the hearing on confirmation of the Plan, the Effective Date would not have occurred. Once the Effective Date occurs, distributions to the holders of allowed Abuse Claims cannot begin until the Settlement Trust has been established and the Settlement Trust officers begin to evaluate more than 80,000 Abuse Claims. The work contemplated by this Motion will facilitate (i) the occurrence of the Effective Date once the conditions to the Effective Date have been satisfied or waived, (ii) the ultimate establishment of the Settlement Trust following satisfaction of the conditions to the Effective Date, and (iii) the planning that is necessary before Abuse Claims can be evaluated and liquidated post-Effective Date. Moreover, there is preparation and groundwork related to the Plan Documents that requires the attention of the Future Trustee in order for the Effective Date to occur as expeditiously as possible, which benefits the Debtors and abuse survivors. Accordingly, it is appropriate to allow the Advance Funding Amount for the uses specified in the Proposed Budget to minimize, to the extent possible, further delays of distributions to abuse survivors.

II. The Proposed Budget

15. The Movants, together with the Future Trustee, have prepared the Proposed Budget attached hereto as **Exhibit B**, detailing the work that the Future Trustee and Future Claims Administrators propose to engage in prior to the Effective Date using the Advance Funding Amount, which totals \$3,912,750. The Proposed Budget is the result of extensive good faith, arm's length discussions among the Movants and the Future Trustee. Upon the Effective Date, (i) the Debtors' Advance Funding Amount will be reimbursed directly to Reorganized BSA in full from either or a combination of (a) a reduction in the cash amount provided by the BSA as a part of the BSA Settlement Trust Contribution and (b) a reimbursement from other cash contributions

owed to the Settlement Trust from other Protected Parties on the Effective Date and (ii) the PSZJ Advance Funding Amount, to the extent unused, shall roll over to the Settlement Trust. The Future Trustee will file an accounting with the Court with respect to the Advance Funding Amount on a monthly basis within 30 days after month-end.

RELIEF REQUESTED

16. By this Motion, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Movants request entry of the Proposed Order, substantially in the form attached hereto as **Exhibit A**, (a) authorizing the Debtors to fund the Debtors' Advance Funding Amount in accordance with the Proposed Budget set forth on **Exhibit B** hereto, (b) authorizing the PSZJ Firm to fund the PSZJ Advance Funding Amount in accordance with the Proposed Budget set forth on **Exhibit B** hereto, (c) authorizing the Future Trustee and Claims Administrators to begin their preparatory work with respect to the Effective Date of the Plan and establishment of the Settlement Trust, including incurring and satisfying expenses from the Advance Funding Amount in accordance with the Proposed Budget, and (d) granting related relief.⁹

BASIS FOR RELIEF

17. The Movants respectfully request that the Court authorize the relief requested herein pursuant to sections 363(b) and 105(a) of the Bankruptcy Code in accordance with the Confirmation Order. Section 363(b)(1) of the Bankruptcy Code provides that “[t]he trustee, after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Additionally, section 105(a) of the Bankruptcy Code allows this Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a).

⁹ For the avoidance of doubt, this Motion does not apply to any expenses for counsel for the FCR, the TCC, or the Coalition.

18. Generally, the debtor is only required to “show that a sound business purpose” justifies the proposed use of property. *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999); *see also In re Phx. Steel Corp.*, 82 B.R. 334, 335–36 (Bankr. D. Del. 1987) (requiring “good business reason” for use under section 363(b) of the Bankruptcy Code). This standard prohibits other parties from second-guessing the debtor’s business judgment if the debtor has shown that the proposed use will benefit the debtor’s estate. *See In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (“Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.”); *see also In re Tower Air, Inc.*, 416 F.3d 229, 238 (3d Cir. 2005) (“Overcoming the presumptions of the business judgment rule on the merits is a near-Herculean task.”).

19. Additionally, section 105(a) of the Bankruptcy Code gives this Court broad equitable powers to provide the relief requested herein. Section 105(a) provides that a bankruptcy court may “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a). “Section 105(a) has been construed to give a bankruptcy court broad authority to provide equitable relief appropriate to assure the orderly conduct of reorganization proceedings.” *In re VII Holdings Co.*, 362 B.R. 663, 668-69 (Bankr. D. Del. 2007) (Shannon, J.) (citing *In re Combustion Engineering, Inc.*, 391 F.3d 90 (3d Cir. 2004)).

20. The Debtors submit that sound business reasons exist for providing the Advance Funding Amount. It will facilitate the necessary groundwork for the establishment of the Settlement Trust following the satisfaction of conditions to the Effective Date and the preparatory work that is necessary for the Effective Date to occur as expeditiously as possible, to the benefit of abuse survivors and the Debtors. Allowing this preparatory work to be done will ensure that

the Effective Date occurs as swiftly as possible and that funds are able to be distributed to abuse survivors more expeditiously following the Effective Date. Necessary preparatory tasks include (i) undertaking the review of documents that will be required to be executed on the Effective Date, (ii) conducting diligence for the establishment of bank accounts, insurance coverage and other related support that will be necessary to receive contributions on the Effective Date, (iii) preparing systems to collect, organize, maintain and protect information relating to Abuse Claims, including by selecting and engaging appropriate professionals to assist in such preparations and eventual Settlement Trust operations and designing procedures to identify fraudulent claims, (iv) preparing systems of communication with the holders of Abuse Claims, and (v) as to the foregoing, selecting and engaging additional appropriate service providers to assist in preparations and eventual Settlement Trust operations.

21. Each of the contemplated preparatory tasks requires significant professional effort, beyond simply reviewing the Plan and Confirmation Order. For the Effective Date to occur, the proposed Settlement Trust professionals must be thoroughly prepared to execute a variety of documents and engage service providers including deposit institutions, insurers, and must obtain a thorough understanding of the entire Settlement Trust infrastructure to be imposed. For the Settlement Trust to make any significant progress within the weeks (if not months) following the Effective Date, the proposed professionals need to engage service providers and prepare such infrastructure to commence operations. In seeking authorization to provide the Debtors' Advance Funding Amount, the Debtors have determined, in their sound business judgment, that providing advance funding to the Future Trustee will benefit the Debtors' interests in expeditiously exiting bankruptcy by facilitating the prompt occurrence of the Effective Date and allowing the Plan to be

consummated with the speed, precision and professionalism intended and expected by the Debtors and their stakeholders.

22. The Debtors have an interest in expeditiously exiting bankruptcy by facilitating the prompt occurrence of the Effective Date and allowing the Plan to be consummated. The longer the Debtors stay in bankruptcy, the more that their objective of ensuring that the BSA has the ability to continue its charitable mission is threatened. The Debtors' now three-year stay in bankruptcy and publicity surrounding the proceedings has created a public relations overhang on the Debtors' organizational operations and has impacted the Debtors' ability to successfully recruit new members, solicit donations, and continue efforts to modernize the BSA organization. The longer the Debtors remain in bankruptcy, the longer it will be before the Debtors can enjoy the benefits of the fresh start that bankruptcy affords which will enhance the Debtors ability to recruit new members and execute on the BSA's business plan. Each day that passes before the Plan goes effective also brings with it additional administrative cost and expense. Minimizing estate expenses is critical to ensuring a successful reorganization because the Debtors have limited options available to generate additional liquidity. Ensuring that the Effective Date occurs as quickly as possible after the conditions to effectiveness are met, such as through the Advance Funding Amount requested in the Motion, helps the Debtors fulfill the mission of Scouting. Moreover, any delay in the ability of the Plan to go effective will delay the distribution of funds to abuse survivors who overwhelmingly voted to accept the Plan, many of whom have waited decades to receive such distributions.

23. The Advance Funding Amount confers these substantial benefits while imposing minimal burden on the Debtors' estates, as the Debtors' Advance Funding Amount will be fully reimbursed to the Debtors following the Effective Date and is *de minimis* in relation to the total

expenses of these cases. The Debtors believe that the Proposed Budget reflects appropriate use of the Advance Funding Amount. Should the Debtors become unwilling or unable to consummate the Plan after some or all of the Advance Funding Amount has been disbursed, such that the Effective Date does not occur, any unused portion of (i) the Debtors' Advance Funding Amount will be returned to the Debtors and (ii) the PSZJ Advance Funding Amount will be returned to the PSZJ Firm for further application as shall be determined at the time. The disbursed portion of both the Debtors' Advance Funding Amount and the PSZJ Advance Funding Amount shall thereafter be recharacterized for applicable purposes as a payment by the Debtors on account of claims asserted by the applicable creditors pursuant to section 502 or 506(b) of the Bankruptcy Code, provided that the rights of all parties to object to such characterization shall be preserved.

24. This Court and other courts have previously approved similar relief in other mass tort bankruptcy cases. *See, e.g., In re Mallinckrodt plc*, Case No. 20-12522 (JTD) (Bankr. D. Del. April 14, 2022) [D.I. 7098] (order authorizing debtors to fund establishment of multiple opioid creditor trusts in advance of the effective date of the plan); *In re Purdue Pharma L.P.*, Case No. 19-23649 (RDD) (Bankr. S.D.N.Y. Sept. 15, 2021) [D.I. 3773] (order authorizing debtors to fund establishment of multiple opioid creditor trusts in advance of the effective date of the plan); *In re PG&E*, Case No. 19- 30088 (DM) (Bankr. N.D. Cal. April 14, 2020) [D.I. 6759 and D.I. 6760] (orders approving stipulation to advance funds to claims representative and trustee to conduct certain tasks for the benefit of fire claimants); *In re Yarway Corp.*, Case No. 13-11025 (BLS) (Bankr. D. Del. Mar 9, 2015) [D.I. 806] (order authorizing payment of fees and expenses of proposed trustee of asbestos trust); *In re Specialty Prods. Holding Corp.*, Case No. 10-11780 (PJW) (Bankr. D. Del. Sept. 25, 2014) [D.I. 5019] (order authorizing debtors to pay costs related to the establishment of an asbestos trust); *In re N. Am. Refractories Co.*, No. 02-20198 (JKF)

(Bankr. W.D. Pa. June 26, 2007) [D.I. 5253] (order authorizing payment of fees and expenses of proposed trustees of asbestos trust); *In re Federal-Mogul Global Inc.*, Case No. 01-10578 (JKF) (Bankr. D. Del. Nov. 26, 2007) [D.I. 13749] (order authorizing proposed trustees of a section 524(g) trust to take such actions as necessary to have the trust operational by the effective date of the plan).

25. For all of the foregoing reasons, the Movants submit that the requested relief is well within the Debtors' sound business judgment.

NOTICE

26. Notice of this Motion will be provided to: (i) the Office of the United States Trustee for the District of Delaware; (ii) counsel to the Creditors' Committee; (iii) counsel to the Tort Claimants' Committee; (iv) counsel to the FCR; (v) counsel to the Ad Hoc Committee of Local Councils; (vi) counsel to the Coalition of Abused Scouts for Justice; (vii) counsel to JPMorgan Chase Bank National Association; and (viii) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested herein, no other or further notice need be given.

CONCLUSION

27. **WHEREFORE**, the Movants respectfully request that the Court enter the Proposed Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested in this Motion and any further relief as the Court may deem just and proper.

Dated: February 28, 2023
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

BOY SCOUTS OF AMERICA AND
DELAWARE BSA, LLC¹

Debtors.

Chapter 11

Case No. 20-10343 (LSS)

(Jointly Administered)

Hearing Date: March 23, 2023 at 10:00 a.m. (ET)

Response Deadline: March 14, 2023 at 4:00 p.m. (ET)

NOTICE OF JOINT MOTION TO ADVANCE FUNDING

PLEASE TAKE NOTICE that today, the above-captioned debtors and debtors in possession (the “Debtors”), filed the *Joint Motion of the Debtors, Official Committee of Tort Claimants, Future Claimants’ Representative, and Coalition of Abused Scouts for Justice, Pursuant to 11 U.S.C. §§ 105(A) and 363(B), for Entry of an Order (I) Authorizing the Debtors to Advance Funding to Facilitate the Establishment of the Settlement Trust, (II) Authorizing the PSZJ Firm to Advance Funding Under the PSZJ Contribution to Facilitate the Establishment of the Settlement Trust, (III) Authorizing the Future Settlement Trustee and Claims Administrators to Begin Preparatory Work, and (IV) Granting Related Relief* (the “Motion”).

PLEASE TAKE FURTHER NOTICE that responses, if any, to the Motion must be (a) in writing; (b) filed with the Clerk of the Bankruptcy Court, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **March 14, 2023, at 4:00 p.m. (ET)** (the “Response Deadline”); and (c) served, so as to be received on or before the Response Deadline, on the undersigned counsel to the Debtors.

PLEASE TAKE FURTHER NOTICE that only responses made in writing and timely filed and received, in accordance with the procedures above, will be considered by the Bankruptcy Court at such hearing.

PLEASE TAKE FURTHER NOTICE that, if necessary, a hearing on the Motion will be held on **March 23, 2023, at 10:00 a.m. (ET)** before the Honorable Laurie Selber Silverstein of the United States Bankruptcy Court for the District of Delaware.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

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

Dated: February 28, 2023
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Tori L. Remington

Derek C. Abbott (No. 3376)
Andrew R. Remming (No. 5120)
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– and –

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ATTORNEYS FOR THE DEBTORS AND
DEBTORS IN POSSESSION

Exhibit A

Proposed Order

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

In re:

BOY SCOUTS OF AMERICA AND
DELAWARE BSA, LLC¹

Debtors.

Chapter 11

Case No. 20-10343 (LSS)

(Jointly Administered)

Ref. D.I. ____

ORDER, PURSUANT TO 11 U.S.C. §§ 105(a) AND 363(b), (I) AUTHORIZING THE DEBTORS TO ADVANCE FUNDING TO FACILITATE THE ESTABLISHMENT OF THE SETTLEMENT TRUST, (II) AUTHORIZING THE PSZJ FIRM TO ADVANCE FUNDING UNDER THE PSZJ CONTRIBUTION TO FACILITATE THE ESTABLISHMENT OF THE SETTLEMENT TRUST, (III) AUTHORIZING THE FUTURE SETTLEMENT TRUSTEE AND CLAIMS ADMINISTRATORS TO BEGIN PREPARATORY WORK, AND (IV) GRANTING RELATED RELIEF

Upon the motion (the “Motion”)² of Boy Scouts of America (the “BSA”) and Delaware BSA, LLC, the non-profit corporations that are debtors and debtors in possession in the above-captioned Chapter 11 cases (together, the “Debtors”), jointly with the Official Committee of Tort Claimants (the “TCC”), Future Claimants’ Representative (the “FCR”), and Coalition of Abused Scouts for Justice (the “Coalition”), pursuant to 11 U.S.C. §§ 105(a) and 363(b), for entry of an order (this “Order”) (i) authorizing the Debtors to fund the Debtors’ Advance Funding Amount in accordance with the Proposed Budget attached to the Motion as **Exhibit B**, as more fully set forth in the Motion, (ii) authorizing an the PSZJ Firm to fund the PSZJ Advance Funding Amount under the PSZJ Contribution in accordance with the Proposed Budget, (iii) authorizing the Future Trustee and Future Claims Administrators to begin their preparatory work with respect to the Effective

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

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

Date of the Plan and the establishment of the Settlement Trust, and (iv) granting related relief; and the Court having jurisdiction to decide the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012; and consideration of the Motion and the relief requested therein being a core proceeding under 28 U.S.C. § 157(b)(2); and the Court having authority to enter a final order consistent with Article III of the United States Constitution; and venue being proper before this Court under 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 a hearing having been held to consider the relief requested in the Motion (the “Hearing”); and upon the record of the Hearing and all the proceedings before the Court; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED as set forth herein.
2. To the extent that there may be any inconsistency between the terms of the Motion and related submissions and this Order, the terms of this Order shall govern.
3. The relief granted herein shall be binding upon any Chapter 11 trustee appointed in the Cases, or upon any Chapter 7 trustee appointed in the event of a subsequent conversion of the Cases to cases under Chapter 7.
4. The Debtors are authorized to provide the Debtors’ Advance Funding Amount in the amount of \$1,000,000 and the PSZJ Firm is authorized to provide the PSZJ Advance Funding Amount in the amount of \$2,912,750 (plus an additional amount from the PSZJ Firm, if requested by the Future Trustee as needed, not to exceed \$300,000), to be used substantially in accordance with the Proposed Budget attached to the Motion as **Exhibit B**. The Advance Funding Amount will be disbursed directly to an escrow account to be overseen by the Future Trustee (the “Escrow”

Account”). The Escrow Account shall be established by the Future Trustee at a reputable financial institution with a reputable escrow agent selected by the Future Trustee. The Escrow Agent shall account for each dollar disbursed from the Escrow Account based on the ratio between the Debtors’ Advance Funding Amount and the PSZJ Advance Funding Amount as (i) 25.56% from the Debtors’ Advance Funding Amount and (ii) 74.44% from the PSZJ Advance Funding Amount, subject to adjustment if there is additional funding from the PSZJ Firm as described above.

5. As more fully described in the Motion, the Advance Funding Amount shall be disbursed from the Escrow Account at the direction of the Future Trustee, who shall make an accounting with respect to the Advance Funding Amount with the Court on a monthly basis within 30 days after month-end. Upon the Effective Date, the Debtors’ Advance Funding Amount shall be reimbursed directly to Reorganized BSA in full from either or a combination of (a) a reduction in the cash amount provided by the BSA as a part of the BSA Settlement Trust Contribution and (b) a reimbursement from other cash contributions owed to the Settlement Trust from other Protected Parties on the Effective Date. Upon the Effective Date, the PSZJ Advance Funding Amount, to the extent unused, shall roll over to the Settlement Trust.

6. The Future Trustee shall use or direct the use of the Advance Funding Amount solely for the purposes contemplated by the Proposed Budget or as otherwise directed in this Order. The Proposed Budget is the result of extensive good faith, arm’s-length discussions among the Movants and the Future Trustee. The Future Trustee is hereby authorized to (i) begin her preparatory work in order to facilitate the occurrence of the Effective Date as soon as possible once the conditions to the Effective Date have been satisfied, (ii) incur expenses for the purposes contemplated by the Proposed Budget or as otherwise directed in this Order and in accordance with the purposes described in the Plan regarding the Settlement Trust, and (iii) cause the payment

of such expenses from the Advance Funding Amount. The Future Claims Administrators are hereby authorized to begin their work under the direction of the Future Trustee.

7. For the avoidance of doubt, nothing in this Order is intended to alter or waive in any manner any condition to the Effective Date. This Order does not apply to any expenses for counsel for the FCR, the TCC, or the Coalition.

8. If the Debtors become unwilling or unable to consummate the Plan after some or all the Advance Funding Amount has been disbursed, such that the Effective Date does not occur, (i) any unused portion of the Debtors' Advance Funding Amount shall be returned to the Debtors and (ii) any unused portion of the PSZJ Advance Funding Amount shall be returned to the PSZJ Firm for further application as shall be determined at the time. The disbursed portion of the both the Debtors' Advance Funding Amount and the PSZJ Advance Funding Amount shall thereafter be recharacterized for applicable purposes as a payment by the Debtors on account of claims asserted by the applicable creditors pursuant to section 502 or 506(b) of the Bankruptcy Code, provided that the rights of all parties to object to such characterization shall be preserved. For the avoidance of doubt, the Court's determination of any such objection shall not affect the Future Trustee's authority to have paid out funds pursuant to the Proposed Budget and this Order. No recipient of such funds shall be required to return any monies already received for services performed, nor shall there be any claims against the Future Trustee for having paid out the funds for services performed.

9. The contents of the Motion and the notice procedures set forth therein are good and sufficient notice and satisfy the Bankruptcy Rules and the Local Rules, and no other or further notice of the Motion or the entry of this Order shall be required.

10. The Debtors and the PSZJ Firm are authorized and empowered to take all actions necessary or appropriate to implement the relief granted in this Order.

11. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

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

Exhibit B

Proposed Budget

February 28, 2023

BSA SETTLEMENT TRUST PROPOSED BUDGET
BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC

Overview: This proposed Settlement Trust budget (the “Proposed Budget”) was developed by the following participants: the Debtors, the Honorable Barbara J. Houser (Ret.) in her capacity as future trustee (the “Future Trustee”) of the Settlement Trust, counsel for the Coalition of Abused Scouts for Justice, and counsel for the Tort Claimants’ Committee. This Proposed Budget is composed of items necessary for the Future Trustee to undertake the review of documents that will be required to be executed on the Effective Date, conduct diligence for the establishment of bank accounts and other related support that will be necessary to receive contributions on the Effective Date, prepare to take over the necessary record-keeping related to Abuse Claims and communications with holders of Abuse Claims from the Debtors on the Effective Date, as well as planning related to the start-up of the Settlement Trust (i.e. commence Settlement Trust administration to begin the processing, liquidation and payment of all compensable Abuse Claims).^{1, 2} Cost estimations herein are based on information gathered from outside sources and/or based on recent experiences in comparable matters. The allocation of funds to the various line items herein is approximate, and a reallocation of funds may be necessary to accomplish the preparatory tasks summarized herein.

The Future Trustee will file an accounting with the Court with respect to the Advance Funding Amount on a monthly basis within 30 days after month-end.

¹ Capitalized terms used but not defined herein have the meanings ascribed to them in the *Third Modified Fifth Amended Chapter 11 Plan of Reorganization (with Technical Modifications) for Boy Scouts of America and Delaware BSA, LLC* [D.I. 10296] (the “Plan”).

² All of the Debtors’ Advance Funding Amount not expended prior to the Effective Date will be returned to the Debtors. All of the PSZJ Advance Funding Amount not expended prior to the Effective Date will roll over to the Settlement Trust.

| Future Trustee Compensation | Advanced Budget |
|---|------------------------|
| <p>The Future Trustee will review documents required for the occurrence of the Effective Date and other necessary preparatory work in connection therewith, including identifying and retaining a Delaware entity to serve as the Delaware trustee for the Settlement Trust, establishing one or more bank accounts, assuming responsibility for records related to Abuse Claims and communications with abuse survivors, designing procedures to identify fraudulent claims, and attending to key matters that will allow the Settlement Trust to receive assets and assume responsibility for the Abuse Claims, associated records, and communications with the holders of Abuse Claims on the Effective Date and to begin the effective and efficient administration of the Settlement Trust immediately thereafter. The Future Trustee will be engaged in the process of interviewing and retaining post-Effective Date professionals, which may include a financial advisor, independent auditors, counsel, tax return preparation professionals, and obtaining post-Effective Date liability insurance for the Settlement Trust and the Trustee. The Future Trustee will also be engaged in claims processing preparatory work with the Future Claims Administrators and one or more third-party vendors. Compensation for the Future Trustee for the start-up period is at \$1,850 per hour (standard 2023 billing rate for matters such as this), projected to be \$600,000. The Future Trustee will also be compensated for her services following the entry of the Confirmation Order and prior to the entry of the Proposed Order at her standard billing rates during the relevant time period (\$1,650 per hour which is her standard 2022 billing rate for matters such as this, and \$1,850 per hour which is her standard 2023 billing rate for matters such as this). Judge Houser provided 35 hours of service after the date of the Confirmation Order through December 31, 2022, for which she will be compensated at her standard 2022 billing rate of \$1,650 per hour or an aggregate of \$57,750; Judge Houser has provided or expects to provide not more than 35 hours of service from January 1, 2023 through the date of this Court's Order, for which she will be compensated at her standard 2023 billing rate of \$1,850 per hour or not more than \$64,750.</p> | \$ 657,750 |
| Insurance for the Pre-Effective Date Period | |
| <p>The Future Trustee has obtained a quote from a reputable insurer with substantial experience in the settlement trust area for insurance for the Future Trustee, the Future Claims Administrators and the future Executive Director, which may be extended to the extent necessary.</p> | \$ 85,000 |

| Future Claims Administrators' Compensation | |
|---|------------|
| <p>The Future Claims Administrators (there will be two) will be working with one or more third-party vendors to design the infrastructure for the efficient intake of claims form data and new data so that the Settlement Trust is ready to begin the effective and efficient administration of claims after the Effective Date. They will also work with the Debtors and the claims and noticing agent to establish a process to take possession of claims records on the Effective Date and to transfer management of claims and case inquiries</p> <p>The future Claims Administrators will start to identify third-party services to build and test the Settlement Trust website and claims portal (through which claimants and their counsel will submit claims forms) as well as work to establish an initial website that can be used for communications on the Effective Date.</p> <p>Compensation for the Future Claims Administrator Judge Reagan (Ret.) for the start-up period is \$1,250 per hour. Compensation for the Future Claims Administrator Ms. Roth for the start-up period is \$1,000 per hour.</p> | \$ 800,000 |

| Retain Accounting Firm | |
|---|-----------|
| <p>An accounting firm will be retained to provide certain bookkeeping, accounting, and tax and financial reporting obligations with respect to the funds advanced pursuant to this Proposed Budget at an approximate cost of \$5,000 per month.</p> | \$ 20,000 |

| Other Third Party Planning Costs | |
|---|--------------|
| <p>While it is expected that many key professionals will provide services to the Settlement Trust deferring payment until after the Effective Date, it is expected that the Future Trustee and Future Claims Administrators will need to pay for certain third party providers to accomplish the preparatory tasks noted above.</p> <p>Specifically, \$2,000,000 of these costs include the services of claims processing third-party vendor(s) to design the infrastructure for the efficient intake of claims form data and new data, and to build and test the Trust website and portal (through which claimants and their counsel will be able to submit claims forms).</p> <p>\$200,000 of these costs also include the services of a consultant to advise the Future Trustee and the Future Claims Administrators on matters important to the understanding and analysis of sexual abuse matters.</p> | \$ 2,200,000 |

| Future Executive Director | |
|--|---------------------|
| The future Executive Director will support the Future Trustee and the Future Claims Administrators so as to achieve efficient and effective administration of the Settlement Trust as of the Effective Date. The future Executive Director will assist in the interviewing of future service providers to the Settlement Trust and will advise on the build-out of the claims intake infrastructure as well as the other preparatory tasks required for the Effective Date, including establishing bank accounts and the process to accept Settlement Trust contributions on and after the Effective Date. | \$ 150,000 |
| Total Projected Fees and Expenses for Settlement Trust Administration Start-Up | \$ 3,912,750 |

Exhibit C

Whittman Declaration

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

In re:

BOY SCOUTS OF AMERICA AND
DELAWARE BSA, LLC¹

Debtors.

Chapter 11

Case No. 20-10343 (LSS)

(Jointly Administered)

**DECLARATION OF BRIAN WHITTMAN IN SUPPORT OF THE
JOINT MOTION OF THE DEBTORS, OFFICIAL COMMITTEE OF TORT
CLAIMANTS, FUTURE CLAIMANTS' REPRESENTATIVE, AND COALITION
OF ABUSED SCOUTS FOR JUSTICE, PURSUANT TO 11 U.S.C. §§ 105(A) AND
363(B), FOR ENTRY OF AN ORDER (I) AUTHORIZING THE DEBTORS TO
ADVANCE FUNDING TO FACILITATE THE ESTABLISHMENT OF THE
SETTLEMENT TRUST, (II) AUTHORIZING THE PSZJ FIRM TO ADVANCE
FUNDING UNDER THE PSZJ CONTRIBUTION TO FACILITATE THE
ESTABLISHMENT OF THE SETTLEMENT TRUST, (III) AUTHORIZING
THE FUTURE SETTLEMENT TRUSTEE AND CLAIMS ADMINISTRATORS
TO BEGIN PREPARATORY WORK, AND (IV) GRANTING RELATED RELIEF**

I, Brian Whittman, being duly sworn, state the following under penalty of perjury:

1. I am over twenty-one (21) years of age and fully competent to make this declaration in support of the *Joint Motion of the Debtors, Official Committee of Tort Claimants, Future Claimants' Representative, and Coalition of Abuse Scouts for Justice, Pursuant to Sections 105(a) and 363(b) of the Bankruptcy Code, for Entry of an Order (I) Authorizing the Debtors to Advance Funding to Facilitate the Establishment of the Settlement Trust, (II) Authorizing the Future Settlement Trustee and Claims Administrators to Begin Preparatory Work, and (III) Granting Related Relief* (the "Motion"),² which is filed concurrently herewith. I am a Managing Director

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

² Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion or the *Third Modified Fifth Amended Chapter 11 Plan of Reorganization (with Technical Modifications) for Boy Scouts of America and Delaware BSA, LLC* [D.I. 10296] (the "Plan"), as applicable.

with Alvarez & Marsal North America, LLC (“A&M”), which serves as restructuring advisor to Boy Scouts of America (the “BSA”) and Delaware BSA, LLC (“Delaware BSA” and, together with the BSA, the “Debtors”). As the lead Managing Director at A&M responsible for this engagement since August 2019, I have been involved with many aspects of these chapter 11 cases and in doing so have familiarized myself with a range of matters concerning the Debtors, including those described herein.

2. Except as otherwise stated in this Declaration, all facts set forth herein are based on my personal knowledge, materials provided by, or my discussions with, members of the Debtors’ management team or other advisors or information obtained from my personal review of relevant documents. Additionally, the views asserted in this Declaration are based upon my experience and knowledge of the Debtors’ operations, financial condition, and liquidity. If called upon to testify, I would competently testify to the facts set forth herein.

3. The Debtors, the TCC, the FCR, and the Coalition (collectively, the “Movants”) jointly filed the proposed Settlement Trust budget (the “Proposed Budget”), which is attached as Exhibit B to the Motion. The Proposed Budget was developed by the Movants and the Future Trustee, and is composed of items necessary for the Future Trustee to (i) undertake the review of documents that will be required to be executed on the Effective Date, (ii) engage in diligence tasks for the Effective Date that will be necessary to receive contributions on the Effective Date, (iii) prepare to take over the necessary record-keeping related to Abuse Claims and communications with the holders of Abuse Claims from the Debtors on the Effective Date, and (iv) make plans related to the start-up of the Settlement Trust on the Effective Date, including the design and establishment of a Settlement Trust website and claims portal and the engagement of other professionals such as a claims processor and other key advisors for the Settlement Trust.

4. Among other things, the Proposed Budget includes tasks that the Debtors need the Settlement Trustee to undertake in order for the Effective Date to occur, including reviewing documents for the occurrence of the Effective Date and other necessary preparatory work in connection therewith, such as identifying and retaining a Delaware entity to serve as the Delaware trustee for the Settlement Trust, establishing one or more bank accounts and other related support that will be necessary to receive contributions on the Effective Date, attending to key matters that will allow the Settlement Trust to receive assets, and preparing to assume responsibility for the Abuse Claims, associated records, and communications with the holders of Abuse Claims on the Effective Date and to begin the effective and efficient administration of the Settlement Trust immediately thereafter.

5. Based on my review of the Proposed Budget and my discussions with the Debtors' management regarding the Proposed Budget, I believe that the completion of the tasks covered by the Advance Funding and the Proposed Budget will benefit the Debtors and their estate because it will facilitate the occurrence of the Effective Date (once the various conditions to the Effective Date are satisfied) and the handover of assets and duties of the Debtors—particularly because it will enable the Future Trustee's completion of the preparation and groundwork related to the Plan Documents in order for the Effective Date to occur as expeditiously as possible, to the benefit of the Debtors and abuse survivors.

6. The Debtors have an interest in expeditiously exiting bankruptcy by facilitating the prompt occurrence of the Effective Date and allowing the Plan to be consummated. The longer the Debtors stay in bankruptcy, the more that their objective of ensuring that the BSA has the ability to continue its charitable mission is threatened. The Debtors' now three-year stay in bankruptcy and publicity surrounding the proceedings has created a public relations overhang on

the Debtors' organizational operations and has impacted the Debtors' ability to successfully recruit new members, solicit donations, and continue efforts to modernize the BSA organization. The longer the Debtors remain in bankruptcy, the longer it will be before the Debtors can enjoy the benefits of the fresh start that bankruptcy affords which will enhance the Debtors ability to recruit new members and execute on the BSA's business plan. Each day that passes before the Plan goes effective also brings with it additional administrative cost and expense. Minimizing estate expenses is critical to ensuring a successful reorganization because the Debtors have limited options available to generate additional liquidity. The Debtors have already implemented extensive cost-saving measures to extend the Debtors' liquidity runway and sought to monetize certain assets that are not core to the Debtors' charitable mission. Ensuring that the Effective Date occurs as quickly as possible after the conditions to effectiveness are met, such as through the Advance Funding Amount requested in the Motion, helps the Debtors fulfill the mission of Scouting. Moreover, any delay in the ability of the Plan to go effective will delay the distribution of funds to survivors who overwhelmingly voted to accept the Plan, many of whom have waited decades to receive such distributions.

7. In my opinion, the Advance Funding confers these substantial benefits with minimal burden on the Debtors' estates, as the Debtors' Advance Funding Amount will be fully reimbursed to the Debtors following the Effective Date and is *de minimis* in relation to the total expenses of these cases. I believe that the Proposed Budget reflects appropriate use of the Advance Funding Amount. Accordingly, the Advance Funding balances the Debtors' goals of providing an equitable, streamlined, and certain process by which abuse survivors may obtain compensation and ensuring that the BSA has the ability to continue its charitable mission. I understand that should the Debtors become unwilling or unable to consummate the Plan after some or all of the

Advance Funding Amount has been disbursed, such that the Effective Date does not occur, any unused portion of (i) the Debtors' Advance Funding Amount will be returned to the Debtors and (ii) the PSZJ Advance Funding Amount will be returned to the PSZJ Firm for further application as shall be determined at the time. The disbursed portion of such amounts will thereafter be recharacterized for applicable purposes as a payment by the Debtors on account of claims asserted by the applicable creditors. Further, the Proposed Budget is the result of extensive good faith, arm's-length discussions among the Movants and the Future Trustee.

8. Accordingly, for the reasons set forth herein, I believe that providing the Advance Funding as set forth in the Proposed Budget will benefit the Debtors' estates.

[Remainder of Page Intentionally Left Blank]

I declare under penalty of perjury that the foregoing statements are true and correct.

Dated: February 28, 2023
Chicago, Illinois

ALVAREZ & MARSAL NORTH AMERICA, LLC

/s/ Brian Whittman

Brian Whittman
Managing Director

Exhibit D

Houser Declaration

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

In re:

BOY SCOUTS OF AMERICA AND
DELAWARE BSA, LLC¹

Debtors.

Chapter 11

Case No. 20-10343 (LSS)

(Jointly Administered)

**DECLARATION OF THE HON. BARBARA J. HOUSER (RET.) IN SUPPORT OF
THE JOINT MOTION OF THE DEBTORS, OFFICIAL COMMITTEE OF TORT
CLAIMANTS, FUTURE CLAIMANTS' REPRESENTATIVE, AND COALITION OF
ABUSED SCOUTS FOR JUSTICE, PURSUANT TO 11 U.S.C. §§ 105(A) AND 363(B),
FOR ENTRY OF AN ORDER (I) AUTHORIZING THE DEBTORS TO ADVANCE
FUNDING TO FACILITATE THE ESTABLISHMENT OF THE SETTLEMENT
TRUST, (II) AUTHORIZING THE PSZJ FIRM TO ADVANCE FUNDING UNDER
THE PSZJ CONTRIBUTION TO FACILITATE THE ESTABLISHMENT OF THE
SETTLEMENT TRUST, (III) AUTHORIZING THE FUTURE SETTLEMENT
TRUSTEE AND CLAIMS ADMINISTRATORS TO BEGIN PREPARATORY
WORK, AND (IV) GRANTING RELATED RELIEF**

Pursuant to section 1746 of title 28 of the United States Code, I, Barbara J. Houser, hereby declare under penalty of perjury that the following is true to the best of my knowledge, information, and belief:

1. I am over twenty-one (21) years of age and fully competent to make this declaration (this "Declaration") in support of the *Joint Motion of the Debtors, Official Committee of Tort Claimants, Future Claimants' Representative, and Coalition of Abuse Scouts for Justice, Pursuant to Sections 105(a) and 363(b) of the Bankruptcy Code, for Entry of an Order (I) Authorizing the Debtors to Advance Funding to Facilitate the Establishment of the Settlement Trust, (II) Authorizing the Future Settlement Trustee and Claims Administrators to Begin Preparatory*

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

Work, and (III) Granting Related Relief (the “Motion”),² which is filed concurrently herewith.

2. I am an attorney at law licensed to practice law in the state of Texas. I am in good standing and am the proposed Settlement Trustee (the “Future Trustee”) for the Settlement Trust to be established upon the Effective Date of the Debtors’ Plan. I am duly authorized to make this Declaration. Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein and, if called as a witness, I would competently testify thereto.

3. I submit this Declaration in support of the Motion of the Boy Scouts of America (the “BSA”) and Delaware BSA, LLC, the non-profit corporations that are debtors and debtors in possession in the above-captioned chapter 11 cases (together, the “Debtors”), jointly with the Official Committee of Tort Claimants (the “TCC”), Future Claimants’ Representative (the “FCR”), and Coalition of Abused Scouts for Justice (the “Coalition” and, together with the Debtors, TCC and FCR, the “Movants”) for the entry of an order, pursuant to 11 U.S.C. §§ 105(a) and 363(b), (i) authorizing the Debtors to fund the Debtors’ Advance Funding Amount in accordance with the Proposed Budget set forth on **Exhibit B** to the Motion, (ii) authorizing the PSZJ Firm to fund the PSZJ Advance Funding Amount in accordance with the Proposed Budget set forth on **Exhibit B** to the Motion, (iii) authorizing me, Barbara J. Houser, the Future Trustee, and the Future Claims Administrators to begin preparatory work with respect to the Effective Date of the Plan and establishment of the Settlement Trust, including incurring and satisfying expenses from the Advance Funding Amount in accordance with the Proposed Budget, and (iv) granting related relief.

4. The Confirmation Order provides that the Settlement Trust will be established to (i) assume all liability for Abuse Claims on the Effective Date, (ii) administer the Abuse Claims,

² Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion or the *Third Modified Fifth Amended Chapter 11 Plan of Reorganization (with Technical Modifications) for Boy Scouts of America and Delaware BSA, LLC* [D.I. 10296] (the “Plan”), as applicable.

and (iii) make distributions to holders of compensable Abuse Claims, in each case in accordance with the Trust Distribution Procedures and the Settlement Trust Agreement.

5. Survivors have been waiting many years for compensation. I understand that some have been waiting for decades and many are in urgent need. I believe that the relief requested in the Motion will (i) expedite the process of establishing the Settlement Trust following the Effective Date of the Plan, and (ii) allow work to be undertaken now which should facilitate distributions being made to abuse survivors more expeditiously following the Effective Date, with limited cost and risk to the Debtors' estates.

6. The magnitude and complexity of the preparatory work to be done favors granting this relief. As set forth more fully in the Motion and the Proposed Budget, this preparatory work includes (i) reviewing documents to be executed on the Effective Date, (ii) diligence items such as identifying appropriate financial institution(s) at which bank accounts can be opened on the Effective Date and identifying and retaining a Delaware trustee for the Settlement Trust, both of which are necessary so that the Settlement Trust may receive contributions on the Effective Date, (iii) preparing to take over the necessary record-keeping related to Abuse Claims and communications with the holders of Abuse Claims from the Debtors on the Effective Date, and (iv) planning for the start-up of the Settlement Trust on the Effective Date, including the design and establishment of a Settlement Trust website and claims portal, the design of procedures to identify fraudulent claims, and the engagement of other professionals such as a claims processor and other key advisors for the Settlement Trust.

7. There is a great deal of preparatory work to be done in order to begin compensating abuse survivors. The completion of the tasks covered by the Proposed Budget will facilitate (i) the occurrence of the Effective Date (once the various conditions to the Effective Date are satisfied), and (ii) the handover of assets and duties of the Debtors, which will benefit the holders of Abuse

Claims. In addition, the commencement of this work prior to consummation of the Plan will help expedite the evaluation and processing of Abuse Claims after the Effective Date, both of which must be completed before distributions from the Settlement Trust can begin. Allowing this preparatory work to be done will ensure that the Effective Date occurs as swiftly as possible and that funds are able to be distributed to abuse survivors more expeditiously following the Effective Date.

8. I have reviewed the Proposed Budget and believe the tasks outlined therein are necessary and appropriate. The Proposed Budget was carefully developed with my input and the amount requested is *de minimis* in relation to the total expenses of these cases. The cost estimations included in the Proposed Budget are based on information gathered from outside sources and discussions with the Movants, and/or are based on comparable matters. Further, the Proposed Budget is the result of extensive good faith, arm's-length discussions among the Movants and the Future Trustee. The tasks covered by the Proposed Budget will facilitate (i) the occurrence of the Effective Date, once the various conditions to the Effective Date are satisfied, and (ii) the handover of assets and duties of the Debtors to the Settlement Trust, which will benefit both the holders of Abuse Claims and the Reorganized BSA. In addition, the commencement of this work prior to consummation of the Plan will help expedite the evaluation and processing of Abuse Claims after the Effective Date, both of which must be completed before distributions from the Settlement Trust can begin.

9. Accordingly, for the reasons set forth herein, I believe that providing the Advance Funding as set forth in the Proposed Budget will benefit abuse survivors, facilitate the Debtors' objective of providing an equitable, streamlined, and certain process by which abuse survivors may obtain compensation for abuse, and ensure that all tasks necessary for the occurrence of the Effective Date of the Plan are accomplished.

Dated: February 28, 2023
Houston, Texas

/s/ Barbara J. Houser

The Hon. Barbara J. Houser (Ret.)
Settlement Trustee