

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

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In re:)	Chapter 11
)	
ALEX AND ANI, LLC, <i>et al.</i> , ¹)	Case No. 21-10918 (CTG)
)	
Debtors.)	(Jointly Administered)
)	

**DECLARATION OF RYAN MERSCH IN SUPPORT OF
CONFIRMATION OF THE SECOND AMENDED JOINT PLAN OF
REORGANIZATION OF ALEX AND ANI, LLC AND ITS DEBTOR AFFILIATES
PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

Pursuant to 28 U.S.C. § 1746, I, Ryan Mersch, hereby declare as follows under penalty of perjury:

1. I am a Director of Portage Point Partners, LLC (“Portage Point”), the financial advisor to Alex and Ani, LLC, and its debtor affiliates (collectively, the “Debtors”) in these chapter 11 cases. I am familiar with the terms of the *Second Amended Joint Plan of Reorganization of Alex and Ani, LLC and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* (as modified, amended, or supplemented from time to time in accordance with its terms, the “Plan”).²

2. Through my role as an advisor to the Debtors, I am familiar with the Debtors’ business and financial affairs, capital structure, day-to-day operations, and books and records.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each of the Debtors’ respective federal tax identification numbers, are as follows: Alex and Ani, LLC (8360); A and A Shareholding, Co., LLC (7939); Alex and Ani International, LLC (2247); Alex and Ani Retail, LLC (1227); Alex and Ani Assembly, LLC (3215); Alex and Ani California, LLC (6368); Alex and Ani Canada, LLC (3317); Alex and Ani Puerto Rico, LLC (1477); and Alex and Ani South Seas, LLC (8592). The Debtors’ headquarters and mailing address is: 10 Briggs Drive, East Greenwich, RI 02818.

² Capitalized terms used but not otherwise defined in this Declaration (as defined herein) have the meanings set forth in the Plan or the memorandum of law in support thereof, filed contemporaneously herewith, as applicable.



I am not being compensated specifically for this testimony other than through payments received by Portage Point as a professional retained by the Debtors.

Background and Qualifications

3. I am a Director at Portage Point, which I joined in 2017 and which has its principal place of business at 300 North LaSalle Drive, Suite 1420, Chicago, Illinois 60654. At Portage Point, I have worked directly with companies and their management teams to help stabilize financial and operational performance by developing and implementing comprehensive profitability, working capital and liquidity management plans. Prior to joining Portage Point, I was an Investment Banking Analyst in the Mergers & Acquisitions Group at Lazard where I focused on valuation services and strategic alternative assessments. I hold a B.S. in Finance from the Kelley School of Business at Indiana University and am a member of the Turnaround Management Association.

4. I have experience handling complex financial and other restructuring matters for a variety of companies (distressed or otherwise and both in and out of court) across a wide spectrum of industries. My areas of expertise include, among other things, (a) advising on financial and operational restructuring strategies, (b) sizing, structuring, raising, and executing all aspects of financing transactions, including distressed and debtor-in-possession financings, (c) facilitating sale processes both in and out of court for companies undergoing financial distress, (d) liquidity management and forecasting, contingency planning, financial modeling, developing and implementing performance improvement initiatives, and (e) complex in-court and out-of-court restructurings.

Portage Point's Engagement

5. Portage Point is a restructuring and turnaround management firm whose professionals have a wealth of experience in providing financial advisory services in a variety of complex chapter 11 cases on behalf of debtors and creditors throughout the United States. Portage Point's professionals have assisted, advised, and provided strategic advice to debtors, creditors, bondholders, investors, and other entities in numerous chapter 11 cases of similar size and complexity to the Debtors' chapter 11 cases. Portage Point has provided restructuring or crisis management services in numerous large cases, including but not limited to: *In re Alamo Drafthouse Cinemas Holdings, LLC*, No. 21-10474 (MFW) (Bankr. D. Del. Mar. 29, 2021); *In re Bouchard Transportation, Co., Inc.*, No. 20-34682 (DRJ) (Bankr. S.D. Tex. Oct. 22, 2020); *In re APC Automotive Technologies Intermediate Holdings, LLC*, No. 20-11466 (CSS) (Bankr. D. Del. June 23, 2020); *In re Hornbeck Offshore Services, LLC*, No. 20-32685 (DRJ) (Bankr. S.D. Tex. June 18, 2020); *In re Dura Automotive Systems*, No. 19-12378 (KBO) (Bankr. D. Del. Oct. 17, 2019); *In re Melinta Therapeutics*, No. 19-12748 (LSS) (Bankr. D. Del. Dec. 27, 2019); *In re Loot Crate, Inc.*, No. 19-11791 (BLS) (Bankr. D. Del. Sept. 18, 2019); *In re Total Finance Investment Inc.*, No. 19-03734 (CAD) (Bankr. N.D. Ill. Mar. 14, 2019); and *In re The Financial Oversight and Management Board for Puerto Rico, as a representative of Puerto Rico Electric Power Authority*, No. 17-4780 (LTS) (Bankr. D.P.R. July 3, 2017). I personally provided services in the following cases: *In re Alamo Drafthouse Cinemas Holdings, LLC*, No. 21-10474 (MFW) (Bankr. D. Del. Mar. 29, 2021); *In re Hornbeck Offshore Services, LLC*, No. 20-32685 (DRJ) (Bankr. S.D. Tex. June 18, 2020); *In re Dura Automotive Systems*, No. 19-12378 (KBO) (Bankr. D. Del. Oct. 17, 2019); *In re Melinta Therapeutics*, No. 19-12748 (LSS) (Bankr. D. Del.

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6. Since approximately April 26, 2021, Portage Point has provided services to the Debtors as restructuring advisor in connection with their restructuring efforts.³ In providing such pre- and post-petition professional services to the Debtors, Portage Point has become familiar with the Debtors and their businesses, including the Debtors' business and financial affairs, capital structure, day-to-day operations, and books and records. Having worked closely with the Debtors' management and their other advisors, Portage Point has developed relevant experience and expertise regarding the Debtors that has assisted it in providing effective and efficient services in these chapter 11 cases.

7. Immediately after its retention, Portage Point worked with the Debtors' board of managers and executive management team to evaluate the Debtors' liquidity situation, as well as their ability to satisfy outstanding obligations. These efforts were critical to the Debtors' consideration, negotiation, and evaluation of various restructuring alternatives, ultimately culminating in the comprehensive restructuring contemplated in the RSA, and later, in the Plan. In addition to its direct involvement and participation in restructuring negotiations with the Consenting Stakeholders, Portage Point has, among other services provided to the Debtors: (a) prepared information and analyses in connection with confirmation of the Plan, including the Liquidation Analysis (as defined herein), and other information contained in the Disclosure Statement; (b) assisted the Debtors in managing day-to-day operations, cash flow, and in preparing a business plan; (c) assisted the Debtors in preparing and reporting various information as required in connection with these chapter 11 cases, including the schedules and

³ On July 15, 2021, the Court entered the *Order Authorizing the Retention and Employment of Portage Point Partners, LLC as Financial Advisor to the Debtors Effective as of the Petition Date* [Docket No. 201].

statements and monthly operating reports; and (d) assisted the Debtors in commencing a marketing process to assess potential interest in a sale transaction. In connection with the performance of these services, Portage Point is deeply familiar with the Debtors' business and financial affairs, capital structure, day-to-day operations, and books and records. I have personally overseen the team of Portage Point professionals that has helped the Debtors in these matters, including in the preparation of the Liquidation Analysis and the Valuation Analysis.

8. I submit this declaration (this "Declaration") in conjunction with the Debtors' memorandum of law in support of confirmation of the Plan filed contemporaneously herewith. Specifically, I make this Declaration to describe my analysis and opinions regarding the "best interests" tests set forth in section 1129(a)(7) of the Bankruptcy Code. All facts set forth in this Declaration are based on (a) my personal knowledge; (b) work performed under my direction; or (c) my review of relevant documents. If I were called upon to testify, I would testify competently to the matters set forth herein.

I. The Plan Is in the "Best Interests" of Holders of Claims and Interests.

9. I understand that section 1129(a)(7) of the Bankruptcy Code requires that any chapter 11 plan must satisfy the "best interests of creditors" test, which provides that holders of claims or interests in impaired, non-accepting classes must receive under a plan of reorganization at least as much as they would in a liquidation.

10. To determine whether the Plan satisfies the "best interests" test under section 1129(a)(7) of the Bankruptcy Code, Portage Point, with the assistance of the Debtors, developed an analysis that represents a hypothetical, reasonable, and good-faith estimate of the proceeds that would be generated if the Debtors were liquidated under chapter 7 of the Bankruptcy Code (the "Liquidation Analysis").

11. In developing the Liquidation Analysis, Portage Point did the following:
 - (i) estimated the cash proceeds that a chapter 7 trustee would generate if each Debtor's chapter 11 case were converted to a chapter 7 case on the Conversion Date and the assets of such Debtor's estate were liquidated;
 - (ii) determined the costs related to the liquidation, such as post-conversion operating costs, personnel retention costs, estate wind-down costs, and Trustee, professional, and other administrative fees; and
 - (iii) determined the distribution that each Holder of a Claim or Interest would receive from the Liquidation Proceeds under the priority scheme dictated in chapter 7 of the Bankruptcy Code.

12. The Liquidation Analysis, which is attached as Exhibit F to the Disclosure Statement and incorporated herein by reference, includes a detailed description of the assumptions, analysis, and estimated results of a hypothetical chapter 7 liquidation of the Debtors. I believe that the methodology used to prepare the Liquidation Analysis is appropriate and reasonable, and the assumptions and conclusions set forth therein are fair and reasonable under the circumstances.

13. As set forth in the Liquidation Analysis, the Debtors' unsecured creditors are out of the money even in the best-case "high" recovery scenario in a hypothetical chapter 7 liquidation. In each recovery scenario, the majority of the Debtors' creditors are left without any recovery. In comparison, the Debtors' Plan provides for: (a) all holders of Allowed Other Priority Claims and Other Secured Claims to be paid in full; (b) holders of Secured Credit Facility Secured Claims to receive their *pro rata* share of 100 percent of the New Common Equity; (c) holders of Go-Forward Vendor Claims to receive their *pro rata* share of the Go-Forward Vendor Claim Recovery; and (d) holders of General Unsecured Claims to receive the General Unsecured Claims Treatment.

14. Based on the Liquidation Analysis, it is my conclusion that the recoveries to holders of Claims and Interests under the Plan are at least as much as (and, indeed, in many

instances, more than) the potential recoveries provided to holders of Claims and Interests in a liquidation under chapter 7 of the Bankruptcy Code and, therefore, the Debtors have satisfied the “best interests” test under section 1129(a)(7) of the Bankruptcy Code.

II. Valuation of the Reorganized Debtors.

15. In connection with these Chapter 11 Cases, Portage Point prepared a valuation analysis of the Reorganized Debtors (the “Valuation Analysis”), which is attached as Exhibit E to the Disclosure Statement and incorporated herein by reference. I am familiar with the methods used and the conclusions reached in the preparation of the Valuation Analysis. I believe that the methodology used to prepare the Valuation Analysis is appropriate and reasonable, and the assumptions and conclusions set forth therein are fair and reasonable under the circumstances.

16. Portage Point relied on discounted cash flow analysis, selected publicly-traded companies analysis and precedent transactions analysis to determine the value of the Reorganized Debtors. The Valuation Analysis was performed assuming a Plan effective date of September 30, 2021. Based on the materials and data provided to Portage Point and my experience, and as stated in the Valuation Analysis, it is my opinion that the estimated going-concern enterprise value of the Reorganized Debtors is in the range of approximately \$57.1 million to approximately \$66.8 million, with a mid-point of approximately \$62.0 million.

III. The Plan is Feasible.

17. I understand that section 1129(a)(11) of the Bankruptcy Code requires a court to determine that confirmation of such plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors. Based on my knowledge of the Debtors’ business and financial affairs, day-to-day operations, go-forward capital structure, and the Debtors’ projected future performance, including as set forth in the Financial Projections

attached as Exhibit D to the Disclosure Statement and described in greater detail herein, I believe confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors.

18. Portage Point, with assistance from the Debtors' management team, prepared financial projections (the "Financial Projections") through fiscal year 2024 (the "Projection Period"), which are attached as Exhibit D to the Disclosure Statement. The Financial Projections were developed in connection with the development of the Plan and for, among other reasons, assessing the Plan's feasibility. I am familiar with the methods used, and the conclusions reached, in the preparation of the Financial Projections. The Financial Projections are premised on numerous assumptions, including, but not limited to, general business, economic, and regulatory conditions, reorganization assumptions, operating and financial assumptions, and prevailing market and industry conditions. The Financial Projections incorporate the Debtors' planned sales and cost initiatives, as well as operational restructuring activities. I have reviewed the material assumptions included in the Financial Projections, and I believe that the assumptions embodied therein were prepared in good faith and are reasonable and appropriate to provide the foundation for the Financial Projections and the Plan.

19. Based on the Financial Projections, and subject to the assumptions underlying such projections, I believe that the Reorganized Debtors will have sufficient remaining liquidity after honoring their obligations under the Plan to conduct their business operations. Specifically, the Plan dramatically reduces the Debtors' funded-debt obligations, provides the Debtors with the liquidity necessary to fund distributions to their creditors pursuant to the Plan, and provides the Debtors with sufficient working capital to fund their ongoing operations, as further set forth in the Plan and incorporated by reference into the Financial Projections. I also believe that the

Exit Facility, coupled with the Debtors' cash from operations, should be reasonably sufficient to meet the Debtors' working capital needs and obligations under the Plan going forward.

20. I believe that with a significantly de-leveraged balance sheet—and the availability of new sources of liquidity in the Exit Facility—the Debtors will be able to implement their long-term business plan. Accordingly, I believe the Financial Projections provide a reasonable assurance that the Debtors will have and maintain sufficient liquidity and capital resources to pay amounts due under the Plan and to fund their ongoing operations during the Projection Period.

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Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: September 17, 2021
Chicago, Illinois

Respectfully submitted,

/s/ Ryan Mersch
Ryan Mersch
Director
Portage Point Partners, LLC