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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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<i>In re:</i>	:	
	:	Chapter 11
	:	
THE McCLATCHY COMPANY, <i>et al.</i> ,	:	Case No. 20-10418 (MEW)
	:	
Debtors. <sup>1</sup>	:	(Jointly Administered)
	:	
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**EX PARTE APPLICATION OF OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS FOR ENTRY OF AN ORDER PURSUANT TO  
FEDERAL RULES OF BANKRUPTCY PROCEDURE 2004 AND 9016  
AUTHORIZING THE EXAMINATION OF THE DEBTORS,  
CHATHAM ASSET MANAGEMENT, LLC AND LEON COOPERMAN**

<sup>1</sup> The last four digits of Debtor The McClatchy Company's tax identification number are 0478. Due to the large number of debtor entities in these chapter 11 cases, for which the Debtors have requested joint administration, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <http://www.kccllc.net/McClatchy>. The location of the Debtors' service address for purposes of these chapter 11 cases is: 2100 Q Street, Sacramento, California 95816



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The Official Committee of Unsecured Creditors (the “Committee”) appointed in the chapter 11 cases (the “Bankruptcy Cases”) of the above-captioned debtors and debtors-in-possession (the “Debtors”), by and through the undersigned counsel, hereby submits this *ex parte* application (the “Application”), for the entry of an order authorizing the examination of the Debtors, Chatham Asset Management, LLC (together with its affiliates, “Chatham”) and Leon Cooperman (“Cooperman”, and, collectively with the Debtors and Chatham, the “Rule 2004 Parties”) pursuant to Rule 2004 (“Rule 2004”) and Rule 9016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 2004-1 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”), and, in support thereof, respectfully states as follows:

#### **PRELIMINARY STATEMENT<sup>1</sup>**

1. Prior to the filing of these Bankruptcy Cases, Chatham and the Debtors orchestrated a series of transactions designed to transfer near total ownership of the reorganized Debtors to Chatham free and clear of more than \$1 billion of unsecured claims. The Suspect Transactions (as described below) must be fully investigated by the Committee and cannot simply be whitewashed through the Debtors’ “take our word for it” approach. Nor can the Suspect Transactions go without independent scrutiny based on specious assertions that the Debtors are a proverbial melting ice cube that cannot afford any delay to their fabricated and unrealistic timeline.

2. Only the publicly available facts regarding the Suspect Transactions are known to the Committee at this time. Nevertheless, those facts are alarming. Prior to implementation of the Suspect Transactions, Chatham -- who is also the Debtors’ largest shareholder (outside of the

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<sup>1</sup> Capitalized terms used in this Preliminary Statement but not herein defined shall have the meanings otherwise ascribed to them herein.

McClatchy family) -- owned approximately \$350 million of the Debtors' Unsecured Debentures, which ranked *pari passu* with the remainder of the Debtors' unsecured claims. Through the first step of the Suspect Transactions, done while the Debtors appear to have been insolvent, Chatham exchanged its unsecured non-guaranteed bonds for secured guaranteed debt of equal amount. The new secured debt, overall bearing higher interest rates, were obligations of Debtor subsidiaries holding the Debtors' most valuable assets; those subsidiaries did not have liability for the claims held by Chatham prior to the exchange. Put more simply, Chatham offered the Debtors nothing of value, but was able to position the totality of its claims to benefit from the next step of the Suspect Transactions.<sup>2</sup>

3. The filing of these Bankruptcy Cases represents the second step of the Suspect Transactions, through which Chatham seeks to use its tainted secured and structurally senior debt claims to prime unsecured creditors and to take control of the massively deleveraged reorganized Debtors, while securing a total release of all potential claims against it. Indeed, the proposed Plan affords no meaningful recovery to unsecured creditors and does not even entitle them to vote, thereby nearly zeroing out stakeholders that would rank equal with Chatham's claims but for the Suspect Transactions.

4. As if the facts noted above were not bad enough, Chatham and the Debtors are attempting to rush these Bankruptcy Cases to a quick conclusion under the contrived threat of a meltdown if the Suspect Transactions are not blessed in short order via confirmation of the Debtors' plan. The Debtors themselves stated, however, that they generate free cash flow, and their own DIP budget shows minimal borrowings under their proposed DIP Facility. So, it appears that the Debtors and Chatham are simply doing everything possible to prevent the proper

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<sup>2</sup> There are various aspects of the transactions that may have also benefitted Chatham's position as a purported seller of credit default swaps and which also must be investigated.

examination of the Suspect Transactions. Chatham's attempts to abuse the bankruptcy process in this manner should not be countenanced.

5. It is thus imperative that the Committee thoroughly investigate all aspects of, and all parties involved in, the Suspect Transactions. Such investigation should extend to the Debtors, Chatham, other parties affiliated with the prepetition transactions and also to Leon Cooperman, who upon information and belief, is a close personal friend of the founder of Chatham, was at times a sizable debt holder, and is suspected to have aided Chatham's attempts to wrest ownership and control of the reorganized Debtors free and clear of legitimate and massive unsecured claims.

6. Accordingly, and for the reasons set forth further below, the Application must be granted.

## **BACKGROUND**

### **A. The Bankruptcy Cases**

7. On February 13, 2020 (the "Petition Date"), the Debtors commenced the Bankruptcy Cases by filing voluntary petitions for relief under chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"). The Debtors continue to operate their businesses and manage their properties as debtors and debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

8. As of the Petition Date, the Debtors' funded debt consisted of (a) \$26.7 million of 101% cash-collateralized standby letters of credit under a \$35.0 million cash secured letter of credit facility, (b) \$262.9 million of 9.00% first lien notes due 2026 (the "First Lien Notes"), (c) \$157.1 million of 7.795% Second Lien Tranche A Loans due 2030 (the "Second Lien Tranche A Loans"), (d) \$268.5 million of 6.875% third lien notes due 2031 (the "Third Lien Notes"), (e) \$7.1 million of 7.150% unsecured debentures due 2027 (the "2027 Debentures"), and (f) \$7.8

million of 6.875% unsecured debentures due 2029 (the “2029 Debentures”, and, together with the 2027 Debentures, the “Unsecured Debentures”). (See *Declaration of Sean M. Harding in Support of Chapter 11 Petitions and First Day Papers* [Docket No. 23] (the “First Day Decl.”) at ¶¶ 19-31.)

9. One day prior to the Petition Date, in an attempt to avoid the requirements and oversight of a motion to approve the adequacy of the Debtors’ disclosure statement, the Debtors commenced solicitation of their proposed plan of reorganization (the “Plan”). (See First Day Decl. at ¶ 68; *Disclosure Statement with respect to the Joint Chapter 11 Plan of Reorganization of The McClatchy Company and its Affiliated Debtors and Debtors In Possession* [Docket No. 27] (the “Disclosure Statement”) at Article 3.B.)

10. The Plan, which was negotiated among the Debtors, Chatham and certain holders of First Lien Notes, provides, among other things, that:

- Chatham will receive (i) nearly all of the equity of the reorganized Debtors (97%) on account of its purported Second Lien Tranche A Loans and Third Lien Notes, and (ii) \$45 million in 1.5 lien debt (comprised of a \$30 million new money component and a 7% fee in the form of original issue discount) on account of its First Lien Notes;
- The majority of general unsecured creditors -- including, we understand, the Pension Benefit Guaranty Corporation (the “PBGC”) on account of its \$800 million unfunded liability claim, beneficiaries of the non-qualified pension plans, litigation claimants, trade claimants, and other unsecured creditors of unknown amount-- will have the choice of either \$3 million in cash or warrants to purchase 2.5% of illiquid equity in the reorganized Debtors (which will be a private company controlled exclusively by Chatham) at a strike price that has not yet been determined, resulting in a recovery of less than 1%;<sup>3</sup>
- The PBGC’s recovery for \$91 million in termination premiums, which the PBGC has asserted is non-dischargeable, will be limited to a \$33 million secured note (with a 10-13 year term) and 3% of the equity of the reorganized Debtors; and

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<sup>3</sup> The Disclosure Statement provides that general unsecured creditors will receive a 1.6% recovery, but after taking into account the PBGC’s asserted general unsecured claim in an amount in excess of \$800 million, the recovery will be reduced to far less than 1%.

- All other holders of First Lien Notes (other than Chatham) will receive a premium in the form of new first lien secured debt with tighter covenant protection and more expensive terms.

(See Disclosure Statement at Preamble.)

11. Put simply, the Plan hands the keys to the reorganized Debtors over to Chatham, while simultaneously granting Chatham broad releases from its prepetition suspect conduct, and nearly zeroing out the Debtors' unsecured claims and non-dischargeable termination premiums. The Debtors then hoped to avoid any meaningful review of the provisions of the Plan -- including the broad releases granted for *no* consideration -- by (a) commencing solicitation of the Plan one day prior to the Petition Date, and avoiding the disclosure statement approval process, (b) soliciting a disclosure statement that lacks a valuation analysis and includes untested projections, (c) failing to solicit any general unsecured creditors, (d) establishing a voting deadline of February 24, 2020, less than twelve days after their supposed solicitation (the "Plan Voting Deadline"), and (e) seeking on the first day of these Bankruptcy Cases to impose plan and valuation-related mediation upon and the Committee before it even formed. (See Disclosure Statement at Article 3.B.)

12. Shortly after the Petition Date, the Debtors filed a motion seeking approval of a debtor-in-possession financing facility (the "DIP Facility"). Based on the Debtors' own DIP budget, the Debtors are forecasted to generate cash, such that borrowings under the DIP Facility are expected to be minimal. Yet, the DIP Facility includes various artificially compressed case milestones.<sup>4</sup> One such milestone requires the Debtors to elect, within sixty days of the Petition Date, whether to pursue a Plan or to pivot to a sale of all of the Debtors' assets. (See Schedule

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<sup>4</sup> Indeed, while the Committee is still undertaking its analysis of the DIP Facility, based on its initial review of the forecast and budget included therein, the average borrowing under the DIP Facility is approximately \$2 million over the forecast period, with a peak borrowing of only approximately \$6.7 million.

5.23 to the Debtor-in-Possession Credit Agreement.) This and other unnecessarily tight milestones seem purposefully designed to place additional pressure on the Court, the Committee and the unsecured creditors to acquiesce to Chatham's scheme while the Debtors and Chatham press the Plan forward at a breakneck speed.

13. On February 26, 2020, two days after the Plan Voting Deadline, the Office of the United States Trustee for the Southern District of New York appointed the Committee.<sup>5</sup> (*See Notice of Appointment of Official Committee of Unsecured Creditors* [Docket No. 114].)

**B. Prepetition Transactions Involving Chatham**

14. Beginning in July 2018, the Debtors and Chatham engaged in a series of suspect financing transactions. Overall, those transactions, for no apparent justification or consideration, exchanged \$350 million of *unsecured* holding-company debt held by Chatham into \$350 million of senior *secured* debt, with improved economic terms for Chatham and a guarantee from substantially all of the Debtors' operating subsidiaries. The net effect of these transactions was to elevate Chatham into the purported fulcrum creditor (at the expense of the PBGC and the Debtors' unsecured claims) in the eventual bankruptcy cases.

15. Throughout these transactions, Chatham, as a sizable holder of the Company's equity securities -- holding between 19% and 23% of the Debtors' outstanding shares of Class A common stock -- was able to exert outsized pressure over the Debtors. (*See Chatham Asset Management Form 4*, dated July 27, 2018, available at <https://investors.mcclatchy.com/node/15656/html> (the "Chatham July 2018 Form 4"); *Chatham Asset Management Form 4*, dated March 29, 2019, available at <https://investors.mcclatchy.com/>

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<sup>5</sup> The Committee is currently comprised of the following entities: (i) Dow Jones & Company, Inc.; (ii) Lorianne E. Sawin; (iii) P. Anthony Ridder; (iv) Pension Benefit Guaranty Corporation; (v) The News Guild-CWA; (vi) Wilmington Savings Fund Society, FSB; and (vii) Wipro Limited.

node/16116/html (the “Chatham March 2019 Form 4”).) Notably, upon information and belief, aside from members of the McClatchy family, Chatham has (at least since at least mid-2018) been the largest holder of equity securities of the Debtors.

i. July 2018 Exchange Transactions

16. First, in July 2018, the Debtors’ parent entity, The McClatchy Company (“McClatchy”) consummated several transactions (the “July 2018 Transactions”) pursuant to which Chatham exchanged a significant portion of its unsecured parent-level debt for secured subsidiary-guaranteed debt. Specifically, in the July 2018 Transactions:

- Chatham exchanged approximately \$82 million (of the \$89 million) of outstanding 2027 Debentures into approximately \$82 million of Second Lien Tranche A Loans (due 2030); and
- Chatham exchanged approximately \$193.5 million (of the \$276 million) of outstanding 2029 Debentures into \$193 million of 7.785% Second Lien Tranche B Loans (due 2031) (the “Second Lien Tranche B Loans”, and, together with the Second Lien Tranche A Loans, the “Second Lien Loans”).

(See generally The McClatchy Company Form 8-K, dated July 13, 2018, available at [https://www.sec.gov/Archives/edgar/data/1056087/000114420418038507/tv498624\\_8k.htm](https://www.sec.gov/Archives/edgar/data/1056087/000114420418038507/tv498624_8k.htm).)

17. The following chart compares the terms of the Unsecured Debentures that were exchanged for Second Lien Tranche A Loans and the Second Lien Tranche B Loans:

	<b>2027 Debentures</b>	<b>Second Lien Tranche A Loans</b>	<b>2029 Debentures</b>	<b>Second Lien Tranche B Loans</b>
<b>Maturity</b>	November 1, 2027	July 15, 2030	March 15, 2029	July 15, 2031
<b>Guarantors</b>	Not guaranteed	Guaranteed by operating subsidiaries	Not guaranteed	Guaranteed by operating subsidiaries
<b>Interest Rate</b>	7.150%	7.795%	6.875%	6.875%
<b>Security</b>	Unsecured	Second lien security interest	Unsecured	Third lien security interest

Covenants	Eliminated certain restrictive covenants	Customary covenants; substantially the same as first lien debt	Eliminated certain restrictive covenants	Customary covenants; substantially the same as first lien debt
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18. Also as part of the July 2018 Transactions:

- Chatham funded \$60 million in cash in the form of Second Lien Tranche A Loans, but received \$75 million in principal amount of new debt, inclusive of original issue discount of \$15 million (which amounts to a 20% fee);
- McClatchy refinanced its \$344.1 million of existing first lien notes due 2022 with \$310 million of new First Lien Notes;
- McClatchy entered into a new \$65 million secured asset based revolving credit facility and a \$35 million cash secured letter of credit facility (the “ABL Facility”), which is guaranteed by certain of its subsidiaries; and
- McClatchy (at Chatham’s direction) amended the indentures related to the 2027 Debentures and the 2029 Debentures to eliminate certain restrictive covenants.

ii. December 2018 Exchange Transaction

19. Second, in December 2018, Chatham exchanged \$193.5 million of the Second Lien Tranche B Loans for an equal principal amount of newly issued Third Lien Notes, thereby extinguishing the Second Lien Tranche B Loans (the “December 2018 Transaction”). (See The McClatchy Company Form 8-K, dated December 18, 2018, *available at* [https://www.sec.gov/Archives/edgar/data/1056087/000114420418065190/tv509428\\_8k.htm](https://www.sec.gov/Archives/edgar/data/1056087/000114420418065190/tv509428_8k.htm).) The Second Lien Tranche B Loans and the Third Lien Notes contained substantially similar terms.

iii. March 2019 Exchange Transaction

20. Third, in March 2019, Chatham exchanged its remaining \$75 million of 2029 Debentures into an equal amount of Third Lien Notes (the “March 2019 Transaction”, and, collectively with the December 2018 Transaction and the July 2018 Transaction, the “Suspect Transactions”). (See The McClatchy Company Form 8-K, dated March 18, 2019, *available at* <https://www.sec.gov/Archives/edgar/data/1056087/000114420419014634/tv516504>

\_8k.htm.) Thus, through the March 2019 Transaction, Chatham was able to exchange whatever unsecured claims it had left into secured claims for apparently *no* additional consideration.

iv. CDS Transaction

21. In April 2018, McClatchy entered into a term sheet framework agreement (the “April 2018 Framework Agreement”) with Chatham that contemplated a complicated series of transactions that, in substance, would result in the orphaning of credit default swaps (“CDS”) at the McClatchy parent, thereby manipulating McClatchy’s outstanding CDS to Chatham’s benefit. (See The McClatchy Company Form 8-K, dated April 27, 2018, available at [https://www.sec.gov/Archives/edgar/data/1056087/000114420418023038/tv492361\\_8k.htm](https://www.sec.gov/Archives/edgar/data/1056087/000114420418023038/tv492361_8k.htm).)<sup>6</sup>

Although this transaction was not ultimately consummated -- for reasons that are presently unknown -- the Debtors’ willingness to pursue the transaction suggests that Chatham may have exerted significant influence upon the Debtors, and that the transactions were structured in such a way that would offer the Debtors little benefit whereas Chatham would earn millions of dollars in respect of its CDS position. (See “Hedge Fund Gambit Stirs Fresh Controversy in Besieged CDS Market”, *Bloomberg*, April 30, 2018, available at <https://www.bloomberg.com/news/articles/2018-04-30/hedge-fund-gambit-stirs-fresh-controversy-in-besieged-cds-market>.)

At that time, upon information and belief, Chatham was a significant seller of CDS in respect of McClatchy’s outstanding debt. (See Chatham Asset Management Form 4, dated March 2, 2018, available at <https://investors.mcclatchy.com/node/15136/html>.)

C. Sale Leaseback Transactions

22. The Debtors have entered into several sale and leaseback transactions over the past few years (collectively, the “Sale Leaseback Transactions”).

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<sup>6</sup> The April 2018 Framework Agreement was ultimately amended and restated on June 26, 2018 (the “June 2018 Amended and Restated Framework Agreement”)

23. In 2017, the Debtors sold various real estate holdings for approximately \$90 million. (*See* The McClatchy Company, Form 10-K for the fiscal year ended December 31, 2017, at pp. 21, 72-73 *available at* <https://www.sec.gov/Archives/edgar/data/1056087/000155837017001347/mni-20161225x10k.htm>.) The largest of these was a sale of land and buildings in Sacramento, California, home of The Sacramento Bee. Following the sale, the Debtors leased back the property under a 15-year lease with annual payments totaling approximately \$6.2 million. (*Id.*) The Debtors recognized no gain or loss on account of these transactions. (*Id.*)

24. Similarly, in May 2019, the Debtors closed a sale-leaseback of their Kansas City Star headquarters, which resulted in net proceeds of \$29.7 million. (*See* The McClatchy Company, Form 10-Q for the period ending June 30, 2019, at pp. 9, 24 *available at* <https://www.sec.gov/Archives/edgar/data/1056087/000105608719000067/mni-20190630x10q.htm>.) The Debtors then leased back the property under a 15-year lease with initial annual payments totaling approximately \$2.9 million. (*Id.*) This lease also included a repurchase clause allowing the Debtors to repurchase the property after the 15-year lease term, and the Debtors disclosed that the lease was being treated as a financing obligation. (*Id.*)

25. The Company used approximately \$32 million of net sale proceeds realized from the Sale Leaseback Transactions to redeem approximately \$32 million of its First Lien Notes. (*See* First Day Decl. at ¶ 49.)

### **JURISDICTION AND VENUE**

26. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b).

27. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### **RELIEF REQUESTED**

28. Through this Application, the Committee seeks entry of an Order authorizing the Committee to conduct oral examinations of, and to seek the production of documents from, the Rule 2004 Parties (and, as necessary, to issue subpoenas in connection with same) relating to: (a) the Suspect Transactions, (b) the April 2018 Framework Agreement and June 2018 Amended and Restated Framework Agreement, (c) the Plan, (d) the Sale Leaseback Transactions, and (e) any materials related to or arising in connection with the foregoing topics (a)-(d) (collectively, the “Rule 2004 Topics”). Attached, as Exhibits 1, 2 and 3 to the proposed Order (annexed hereto as Exhibit A) is the form of document requests, deposition notices and subpoenas that the Committee proposes to serve upon the Rule 2004 Parties.

### **BASES FOR RELIEF REQUESTED**

#### **I. An Examination by the Committee is Proper and Imperative**

29. An examination pursuant to Rule 2004 may be ordered “[o]n motion of any party in interest.” Fed. R. Bankr. P. 2004(a). A “party in interest” includes a creditors’ committee. 11 U.S.C. § 1109(b). The primary purpose of a Rule 2004 examination is to determine the full extent of the estate, including all claims and other assets. *In re Drexel Burnham Lambert Grp., Inc.*, 123 B.R. 702, 708 (Bankr. S.D.N.Y. 1991). Accordingly, the right to conduct a Rule 2004 examination is not limited to debtors.

30. Indeed, courts routinely recognize the right of an official committee of unsecured creditors to conduct a Rule 2004 examination. *See Official Comm. of Unsecured Creditors of Cybergenics Corp. ex rel. Cybergenics Corp. v. Chinery*, 330 F.3d 548, 564-65 (3d Cir. 2003) (recognizing that “a creditors’ committee may certainly assist a debtor in locating property under Bankruptcy Rule 2004”); *In re Recoton Corp.*, 307 B.R. 751, 755 (Bankr. S.D.N.Y. 2004) (authorizing unsecured creditors’ committee to conduct rule 2004 examination and recognizing

that the “Committee is expressly authorized to investigate the acts, conduct, assets, liabilities and financial condition of the Debtors under § 1103 of the Bankruptcy Code.”); *In re: Enron Corp., et al., Debtors.*, No. 01-16034, 2002 WL 32154274, at \*1 (Bankr. S.D.N.Y. May 16, 2002) (same); *In re Roman Catholic Church of Diocese ofhi Gallup*, 513 B.R. 761, 767 (Bankr. D.N.M. 2014) (same); *In re Mirant Corp.*, 326 B.R. 354, 357 (Bankr. N.D. Tex. 2005) (same).

31. Indeed, the central function of a creditors’ committee is to “investigate the acts, conduct, assets, liabilities, and financial condition of the debtor . . . and any other matter relevant to the case or to the formulation of a plan.” 11 U.S.C. § 1103(c)(2).

## **II. An Examination of the Rule 2004 Parties on the Rule 2004 Topics is Necessary and Appropriate in these Circumstances**

32. A Rule 2004 examination “allows parties with an interest in the bankruptcy estate to conduct discovery into *matters affecting the estate.*” *Teleglobe USA Inc. v. BCE Inc. (In re Teleglobe Commc’ns Corp.)*, 493 F.3d 345, 354 n.6 (3d Cir. 2007), *as amended* (Oct. 12, 2007) (emphasis added). The examination may relate to, among other things, “the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtors’ estate.” Fed. R. Bankr. P. 2004(b). Additionally, in a chapter 11 case, Rule 2004 provides that examination “may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefor, and *any other matter relevant to the case* or to the formulation of a plan.” *Id.* (emphasis added).

33. Courts have repeatedly recognized the extraordinarily broad scope of an examination under Rule 2004 and have thus analogized the scope of a Rule 2004 examination to a “fishing expedition.” *See Ionosphere Clubs, Inc. v. American National Bank and Trust Co. of*

*Chicago (In re Ionosphere Clubs, Inc.)*, 156 B.R. 414, 432 (S.D.N.Y. 1993) (stating that Rule 2004 “is supposed to be a ‘fishing expedition,’ as exploratory and groping as appears proper to the [e]xaminer”) *aff’d*, 17 F.3d 600 (2d Cir. 1994); *In re Hughes*, 281 B.R. 224, 226 (Bankr. S.D.N.Y. 2002) (same). Indeed, the scope of a Rule 2004 examination is broader than discovery generally governed by the Federal Rules of Civil Procedure. *See In re Ecam Publications, Inc.*, 131 B.R. 556, 559 (Bankr. S.D.N.Y. 1991) (noting that the scope of Rule 2004 questioning is extremely broad).

34. This broad application of Rule 2004 is consistent with the Rule’s purpose: “to give parties in interest an opportunity to examine individuals having knowledge of the financial affairs of the debtor in order to preserve the rights of creditors.” *In re GHR Companies, Inc.*, 41 B.R. 655, 660 (Bankr. D. Mass. 1984). Courts therefore have generally permitted the examination of “any third party who can be shown to have a relationship with the debtor.” *In re Ionosphere Clubs, Inc.*, 156 B.R. at 432; *see also In re Ecam Publ’ns, Inc.*, 131 B.R. 556, 559 (Bankr. S.D.N.Y. 1991); *In re Recoton Corp.*, 307 B.R. at 755 (“Any third party who has a relationship with a debtor may be made subject to a Rule 2004 investigation”); *In re Enron Corp.*, 281 B.R. 836, 840 (Bankr. S.D.N.Y. 2002) (“[T]he Court may authorize the examination of third parties that possess knowledge of the debtor’s acts, conduct, liabilities or financial condition which relate to the administration of the bankruptcy estate.”).

35. While the scope of a Rule 2004 examination is broad, the Committee is mindful of the Court’s comments at the February 14, 2020 hearing and has thus narrowly tailored the requested examination to critical topics, *i.e.*, the Rule 2004 Topics, which fall squarely within the permissible scope of Rule 2004.

36. **First**, the Committee must investigate the Suspect Transactions.

37. The upshot of the Suspect Transactions is that, over the course of just eight months and less than two years before the Petition Date, Chatham -- with an eye towards the eventual bankruptcy to follow -- caused the Debtors to convert \$350 million of unsecured debt into purportedly secured debt in order to leapfrog ahead of the Debtors' unsecured creditors, including the PBGC's massive claim against each of the Debtors resulting from McClatchy's anticipated termination of its pension plan.

38. The Committee has so far seen no (and the Debtors have not articulated any) legitimate justification for, or consideration for, these transactions.

39. The existing Unsecured Debentures had long-dated maturities (*i.e.*, 2027 and 2029), thereby calling into question the need for the exchange in the first instance.

40. Moreover, the terms of the exchanged secured obligations provided no discernable benefits to the Debtors. The Unsecured Debentures were unsecured and were issued by the Debtors' parent entity only, whereas the Second Lien Loans and Third Lien Notes were secured and guaranteed by substantially all of the Debtors' operating subsidiaries. The Second Lien Loans and Third Lien Notes did not have a lower interest rate than the Unsecured Debentures; rather, on a weighted basis, the new secured debt bears a higher interest rate than the unsecured debt that it replaced. The Second Lien Loans and Third Lien Notes were not provided at a discount to face amount (*i.e.*, Chatham exchanged an equivalent amount of unsecured debt for secured debt). Thus, it appears as if the Suspect Transactions were conducted solely to grant Chatham preferential treatment over the Debtors' unsecured creditors in these Bankruptcy Cases.

41. Moreover, the lack of any benefit from the Suspect Transactions -- weighed against the massive value erosion to unsecured creditors from being primed by \$350 million of

otherwise *pari passu* debts -- strongly suggests that Chatham exerted outsized control over the Debtors. Indeed, Chatham was the Debtors' largest equity security holder (besides the McClatchy family).

42. Accordingly, the Committee intends to investigate whether the Suspect Transactions constitute actual or constructive fraudulent transfers, whether the Debtors and their directors and officers, aided and abetted by Chatham (and potentially Mr. Cooperman), breached their fiduciary duties to the estate, and whether Chatham's prepetition conduct may give rise to claims for equitable subordination and/or recharacterization. The scope of Rule 2004 covers examinations on these topics. *See, e.g., In re Recoton Corp.*, 307 B.R. at 755 ("The purpose of a Rule 2004 examination is to assist a party in interest in determining the nature and extent of the bankruptcy estate, revealing assets, *examining transactions and assessing whether wrongdoing has occurred.*") (emphasis added).

43. **Second**, the Committee is entitled to investigate the prepetition negotiations that led to the highly irregular Plan process.<sup>7</sup> As discussed herein, the Plan hands the reorganized Debtors over to Chatham, for no consideration and with *full* broad releases, based on Chatham's purported secured status manufactured through the Suspect Transactions. To avoid meaningful oversight, the Debtors purportedly solicited the Plan one day prior to the Petition Date, allowing the Debtors to race towards confirmation without the oversight provided by a hearing on the adequacy of a disclosure statement. (*See supra* ¶ 9.) The Debtors have articulated no good faith basis for the rushed process.

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<sup>7</sup> To be clear: the Committee is not seeking, via this Application, to conduct confirmation-related discovery. The Committee will seek such discovery at the appropriate time in the ordinary course of the confirmation process.

44. **Third**, inasmuch as the Sale Leaseback Transactions appear to have been utilized to finance redemptions of the First Lien Notes, examining such transactions including to evaluate the true nature of same, is ancillary to examining the Suspect Transactions and Chatham's control over the Debtors.

45. **Fourth**, ample cause exists to examine the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement. As discussed *supra*, in April of 2018, McClatchy and Chatham entered into a term sheet agreement that contemplated a number of complicated transactions, that, in substance, would have resulted in a massive windfall to Chatham on the CDS they sold referencing McClatchy with no benefit to the Debtors. (*See supra* ¶ 21.) Although ultimately not consummated, the transaction was structured in such a way that Chatham would earn millions of dollars in respect of its CDS position, and, upon information and belief, following the announcement of this proposed transaction, such trades significantly increased in value. (*Id.*) Additional discovery is necessary to determine the level of influence and control exerted by Chatham as well as the potential ramifications of Chatham's activities upon the Debtors. *See In re Bakalis*, 199 B.R. 443, 447 (Bankr. E.D.N.Y. 1996) (purpose of Rule 2004 motion is to "facilitate the discovery of assets and the *unearthing of frauds*") (emphasis added).

### **III. The Committee is the Proper Party to Investigate the Suspect Transactions, Not the Debtors**

46. That the Debtors are purportedly conducting their own investigation of the Suspect Transactions *after the fact* does not detract from the Committee's right to the relief requested by this Application.

47. As was evident at the first-day hearing and as this Court recognized, the Debtors were already willing to stipulate to the validity of liens and claims granted as part of the Suspect

Transactions, and already solicited a Plan premised on the validity of those liens and claims, *without any consideration and prior to finalizing their investigation*, calling into question the efficacy of any such investigation. (*See* Tr. of Hr’g. Feb. 14, 2020 at 27:6-12.).<sup>8</sup>

48. Additionally, it appears that the Debtors’ investigation is tainted by conflicts as the Debtors’ present board consists of *all the same directors* that approved the Suspect Transactions. Thus, unlike other situations this Court routinely sees -- where newly appointed independent directors scrutinize prepetition conduct -- here, the parties that approved the Suspect Transactions *are examining their own conduct*. As such, the utility of the Debtors’ investigation is called into doubt from the start. *See In re Recoton Corp.*, 307 B.R. at 760-71 (recognizing that in many chapter 11 cases “it may not be feasible” for a debtor to conduct an investigation into its own prepetition activities).

49. Accordingly, the Committee is the most appropriate party to conduct the Rule 2004 examinations proposed herein.

#### **IV. The Case Timeline Requires that the Committee Promptly Investigate the Rule 2004 Topics**

50. The Bankruptcy Cases are proceeding on an artificially fast timeline. Although failing to point to any exigent circumstances warranting an expedited timeline, the Debtors have attempted to push these cases towards confirmation (and releases of Chatham) without providing the Committee sufficient time to investigate the Rule 2004 Topics, among other things.

51. To that end, the Debtors have: (a) engaged in an illusory prepetition solicitation of the Plan to avoid the process checks provided for during a disclosure statement hearing;

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<sup>8</sup> Moreover, it appears the Debtors exonerated Chatham prior to concluding their own investigation. At the February 14, 2020 first day hearing, counsel to the Debtors seems to have conceded as much by stating that “any investigation will confirm Mr. Rosenberg’s [counsel to Chatham] comments” regarding the purported validity of liens and claims granted through the Suspect Transactions. (*See id.* at 43:1-2.).

(b) requested mediation related to their fatally-flawed Plan prior to the Committee being constituted, let alone receiving any of the information required to mediate successfully and (c) agreed to a milestone in the DIP Facility that requires them to pivot to a sale process if they do not believe a plan of reorganization can be achieved within sixty days. (*See supra* ¶ 12.)

52. While the Committee disagrees with -- and fully intends to oppose -- the Debtors' dash towards confirmation, the present deadlines mean that the Committee must move quickly if it is to have any meaningful opportunity to exercise its fiduciary duties.

53. Accordingly, the Committee respectfully further requests that this Court order as follows:

- The Committee will serve its document requests and deposition notices on the 2004 Parties -- which service may be completed by email to counsel for the Debtors and Chatham and, with a subpoena, via personal service to Mr. Cooperman;
- All 2004 Parties must meet and confer with the Committee concerning its document requests not later than two business days from service of same;
- All 2004 Parties must commence productions and serve responses and objections not later than ten days from service of corresponding document requests;
- All 2004 Parties must complete productions not later than 21 days from service of corresponding document requests;
- All 2004 Parties must produce privilege logs not later than 24 days from service of corresponding document requests; and
- All 2004 Parties must make deponents available not later than 30 days from service of corresponding deposition notices.

#### **NO PRIOR REQUEST**

54. No prior request for the relief sought in this Application has been made by the Committee or any other party in these proceedings.

### RESERVATION OF RIGHTS

55. The Committee reserves all rights with respect to the Application and these Bankruptcy Cases, including the right to amend and/or supplement this Application, the right to participate in additional briefing, the right to seek further discovery of individual and entities uncovered as part of the Committee's investigation, and the right to be heard at any hearing or trial related to the Application. Nothing contained herein shall constitute a waiver of any of the rights or remedies of the Committee, each of which is expressly reserved.

### CONCLUSION

WHEREFORE, for the reasons stated herein, the Committee respectfully requests that this Court enter an Order, pursuant to Rule 2004, in the form attached hereto as Exhibit A and granting to the Committee such other and further relief as this Court may deem just and proper.

Dated: March 3, 2020  
New York, New York

STROOCK & STROOCK & LAVAN LLP

/s/ Kristopher M. Hansen

Kristopher M. Hansen

Frank A. Merola

Erez E. Gilad

Daniel A. Fliman

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*Proposed Counsel for the Official  
Committee of Unsecured Creditors*

# **EXHIBIT A**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

*In re:*

THE McCLATCHY COMPANY, *et al.*,

Debtors.<sup>1</sup>

x

:

:

Chapter 11

:

:

Case No. 20-10418 (MEW)

:

:

(Jointly Administered)

:

x

**ORDER PURSUANT TO RULES 2004 AND 9016 OF THE FEDERAL  
RULES OF BANKRUPTCY PROCEDURE AUTHORIZING  
DISCOVERY AND EXAMINATION OF THE DEBTORS,  
CHATHAM ASSET MANAGEMENT, LLC, AND LEON COOPERMAN**

Upon the application, dated March 3, 2020, (the “Application”)<sup>2</sup> of the Official Committee of Unsecured Creditors (the “Movant”) appointed in the above-captioned jointly-administered bankruptcy cases (the “Bankruptcy Cases”) for an order pursuant to Fed. R. Bankr. P. 2004 and 9016, without prejudice to the rights of the Rule 2004 Parties to object, directing the production of documents by, and oral examinations of, the Rule 2004 Parties, which consist of the Debtors, Chatham Asset Management, LLC (with its affiliates, “Chatham”) and Leon Cooperman (“Cooperman”), concerning (a) the transactions referred to in the Application as the “Suspect Transactions”, (b) the April 2018 Framework Agreement and June 2018

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<sup>1</sup> The last four digits of Debtor The McClatchy Company’s tax identification number are 0478. Due to the large number of debtor entities in these chapter 11 cases, for which the Debtors have requested joint administration, a complete list of the debtor entities (collectively, the “Debtors”) and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <http://www.kccllc.net/McClatchy>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 2100 Q Street, Sacramento, California 95816

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

Amended and Restated Framework Agreement, (c) the Plan, (d) the Sale Leaseback Transactions, and (e) any materials related to or arising in connection with the foregoing topics (a)-(d) (collectively, the “Rule 2004 Topics”); and the Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and sufficient notice having been provided; and the Court having found and determined that the relief sought in the Application is in the best interest of the Debtors’ estates; and the legal and factual bases set forth in the Application having established just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The relief requested in the Application is GRANTED to the extent set forth herein.
2. The Movant is authorized, pursuant to Fed. R. Bankr. P. 2004 and 9016, to issue requests and subpoenas, in the forms annexed hereto as Exhibits 1, 2 and 3, for the production of documents relevant to the Rule 2004 Topics and directing Rule 2004 Parties to appear for examinations under oath to testify concerning the Rule 2004 Topics (each, a “Rule 2004 Examination Request”), which the Movant is authorized to serve upon the Debtors and Chatham by email to counsel of record and, with a subpoena, via personal service to Mr. Cooperman; the foregoing authority is without prejudice to the right of Rule 2004 Parties to object in accordance with applicable rules.
3. Not later than two (2) business days after service of a Rule 2004 Examination Request, the Committee and the corresponding Rule 2004 Parties shall meet and confer concerning such Rule 2004 Examination Request.

4. Not later than ten (10) days after service of a Rule 2004 Examination Request, the corresponding Rule 2004 Parties shall commence production of documents in response to such Rule 2004 Examination Request and shall serve their responses and objections.

5. Not later than twenty-one (21) days after service of a Rule 2004 Examination Request, the corresponding Rule 2004 Parties shall complete production of all documents in response to such Rule 2004 Examination Request.

6. Not later than twenty-four (24) days after service of a Rule 2004 Examination Request, the corresponding Rule 2004 Parties shall produce a privilege log identifying all privileged information withheld from the foregoing productions.

7. The corresponding Rule 2004 Parties shall appear for an examination at the offices of Stroock & Stroock & Lavan LLP located at 180 Maiden Lane, New York, New York 10038 (proposed counsel to Movant) not later than thirty (30) days after service of a Rule 2004 Examination Request, or at such other date agreed to by Movant.

8. The Court authorizes the Movant and Rule 2004 Parties, upon consent, to modify any of the deadlines set forth herein without need for further Order of the Court.

9. To the extent necessary, Movant's rights are reserved to request additional examinations or documents under Bankruptcy Rule 2004 based on any information that may be revealed as a result of the discovery obtained pursuant to this Order.

10. This Order shall be served upon (a) counsel to the Debtors; (b) counsel for Chatham, (c) Leon Cooperman, (d) the Office of the United States Trustee for the Southern District of New York; and (e) those parties that have requested notice in these Bankruptcy Cases pursuant to Bankruptcy Rule 2002.

11. This Court retains jurisdiction to resolve all matters arising under or related to this Order, and to interpret, implement, and enforce the provisions of this Order.

Dated: New York, New York  
March \_\_, 2020

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THE HONORABLE MICHAEL E. WILES  
UNITED STATES BANKRUPTCY JUDGE

# **EXHIBIT 1**

STROOCK & STROOCK & LAVAN LLP

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Frank A. Merola

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*Proposed Counsel for the Official  
Committee of Unsecured Creditors*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----  
In re

Case No. 20-10418 (MEW)

The McClatchy Company, *et al.*<sup>1</sup>,

Chapter 11

Debtors.

(Jointly Administered)  
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**THE OFFICIAL COMMITTEE OF UNSECURED CREDITOR'S  
NOTICE OF EXAMINATION AND FOR PRODUCTION OF DOCUMENTS  
PURSUANT TO RULE 2004 OF THE FEDERAL RULES OF  
BANKRUPTCY PROCEDURE**

PLEASE TAKE NOTICE that pursuant to Rules 2004 and 9016 of the Federal Rules of Bankruptcy Procedure, the Official Committee of Unsecured Creditors (the "Committee") appointed in the above-captioned, jointly-administered bankruptcy cases, by its attorneys, requests that the Debtors produce the documents described in Schedule 1 attached hereto by delivering such documents to its counsel, Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, NY 10038, not later than [●].

<sup>1</sup> The last four digits of Debtor The McClatchy Company's tax identification number are 0478. Due to the large number of debtor entities in these chapter 11 cases (collectively, the "Debtors"), for which the Debtors have requested joint administration, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <http://www.kccllc.net/McClatchy>. The location of the Debtors' service address for purposes of these chapter 11 cases is: 2100 Q Street, Sacramento, California 95816.

PLEASE TAKE FURTHER NOTICE that pursuant to the above-mentioned rule and Federal Rule of Civil Procedure 30(b)(6), the Committee, by its attorneys, will undertake an examination of the Debtors' designated officer, director, or managing agent or other person who consents to testify on the Debtors' behalf, on the topics listed in Schedule 2 attached hereto, on [●] at the offices of Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, NY 10038. The examination shall be taken before a notary public or such other person authorized by the laws of the State of New York to administer oaths, and shall be recorded by audio-visual and stenographic means. The examination will continue from day to day until completed or adjourned.

Dated: March [ ], 2020  
New York, New York

STROOCK & STROOCK & LAVAN LLP

/s/ DRAFT

Kristopher M. Hansen  
Frank A. Merola  
Erez E. Gilad  
Daniel A. Fliman  
180 Maiden Lane  
New York, New York 10038  
Telephone: (212) 806-5400  
Facsimile: (212) 806-6006

*Proposed Counsel for the Official Committee of  
Unsecured Creditors*

## **SCHEDULE 1**

The definitions and instructions set forth below apply to each of the requests for production of documents.

### **DEFINITIONS**

In addition to the terms defined within the specific requests, the following terms shall mean the following for purposes of these requests for production of documents:

1. The term “2022 Notes” means McClatchy’s 9.000% Senior Secured Notes due 2022, refinanced as part of the July 2018 Transaction.
2. The term “2027 Debentures” shall have the meaning ascribed to it in paragraph 30 of the First Day Declaration.
3. The term “2029 Debentures” shall have the meaning ascribed to it in paragraph 30 of the First Day Declaration.
4. The term “ABL Facility” shall have the meaning ascribed to it in paragraph 19 of the First Day Declaration.
5. The term “April 2018 Framework Agreement” means the April 26, 2018 term sheet framework agreement by and between McClatchy and Chatham described in McClatchy’s April 27, 2018 publicly-filed Form 8-K and all prior iterations of same.
6. The term “Affiliate” has the meaning ascribed to such term in section 101(2) of the Bankruptcy Code.
7. The term “Bankruptcy Cases” means the jointly-administered chapter 11 cases of *In re The McClatchy Company, et al.*, Case Number 20-10418 (MEW), commenced in the Bankruptcy Court.
8. The term “Bankruptcy Code” means title 11 of the United States Code.

9. The term “Bankruptcy Court” means the United States Bankruptcy Court for the Southern District of New York.

10. The term “Board” means boards of directors and managers of each of the Debtors, as may be reconstituted from time to time, and any sub-committees thereof, including each director or manager, individually.

11. The term “BofA Facility” means the indebtedness incurred pursuant to that certain Third Amended and Restated Credit Agreement dated December 18, 2012, among McClatchy, the lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent Swing Line Lender, and L/C Issuer (as amended).

12. The term “BofA Refinancing” means the refinancing of the BofA Facility.

13. The term “Brigade” means Brigade Capital Management, LP, including all of its Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of their behalf, along with any and all funds and accounts managed and/or advised by Brigade.

14. The term “CFTC” means the Commodity Futures Trading Commission.

15. The term “CFTC Inquiries” means any inquiry or investigation conducted by the CFTC related to McClatchy CDS, the April 2018 Framework Agreement, the June 2018 Amended Framework Agreement or the Transactions.

16. The term “Chatham” means Chatham Asset Management, LLC including all of its Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors,

investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of their behalf, along with any and all funds and accounts managed and/or advised by Chatham.

17. The term “Committee” means the Official Committee of Unsecured Creditors appointed in the Bankruptcy Cases.

18. The term “communication” means any transmittal and/or receipt of information (in the form of facts, ideas, inquiries or otherwise), whether oral or written and whether chance, prearranged, formal or informal, and specifically includes conversations in person, telephone conversations, e-mail (including instant messages and text messages), voicemail, letters, memoranda, statements, media releases, press conferences, magazines and newspaper articles, testimony before a governmental body, and video and audio transmissions. For the avoidance of doubt, the term “communication” shall include any and all electronic messages and/or conversations using text messaging and mobile device chat services, including Instant Bloomberg, Bloomberg messages, BlackBerry Messenger, Google Hangouts, Apple iMessage, Facebook Messenger, WhatsApp, KakaoTalk, Line, Slack, WeChat and Snapchat.

19. The term “concerning” means concerning, reflecting, relating to, relate to, arising out of, describing, discussing, analyzing, comprising, constituting, containing, considering, embodying, evaluating, evidencing, mentioning, memorializing, supporting, collaborating, demonstrating, identifying, referencing, discussing, indicating, providing, referring to, showing, refuting, disputing, rebutting, controverting, contradicting, made in connection with or by reason of or arising therefrom, or otherwise pertaining in any way, in whole or in part, to the subject matter referenced.

20. The term “Debtor Investigation” shall refer to the investigation referenced in paragraph 15 of the Togut Retention Application.

21. The term “Debtors” or “McClatchy” means The McClatchy Company and all of its direct and indirect debtor-subsidaries, individually and collectively, including each of their Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of their behalf.

22. The term “December 2018 Transaction” means the transactions described in McClatchy’s December 18, 2018 publicly filed Form 8-K.

23. The term “document” or “documents” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Rule 34(a)(1)(A) of the Federal Rules of Civil Procedure, *i.e.*, “writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form.” A draft or non-identical copy is a separate document within the meaning of this term. For the avoidance of doubt, the term “document” shall include any and all forms of recorded communications.

24. The term “Financial Analyses” means any document concerning your past, present or future financial condition, prospects or results, including without limitation: (a) documents that analyze, constitute or support your Financial Statements; (b) budgets, forecasts, projections, outlooks and strategic or other plans, including short-term and/or multi-year projections, supporting models and assumptions; (c) capital investment analyses/plans;

(d) financial models; (e) operating results; (f) any Solvency analyses, Valuations, appraisals, fairness opinions, assessments, and (g) the impact of any transaction or transaction proposal upon the market price or liquidity of McClatchy obligations, McClatchy securities, or McClatchy CDS, in each case regardless of by whom or for whom prepared or the purpose of such preparation.

25. The term “Financial Statements” means Documents that include, constitute, or are part of any financial statements, whether audited or unaudited, including without limitation income statements, balance sheets and statements of cash flows, any schedules or any notes (including footnotes) related to any of the foregoing statements.

26. The term “First Day Declaration” means the *Declaration of Sean M. Harding in Support of Chapter 11 Petitions and First Day Papers*, filed in the Bankruptcy Cases on the Petition Date [Docket No. 23].

27. The term “First Lien Notes” shall have the meaning ascribed to it in paragraph 21 of the First Day Declaration.

28. The term “First Lien Notes Issuance” shall mean the underwriting, marketing, documentation, issuance and syndication of the First Lien Notes, and includes all provisions of the April 2018 Framework Agreement, the July 2018 Transaction, the retirement of the 2022 Notes, and the BofA Refinancing integral to the First Lien Notes Issuance.

29. The term “Insider” has the meaning ascribed to such term in section 101(31) of the Bankruptcy Code.

30. The term “July 2018 Transaction” means all of the transactions described in McClatchy’s July 16, 2018 publicly-filed Form 8-K, including the First Lien Notes Issuance and the retirement of the 2022 Notes.

31. The term “June 2018 Amended Framework Agreement” means the June 26, 2018 amended and restated term sheet framework agreement by and between McClatchy and Chatham described in McClatchy’s July 2, 2018 publicly-filed Form 8-K.

32. “Leon Cooperman” means Leon Cooperman, a natural person, Omega Advisors, Inc., including all of its Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of his or its behalf, along with any and all funds and accounts managed and/or advised by Leon Cooperman or Omega Advisors, Inc.

33. The term “Lien” means any lien, mortgage, security interest or other interest delivered or granted by any Debtor to any person.

34. The term “March 2019 Transaction” means the transaction described in McClatchy’s March 18, 2019 publicly-filed Form 8-K.

35. The term “McClatchy CDS” means any credit insurance, credit default swaps or total return swaps contracts or arrangements purchased or sold by anyone that references McClatchy or any securities or obligations thereof, including but not limited to standard ISDA contracts or arrangements and bespoke contracts or arrangements.

36. The term “PBGC” means the Pension Benefit Guaranty Corporation including all of its Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of their behalf.

37. The term “person” means any natural person or any legal entity, including any business or governmental entity or association.

38. The term “Petition Date” means February 13, 2020.

39. The term “Plan” means the *Joint Chapter 11 Plan of Reorganization of The McClatchy Company and its Affiliated Debtors and Debtors In Possession*, filed in the Bankruptcy Cases on the Petition Date [Docket No. 25].

40. The term “Potential M&A Transactions” means the transactions described by Mr. Van C. Durrer, II, in the February 14, 2020 hearing before the Bankruptcy Court, which can be found at pages 106-107 of the February 14, 2020 hearing transcript.

41. The term “Prepetition Secured Debt” shall mean, collectively, the BofA Facility, the 2022 Notes, ABL Facility, the First Lien Notes, the Second Lien Term Loans, and the Third Lien Notes.

42. The terms “relate to” or “relating to” any given subject shall mean any information or documents that comprise, constitute, contain, embody, evidence, identify, reflect, state, refer to, deal with, or are in any way pertinent to that subject, including documents concerning the preparation of other documents.

43. The terms “request” or “requests” refers generally to the document requests set forth herein.

44. The term “Sale Leaseback Transactions” means any sale and leaseback transactions entered into by McClatchy during the Relevant Time Period, including, the transactions described in The McClatchy Company, Form 10-K for the fiscal year ended December 31, 2017, at pp. 21, 72-73 and The McClatchy Company, Form 10-Q for the period ending June 30, 2019, at pp. 9, 24.

45. The term “Second Lien Term Loans” shall have the meaning ascribed to it in paragraph 23 of the First Day Declaration.

46. The term “Solvency” means the financial condition of the subject as measured by any of the following: (a) the comparison of the value, on any basis, of the subject’s assets to its liabilities; (b) the subject’s ability to pay debts as they come due; or (c) the adequacy of the subject’s capital with respect to its ongoing business or transactions (or any business or transaction in which it was about to engage).

47. The term “Third Lien Notes” shall have the meaning ascribed to it in paragraph 26 of the First Day Declaration, and shall include the Tranche B second lien term loan issued in connection with the July 2018 Transaction and subsequently exchanged for the Third Lien Notes.

48. The term “Togut Retention Application” shall mean the *Debtors’ Application for Order Pursuant to Bankruptcy Code Sections 327(a) and 328 Authorizing the Employment and Retention of Togut, Segal & Segal LLP as Co-Counsel to the Debtors and Debtors in Possession, Nunc Pro Tunc to the Petition Date*, filed in the Bankruptcy Cases on February 24, 2020 [Docket No. 101].

49. The term “Transactions” means, collectively, the July 2018 Transaction, the December 2018 Transaction and the March 2019 Transaction.

50. The term “Unsecured Debentures” shall mean, collectively, the 2027 Debentures and the 2029 Debentures.

51. The term “Uptier Exchange” means the prepetition exchanges of Unsecured Debentures for Second Lien Term Loans and Third Lien Notes pursuant to the Transactions.

52. The term “Valuation” means the estimated value or worth of something at any time, including without limitation, any evaluation, calculation, analysis, budget, or estimation of

the (i) cost, (ii) replacement cost, (iii) capital investment (historical and projected), (iv) historical business or financial performance, (v) prospective business or financial performance (including projections of performance prepared in the past for periods of time that have already occurred), and (vi) value, determined on any basis, of the given subject. “Valuation” is not confined to formal Valuations or written documents, but also includes judgments by any person of the estimated value or worth of something at any time, regardless of for or to whom such judgment was rendered or provided.

53. The term “Valuation Materials” means all documents concerning a Valuation, including without limitation information, or data prepared, utilized, considered, or relied upon in connection with a Valuation.

54. The terms “You” and “Your” mean or refer to McClatchy, as well as its agents, employees, directors, officers, representatives, attorneys, advisors, auditors, or any other person or person acting, speaking, or purporting to act or speak on its behalf from time to time.

### **INSTRUCTIONS**

1. Unless otherwise indicated, the documents hereby requested for production and inspection include all documents in your possession, custody, or control. Without limitation of the terms “possession, custody or control” as used in the preceding sentence, a document is in your possession, custody or control if you have actual possession or custody or the right to obtain the document or a copy thereof upon demand from one or more of your independent contractors, consultants, accountants, auditors or any other person or public or private entity that has actual physical possession thereof. This includes any documents contained in any computer, mobile device, server, mainframe or other storage device (including (i) documents on or in computer memory; (ii) documents on or in computer or network backup files; and (iii) documents which

have been “deleted” or “erased” but are recoverable) whether located on-site or at an off-site facility, within your possession, custody or control. For the avoidance of doubt, this also includes any documents contained on any personal computer, mobile device, server, mainframe or other storage device within your possession, regardless of whether the device is issued or owned by you.

2. The term “possession” relates to e-mail, text messages, mobile device chats, other messaging services and any other electronically-stored information. The term “possession” also includes documents contained in your electronic e-mail, cloud-based and mobile device directories, including: (a) “deleted” documents that have not been permanently deleted, including all subdirectories irrespective of the title of such subdirectories; (b) “sent” documents, including all subdirectories irrespective of the title of such subdirectories; and (c) “received” documents, including all subdirectories irrespective of the title of such subdirectories.

3. The documents produced pursuant to this request are to be either (a) segregated and identified by the number of the request below to which they are responsive or (b) produced as they are maintained in the ordinary course of business.

4. Documents shall be produced with sufficient information to identify the files or repositories in which such responsive documents are maintained in the normal course of business, including, for example, an index, key, code, or other means of ascertaining the source of the produced documents.

5. All documents that are produced in electronic format should be provided with: (i) Group IV “tiff” images and IPRO-ready OPT files; (ii) a Concordance DAT delimited file with boundaries; (iii) full text OCR, with OCR text files provided on a document level; and (iv) all metadata fields associated with each electronic document. The Committee also requests

that all spreadsheets created in Microsoft Excel or similar spreadsheet program be produced in their native format. The Committee reserves its right to request that other documents be produced in their native format if necessary. The following metadata fields are also to be produced with all documents produced in electronic format:

<b>Field Name</b>	<b>Description</b>
<b>BEGDOC</b>	Auto-generated number assigned to first page of document
<b>ENDDOC</b>	Auto-generated number assigned to last page of document
<b>BEGATTACH</b>	Auto-generated number assigned to first page of the parent document in a family
<b>ENDATTACH</b>	Auto-generated number assigned to last page of an attachment in a document family
<b>PARENT_ID</b>	The beginning DOCID for a parent document
<b>ATTACH_IDS</b>	The beginning DOCID for all attachments
<b>ATTCOUNT</b>	The number of attachments to an email
<b>DOC_TYPE</b>	The type of file from the header (e.g., Microsoft Outlook, Excel, Word, etc.)
<b>PARENT_CHILD</b>	Vendor populated field where “P” denotes a parent document and “A” denotes an attachment
<b>PAGECOUNT</b>	The number of pages of each individual document
<b>FROM</b>	Name of the sender of an email from the “From” field in Outlook
<b>TO</b>	Recipients of an email from the “To” field in Outlook
<b>CC</b>	Name of persons to whom a copy of an email was sent
<b>BCC</b>	The name of any person blind copied on an email
<b>SUBJECT</b>	The text in the “Subject” line or “Re” line of an email or application file
<b>CUSTODIAN</b>	The name of the person from which a collection of email or application files originate
<b>AUTHOR</b>	The name of the author or the creator of an application file from the “Author” field

<b>DATE_SENT</b>	The date on which an email was sent
<b>DATE_RCVD</b>	The date on which an email was received
<b>DATE_LASTMOD</b>	The date on which an email or application file was last modified
<b>DATE_CREATED</b>	The date an email or application file was created
<b>TIME_CREATED</b>	The time at which an email or application file was created
<b>TIME_SENT</b>	The time at which an email was sent
<b>TIME_RCVD</b>	The time at which an email was received
<b>TITLE</b>	The text in the “Title” field of an application file
<b>LAST_AUTHOR</b>	The name in the “last author” field for an application file
<b>LAST_SAVED</b>	The date in the “last saved” field for an application file
<b>LAST_PRINTED</b>	The date in the “last printed” field for an application file
<b>APPLICATION</b>	The name of the application that generated the native file
<b>FILEEXT</b>	The file name extension for each email, attachment or application file
<b>FILENAME</b>	The name of the application file, including extension
<b>FILESIZE</b>	The size of a document in bytes
<b>SOURCEFOLDER</b>	The full path information for email, attachments and application files beginning with the original source folder name
<b>HASHVALUE</b>	Output of algorithm-generated value for each individual file
<b>SEARCH_HIT</b>	The search term or terms that “hit” on a document
<b>NATIVE_FILE</b>	Hyperlink to the native file

6. Documents attached to each other shall not be separated.

7. A document with handwritten, typewritten, or other recorded notes, editing marks, additions, deletions, notations, insertions, corrections, or marginal notes is not and shall not be deemed to be identical to one without such modifications, additions, or deletions.

8. Each requested document shall be produced in its entirety, without abbreviation or redaction, and shall include all attachments, appendices, exhibits, lists, schedules or other documents at any time affixed thereto. If a document responsive to any request cannot be produced in full, it shall be produced to the extent possible with an explanation stating why production of the remainder is not possible.

9. Whenever you are asked to produce a document that is deemed by you to be properly withheld from production for any reason, you shall provide a privilege log that will include listing such document by title or subject heading, date, author, person who signed the document, addressee and all recipients, and a statement of the ground(s) asserted for withholding the document, including attorney-client privilege or work product privilege.

10. If you withhold any document on the claim of attorney/client privilege, work product doctrine or similar protection, identify the privilege or protection claimed as well as each document for which such privilege or protection is claimed, together with the following information with respect to each such document:

1. Date;
2. Sender;
3. Addressee;
4. Subject;
5. The basis on which the privilege or protection is claimed; and
6. The names of Persons to whom copies of any part of the document were furnished, together with an identification of their employer and their job titles.

11. If you maintain that any document requested by the Committee has been destroyed, set forth the contents of the document, the date of its destruction, and the name of the Person who authorized its destruction.

12. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, such document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Bankruptcy Court.

13. If you previously but no longer possess items responsive to a particular request, you must specify why you no longer possess such items and the name and address of any person or entity known or believed by you to have possession, custody or control of such items.

14. Where an objection is made to a request, you must clearly state all grounds upon which your objection is based and indicate whether any responsive materials are being withheld on the basis of that objection.

15. Terms not specifically defined herein shall be given their ordinary meanings as you understand them to be used in the trade or pursuant to ordinary usage.

16. Wherever appropriate in this request, the singular form of any word includes the plural and vice versa, and the masculine form of a word shall be interpreted as feminine and vice versa.

17. The terms “all,” “any” and “each” shall be construed as encompassing all, any and each.

18. The terms “include,” “includes,” and “including” shall be deemed to be followed by the words “without limitation.” A list following any of these terms shall be interpreted to contain illustrative examples of the types of documents responsive to the request, but does not

constitute an exclusive, all-encompassing or exhaustive listing of every type of document responsive to the request and shall not be deemed in any way to qualify, limit or restrict the scope of the request.

19. The connectives “and,” “or” and “and/or” shall be construed either disjunctively or conjunctively as necessary, in each case, to bring within the scope of these requests all responses that might otherwise be construed to be outside their scope.

20. Any ambiguity in a request shall be construed to bring within the scope of the request all responses that otherwise could be construed to be outside of its scope.

21. The relevant time period for each request is January 1, 2017 through the date of production (the “Relevant Time Period”), unless otherwise specifically indicated. Each request shall be interpreted to include all documents and electronically-stored information (“ESI”) that concern the Relevant Time Period or otherwise-specified period, even if such documents or ESI was prepared or published outside of the Relevant Time Period or otherwise specified-period. If a document or ESI prepared before or after this period is necessary for a correct or complete understanding of any document or ESI covered by a request, you must produce the earlier or subsequent document as well. If any document or ESI is undated and the date of its preparation cannot be determined, the document shall be produced if otherwise responsive to the production request.

### **DOCUMENT REQUESTS**

1. Documents sufficient to identify Chatham’s ownership of any McClatchy CDS exposure, loans, debt or securities issued by McClatchy, including any McClatchy Class A Common Stock or Class B Common Stock, Prepetition Secured Debt, Unsecured Debentures, and 2022 Notes, on a quarterly basis during the Relevant Time Period, including copies of any

internal trading records and trading history concerning Chatham's ownership of any McClatchy CDS exposure, loans, debt or securities issued by McClatchy.

2. Documents sufficient to identify all holders of the First Lien Notes upon issuance.

3. All documents, communications and Financial Analyses concerning the BofA Refinancing, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the BofA Refinancing, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the BofA Refinancing;
- (c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the BofA Refinancing; and
- (d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the BofA Refinancing.

4. All documents, communications and Financial Analyses concerning the April 2018 Framework Agreement, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the April 2018 Framework Agreement, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the April 2018 Framework Agreement;
- (c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the April 2018 Framework Agreement; and

(d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the April 2018 Framework Agreement.

5. All documents, communications and Financial Analyses concerning the June 2018 Amended Framework Agreement and the First Lien Notes Issuance, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the June 2018 Amended Framework Agreement and the First Lien Notes Issuance, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the June 2018 Amended Framework Agreement and the First Lien Notes Issuance;
- (c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the June 2018 Amended Framework Agreement and the First Lien Notes Issuance; and
- (d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the June 2018 Amended Framework Agreement and the First Lien Notes Issuance.

6. All documents, communications and Financial Analyses concerning the July 2018 Transaction and the First Lien Notes Issuance, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the July 2018 Transaction and the First Lien Notes Issuance, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the July 2018 Transaction and the First Lien Notes Issuance;
- (c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the July 2018 Transaction and the First Lien Notes Issuance; and
- (d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the July 2018 Transaction and the First Lien Notes Issuance.

7. All documents, communications and Financial Analyses concerning the December 2018 Transaction, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the December 2018 Transaction, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the December 2018 Transaction;
- (c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the December 2018 Transaction; and
- (d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the December 2018 Transaction.

8. All documents, communications and Financial Analyses concerning the March 2019 Transaction, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the March 2019 Transaction, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the March 2019 Transaction;
- (c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the March 2019 Transaction; and
- (d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the March 2019 Transaction.

9. All documents and communications concerning the Debtor Investigation, including:

- (a) any report, memorandum, analysis, or presentation prepared in connection with the Debtor Investigation;
- (b) all documents and communications reviewed by, considered by, provided to, or relied upon during the Debtor Investigation;
- (c) documents sufficient to identify all persons interviewed or contacted, whether formally or informally, in connection with the Debtor Investigation, including the dates and approximate duration of any such interviews and contact information for such persons;

(d) all transcripts from, summaries of, memoranda concerning, and notes taken during any interviews conducted in connection with the Debtor Investigation; and

(e) all documents and communications concerning the mandate, purpose, and scope of the Debtor Investigation.

10. All documents and communications concerning the Uptier Exchange, including all documents concerning the negotiation thereof.

11. All “sources and uses” analyses concerning the Transactions.

12. All agendas, presentations, reports and minutes from any meeting of the Board, including any drafts thereof.

13. Documents sufficient to identify the composition of the Board at any time.

14. All rules, procedures, guidelines, protocols or policies governing entry into the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement, the June 2018 Amended Framework Agreement and insider trading.

15. All resolutions of, or issued by, the Board concerning the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement.

16. All documents and communications concerning any of McClatchy’s business plans, including any drafts thereof.

17. All corporate governance documents of McClatchy, including any charter, bylaws, shareholder agreement, governance protocols, board or sub-committee charters, or other organizational documents.

18. All documents concerning McClatchy's director and officer insurance policies and any claims submitted or noticed thereunder.

19. All documents, communications and Financial Analyses concerning McClatchy's Solvency, including the Solvency of McClatchy prior to, as a result of, and immediately following, each of the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement. For purposes of this request, McClatchy shall refer to each of (a) The McClatchy Company and all of its direct and indirect subsidiaries taken as a whole, and (b) each of the direct and indirect subsidiaries of The McClatchy Company, individually.

20. All documents concerning any Solvency analysis or any opinion issued by or to McClatchy in connection with any of the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement.

21. All documents, communications and Valuation Materials concerning any Valuation of, or the value of, of the Debtors' assets and liabilities, including any communications with the Debtors' auditors.

22. All documents, communications and Valuation Materials concerning any Valuation of, or the value of, the consideration the Debtors received in connection with the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement.

23. All documents, communications and Valuation Materials concerning any Valuation of, or the value of, the assets pledged pursuant to the July 2018 Transaction, the First

Lien Notes Issuance, the BofA Refinancing, the December 2018 Transaction, and the March 2019 Transaction.

24. All documents, communications and Valuation Materials concerning any Valuation of, or the value of, the guarantees incurred pursuant to the July 2018 Transaction, the December 2018 Transaction and the March 2019 Transaction.

25. All documents and communications concerning the Debtors' ability to service the indebtedness incurred pursuant to the Transactions.

26. All documents and communications exchanged between Chatham, the Debtors, and/or Leon Cooperman concerning McClatchy, the BofA Refinancing, the April 2018 Framework Agreement, the June 2018 Amended Framework Agreement, McClatchy CDS and the CFTC Inquiry.

27. All documents and communications concerning the relationship of the Debtors and Chatham.

28. All documents and communications concerning the relationship of the Board and Chatham.

29. All documents and communications concerning any contracts or business arrangements by and between the Debtors and Chatham.

30. All documents and communications concerning the CFTC Inquiry.

31. All documents and communications concerning McClatchy CDS.

32. All documents and communications concerning McClatchy's negotiations with the IRS concerning McClatchy's request to waive certain of its pension funding obligations, including the requests described in paragraph 58 of the First Day Declaration.

33. Documents sufficient to identify all of the Debtors' assets that are not encumbered by any Lien or security interest, including documents identifying (i) the location(s) of each such asset, (ii) the value of all property unencumbered by any Liens or security interests, and (iii) which Debtor owns such assets.

34. All documents and communications related to any deficiencies in the Liens or security interests purportedly securing the Prepetition Secured Debt.

35. All documents and communications related to the recordation, filing, perfection, or extent of the validity of any Lien.

36. All documents and communications concerning the Potential M&A Transactions.

37. All documents and communications with Tribune Publishing Company or any Affiliate concerning any potential merger and/or acquisition transaction with McClatchy.

38. All documents and communications concerning any alternative proposals delivered to and/or considered by the Debtors with respect to refinancing the 2022 Notes or the Unsecured Debentures.

39. All documents and communications concerning attempts by the Debtors to obtain financing of any kind.

40. All documents and communications provided to Chatham, Brigade, the PBGC or any other party in connection with the Transactions, the Bankruptcy Cases or the Plan.

41. All documents and communications concerning the Sale Leaseback Transactions.

42. All documents and communications concerning the Plan, including the negotiation of the Plan, the treatment of creditors pursuant to the Plan and the releases provided for under the Plan.

43. Documents sufficient to identify all individuals representing you or your advisors concerning McClatchy, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement, the June 2018 Amended Framework Agreement, McClatchy CDS and the CFTC Inquiry, including all individuals who negotiated on your behalf.

## **SCHEDULE 2**

### **DEFINITIONS**

In addition to the terms defined within the specific examination topics, the following terms shall mean the following for purposes of these topics for examination:

1. The term “2022 Notes” means McClatchy’s 9.000% Senior Secured Notes due 2022, refinanced as part of the July 2018 Transaction.

2. The term “2027 Debentures” shall have the meaning ascribed to it in paragraph 30 of the First Day Declaration.

3. The term “2029 Debentures” shall have the meaning ascribed to it in paragraph 30 of the First Day Declaration.

4. The term “April 2018 Framework Agreement” means the April 26, 2018 term sheet framework agreement by and between McClatchy and Chatham described in McClatchy’s April 27, 2018 publicly filed Form 8-K and all prior iterations of same.

5. The term “Affiliate” has the meaning ascribed to such term in section 101(2) of the Bankruptcy Code.

6. The term “Bankruptcy Cases” means the jointly-administered chapter 11 cases of *In re The McClatchy Company, et al.*, Case Number 20-10418 (MEW), commenced in the Bankruptcy Court.

7. The term “Bankruptcy Code” means title 11 of the United States Code.

8. The term “Bankruptcy Court” means the United States Bankruptcy Court for the Southern District of New York.

9. The term “Board” means boards of directors and managers of each of the Debtors, as may be reconstituted from time to time, and any sub-committees thereof, including each director or manager, individually.

10. The term “BofA Facility” means the indebtedness incurred pursuant to that certain Third Amended and Restated Credit Agreement dated December 18, 2012, among McClatchy, the lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, Swing Line Lender and L/C Issuer (as amended).

11. The term “BofA Refinancing” means the refinancing of the BofA Facility.

12. The term “CFTC” means the Commodity Futures Trading Commission.

13. The term “CFTC Inquiries” means any inquiry or investigation conducted by the CFTC related to McClatchy CDS, the April 2018 Framework Agreement, the June 2018 Amended Framework Agreement or the Transactions.

14. The term “Chatham” means Chatham Asset Management, LLC including all of its Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of their behalf, along with any and all funds and accounts managed and/or advised by Chatham.

15. The term “concerning” means concerning, reflecting, relating to, relate to, arising out of, describing, discussing, analyzing, comprising, constituting, containing, considering, embodying, evaluating, evidencing, mentioning, memorializing, supporting, collaborating, demonstrating, identifying, referencing, discussing, indicating, providing, referring to, showing, refuting, disputing, rebutting, controverting, contradicting, made in connection with or by reason of or arising therefrom, or otherwise pertaining in any way, in whole or in part, to the subject matter referenced.

16. The term “Debtor Investigation” shall refer to the investigation referenced in paragraph 15 of the Togut Retention Application.

17. The term “Debtors” or “McClatchy” means The McClatchy Company and all of its direct and indirect debtor-subsidaries, individually and collectively, including each of their Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of their behalf.

18. The term “December 2018 Transaction” means the transactions described in McClatchy’s December 18, 2018 publicly-filed Form 8-K.

19. The term “First Day Declaration” means the *Declaration of Sean M. Harding in Support of Chapter 11 Petitions and First Day Papers*, filed in the Bankruptcy Cases on the Petition Date [Docket No. 23].

20. The term “First Lien Notes” shall have the meaning ascribed to it in paragraph 21 of the First Day Declaration.

21. The term “First Lien Notes Issuance” shall mean the underwriting, marketing, documentation, issuance and syndication of the First Lien Notes, and includes all provisions of the April 2018 Framework Agreement, the July 2018 Transaction, the retirement of the 2022 Notes, and the BofA Refinancing integral to the First Lien Notes Issuance.

22. The term “July 2018 Transaction” means all of the transactions described in McClatchy’s July 16, 2018 publicly-filed Form 8-K, including the First Lien Notes Issuance, and the retirement of the 2022 Notes.

23. The term “June 2018 Amended Framework Agreement” means the June 26, 2018 amended and restated term sheet framework agreement by and between McClatchy and Chatham described in McClatchy’s July 2, 2018 publicly-filed Form 8-K.

24. “Leon Cooperman” means Leon Cooperman, a natural person, Omega Advisors, Inc., including all of its Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of his or its behalf, along with any and all funds and accounts managed and/or advised by Leon Cooperman or Omega Advisors, Inc.

25. The term “March 2019 Transaction” means the transaction described in McClatchy’s March 18, 2019 publicly-filed Form 8-K.

26. The term “McClatchy CDS” means any credit insurance, credit default swaps or total return swaps contracts or arrangements purchased or sold by anyone that references McClatchy or any securities or obligations thereof, including but not limited to standard ISDA contracts or arrangements and bespoke contracts or arrangements.

27. The term “person” means any natural person or any legal entity, including any business or governmental entity or association.

28. The term “Petition Date” means February 13, 2020.

29. The term “Plan” means the *Joint Chapter 11 Plan of Reorganization of The McClatchy Company and its Affiliated Debtors and Debtors In Possession*, filed in the Bankruptcy Cases on the Petition Date [Docket No. 25].

30. The term “Potential M&A Transactions” means the transactions described by Mr. Van C. Durrer, II, in the February 14, 2020 hearing before the Bankruptcy Court, which can be found at pages 106-107 of the February 14, 2020 hearing transcript.

31. The terms “relate to” or “relating to” any given subject shall mean any information or documents that comprise, constitute, contain, embody, evidence, identify, reflect, state, refer to, deal with, or are in any way pertinent to that subject, including documents concerning the preparation of other documents.

32. The term “Sale Leaseback Transactions” means any sale and leaseback transactions entered into by McClatchy during the Relevant Time Period, including, the transactions described in The McClatchy Company, Form 10-K for the fiscal year ended December 31, 2017, at pp. 21, 72-73 and The McClatchy Company, Form 10-Q for the period ending June 30, 2019, at pp. 9, 24.

33. The term “Second Lien Term Loans” shall have the meaning ascribed to it in paragraph 23 of the First Day Declaration.

34. The term “Solvency” means the financial condition of the subject as measured by any of the following: (a) the comparison of the value, on any basis, of the subject’s assets to its liabilities; (b) the subject’s ability to pay debts as they come due; or (c) the adequacy of the subject’s capital with respect to its ongoing business or transactions (or any business or transaction in which it was about to engage).

35. The term “Third Lien Notes” shall have the meaning ascribed to it in paragraph 26 of the First Day Declaration, and shall include the Tranche B second lien term loan issued in connection with the July 2018 Transaction and subsequently exchanged for the Third Lien Notes.

36. The term “Togut Retention Application” shall mean the *Debtors’ Application for Order Pursuant to Bankruptcy Code Sections 327(a) and 328 Authorizing the Employment and Retention of Togut, Segal & Segal LLP as Co-Counsel to the Debtors and Debtors in Possession, Nunc Pro Tunc to the Petition Date*, filed in the Bankruptcy Cases on February 24, 2020 [Docket No. 101].

37. The term “Transactions” means, collectively, the July 2018 Transaction, the December 2018 Transaction and the March 2019 Transaction.

38. The term “Unsecured Debentures” shall mean, collectively, the 2027 Debentures and the 2029 Debentures.

39. The term “Uptier Exchange” means the prepetition exchanges of Unsecured Debentures for Second Lien Term Loans and Third Lien Notes pursuant to the Transactions.

40. The terms “You” and “Your” mean or refer to McClatchy, as well as its agents, employees, directors, officers, representatives, attorneys, advisors, auditors, or any other person or person acting, speaking, or purporting to act or speak on its behalf from time to time.

### **LIST OF TOPICS FOR EXAMINATION**

In accordance with Federal Rule of Civil Procedure 30(b)(6), you are advised of your duty to designate one or more officers, directors, or managing agents or designate other persons who consent to testify on your behalf with respect to the following matters. The relevant time period for each examination topic is January 1, 2017 through the date of examination (the “Relevant Time Period”), unless otherwise specifically indicated.

1. Holders of the First Lien Notes upon issuance.
2. The BofA Refinancing, including the development, formulation, negotiation and implementation of the BofA Refinancing.

3. The April 2018 Framework Agreement, including the development, formulation, negotiation and implementation of the April 2018 Framework Agreement.

4. The June 2018 Amended Framework Agreement, including the development, formulation, negotiation and implementation of the June 2018 Amended Framework Agreement.

5. The July 2018 Transaction and the First Lien Notes Issuance, including the development, formulation, negotiation and implementation of the July 2018 Transaction and the First Lien Notes Issuance.

6. The December 2018 Transaction, including the development, formulation, negotiation and implementation of the December 2018 Transaction.

7. The March 2019 Transaction, including the development, formulation, negotiation and implementation of the March 2019 Transaction.

8. The Debtor Investigation, including (a) the identity of all persons interviewed or contacted, whether formally or informally, in connection with the Debtor Investigation, (b) the information sought from any parties, or otherwise obtained, in connection with the Debtor Investigation, (c) the status of and conclusions of the Debtor Investigation, and (d) any report, memorandum, analysis, or presentation prepared in connection with the Debtor Investigation.

9. The Uptier Exchange, including the development, formulation, negotiation and implementation of the Uptier Exchange.

10. The “sources and uses” of the Transactions.

11. The composition of the Board.

12. The rules, procedures, guidelines, protocols or policies governing entry into the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022

Notes, the April 2018 Framework Agreement, the June 2018 Amended Framework Agreement and insider trading.

13. Board deliberations concerning the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement.

14. McClatchy's Solvency, including the Solvency of McClatchy prior to, as a result of, and immediately following, each of the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement. For purposes of this examination topic, McClatchy shall refer to each of (a) The McClatchy Company and all of its direct and indirect subsidiaries taken as a whole, and (b) each of the direct and indirect subsidiaries of The McClatchy Company, individually.

15. Any Solvency analysis or opinion issued by or to McClatchy in connection with any of the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement.

16. The value of the Debtors' assets and liabilities.

17. The value of the consideration the Debtors received in connection with the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement.

18. The value of the assets pledged pursuant to the July 2018 Transaction, the First Lien Notes Issuance, the BofA Refinancing, the December 2018 Transaction, and the March 2019 Transaction.

19. The value of the guarantees incurred pursuant to the July 2018 Transaction, the December 2018 Transaction, and the March 2019 Transaction.

20. The Debtors' ability to service the indebtedness incurred pursuant to the Transactions.

21. The Debtors' relationship with Chatham and/or Leon Cooperman.

22. The Board's relationship with Chatham.

23. The CFTC Inquiry.

24. McClatchy CDS.

25. McClatchy's negotiations with the IRS concerning McClatchy's request to waive certain of its pension funding obligations, including the requests described in paragraph 58 of the First Day Declaration.

26. Any potential merger and/or acquisition transaction, including the Potential M&A Transactions, with McClatchy.

27. Any alternative proposals delivered to and/or considered by the Debtors with respect to refinancing the 2022 Notes or the Unsecured Debentures.

28. The Sale Leaseback Transactions.

29. The Plan, including negotiation of the Plan, the treatment of creditors pursuant to the Plan and the releases provided for under the Plan.

## **EXHIBIT 2**

STROOCK & STROOCK & LAVAN LLP

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*Proposed Counsel for the Official  
Committee of Unsecured Creditors*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re

Case No. 20-10418 (MEW)

The McClatchy Company, *et al.*<sup>1</sup>,

Chapter 11

Debtors.

(Jointly Administered)

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**THE OFFICIAL COMMITTEE OF UNSECURED CREDITOR'S  
NOTICE OF EXAMINATION AND FOR PRODUCTION OF DOCUMENTS  
PURSUANT TO RULE 2004 OF THE FEDERAL RULES OF  
BANKRUPTCY PROCEDURE**

PLEASE TAKE NOTICE that pursuant to Rules 2004 and 9016 of the Federal Rules of Bankruptcy Procedure, the Official Committee of Unsecured Creditors (the "Committee") appointed in the above-captioned, jointly-administered bankruptcy cases, by its attorneys, requests that Chatham Asset Management, LLC (with its affiliates, "Chatham") produce the documents described in Schedule 1 attached hereto by delivering such documents to its counsel, Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, NY 10038, not later than [●].

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<sup>1</sup> The last four digits of Debtor The McClatchy Company's tax identification number are 0478. Due to the large number of debtor entities in these chapter 11 cases (collectively, the "Debtors"), for which the Debtors have requested joint administration, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <http://www.kccllc.net/McClatchy>. The location of the Debtors' service address for purposes of these chapter 11 cases is: 2100 Q Street, Sacramento, California 95816.

PLEASE TAKE FURTHER NOTICE that pursuant to the above-mentioned rule and Federal Rule of Civil Procedure 30(b)(6), the Committee, by its attorneys, will undertake an examination of Chatham's designated officer, director, or managing agent or other person who consents to testify on Chatham's behalf, on the topics listed in Schedule 2 attached hereto, on [●] at the offices of Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, NY 10038. The examination shall be taken before a notary public or such other person authorized by the laws of the State of New York to administer oaths, and shall be recorded by audio-visual and stenographic means. The examination will continue from day to day until completed or adjourned.

Dated: March [ ], 2020  
New York, New York

STROOCK & STROOCK & LAVAN LLP

/s/ DRAFT

Kristopher M. Hansen  
Frank A. Merola  
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*Proposed Counsel for the Official Committee of  
Unsecured Creditors*

## **SCHEDULE 1**

The definitions and instructions set forth below apply to each of the requests for production of documents.

### **DEFINITIONS**

In addition to the terms defined within the specific requests, the following terms shall mean the following for purposes of these requests for production of documents:

1. The term “2022 Notes” means McClatchy’s 9.000% Senior Secured Notes due 2022, refinanced as part of the July 2018 Transaction.
2. The term “2027 Debentures” shall have the meaning ascribed to it in paragraph 30 of the First Day Declaration.
3. The term “2029 Debentures” shall have the meaning ascribed to it in paragraph 30 of the First Day Declaration.
4. The term “ABL Facility” shall have the meaning ascribed to it in paragraph 19 of the First Day Declaration.
5. The term “April 2018 Framework Agreement” means the April 26, 2018 term sheet framework agreement by and between McClatchy and Chatham described in McClatchy’s April 27, 2018 publicly-filed Form 8-K and all prior iterations of same.
6. The term “Affiliate” has the meaning ascribed to such term in section 101(2) of the Bankruptcy Code.
7. The term “Bankruptcy Cases” means the jointly-administered chapter 11 cases of *In re The McClatchy Company, et al.*, Case Number 20-10418 (MEW), commenced in the Bankruptcy Court.
8. The term “Bankruptcy Code” means title 11 of the United States Code.

9. The term “Bankruptcy Court” means the United States Bankruptcy Court for the Southern District of New York.

10. The term “Board” means boards of directors and managers of each of the Debtors, as may be reconstituted from time to time, and any sub-committees thereof, including each director or manager, individually.

11. The term “BofA Facility” means the indebtedness incurred pursuant to that certain Third Amended and Restated Credit Agreement dated December 18, 2012, among McClatchy, the lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent Swing Line Lender, and L/C Issuer (as amended).

12. The term “BofA Refinancing” means the refinancing of the BofA Facility.

13. The term “Brigade” means Brigade Capital Management, LP, including all of its Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of their behalf, along with any and all funds and accounts managed and/or advised by Brigade.

14. The term “CFTC” means the Commodity Futures Trading Commission.

15. The term “CFTC Inquiries” means any inquiry or investigation conducted by the CFTC related to McClatchy CDS, the April 2018 Framework Agreement, the June 2018 Amended Framework Agreement or the Transactions.

16. The term “Chatham” means Chatham Asset Management, LLC including all of its Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors,

investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of their behalf, along with any and all funds and accounts managed and/or advised by Chatham.

17. The term “Committee” means the Official Committee of Unsecured Creditors appointed in the Bankruptcy Cases.

18. The term “communication” means any transmittal and/or receipt of information (in the form of facts, ideas, inquiries or otherwise), whether oral or written and whether chance, prearranged, formal or informal, and specifically includes conversations in person, telephone conversations, e-mail (including instant messages and text messages), voicemail, letters, memoranda, statements, media releases, press conferences, magazines and newspaper articles, testimony before a governmental body, and video and audio transmissions. For the avoidance of doubt, the term “communication” shall include any and all electronic messages and/or conversations using text messaging and mobile device chat services, including Instant Bloomberg, Bloomberg messages, BlackBerry Messenger, Google Hangouts, Apple iMessage, Facebook Messenger, WhatsApp, KakaoTalk, Line, Slack, WeChat and Snapchat.

19. The term “concerning” means concerning, reflecting, relating to, relate to, arising out of, describing, discussing, analyzing, comprising, constituting, containing, considering, embodying, evaluating, evidencing, mentioning, memorializing, supporting, collaborating, demonstrating, identifying, referencing, discussing, indicating, providing, referring to, showing, refuting, disputing, rebutting, controverting, contradicting, made in connection with or by reason of or arising therefrom, or otherwise pertaining in any way, in whole or in part, to the subject matter referenced.

20. The term “Debtor Investigation” shall refer to the investigation referenced in paragraph 15 of the Togut Retention Application.

21. The term “Debtors” or “McClatchy” means The McClatchy Company and all of its direct and indirect debtor-subsidaries, individually and collectively, including each of their Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of their behalf.

22. The term “December 2018 Transaction” means the transactions described in McClatchy’s December 18, 2018 publicly filed Form 8-K.

23. The term “document” or “documents” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Rule 34(a)(1)(A) of the Federal Rules of Civil Procedure, *i.e.*, “writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form.” A draft or non-identical copy is a separate document within the meaning of this term. For the avoidance of doubt, the term “document” shall include any and all forms of recorded communications.

24. The term “Financial Analyses” means any document concerning McClatchy’s past, present or future financial condition, prospects or results, including without limitation: (a) documents that analyze, constitute or support McClatchy’s Financial Statements; (b) budgets, forecasts, projections, outlooks and strategic or other plans, including short-term and/or multi-year projections, supporting models and assumptions; (c) capital investment analyses/plans;

(d) financial models; (e) operating results; (f) any Solvency analyses, Valuations, appraisals, fairness opinions, assessments, and (g) the impact of any transaction or transaction proposal upon the market price or liquidity of McClatchy obligations, McClatchy securities, or McClatchy CDS, in each case regardless of by whom or for whom prepared or the purpose of such preparation.

25. The term “Financial Statements” means Documents that include, constitute, or are part of any financial statements, whether audited or unaudited, including without limitation income statements, balance sheets and statements of cash flows, any schedules or any notes (including footnotes) related to any of the foregoing statements.

26. The term “First Day Declaration” means the *Declaration of Sean M. Harding in Support of Chapter 11 Petitions and First Day Papers*, filed in the Bankruptcy Cases on the Petition Date [Docket No. 23].

27. The term “First Lien Notes” shall have the meaning ascribed to it in paragraph 21 of the First Day Declaration.

28. The term “First Lien Notes Issuance” shall mean the underwriting, marketing, documentation, issuance and syndication of the First Lien Notes, and includes all provisions of the April 2018 Framework Agreement, the July 2018 Transaction, the retirement of the 2022 Notes, and the BofA Refinancing integral to the First Lien Notes Issuance.

29. The term “July 2018 Transaction” means all of the transactions described in McClatchy’s July 16, 2018 publicly-filed Form 8-K, including the First Lien Notes Issuance, and the retirement of the 2022 Notes.

30. The term “June 2018 Amended Framework Agreement” means the June 26, 2018 amended and restated term sheet framework agreement by and between McClatchy and Chatham described in McClatchy’s July 2, 2018 publicly-filed Form 8-K.

31. “Leon Cooperman” means Leon Cooperman, a natural person, Omega Advisors, Inc., including all of its Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of his or its behalf, along with any and all funds and accounts managed and/or advised by Leon Cooperman or Omega Advisors, Inc.

32. The term “March 2019 Transaction” means the transaction described in McClatchy’s March 18, 2019 publicly-filed Form 8-K.

33. The term “McClatchy CDS” means any credit insurance, credit default swaps or total return swaps contracts or arrangements purchased or sold by anyone that references McClatchy or any securities or obligations thereof, including but not limited to standard ISDA contracts or arrangements and bespoke contracts or arrangements.

34. The term “PBGC” means the Pension Benefit Guaranty Corporation including all of its Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of their behalf.

35. The term “person” means any natural person or any legal entity, including any business or governmental entity or association.

36. The term “Petition Date” means February 13, 2020.

37. The term “Plan” means the *Joint Chapter 11 Plan of Reorganization of The McClatchy Company and its Affiliated Debtors and Debtors In Possession*, filed in the Bankruptcy Cases on the Petition Date [Docket No. 25].

38. The term “Potential M&A Transactions” means the transactions described by Mr. Van C. Durrer, II, in the February 14, 2020 hearing before the Bankruptcy Court, which can be found at pages 106-107 of the February 14, 2020 hearing transcript.

39. The term “Prepetition Secured Debt” shall mean, collectively, the BofA Facility Facility, the 2022 Notes, ABL Facility, the First Lien Notes, the Second Lien Term Loans, and the Third Lien Notes.

40. The terms “relate to” or “relating to” any given subject shall mean any information or documents that comprise, constitute, contain, embody, evidence, identify, reflect, state, refer to, deal with, or are in any way pertinent to that subject, including documents concerning the preparation of other documents.

41. The terms “request” or “requests” refers generally to the document requests set forth herein.

42. The term “Sale Leaseback Transactions” means any sale and leaseback transactions entered into by McClatchy during the Relevant Time Period, including, the transactions described in The McClatchy Company, Form 10-K for the fiscal year ended December 31, 2017, at pp. 21, 72-73 and The McClatchy Company, Form 10-Q for the period ending June 30, 2019, at pp. 9, 24.

43. The term “Second Lien Term Loans” shall have the meaning ascribed to it in paragraph 23 of the First Day Declaration.

44. The term “Solvency” means the financial condition of the subject as measured by any of the following: (a) the comparison of the value, on any basis, of the subject’s assets to its liabilities; (b) the subject’s ability to pay debts as they come due; or (c) the adequacy of the subject’s capital with respect to its ongoing business or transactions (or any business or transaction in which it was about to engage).

45. The term “Third Lien Notes” shall have the meaning ascribed to it in paragraph 26 of the First Day Declaration, and shall include the Tranche B second lien term loan issued in connection with the July 2018 Transaction and subsequently exchanged for the Third Lien Notes.

46. The term “Togut Retention Application” shall mean the *Debtors’ Application for Order Pursuant to Bankruptcy Code Sections 327(a) and 328 Authorizing the Employment and Retention of Togut, Segal & Segal LLP as Co-Counsel to the Debtors and Debtors in Possession, Nunc Pro Tunc to the Petition Date*, filed in the Bankruptcy Cases on February 24, 2020 [Docket No. 101].

47. The term “Transactions” means, collectively, the July 2018 Transaction, the December 2018 Transaction and the March 2019 Transaction.

48. The term “Unsecured Debentures” shall mean, collectively, the 2027 Debentures and the 2029 Debentures.

49. The term “Uptier Exchange” means the prepetition exchanges of Unsecured Debentures for Second Lien Term Loans and Third Lien Notes pursuant to the Transactions.

50. The term “Valuation” means the estimated value or worth of something at any time, including without limitation, any evaluation, calculation, analysis, budget, or estimation of the (i) cost, (ii) replacement cost, (iii) capital investment (historical and projected), (iv) historical business or financial performance, (v) prospective business or financial performance (including

projections of performance prepared in the past for periods of time that have already occurred), and (vi) value, determined on any basis, of the given subject. “Valuation” is not confined to formal Valuations or written documents, but also includes judgments by any person of the estimated value or worth of something at any time, regardless of for or to whom such judgment was rendered or provided.

51. The term “Valuation Materials” means all documents concerning a Valuation, including without limitation information, or data prepared, utilized, considered, or relied upon in connection with a Valuation.

52. The terms “You” and “Your” mean or refer to Chatham, as well as its agents, employees, directors, officers, representatives, attorneys, advisors, auditors, or any other person or person acting, speaking, or purporting to act or speak on its behalf from time to time.

### **INSTRUCTIONS**

1. Unless otherwise indicated, the documents hereby requested for production and inspection include all documents in your possession, custody, or control. Without limitation of the terms “possession, custody or control” as used in the preceding sentence, a document is in your possession, custody or control if you have actual possession or custody or the right to obtain the document or a copy thereof upon demand from one or more of your independent contractors, consultants, accountants, auditors or any other person or public or private entity that has actual physical possession thereof. This includes any documents contained in any computer, mobile device, server, mainframe or other storage device (including (i) documents on or in computer memory; (ii) documents on or in computer or network backup files; and (iii) documents which have been “deleted” or “erased” but are recoverable) whether located on-site or at an off-site facility, within your possession, custody or control. For the avoidance of doubt, this also

includes any documents contained on any personal computer, mobile device, server, mainframe or other storage device within your possession, regardless of whether the device is issued or owned by you.

2. The term “possession” relates to e-mail, text messages, mobile device chats, other messaging services and any other electronically stored information. The term “possession” also includes documents contained in your electronic e-mail, cloud-based and mobile device directories, including: (a) “deleted” documents that have not been permanently deleted, including all subdirectories irrespective of the title of such subdirectories; (b) “sent” documents, including all subdirectories irrespective of the title of such subdirectories; and (c) “received” documents, including all subdirectories irrespective of the title of such subdirectories.

3. The documents produced pursuant to this request are to be either (a) segregated and identified by the number of the request below to which they are responsive or (b) produced as they are maintained in the ordinary course of business.

4. Documents shall be produced with sufficient information to identify the files or repositories in which such responsive documents are maintained in the normal course of business, including, for example, an index, key, code, or other means of ascertaining the source of the produced documents.

5. All documents that are produced in electronic format should be provided with: (i) Group IV “tiff” images and IPRO-ready OPT files; (ii) a Concordance DAT delimited file with boundaries; (iii) full text OCR, with OCR text files provided on a document level; and (iv) all metadata fields associated with each electronic document. The Committee also requests that all spreadsheets created in Microsoft Excel or similar spreadsheet program be produced in their native format. The Committee reserves its right to request that other documents be

produced in their native format if necessary. The following metadata fields are also to be produced with all documents produced in electronic format:

<b>Field Name</b>	<b>Description</b>
<b>BEGDOC</b>	Auto-generated number assigned to first page of document
<b>ENDDOC</b>	Auto-generated number assigned to last page of document
<b>BEGATTACH</b>	Auto-generated number assigned to first page of the parent document in a family
<b>ENDATTACH</b>	Auto-generated number assigned to last page of an attachment in a document family
<b>PARENT_ID</b>	The beginning DOCID for a parent document
<b>ATTACH_IDS</b>	The beginning DOCID for all attachments
<b>ATTCOUNT</b>	The number of attachments to an email
<b>DOC_TYPE</b>	The type of file from the header (e.g., Microsoft Outlook, Excel, Word, etc.)
<b>PARENT_CHILD</b>	Vendor populated field where “P” denotes a parent document and “A” denotes an attachment
<b>PAGECOUNT</b>	The number of pages of each individual document
<b>FROM</b>	Name of the sender of an email from the “From” field in Outlook
<b>TO</b>	Recipients of an email from the “To” field in Outlook
<b>CC</b>	Name of persons to whom a copy of an email was sent
<b>BCC</b>	The name of any person blind copied on an email
<b>SUBJECT</b>	The text in the “Subject” line or “Re” line of an email or application file
<b>CUSTODIAN</b>	The name of the person from which a collection of email or application files originate
<b>AUTHOR</b>	The name of the author or the creator of an application file from the “Author” field
<b>DATE_SENT</b>	The date on which an email was sent
<b>DATE_RCVD</b>	The date on which an email was received

<b>DATE_LASTMOD</b>	The date on which an email or application file was last modified
<b>DATE_CREATED</b>	The date an email or application file was created
<b>TIME_CREATED</b>	The time at which an email or application file was created
<b>TIME_SENT</b>	The time at which an email was sent
<b>TIME_RCVD</b>	The time at which an email was received
<b>TITLE</b>	The text in the “Title” field of an application file
<b>LAST_AUTHOR</b>	The name in the “last author” field for an application file
<b>LAST_SAVED</b>	The date in the “last saved” field for an application file
<b>LAST_PRINTED</b>	The date in the “last printed” field for an application file
<b>APPLICATION</b>	The name of the application that generated the native file
<b>FILEEXT</b>	The file name extension for each email, attachment or application file
<b>FILENAME</b>	The name of the application file, including extension
<b>FILESIZE</b>	The size of a document in bytes
<b>SOURCEFOLDER</b>	The full path information for email, attachments and application files beginning with the original source folder name
<b>HASHVALUE</b>	Output of algorithm-generated value for each individual file
<b>SEARCH_HIT</b>	The search term or terms that “hit” on a document
<b>NATIVE_FILE</b>	Hyperlink to the native file

6. Documents attached to each other shall not be separated.

7. A document with handwritten, typewritten, or other recorded notes, editing marks, additions, deletions, notations, insertions, corrections, or marginal notes is not and shall not be deemed to be identical to one without such modifications, additions, or deletions.

8. Each requested document shall be produced in its entirety, without abbreviation or redaction, and shall include all attachments, appendices, exhibits, lists, schedules or other documents at any time affixed thereto. If a document responsive to any request cannot be produced in full, it shall be produced to the extent possible with an explanation stating why production of the remainder is not possible.

9. Whenever you are asked to produce a document that is deemed by you to be properly withheld from production for any reason, you shall provide a privilege log that will include listing such document by title or subject heading, date, author, person who signed the document, addressee and all recipients, and a statement of the ground(s) asserted for withholding the document, including attorney-client privilege or work product privilege.

10. If you withhold any document on the claim of attorney/client privilege, work product doctrine or similar protection, identify the privilege or protection claimed as well as each document for which such privilege or protection is claimed, together with the following information with respect to each such document:

1. Date;
2. Sender;
3. Addressee;
4. Subject;
5. The basis on which the privilege or protection is claimed; and
6. The names of Persons to whom copies of any part of the document were furnished, together with an identification of their employer and their job titles.

11. If you maintain that any document requested by the Committee has been destroyed, set forth the contents of the document, the date of its destruction, and the name of the Person who authorized its destruction.

12. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, such document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Bankruptcy Court.

13. If you previously but no longer possess items responsive to a particular request, you must specify why you no longer possess such items and the name and address of any person or entity known or believed by you to have possession, custody or control of such items.

14. Where an objection is made to a request, you must clearly state all grounds upon which your objection is based and indicate whether any responsive materials are being withheld on the basis of that objection.

15. Terms not specifically defined herein shall be given their ordinary meanings as you understand them to be used in the trade or pursuant to ordinary usage.

16. Wherever appropriate in this request, the singular form of any word includes the plural and vice versa, and the masculine form of a word shall be interpreted as feminine and vice versa.

17. The terms “all,” “any” and “each” shall be construed as encompassing all, any and each.

18. The terms “include,” “includes,” and “including” shall be deemed to be followed by the words “without limitation.” A list following any of these terms shall be interpreted to contain illustrative examples of the types of documents responsive to the request, but does not constitute an exclusive, all-encompassing or exhaustive listing of every type of document responsive to the request and shall not be deemed in any way to qualify, limit or restrict the scope of the request.

19. The connectives “and,” “or” and “and/or” shall be construed either disjunctively or conjunctively as necessary, in each case, to bring within the scope of these requests all responses that might otherwise be construed to be outside their scope.

20. Any ambiguity in a request shall be construed to bring within the scope of the request all responses that otherwise could be construed to be outside of its scope.

21. The relevant time period for each request is January 1, 2017 through the date of production (the “Relevant Time Period”), unless otherwise specifically indicated. Each request shall be interpreted to include all documents and electronically-stored information (“ESI”) that concern the Relevant Time Period or otherwise-specified period, even if such documents or ESI was prepared or published outside of the Relevant Time Period or otherwise-specified period. If a document or ESI prepared before or after this period is necessary for a correct or complete understanding of any document or ESI covered by a request, you must produce the earlier or subsequent document as well. If any document or ESI is undated and the date of its preparation cannot be determined, the document shall be produced if otherwise responsive to the production request.

### **DOCUMENT REQUESTS**

1. Documents sufficient to identify Chatham’s ownership of any McClatchy CDS exposure, loans, debt or securities issued by McClatchy, including any McClatchy Class A Common Stock or Class B Common Stock, Prepetition Secured Debt, Unsecured Debentures, and 2022 Notes, on a quarterly basis during the Relevant Time Period, including copies of any internal trading records and trading history concerning Chatham’s ownership of any McClatchy CDS exposure, loans, debt or securities issued by McClatchy.

2. All documents, communications and Financial Analyses concerning the BofA Refinancing, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the BofA Refinancing, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the BofA Refinancing;
- (c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the BofA Refinancing; and
- (d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the BofA Refinancing.

3. All documents, communications and Financial Analyses concerning the April 2018 Framework Agreement, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the April 2018 Framework Agreement, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the April 2018 Framework Agreement;
- (c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the April 2018 Framework Agreement; and
- (d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the April 2018 Framework Agreement.

4. All documents, communications and Financial Analyses concerning the June 2018 Amended Framework Agreement and the First Lien Notes Issuance, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the June 2018 Amended Framework Agreement and the First Lien Notes Issuance, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the June 2018 Amended Framework Agreement and the First Lien Notes Issuance;
- (c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the June 2018 Amended Framework Agreement and the First Lien Notes Issuance; and
- (d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the June 2018 Amended Framework Agreement and the First Lien Notes Issuance.

5. All documents, communications and Financial Analyses concerning the July 2018 Transaction and the First Lien Notes Issuance, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the July 2018 Transaction and the First Lien Notes Issuance, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the July 2018 Transaction and the First Lien Notes Issuance;

- (c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the July 2018 Transaction and the First Lien Notes Issuance; and
- (d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the July 2018 Transaction and the First Lien Notes Issuance.

6. All documents, communications and Financial Analyses concerning the December 2018 Transaction, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the December 2018 Transaction, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the December 2018 Transaction;
- (c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the December 2018 Transaction; and
- (d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the December 2018 Transaction.

7. All documents, communications and Financial Analyses concerning the March 2019 Transaction, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the March 2019 Transaction, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the March 2019 Transaction;

(c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the March 2019 Transaction; and

(d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the March 2019 Transaction.

8. All documents and communications concerning the Debtor Investigation, including all documents and communications provided to the Debtors in connection with the Debtor Investigation.

9. All documents and communications concerning the Uptier Exchange, including all documents concerning the negotiation thereof.

10. All “sources and uses” analyses concerning the Transactions.

11. All documents and communications concerning any of McClatchy’s business plans, including any drafts thereof.

12. All documents, communications and Financial Analyses concerning McClatchy’s Solvency, including the Solvency of McClatchy prior to, as a result of, and immediately following, each of the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement. For purposes of this request, McClatchy shall refer to each of (a) The McClatchy Company and all of its direct and indirect subsidiaries taken as a whole, and (b) each of the direct and indirect subsidiaries of The McClatchy Company, individually.

13. All documents concerning any Solvency analysis or any opinion issued by or to McClatchy in connection with any of the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement.

14. All documents, communications and Valuation Materials concerning any Valuation of, or the value of, of the Debtors' assets and liabilities, including any communications with the Debtors' auditors.

15. All documents, communications and Valuation Materials concerning any Valuation of, or the value of, the consideration the Debtors received in connection with the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement.

16. All documents, communications and Valuation Materials concerning any Valuation of, or the value of, the assets pledged pursuant to the July 2018 Transaction, the First Lien Notes Issuance, the BofA Refinancing, the December 2018 Transaction, and the March 2019 Transaction.

17. All documents, communications and Valuation Materials concerning any Valuation of, or the value of, the guarantees incurred pursuant to the July 2018 Transaction, the December 2018 Transaction and the March 2019 Transaction.

18. All documents and communications concerning the Debtors' ability to service the indebtedness incurred pursuant to the Transactions.

19. All documents and communications exchanged between Chatham, the Debtors, and/or Leon Cooperman concerning McClatchy, the BofA Refinancing, the April 2018 Framework Agreement, the June 2018 Amended Framework Agreement, McClatchy CDS and the CFTC Inquiry.

20. All documents and communications concerning the relationship of the Debtors and Chatham.

21. All documents and communications concerning the relationship of the Board and Chatham.
22. All documents and communications concerning any contracts or business arrangements by and between the Debtors and Chatham.
23. All documents and communications concerning the CFTC Inquiry.
24. All documents and communications concerning McClatchy CDS.
25. All documents and communications concerning McClatchy's negotiations with the IRS concerning McClatchy's request to waive certain of its pension funding obligations, including the requests described in paragraph 58 of the First Day Declaration.
26. All documents and communications concerning the Potential M&A Transactions.
27. All documents and communications with Tribune Publishing Company or any Affiliate concerning any potential merger and/or acquisition transaction with McClatchy.
28. All documents and communications concerning any alternative proposals delivered to and/or considered by the Debtors with respect to refinancing the 2022 Notes or the Unsecured Debentures.
29. All documents and communications concerning attempts by the Debtors to obtain financing of any kind.
30. All documents and communications provided to Chatham, Brigade, the PBGC or any other party in connection with the Transactions, the Bankruptcy Cases or the Plan.
31. All documents and communications concerning the Sale Leaseback Transactions.
32. All documents and communications concerning the Plan, including the negotiation of the Plan, the treatment of creditors pursuant to the Plan and the releases provided for under the Plan.

33. Documents sufficient to identify all individuals representing you or your advisors concerning McClatchy, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement, the June 2018 Amended Framework Agreement, McClatchy CDS and the CFTC Inquiry, including all individuals who negotiated on your behalf.

## **SCHEDULE 2**

### **DEFINITIONS**

In addition to the terms defined within the specific examination topics, the following terms shall mean the following for purposes of these topics for examination:

1. The term “2022 Notes” means McClatchy’s 9.000% Senior Secured Notes due 2022, refinanced as part of the July 2018 Transaction.

2. The term “2027 Debentures” shall have the meaning ascribed to it in paragraph 30 of the First Day Declaration.

3. The term “2029 Debentures” shall have the meaning ascribed to it in paragraph 30 of the First Day Declaration.

4. The term “April 2018 Framework Agreement” means the April 26, 2018 term sheet framework agreement by and between McClatchy and Chatham described in McClatchy’s April 27, 2018 publicly filed Form 8-K and all prior iterations of same.

5. The term “Affiliate” has the meaning ascribed to such term in section 101(2) of the Bankruptcy Code.

6. The term “Bankruptcy Cases” means the jointly-administered chapter 11 cases of *In re The McClatchy Company, et al.*, Case Number 20-10418 (MEW), commenced in the Bankruptcy Court.

7. The term “Bankruptcy Code” means title 11 of the United States Code.

8. The term “Bankruptcy Court” means the United States Bankruptcy Court for the Southern District of New York.

9. The term “Board” means boards of directors and managers of each of the Debtors, as may be reconstituted from time to time, and any sub-committees thereof, including each director or manager, individually.

10. The term “BofA Facility” means the indebtedness incurred pursuant to that certain Third Amended and Restated Credit Agreement dated December 18, 2012, among McClatchy, the lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, Swing Line Lender and L/C Issuer (as amended).

11. The term “BofA Refinancing” means the refinancing of the BofA Facility.

12. The term “CFTC” means the Commodity Futures Trading Commission.

13. The term “CFTC Inquiries” means any inquiry or investigation conducted by the CFTC related to McClatchy CDS, the April 2018 Framework Agreement, the June 2018 Amended Framework Agreement or the Transactions.

14. The term “Chatham” means Chatham Asset Management, LLC including all of its Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of their behalf, along with any and all funds and accounts managed and/or advised by Chatham.

15. The term “concerning” means concerning, reflecting, relating to, relate to, arising out of, describing, discussing, analyzing, comprising, constituting, containing, considering, embodying, evaluating, evidencing, mentioning, memorializing, supporting, collaborating, demonstrating, identifying, referencing, discussing, indicating, providing, referring to, showing, refuting, disputing, rebutting, controverting, contradicting, made in connection with or by reason of or arising therefrom, or otherwise pertaining in any way, in whole or in part, to the subject matter referenced.

16. The term “Debtor Investigation” shall refer to the investigation referenced in paragraph 15 of the Togut Retention Application.

17. The term “Debtors” or “McClatchy” means The McClatchy Company and all of its direct and indirect debtor-subsidaries, individually and collectively, including each of their Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of their behalf.

18. The term “December 2018 Transaction” means the transactions described in McClatchy’s December 18, 2018 publicly-filed Form 8-K.

19. The term “First Day Declaration” means the *Declaration of Sean M. Harding in Support of Chapter 11 Petitions and First Day Papers*, filed in the Bankruptcy Cases on the Petition Date [Docket No. 23].

20. The term “First Lien Notes” shall have the meaning ascribed to it in paragraph 21 of the First Day Declaration.

21. The term “First Lien Notes Issuance” shall mean the underwriting, marketing, documentation, issuance and syndication of the First Lien Notes, and includes all provisions of the April 2018 Framework Agreement, the July 2018 Transaction, the retirement of the 2022 Notes, and the BofA Refinancing integral to the First Lien Notes Issuance.

22. The term “July 2018 Transaction” means all of the transactions described in McClatchy’s July 16, 2018 publicly-filed Form 8-K, including the First Lien Notes Issuance, and the retirement of the 2022 Notes.

23. The term “June 2018 Amended Framework Agreement” means the June 26, 2018 amended and restated term sheet framework agreement by and between McClatchy and Chatham described in McClatchy’s July 2, 2018 publicly-filed Form 8-K.

24. “Leon Cooperman” means Leon Cooperman, a natural person, Omega Advisors, Inc., including all of its Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of his or its behalf, along with any and all funds and accounts managed and/or advised by Leon Cooperman or Omega Advisors, Inc.

25. The term “March 2019 Transaction” means the transaction described in McClatchy’s March 18, 2019 publicly-filed Form 8-K.

26. The term “McClatchy CDS” means any credit insurance, credit default swaps or total return swaps contracts or arrangements purchased or sold by anyone that references McClatchy or any securities or obligations thereof, including but not limited to standard ISDA contracts or arrangements and bespoke contracts or arrangements.

27. The term “person” means any natural person or any legal entity, including any business or governmental entity or association.

28. The term “Petition Date” means February 13, 2020.

29. The term “Plan” means the *Joint Chapter 11 Plan of Reorganization of The McClatchy Company and its Affiliated Debtors and Debtors In Possession*, filed in the Bankruptcy Cases on the Petition Date [Docket No. 25].

30. The term “Potential M&A Transactions” means the transactions described by Mr. Van C. Durrer, II, in the February 14, 2020 hearing before the Bankruptcy Court, which can be found at pages 106-107 of the February 14, 2020 hearing transcript.

31. The terms “relate to” or “relating to” any given subject shall mean any information or documents that comprise, constitute, contain, embody, evidence, identify, reflect, state, refer to, deal with, or are in any way pertinent to that subject, including documents concerning the preparation of other documents.

32. The term “Sale Leaseback Transactions” means any sale and leaseback transactions entered into by McClatchy during the Relevant Time Period, including, the transactions described in The McClatchy Company, Form 10-K for the fiscal year ended December 31, 2017, at pp. 21, 72-73 and The McClatchy Company, Form 10-Q for the period ending June 30, 2019, at pp. 9, 24.

33. The term “Second Lien Term Loans” shall have the meaning ascribed to it in paragraph 23 of the First Day Declaration.

34. The term “Solvency” means the financial condition of the subject as measured by any of the following: (a) the comparison of the value, on any basis, of the subject’s assets to its liabilities; (b) the subject’s ability to pay debts as they come due; or (c) the adequacy of the subject’s capital with respect to its ongoing business or transactions (or any business or transaction in which it was about to engage).

35. The term “Third Lien Notes” shall have the meaning ascribed to it in paragraph 26 of the First Day Declaration, and shall include the Tranche B second lien term loan issued in connection with the July 2018 Transaction and subsequently exchanged for the Third Lien Notes.

36. The term “Togut Retention Application” shall mean the *Debtors’ Application for Order Pursuant to Bankruptcy Code Sections 327(a) and 328 Authorizing the Employment and Retention of Togut, Segal & Segal LLP as Co-Counsel to the Debtors and Debtors in Possession, Nunc Pro Tunc to the Petition Date*, filed in the Bankruptcy Cases on February 24, 2020 [Docket No. 101].

37. The term “Transactions” means, collectively, the July 2018 Transaction, the December 2018 Transaction and the March 2019 Transaction.

38. The term “Unsecured Debentures” shall mean, collectively, the 2027 Debentures and the 2029 Debentures.

39. The term “Uptier Exchange” means the prepetition exchanges of Unsecured Debentures for Second Lien Term Loans and Third Lien Notes pursuant to the Transactions.

40. The terms “You” and “Your” mean or refer to Chatham, as well as its agents, employees, directors, officers, representatives, attorneys, advisors, auditors, or any other person or person acting, speaking, or purporting to act or speak on its behalf from time to time.

### **LIST OF TOPICS FOR EXAMINATION**

In accordance with Federal Rule of Civil Procedure 30(b)(6), you are advised of your duty to designate one or more officers, directors, or managing agents or designate other persons who consent to testify on your behalf with respect to the following matters. The relevant time period for each examination topic is January 1, 2017 through the date of examination (the “Relevant Time Period”), unless otherwise specifically indicated.

1. The BofA Refinancing, including the development, formulation, negotiation and implementation of the BofA Refinancing.

2. The April 2018 Framework Agreement, including the development, formulation, negotiation and implementation of the April 2018 Framework Agreement.

3. The June 2018 Amended Framework Agreement, including the development, formulation, negotiation and implementation of the June 2018 Amended Framework Agreement.

4. The July 2018 Transaction and the First Lien Notes Issuance, including the development, formulation, negotiation and implementation of the July 2018 Transaction and the First Lien Notes Issuance.

5. The December 2018 Transaction, including the development, formulation, negotiation and implementation of the December 2018 Transaction.

6. The March 2019 Transaction, including the development, formulation, negotiation and implementation of the March 2019 Transaction.

7. The Debtor Investigation.

8. The Uptier Exchange, including the development, formulation, negotiation and implementation of the Uptier Exchange.

9. The “sources and uses” of the Transactions.

10. Board deliberations concerning the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement.

11. McClatchy’s Solvency, including the Solvency of McClatchy prior to, as a result of, and immediately following, each of the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement. For purposes of this examination topic, McClatchy shall refer to each of (a) The McClatchy Company and all of its direct and indirect subsidiaries

taken as a whole, and (b) each of the direct and indirect subsidiaries of The McClatchy Company, individually.

12. Any Solvency analysis or opinion issued by or to McClatchy in connection with any of the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement.

13. The value of the Debtors' assets and liabilities.

14. The value of the consideration the Debtors received in connection with the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement.

15. The value of the assets pledged pursuant to the July 2018 Transaction, the First Lien Notes Issuance, the BofA Refinancing, the December 2018 Transaction, and the March 2019 Transaction.

16. The value of the guarantees incurred pursuant to the July 2018 Transaction, the December 2018 Transaction, and the March 2019 Transaction.

17. The Debtors' ability to service the indebtedness incurred pursuant to the Transactions.

18. The Debtors' relationship with Chatham and/or Leon Cooperman.

19. The Board's relationship with Chatham.

20. The CFTC Inquiry.

21. McClatchy CDS.

22. McClatchy's negotiations with the IRS concerning McClatchy's request to waive certain of its pension funding obligations, including the requests described in paragraph 58 of the First Day Declaration.

23. Any potential merger and/or acquisition transaction, including the Potential M&A Transactions, with McClatchy.

24. Any alternative proposals delivered to and/or considered by the Debtors with respect to refinancing the 2022 Notes or the Unsecured Debentures.

25. The Sale Leaseback Transactions.

26. The Plan, including negotiation of the Plan, the treatment of creditors pursuant to the Plan and the releases provided for under the Plan.

## **EXHIBIT 3**

UNITED STATES BANKRUPTCY COURT

Southern District of New York

In re The McClatchy Company, et al.  
Debtor

Case No. 20-10418 (MEW)

Chapter 11

SUBPOENA FOR RULE 2004 EXAMINATION

To: Leon Cooperman  
(Name of person to whom the subpoena is directed)

☒ **Testimony:** **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure. A copy of the court order authorizing the examination is attached.

PLACE  
Stroock & Stroock & Lavan LLP 180 Maiden Lane  
New York, NY 10038

DATE AND TIME  
[Date/Time]

The examination will be recorded by this method: Audio-visual and Stenographic

☒ **Production:** You, or your representatives, must also bring with you to the examination the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:  
See Schedule I attached hereto. Documents to be produced by [Date/Time] at Stroock & Stroock & Lavan LLP 180 Maiden Lane  
New York, NY 10038

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: March 3, 2020

CLERK OF COURT

OR

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk

/s/ DRAFT  
Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party)  
Official Committee of Unsecured Creditors, who issues or requests this subpoena, are:

Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, NY 10038, dfliman@stroock.com, 212-806-5601

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

**PROOF OF SERVICE**

**(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)**

I received this subpoena for (*name of individual and title, if any*): \_\_\_\_\_  
on (*date*) \_\_\_\_\_ .

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on (*date*) \_\_\_\_\_ ; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information concerning attempted service, etc.:

**Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)**  
**(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)**

**(c) Place of compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

(A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises, at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...

(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

## **SCHEDULE 1**

The definitions and instructions set forth below apply to each of the requests for production of documents.

### **DEFINITIONS**

In addition to the terms defined within the specific requests, the following terms shall mean the following for purposes of these requests for production of documents:

1. The term “2022 Notes” means McClatchy’s 9.000% Senior Secured Notes due 2022, refinanced as part of the July 2018 Transaction.
2. The term “2027 Debentures” shall have the meaning ascribed to it in paragraph 30 of the First Day Declaration.
3. The term “2029 Debentures” shall have the meaning ascribed to it in paragraph 30 of the First Day Declaration.
4. The term “April 2018 Framework Agreement” means the April 26, 2018 term sheet framework agreement by and between McClatchy and Chatham described in McClatchy’s April 27, 2018 publicly-filed Form 8-K and all prior iterations of same.
5. The term “Affiliate” has the meaning ascribed to such term in section 101(2) of the Bankruptcy Code.
6. The term “Bankruptcy Cases” means the jointly-administered chapter 11 cases of *In re The McClatchy Company, et al.*, Case Number 20-10418 (MEW), commenced in the Bankruptcy Court.
7. The term “Bankruptcy Code” means title 11 of the United States Code.
8. The term “Bankruptcy Court” means the United States Bankruptcy Court for the Southern District of New York.

9. The term “BofA Facility” means the indebtedness incurred pursuant to that certain Third Amended and Restated Credit Agreement dated December 18, 2012, among McClatchy, the lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent Swing Line Lender, and L/C Issuer (as amended).

10. The term “BofA Refinancing” means the refinancing of the BofA Facility.

11. The term “CFTC” means the Commodity Futures Trading Commission.

12. The term “CFTC Inquiries” means any inquiry or investigation conducted by the CFTC related to McClatchy CDS, the April 2018 Framework Agreement, the June 2018 Amended Framework Agreement or the Transactions.

13. The term “Chatham” means Chatham Asset Management, LLC including all of its Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of their behalf, along with any and all funds and accounts managed and/or advised by Chatham.

14. The term “Committee” means the Official Committee of Unsecured Creditors appointed in the Bankruptcy Cases.

15. The term “communication” means any transmittal and/or receipt of information (in the form of facts, ideas, inquiries or otherwise), whether oral or written and whether chance, prearranged, formal or informal, and specifically includes conversations in person, telephone conversations, e-mail (including instant messages and text messages), voicemail, letters, memoranda, statements, media releases, press conferences, magazines and newspaper articles, testimony before a governmental body, and video and audio transmissions. For the avoidance of

doubt, the term “communication” shall include any and all electronic messages and/or conversations using text messaging and mobile device chat services, including Instant Bloomberg, Bloomberg messages, BlackBerry Messenger, Google Hangouts, Apple iMessage, Facebook Messenger, WhatsApp, KakaoTalk, Line, Slack, WeChat and Snapchat.

16. The term “concerning” means concerning, reflecting, relating to, relate to, arising out of, describing, discussing, analyzing, comprising, constituting, containing, considering, embodying, evaluating, evidencing, mentioning, memorializing, supporting, collaborating, demonstrating, identifying, referencing, discussing, indicating, providing, referring to, showing, refuting, disputing, rebutting, controverting, contradicting, made in connection with or by reason of or arising therefrom, or otherwise pertaining in any way, in whole or in part, to the subject matter referenced.

17. The term “Debtor Investigation” shall refer to the investigation referenced in paragraph 15 of the Togut Retention Application.

18. The term “Debtors” or “McClatchy” means The McClatchy Company and all of its direct and indirect debtor-subsidaries, individually and collectively, including each of their Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of their behalf.

19. The term “December 2018 Transaction” means the transactions described in McClatchy’s December 18, 2018 publicly filed Form 8-K.

20. The term “document” or “documents” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in

Rule 34(a)(1)(A) of the Federal Rules of Civil Procedure, *i.e.*, “writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form.” A draft or non-identical copy is a separate document within the meaning of this term. For the avoidance of doubt, the term “document” shall include any and all forms of recorded communications.

21. The term “Financial Analyses” means any document concerning McClatchy’s past, present or future financial condition, prospects or results, including without limitation: (a) documents that analyze, constitute or support McClatchy’s Financial Statements; (b) budgets, forecasts, projections, outlooks and strategic or other plans, including short-term and/or multi-year projections, supporting models and assumptions; (c) capital investment analyses/plans; (d) financial models; (e) operating results; (f) any Solvency analyses, Valuations, appraisals, fairness opinions, assessments, and (g) the impact of any transaction or transaction proposal upon the market price or liquidity of McClatchy obligations, McClatchy securities, or McClatchy CDS, in each case regardless of by whom or for whom prepared or the purpose of such preparation.

22. The term “Financial Statements” means Documents that include, constitute, or are part of any financial statements, whether audited or unaudited, including without limitation income statements, balance sheets and statements of cash flows, any schedules or any notes (including footnotes) related to any of the foregoing statements.

23. The term “First Day Declaration” means the *Declaration of Sean M. Harding in Support of Chapter 11 Petitions and First Day Papers*, filed in the Bankruptcy Cases on the Petition Date [Docket No. 23].

24. The term “First Lien Notes” shall have the meaning ascribed to it in paragraph 21 of the First Day Declaration.

25. The term “First Lien Notes Issuance” shall mean the underwriting, marketing, documentation, issuance and syndication of the First Lien Notes, and includes all provisions of the April 2018 Framework Agreement, the July 2018 Transaction, the retirement of the 2022 Notes, and the BofA Refinancing integral to the First Lien Notes Issuance.

26. The term “July 2018 Transaction” means all of the transactions described in McClatchy’s July 16, 2018 publicly-filed Form 8-K, including the First Lien Notes Issuance, and the retirement of the 2022 Notes.

27. The term “June 2018 Amended Framework Agreement” means the June 26, 2018 amended and restated term sheet framework agreement by and between McClatchy and Chatham described in McClatchy’s July 2, 2018 publicly-filed Form 8-K.

28. The term “March 2019 Transaction” means the transaction described in McClatchy’s March 18, 2019 publicly-filed Form 8-K.

29. The term “McClatchy CDS” means any credit insurance, credit default swaps or total return swaps contracts or arrangements purchased or sold by anyone that references McClatchy or any securities or obligations thereof, including but not limited to standard ISDA contracts or arrangements and bespoke contracts or arrangements.

30. The term “person” means any natural person or any legal entity, including any business or governmental entity or association.

31. The term “Petition Date” means February 13, 2020.

32. The terms “relate to” or “relating to” any given subject shall mean any information or documents that comprise, constitute, contain, embody, evidence, identify, reflect,

state, refer to, deal with, or are in any way pertinent to that subject, including documents concerning the preparation of other documents.

33. The terms “request” or “requests” refers generally to the document requests set forth herein.

34. The term “Second Lien Term Loans” shall have the meaning ascribed to it in paragraph 23 of the First Day Declaration.

35. The term “Solvency” means the financial condition of the subject as measured by any of the following: (a) the comparison of the value, on any basis, of the subject’s assets to its liabilities; (b) the subject’s ability to pay debts as they come due; or (c) the adequacy of the subject’s capital with respect to its ongoing business or transactions (or any business or transaction in which it was about to engage).

36. The term “Third Lien Notes” shall have the meaning ascribed to it in paragraph 26 of the First Day Declaration, and shall include the Tranche B second lien term loan issued in connection with the July 2018 Transaction and subsequently exchanged for the Third Lien Notes.

37. The term “Togut Retention Application” shall mean the *Debtors’ Application for Order Pursuant to Bankruptcy Code Sections 327(a) and 328 Authorizing the Employment and Retention of Togut, Segal & Segal LLP as Co-Counsel to the Debtors and Debtors in Possession, Nunc Pro Tunc to the Petition Date*, filed in the Bankruptcy Cases on February 24, 2020 [Docket No. 101].

38. The term “Transactions” means, collectively, the July 2018 Transaction, the December 2018 Transaction and the March 2019 Transaction.

39. The term “Unsecured Debentures” shall mean, collectively, the 2027 Debentures and the 2029 Debentures.

40. The term “Uptier Exchange” means the prepetition exchanges of Unsecured Debentures for Second Lien Term Loans and Third Lien Notes pursuant to the Transactions.

41. The term “Valuation” means the estimated value or worth of something at any time, including without limitation, any evaluation, calculation, analysis, budget, or estimation of the (i) cost, (ii) replacement cost, (iii) capital investment (historical and projected), (iv) historical business or financial performance, (v) prospective business or financial performance (including projections of performance prepared in the past for periods of time that have already occurred), and (vi) value, determined on any basis, of the given subject. “Valuation” is not confined to formal Valuations or written documents, but also includes judgments by any person of the estimated value or worth of something at any time, regardless of for or to whom such judgment was rendered or provided.

42. The term “Valuation Materials” means all documents concerning a Valuation, including without limitation information, or data prepared, utilized, considered, or relied upon in connection with a Valuation.

43. The terms “You” and “Your” mean or refer to Leon Cooperman, a natural person, Omega Advisors, Inc., including all of its Affiliates, divisions, subgroups, subsidiaries, parent entities, predecessors-in-interest, successors, assignees, officers, directors, trustees, partners, employees, counsel, financial advisors, investment bankers, agents, officials, representatives, and all persons and entities acting or purporting to act on any of his or its behalf, along with any and all funds and accounts managed and/or advised by Leon Cooperman or Omega Advisors, Inc

### **INSTRUCTIONS**

1. Unless otherwise indicated, the documents hereby requested for production and inspection include all documents in your possession, custody, or control. Without limitation of

the terms “possession, custody or control” as used in the preceding sentence, a document is in your possession, custody or control if you have actual possession or custody or the right to obtain the document or a copy thereof upon demand from one or more of your independent contractors, consultants, accountants, auditors or any other person or public or private entity that has actual physical possession thereof. This includes any documents contained in any computer, mobile device, server, mainframe or other storage device (including (i) documents on or in computer memory; (ii) documents on or in computer or network backup files; and (iii) documents which have been “deleted” or “erased” but are recoverable) whether located on-site or at an off-site facility, within your possession, custody or control. For the avoidance of doubt, this also includes any documents contained on any personal computer, mobile device, server, mainframe or other storage device within your possession, regardless of whether the device is issued or owned by you.

2. The term “possession” relates to e-mail, text messages, mobile device chats, other messaging services and any other electronically stored information. The term “possession” also includes documents contained in your electronic e-mail, cloud-based and mobile device directories, including: (a) “deleted” documents that have not been permanently deleted, including all subdirectories irrespective of the title of such subdirectories; (b) “sent” documents, including all subdirectories irrespective of the title of such subdirectories; and (c) “received” documents, including all subdirectories irrespective of the title of such subdirectories.

3. The documents produced pursuant to this request are to be either (a) segregated and identified by the number of the request below to which they are responsive or (b) produced as they are maintained in the ordinary course of business.

4. Documents shall be produced with sufficient information to identify the files or repositories in which such responsive documents are maintained in the normal course of business, including, for example, an index, key, code, or other means of ascertaining the source of the produced documents.

5. All documents that are produced in electronic format should be provided with: (i) Group IV “tiff” images and IPRO-ready OPT files; (ii) a Concordance DAT delimited file with boundaries; (iii) full text OCR, with OCR text files provided on a document level; and (iv) all metadata fields associated with each electronic document. The Committee also requests that all spreadsheets created in Microsoft Excel or similar spreadsheet program be produced in their native format. The Committee reserves its right to request that other documents be produced in their native format if necessary. The following metadata fields are also to be produced with all documents produced in electronic format:

<b>Field Name</b>	<b>Description</b>
<b>BEGDOC</b>	Auto-generated number assigned to first page of document
<b>ENDDOC</b>	Auto-generated number assigned to last page of document
<b>BEGATTACH</b>	Auto-generated number assigned to first page of the parent document in a family
<b>ENDATTACH</b>	Auto-generated number assigned to last page of an attachment in a document family
<b>PARENT_ID</b>	The beginning DOCID for a parent document
<b>ATTACH_IDS</b>	The beginning DOCID for all attachments
<b>ATTCOUNT</b>	The number of attachments to an email
<b>DOC_TYPE</b>	The type of file from the header (e.g., Microsoft Outlook, Excel, Word, etc.)
<b>PARENT_CHILD</b>	Vendor populated field where “P” denotes a parent document and “A” denotes an attachment

<b>PAGECOUNT</b>	The number of pages of each individual document
<b>FROM</b>	Name of the sender of an email from the “From” field in Outlook
<b>TO</b>	Recipients of an email from the “To” field in Outlook
<b>CC</b>	Name of persons to whom a copy of an email was sent
<b>BCC</b>	The name of any person blind copied on an email
<b>SUBJECT</b>	The text in the “Subject” line or “Re” line of an email or application file
<b>CUSTODIAN</b>	The name of the person from which a collection of email or application files originate
<b>AUTHOR</b>	The name of the author or the creator of an application file from the “Author” field
<b>DATE_SENT</b>	The date on which an email was sent
<b>DATE_RCVD</b>	The date on which an email was received
<b>DATE_LASTMOD</b>	The date on which an email or application file was last modified
<b>DATE_CREATED</b>	The date an email or application file was created
<b>TIME_CREATED</b>	The time at which an email or application file was created
<b>TIME_SENT</b>	The time at which an email was sent
<b>TIME_RCVD</b>	The time at which an email was received
<b>TITLE</b>	The text in the “Title” field of an application file
<b>LAST_AUTHOR</b>	The name in the “last author” field for an application file
<b>LAST_SAVED</b>	The date in the “last saved” field for an application file
<b>LAST_PRINTED</b>	The date in the “last printed” field for an application file
<b>APPLICATION</b>	The name of the application that generated the native file
<b>FILEEXT</b>	The file name extension for each email, attachment or application file
<b>FILENAME</b>	The name of the application file, including extension

<b>FILESIZE</b>	The size of a document in bytes
<b>SOURCEFOLDER</b>	The full path information for email, attachments and application files beginning with the original source folder name
<b>HASHVALUE</b>	Output of algorithm-generated value for each individual file
<b>SEARCH_HIT</b>	The search term or terms that “hit” on a document
<b>NATIVE_FILE</b>	Hyperlink to the native file

6. Documents attached to each other shall not be separated.

7. A document with handwritten, typewritten, or other recorded notes, editing marks, additions, deletions, notations, insertions, corrections, or marginal notes is not and shall not be deemed to be identical to one without such modifications, additions, or deletions.

8. Each requested document shall be produced in its entirety, without abbreviation or redaction, and shall include all attachments, appendices, exhibits, lists, schedules or other documents at any time affixed thereto. If a document responsive to any request cannot be produced in full, it shall be produced to the extent possible with an explanation stating why production of the remainder is not possible.

9. Whenever you are asked to produce a document that is deemed by you to be properly withheld from production for any reason, you shall provide a privilege log that will include listing such document by title or subject heading, date, author, person who signed the document, addressee and all recipients, and a statement of the ground(s) asserted for withholding the document, including attorney-client privilege or work product privilege.

10. If you withhold any document on the claim of attorney/client privilege, work product doctrine or similar protection, identify the privilege or protection claimed as well as each document for which such privilege or protection is claimed, together with the following information with respect to each such document:

1. Date;
2. Sender;
3. Addressee;
4. Subject;
5. The basis on which the privilege or protection is claimed; and
6. The names of Persons to whom copies of any part of the document were furnished, together with an identification of their employer and their job titles.

11. If you maintain that any document requested by the Committee has been destroyed, set forth the contents of the document, the date of its destruction, and the name of the Person who authorized its destruction.

12. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, such document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Bankruptcy Court.

13. If you previously but no longer possess items responsive to a particular request, you must specify why you no longer possess such items and the name and address of any person or entity known or believed by you to have possession, custody or control of such items.

14. Where an objection is made to a request, you must clearly state all grounds upon which your objection is based and indicate whether any responsive materials are being withheld on the basis of that objection.

15. Terms not specifically defined herein shall be given their ordinary meanings as you understand them to be used in the trade or pursuant to ordinary usage.

16. Wherever appropriate in this request, the singular form of any word includes the plural and vice versa, and the masculine form of a word shall be interpreted as feminine and vice versa.

17. The terms “all,” “any” and “each” shall be construed as encompassing all, any and each.

18. The terms “include,” “includes,” and “including” shall be deemed to be followed by the words “without limitation.” A list following any of these terms shall be interpreted to contain illustrative examples of the types of documents responsive to the request, but does not constitute an exclusive, all-encompassing or exhaustive listing of every type of document responsive to the request and shall not be deemed in any way to qualify, limit or restrict the scope of the request.

19. The connectives “and,” “or” and “and/or” shall be construed either disjunctively or conjunctively as necessary, in each case, to bring within the scope of these requests all responses that might otherwise be construed to be outside their scope.

20. Any ambiguity in a request shall be construed to bring within the scope of the request all responses that otherwise could be construed to be outside of its scope.

21. The relevant time period for each request is January 1, 2017 through the date of production (the “Relevant Time Period”), unless otherwise-specifically indicated. Each request shall be interpreted to include all documents and electronically-stored information (“ESI”) that concern the Relevant Time Period or otherwise-specified period, even if such documents or ESI was prepared or published outside of the Relevant Time Period or otherwise-specified period. If a document or ESI prepared before or after this period is necessary for a correct or complete understanding of any document or ESI covered by a request, you must produce the earlier or

subsequent document as well. If any document or ESI is undated and the date of its preparation cannot be determined, the document shall be produced if otherwise responsive to the production request.

### **DOCUMENT REQUESTS**

1. All documents, communications and Financial Analyses concerning the BofA Refinancing, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the BofA Refinancing, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the BofA Refinancing;
- (c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the BofA Refinancing; and
- (d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the BofA Refinancing.

2. All documents, communications and Financial Analyses concerning the April 2018 Framework Agreement, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the April 2018 Framework Agreement, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the April 2018 Framework Agreement;

(c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the April 2018 Framework Agreement; and

(d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the April 2018 Framework Agreement.

3. All documents, communications and Financial Analyses concerning the June 2018 Amended Framework Agreement and the First Lien Notes Issuance, including:

(a) all documents and communications concerning the development, formulation, negotiation and implementation of the June 2018 Amended Framework Agreement and the First Lien Notes Issuance, including any related terms sheets or drafts thereof;

(b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the June 2018 Amended Framework Agreement and the First Lien Notes Issuance;

(c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the June 2018 Amended Framework Agreement and the First Lien Notes Issuance; and

(d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the June 2018 Amended Framework Agreement and the First Lien Notes Issuance.

4. All documents, communications and Financial Analyses concerning the July 2018 Transaction and the First Lien Notes Issuance, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the July 2018 Transaction and the First Lien Notes Issuance, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the July 2018 Transaction and the First Lien Notes Issuance;
- (c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the July 2018 Transaction and the First Lien Notes Issuance; and
- (d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the July 2018 Transaction and the First Lien Notes Issuance.

5. All documents, communications and Financial Analyses concerning the December 2018 Transaction, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the December 2018 Transaction, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the December 2018 Transaction;
- (c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the December 2018 Transaction; and
- (d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the December 2018 Transaction.

6. All documents, communications and Financial Analyses concerning the March 2019 Transaction, including:

- (a) all documents and communications concerning the development, formulation, negotiation and implementation of the March 2019 Transaction, including any related terms sheets or drafts thereof;
- (b) all roadshow, solicitation or similar materials prepared, received or delivered concerning the March 2019 Transaction;
- (c) all underwriting, placement, arrangement or similar fees and/or side letters concerning the March 2019 Transaction; and
- (d) all presentations provided to and/or communications with potential lenders, investors or analysts concerning the March 2019 Transaction.

7. All documents and communications concerning the Debtor Investigation, including all documents and communications provided to the Debtors in connection with the Debtor Investigation.

8. All documents and communications concerning the Uptier Exchange, including all documents concerning the negotiation thereof.

9. All documents and communications concerning any of McClatchy's business plans, including any drafts thereof.

10. All documents, communications and Financial Analyses concerning McClatchy's Solvency, including the Solvency of McClatchy prior to, as a result of, and immediately following, each of the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement. For purposes of this request, McClatchy shall refer to each of

- (a) The McClatchy Company and all of its direct and indirect subsidiaries taken as a whole, and
- (b) each of the direct and indirect subsidiaries of The McClatchy Company, individually.

11. All documents concerning any Solvency analysis or any opinion issued by or to McClatchy in connection with any of the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement.

12. All documents, communications and Valuation Materials concerning any Valuation of, or the value of, of the Debtors' assets and liabilities, including any communications with the Debtors' auditors.

13. All documents, communications and Valuation Materials concerning any Valuation of, or the value of, the consideration the Debtors received in connection with the Transactions, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement and the June 2018 Amended Framework Agreement.

14. All documents, communications and Valuation Materials concerning any Valuation of, or the value of, the assets pledged pursuant to the July 2018 Transaction, the First Lien Notes Issuance, the BofA Refinancing, the December 2018 Transaction, and the March 2019 Transaction.

15. All documents, communications and Valuation Materials concerning any Valuation of, or the value of, the guarantees incurred pursuant to the July 2018 Transaction, the December 2018 Transaction and the March 2019 Transaction.

16. All documents and communications concerning the Debtors' ability to service the indebtedness incurred pursuant to the Transactions.

17. All documents and communications exchanged between Chatham, the Debtors, and/or Leon Cooperman concerning McClatchy, the BofA Refinancing, the April 2018 Framework Agreement, the June 2018 Amended Framework Agreement, McClatchy CDS and the CFTC Inquiry.

18. All documents and communications concerning the CFTC Inquiry.

19. All documents and communications concerning McClatchy CDS.

20. All documents and communications concerning McClatchy's negotiations with the IRS concerning McClatchy's request to waive certain of its pension funding obligations, including the requests described in paragraph 58 of the First Day Declaration.

21. All documents and communications concerning any alternative proposals delivered to and/or considered by the Debtors with respect to refinancing the 2022 Notes or the Unsecured Debentures.

22. All documents and communications concerning attempts by the Debtors to obtain financing of any kind.

23. All documents and communications concerning the Plan, including the negotiation of the Plan, the treatment of creditors pursuant to the Plan and the releases provided for under the Plan.

24. Documents sufficient to identify all individuals representing you or your advisors concerning McClatchy, the BofA Refinancing, the First Lien Notes Issuance, the retirement of the 2022 Notes, the April 2018 Framework Agreement, the June 2018 Amended Framework Agreement, McClatchy CDS and the CFTC Inquiry, including all individuals who negotiated on your behalf.