

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>In re:</b>	§	<b>Case No. 22-33553</b>
	§	
<b>ALEXANDER E. JONES</b>	§	<b>(Chapter 11)</b>
	§	
<b>Debtor.</b>	§	
	§	

**DEBTOR'S EMERGENCY MOTION FOR ENTRY OF AN ORDER  
CONVERTING DEBTOR'S CHAPTER 11 CASE TO A CASE  
UNDER CHAPTER 7 OF THE BANKRUPTCY CODE**

Emergency relief has been requested. Relief is requested by not later than 10:00 a.m. (prevailing Central Time) on June 14, 2024.

If you object to the relief requested or you believe that emergency consideration is not warranted, you must appear at the hearing if one is set, emergor file a written response prior to the date that relief is requested in the preceding paragraph. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

Audio communication will be by use of the Court's dial-in facility. You may access the facility at (832) 917-1510. Once connected, you will be asked to enter the conference room number. Judge Lopez's conference room number is 590153. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Lopez's home page. The meeting code is "JudgeLopez." Click the settings icon in the upper right corner and enter your number under the personal information setting.

Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the "Electronic Appearance" link on Judge Lopez's home page. Select the case name, complete the required fields, and click "Submit" to complete your appearance.

Alexander E. Jones (the "Debtor" or "Jones"), debtor and debtor in possession in the above-referenced chapter 11 case hereby files this motion (the "Motion") for entry of an order, pursuant to section 1112(a) of the title 11 of the United States Code 11 U.S.C. §§ 101 *et seq.* (as amended, the "Bankruptcy Code"), converting the Debtor's chapter 11 case to a case under chapter 7 of the Bankruptcy Code. In support of this Motion, the Debtor respectfully states as follows:

**I. JURISDICTION, VENUE, AND STATUTORY PREDICATES**

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
2. Venue is properly before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicates for the relief sought are 11 U.S.C. §§ 1112(a), Fed. R. Bankr. P. 1017, and 9013.

**II. BACKGROUND**

4. On December 2, 2022 (the "Petition Date"), Debtor Alexander E. Jones filed his voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").
5. The Debtor is an employee of Free Speech Systems, LLC ("FSS"), which filed its voluntary petition for relief under chapter 11 of the Bankruptcy Code on July 29, 2022. Jones owns 100% of the outstanding membership interests in FSS.
6. Jones continues in possession of his holdings and is managing as a debtor-in-possession pursuant to Bankruptcy Code §§ 1107 and 1108. No request has been made for the appointment of a trustee or examiner. An official unsecured creditors' committee (the "UCC") was appointed on or about December 13, 2022. The Debtor has been liquidating his non-exempt assets in an orderly fashion during the pendency of this chapter 11 case for the benefit of creditors.
7. On or about December 15, 2023, the Debtor filed his Plan of Reorganization (as amended, the "Plan"), and the UCC filed the Creditors' Plan (as amended, the "Creditors' Plan"). Orders were entered conditionally approving the Disclosure Statements and setting various deadlines for both the Plan and the Creditors' Plan on January 25, 2024.
8. The parties have been unable to reach a global resolution that could be incorporated into the terms of a plan of reorganization.

9. On or about June 2, 2024, certain of the creditors of the Debtor and FSS (the “Connecticut Plaintiffs”)<sup>1</sup> filed an *Emergency Motion to Convert the FSS Case to Chapter 7* [FSS Docket No. 921]. At a recent hearing, the Bankruptcy Court signaled its intention to dismiss the FSS case if a plan was not confirmed by June 14, 2024. Thus, with the anticipated conversion or dismissal of the FSS case, the Debtor does not believe his own estate would continue to benefit by remaining in chapter 11. Furthermore, the Debtor does not anticipate that a resolution may be reached with the other parties in interest sufficient to confirm a chapter 11 plan of reorganization. Thus, drawing out the chapter 11 process merely to complete the liquidation process would result in additional administrative expense with little benefit to the Debtor’s estate. Accordingly, the Debtor submits that this chapter 11 case should be converted to chapter 7.

### **III. RELIEF REQUESTED**

10. By this Motion, Jones seeks entry of an order, pursuant to section 1112(a) of the Bankruptcy Code, converting the Debtor’s chapter 11 case to a case under chapter 7 of the Bankruptcy Code.

### **IV. BASIS FOR RELIEF REQUESTED**

11. Section 1112(a) of the Bankruptcy Code entitles a debtor to convert its case from chapter 11 to chapter 7, unless (i) the debtor is not a debtor in possession, (ii) the case was originally commenced as an involuntary case under chapter 11, or (iii) the case was converted to a chapter 11 case at the request of a non-debtor party. *See* 11 U.S.C. § 1112(a). The Debtor meets all of these statutory requirements and is thus entitled to convert his case from chapter 11 to chapter 7.

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<sup>1</sup> The “Connecticut Plaintiffs” are Mark Barden, Jacqueline Barden, Francine Wheeler, David Wheeler, Ian Hockley, Nicole Hockley, Jennifer Hensel, William Aldenberg, William Sherlach, Carlos M. Soto, Donna Soto, Jillian Soto-Marino, Carlee Soto Parisi, and Robert Parker.

12. Section 1112(a) of the Bankruptcy Code “gives the debtor [in possession] the absolute right to convert a voluntarily commenced chapter 11 case . . . to a liquidation case” under chapter 7. *In re Schuler*, 119 B.R. 191, 192 (Bankr. W.D. Mo. 1990) (citing H.R. Rep. No. 595, 95th Cong., 1st Sess. 405 (1977); S. Rep. No. 989, 95th Cong., 2nd Sess. 117 (1978)); *see also In Dieckhaus Stationers of King of Prussia, Inc.*, 73 B.R. 969, 971 (Bankr. E.D. Pa. 1987) (stating that the plain language of section 1112(a) “gives the debtor an absolute right to convert” unless one of the enumerated exceptions applies); 7 Collier on Bankruptcy ¶ 1112.02[1], at 1112-8 (Alan N. Resnick & Henry J. Sommer eds., 16th ed.).

13. Provided that the statutory exceptions set forth in Section 1112(a) do not apply, a debtor has an absolute right to convert its case from chapter 11 to chapter 7 of the Bankruptcy Code. *See In re Tex. Extrusion Corp.*, 844 F.2d 1142, 1161 (5th Cir. 1988) (finding that “[a] debtor has the absolute right to convert his or her Chapter 11 case to a Chapter 7 case” under section 1112(a)); *Results Sys. Corp. v. MQVP, Inc.*, 395 B.R. 1, 5 (E.D. Mich. 2008) (“[§] 1112(a) gives the debtor the right to convert a chapter 11 case to a liquidation case under chapter 7 at any time.”) (internal citation omitted); *see also* Fed. R. Bankr. P. 1017(f)(1) and 1017(f)(2) (conversion under section 1112(a) is requested by motion under Bankruptcy Rule 9013 but is not to be treated as a contested matter under Bankruptcy Rule 9014).

14. Jones respectfully submits that the requirements for conversion set forth in 1112(a) are satisfied here. Jones is a debtor in possession under Section 1107 and 1108 of the Bankruptcy Code, and he commenced his chapter 11 case voluntarily, and there has been no prior conversion. Furthermore, he is eligible for chapter 7 bankruptcy and could have initiated his case originally under that chapter. Therefore, section 1112(a) provides an absolute right under the circumstances for the debtor to convert his case to one under chapter 7.

15. Alternatively, Bankruptcy Code section 1112(b) also authorizes the same relief if a debtor can demonstrate “cause” in accordance with the statute. *See* 11 U.S.C § 1112(b)(1). “Cause” includes “continuing loss or diminution of the estate and absence of a reasonable likelihood of rehabilitation.” *Id.* § 1112(b)(4)(A). Courts have held that continuing to incur quarterly U.S. Trustee fees and legal fees may constitute a continuing loss for purposes of this prong. *See In re FRGR Managing Member LLC*, 419 B.R. 576, 581 (Bankr. S.D.N.Y. 2009). The list of factors set forth under section 1112(b)(4) are non-exclusive examples of cause and a bankruptcy court may consider other factors and employ its equitable powers to reach the result appropriate in the particular case. *See Camden Ordnance Mfg. Co. of Ark., Inc. v. U.S. Trustee (In re Camden Ordnance Mfg. Co. of Ark., Inc.)*, 245 B.R. 794, 798 (E.D. Pa. 2000); *In re Congoleum Corp.*, 414 B.R. 44, 61 (D. N.J. 2009); *In re Ramreddy, Inc.*, 440 B.R. 103, 115 (Bankr. E.D. Pa. 2009).

16. Given that there is no reasonable prospect of a successful reorganization, remaining in chapter 11 would incur additional administrative expenses without concomitant benefit to the Debtor’s estate. Thus, under these circumstances, the Debtor respectfully submits that the interests of all parties in interest would be best served by converting this chapter 11 case to a case under chapter 7 of the Bankruptcy Code.

## V. CONCLUSION

WHEREFORE, the Debtor respectfully requests that this Court enter an order substantially in the form attached hereto as **Exhibit A** (i) granting this Motion; (ii) converting the Debtor’s chapter 11 case to a case under chapter 7 of the Bankruptcy Code; and (iii) granting such other relief as the Court deems appropriate under the presented facts and circumstances.

Dated: June 5, 2024.

**CROWE & DUNLEVY, P.C.**

By: /s/ Christina W. Stephenson  
Vickie L. Driver  
State Bar No. 24026886  
Christina W. Stephenson  
State Bar No. 24049535  
2525 McKinnon St., Suite 425  
Dallas, TX 75201  
Telephone: 737.218.6187  
Email: dallaseservice@crowedunlevy.com

**ATTORNEYS FOR DEBTOR  
ALEXANDER E. JONES**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing pleading was served by the Court's CM/ECF system on all parties registered to receive such service on the date of filing, 5<sup>th</sup> day of June, 2024.

/s/ Christina W. Stephenson  
Christina W. Stephenson