

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

In re	:	
	:	
PANTHERA ENTERPRISES, LLC,	:	BK No. 2:19-BK-00787
	:	
Debtor.	:	Chapter 11
	:	
	:	
PANTHERA TRAINING, LLC, and	:	
WEST VIRGINIA ECONOMIC	:	
DEVELOPMENT AUTHORITY,	:	
	:	
Movants,	:	
	:	
v.	:	
	:	
PANTHERA ENTERPRISES, LLC,	:	
	:	
Respondent.	:	

PANTHERA TRAINING, LLC'S MOTION FOR PROTECTIVE ORDER

Panthera Training, LLC ("Training"), by counsel, moves this Court for a protective order pursuant to Rule 7026(c) to forbid inquiry into certain matters and limit the scope of disclosure or discovery with respect to certain discovery requests propounded by Panthera Enterprises, LLC ("Debtor") on Panthera Training and the West Virginia Economic Development Authority ("WVEDA"), and in support of its Motion, states as follows:

1. The Debtor initiated this bankruptcy case on September 13, 2019, with the filing of a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code.
2. Training is a Virginia limited liability company that is not related to the Debtor or the Debtor's subsidiary, Panthera Training Center, LLC ("Center").

3. On June 1, 2018, when Debtor was on the verge of foreclosure by WVEDA, its largest secured creditor, Debtor entered into a long term Commercial Lease with Panthera Training, pursuant to which Panthera Training leases certain real property scheduled by the Debtor. Doc 52-6. The real property is a 750 acre tract of land in Hardy County, West Virginia, which is the site of a military and law enforcement personnel training facility ("Facility"). Doc 23, p. 2.

4. In addition, on June 1, 2018, Training became a subcontractor of the Debtor and its subsidiary, Center, to conduct training at the Facility that Debtor and Center contracted to provide to third parties. Doc 52-7.

5. On May 7, 2020, Training and WVEDA filed their *Joint Motion to Convert this Case to a Chapter 7 Proceeding for Cause Pursuant to 11 U.S.C. § 1112(b)(1)* ("Joint Motion"). Doc 132. Training and WVEDA contend that the Debtor's (i) gross mismanagement and in particular, its failure to provide complete and accurate Operating Reports; (ii) failure to maintain insurance adequate to protect the interests of its creditors; and (iii) continuing loss and diminution of the bankruptcy estate without any reasonable likelihood of rehabilitation support conversion each support conversion of this bankruptcy case to a Chapter 7. 11 U.S.C. § 1112(b)(4).

6. Upon the suggestion of the Court, the parties entered into an Agreed Scheduling Order for briefing and abbreviated discovery on the Joint Motion, the claims and defenses. The Court is scheduled to hear the Joint Motion on Wednesday June 10, 2020.

7. Training and WVEDA served discovery requests on the Debtor on May 26, 2020, with responses due June 5, 2020.

8. The Debtor served discovery requests on Training and WVEDA on May 28, 2020, also with responses due June 5, 2020 ("Debtor's Discovery Requests"). The discovery requests to Training and WVEDA are very similar in the information and documents requested.

9. Training objects to certain documents and information sought in Debtor's Discovery Requests on the grounds that the documents and information sought are proprietary information of Training, outside the scope of the claims made in the Joint Motion or the Debtor's defenses, irrelevant to the bases on which conversion is sought in the Joint Motion and the defenses thereto, of no importance to the issues at stake, and are neither necessary nor important to resolution of the issues raised in the Joint Motion.

10. Specifically, Training objects to the following documents and information sought by the Debtor in its discovery requests served on Training:

Request for Production of Documents No. 2. All communications between WVEDA and Training related to the Facility, and/or training activities performed at the Facility, from June 1, 2018 through and including the present.

Training objects to this request to the extent Debtor is seeking information beyond the scope of the maintenance of the Facility and the training activities conducted by Training under the Subcontract with the Debtor and Center because such information is proprietary to Training and documents and information beyond this limited scope have no bearing on the bases for cause to convert or the Debtor's defenses thereto.

Request for Production No. 7. All communications between Panthera Training, LLC and WVEDA related to the financial performance of Panthera Training, LLC during any period of time, from January 1, 2018 through and including the present.

Training objects to this request on the basis that the financial performance of Panthera Training is not at issue in this contested matter. Such information is proprietary to Training and has no bearing on the bases for cause to convert or the Debtor's defenses thereto.

Request for Production No. 13. All financial records and documents for the quarterly financial reporting time period in which all payments referenced in the Motion from the Debtor and/or Center were received by Training.

Training objects to this Requests because the financial records and documents for Training are proprietary to Training and have no bearing on the bases for cause to convert or the Debtor's defenses thereto.

Interrogatory No. 5: Identify all discussions relating to the financial performance of Panthera Training, LLC during any period of time, from January 1, 2018 through and including the present.

Training objects to this Interrogatory because financial performance of Training is not at issue in this contested matter. Information regarding the financial performance of Panthera Training is proprietary to Training and has no bearing on the bases for cause to convert or the Debtor's defenses thereto.

11. Similarly, Training objects to the following documents and information sought by the Debtor in its discovery requests served on WVEDA:

Request for Production of Documents No. 2. All communications between WVEDA and Training related to the Facility, and/or training activities performed at the Facility, from June 1, 2018 through and including the present.

Training objects to this request to the extent Debtor is seeking information beyond the scope of the maintenance of the Facility and the training activities conducted by Training under the Subcontract with the Debtor and Center because such information is proprietary to Training and documents and information beyond this limited scope have no bearing on the bases for cause to convert or the Debtor's defenses thereto.

Request for Production No. 7. All communications between Panthera Training, LLC and WVEDA related to the financial performance of Panthera Training, LLC during any period of time, from January 1, 2018 through and including the present.

Training objects to this request on the basis that the financial performance of Panthera Training is not at issue in this contested matter. Such information is proprietary to Training and has no bearing on the bases for cause to convert or the Debtor's defenses thereto.

Interrogatory No. 5: Identify all discussions relating to the financial performance of Panthera Training, LLC during any period of time, from January 1, 2018 through and including the present.

Training objects to this Interrogatory because financial performance of Training is not at issue in this contested matter. Information regarding the financial performance of Panthera Training is proprietary to Training and has no bearing on the bases for cause to convert or the Debtor's defenses thereto.

12. In summary, Training objects to requests for information or documents regarding (i) Panthera Training, LLC's business activities apart from the training it conducts for the Debtor and Center under the Subcontract and its maintenance of the Facility, and (ii) financial performance of Panthera Training, both on the grounds that such information is proprietary to Training. In addition, such information and documents is outside the scope of the claims made in the Joint Motion or the Debtor's defenses thereto, is irrelevant to the bases on which conversion is sought in the Joint Motion and the defenses thereto, has no importance to the issues at stake, and is neither necessary nor important to resolution of the issues raised in the Joint Motion.

13. On these grounds, Training seeks a protective order of the Court, pursuant to Rule 7026(c) of the Bankruptcy Rules of Civil Procedure.

14. The undersigned Douglas E. Kahle, Esq., hereby certifies that he conferred with WVEDA's counsel, and in good faith attempted to confer with Debtor's counsel, by telephone and email, in an effort to resolve the dispute without court action.

WHEREFORE, Panthera Training, LLC respectfully requests this Court enter a protective order under Rule 7026(c) of the Federal Rules of Bankruptcy Procedure, pursuant to which the Debtor may not request and neither Panthera Training, nor the WVEDA, shall be required to provide to the Debtor documents or information related to (i) the business activities of Panthera Training other than maintenance of the facility and training conducted for the Debtor and Center under its Subcontract, and (ii) the financial performance of Panthera Training. Panthera Training's request is limited to the discovery propounded by the Debtor in connection with the Joint Motion filed May 7, 2020, Doc 132. Panthera Training further seeks such other and further relief that the Court deems appropriate.

PANTHERA TRAINING, LLC

By Counsel

/s/ Douglas E. Kahle, Esq.

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
(Martinsburg)**

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PANTHERA ENTERPRISES, LLC,	:	
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Debtor.	:	
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WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY,	:	
	:	
Movant,	:	
	:	
v.	:	
	:	
PANTHERA ENTERPRISES, LLC,	:	
	:	
Respondent.	:	
	:	

CERTIFICATE OF SERVICE

I, Douglas E. Kahle, hereby certify that on this 5th day of June, 2020, the foregoing *Panthera Training, LLC's Motion for Protective Order* was served through the Court's ECF system on all parties registered to receive CM/ECF notices, including:

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