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

In Re:
Panthera Enterprises, LLC, Case No. 19-00787

Debtor in Possession. Chapter 11

**UNITED STATES TRUSTEE'S MOTION TO DISMISS OR CONVERT**

The Acting United States Trustee, John P. Fitzgerald, III, by counsel, moves the Court to dismiss this case or convert it to Chapter 7 pursuant to 11 U.S.C. §1112(b), and states that:

**Factual Background and Procedural History**

1. The debtor filed a voluntary Chapter 11 petition on September 13, 2019.

2. The debtor owns real property located at 2506 Fish Pond Road, Old Fields, West Virginia, 26845, which includes various improvements, structures and attached personal property (the "Property"). The property is utilized as a training facility primarily by an unaffiliated lessee, Panthera Training, LLC.

3. The Debtor's schedules value the Property at $15,050,000.00.

4. Shortly after filing, the Debtor provided the United States Trustee with proof of insurance establishing both liability and casualty insurance through October 30, 2019.

5. Following expiration of these insurance certificates, the UST asked the Debtor to provide proof of current insurance.

6. The UST has been provided with proof of liability insurance through the lessee, Panthera Training, LLC, but has not been provided with proof of casualty insurance.

7. Th UST has concluded that there is no casualty insurance currently in place with respect to the Property.

**<u>GROUNDS TO DISMISS:</u>**

**<u>Failure to Maintain Appropriate Insurance</u>**

1. Upon information and belief, the Debtor is not maintaining casualty insurance with respect to the Property. For an asset with the value of the Property, the failure to maintain casualty insurance poses an unreasonable risk to the value of the estate. The failure to maintain appropriate insurance that poses a risk to the public or the estate is cause to convert or dismiss this case under 11 U.S.C. §1112(b)(4)(C).

**<u>Debtor's Burden to Avoid Conversion or Dismissal</u>**

2. This motion establishes cause to dismiss or convert this case under 11 U.S.C. §1112(b)(4)(C). The debtor may avoid conversion or dismissal only by establishing all of the following conjunctive conditions set forth in 11 U.S.C. §1112(b)(2):

(1) unusual circumstances such that dismissal or conversion is not in the best interest of creditors. [11 U.S.C. §1112(b)(2)]; <u>and</u>

(2) a reasonable likelihood that a plan will be confirmed within a reasonable period of time. [11 U.S.C. §1112(b)(2)(A)] <u>and</u>

(3) a reasonable justification for the acts and omissions of the debtor, <u>and</u> that they will be cured within a reasonable period of time fixed by the court. [11 U.S.C. §1112(b)(2)(B)].

3. The United States Trustee is unaware of any unusual circumstances that would

prevent dismissal of this case and there does not appear to be a reasonable justification for the acts and omissions of the debtor that are the basis of this motion. 11 U.S.C. §1112(b)(2).

WHEREFORE, the United States Trustee requests that the Court dismiss this case or convert it to one under Chapter 7, and for such other or further relief that is proper.

Dated: April 7, 2020

Respectfully submitted,

JOHN P. FITZGERALD, III
ACTING UNITED STATES TRUSTEE

By Counsel

/s/ Gary O. Kinder
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CERTIFICATE OF SERVICE

I certify that on this day I electronically filed the Motion to Dismiss or Convert with the Clerk of the Court using the CM/ECF System, which will send notice of such filing to the following CM/ECF participants:

Robert S. Bernstein, Esq.
Mark A. Lindsay, Esq.
John J. Richardson, Esq.
*Attorneys for Debtor*

April 7, 2020

/s/ Gary O. Kinder
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