

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

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In re:

AUGUSTUS INTELLIGENCE INC.,

Debtor.

Chapter 11 (Subchapter V)

Case No. 21-10744

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**INITIAL DECLARATION OF BRIAN RYNIKER  
IN CONNECTION WITH CHAPTER 11 FILING**

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Pursuant to 28 U.S.C. § 1764, Brian Ryniker declares as follows under the penalty of perjury:

1. I am over 18 years of age. If called as a witness, I could and would competently testify with respect to the matters set forth in this declaration from my own personal knowledge or from knowledge gathered from others within the debtor's organization and the debtor's advisors, my review of relevant documents, or my opinion based upon my experience concerning the debtor's organization.<sup>1</sup>

2. I am a founding member at RK Consultants LLC. Prior to forming RK Consultants, for more than 20 years, I provided bankruptcy consulting and forensic services with a top 10 accounting and advisory firm.

3. I am currently serving as the Chief Restructuring Officer of the debtor and debtor-in-possession Augustus Intelligence Inc. ("Augustus" or the "Debtor"). In this capacity, I am familiar with the operations, businesses, assets and financial affairs of Augustus.

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<sup>1</sup> The historical information contained in this Declaration is derived from information provided by the Debtor's management and Board counsel.

4. On April 24, 2021 (“Petition Date”), Augustus commenced a voluntary case for restructuring under Chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”), on expedited basis and elected to proceed under Subchapter V.

5. I submit this initial declaration (the “First Day Declaration”) to provide the Court and other parties in interest with an overview of Augustus’s business and to describe the circumstances compelling the commencement of this Chapter 11 restructuring case. In the near future, I intend to submit a Supplemental Declaration in support of the “first day” motions which will be filed by Augustus shortly, by which Augustus will seek relief necessary for it to operate as a going concern, maximize the value of the estate, and address the numerous challenges Augustus has been and is currently facing in order to thrive.

## **NATURE OF AUGUSTUS’ BUSINESS**

### **I. Augustus’s Business Model**

6. Augustus was formed by George Glueck (the “Minority Founder”) and Wolfgang Haupt (the “Controlling Founder”) in 2018 with a mission of developing artificial intelligence software technology to be licensed to U.S. and international commercial businesses operating in a variety of different industries. Augustus offers its customers and prospective customers an integrated, all-in-one artificial intelligence solution to be used in conjunction with the customers’ existing technology in order to maximize efficiencies and improve profitability. The Controlling Founder’s stated vision was to build an integrated AI company inclusive of data centers. Later joined by Pascal Weinberger (together the “Prior Management”), who was promoted as an AI specialist, they tried to realize this idea by building up a core tech team and raising funds for direct investments.

7. In 2019, Augustus and the Controlling Founder embarked on an ambitious fund raising effort, raising approximately \$33.5 million, plus an additional \$80 million in subscriptions in capital, from 35-40 private investors at a \$250 million pre-money valuation (collectively, the “Investors”). Augustus initially used the funds for operating costs, to hire talented software and technology engineers and develop technology and research and development costs. Augustus currently has developed or acquired seven patents and patents pending and artificial intelligence functional bricks in connection with its proprietary technology.

8. In addition, Augustus closed on two acquisitions of other loss-making companies in the artificial intelligence industry resulting in an increase in the number of customers served. Augustus, through its non-debtor U.S. and foreign subsidiaries, has approximately 30 clients and partners utilizing its proprietary artificial intelligence technology (“AI Technology”). Furthermore, AI technology is deployed in a large retail customer with 1,400+ retail locations in the United States.

## **II. Augustus’s Corporate and Capital Structure**

9. In terms of corporate structure, Augustus is incorporated in Delaware and headquartered in New York, New York. Augustus is a holding company, with the business operations being conducted at the subsidiary level. Augustus has seven non-debtor direct or indirect wholly-owned or majority-owned subsidiaries: Augustus Commerce, LLC, Union Square Linens LLC, Augustus France, xBrainsoft, xBrainsoft Inc., Augustus Intelligence GmbH, and Augustus Italia (collectively, the “Subsidiaries”).<sup>2</sup> All of the Subsidiaries are non-debtors. Annexed hereto as Exhibit A is a corporate organization chart.

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<sup>2</sup> I am advised that Augustus Italia has ceased operations and is in the process of being dissolved under Italian law, Augustus France is in the process of winding down its operations, and Union Square Linens LLC is not an operating entity.

10. After a reorganization under new management in autumn 2020, each of the operating Subsidiaries services their respective customers within their market utilizing Augustus's AI Technology in exchange for paying Augustus the majority of their respective net profits and a percentage of their respective revenues. Overall, Augustus and its Subsidiaries currently have 33 full- and part-time employees and independent contractors.

11. As of the Petition Date, the Debtor has no secured debt. Total unsecured liabilities owed by Augustus are approximately \$2.1 million. In addition, there are various disputed, unliquidated claims asserted against the Debtor by certain former employees or other parties (see below). With respect to the Debtor's equity interests, the Controlling Founder holds on a fully diluted basis approximately 67.89% of the equity, with super majority voting rights.

### **III. Independent Investigation Initiated**

12. Since the spring of 2020, different German newspapers published various assertions made in claims by former Augustus employees. On March 6, 2020, German weekly *Der Spiegel* published its first article about Augustus. This article focused on former board member KT Guttenberg's role in Augustus and scandalized the claims of three former disgruntled employees ("Pacelli Litigation"). The former employees who initiated the Pacelli Litigation were terminated by Augustus on the grounds of alleged breach of, *inter alia*, the confidentiality, non-compete, and non-solicitation obligations owed to Augustus. Prior Management alleged that these former employees launched a smear campaign against Augustus in the AI community as well as in the media, in an effort to damage Augustus's business and eliminate it as a competitor. The former employees filed a strike suit against Augustus in the United States District Court for the Southern District of New York, in which they alleged, among other things, that they

had been “fraudulently induced” to join Augustus based on representations about the status of Augustus’s seed funding and product development.

13. A second negative article was published in June 2020. It focused on Philipp Amthor, a member of the German parliament, who was then a member of Augustus’s Board of Directors, and on other connections with former politicians or German security agency executives. Two additional articles followed in different newspapers, which alleged misrepresentations made by former board member Pascal Weinberger in his resume. The only allegations directly related to Augustus were assertions from former employees in the Pacelli Litigation. Insofar, the *Spiegel* article mistakenly implied that Augustus was an empty shell without revenues, employees and IP rights.

14. By the summer of 2020, Augustus had spent more than \$30 million of its initial capital raise and a number of Investors began to raise concerns about the actions of Prior Management and members of the Board of Directors (the “Old Management”) in managing the company. At this point, Augustus had hit a “burn rate” of \$3.7 million a month, with an expanded staff of over 100. Further, the German press speculated about senior executives’ use of private jets and Augustus’s maintaining an expensive offices in 1 World Trade Center, which further fueled Investors’ concerns. The Board at that time consisted of KT Guttenberg, Pascal Weinberger and the Controlling Founder (the “Old Board”).

15. To address the press allegations and Investors’ concerns, the Controlling Founder and Prior Management in June 2020 initiated an internal investigation in order to try to assess and refute the allegations made in the German media. The Controlling Founder then stepped aside as CEO. Prior Management retained the law firm Armstrong Teasdale to undertake an independent investigation of the press allegations.

16. Since its inception, Augustus suffered from poor governance. It experienced a number of operational and managerial issues, including an unfocused business model, overly complex financial and corporate structure, weak financial processes, budgeting, spending and controls over compensation, poor integration of acquisitions, the retention of expensive outside advisors and consultants, and a lack of reporting and communication with Investors. As a result of continued Investor concerns, the independent investigation was broadened to include the conduct of the Controlling Founder.

#### **IV. Appointment of New Management and Board of Directors**

17. In July 2020, several shareholders decided to replace the entire Board of Directors with three new directors, Stefan Liechtenstein, Kathleen Barnett Einhorn, Wilko von Pelchrzim, with Stefan Liechtenstein becoming the Chairperson. In November, Ronald S. Rolfe, an independent director was selected separately by the minority group of the Investors, thus forming the Current Board of Directors (the "Current Board"). The Current Board recognized the need for a neutral, independent, special situations Chief Executive who could restore confidence, restructure the business and its operations, reduce excessive expenses and broker a settlement between Investors and the Controlling Founder. In November 2020, the Controlling Founder, who had stepped aside in June, voluntarily resigned as Chief Executive Officer. The Current Board appointed A.B. Hussain, as the new Chief Executive Officer of Augustus.

18. In December 2020, recognizing the need to position Augustus for proceedings such as these and in the event the intransigence between the various factions and the independent investigation continued, the new CEO retained, along with the Current Board, Emmet Keary, as its General Counsel.<sup>3</sup>

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<sup>3</sup> In light of this Chapter 11 filing and the New Board's appointment of me as CRO, the new CEO agreed with the Current Board to step aside as Chief Executive Officer in an effort to conserve capital while the Chapter 11

19. In January 2021, Armstrong Teasdale retained Alix Partners to assist with the forensic accounting aspect of the investigation. The Current Board has been advised that the independent investigation is not yet completed, but has been informed by Armstrong Teasdale the investigation is near conclusion, pending the production of certain additional limited information.

**V. Events Leading to Augustus's Filing for Chapter 11 Relief**

20. The German negative media campaign, the investigation, and the Pacelli Litigation caused a further increase in costs and paralyzed Augustus's operating business and hindered its ability to obtain new revenue sources and fundraising efforts. At the time the Current Board was appointed, it became clear that Augustus would need to raise additional capital. Augustus is party with Kevin Washington to a Series Seed Preferred Stock Investment Agreement dated November 26, 2018, pursuant to which Mr. Washington agreed to purchase preferred stock in Augustus for \$20,000,904 in cash and \$30,000,000 in kind for an interest in certain data centers, which, upon information and belief, Mr. Washington indirectly owns. Augustus is party with Alexis Richard Bachofen von Echt (together with Kevin Washington, the "Equity Purchasers") to a Series Seed Preferred Stock Investment Agreement executed May 4, 2020 (together with Mr. Washington's agreement, the "Investment Agreements"), pursuant to which Mr. Bachofen von Echt agreed to purchase preferred stock in Augustus for \$20,000,000 in cash and \$10,000,000 in kind for an interest in Green Frame Holdings LLC, an entity which, upon information and belief, Mr. Bachofen von Echt owns. Despite Augustus's efforts to obtain the promised capital from the Equity Purchasers, both Equity Purchasers wrongfully refused to honor their obligations under their respective Investment Agreements, resulting in Augustus and its stakeholders suffering

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is pending, and Mr. Keary, who has restructuring experience, agreed to assume the additional role as President while the Chapter 11 is pending.

significant damages. Augustus reserves the right to bring claims against the Equity Purchasers for its damages.

21. New Board and the new CEO initiated a rigid cost cutting program. They implemented a significant reduction in force in order to reduce payroll expenses, entered into a sublease for Augustus's Manhattan headquarters space in order to reduce rental expenses, and took a number of other steps to reduce its cash burn by 90%. However, those cost cutting measures proved insufficient for Augustus to become cash flow positive as it only had approximately \$2 million in recurring revenue after spending over \$30 million.

22. The Controlling Founder had committed to transfer his voting rights back to the company in Q4 2020 to allow a fund raise. Unfortunately for all stakeholders and despite repeated pleas by the Chairman and new CEO, who stressed the deteriorating cash position, the Controlling Founder delayed signing over a temporary and conditional proxy of his voting rights until March 10, 2021, eventually signing these rights to the Chairman and new CEO. On March 11, 2021, the Chairman and new CEO gave an irrevocable proxy to the independent representative of the minority shareholders, Ronald Rolfe, for an upcoming shareholder meeting. On March 12, 2021, the new CEO received support from the vast majority of shareholders for an additional project and able to convert certain negative votes amongst disgruntled shareholders to abstentions. It appeared Augustus might finally be in a position to raise external capital to address its perilous cash position as a result of the aforementioned intransigence on the part of the Controlling Founder. The new CEO was finally able to progress with plans to seek external capital, when an additional and ultimately final blow was dealt. On March 15, 2021, Augustus received a notice from the Securities and Exchange Commission that it was opening a file to investigate the conduct of Prior Management and its equity raise based on a

complaint it had received from an unknown party (the “SEC Investigation”). This was effectively the last straw, rendering anything, but DIP financing, impossible.

23. In addition to continuing to lose cash from operations, Augustus continued to incur significant professional and advisory fees in connection with the long-running independent investigation, the SEC Investigation and other issues involving disgruntled Investors. As a result, Augustus’s remaining cash became perilously low, creditors needed to be protected as well as the shareholders, forcing the Current Board to pass a resolution to support filing its Chapter 11 petition and to seek to employ the various restructuring professionals with Court Approval.

**VI. Goals of this Chapter 11 Restructuring**

24. A filing under Chapter 11, subchapter V, will be very useful to Augustus. Augustus commenced this Chapter 11 case to preserve the value of its assets, pay creditors and restructure its capital structure. Further, Augustus hopes to quickly and finally reach a fair and equitable, Court-approved settlement and resolution of the disputes with its Investors in order to maximize Augustus’s going concern value for the benefit of the estate, its creditors and equity holders.

25. Augustus looks forward to working closely with the Subchapter V Trustee and creditors and other stakeholders to propose a plan as soon as possible that will harness the value of Augustus’s newly restructured operations over three to five years (or sooner) as required under the Bankruptcy Code.

**VII. First Day Motions**

26. Augustus's proposed professionals are in the process of finalizing various "first day" motions seeking standard relief in chapter 11 cases, which motions will be filed shortly. Once those motions are finalized, I will submit a Supplemental Declaration in Support of the "First Day Motions".

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 24, 2021, at Nassau, New York.

/s/ Brian Ryniker  
Brian Ryniker

### AUGUSTUS INTELLIGENCE INC. ORGANIZATIONAL CHART

