

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In re:

PITTSBURGH ATHLETIC ASSOCIATION,  
et al.,<sup>1</sup>

Debtors,

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MCKNIGHT REALTY PARTNERS,  
As the assignee of Martin S. Samuels and  
Johanna S. Samuels,

Movant,

vs.

WALNUT PAA, L.P.,  
As the assignee of A.J. Demor & Sons, Inc.,

Respondent.

Jointly Administered at:

Bankruptcy No: 17-22222-JAD

Bankruptcy Nos:  
17-22222-JAD, and  
17-22223-JAD

Chapter 11

**EXPEDITED MOTION FOR A PROTECTIVE ORDER**

AND NOW, comes McKnight Realty Partners (“McKnight”), by and through its Counsel, Kirk B. Burkley, Esq. and the law firm of Bernstein-Burkley, P.C., and files the within Expedited Motion for a Protective Order as follows:

**Background**

1. On March 29, 2018, the Pittsburgh Athletic Association (“Debtor”) filed an Expedited Third Motion to Extend the Exclusivity Period for Filing a Chapter 11 Plan and Disclosure Statement (“Expedited Third Motion”). (Doc. No. 630)

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<sup>1</sup> The Debtors have the following cases pending: Pittsburgh Athletic Association, Bankruptcy No. 17-22222-JAD and the Pittsburgh Athletic Association Land Company, Bankruptcy No. 17-22223-JAD, both cases are being jointly administered under Case No. 17-22222-JAD

2. On April 10, 2018, after a hearing on the Expedited Third Motion, the Court entered a Modified Order Granting the Expedited Third Motion and extending the exclusivity period until the conclusion of the confirmation hearing or hearings on the Debtors' Plan of record. (Doc. No. 669)

3. On April 15, 2018, the Debtors filed a Second Revised Amended Plan, an Amended Disclosure Statement for Impaired Classes and an Expedited Motion for Order (i) conditionally approving the impaired class disclosure statement for solicitation purposes only, (ii) approving the form of ballots, (iii) setting balloting deadline, and (iv) continuing the April 24, 2018 confirmation hearing on the Amended Chapter 11 Plan to May 8, 2018. (Doc. Nos. 673, 674 and 675, respectively).

4. On April 16, 2018, the Debtors, with the consent of various interested parties, filed a Joint Motion for Status Conference requesting a telephonic status conference regarding the matters on for the previously scheduled April 24, 2018 Hearing ("Motion for Status Conference").

5. On that same date, the Court granted the Motion for Status Conference and scheduled a telephonic conference for April 19, 2018 at 10:00 a.m. ("April 19 Status Conference").

6. During the April 19 Status Conference, the Court, among other things, required the Debtors to file a new amended plan and disclosure statement ("New Amended Plan").

7. At the current time, there is no New Amended Plan of record and, therefore, no pending objections or objection deadline related to the yet to be filed New Amended Plan are at issue.

8. On April 17, 2018, Walnut PAA, L.P. as assignee of A.J. Demor & Sons, Inc. ("Walnut"), served on McKnight Realty Partners, as the assignee of Martin S. Samuels and Johanna S. Samuels, the following: (i) Request for Production of Documents directed to McKnight Realty Partners ("Requests for Production"); (ii) Interrogatories Directed to McKnight Realty Partners ("Interrogatories"); and (iii) Notice of Deposition Duces Tecum Directed to Corporate Representative of McKnight Realty Partners

(“Notice of Deposition” and, collectively with the Requests for Production and Interrogatories, the “Discovery Requests”). *See* Exhibits A, B, and C, respectively.<sup>2</sup>

9. For the following reasons, McKnight hereby submits this Motion for a Protective Order related to the Discovery Requests.

### **Argument**

10. McKnight moves for a Protective Order pursuant to Bankruptcy Rule of Civil Procedure 7026(C), this Court’s authority under 11 U.S.C. §105 and any other applicable laws.

11. The Discovery Requests were served to oppress McKnight and requiring responses thereto, and an appearance at a deposition, would cause McKnight undue burden and unnecessary expenses.

12. As stated above, there is currently no New Amended Plan of record and, consequently, no pending objections thereto.

13. With the possible exception of treatment related to an assigned claim, McKnight had no involvement with any previously filed Plans and is not under any agreement to purchase any assets of the Debtors.

14. The Discovery Requests directed to McKnight are not relevant to any pending matter related to the Bankruptcy cases and are inappropriate. To the extent McKnight is a potential bidder, the Discovery Requests can only be construed as an attempt to chill bidding by making it burdensome for McKnight to participate in a sale process.

15. Moreover, the requests are overly broad, vague, and not reasonably calculated to lead to the discovery of admissible evidence related to the current bankruptcy proceedings.

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<sup>2</sup> The Discovery requests were served under a caption that indicates that Walnut is the movant and McKnight the respondent, however, no such motion was filed of record or served on McKnight.

16. Additionally, the Notice of Deposition fails to meet the requirements of Bankruptcy Rule of Civil Procedure 7030 in that it does not give McKnight reasonable notice, including the time to comply with the related document request, of the proposed deposition.

17. The Notice of Deposition does not describe the matters for examination with reasonable (or any) particularity as is required under Rule 7030.

18. The Discovery Requests are an inappropriate fishing expedition and appear to have been served in an attempt to dissuade McKnight from bidding should the opportunity arise.

19. The undersigned counsel for McKnight certifies that he has conferred with counsel for Walnut in an effort to resolve this dispute without Court action. No such attempt occurred until after the Discovery Requests were served.

20. Simply put, the Debtor maintains exclusivity and will either confirm a plan or it won't. Confirmation of the anticipated Amended Plan rests on the contents of such Amended Plan and whether the Debtor can meet the requirements of 11 U.S.C. Section 1129. The Discovery Requests are wholly inappropriate and irrelevant to that standard.

#### **Request for Expedited Relief**

21. In order to obtain a hearing on an expedited basis a movant must show: (1) just cause to request consideration of the underlying matter on an expedited basis; (2) the specific harm the movant shall incur if a hearing is not granted on an expedited basis; and (3) the need for an expedited hearing has not been caused by any lack of due diligence on the part of the attorney or the attorney's client but has been brought about solely by circumstances beyond their control. *See* W.D.Pa. LBR 9013-2(a).

22. In the instant case, just cause exists for the Court to hold an expedited hearing on this matter as obtaining a determination on the Motion for Protective Order under the normal notice period

would cause McKnight to incur irreparable harm including that it would either have to attempt to comply with the improper, oppressive and unduly burdensome Discovery Requests or risk Walnut claiming a lack of compliance.

23. McKnight submits this Motion for a Protective Order on an expedited basis due to the time to respond and appear for a deposition set forth in Walnut's Discovery Requests.

24. The need for an expedited hearing was not caused by a lack of due diligence and is brought solely by circumstances out of McKnight's control.

25. Accordingly, McKnight requests this Court schedule a hearing on this matter on an expedited basis.

WHEREFORE, McKnight respectfully requests that this Court enter the attached Orders setting an expediting hearing and forbidding the Discovery Requests served by Walnut.

Dated: April 20, 2018

BERNSTEIN-BURKLEY, P.C.

By: /s/ Kirk B. Burkley  
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Attorney for Creditor,  
McKnight Realty Partners

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF PENNSYLVANIA**

In re:

PITTSBURGH ATHLETIC ASSOCIATION,  
*et al.*,<sup>1</sup>

Debtors,

Jointly Administered at:  
Bankruptcy No. 17-22222-JAD

Bankruptcy Nos:  
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17-22223-JAD

Chapter 11

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WALNUT PAA, L.P.  
as the assignee of A.J. Demor & Sons, Inc.

Movant,

vs.

MCKNIGHT REALTY PARTNERS,  
As the assignee of Martin S. Samuels and  
Johanna S. Samuels

Respondent.

**REQUEST FOR PRODUCTION OF DOCUMENTS  
DIRECTED TO MCKNIGHT REALTY PARTNERS**

Movant, WALNUT PAA, L.P., by and through its undersigned attorneys, Jonathan M. Kamin, Esquire, David A. Wolf, Esquire, of the law firm Goldberg, Kamin & Garvin LLP, and David K. Rudov, Esquire of the law firm Rudov Law, pursuant to the bench order of the Honorable Jeffrey A. Deller, issued on April 10, 2018, authorizing and directing discovery in this matter, serve the following Request for Production of Documents directed to Respondent, McKnight Realty Partners ("McKnight"), to be answered, in writing, under oath, within three (3) days of service hereof at the office of Goldberg, Kamin & Garvin, LLP, 437 Grant Street, Suite 1806, Pittsburgh, PA 15219.

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<sup>1</sup> The Debtors have the following cases pending Pittsburgh Athletic Association, Bankruptcy No. 17-22222-JAD, and Pittsburgh Athletic Association Land Company, Bankruptcy No. 17-22223-JAD, both cases are being jointly administered under Case NO. 17-22222-JAD

Each request shall be continuing in nature. If, after providing answers to these Request for Production of Documents you become aware of additional information responsive to these requests, you are required to furnish a supplemental answer within a reasonable time.

### **DEFINITIONS AND INSTRUCTIONS**

1. These Request for Production of Documents ("Request(s)"), are intended to include all documents known to McKnight, their representatives, consultants, attorneys, agents, experts, accountants, auditors, and advisors, and anyone acting on McKnight's behalf, either past or present.

2. When an individual Request calls for an answer which involves more than one part, the answer to each part should be clearly set out so that it is understandable.

3. In the event that your answer to any Request is "not applicable" or any similar phrase or answer, explain in detail why the Request is not applicable.

4. In the event that your answer to an Request is "do not know" or "unknown" or any similar phrase or answer, explain in detail all efforts made by you, your attorneys, or representatives to obtain the answer to that Request.

5. If you refer to a document or documents with respect to any answer, identify such document or documents with sufficient specificity to permit the document to be easily and precisely located and/or requested, and identify the page or portion of the document that is pertinent to your answer.

6. If any Request calls for information that you claim is privileged or otherwise protected from disclosure, then state in response to each such Request:

- (a) The privilege or other protection claimed (e.g., attorney-client privilege, work product rule, etc.).
- (b) The basis in fact for the privilege.
- (c) Whether the matter claimed to be privileged or otherwise protected from disclosure is oral or written and if oral, (i) the date of the communication, (ii) the identity of the persons who were parties to or participated in such communication, (iii) all other persons present when the communication was made, (iv) all persons to whom the communication was subsequently disclosed and (v) a brief description of the subject matter of the communication; or if written, (i) the date of the communication, (ii) the identities of the author or authors (and, if different, the signer or signers), (iii) the identities of the addressee or addressees (and, if different, the recipient or recipients, including all persons who received copies) thereof, (iv) a brief description of the subject matter thereof, (v) set forth the

location of the document and (vi) identify the custodian or person in possession of the document.

7. If you object to, or otherwise decline to answer any portion of a Request, provide all information called for by that portion of the Interrogatory to which you do not object or to which you do not decline to answer. For those portions of any Request to which you object or otherwise decline to answer, state in detail the reason for such objection or declination.

8. If McKnight requires clarification of what is being sought in any Request, please telephone the undersigned attorneys prior to declining to answer or answering incompletely.

### **DEFINITIONS**

1. “Debtor” or “PAA” shall mean and be deemed to refer to Debtor, the Pittsburgh Athletic Association, and its board member, member, former member, employees, agents, experts, investigators, consultants, advisors, attorneys or representatives, either past or present, and any other person.

2. PAALC shall mean and be deemed to refer to Debtor, the Pittsburgh Athletic Association Land Company, and its board member, member, employees, agents, experts, investigators, consultants, advisors, attorneys or representatives, either past or present, and any other person.

3. “PAALC Property” shall mean and be deemed to refer to collectively the real property owned by the PAALC located at 4215 Fifth Avenue, Pittsburgh, PA 15213, bearing tax parcel identification number 27-R-1358, and containing approximately 33,136 square feet of land and the real property between Bigelow Boulevard and Lytton Avenue, Pittsburgh, PA 15213, bearing a tax parcel identification number of 27-R-110, and containing approximately 23,685 square feet of land.

4. “PAAPA” shall mean and be deemed to refer to the Pittsburgh Athletic Association Preservation Association, a non-profit organization allegedly comprised of former, current and future members of the Pittsburgh Athletic Association.

5. “You” or the “Respondent” shall mean and be deemed to refer to the McKnight Realty Partners and their employees, agents, experts, investigators, consultants, advisors, attorneys or representatives, either past or present, and any other person action on their behalf.

6. The word “document” or “documents” means, without limitation, the following items, whether printed or recorded or reproduced by any other mechanical process, or written or produced by hand: agreements, communications, state and federal governmental hearings and reports, correspondence, telegrams, memoranda, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, diaries, graphs, reports, notebooks, note charts, plans, drawings, sketches, maps, summaries or records of meetings or conferences, summaries or reports of investigations or negotiations, opinions or reports of consultants, radiographs, photographs, motion picture film, brochures, pamphlets, advertisements, circulars, press releases, drafts, letters, any marginal comments appearing on any document, and all other



writings, all originals and all copies not identical to the original or to each other; all drafts; two writings of any kind; tapes, computer discs, CD Rom, CD-R, CD-RW, DVD, microfilm, microfiche, raster bitmaps, magneto optical (MO) disks, electronic images and associated indexing data, Write Once Read Many (WORM) laser disks; or any other form of photographically or electronically, digitally, magnetically impulsed, or otherwise recorded or represented information, image or document storage, including, but not limited to word processor document resource information (e.g. MS Word, Corel WordPerfect "properties" tabs) drafts and redlined versions of documents, compound documents (e.g. documents where the image is one file and the text is in another); e-mail and voice-mail archives; e-mail and voice-mail messages and back-ups; databases; document management databases; Internet service provider's records, including user account information and identification of firewalls, caches and cookies; network router traffic indicia; world wide web pages, including but not limited to HTML, XML, SGML, XGML, VRML, Adobe Acrobat, Corel Envoy, MIF, RTF, EPS, prepress formats, emails or text messages, internet postings, blogs and any other electronic or computerized data compilations.

7. "Identity" or "Identify" when referring to a document shall mean to set forth a) a brief statement of the content; b) the identity of the person(s) who prepared the document; c) the place where the document was prepared; d) the date of preparation; e) the identity of each person to whom it was addressed and of each person who received a copy of the document; and f) the identity of each person who presently has a copy or the original of the document; g) any claims of privilege as to each such document or copy thereof, the nature of the privilege claimed and the grounds supporting the purported claim of privilege.

8. "Identify" with respect to any "person" means to provide the person's full name, home address, e-mail addresses, telephone number, and last known employer. Also, regardless of whether the individual identified is a former or current employee, please identify the person's job title.

9. The word "all" shall also mean "any", and vice versa.

10. The phrase "relating to" means describing, referring to, constituting, supporting, contradicting, containing, embodying, analyzing, discussing, evaluating, or relevant to.

**11. If the Respondent considers any document called for in these Interrogatories or Document Request to be privileged from production, then the Respondent must include in the answers to these Interrogatories/Document Request a Privilege Log which contains at least a list of documents withheld from production, identifying each document by date, addressee(s), author, title, and subject matter. In addition, the Respondent should identify those persons who have seen the document or who were sent copies. Finally, the Respondent should state the ground(s) upon which each such document is considered privileged.**

12. Unless a specific time period is asked for with respect to all inquiries relate from January 2017 through the date of your answers and production.

## **REQUEST FOR PRODUCTION OF DOCUMENTS**

**Request for Production No. 1:** Please produce all documents referred to or relied upon in responding to the Movant's interrogatories.

**Request for Production No. 2:** Please produce all documents, including but not limited to emails and text messages, by and between the Respondent and the following individuals relating to the PAALC Property:

- a. PAA board members;
- b. PAA members, former members, or alleged members;
- c. PAALC board members;
- d. PAALC members, former members or alleged members;
- e. PAAPA members or alleged members;
- f. Yvone L. Rose;
- g. Irwin Kotovsky;
- h. employees of O'Keefe Consulting.

**Request for Production No. 3:** Please produce all files generated or received by your or your attorney through the investigation of the Movant's purchase of the PAALC Property, excluding reference to mental impressions, conclusions or opinions representing the value of merit of a claim or defense or respecting strategy or tactic and further excluding privileged communication from counsel.

**Request for Production No. 4:** Please produce all documents that form the basis of the representations in the Objection to Debtor's Expedited Third Motion to Extend Plan Exclusivity Pursuant to 11 U.S.C. §1121(d), filed by Irwin Kotovsky at Document 659 (hereinafter referred to as the "Kotovsky Objection"). Specifically, produce the following:

- a. all documents which relate to the submission of a redevelopment proposal for the PAA property far superior to the Board's proposed sale to Walnut Capital as identified in paragraph 29 of the Kotovsky Objection;
- b. all documents or Proposals from McKnight, to Mike Deighan identified in paragraph 30 of the Kotovsky Objection;
- c. all documents which related to the renovations contemplated in McKnight's Proposal as set forth in paragraph 31 of the Kotovsky Objection;
- d. all documents which relate to the "due diligence" McKnight has agreed to waive as set forth in paragraph 32 of the Kotovsky Objection;
- e. all documents which relate to McKnight agreeing to allow PAA members to continue access to fitness and health facilities located in the Grant Building and Oliver Building while the building is undergoing renovations as set forth in paragraph 33 of the Kotovsky Objection;

- f. all documents which support the averment that “it is evident that members fare considerably better under the McKnight Proposal,” as set forth in paragraph 34 of the Kotovsky Objection;
- g. all documents which support the averment that, “the interested parties most impacted by the decision of a developer are the members,” as set forth in paragraph 35 of the Kotovsky Objection;

**Request for Production No. 5:** produce all information regarding a proposed 5% ownership interest to be provided to the PAA, upon the acquisition of the PAALC Property. Include all written proposals, emails and/or text messages detailing the full terms and conditions relating to the proposed ownership interest to be provided to the PAA upon the acquisition of the PAALC Property by the Respondent or any other related entity.

GOLDBERG, KAMIN & GARVIN, LLP

Dated: April 17, 2018

/s/ Jonathan M. Kamin  
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Attorneys for the Movant,  
WALNUT PAA, L.P.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Request for Production of Documents was served upon the below listed parties via email upon the following this 17<sup>th</sup> day of April, 2018:

Kirk B. Burkley, Esquire  
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/s/ David A. Wolf  
David A. Wolf, Esquire

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF PENNSYLVANIA**

In re:

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*et al.*,<sup>1</sup>

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Movant,

vs.

MCKNIGHT REALTY PARTNERS,  
As the assignee of Martin S. Samuels and  
Johanna S. Samuels

Respondent.

**INTERROGATORIES DIRECTED TO MCKNIGHT REALTY PARTNERS**

Movant, Walnut PAA, L.P., (as assignee of the A.J. Demor & Sons, Inc. claim), by and through its undersigned attorneys, Jonathan M. Kamin, Esquire, David A. Wolf, Esquire, of the law firm Goldberg, Kamin & Garvin LLP, and David K. Rudov, Esquire of the law firm Rudov Law, pursuant to the Bench Order of the Honorable Jeffrey A. Deller, issued on April 10, 2018, authorizing and directing discovery in this matter, serve the following Interrogatories directed to Respondent, McKnight Realty Partners (“McKnight”), (as the assignee of the Martin S Samuels and Johanna S. Samuels claim), to be answered, in writing, under oath, within three (3) days of service hereof at the office of Goldberg, Kamin & Garvin, LLP, 437 Grant Street, Suite 1806, Pittsburgh, PA 15219.

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Each Interrogatory shall be continuing in nature. If, after providing answers to these Interrogatories you become aware of additional information responsive to these Interrogatories, you are required to furnish a supplemental answer within a reasonable time.

### **DEFINITIONS AND INSTRUCTIONS**

1. These Interrogatories are intended to include all information known to McKnight, their representatives, consultants, attorneys, agents, experts, accountants, auditors, and advisors, and anyone acting on McKnight's behalf, either past or present.

2. When an individual Interrogatory calls for an answer which involves more than one part, the answer to each part should be clearly set out so that it is understandable.

3. In the event that your answer to any Interrogatory is "not applicable" or any similar phrase or answer, explain in detail why the Interrogatory is not applicable.

4. In the event that your answer to an Interrogatory is "do not know" or "unknown" or any similar phrase or answer, explain in detail all efforts made by you, your attorneys, or representatives to obtain the answer to that interrogatory.

5. If an Interrogatory requests a date, provide the exact information. If you do not know or cannot determine the exact date, identify the time period or other information which can be of assistance in determining the requested date and time.

6. If you refer to a document or documents with respect to any answer, identify such document or documents with sufficient specificity to permit the document to be easily and precisely located and/or requested, and identify the page or portion of the document that is pertinent to your answer.

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- (a) The privilege or other protection claimed (e.g., attorney-client privilege, work product rule, etc.).
- (b) The basis in fact for the privilege.
- (c) Whether the matter claimed to be privileged or otherwise protected from disclosure is oral or written and if oral, (i) the date of the communication, (ii) the identity of the persons who were parties to or participated in such communication, (iii) all other persons present when the communication was made, (iv) all persons to whom the communication was subsequently disclosed and (v) a brief description of the subject matter of the communication; or if written, (i) the date of the communication, (ii) the identities of the author or authors (and, if different, the signer or signers), (iii) the identities of the addressee or addressees (and, if different, the

recipient or recipients, including all persons who received copies) thereof, (iv) a brief description of the subject matter thereof, (v) set forth the location of the document and (vi) identify the custodian or person in possession of the document.

8. If you object to, or otherwise decline to answer any portion of an Interrogatory, provide all information called for by that portion of the Interrogatory to which you do not object or to which you do not decline to answer. For those portions of any Interrogatory to which you object or otherwise decline to answer, state in detail the reason for such objection or declination.

9. If McKnight require clarification of what is being sought in any Interrogatory, please telephone the undersigned attorneys prior to declining to answer or answering incompletely.

### **DEFINITIONS**

1. “Debtor” or “PAA” shall mean and be deemed to refer to Debtor, the Pittsburgh Athletic Association, and its board member, member, employees, agents, experts, investigators, consultants, advisors, attorneys or representatives, either past or present, and any other person.

2. PAALC shall mean and be deemed to refer to Debtor, the Pittsburgh Athletic Association Land Company, and its board member, member, employees, agents, experts, investigators, consultants, advisors, attorneys or representatives, either past or present, and any other person.

3. “PAALC Property” shall mean and be deemed to refer to collectively the real property owned by the PAALC located at 4215 Fifth Avenue, Pittsburgh, PA 15213, bearing tax parcel identification number 27-R-1358, and containing approximately 33,136 square feet of land and the real property between Bigelow Boulevard and Lytton Avenue, Pittsburgh, PA 15213, bearing a tax parcel identification number of 27-R-110, and containing approximately 23,685 square feet of land.

4. “PAAPA” shall mean and be deemed to refer to the Pittsburgh Athletic Association Preservation Association, a non-profit organization allegedly comprised of former, current and future members of the Pittsburgh Athletic Association.

5. “You” or the “Respondent” shall mean and be deemed to refer to the McKnight Realty Partners and their employees, agents, experts, investigators, consultants, advisors, attorneys or representatives, either past or present, and any other person action on their behalf.

6. The word “document” or “documents” means, without limitation, the following items, whether printed or recorded or reproduced by any other mechanical process, or written or produced by hand: agreements, communications, state and federal governmental hearings and reports, correspondence, telegrams, memoranda, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, diaries, graphs, reports, notebooks, note charts, plans, drawings, sketches, maps, summaries or records of meetings or conferences, summaries or reports of investigations or negotiations, opinions or reports of consultants, radiographs, photographs, motion picture film, brochures, pamphlets, advertisements, circulars,



press releases, drafts, letters, any marginal comments appearing on any document, and all other writings, all originals and all copies not identical to the original or to each other; all drafts; two writings of any kind; tapes, computer discs, CD Rom, CD-R, CD-RW, DVD, microfilm, microfiche, raster bitmaps, magneto optical (MO) disks, electronic images and associated indexing data, Write Once Read Many (WORM) laser disks; or any other form of photographically or electronically, digitally, magnetically impulsed, or otherwise recorded or represented information, image or document storage, including, but not limited to word processor document resource information (e.g. MS Word, Corel WordPerfect "properties" tabs) drafts and redlined versions of documents, compound documents (e.g. documents where the image is one file and the text is in another); e-mail and voice-mail archives; e-mail and voice-mail messages and back-ups; databases; document management databases; Internet service provider's records, including user account information and identification of firewalls, caches and cookies; network router traffic indicia; world wide web pages, including but not limited to HTML, XML, SGML, XGML, VRML, Adobe Acrobat, Corel Envoy, MIF, RTF, EPS, prepress formats, emails or text messages, internet postings, blogs and any other electronic or computerized data compilations.

7. "Identity" or "Identify" when referring to a document shall mean to set forth a) a brief statement of the content; b) the identity of the person(s) who prepared the document; c) the place where the document was prepared; d) the date of preparation; e) the identity of each person to whom it was addressed and of each person who received a copy of the document; and f) the identity of each person who presently has a copy or the original of the document; g) any claims of privilege as to each such document or copy thereof, the nature of the privilege claimed and the grounds supporting the purported claim of privilege.

8. "Identify" with respect to any "person" means to provide the person's full name, home address, e-mail addresses, telephone number, and last known employer. Also, regardless of whether the individual identified is a former or current employee, please identify the person's job title.

9. The word "all" shall also mean "any", and vice versa.

10. The phrase "relating to" means describing, referring to, constituting, supporting, contradicting, containing, embodying, analyzing, discussing, evaluating, or relevant to.

**11. If the Respondent considers any document called for in these Interrogatories or Document Request to be privileged from production, then the Respondent must include in the answers to these Interrogatories/Document Request a Privilege Log which contains at least a list of documents withheld from production, identifying each document by date, addressee(s), author, title, and subject matter. In addition, the Respondent should identify those persons who have seen the document or who were sent copies. Finally, the Respondent should state the ground(s) upon which each such document is considered privileged.**

12. Unless a specific time period is asked for with respect to all inquiries relate from January 2017 through the date of your answers and production.

## INTERROGATORIES

1. Please set forth the name and address of each person who provided information for the preparation of the answers to these interrogatories or provided documents for the responses to the Request for Production directed to McKnight.

ANSWER:

2. Identify and produce all documents, including but not limited to emails and text messages, by and between the Respondent and the following individuals relating to the PAALC Property:

- a. PAA board members;
- b. PAA members, former members, or alleged members;
- c. PAALC board members;
- d. PAALC members, former members or alleged members;
- e. PAAPA members or alleged members;
- f. Yvone L. Rose;
- g. Irwin Kotovsky;
- h. employees of O'Keefe Consulting.

ANSWER:

- a.
- b.
- c.
- d.
- e.
- f.
- g.
- h.

3. Identify and produce all other documents, including but not limited to emails and text messages, by and between the Respondent and potential investors and/or lending institutions including banks relating to the acquisition of the PAALC Property.

ANSWER:

4. Identify each parcel of property which Respondent (or any of its affiliated entities) has or had under written agreement, letter of intent or signed term sheet, which Respondent did not ultimately close on, during the time period from January 2016 through the date of your answers and production. Please also provide the following information:

- a. identify by street location of each parcel of property Respondent has or had under written agreement.
- b. identify the facts and circumstances of why Respondent's acquisition of each such parcel of property did not close;
- c. identify the Seller of each such parcel of property;
- d. identify all parties or entities which were co-offerors or partners, with the Respondent to purchase the parcels of property identified above;
- e. produce a copy of all written offers identified above.

ANSWER:

- a.
- b.
- c.
- d.
- e.

5. Identify Respondent's due diligence performed to date as to its to the anticipated acquisition of the PAALC Property. Please also provide the following:

- a. Identify and produce all documents relating to any architectural drawings, site plans, floor plans or renderings for the PAALC Property performed by the Respondent or at the Respondent's request;
- b. Identify and produce all documents referring to any engineering, mechanical, electrical or similar studies and reports for the PAALC Property performed by the Respondent or at the Respondent's request;
- c. Identify and produce all asbestos studies and abatement proposals for the PAALC Property performed by the Respondent or at the Respondent's request;
- d. Identify all dates that the Respondent inspected the PAALC Property. Include the time of the inspection(s) and the name of each individual present at each inspection.
- e. Identify all Historical Consultants hired or consulted with. Additionally produce all proposals and/or studies provided by said Historical Consultants.
- f. Identify any meeting with local community groups such as Schenley Farms, Oakland Task Force, Oakland Planning and Development Corporation ("OPDC") or others. Include the date of each meeting and produce any written summaries, including emails or text messages regarding the same.
- g. Identify and produce written summaries submitted to HFF, Inc., as part of the Respondent's due diligence.

ANSWER:

- a.
- b.
- c.
- d.
- e.
- f.
- g.

6. Identify and produce all information regarding a proposed 5% ownership interest to be provided to the PAA, upon the acquisition of the PAALC Property. Include all written proposals, emails and/or text messages detailing the full terms and conditions relating to the proposed ownership interest to be provided to the PAA upon the acquisition of the PAALC Property by the Respondent or any other related entity.

ANSWER:

7. Identify and produce all other documents, including but not limited to emails and text messages, by and between the Respondent and investors and/or lending institutions including banks approving any or all of the funding necessary for the acquisition of the PAALC Property.

ANSWER:

8. Identify and produce all proposals, letters of intent, term sheets, proposed agreements of sale drafted and/or presented for the potential acquisition of the PAALC Property and/or the PAA. Include the dated each was prepared, the date each was submitted and to whom each was submitted to. Also identify and produce a copy of the transmittal letter for each.

ANSWER:

GOLDBERG, KAMIN & GARVIN, LLP

/s/ Jonathan M. Kamin

JONATHAN M. KAMIN, ESQUIRE

[jonathank@gkgattorneys.com](mailto:jonathank@gkgattorneys.com)

PA I.D. #81958

DAVID A. WOLF, ESQUIRE

[davidw@gkgattorneys.com](mailto:davidw@gkgattorneys.com)

PA. I.D. # 51382

437 Grant Street, Suite 1806

Pittsburgh, PA 15219

RUDOV LAW

Dated April 17, 2018

/s/ David K. Rudov

DAVID K. RUDOV

PA I.D. #35579

437 Grant Street, Suite 1806

Pittsburgh, PA 15219

Attorneys for the Movant,  
WALNUT PAA, L.P.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Interrogatories was served upon the below listed parties via email upon the following this 17<sup>th</sup> day of April, 2018:

Kirk B. Burkley, Esquire  
[kburkley@bernsteinlaw.com](mailto:kburkley@bernsteinlaw.com)  
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707 Grant Street, Gulf Tower  
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Pittsburgh, PA 15219  
Counsel for McKnight Realty Partners

Office of the U.S. Trustee  
970 Liberty Center  
Building 1001 Liberty Avenue  
Pittsburgh, PA 15219  
[Norma.L.Hildenbrand@usdov.gov](mailto:Norma.L.Hildenbrand@usdov.gov)

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Preservation Association

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/s/ David A. Wolf  
David A. Wolf, Esquire



**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF PENNSYLVANIA**

In re:

PITTSBURGH ATHLETIC ASSOCIATION,  
*et al.*,<sup>1</sup>

Debtors,

Jointly Administered at:  
Bankruptcy No. 17-22222-JAD

Bankruptcy Nos:  
17-22222-JAD, and  
17-22223-JAD

Chapter 11

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WALNUT PAA, L.P.  
as the assignee of A.J. Demor & Sons, Inc.

Movant,

vs.

MCKNIGHT REALTY PARTNERS,  
As the assignee of Martin S. Samuels and  
Johanna S. Samuels

Respondent.

**NOTICE OF DEPOSITION DUCES TECUM DIRECTED  
TO CORPORATE REPRESENTATIVE OF MCKNIGHT REALTY PARTNERS**

To: Corporate Representative  
McKnight Realty Partners  
Kirk B. Burkley, Esquire  
[kburkley@bernsteinlaw.com](mailto:kburkley@bernsteinlaw.com)  
Bernstein-Burkley, PC  
707 Grant Street, Gulf Tower  
Suite 2200  
Pittsburgh, PA 15219

PLEASE TAKE NOTICE, Movant, Walnut PAA, L.P., (as assignee of the A.J. Demor & Sons, Inc. claim), by and through its undersigned attorneys, Jonathan M. Kamin, Esquire, David A. Wolf, Esquire, of the law firm Goldberg, Kamin & Garvin LLP, and David K. Rudov, Esquire

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<sup>1</sup> The Debtors have the following cases pending Pittsburgh Athletic Association, Bankruptcy No. 17-22222-JAD, and Pittsburgh Athletic Association Land Company, Bankruptcy No. 17-22223-JAD, both cases are being jointly administered under Case NO. 17-22222-JAD

of the law firm Rudov Law, pursuant to the Bench Order of the Honorable Jeffrey A. Deller, issued on April 10, 2018, authorizing and directing discovery in this matter, will take the deposition by oral examination of the Corporate Representative of Respondent, McKnight Realty Partners ("McKnight"), (as the assignee of the Martin S. Samuels and Johanna S. Samuels claim).

The Corporate Representative of McKnight shall appear for the deposition under oath before an officer authorized to administer oaths in the at the offices of GOLDBERG, KAMIN & GARVIN, LLP, 437 Grant Street, Suite #1806, Frick Building, Pittsburgh, PA 15219, on **Monday, April 23, 2018, beginning at 9:30 a.m.** (the "Deposition Date") and continue until the conclusion of the examination.

McKnight is further directed to designate a Corporate Designee with knowledge of McKnight's Answers to Interrogatories and Responses to Request to Production of Documents in response to the discovery propounded on it by the Movant, Walnut PAA, L.P., on even date herewith. **Additionally, the Corporate Designee is to produce on the Deposition Date the documents set for on Exhibit "A" attached hereto.**

GOLDBERG, KAMIN & GARVIN, LLP

/s/ Jonathan M. Kamin  
JONATHAN M. KAMIN, ESQUIRE  
[jonathank@gkgattorneys.com](mailto:jonathank@gkgattorneys.com)  
PA I.D. #81958  
DAVID A. WOLF, ESQUIRE  
[davidw@gkgattorneys.com](mailto:davidw@gkgattorneys.com)  
PA. I.D. # 51382  
437 Grant Street, Suite 1806  
Pittsburgh, PA 15219

RUDOV LAW

Dated April 17, 2018

/s/ David K. Rudov  
DAVID K. RUDOV  
PA I.D. #35579  
437 Grant Street, Suite 1806  
Pittsburgh, PA 15219

Attorneys for the Movant,  
WALNUT PAA, L.P.

## **EXHIBIT A**

### **DOCUMENTS TO BE PRODUCED**

#### **I. DEFINITIONS**

1. “Debtor” or “PAA” shall mean and be deemed to refer to Debtor, the Pittsburgh Athletic Association, and its board member, member, employees, agents, experts, investigators, consultants, advisors, attorneys or representatives, either past or present, and any other person.

2. PAALC shall mean and be deemed to refer to Debtor, the Pittsburgh Athletic Association Land Company, and its board member, member, employees, agents, experts, investigators, consultants, advisors, attorneys or representatives, either past or present, and any other person.

3. “PAALC Property” shall mean and be deemed to refer to collectively the real property owned by the PAALC located at 4215 Fifth Avenue, Pittsburgh, PA 15213, bearing tax parcel identification number 27-R-1358, and containing approximately 33,136 square feet of land and the real property between Bigelow Boulevard and Lytton Avenue, Pittsburgh, PA 15213, bearing a tax parcel identification number of 27-R-110, and containing approximately 23,685 square feet of land.

4. “PAAPA” shall mean and be deemed to refer to the Pittsburgh Athletic Association Preservation Association, a non-profit organization allegedly comprised of former, current and future members of the Pittsburgh Athletic Association.

5. “You” or the “Respondent” shall mean and be deemed to refer to the McKnight Realty Partners and their employees, agents, experts, investigators, consultants, advisors, attorneys or representatives, either past or present, and any other person action on their behalf.

6. The word “document” or “documents” means, without limitation, the following items, whether printed or recorded or reproduced by any other mechanical process, or written or produced by hand: agreements, communications, state and federal governmental hearings and reports, correspondence, telegrams, memoranda, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, diaries, graphs, reports, notebooks, note charts, plans, drawings, sketches, maps, summaries or records of meetings or conferences, summaries or reports of investigations or negotiations, opinions or reports of consultants, radiographs, photographs, motion picture film, brochures, pamphlets, advertisements, circulars, press releases, drafts, letters, any marginal comments appearing on any document, and all other writings, all originals and all copies not identical to the original or to each other; all drafts; two writings of any kind; tapes, computer discs, CD Rom, CD-R, CD-RW, DVD, microfilm, microfiche, raster bitmaps, magneto optical (MO) disks, electronic images and associated indexing data, Write Once Read Many (WORM) laser disks; or any other form of photographically or electronically, digitally, magnetically impulsed, or otherwise recorded or represented information, image or document storage, including, but not limited to word processor document resource information (e.g. MS Word, Corel WordPerfect “properties” tabs) drafts and redlined versions of

documents, compound documents (e.g. documents where the image is one file and the text is in another); e-mail and voice-mail archives; e-mail and voice-mail messages and back-ups; databases; document management databases; Internet service provider's records, including user account information and identification of firewalls, caches and cookies; network router traffic indicia; world wide web pages, including but not limited to HTML, XML, SGML, XGML, VRML, Adobe Acrobat, Corel Envoy, MIF, RTF, EPS, prepress formats, emails or text messages, internet postings, blogs and any other electronic or computerized data compilations.

7. "Identity" or "Identify" when referring to a document shall mean to set forth a) a brief statement of the content; b) the identity of the person(s) who prepared the document; c) the place where the document was prepared; d) the date of preparation; e) the identity of each person to whom it was addressed and of each person who received a copy of the document; and f) the identity of each person who presently has a copy or the original of the document; g) any claims of privilege as to each such document or copy thereof, the nature of the privilege claimed and the grounds supporting the purported claim of privilege.

8. "Identify" with respect to any "person" means to provide the person's full name, home address, e-mail addresses, telephone number, and last known employer. Also, regardless of whether the individual identified is a former or current employee, please identify the person's job title.

9. The word "all" shall also mean "any", and vice versa.

10. The phrase "relating to" means describing, referring to, constituting, supporting, contradicting, containing, embodying, analyzing, discussing, evaluating, or relevant to.

11. Unless a specific time period is asked for with respect to all inquiries relate from January 2017 through the Deposition Date.

## **II THE DEPONENT IS TO PRODUCE THE FOLLOWING DOCUMENTS:**

1. All documents, including but not limited to emails and text messages, by and between the Respondent and the following individuals relating to the PAALC Property:

- a. PAA board members;
- b. PAA members, former members, or alleged members;
- c. PAALC board members;
- d. PAALC members, former members or alleged members;
- e. PAAPA members or alleged members;
- f. Yvone L. Rose;
- g. Irwin Kotovsky;
- h. employees of O'Keefe Consulting.

2. All other documents, including but not limited to emails and text messages, by and between the Respondent and potential investors and/or lending institutions including banks relating to the acquisition of the PAALC Property.

3. All documents which identify each parcel of property which Respondent (or any of its affiliated entities) has or had under written agreement, letter of intent or signed term sheet, which Respondent did not ultimately close on, during the time period from January 2016 through the date of your answers and production. Please also produce documentation which:

- a. identifies by street location of each parcel of property Respondent has or had under written agreement.
- b. identifies the facts and circumstances of why Respondent's acquisition of each such parcel of property did not close;
- c. identifies the Seller of each such parcel of property;
- d. identifies all parties or entities which were co-offerors or partners, with the Respondent to purchase the parcels of property identified above;
- e. produce a copy of all written offers identified above.

4. All documentation which evidences Respondent's due diligence performed to date as to its to the anticipated acquisition of the PAALC Property. Please also produce the following:

- a. all documents relating to any architectural drawings, site plans, floor plans or renderings for the PAALC Property performed by the Respondent or at the Respondent's request;
- b. all documents referring to any engineering, mechanical, electrical or similar studies and reports for the PAALC Property performed by the Respondent or at the Respondent's request;
- c. all asbestos studies and abatement proposals for the PAALC Property performed by the Respondent or at the Respondent's request;
- d. all documents which evidences the dates that the Respondent inspected the PAALC Property. Include the time of the inspection(s) and the name of each individual present at each inspection.
- e. all documents which evidences Historical Consultants hired or consulted with. Additionally, produce all proposals and/or studies provided by said Historical Consultants.
- f. all documentation which evidences any meeting with local community groups such as Schenley Farms, Oakland Task Force, Oakland Planning and Development Corporation ("OPDC") or others. Also produce any written summaries, including emails or text messages regarding the same.
- g. all written summaries submitted to HFF, Inc., as part of the Respondent's due diligence.

5. Produce all documentation regarding a proposed 5% ownership interest to be provided to the PAA, upon the acquisition of the PAALC Property. Also produce a copy of all written proposals, emails and/or text messages detailing the full terms and conditions relating to the proposed ownership interest to be provided to the PAA upon the acquisition of the PAALC Property by the Respondent or any other related entity.

6. Produce all other documents, including but not limited to emails and text messages, by and between the Respondent and investors and/or lending institutions including banks approving any or all of the funding necessary for the acquisition of the PAALC Property.

7. Produce all proposals, letters of intent, term sheets, proposed agreements of sale drafted for the potential acquisition of the PAALC Property and/or the PAA. Include the dated each was prepared, the date each was submitted and to whom each was submitted to. Also identify and produce a copy of the transmittal letter for each.

8. Produce all files generated or received by your or your attorney through the investigation of the Movant's purchase of the PAALC Property, excluding reference to mental impressions, conclusions or opinions representing the value of merit of a claim or defense or respecting strategy or tactic and further excluding privileged communication from counsel.

9. Produce all documents that form the basis of the representations in the Objection to Debtor's Expedited Third Motion to Extend Plan Exclusivity Pursuant to 11 U.S.C. §1121(d), filed by Irwin Kotovsky at Document 659 (hereinafter referred to as the "Kotovsky Objection"). Specifically, produce the following:

- a. all documents which relate to the submission of a redevelopment proposal for the PAA property far superior to the Board's proposed sale to Walnut Capital as identified in paragraph 29 of the Kotovsky Objection;
- b. all documents or Proposals from McKnight, to Mike Deighan identified in paragraph 30 of the Kotovsky Objection;
- c. all documents which related to the renovations contemplated in McKnight's Proposal as set forth in paragraph 31 of the Kotovsky Objection;
- d. all documents which relate to the "due diligence" McKnight has agreed to waive as set forth in paragraph 32 of the Kotovsky Objection;
- e. all documents which relate to McKnight agreeing to allow PAA members to continue access to fitness and health facilities located in the Grant Building and Oliver Building while the building is undergoing renovations as set forth in paragraph 33 of the Kotovsky Objection;
- f. all documents which support the averment that "it is evident that members fare considerably better under the McKnight Proposal," as set forth in paragraph 34 of the Kotovsky Objection;
- g. all documents which support the averment that, "the interested parties most impacted by the decision of a developer are the members," as set forth in paragraph 35 of the Kotovsky Objection.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Notice of Deposition directed to the Corporate Representative of McKnight Realty Partners was served upon the below listed parties via email upon the following this 17<sup>th</sup> day of April, 2018:

Kirk B. Burkley, Esquire  
[kburkley@bernsteinlaw.com](mailto:kburkley@bernsteinlaw.com)  
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Counsel for McKnight Realty Partners

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Pittsburgh, PA 15222  
Counsel for Pittsburgh Athletic Association  
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/s/ David A. Wolf  
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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In re:

PITTSBURGH ATHLETIC ASSOCIATION,  
Et al.,

Debtors,

MCKNIGHT REALTY PARTNERS,  
As the assignee of Martin S. Samuels and  
Johanna S. Samuels,

Movant,

vs.

WALNUT PAA, L.P.,  
As the assignee of A.J. Demor & Sons, Inc.,

Respondent,

Jointly Administered at:

Bankruptcy No: 17-22222-JAD

Bankruptcy Nos:  
17-22222-JAD, and  
17-22223-JAD

Chapter 11

**Related Doc. No.:**

**Hearing Date:**  
**Hearing Time:**

**Response Deadline:**

**NOTICE AND ORDER SETTING HEARING ON AN EXPEDITED BASIS**

**AND NOW**, this \_\_\_\_\_ day of April, 2018, **NOTICE IS HEREBY GIVEN THAT** a *Request for an Expedited Hearing on Motion for Protective Order* (the “**Motion**”) has been filed in the above-referenced case by Kirk B. Burkley, Esquire, Counsel for McKnight Realty Partners.

On \_\_\_\_\_, 2018 at \_\_\_\_\_ M. a hearing has been scheduled in Courtroom D, U.S. Bankruptcy Court, U.S. Steel Building, 54th Floor, 600 Grant Street, Pittsburgh, PA 15219.

**On or before** \_\_\_\_\_, **Responses** to the *Motion* shall be filed with the Clerk of the Bankruptcy Court and served on the parties in interest.

**Movant shall serve** a copy of this completed Scheduling Order and the Motion by U.S. Mail **and**, (1) hand delivery **or** (2) facsimile **or** (3) email (separate from CM/ECF) on the Respondent(s), Trustee, Debtor, Debtor’s Counsel, all secured creditors whose interests may be affected by the relief requested, U.S. Trustee and counsel for any committee. In the absence of a committee, the Movant shall serve the 20 largest unsecured creditors. Movant shall immediately file a certificate of service indicating such service.

\_\_\_\_\_  
**JEFFERY A. DELLER**  
**Chief U.S. Bankruptcy Court**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In re:

PITTSBURGH ATHLETIC ASSOCIATION,  
Et al.,

Debtors,

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MCKNIGHT REALTY PARTNERS,  
As the assignee of Martin S. Samuels and  
Johanna S. Samuels,

Movant,

vs.

WALNUT PAA, L.P.,  
As the assignee of A.J. Demor & Sons, Inc.,

Respondent,

Jointly Administered at:  
Bankruptcy No: 17-22222-JAD

Bankruptcy Nos:  
17-22222-JAD, and  
17-22223-JAD

Chapter 11

**ORDER OF COURT**

On this \_\_\_\_ day of April, 2018, upon consideration of McKnight Realty Partners' Expedited Motion for a Protective Order ("Motion") after notice and a hearing, it is hereby ORDERED, ADJUDGED and DECREED that the Motion is GRANTED and the Discovery Requests, as defined in the Motion, are forbidden and, consequently, McKnight Realty Partners is not required to answer, provide documents or otherwise respond to the Discovery Requests or produce a witness related to the Notice of Deposition.

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JEFFREY A. DELLER  
Chief Judge, United States Bankruptcy Court

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In re:

PITTSBURGH ATHLETIC ASSOCIATION,  
Et al.,

Debtors,

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MCKNIGHT REALTY PARTNERS,  
As the assignee of Martin S. Samuels and  
Johanna S. Samuels,

Movant,

vs.

WALNUT PAA, L.P.,  
As the assignee of A.J. Demor & Sons, Inc.,

Respondent,

Jointly Administered at:  
Bankruptcy No: 17-22222-JAD

Bankruptcy Nos:  
17-22222-JAD, and  
17-22223-JAD

Chapter 11

**CERTIFICATE OF SERVICE**

I, Kirk B. Burkley, hereby certify that this 20<sup>th</sup> day of April, 2018, a true and correct copy of the within Expedited Motion for Protective Order was served via electronic notification upon the following:

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