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15 Attorneys for AirDye Solutions, LLC, Meserole, LLC and  
16 Fuller Smith Capital Management, in the capacities  
17 described below

18 **UNITED STATES BANKRUPTCY COURT**  
19 **CENTRAL DISTRICT OF CALIFORNIA**  
20 **LOS ANGELES DIVISION**

21 In re:  
22  
23 **COLOREP, INC., a California corporation, et**  
24 **al.,**  
25  
26 Debtors and Debtors-in-  
27 Possession.  
28  
29 Tax I.D. Nos. 94-3055026 (Colorep, Inc.) and  
30 54-1200596 (Transprint USA, Inc.)

Case No. 13-27689

Chapter 11

(Jointly Administered)

**AMENDED DECLARATION OF  
ROBERT KATZ IN SUPPORT OF  
RESPONSE TO MOTION OF  
SYNERGY PARTNERS USA, LLC AND  
MICHAEL COHEN FOR AN ORDER  
OF CONTEMPT AGAINST  
MESEROLE, LLC AND/OR FULLER  
SMITH CAPITAL MANAGEMENT**

Date: May 15, 2014

Time: 10:00 a.m.

Location: Courtroom 1375

255 E. Temple Street

Los Angeles, CA 90012

1 I, Robert D. Katz, hereby declare as follows:

2 1. I am over 18 years of age and, if called as a witness, I could and would testify  
3 to the matters set forth herein based upon my personal knowledge.

4 2. I am a Managing Director of Executive Sounding Board Associates Inc.  
5 ("ESBA"), a financial and management consulting firm having expertise in turnaround,  
6 bankruptcy and financial advisory issues. ESBA maintains offices in New York, New York and  
7 Philadelphia, Pennsylvania. ESBA was appointed, effective July 10, 2013, to serve as the Chief  
8 Restructuring Officer of the Debtors in these cases, pursuant to motion filed on July 30, 2013  
9 [Docket No. 80] and order entered on November 18, 2013 [Docket No. 245]. I submit this  
10 declaration in support of the Response filed by AirDye Solutions, LLC ("AirDye"), Meserole,  
11 LLC ("Meserole") and Fuller Smith Capital Management, LLC ("Fuller Smith") to the Motion  
12 by Synergy Partners USA, LLC and Michael Cohen for an Order of Contempt Against  
13 Meserole, LLC, and/or Fuller Smith Capital Management, LLC for Violations of the Court's  
14 Order filed on April 24, 2014 [Docket No. 300].

15 3. As the CRO of the Debtors, I personally oversaw and supervised  
16 professionals employed by ESBA in connection with both the financial aspects of the Debtors'  
17 Chapter 11 bankruptcy cases as well as operations conducted at the Debtors' printing facility in  
18 Harrisonburg, Virginia. As of the Petition Date initiating these cases, the Debtors employed  
19 approximately 100 persons in Harrisonburg and related sales facilities. Either I or one of the  
20 professionals employed by ESBA were at the Harrisonburg facility for a significant portion of  
21 the operating period at the plant beginning prior to the Petition Dates of July 10, 2013 and  
22 continuing until the closing of the sale by the Debtors of substantially all of their assets to  
23 AirDye on October 7, 2013. ESBA also performed limited post-Closing work on behalf of  
24 AirDye as a transition to AirDye management. The facts set forth in this Declaration are true of  
25 my own personal knowledge unless otherwise indicated. Facts attributed to ESBA that are not  
26 within my personal knowledge are known to me as the result of my supervision of ESBA  
27 professionals with whom I have a longstanding and trusted relationship.

28 4. ESBA is a firm of seasoned professionals leading a coordinated effort for

1 business recovery and improvement. Over 35 years and more than a thousand cases, their  
2 professionals have honed the skills needed to quickly diagnose problems, stabilize situations,  
3 determine the best courses of action, and develop a long term plan. With an average of 30 years  
4 business experience, their consultants have a diverse array of first-hand experience and hold a  
5 wide range of credentials.

6 5. I am a Certified Public Accountant and a Certified Turnaround Professional.  
7 I hold a Masters in Business Administration from Temple University and a BSE in accounting  
8 and management from the Wharton School of Business at the University of Pennsylvania. I am  
9 an adjunct professor at Temple University.

10 6. I was named by M&A Advisors as the 2012 Turnaround Consultant of the  
11 Year and was recently named by the Turnaround Management Association (“TMA”) as an  
12 Outstanding Individual Contributor. I am a past Executive Committee and Board Member of the  
13 TMA. I am a member of the Pennsylvania Institute of Certified Public Accountants, America  
14 Institute of Certified Public Accountants and American Bankruptcy Institute.

15 7. I have led companies through crises and turnarounds with the vision and  
16 insight earned from more than 25 years on the front lines. In many instances, I have acted as  
17 Interim President, Chief Financial Officer, Chief Operating Officer, Chief Restructuring Officer  
18 or Treasurer, helping companies improve operating performance and generate additional cash  
19 flow. As a turnaround consultant, I have participated in senior leadership positions in a number  
20 of industries including manufacturing, printing, communications, transportation, distribution,  
21 and healthcare. The work in these instances was strategic in evaluating viable options for a  
22 debtor's future including steps to strengthen existing operations, as well as pursuing sale of the  
23 company or parts thereof, or the potential for additional acquisitions to create a stronger  
24 competitor in the marketplace as part of a plan of reorganization.

25 8. One of the reasons that ESBA was retained to serve as CRO in the Debtors’  
26 cases was that the pre-bankruptcy management of the Debtors was essentially non-functional.  
27 Although the Debtors had an acting interim CEO named Mark Fox, the Board of Directors of  
28 the Debtors were not satisfied with Fox’s service. Fox was not responsive to the Board, was not

1 experienced in operating troubled companies, and was lacking in financial analysis skills  
2 required by these situations. Further, he had not built credibility with the Debtors' pre-petition  
3 lenders and had not conserved cash even when the Debtors' financing and cash flow was  
4 constrained. When the Debtors were preparing the cases for filing, the Board of Directors  
5 interviewed multiple candidates to serve as CRO during the cases, and to take over from Fox  
6 the financial and operating responsibility for the companies. Prior to the Board of Directors  
7 voting to have the Debtors retain ESBA, I and other ESBA professionals were also interviewed  
8 by the Debtors' pre-petition lenders, who were prepared to provide debtor in possession  
9 financing to bridge to a sale of substantially all of the Debtors' assets under Section 363, but  
10 only if the Debtors engaged experienced and competent restructuring professionals during the  
11 bridge period. After being selected by the Debtors and approved by the proposed "DIP  
12 Lenders" ultimately approved to provide debtor in possession financing under an interim  
13 financing order entered by the Court on July 18, 2013 [Docket No. 56] and a final financing  
14 order entered August 16, 2013 [Docket No. 134] (collectively the "Financing Orders"), I began  
15 the engagement. I began my work with my ESBA colleagues even before the cases were filed.

16 9. Initially, Fox continued as interim CEO for a transition period alongside of  
17 ESBA, although ESBA retained ultimate authority to act on behalf of the Debtors in Possession  
18 and maintained exclusive contact with the Debtors' Board of Directors. Soon after the cases  
19 were filed, Fox's employment was terminated. Shortly after Fox's employment was terminated,  
20 Fox died as the result of an automobile accident. The failure of organized recordkeeping and  
21 documentation for the interim period during which Fox served as the Debtors' interim CEO was  
22 an obstacle during the entire course of ESBA's engagement. The terms of ESBA's engagement  
23 are set out in the engagement agreement attached to the Debtors' application for employment  
24 and signed by me, on behalf of ESBA, and by one of the members of the Debtors' Board of  
25 Directors. [Docket No. 80]. My primary contact during the cases was with the Debtors'  
26 Chapter 11 counsel, Gary Klausner of Stutman Treister & Glatt, and with the Board of  
27 Directors. In any contact between Fox and the Board of Directors, I was present. For most  
28 contacts between Fox and the DIP Lenders, I or another ESBA professional was present.

1           10. In ESBA's role as CRO, I was personally responsible for the negotiation of  
2 every debtor in possession financing budget approved by the Debtors' post-petition DIP  
3 Lenders, Meserole, LLC and Fuller Smith Capital Management, LLC. Although other members  
4 of ESBA would provide worksheets and information related to the budgets, I was the exclusive  
5 point of contact for the final negotiations of DIP Budgets. As noted above, the Debtors' cases  
6 were financed under an interim order approving debtor in possession financing and use of cash  
7 collateral entered July 18, 2013 [Docket No. 56], and a final order approving debtor in  
8 possession financing entered on August 16, 2013 [Docket No. 134]. Because of delays in entry  
9 of the final Financing Order, not every Budget was filed with the Court. However, the initial  
10 Budget was filed and is attached hereto as Exhibit A, and the Budget attached to the final  
11 Financing Order was filed and is attached hereby as Exhibit B. Between the initial and final  
12 Budgets, there were other interim Budgets proposed by the Debtors and approved by the DIP  
13 Lenders under the Financing Orders. Approval by the DIP Lenders of the proposed Budgets  
14 was crucial, because without DIP Lender approval under the Financing Orders, the Debtors had  
15 no authority to borrow and no authority to pay expenses.

16           11. At no time during the negotiation of the initial Budget, any interim Budget,  
17 or the Final Budget, did I ever propose that the pre or post-petition claims of Synergy or Cohen  
18 be paid. At no time during the period that the DIP Loans were funded under the Financing  
19 Orders, did the DIP Lenders approve payment of any claims to Synergy or Cohen as a part of  
20 any approved Budget. Payments made to Cohen in the transition of the first week of the cases  
21 were from cash collateral, not new borrowings. Those payments were not approved by ESBA.

22           12. After the Financing Orders were in place, and the DIP Lenders were funding  
23 the approved Budgets under the Financing Orders, I was responsible for the calculation of  
24 weekly variances under the Budgets as compared to actual receipts and expenses from  
25 operations of the Debtors' business. At no point during the calculation of the weekly variances  
26 did I include any reference to any amount owing to Synergy or Cohen. The claims that Synergy  
27 and Cohen asserted were not approved as expenses that the DIP Lenders were required to fund  
28 under the Financing Orders, and were not approved by ESBA for payment by the Debtors as

1 expenses of administration.

2 13. I am familiar with the claims asserted by Synergy and Cohen because each  
3 made multiple demands to ESBA for payment of pre-petition services, as well as multiple  
4 demands for payment of alleged post-petition services. Each made multiple demands as well to  
5 the DIP Lenders under the Financing Orders. Payments to Synergy and Cohen were generally  
6 refused by ESBA, although early in the cases a minimal wires were made to Cohen while ESBA  
7 was getting the transition team in place and Fox was being phased out. Payment was refused  
8 for a number of reasons including: the Debtors had not engaged either Synergy or Cohen to  
9 provide services after the filing of the Chapter 11 cases; The Debtors operated under severe  
10 financing constraints under the Financing Orders, The purpose of the Financing Orders was to  
11 bridge to a sale; and Payment to Synergy for headhunting services and Cohen for web design  
12 services were outside the ordinary and necessary expenses of operating the Debtors' businesses  
13 and maintaining the going concern value of the Debtors' businesses during the Chapter 11 cases  
14 and pending sale of substantially all of the Debtors' assets to a purchaser under Section 363 of  
15 the Bankruptcy Code. The Debtors were struggling with finance and cash flow issues to meet  
16 basic operating and employee expenses. I did not propose engagement of Synergy or Cohen, I  
17 did not propose any budget on behalf of the Debtors that included any payment to Synergy or  
18 Cohen, and I did not receive from the DIP Lenders under the Financing Orders, authority to  
19 borrow under the Financing Orders to pay Synergy or Cohen or authority from the Debtors'  
20 Board of Directors to pay Synergy or Cohen.

21 14. ESBA, representatives of the Debtors and representatives of the DIP  
22 Lenders and Purchaser were responsible for preparation of the schedules and worksheets that  
23 were used by the Debtors to negotiate the "Assumed Liabilities" that were a component of the  
24 purchase price under the Sale Order and APA. I am personally aware that there was extensive  
25 negotiation of the Assumed Liabilities, and that specific items were set out in Schedule 2.3(f)  
26 and the schedule agreed to in connection with the Sale Order and APA based on worksheets and  
27 schedules developed by the parties. At no time did ESBA propose in a spreadsheet or  
28 worksheet that was used for preparation of Schedule 2.3(f) and the schedule agreed to in

1 connection with the Sale Order and APA that any alleged claim owed to Synergy or Cohen be  
2 included as an Assumed Liability. I have personal knowledge of the final negotiated Schedule  
3 2.3(f) and schedule agreed to by the parties under the APA and know that the Assumed  
4 Liabilities do not include any amount due to, or alleged to be due to, Synergy or Cohen.

5 15. I have reviewed my files and the files maintained by ESBA in connection  
6 with ESBA's engagement as CRO in the Debtors' cases. ESBA's files show that Synergy,  
7 Cohen, and parties purporting to act on behalf of both Synergy and Cohen, have been making  
8 demands for payment of the invoices set out in the Contempt Motion that go back to August of  
9 2013. ESBA, as the duly appointed and acting CRO of the Debtors, never authorized the  
10 Debtors to engage Synergy or Cohen, to incur obligations for services provided or to be  
11 provided by Synergy or Cohen, or to borrow money as part of a Budget authorized under the  
12 Financing Orders to pay Synergy or Cohen. ESBA was never provided with an engagement  
13 letter or agreement by either Synergy or Cohen under which they were purporting to act. The  
14 only documentation ever provided to ESBA were invoices, reminder invoices, and summaries  
15 of invoices. I am informed and believe based on my contact with persons employed by the  
16 Debtors in Harrisonburg, Virginia, and in New York, that principals or employees of Synergy  
17 and Cohen were personal acquaintances of Mark Fox. I know from my personal contact with  
18 the Debtors' Board of Directors, and from my personal contact with the DIP Lenders under the  
19 Financing Orders, that the Debtors were not authorized to engage Synergy or Cohen.

20  
21 I declare under penalty of perjury under the laws of the United States of America that  
22 the foregoing is true and correct and that this Declaration was executed on May 1, 2013  
23 in Philadelphia, Pennsylvania.

24  
25   
**Robert D. Katz**

26 \_\_\_\_\_  
27 Robert D. Katz  
28 Chief Restructuring Officer