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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 And Specially Appearing on Behalf of Executive  
19 Sounding Board Associates

20 **UNITED STATES BANKRUPTCY COURT**  
21 **CENTRAL DISTRICT OF CALIFORNIA**  
22 **LOS ANGELES DIVISION**

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

Case No. 13-27689

Chapter 11

**DECLARATION OF ROBERT D. KATZ  
IN SUPPORT OF RESPONSE TO  
MOTION OF SYNERGY PARTNERS  
USA, LLC AND MICHAEL COHEN  
FOR (I) ALLOWANCE AND PAYMENT  
OF ADMINISTRATIVE EXPENSE  
CLAIM AND (II) IN OPPOSITION TO  
DISMISSAL; AND (III) TO COMPEL  
DISGORGEMENT OF FEES FROM  
EXECUTIVE SOUNDING BOARD  
ASSOCIATES**

Date: May 29, 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 ("EBSA"), a financial and management consulting firm having expertise in turnaround,  
6 bankruptcy and financial advisory issues. ESBA was appointed, effective July 10, 2013, to  
7 serve as the Chief Restructuring Officer of the Debtors in these cases, pursuant to a motion filed  
8 on July 30, 2013 [Docket No. 80] and order entered on November 18, 2013 [Docket No. 245]. I  
9 submit this declaration in support of the Opposition filed by AirDye Solutions, LLC  
10 ("AirDye"), Meserole, LLC ("Meserole"), Fuller Smith Capital Management, LLC ("Fuller  
11 Smith") and by ESBA, to the Motion by Synergy Partners USA, LLC ("Synergy") and Michael  
12 Cohen ("Cohen") For an Order (i) Allowing Administrative Expense Claims; and (ii)  
13 Compelling Purchasers to Pay Administrative Claims, or, in the Alternative Requiring ESBA to  
14 Disgorge Professional Fees For Payment of Administrative Expense Claims. This declaration  
15 also supports' AirDye's response to the Oppositions filed by Synergy and Cohen to the Debtors'  
16 motion to dismiss the cases, and to allowance of ESBA's fees

17 3. As the CRO of the Debtors, I personally oversaw and supervised all aspects  
18 of the financial and operating aspects of the Debtors and their businesses. Due to the scope of  
19 the work required, and time and fee restraints imposed by Debtors and the DIP Lender, I did  
20 delegate certain tasks to other professionals employed by ESBA, including operating  
21 management, which required a physical presence on-site at the Debtors' printing facility in  
22 Harrisonburg, Virginia. ESBA maintains consistent engagement and supervision and reporting  
23 practices that permit me to closely maintain contact with all ESBA professionals on site on  
24 different geographic sites in engagements. I, and the other ESBA professionals who worked on  
25 this engagement, followed the firm's standard engagement, supervision and reporting practices  
26 in this case.

27 4. I have reviewed Synergy's and Cohen's motion for allowance and payment  
28 of administrative claim and their oppositions to dismissal of these cases, to allowance of

1 ESBA's fees and costs, and their request that ESBA, alone among administrative expense  
2 professionals, disgorge previously paid fees to provide a payment source for their alleged  
3 claims. I have also reviewed the declarations filed in support of those motions and oppositions.  
4 Nowhere in their motions, declarations or other pleadings, do Synergy and Cohen evidence any  
5 understanding of the financing constraints that these Debtors, and the professionals working for  
6 these Debtors, operated under during these cases. Debtor in Possession Financing was provided  
7 to the Debtors by Meserole, LLC under interim and final orders discussed in more detail below,  
8 and by Meserole and Saviva under subsequent extensions of the DIP Financing. In each  
9 iteration of the interim and final order, and in each subsequent extension of the DIP Financing,  
10 the DIP Lenders agreed only to fund those expenses which were itemized by the Debtors and  
11 approved by the DIP Lenders. ESBA and the Debtors' Board of Directors scrutinized every line  
12 item of post-petition expenses and negotiated every line of expenses with the DIP Lenders. The  
13 Debtors were run on as little cash as possible to bridge to a sale. During ESBA's engagement  
14 as CRO, the Debtors' simply did not have the luxury of hiring new employees or developing  
15 sales and web tools that would operate for the long-term benefit of a continuing business in the  
16 hands of the Debtors. The Debtors had to negotiate aggressively to purchase interim health  
17 insurance for their employees, and similar critical expenses. Although the Debtors' requested  
18 on numerous occasions to include in the DIP Budget, equipment repair and purchase line items,  
19 those requests were refused.

20 5. The goal of my engagement, and the instructions that I received from both  
21 the Debtors' Board of Directors and from negotiation with the DIP Lenders, was to preserve  
22 asset value. If vendors provided goods or services to the Debtors without the Debtors' express  
23 authorization, they did so at their own risk because the Debtors had no source of payment for  
24 goods and services delivered other than cash collateral and DIP Financing which expenditures  
25 needed to be approved by the DIP Lender. ESBA and the Debtors did not single out vendors  
26 for non-payment, but they could not pay liabilities that were not expressly provided for.

27 6. I know, based on my own personal knowledge of the DIP Financing, my  
28 negotiation of each DIP Budget, and my management of cash collateral and loan advances

1 received with the consent or from DIP Lenders, that at no time did I negotiate a DIP Budget that  
2 provided for payment of the Synergy and Cohen claims. The DIP Lenders never agreed to fund  
3 a DIP Budget that included Synergy and Cohen. If the DIP Lenders didn't approve an item in  
4 the DIP Budget, then the Debtors were not able/allowed to pay it.

5 7. One of the reasons that ESBA was retained to serve as CRO in the Debtors'  
6 cases was that the pre-bankruptcy management of the Debtors was essentially non-functional.  
7 Although the Debtors had an acting interim CEO named Mark Fox, the Board of Directors of  
8 the Debtors was not satisfied with Fox's service. Fox was not responsive to the Board, was not  
9 experienced in operating troubled companies, and was lacking in financial analysis skills  
10 required by these situations. Further, he had not built credibility with the Debtors' pre-petition  
11 lenders and had not conserved cash even when the Debtors' financing and cash flow was  
12 constrained. Finally, although Fox was handsomely compensated, he relied on what were  
13 essentially subcontractors for certain job functions and Fox himself was responsible for  
14 payment of certain of those subcontractor claims. Fox was in material and continuing breach of  
15 his engagement agreement with the Debtors, among other things, by regularly acting outside the  
16 scope of his employment, by making intentional material misrepresentations to vendors and  
17 employees and by failing to deliver various services contracted for by the Debtors.

18 8. Fox's compensation pre-petition was set out in an agreement between he  
19 and Colorep and Transprint. I have personally reviewed and am familiar with Fox's pre-  
20 petition compensation agreement with Colorep, in part because it became the subject of  
21 discussions post-petition about whether Mr. Fox's post-petition compensation would be funded  
22 under the DIP Financing. The pre-petition agreement between Mr. Fox and Colorep and  
23 Transprint provided the basis for the post-petition negotiations. In the pre-petition  
24 compensation arrangement, certain of the Human Resources functions were delegated to an  
25 individual named Justin Tomborello. Any amounts owed to Mr. Tomborello were to be paid  
26 directly by Mr. Fox, not by Colorep or Transprint. From time to time at the beginning of the  
27 Chapter 11 cases, Mr. Tomborello contacted both me and other ESBA professionals  
28 demanding payment for placing the same employee, whose placement forms the basis of

1 Synergy's alleged administrative expense claim here. Based on my review of Mr. Fox's  
2 employment agreement with Colorep and Transcript, the alleged claim asserted by Synergy  
3 should be asserted against Mr. Fox and his estate, not the estate of these Debtors. Post-  
4 Petition, I have personal knowledge that no agreement was made between the Debtors and Mr.  
5 Fox, or the Debtors and Synergy or Mr. Tamborello. The Court will note that in each DIP  
6 Budget I negotiated before Mr. Fox's termination and subsequent passing, the compensation  
7 line to him was listed as "TBD." Mr. Fox was advanced certain expenses post-petition, but his  
8 post-petition compensation was never agreed upon and Mr. Fox unfortunately was involved in  
9 a fatal car accident within the first several weeks of the cases. To the extent that Mr.  
10 Tamborello and/or Synergy were engaged by Mr. Fox after these cases were filed, and to the  
11 extent that any placement services were provided by Mr. Tamborello or Synergy in reliance on  
12 Mr. Fox's representations of payment under an arrangement similar to his pre-petition  
13 arrangement with Colorep and Transprint, the estate has no liability for those alleged services.

14 9. When the Debtors were preparing the cases for filing, the Board of Directors  
15 interviewed multiple candidates to serve as CRO during the cases, and to take over from Fox  
16 the financial and operating responsibility for the companies. Prior to the Board of Directors  
17 voting to have the Debtors retain ESBA, I and other ESBA professionals were also interviewed  
18 by the Debtors' pre-petition lenders, who were prepared to provide debtor in possession  
19 financing to bridge to a sale of substantially all of the Debtors' assets under Section 363, but  
20 only if the Debtors engaged experienced and competent restructuring professionals during the  
21 bridge period. After being selected by the Debtors the proposed "DIP Lenders" ultimately  
22 approved a budget to provide debtor in possession financing under an interim financing order  
23 entered by the Court on July 18, 2013 [Docket No. 56] and a final financing order entered  
24 August 16, 2013 [Docket No. 134] (collectively the "Financing Orders"). I began my work  
25 with my ESBA colleagues for the Debtors even before the cases were filed.

26 10. Initially, Fox continued as interim CEO for a transition period alongside of  
27 ESBA, although ESBA was granted ultimate authority to act on behalf of the Debtors in  
28 Possession and maintained exclusive contact with the Debtors' Board of Directors. Soon after

1 the cases were filed, Fox's employment was terminated. The failure of organized recordkeeping  
2 and documentation for the interim period during which Fox served as the Debtors' interim CEO  
3 was an obstacle during the entire course of ESBA's engagement. The terms of ESBA's  
4 engagement are set out in the engagement agreement attached to the Debtors' application for  
5 employment and signed by me, on behalf of ESBA, and by one of the members of the Debtors'  
6 Board of Directors. [Docket No. 80]. My primary contact during the cases was with the  
7 Debtors' Chapter 11 counsel, Gary Klausner [formerly] of Stutman Treister & Glatt, and with  
8 the Board of Directors. In any contact between Fox and the Board of Directors, I was present.  
9 In any material contact between Fox and the DIP Lenders, I or another ESBA professional was  
10 present.

11 11. In ESBA's role as CRO, I was personally responsible for the negotiation of  
12 every debtor in possession financing budget approved by the Debtors' post-petition DIP  
13 Lenders, Meserole, LLC and Saviva, and their agent, Fuller Smith Capital Management, LLC.  
14 Although other members of ESBA would provide worksheets and information related to the  
15 budgets, I was the exclusive point of contact for the final negotiations of DIP Budgets. As  
16 noted above, the Debtors' cases were financed under an interim order approving debtor in  
17 possession financing and use of cash collateral entered July 18, 2013 [Docket No. 56], and a  
18 final order approving debtor in possession financing entered on August 16, 2013 [Docket No.  
19 134]. Because of delays in entry of the final Financing Order, not every Budget was filed with  
20 the Court. However, the initial Budget was filed and is attached hereto as Exhibit A, and the  
21 Budget attached to the final Financing Order was filed and is attached hereby as Exhibit B.  
22 Between the initial and final Budgets, there were other interim Budgets proposed by the Debtors  
23 and approved by the DIP Lenders under the Financing Orders. Approval by the DIP Lenders of  
24 the proposed Budgets was crucial, because without DIP Lender approval under the Financing  
25 Orders, the Debtors had no authority to borrow and no liquidity to pay expenses.

26 12. At no time during the negotiation of the initial Budget, any interim Budget,  
27 or the Final Budget, did I ever propose that the pre or post-petition claims of Synergy or Cohen  
28 be paid. At no time during the period that the DIP Loans were funded under the Financing

1 Orders, did the DIP Lenders approve payment of any claims to Synergy or Cohen as a part of  
2 any approved Budget. Payments made to Cohen in the transition of the first week of the cases  
3 were from cash collateral, not new borrowings. Those payments were not approved by ESBA  
4 or the DIP Lenders.

5 13. After the Financing Orders were in place, and the DIP Lenders were funding  
6 the approved Budgets under the Financing Orders, I was responsible for the calculation of  
7 weekly variances under the Budgets as compared to actual receipts and expenses from  
8 operations of the Debtors' business. At no point during the calculation of the weekly variances  
9 did I include any reference to any amount owing to Synergy or Cohen. The claims that Synergy  
10 and Cohen asserted were not approved as expenses that the DIP Lenders were required to fund  
11 under the Financing Orders, and were not approved by ESBA for payment by the Debtors as  
12 expenses of administration.

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

1 included any payment to Synergy or Cohen, and I did not receive from the DIP Lenders under  
2 the Financing Orders, authority to borrow or use cash collateral under the Financing Orders to  
3 pay Synergy or Cohen or authority from the Debtors' Board of Directors to pay Synergy or  
4 Cohen.

5 15. ESBA, representatives of the Debtors and representatives of the DIP  
6 Lenders and Purchaser were responsible for preparation of the schedules and worksheets that  
7 were used by the Debtors to negotiate the "Assumed Liabilities" that were a component of the  
8 purchase price under the Sale Order and APA. I am personally aware that there was extensive  
9 negotiation of the Assumed Liabilities, and that specific items were set out in Schedule 2.3(f)  
10 and the schedule agreed to in connection with the Sale Order and APA based on worksheets and  
11 schedules developed by the parties. I have personal knowledge of the final negotiated Schedule  
12 2.3(f) and the schedules agreed to by the parties under the APA and know that the Assumed  
13 Liabilities do not include any amount due to, or alleged to be due to, Synergy or Cohen.

14 16. I have reviewed my files and the files maintained by ESBA in connection  
15 with ESBA's engagement as CRO in the Debtors' cases. ESBA's files show that Synergy,  
16 Cohen, and parties purporting to act on behalf of both Synergy and Cohen, have been making  
17 demands for payment of the invoices set out in the Contempt Motion that go back to August of  
18 2013. ESBA, as the duly appointed and acting CRO of the Debtors, never authorized the  
19 Debtors to engage Synergy or Cohen, to incur obligations for services provided or to be  
20 provided by Synergy or Cohen, or to borrow money as part of a Budget authorized under the  
21 Financing Orders to pay Synergy or Cohen and that the Debtors' estates did not receive any  
22 benefit post-petition from any services provided to the estates post-petition. ESBA was never  
23 provided with an engagement letter or agreement by either Synergy or Cohen under which they  
24 were purporting to act. The only documentation ever provided to ESBA were invoices,  
25 reminder invoices, and summaries of invoices. I am informed and believe based on my contact  
26 with persons employed by the Debtors in Harrisonburg, Virginia, and in New York, that  
27 principals or employees of Synergy and Cohen were personal acquaintances of Mark Fox. I  
28 know from my personal contact with the Debtors' Board of Directors, and from my personal

1 contact with the DIP Lenders under the Financing Orders, that the Debtors were not authorized  
2 to engage Synergy or Cohen.

3 17. As of the Debtors' petition date, the Debtors employed approximately 100  
4 persons in Harrisonburg and related sales facilities. Either I, or one of the professionals  
5 employed by ESBA, were at the Harrisonburg facility for a significant portion of the operating  
6 period at the plant beginning before the petition date of July 10, 2013 and continuing until the  
7 closing of the sale by the Debtors of substantially all of their assets to AirDye on October 7,  
8 2013. ESBA also performed limited post-Closing work on behalf of AirDye as a transition to  
9 AirDye management.

10 18. The facts set forth in this Declaration are true of my own personal  
11 knowledge unless otherwise indicated. Facts attributed to ESBA that are not within my  
12 personal knowledge are known to me as the result of my supervision of ESBA professionals  
13 with whom I have a longstanding and trusted relationship. By way of background, ESBA is a  
14 firm of seasoned professionals leading a coordinated effort for business recovery and  
15 improvement. Over 35 years and more than a thousand cases, their professionals have honed the  
16 skills needed to quickly diagnose problems, stabilize situations, determine the best courses of  
17 action, and develop a long term plan. With an average of 30 years business experience, their  
18 consultants have a diverse array of first-hand experience and hold a wide range of credentials.

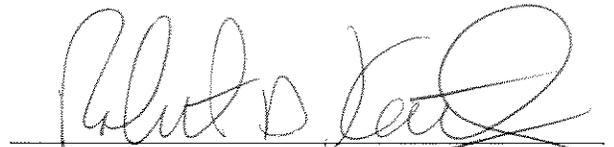
19 19. I am a Certified Public Accountant and a Certified Turnaround Professional.  
20 I hold a Masters in Business Administration from Temple University and a BSE in accounting  
21 and management from the Wharton School of Business at the University of Pennsylvania. I am  
22 an adjunct professor at Temple University.

23 20. I was named by M&A Advisors as the 2012 Turnaround Consultant of the  
24 Year and was recently named by the Turnaround Management Association ("TMA") as an  
25 Outstanding Individual Contributor. I am a past Executive Committee and Board Member of the  
26 TMA. I am a member of the Pennsylvania Institute of Certified Public Accountants, America  
27 Institute of Certified Public Accountants and American Bankruptcy Institute.

28 21. I have led companies through crises and turnarounds with the vision and

1 insight earned from more than 25 years on the front lines. In many instances, I have acted as  
2 Interim President, Chief Financial Officer, Chief Operating Officer, Chief Restructuring Officer  
3 or Treasurer, helping companies improve operating performance and generate additional cash  
4 flow. As a turnaround consultant, I have participated in senior leadership positions in a number  
5 of industries including manufacturing, printing, communications, transportation, distribution,  
6 and healthcare. The work in these instances was strategic in evaluating viable options for a  
7 debtor's future including steps to strengthen existing operations, as well as pursuing sale of the  
8 company or parts thereof, or the potential for additional acquisitions to create a stronger  
9 competitor in the marketplace as part of a plan of reorganization.

10 I declare under penalty of perjury under the laws of the United States of America that  
11 the foregoing is true and correct and that this Declaration was executed on May 23,  
12 2014 in Philadelphia, Pennsylvania.

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16 Robert D. Katz  
17 Chief Restructuring Officer  
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