

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

BKY No. 20-32155  
Chapter 11

DigitalTown, Inc.,

Debtor.

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Richard Pomije,

ADV No. 21-03003

Plaintiff,

v.

DigitalTown, Inc.,

Defendant.

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**DECLARATION OF DARVIN HABBEN**

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Comes now, Darvin Habben, who upon penalty of perjury, states and declares as follows:

1. I make this declaration of my own knowledge, except where statement indicated to be made upon information and belief. If called to testify orally in these proceedings, I would testify substantially as follows:
2. In Spring 2015, I was invited to the DigitalTown's ("DTI" or the "company") offices by Bill Olson ("Bill"). Bill was a friend of Richard Pomije ("Pomije") and a strong supporter of the company. Pomije was the chief executive officer and chairman of the company at that time.
3. I went to the May 11, 2015 meeting with apprehension. From when I first became a shareholder in March 2013 to the date of the meeting, Pomije had not

accomplished much operationally or financially. He had no vision for the company. I had no intention of investing further in the company.

4. Unlike previous solicitations for investment dollars, the solicitation in May 2015 was of a substantially different nature. Mr. Pomije was seeking a much larger investment to take the company in a new direction. Mr. Pomije represented to me that he intended to resign as CEO and bring on Mr. Rob Monster (“Monster”), whom he had invited to the meeting and whom I met for the first time.
5. Monster had come to Minnesota from Seattle at the request of Pomije, with the purpose of restructuring the company and moving it forward. Monster presented a compelling vision for a new business direction. I was excited about this new direction and was willing to invest not only my money, but my time and effort. I would not have invested in DTI if I knew Pomije’s intention was to remain chief operating officer and/or director.
6. I and my family members invested a total of \$350,000 in May 2015. These investments were based on Pomije’s representation that he was resigning and bringing on Monster as CEO. All of these investments were intended to fund the business going forward, with the exception of less than \$50,000 that Pomije had represented would need to go to pay off some old debt.
7. We then went around the room to determine who was going to assume which corporate responsibilities. It had already been established by Pomije he was resigning as chairman and chief executive officer, and that Monster would assume the role of chief executive officer. Jeff offered to remain secretary, and I assumed the position of chairman.

8. My investments were made in smaller installments over a period of time. On one particular occasion, Pomije asked me to pay my investment of \$25,000 to Thomas Pomije (“Thomas”), his brother, and that Thomas would transfer shares to me. I was skeptical about why I would pay Thomas and expressed concern over how I would be assured I would get my shares. Pomije explained this method would ensure the company was not diluted too much, and that the transfer agent would provide a summary of the transfer of shares. I never met Thomas Pomije.
9. When the board met in June 2015, the board learned that Pomije had, contrary to our expectations and intentions, spent a substantial amount of my investment dollars to pay additional old debts, including his own. His payments to satisfy old debts were in the vicinity of \$200,000, far in excess of the initially represented amount of less than \$50,000. Our new investments were specifically intended to fund the new business model. By using the funds to retire debt to himself, family members and other insiders, our ability to implement the new business plan was crippled on the outset. Pomije was not at this meeting, as he was no longer a board member.
10. It was also at this meeting I was surprised to learn of the employment agreement Pomije had entered into on the same day as our May 11, 2015 meeting, unbeknownst to me or Monster. I questioned what Pomije would be doing for the company as an employee, and Monster said he would utilize Pomije for market research and promoting the DTI product for the time being and reassess at a later date.

11. At a subsequent board meeting sometime in early August 2015, the decision was unanimously made to cut certain expenses to preserve cash flows. This included terminating the employment of all non-essential employees, including Pomije, as they was no longer providing any value to the company; and closing the Minnesota office in favor of a virtual alternative.

12. I make this declaration upon penalty of perjury this 17<sup>th</sup> day of March, 2021, City of Mesa, County of Maricopa, State of Arizona.

A handwritten signature in black ink, appearing to read 'D. Habben', written in a cursive style.

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Darvin Habben