

**COURT OF CHANCERY
OF THE
STATE OF DELAWARE**

**BONNIE W. DAVID
VICE CHANCELLOR**

**COURT OF CHANCERY COURTHOUSE
34 THE CIRCLE
GEORGETOWN, DE 19947**

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RE: *Chad Bronstein, et al. v. Tyson 2.0, Inc.*,
C.A. No. 2026-0715-CDW (BWD)

Dear Counsel:

This letter opinion resolves exceptions (the “Exceptions”) to the Magistrate in Chancery’s September 16, 2026 order (the “Report”) in this advancement action. *See* Order Granting Pls.’ Mot. for Summ. J. Regarding Entitlement to Advancement and Fees-on-Fees [hereinafter Report], Dkt. 37.

The plaintiffs here—Chad Bronstein, Nicole Cosby, and Adam Wilks (“Plaintiffs”)—seek advancement of expenses incurred in two lawsuits before the U.S. District Court for the Northern District of Illinois, one captioned *Carma HoldCo Inc. v. Chad Bronstein*, C.A. No. 1:25-cv-07628 (the “Beer Case”), and another captioned *Michael Tyson v. Chad Bronstein*, C.A. No. 1:25-cv-15462 (the

“RICO Case”). Pls.’ Verified Compl. for Advancement [hereinafter Compl.] ¶¶ 6–7, 12, Dkt. 1; Transmittal Aff. of Megan R. Thomas in Supp. of Opening Br. in Supp. of Def.’s Mot. for Summ. J. [hereinafter Thomas Aff.], Ex. E, Dkt. 24. Bronstein served as Chairman of the board of directors and President of Tyson 2.0, Inc. (“Tyson 2.0” or the “Company”) from 2021 to November 2023. Compl. ¶ 13. Cosby served as Chief Legal and Licensing Officer of the Company from 2022 to November 2023. *Id.* ¶ 15. Wilks served as Chief Executive Officer of the Company from 2021 to March 2025. *Id.* ¶ 37.

Tyson 2.0 is a Delaware corporation that licenses the names, images, and likenesses of celebrities for use in cannabis and other products. *Id.* ¶ 19. As alleged in the Beer Case, in May 2023, Tyson 2.0 entered into an agreement with professional wrestler Terry Gene Collea (popularly known as “Hulk Hogan”) under which Hulk Hogan would act as a “brand ambassador.” Transmittal Aff. of Dionis Mucollari in Supp. of Pls.’ Answering Br. in Opp’n to Def.’s Mot. for Summ. J., Ex. F [hereinafter Beer Compl.] ¶ 22, Dkt. 30. Soon after, the parties began to discuss a beer brand involving Hulk Hogan, and the Company engaged a “designer to focus on an all-American beer with themes including guns, American flags, and Hulk Hogan.” *Id.* ¶¶ 23–24. But, according to the Company, when it came to learn that Bronstein had “structured the proposed deal for Hulk Hogan’s Real American brand

beer in such a way that Bronstein would personally benefit with an ownership interest in the venture,” it terminated his and Cosby’s employment. *Id.* ¶¶ 28–29. As alleged, Bronstein and Cosby then began a competing venture, Rahm, Inc. (“RAHM”), through which they “continued to have discussions with Hulk Hogan” and “solicited Hulk Hogan to cease his relationship with [the Company] and enter a business relationship with RAHM to sell Hulk Hogan’s Real American brand beer.” *Id.* ¶ 37. The RICO Case involves similar allegations.

When Bronstein and Cosby departed the Company in 2023, they executed separation agreements, governed by Illinois law, that purported to release the Company from:

any claim, demand, action, or cause of action, known or unknown, which arose at any time from the beginning of time to the date Employee executes this Agreement, and waives all claims, relating to, arising out of, or in any way connected with [his or her] employment with Company including, without limitation, any claim, demand, action, or cause of action, known or unknown, including money damages and claims for attorneys’ fees

Thomas Aff., Exs. C–D ¶ 4 [hereinafter Release].

In June 2026, Plaintiffs initiated this action seeking advancement of expenses incurred in the Beer Case and the RICO Case. The action was assigned to a Magistrate in Chancery. Dkt. 3. The parties agreed to submit the issue of entitlement to advancement on cross-motions for summary judgment (the “Cross-Motions”).

Dkt. 14. After briefing and oral argument on the Cross-Motions, the Magistrate Judge issued the Report by granting Plaintiffs' proposed form of order with explanatory comments. Dkt. 37. On September 21, the Company filed the Exceptions. Dkt. 40. Briefing on the Exceptions concluded on October 14. Dkt. 50. Oral argument is unnecessary.

I have reviewed the record and the Magistrate in Chancery's determinations *de novo*. See *DiGiacobbe v. Sestak*, 743 A.2d 180, 184 (Del. 1999). After close review of the Report, the briefing and record below, and the parties' submissions on Exceptions, I affirm the conclusions reached in the Report.

The Report concluded that (1) the Company failed to meet its burden to prove that the separation agreements released Plaintiffs' claims for advancement, and (2) Bronstein and Cosby are entitled to advancement because the claims in the Beer Case arise "by reason of" their former corporate status. Report at 3. The Company takes exceptions to both recommendations.

First, the Company contends that the Report erred in rejecting its affirmative defense that Plaintiffs released any claim to advancement under the separation agreements, which include a broad release of claims (the "Releases"). Before the Magistrate, the Company argued that under Delaware law, the scope of the Releases covered a claim for advancement. Opening Br. in Supp. of Def.'s Mot. for Summ.

J. at 9–10, Dkt. 24. Plaintiffs responded that the separation agreements are governed by Illinois and not Delaware law, and that under Illinois law, the scope of the Releases would not cover advancement claims. Pls.’ Answering Br. in Opp’n to Def.’s Mot. for Summ. J. at 13 n.4, 20, Dkt. 30. At oral argument, the Company replied only that “we view Delaware law as more relevant and controlling to the question of whether the plaintiffs here waived and released a right that is conferred under Delaware law and public policy.” Tr. of Oral Arg. on Cross-Mots. for Summ. J. at 31:5–9, Dkt. 34.

Under Delaware law, a party may contractually release an advancement claim. *See Kokorich v. Momentus Inc.*, 2023 WL 3454190, at *10 (Del. Ch. May 15, 2023) (holding advancement “claims under [an] [i]ndemnification [a]greement and [b]ylaws are contractual and may be released, like any other contractual right”), *aff’d*, 308 A.3d 1192 (Del. 2023) (ORDER). But whether the language of the Releases here was intended to cover a claim for advancement is governed by Illinois law. *See Thomas Aff.*, Exs. C–D ¶ 18 (“This Agreement shall be interpreted, enforced, and governed under the laws of Illinois.”). The Company did not meaningfully engage on that issue before the Magistrate. Now, on exceptions, the Company argues that under Illinois law, the scope of the Releases includes the advancement claim, citing additional authority not previously raised. *See, e.g.*,

Def.’s Opening Br. in Supp. of Exceptions to Magistrate’s Sept. 16, 2026 Summ. J. Rulings [hereinafter DOB] at 12, Dkt. 44 (citing *Hoseman v. Weinschneider*, 322 F.3d 468, 473 (7th Cir. 2003)). This argument was waived; “[t]he exceptions process is not available for parties to spring new arguments.” *Houghton v. Ceresini*, 2026 WL 2043726, at *2 (Del. Ch. July 15, 2026). The Company failed to meet its burden to prove its affirmative defense.

The Company argues that if it failed to prove its defense, the appropriate result was to deny its motion for summary judgment, not to enter judgment for Plaintiffs. DOB at 18. However, the parties agreed to present the issue of entitlement through cross-motions for summary judgment. Under Court of Chancery Rule 56(i), “[w]hen the parties have filed cross motions for summary judgment and have not identified a disputed issue of fact material to the disposition of either motion, then the Court may deem the motions to be a stipulation for decision on the merits based on the record submitted with the motions.” Ct. Ch. R. 56(i). The parties did not identify a disputed issue of material fact, and the Magistrate in Chancery therefore did not err by entering judgment on the issues presented.¹

¹ Although the Company argues that “applying Illinois law that ‘appears to differ’ from the Delaware authority” is “the kind of unresolved legal and factual terrain that . . . precludes summary judgment,” DOB at 20, it also concedes that “here, the uncertainty concerns the construction of a governing instrument *rather than disputed facts*.” *Id.* (emphasis added).

Second, the Company argues that the Report erred by concluding that all of the claims pled in the Beer Case arise “by reason of” Bronstein’s and Cosby’s corporate status. According to the Company, “[t]he Report treated the Beer Case as categorically advanceable because it includes allegations of fiduciary misconduct and post-employment misuse of confidential information,” “elid[ing] the count-specific analysis required by the very authority Plaintiffs invoked and the Report cited.” DOB at 21. The Company contends that “Counts II, IV, VI, VII, XII, and XIII of the Beer Case Complaint [d]o [n]ot [w]arrant [a]dvancement.” *Id.* at 23–25.

“An advancement claim arises ‘by reason of the fact’ of a person’s corporate capacity ‘if there is a nexus or causal connection between any of the underlying proceedings contemplated by section 145(e) and one’s official corporate capacity.’” *Ephrat v. MedCPU, Inc.*, 2019 WL 2613281, at *5 (Del. Ch. June 26, 2019). “The scope of an individual’s advancement rights normally turns on the pleadings in the underlying litigation that trigger the advancement right.” *Marino v. Patriot Rail Co.*, 131 A.3d 325, 346 (Del. Ch. 2016). This Court has found that post-employment conduct gave rise to claims “by reason of” a person’s former corporate status where the person allegedly misused proprietary information to which he had access “by

Having waived arguments under Illinois law, the Company cannot repackage its Release defense as a factual dispute.

reason of the fact that he was a director and officer,”² breached an obligation to maintain the confidentiality of information acquired while serving as a fiduciary,³ or induced employees and customers to move to a competing company by leveraging “confidential information that the [person] learned in his or her official corporate capacity.”⁴

With this authority in mind, each of the disputed counts in the Beer Case arise “by reason of” Bronstein’s and Cosby’s corporate positions:

- Count II alleges that Bronstein and Cosby breached their employment agreements by “induc[ing] and solicit[ing] strategic partners of Tyson 2.0, namely TGB Entertainment, Hulk Hogan, and [Tyson 2.0 employee Christopher] Volo, relationships which [they] had developed” and “contacts which [they] had formed during the course of [their] employment with Tyson 2.0.” Beer Compl. ¶¶ 146–47.
- Count IV alleges that Bronstein breached the noncompetition provision in his employment agreement by “perform[ing] work to develop and

² *Brown v. LiveOps, Inc.*, 903 A.2d 324, 330 (Del. Ch. 2006); *see also Ephrat*, 2019 WL 2613281, at *8 (same); *Thompson v. Orix USA Corp.*, 2016 WL 3226933, at *4 (Del. Ch. June 3, 2016) (same).

³ *Zaman v. Amedeo Hldg., Inc.*, 2008 WL 2168397, at *30–31 (Del. Ch. May 23, 2008).

⁴ *Pontone v. Milso Indus. Corp.*, 100 A.3d 1023, 1052 (Del. Ch. 2014).

sell products which were the same or substantially similar to those developed during his employment with Tyson 2.0,” including by “continu[ing] the development and production of the ‘Real American’ brand with TGB Entertainment and Hulk Hogan” that began during his employment with Tyson 2.0. *Id.* ¶¶ 165–66.

- Count VI alleges that Bronstein and Cosby breached non-solicitation provisions in their separation agreements by soliciting Tyson 2.0 former employee Christopher Volo “to leave Tyson 2.0 and join RAHM.” *Id.* ¶ 183. That solicitation allegedly was harmful because “[u]ntil his departure from Tyson 2.0 . . . , Volo maintained an active role in the development of the relationship with Hulk Hogan and the beer venture, including attending meetings, gaining inside information on developed products, and otherwise accumulating Confidential Information.” *Id.* ¶ 89. Further, Bronstein allegedly “hired Volo as an employee at the venture Bronstein formed using [Tyson 2.0’s] confidential information Volo communicated to him, as a reward for his communication of insider information.” *Id.* ¶ 92.

- Count VII alleges that Bronstein breached the non-solicitation provision in his separation agreement by “contact[ing] and solicit[ing] Hulk Hogan in an attempt to induce him to terminate his relationship with Tyson 2.0 and create a relationship with RAHM.” *Id.* ¶ 191. Bronstein’s solicitation efforts allegedly were a continuation of discussions that began during his position with Tyson 2.0. *Id.* ¶¶ 23–26, 37.
- Count XII alleges that Bronstein and Cosby tortiously interfered with an “Ambassadorial Services Agreement” with which they were “intimately involved . . . through their roles in promoting a partnership between Hulk Hogan and Tyson 2.0,” by “using confidential information and intellectual property belonging to Tyson 2.0” that they obtained during their employment with Tyson 2.0. *Id.* ¶¶ 245–46.
- Count XIII alleges that Bronstein and Cosby tortiously interfered with prospective business relations. As alleged, Bronstein and Cosby “knew that Tyson 2.0 expected it had entered into a prospective business relationship to develop, produce, market, and distribute an All-

American beer with Hulk Hogan,” and had such knowledge because “they were at times the principal officers in charge of developing that relationship on behalf of Tyson 2.0, were regularly conferring with individuals inside Tyson 2.0 about the status and development of the beer, and regularly sought and received information regarding the development of the product.” *Id.* ¶¶ 254–55.

As the Report correctly concluded, each of these counts is brought “by reason of” Bronstein’s and Cosby’s former corporate status, and advancement is therefore required. *See Ephrat*, 2019 WL 2613281, at *8; *Thompson*, 2016 WL 3226933, at *4; *Pontone*, 100 A.3d at 1054; *Zaman*, 2008 WL 2168397, at *17–20; *Brown*, 903 A.2d at 324–25.⁵

For the foregoing reasons, the Exceptions are denied.

Sincerely,

/s/ *Bonnie W. David*

Bonnie W. David
Vice Chancellor

cc: All counsel of record (by File & ServeXpress)

⁵ The Company argues that an award of fees-on-fees should be adjusted if its other bases for Exceptions are sustained. DOB at 25–26. Because they are not, this basis for Exceptions is denied.