

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

In re:

Vanderbilt Minerals, LLC,

Debtor.¹

Chapter 11

Case No. 26-60110 (WAK)

LIMITED OBJECTION OF CERTAIN LAW FIRMS TO THE MOTION OF THE DEBTOR AND DEBTOR IN POSSESSION PURSUANT TO SECTIONS 105, 362, 363, 503, 507 AND 552 OF THE BANKRUPTCY CODE, BANKRUPTCY RULES 2002, 4001, 6004 AND 9014 AND LOCAL RULES 2002-1, 4001-2, AND 9013-1 FOR INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTOR TO OBTAIN POSTPETITION FINANCING, (II) GRANTING LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (III) MODIFYING THE AUTOMATIC STAY, (IV) SCHEDULING FINAL HEARING AND (V) GRANTING RELATED RELIEF

The Certain Law Firms,² by and through undersigned counsel, hereby submit this limited objection (“**Objection**”) to the interim relief sought by Vanderbilt Minerals, LLC (“**Debtor**”) in the *Motion of the Debtor and Debtor in Possession Pursuant to Sections 105, 362, 363, 503, 507 and 552 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004 and 9014 and Local Rules 2002-1, 4001-2, and 9013-1 for Interim and Final Orders (I) Authorizing the Debtor to Obtain Postpetition Financing, (II) Granting Liens and Superpriority Administrative Expense Status, (III) Modifying the Automatic Stay, (IV) Scheduling Final Hearing and (V) Granting Related Relief*

¹ The Debtor is Vanderbilt Minerals, LLC (EIN 13-1432885). The Debtor’s noticing address in this chapter 11 case is 33 Winfield Street, Norwalk, Connecticut 06855.

² The “Certain Law Firms” are the following plaintiffs’ law firms on behalf of individuals, and the estates of individuals, who they respectively represent and who have claims against the Debtor for personal injury and/or wrongful death related to the Debtor’s talc products: Belluck Law, LLP; Cooney & Conway; Dean Omar Branham Shirley, LLP; Early, Lucarelli, Sweeney & Meisenkothen; Goldberg, Persky & White, P.C.; Maune Raichle Hartley French & Mudd, LLC; Meirowitz & Wasserberg, LLP; Simmons Hanly Conroy LLC; Simon Greenstone Panatier, PC; and Weitz & Luxenberg, PC.

[ECF No. 17] (“**DIP Motion**”).³ The Certain Law Firms reserve all rights to object to any and all final relief sought in the DIP Motion at the appropriate time. In support of this Objection, the Certain Law Firms respectfully state as follows:

PRELIMINARY STATEMENT

This is not a typical chapter 11 case. The Debtor filed for bankruptcy in what appears to be an attempt not only to resolve its own talc-related tort liability, but also to obtain sweeping releases of such liability for its non-debtor parent and affiliate companies. Here, over 99% of the Debtor’s liability is to individuals who have suffered personal injury and death from the Debtor’s products, including many victims in the very community where the Debtor filed this case. With over \$100 million in unpaid settlements and verdicts, including several recent individual verdicts in excess of \$10 million each, and over 1,400 individual cases currently pending, the litigation liability here is significant. This bankruptcy appears designed specifically as a litigation tactic to unfairly prejudice the rights of those victims.

Because no Official Committee of Unsecured Creditors (“UCC”) has yet been formed, the Certain Law Firms recently came together to file this Objection. Consequently, the Certain Law Firms have not been able to conduct any meaningful investigation into this bankruptcy filing, which the Debtor has been preparing for months. Even at this nascent stage, however, the Certain Law Firms have reason to believe that this bankruptcy, and specifically the proposed Debtor settlement, is being pursued for the benefit of the Debtor’s non-debtor affiliates and at the expense of the estate and its creditors. The DIP Motion—requesting a DIP Facility on terms that would lock in a Debtor advantage over creditors, encumber estate property otherwise marked for unsecured creditors, and severely limit a UCC’s activity in this case—validates these concerns.

³ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the DIP Motion.

For example, and most relevant at this interim stage, the DIP Motion asks this Court to enforce a brutally short timeline for the Debtor's proposed sale and proposed settlement. Indeed, approving the unnecessary and overly aggressive milestones the DIP Motion requests would essentially foreclose any meaningful opportunity to investigate, negotiate, or object to the proposed settlement or sale. At this early stage, the Certain Law Firms view the proposed settlement, which provides for broad releases of non-debtor parent and affiliate entities, as the most significant and problematic issue in this case because it squanders valuable claims against the non-debtor parent and affiliates for unreasonably small consideration. The Sale Motion, as proposed, unnecessarily requires the purchase of non-debtor business assets through this bankruptcy case, seemingly providing illusory justification for the proposed settlement. And the DIP Facility, provided by the Stalking Horse, imposes aggressive milestones that foreclose other options for the reasons set forth below.

The DIP Motion contains other potentially problematic and onerous terms that require additional review and investigation, and that a UCC will need an opportunity to meaningfully negotiate over or object to, including without limitation:

- Oppressive constraints on a UCC professionals' budget that would severely limit their ability to carry out their statutory and fiduciary duties to creditors;
- Wide-ranging events of default that attempt to lock in Debtor control of the case;
- Liens on valuable, previously unencumbered assets, including the proceeds of avoidance actions, commercial tort claims, and insurance proceeds that should be designated for unsecured creditors; and
- Unnecessary protections and rights for the DIP Agent, including a waiver of sections 506(c), 552(b) and marshalling rights.

It is also necessary for a UCC to be formed and thereafter have the time to investigate how the Debtor and the DIP Agent arrived at these terms. At the First Day hearing, counsel for the DIP Agent (and also the Stalking Horse) indicated that certain aspects of this case that may prejudice

creditors, including terms of the proposed sale and settlement, may not have been demands of the DIP Agent/Stalking Horse, but rather of the Debtor itself. Hr’g Tr. Feb. 17, 2026 at 98:12-15 (Agay, D.) (“The debtor came to us . . . and they were the ones who said to us, oh, you need these other assets [being transferred in the settlement] to sort of complete the package”); 99:9-10 (“[T]he releases, that doesn’t involve us We’re just looking for the assets[.]”). If prejudicial terms of the DIP Facility—or the settlement or sale—were actually insisted upon by the Debtor to gain leverage over creditors, then that alone would suggest bad faith in the DIP Motion and in the filing of this case. Accordingly, and for the reasons set forth herein, the Certain Law Firms object to the DIP Motion.

BACKGROUND

I. The Chapter 11 Case

On February 16, 2026 (“**Petition Date**”), the Debtor filed its voluntary petition for relief under chapter 11 of the Bankruptcy Code. Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtor is continuing to operate its business and manage its properties as the debtor-in-possession. No trustee or examiner has been appointed in this case.

Due to the speed of the Debtor’s proposed schedule, the Office of the United States Trustee, Region 2, has not yet formed a UCC. In the absence of a UCC, the Certain Law Firms have filed this Objection.

II. The Proposed DIP Facility

On the Petition Date, the Debtors filed the DIP Motion, pursuant to which the Debtors seek access to a DIP Facility of up to \$15,000,000 to be provided by Commodore Material Funding, LLC, as DIP Agent on behalf of the DIP Lenders. The DIP Facility contemplates the DIP Lenders will be able to credit bid the amount of the DIP Facility against the purchase price of the sale assets.

In addition to the DIP Motion, the Debtor also filed a motion for approval of, among other relief, (1) the proposed bidding procedures and stalking horse purchase agreement with Commodore Materials, LLC (“**Sale Motion**”) [ECF No. 16], which is scheduled to be heard on March 4, 2026, and (2) the Debtor’s settlement agreement with its parent and various affiliates (“**Settlement Motion**”) [ECF No. 22], which is also scheduled to be heard on March 4, 2026.

The DIP Credit Agreement and Interim Order also require that the Debtors adhere to certain onerous milestones (“**Milestones**”), including:

Entry of Bidding Procedures Order	March 9, 2026
Entry of Settlement Order	March 9, 2026
Entry of Final DIP Order	March 9, 2026
Auction	April 2, 2026
Entry of Sale Order	April 7, 2026
Sale Closing	April 17, 2026

The Debtor has not yet proposed a full budget in connection with the DIP Motion, and in the absence of a budget that provides for professional fees for the UCC, any administrative expense payment to the UCC in excess of \$50,000 constitutes an event of default, which will further hamper the necessary independent investigation of the UCC. DIP Motion at 23.

On February 18, 2026, the Court entered an order approving a modified DIP Facility on a one-week interim basis, authorizing the interim use of cash collateral, and scheduling a hearing to consider the DIP Motion on a further interim basis for February 26, 2026. [ECF No. 50].

OBJECTION

I. The DIP Motion Should Not Be Approved Unless Modified to Remove Onerous Provisions that Harm Unsecured Creditors

A court should approve a proposed debtor in possession financing only if such financing “is in the best interests of the general creditor body.” *In re Roblin Indus., Inc.*, 52 B.R. 241, 244 (Bankr. W.D.N.Y. 1985) (citing *In re Vanguard Diversified, Inc.*, 31 B.R. 364, 366 (Bankr. E.D.N.Y. 1983)). The proposed financing must be “fair, reasonable, and adequate.” *In re Crouse Grp., Inc.*, 71 B.R. 544, 546 (Bankr. E.D. Pa. 1987). The burden is on the Debtor to establish that the DIP Financing is in the best interests of their estates and creditors. *In re Ames Dep’t Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990); *see also In re Tenney Village Co.*, 104 B.R. 562, 569 (Bankr. D. N.H. 1989) (“The [d]ebtor’s pervading obligation is to the bankruptcy estate and, derivatively, to the creditors who are its principal beneficiaries”).

The terms of the DIP Facility, if authorized, must remove onerous and unwarranted provisions that seek to benefit the Debtor, its parent and affiliates, and the DIP Lenders at the expense of the Debtors’ unsecured creditors. Courts recognize that parties negotiating postpetition financing have unequal bargaining power, often making debtors ill-suited to ensure postpetition financing terms are fair to all parties, especially unsecured creditors (there is no prepetition secured debt). *See, e.g., Otte v. Mfrs. Hanover Com. Corp. (In re Texlon Corp.)*, 596 F.2d 1092, 1098 (2d Cir. 1979) (noting that debtors prioritize their survival over equal creditor treatment).

Postpetition financing cannot be used to leverage the bankruptcy process or favor a specific party or parties. *In re Latam Airlines Grp. S.A.*, 620 B.R. 722, 816 (Bankr. S.D.N.Y. 2020). And postpetition financing should only be approved if “the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest.” *In re Ames Dept. Stores, Inc.*, 115 B.R. at 40. Courts

considering whether to approve postpetition financing “have focused their attention on proposed terms that would tilt the conduct of the bankruptcy case [and] prejudice, at an early stage, the powers and rights that the Bankruptcy Code confers for the benefit of all creditors[.]” *Id.* at 37. Thus, bankruptcy courts have not approved financing arrangements like this one that seek to convert the bankruptcy process from one designed to benefit all creditors to one designed for the sole (or primary) benefit of a single party. *Id.* at 38.

II. The Milestones are Unwarranted and Potentially Value Destroying

As a condition to the DIP Facility and use of Cash Collateral, the Debtor must comply with certain Milestones. Failure to meet those Milestones constitutes an Event of Default that may result in the automatic termination of the use of Cash Collateral or the exercise of other rights or remedies, including application of a default interest rate.

The Milestones unfairly tilt the field in favor of the Debtor and its affiliates. Under the Milestones, the Debtor’s proposed insider settlement—in which it appears to grant breathtakingly broad releases to its affiliates for virtually no value in return—is slated for approval in less than two weeks. This timeline severely frustrates the ability of parties in interest and the UCC, once formed, to complete and present this Court with the findings of a fulsome investigation into that settlement. In fact, the Milestones contemplate that the Debtor’s settlement will be finalized before the Debtor is even required to file its schedules on March 12, 2026. [ECF No. 40].

These timing concerns are particularly acute given that the Debtor’s “independent manager” has allegedly “carried out” an investigation in service of the settlement that took four and a half months, as counsel for the manager stated. Hr’g Tr. Feb. 17, 2026 at 103:21-22 (Barnowski, D.) (“[T]here is a four-and-a-half-month investigation involving interviews and documents”). And that investigation’s “primary focus was on analyzing whether . . . six Related Party Transactions gave rise” to claims against the Debtor’s parent: a focus that is significantly

narrower than the releases that would be provided under the proposed settlement. *See Declaration of Ben Pickering, in His Capacity as Independent Manager and Sole Member of the Independent Special Committee, in Support of the Global Settlement Motion*, ¶ 10 [ECF No. 23]. Under the Milestones, if the UCC were formed today, it would have only six days to perform what must be an even broader investigation into, and to draft any objection to, the Settlement Motion. [ECF No. 69] (setting the objection deadline for the Settlement Motion for March 3, 2026, at noon). Claimants are entitled to a process that preserves unsecured creditors' core rights—most importantly, the right to conduct a thorough investigation of the Debtor and its insiders for the benefit of the Debtor's estates and its creditors.

The Milestones also create a sale process that would likely discourage competitive bidding. A proper section 363 sale process is one that fosters robust, competitive bidding. *See In re O'Brien Env't Energy, Inc.*, 181 F.3d 527, 535-37 (3d Cir. 1999) (recognizing that more competitive bidding will bring better benefit to the estate). The Certain Law Firms have not yet had the opportunity to fully evaluate the Sale Motion. But it appears that the Milestones under the DIP Facility would most likely result in the proposed sale becoming a *fait accompli* and deter any possibility of competitive bids. Third parties will be unlikely to consider bidding where, as here, the Debtor chose to unnecessarily intertwine the proposed sale with the proposed settlement by foisting assets that *the Debtor* would receive in the proposed settlement into the proposed sale, not to maximize value, but to leverage the contrived linkage with the Sale Motion to deny the Court and creditors adequate time to investigate the insider settlement. While those assets remain a part of the sale, it is unlikely that any third party would even consider bidding until the Settlement Motion is resolved. The artificial connection between the Sale Motion and the Settlement Motion should be severed in order to remove the false urgency created through the Milestones.

Further, statements by the DIP Agent's counsel call into question the reason for these Milestones, especially those relating to the Settlement Motion. Hr'g Tr. Feb. 17, 2026 at 98:12-15. It appears that tying the Settlement Motion to the Sale Motion was engineered by the Debtor and its insiders to prejudice creditors while obtaining extremely broad releases for insiders. The Milestones should not be approved.

III. Additional Issues with the DIP Motion Exist and a UCC Will Need Time to Investigate and Negotiate Such Issues to Ensure that the Unsecured Creditors Are Not Unfairly Prejudiced

Because no UCC has been formed, it has not had an opportunity to analyze the DIP Motion or attempt to negotiate a DIP Order that protects the interests of all unsecured creditors. The Certain Law Firms have already identified the following issues, however, that prejudice the rights of unsecured creditors:

- The DIP Motion contains no budget for a UCC to perform its duties. In the absence of a budget, any payments of administrative expenses in excess of \$50,000 constitutes an event of default. DIP Motion at 23.
- The numerous and onerous events of default designed to give the Debtor complete control over the case, including events of default in the event that the Debtor's lose the exclusive right to file a Plan, or if there is any stay or supplement of the Settlement Order. DIP Motion at 19-24.
- The DIP Order should carve out the proceeds of avoidance actions from the adequate protection liens as such actions are not property of the estate but are instead statutory rights the Debtor holds in trust for the benefit of creditors. *See, e.g., Bethlehem Steel Corp. v. Moran Towing Corp. (In re Bethlehem Steel Corp.)*, 390 B.R. 784, 786-87 (Bankr. S.D.N.Y. 2008) ("Avoidance actions . . . never

belonged to the Debtor, but rather were creditor claims that could only be brought by a trustee or debtor in possession[.]”).

- The DIP Order needs to carve out commercial tort claims from the adequate protection liens. Commercial tort claims—including causes of action against statutory and non-statutory insiders—are another important potential source of recovery for unsecured creditors. Such claims are not typically part of a secured lender’s prepetition collateral package because they must be (and typically are not) specifically identified in the applicable security agreements and financing statements. N.Y. U.C.C. Law § 9-108(e)(1) (“A description only by type of collateral defined in this chapter is an insufficient description of . . . a commercial tort claim[.]”). Given the numerous allegations against the Debtor for its talc-related activities, valuable estate causes of action may exist against their current and/or former officers, directors, advisors, consultants, co-defendants, and others. These causes of action should be preserved for the victims of the Debtor’s misconduct.
- The DIP Order must clearly carve out third-party insurance proceeds from the adequate protection liens. Those policies and their proceeds are unquestionably earmarked for the claimants of the Debtors’ misconduct and should not be subject to any liens. *See, e.g., Exhibit A, In re AIO US, Inc.*, Case No. 24-11836 (Bankr. D. Del.), Transcript of Nov. 20, 2024 Hr’g at 39:8-16. (“[S]o the notion that a lender’s lien on the Debtor’s assets extends to the proceeds of a third party policy is something that in 25 years of doing . . . mass tort related bankruptcy cases . . . has never been suggested to me. . . . It can’t be that the banks that lent money to

Johns Manville had liens that gave them the right to the proceeds of the insurance policies that were intended to pay victims.”).

- Waivers of section 506(c), the “equities of the case” exception under section 552(b), and the equitable doctrine of marshalling are premature and inappropriate.

DIP Motion at 28.

RESERVATION OF RIGHTS

This Objection is submitted without prejudice to, and with a full reservation of, the Certain Law Firms’ rights to supplement and amend this Objection, to introduce evidence at any hearing relating to this Objection, and to further object to the DIP Motion, on any grounds that may be appropriate.

CONCLUSION

WHEREFORE, the Certain Law Firms respectfully request that the Court deny the Motion absent the requested modifications and provide such other and further relief as the Court deems just, proper, and equitable.

Dated: February 24, 2026
New York, New York

By: /s/ Seth A. Dymond _____

BELLUCK LAW LLP

Seth A. Dymond (518189)
546 5th Avenue, 5th Floor
New York, NY 10036
Telephone: 212-681-1575
Email: sdymond@bellucklaw.com

CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2026, a copy of foregoing document was filed electronically. Notice of this filing will be sent by e-mail to all appearing parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

/s/ Seth A. Dymond

Exhibit A

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE: Chapter 11
Case No. 24-11836 (CTG)
AIO US, INC., et al.,
Jointly Administered
Courtroom No. 7
Wednesday, November 20, 2024
Debtors. 1:00 p.m.
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TRANSCRIPT OF ZOOM HEARING
BEFORE THE HONORABLE CRAIG T. GOLDBLATT
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Debtors: Ronit J. Berkovich, Esquire
Matthew Goren, Esquire
WEIL, GOTSHAL & MANGES, LLP
767 Fifth Avenue
New York, New York 10153

Zach Shapiro, Esquire
RICHARDS, LAYTON & FINGER
One Rodney Square
920 North King Street
Wilmington, Delaware 19801

(APPEARANCES CONTINUED)

Audio Operator: Alyce Doody, ECRO

Transcription Company: Reliable
1007 N. Orange Street, Suite 110
Wilmington, Delaware 19801
Telephone: (302) 654-8080
Email: gmatthews@reliable-co.com

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transcript produced by transcription service.

1 APPEARANCES (CONTINUED) :

2 For the U.S. Trustee: Linda Richenderfer, Esquire
3 OFFICE OF THE U.S. TRUSTEE
4 844 King Street, Suite 2207
Lockbox 35
Wilmington, Delaware 19801

5 For Natura & Co. Darren Klein, Esquire
6 Holding, S.A.: DAVIS, POLK & WARDWELL, LLP
450 Lexington Avenue
New York, New York 10017

7 For the Committee: Cullen Drescher Speckhart, Esquire
8 Matthew Kutcher, Esquire
9 COOLEY, LLP
55 Hudson Yards
New York, New York 10001

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MOTIONS:

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1. Letter to the Honorable Craig T. Goldblatt re: Notice of Hearing of the Motion of the Official Committee of Unsecured Creditors to Dismiss Debtors' Chapter 11 Cases [Docket No. 387 - filed November 14, 2024] (the "Debtors' Scheduling Letter")

1 (Overlapping voices)

2 THE COURT: I've got to say, the notion that the
3 liens have anything to do -- I'm assuming for this purpose
4 that these -- and I haven't seen any policies, but I'm
5 assuming for this conversation that these are comprehensive
6 general liability policies that cover -- that are third party
7 policies, not first party policies.

8 And so the notion that a lender's lien on the
9 Debtor's assets extends to the proceeds of a third party
10 policy is something that in 25 years of doing, you know, mass
11 tort related bankruptcy cases and has never been suggested to
12 me. So that would be a surprising outcome. Right?

13 It can't be that the banks that lent money to
14 Johns Manville had liens that gave them the right to the
15 proceeds of the insurance policies that were intended to pay
16 victims. So that strikes me as not a thing.

17 MS. RICHENDERFER: Your Honor, I will admit I'm
18 not an insurance expert, and that's why both the Debtor here
19 and the Committee have insurance counsel. I don't know, but
20 there's been a lot of things that have come up in this case,
21 so I'm not exactly sure where --

22 THE COURT: Totally fair.

23 MS. RICHENDERFER: -- as asset (inaudible).

24 THE COURT: Totally fair. And I'm sorry, Ms. --
25 let me let you proceed.