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ATTORNEYS FOR AD HOC ROYALTY
INTEREST OWNERS GROUP

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ATTORNEYS FOR THE ROOSTH CREDITORS

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

In re:	§	
	§	Chapter 11
	§	
SCANROCK OIL & GAS, INC. <i>et al.</i>	§	Case No. 25-90001-MXM-11
	§	
Debtors.¹	§	Jointly Administered
	§	
	§	

**JOINT OBJECTION OF AD HOC ROYALTY INTEREST OWNERS GROUP AND
ROOSTH CREDITORS TO CONFIRMATION OF DEBTORS' AMENDED JOINT
CONSOLIDATED PLAN OF REORGANIZATION**

[Related to Docket No. 464-1]

COMES NOW (a) the Ad Hoc Royalty Interest Owners Group (the "Ad Hoc Group"),²
(b) Wiley Roosth Family Partnership, LTD., (c) S2DST OGM, LTD., and (d) Steven C. Roosth in
his capacity as the Trustee of (i) the Steven C. Roosth 1999 Trust; (ii) the Michael B. Roosth 1999

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, if any, are: Scanrock Oil & Gas, Inc. (0380); O'Ryan Family Limited Partnership (1913); O'Ryan Production & Exploration Ltd. (9950); Ryan C. Hoerauf, Inc. (0493); Smackover Oil Treaters, Ltd. (9529); O'Ryan Ponderosa, LLC (1476); EON Production, LLC (0136); O'Ryan Ranches, Ltd. (7184); O'Ryan Oregon Ranches, LLC; and O'Ryan Ranches, LLC (6467) (collectively, the "Debtors"). The location of the Debtors' service address is 8180 Lakeview Center, Ste. 300, Odessa, TX 79765

² As set forth in the Rule 2019 Statement [Docket No. 85] (the "Verified Statement"), the Ad Hoc Royalty Interest Owners Group holds undivided royalty interests pursuant to recorded leases by and between such owner and Debtor(s).

Trust; (iii) the Eileen Roosth Jalnos 1999 Trust; and (iv) the Robert S. Roosth 1999 Trust ((b)-(c) (referred to collectively as the “Roosth Creditors”, and together with the Ad Hoc Group, the “Objecting Royalty Owners”), each having asserted claims as mineral owners for due and unpaid royalties by several Debtor entities, and file this *Joint Objection of Ad Hoc Royalty Interest Owners Group and Roosth Creditors to Confirmation of Debtors’ Amended Joint Consolidated Plan of Reorganization* (this “Objection”). In support of this Objection, the Objecting Royalty Owners respectfully submit as follows:

PRELIMINARY STATEMENT

1. For years, the Debtors have made clear that royalty interest owners are second-class creditors. What began as a pattern of delayed, partial, and in many cases unpaid³ royalty payments has evolved into a reorganization blueprint that cements disparate treatment, discriminatorily shifts operational risk almost entirely onto royalty owners, and offers illusory security as a substitute for meaningful repayment terms.

2. The Debtors’ Amended Joint Consolidated Plan of Reorganization (the “Plan”) continues this prepetition tradition. For Class 6 Royalty Claimants, the Plan’s promise of payment is contingent on the hope that oil production will continue from specific wells for nearly five years—without interruption, depletion, or market collapse. In contrast, identically-situated Class 7 General Unsecured Creditors are given guaranteed, fixed quarterly payments, insulated entirely from the operational realities of oil and gas production.

³ By way of example, the Roosth Creditors’ royalty payments fully ceased after distributions in July 2022, did not resume even after filing of a lawsuit against the operator and lessee in Smith County in May 2024, and only resumed after these bankruptcy cases were filed. In the meantime, the Debtors or their principals were using the gross revenues of the Henderson County well, including what should have been paid to the Roosth Creditors as a personal piggy bank, instead funding acquisitions and/or other businesses operations with royalty owners’ cash collateral under Chapter 67 of the TEX. PROP. CODE.

3. Even among Class 6 Royalty Claimants, recoveries are uneven by design. A small subset of “Producing” Royalty Owners—currently tied to active wells—may see their prepetition arrearages repaid relatively quickly, while the vast majority of “Non-Producing” Royalty Claimants will receive nothing for 59 months. And among Producing Royalty Owners, those owed only a few months of arrearages will be made whole far sooner than those with years of unpaid royalties who remain exposed to prolonged repayment horizons and the constant risk of production cessation.

4. The Plan offers Class 6 Royalty Claimants a purported lien in the Llano Ranch as a supposed equalizer. But the lien, as structured, is so deeply subordinated and procedurally unenforceable that it is, for all practical purposes, worthless. It neither offsets the heightened payment risk imposed on Class 6 nor provides any realistic prospect of recovery in the event of a Plan Default.

5. Compounding these substantive defects, the Plan’s solicitation violated both the Bankruptcy Code and the Court’s Solicitation Order. Votes were solicited with opaque and confusing attachment of the Plan and Disclosure Statement to voting creditors, depriving them of the core disclosures Congress has deemed essential. Worse, hundreds of Class 6 or Class 7 creditors holding noncontingent, liquidated, and undisputed claims were never solicited at all—effectively disenfranchising them from the Bankruptcy Code’s mandatory confirmation voting process.

6. The Plan further overreaches by including an overbroad injunction that may strip royalty owners of fundamental state-law rights to enforce or terminate their leases in the event of future defaults—converting terminable mineral leases into perpetual ones and locking in the Plan’s inequitable allocation of risk. Likewise, its sweeping exculpation provision impermissibly shields

a broad range of non-estate parties from potential liability, extending well beyond the boundaries permitted under Fifth Circuit precedent and the Bankruptcy Code.

7. These defects go to the heart of the Chapter 11 confirmation framework. Sections 1129(b) and 1123(a)(4) unconditionally require fairness among like-prioritized classes and equal treatment for similarly situated creditors. Section 1125(b) demands full and timely disclosure before votes are solicited. Section 1129(a)(3) mandates that a plan be proposed in good faith. And no provision of the Code authorizes the Plan's overbroad injunctions or its excessive exculpations. The Plan, as proposed, fails on all counts.

8. The Bankruptcy Code protects creditors against exactly the kind of inequities embedded in this Plan—inequities that reward one class of unsecured creditors with certainty while consigning another to years of heightened risk and uncertainty (and potential nonpayment) while also stripping them of remedies and insulating wrongdoers from accountability. This Court should enforce those protections and deny confirmation.

BACKGROUND

A. General Background

9. Prior to the Petition Date, the Debtors were engaged in oil production pursuant to mineral lease agreements between the Debtors and a great number of royalty owners from dozens of wells or more.

10. Also prior to the Petition Date, the Debtors stole oil production belonging to royalty owners, sold such production, and converted the proceeds to fund operations for the Debtors and to prop up the Debtors' trophy ranches in Oregon and West Texas.

11. As a result, as of the Petition Date, the Debtors owed millions of dollars to hundreds of royalty owners. However, the royalty owners were not all equally robbed.

12. As of the Petition Date, some royalty owners had interests in production from wells that are no longer producing (“Non-Producing Royalty Claimants”), while others had interests in production from wells that were still producing (“Producing Royalty Claimants”).

13. But even among Producing Royalty Claimants there were disparities in the number of months in arrears the Debtors were in royalty payments. For example, Robert Ramsey is owed royalties for nearly 24 months of production prior to the Petition Date, whereas Marcia Pool is owed royalties for approximately 2 months of production prior to the Petition Date.⁴ See GUC Smackover Schedule⁵ (showing scheduled claim amounts); see also Case No. 25-90007, Docket No. 26-1 (monthly operating report showing ongoing royalty payments).

B. Overview of Critical Plan Terms

14. The Plan proposes to resolve claims primarily through continued oil and gas production, the sale of certain ranch properties, and structured cash payments.

15. In contrast, Class 7 General Unsecured Creditors receive fixed quarterly cash payments from a dedicated escrow account, insulated from production risk. The Plan anticipates funding these payments through operational revenues and eventual ranch sales, with Class 7 payments taking priority over Class 6 distributions in practice. Additionally, the Plan includes a broad injunction that could limit creditors’ ability to exercise certain state-law rights post-confirmation.

i. Treatment of Class 6 Claimants

16. For Class 6 Royalty Claimants, repayment of prepetition arrearages is tied directly to future production from the specific wells in which each claimant holds an interest.

⁴ Nothing contained in this Objection shall be construed as stipulating as to the claim amounts of any creditor or the secured/unsecured status of any claim. All rights regarding parties’ proofs of claim are reserved.

⁵ Defined below.

17. *Producing Royalty Claimants* receive monthly payments equal to 120% of their ongoing royalty entitlement until their arrearages are repaid. *See* Plan at Article IV.6.a. However, if the 20% coupon on future production is insufficient to repay the arrearages to any of the Class 6 Royalty Claimants, then a “balloon” payment of the remaining arrearages is payable 5 years following the Effective Date. *Id.*

18. *Non-Producing Royalty Claimants* receive nothing until a lump-sum “balloon” payment nearly five years after the Effective Date. *Id.*

19. Class 6 is also granted a junior lien on Parcel 1 of the Llano Ranch, but this lien is subordinated to multiple other obligations and lacks clear enforcement mechanisms. *Id.*

ii. Treatment of Class 7 Claimants

20. In contrast, Class 7 General Unsecured Creditors receive fixed quarterly cash payments insulated from production risk.

21. The Plan anticipates funding these payments through operational revenues and eventual ranch sales, with Class 7 payments taking priority over Class 6 distributions in practice (since they’re guaranteed on a fixed schedule). *See* Plan at Article IV.7.

a. *Overview of Timing & Contingencies*

22. Under the Plan, Class 7 General Unsecured Creditors are to be paid in full, with interest, through a combination of fixed quarterly payments and event-driven distributions. Upon the sale of the Oregon Ranch and/or Llano Ranch Parcel 1, the Reorganized Debtors must distribute up to \$1 million from the combined net excess sale proceeds—after paying all allowed secured claims, closing costs, and broker fees—pro rata to Class 7.

23. In addition, beginning by the end of the first full calendar quarter after January 1, 2026, Class 7 will receive \$50,000 per quarter, secured by the Extex Annual Payments. The

Debtors may skip up to two quarterly payments if liquidity is insufficient and escrow funds are unavailable, in which case the Plan Agent must enforce the lien on the Extex Annual Payments. These quarterly payments increase over time based on specific triggers: once the Class 5 Halliburton Secured Claim is paid in full or disallowed, Class 7's quarterly payments increase by an additional \$50,000; and after the Oregon Ranch is sold in its entirety, the quarterly amount increases an additional \$100,000. Any remaining unpaid balance of Class 7 claims, with all accrued interest, must be paid in full by the end of the sixtieth month following the Effective Date.

OBJECTION

A. The Plan Discriminates Unfairly and Therefore Cannot Satisfy 11 U.S.C. 1129(b)(1)

SUMMARY: *The Plan unfairly discriminates against Class 6 Royalty Claimants by providing preferential treatment to Class 7 General Unsecured Creditors. Recovery on Class 6 Claims is contingent upon—and proportionate to—ongoing oil production, while recovery on Class 7 Claims is guaranteed through defined periodic payments. As a result, Class 6 Claimants face the risk – and in many cases, the certainty – of receiving no recovery at all for 59 months, whereas Class 7 Claimants receive quarterly payments on schedule. This disparity means that Class 6 Claimants bear the risk that available cash will be depleted before any payment to them comes due. This materially different risk profile constitutes unfair discrimination in violation of § 1129(b)(1).*

24. Taken together, §§ 1122, 1124, 1125, and 1129 establish a bedrock principle of Chapter 11: similarly situated classes must be treated equally. Even where a plan proposes to “pay all claims in full,” such a promise does not license unfair discrimination; a debtor projecting full payment still “cannot favor one general unsecured claim over another without a legitimate justification.” *In re DeLeo*, No. 21-20025, 2022 Bankr. LEXIS 3767, at *14 (Bankr. D. Me. Apr. 8, 2022).

25. This maxim is codified in the cramdown provision of Bankruptcy Code section 1129(b)(1), which allows confirmation over a rejecting class only if the “plan does not discriminate

unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.” Although the Bankruptcy Code does not define “discriminate unfairly,” the court in *DeLeo* surveyed the case law and concluded:

Courts have developed an array of tests to evaluate whether such different treatment is unfair, examining a wide range of factors. E.g., *In re Tribune Co.*, 972 F.3d 228, 240-41 (3d Cir. 2020) (collecting cases and secondary sources); *In re Crawford*, 324 F.3d 539, 542 (7th Cir. 2003) (critiquing various tests applied in related chapter 13 context, noting inability “to think of a good test ourselves,” recommending that trial judges “seek a result that is reasonable in light of the purposes of the relevant law,” and recognizing similar approach adopted in *In re Bentley*); *In re Bentley*, 266 B.R. at 237-39 (describing inadequacies of tests that, in chapter 13 context, attempt to resolve abstractness of “fair” by assessing other equally abstract concepts such as “reasonableness”); *In re City of Detroit*, 524 B.R. 147, 255-56 (Bankr. E.D. Mich. 2014) (comparing tests, rejecting them, and concluding instead “that determining fairness is a matter of relying upon the judgment of conscience” as informed by “the Court’s experience and sense of morality,” as well as case circumstances and Code purposes). Some courts have considered, for example, the logic behind the plan proponent’s justification for the different treatment and whether such treatment would be necessary for the plan’s success. See *In re Dow Corning Corp.*, 244 B.R. 696, 700-01 (Bankr. E.D. Mich. 1999) (describing four-factor test adapted from chapter 13 to chapter 11 context in *In re Aztec Co.*, 107 B.R. 585, 588-91 (Bankr. M.D. Tenn. 1989) and collecting cases applying *Aztec* test and variations that eliminated overlapping considerations). Other courts have considered factors that reflect fairness embodied in Code requirements. Cf., e.g., *In re Bentley*, 266 B.R. at 239-40 (“look[ing] to the principles and structure of Chapter 13 itself” to establish “baseline” for evaluating fairness of disparate benefits and burdens being allocated to similarly situated classes). ***Along those lines, one common focus is equality of distribution among similarly situated creditors. But this inquiry into equality is not, as the debtor seems to believe, strictly limited to the amount to be distributed to each creditor. Not all 100% dividends are created equally.*** A distribution of marketable securities is different from a distribution of a fractional interest in undeveloped real estate. A distribution on the first day following confirmation is different from a distribution seven years later (even if the deferred stream of payments is brought to present value with a rate of interest). ***The point here is that risk matters when thinking about fairness and the balancing of debtor and creditor interests that must occur in***

any chapter 11 case. E.g., In re Tribune Co., 972 F.3d at 241, 242-44 (describing and heavily incorporating principles and points articulated in, and in cases and other writings drawing upon, Bruce A. Markell, *A New Perspective on Unfair Discrimination in Chapter 11*, 72 Am. Bankr. L.J. 227 (1998)).

In re DeLeo, at *15-17 (emphasis added) (in line edits original).

26. As *DeLeo* and other cases recognize, there is a rebuttable presumption of unfair discrimination when there is: (1) a dissenting class; (2) another class of the same priority; (3) a difference in the plan's treatment of the two classes that results in either (a) a materially lower projected percentage recovery for the dissenting class (measured in terms of net present value of all payments); **or (b) regardless of an identical projected percentage recovery, an allocation under the plan of materially greater risk to the dissenting class in connection with its proposed distribution.** See, e.g., *In re Dow Corning Corp.*, 244 B.R. 705 (Bankr. E.D. Mich. 1999); see also Bruce A. Markell, *A New Perspective on Unfair Discrimination in Chapter 11*, 72 Am. Bankr. L.J. 227 (1998)) (proposing the rebuttable presumption); and *In re Tribune Co.*, 972 F.3d at 243 (3d Cir. 2020) (approving of Bankruptcy Court's application of rebuttable presumption test); *In re Armstrong World Indus., Inc.*, 348 B.R. 111, 121–22 (D. Del. 2006) (recognizing that “risk allocation” is a valid factor in determining unfair discrimination, even where nominal recoveries are projected to be equal).

27. Here, all three conditions are met, and the presumption applies. *First*, Class 6 is (or will likely be) a dissenting class (or would have been if solicitation had not been improper, as discussed in greater detail below). *Second*, Class 6 claimholders hold claims of the same priority as Class 7 claimholders. Indeed, the Plan and Disclosure Statement make clear that both are unsecured creditors. And the Debtors, the United States Trustee, the Lender, and the Committee have expended considerable effort to repeatedly assert that royalty owners are unsecured creditors

at several hearings from February through the present. *Third*, Class 6 Claimants are subject to materially greater payment risk under the Plan than Class 7 Claimants. This is true for three independent reasons:

i. Timing of Plan Payments to Class 6 Claimants Places Class 6 Claimants at Greater Risk of Nonpayment

28. Class 6 Claims will be paid only if the Debtors continue producing oil from the wells underlying each individual claimant's interest. By contrast, Class 7 Claims are entitled to guaranteed, fixed-sum quarterly payments. If production stops, a decision which is controlled entirely by the reorganized debtors under the Plan, Class 6 Claimants could go unpaid for nearly five years without triggering a Plan Default (because the Plan does not require full payment of Class 6 Claims until 59 months after the Effective Date). By that time, the likelihood of payment will be substantially diminished, and even if funds remain in the Creditor Escrow, they may be insufficient to satisfy both unpaid Class 7 and Class 6 Claims. In short, while many of the Class 6 Claimants may receive no payment on their claims for nearly five years with no right to claim a default, Class 7 Claimants will continue to receive quarterly payments "like clockwork," with nonpayment constituting an immediate Plan Default.

29. This is exactly the type of materially greater risk of nonpayment that courts recognize as presumptively constituting unfair discrimination. The Plan therefore cannot be confirmed. *See In re DeLeo*, at 15–17 ("The point here is that risk matters when thinking about fairness and the balancing of debtor and creditor interests that must occur in any chapter 11 case."); *see also In re Tribune Co.*, 972 F.3d at 241, 242–44 (describing and incorporating principles articulated in Bruce A. Markell, *A New Perspective on Unfair Discrimination in Chapter 11*, 72 Am. Bankr. L.J. 227 (1998)).

30. Of course, this ignores the complicating possibility that the Debtors may decide to assign or sell their mineral leases. The Plan’s promise to pay Producing Royalty Claimants an additional 20% over their ongoing royalty entitlement is further undermined by the fact that this “premium” obligation does not run with the land or attach to the underlying leases. If the Debtors sell or assign a lease to a third party, the purchaser would have no contractual or property-law obligation to continue paying the 20% increment. The lack of any covenant running with the land or recorded instrument securing this 20% premium exacerbates the unequal risk imposed on Class 6 creditors and further illustrates the Plan’s failure to provide them with truly equivalent treatment or adequate assurance of payment.⁶

ii. The Plan Foists Operational Risk Exclusively on Class 6 Royalty Claimants

31. This risk is not theoretical—it has already materialized twice in the short six-month pendency of these Chapter 11 Cases. First, in the initial months of the cases, the Henderson Smackover Unit No. 5—the Debtors’ highest-producing well—ceased production entirely during a well workover for nearly two months. Second, there are hundreds of royalty interest owners owed prepetition royalties who will receive nothing under the Plan because the Debtors no longer produce oil from their wells. These examples underscore that the threat of production slowdown or cessation is both real and recurring, before even considering the effects of fluctuations in the demand of or market price for oil. As a result, Class 6 Claimants bear a substantial operational risk to which Class 7 Claimants are not exposed. If production again halts after the Effective Date (for any reason: casualty loss, market disruption, operational flubs), distributions to Class 6 Claimants (at least those whose wells are producing) could be reduced or may stop entirely—regardless of the amounts owed for unpaid royalties. In contrast, Class 7 Claimants are entitled to and will

⁶ The Plan should prohibit the assignment or sale of the leases until the claims are paid in full, including assignments to non-Debtor affiliates.

continue to receive fixed quarterly payments without exposure to any form of production risk. This one-sided allocation of operational risk is exactly the type of materially greater risk of nonpayment that courts have found to be presumptively unfair discrimination.

32. In addition, the Plan contemplates what is, in effect, a “balloon payment” at the end of year five for the Class 6 claims, though the Debtors have never fully established with any certainty their ability to make this payment, or the means by which Debtors will do so. Bankruptcy courts must look with substantially greater skepticism upon plans that propose balloon payments in the future. *In re Geijssel*, 480 B.R. 238, 260 (Bankr. N. D. Tex. 2012). In the Northern District of Texas, courts have held that approval of a plan for balloon payments will be approved only when the debtor proves either: (1) that there will be “a successful sale to a likely or known buyer;” or (2) its ability “to obtain refinancing from a likely or known refinancier.” *Id.*, citing *In re Briscoe Enters., Ltd.*, 138 B.R. 795, 805-06 (N.D. Tex. 1992). Neither are present in this case. Furthermore, the bankruptcy court must consider “future earnings capacity of the debtor, whether the plan provides for payment of principal and interest to the secured creditor, the motivation of the debtor to execute the plan successfully, the equity in the property, and whether the plan provides for the reduction of debt to enhance the prospect of refinancing at the end of the plan.” *Id.*; *In re Bastankhah*, 10-40058, 2012 Bankr. LEXIS 256 at *6-7 (Bankr. S. D. Tex. Jan. 18, 2012). The rationale for doing so is simple: “Courts are concerned with using performance measures to determine whether a debtor can meet its monthly payments in a way that essentially apes the standard feasibility analysis, up until the time of the balloon payment, ***so that the proposed balloon payment will, indeed, be what the plan contemplates and not more.***” *In re Friendship Dairies*, No. 12-20405-RLJ-11, 2014 Bankr. LEXIS 13 at *38-39 (Bankr. N. D. Tex. Jan. 3, 2014)

(emphasis added).⁷ And finally, framed as “the most important question,” the bankruptcy court must consider “whether the creditor's security, in some form, will outweigh its owed, proposed debt at the time of the balloon payment.” *In re Geijzel*, 480 B.R. at 260. The Plan and Disclosure Statement fail all of these feasibility tests. But this is more than a feasibility question – none of these questions must be asked of the Plan’s methodology for payment of claims in Class 7, because the Class 7 creditors are not exposed to any of these risks.

33. The Plan is discriminatory, exposing distributions to creditors in Class 6 to risks that creditors in Class 7 need never worry about, and thus cannot be confirmed.

iii. The So-Called “Lien” against the Llano Property Is Illusory

34. The Debtors will no doubt attempt to tout the Llano Lien as the silver bullet that cures the Plan’s disparate treatment of Class 6 Claimants. It is not. In reality, the Llano Lien is illusory—providing no meaningful value, no enforceable security, and no practical benefit to Class 6 Claimants.

35. *First*, the lien is illusory because it is so deeply subordinated as to be worthless. It is junior to Prosperity’s lien, junior to brokers’ fees, junior to property taxes, and junior to estate professional fees. If Parcel 1 of the Llano Ranch sells before the Oregon Ranch, the waterfall ensures that precisely zero dollars will flow to Class 6 Claimants. Even if the Oregon Ranch sells first, there is no assurance that Prosperity’s secured claim will be paid in full from that sale, leaving the Llano Lien still possibly entirely out of the money. And even if some residual value somehow survived, the delay and uncertainty would make recovery speculative at best.

⁷ The virtual assurance of missed or under-funded payments over 5 years because many of the wells are no longer producing assures that many of the Class 6 Claims will not be reduced at all, and, therefore, the “balloon payment” will inevitably be substantially more than – not equal to or less than – the balloon projected in the Disclosure Statement.

36. *Second*, the lien is illusory because it is functionally unenforceable. The Plan provides no clear or practical mechanism for Class 6 Claimants, collectively or individually, to foreclose on Parcel 1 in the event of a Plan Default. There is no foreclosure timeline, no identified trustee or enforcement agent, and no procedure for coordinating among potentially hundreds of Class 6 Claimants with fractional lien interests. And this ignores the chaos that would ensue if some Class 6 Claimants are current under the Plan while others are not: Could one or some, but not all, Class 6 Claimants demand that the Plan Agent foreclose? If so, would the non-foreclosing lienholders be entirely disenfranchised?

37. Moreover, the Plan underscores its disparate treatment of Classes 6 and 7 through the nature of the “security” afforded to each. Class 7’s quarterly payments are secured by a lien on the Extex Annual Payments—an identifiable, recurring revenue stream with a clear enforcement mechanism if payments are missed. By contrast, Class 6’s supposed protection is a lien on Parcel 1 of the Llano Ranch, which is speculative at best: it is deeply subordinated to multiple senior liens, dependent on the uncertain timing and proceeds of a ranch sale, and lacks any practical foreclosure framework for hundreds of fractional lienholders. In short, while Class 7’s lien is tied to an existing cash flow and offers a realistic means of enforcement, Class 6’s lien is illusory, offering the appearance of protection without any of the substance.⁸

38. In effect, the Llano lien exists only on paper—offering the appearance of security while imposing all of the procedural and collective-action barriers (and fiduciary issues) that make realization on the collateral virtually impossible.

⁸ Finally, it should also be noted that Mr. Hoerauf has not signed the Plan in his personal capacity, but that the Plan appears to include personal commitment from Mr. Hoerauf. For example, Sections 4.6.4, 4.6.12, and 4.7.3 all include a personal commitment from Mr. Hoerauf to *not* designate Parcel 1 or Parcel 2 as his homestead, yet Mr. Hoerauf has not signed on this commitment.

39. In short, the Llano Lien is a hollow promise—neither mitigating the greater risk imposed on Class 6 Claimants nor providing any realistic prospect of recovery.

iv. Any Disparity Is Only Justifiable in Class 6 Claimants' Favor

40. The unfair discrimination against Class 6 Claimants is all the more egregious when viewed in light of the origins of the respective claims. Most, if not all, Class 6 Claims arise from the Debtors' wrongful diversion and retention of royalty revenues—funds that, by law and contract, belonged to the royalty owners. But for that misconduct, Class 6 Creditors would have been paid from segregated production proceeds or, at a minimum, would have enjoyed secured rights in those proceeds. By contrast, Class 7 Creditors are trade and other unsecured claimants who voluntarily assumed the risk of extending unsecured credit to the Debtors without any lien or trust protection. It is therefore perverse that the Plan allocates materially greater payment risk to those whose property was taken without consent, while shielding voluntary unsecured creditors from that same risk with guaranteed, fixed-interval payments. As *DeLeo* recognizes, “risk matters” in assessing fairness; here, the Plan stands fairness on its head, turning the Code’s equality principle into an instrument for rewarding voluntary creditors at the expense of involuntary ones.⁹

B. The Plan Does Not Comply with 11 U.S.C. § 1129(a)(1) Because the Plan Violates 11 U.S.C. § 1123(a)(4)

SUMMARY: *Class 6 Claimants are not receiving equal treatment among each other. The problem is twofold: (1) the Plan treats producing and non-producing Class 6 Claims differently; and (2) the Plan treats producing claims differently from one another.*

Class 6 Claimants with a royalty interest in a producing well will receive monthly payments, while those with an interest in a nonproducing well will receive nothing until five years after the Effective Date, if anything. This disparity in recovery opportunity

⁹ Courts interpreting unfair discrimination under Chapter 13 plans have applied a *rational purpose* test or a *minimum permissible return* test. To the extent that this Court determines that such tests are appropriate here, then the inverted equities outlined in this section (*i.e.*, converted/stolen funds versus voluntary creditors) clearly demonstrates why disparate treatment *against* Class 6 is totally without justification.

constitutes unequal treatment in violation of § 1123(a)(4). Moreover, among the producing claimholders, recoveries vary dramatically—some may be paid in full within months, while others may wait years, if they recover at all.

41. Even setting aside the unfair discrimination issue as it pertains externally to Class 7, the Plan does not afford the same internal treatment to all claimholders within Class 6. There are two distinct disparities: (1) the Plan treats Non-Producing Royalty Claimants and Producing Royalty Owners differently; and (2) the Plan treats Producing Royalty Claimants differently from one another.

42. As a general rule, a Chapter 11 plan must provide equal treatment to all claims within a class. 11 U.S.C. § 1123(a)(4). Bankruptcy Code section 1123(a)(4) requires that a plan “provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to a less favorable treatment of such particular claim or interest[.]” 11 U.S.C. § 1123(a)(4). Equality of treatment involves two aspects: (1) “[a]bsent consent to accept less favorable treatment, all members of the class must receive equal value” and (2) “each member of the class must pay the same consideration for its distribution.” *In re Quigley Co., Inc.*, 377 B.R. 110, 116–17 (Bankr. S.D.N.Y. 2007). Indeed, “[t]he fundamental premise of bankruptcy is that all creditors of the same class shall be treated equally.” *In re MCorp Fin., Inc.*, 137 B.R. 219, 227 (Bankr. S.D. Tex. 1992).

43. In *MCorp Financial*, the court refused to confirm multiple debtors’ plans where the plans allowed for “possible disparate treatment of contested claims” and the disadvantaged creditors had not consented to such unequal treatment. *In re MCorp Fin., Inc.*, 137 B.R. at 224, 227 (“The court finds that the plans violate § 1123(a)(4) as they do not provide the same treatment for each claim or interest of a particular class, and the holder of that claim or interest has not agreed to a less favorable treatment of such claim or interest.”). There, the debtors placed both contested

and uncontested claims within the same class, and provided a certain amount of money with an estimated cap for resolution of the contested claims. *Id.* at 227. However, the court found that this “amount may not be sufficient for all contested claims once resolved,” in which case, “the contested claimant would not receive the same pro rata distribution on its allowed claim as would the noncontested claims” within the same class. *Id.* Thus, even where there was possible disparate treatment between members of the same class, the court found that the potential for unequal treatment was sufficient to violate § 1123(a)(4). *See also In re Dana Corp.*, 412 B.R. 53, 62 (S.D.N.Y. 2008) (“The key inquiry under § 1123(a)(4) is not whether all of the claimants in a class obtain the same thing, but whether they have the same opportunity.”).

i. The Plan Treats Non-Producing Royalty Claimants and Producing Royalty Claimants Differently

44. The Plan places Non-Producing Royalty Claimants and Producing Royalty Claimants in the same class but gives them starkly different treatment. Producing Royalty Owners receive payment of their prepetition claims through 120% go-forward royalty payments; Non-Producing Royalty Owners receive 120% of zero, with a balloon at year 5.

45. The Plan defines “Royalty Claims” as “any Claim for unpaid oil and gas royalties from any of the Debtors as of the Petition Date, but expressly excludes any suspense royalties and resulting suspense funds” without distinguishing between royalties owed on producing versus nonproducing wells. *See Plan at Article I.2.* The overwhelming majority of Class 6 Claimants are owed royalties on wells the Debtors no longer operate—and, on information and belief, may have lost the right to operate years ago due to long-standing cessation of production.

46. Only 23 entities qualify as Producing Royalty Claimants, as identified in Exhibit B to the *Debtors’ Amended Emergency Motion for Entry of an Order Authorizing the Debtors to (I) Make Royalty Owner Payment Disbursements and (II) Grant Related Relief* [Docket No. 153]

(the “Royalty Motion”). This list matches the payments reflected in the Debtors’ monthly operating reports during the Chapter 11 Cases. See, e.g., Case No. 25-90007, Docket No. 26-1.

47. By contrast, Non-Producing Royalty Claimants number in the hundreds, with claims ranging from a few cents to tens of thousands of dollars. See, e.g., Case No. 25-90007, Docket No. 21, Schedule E/F, Items 3.1–3.418. Many more individuals received Class 6 ballots than are currently receiving checks from ongoing production. It should always be remembered that this is a problem of the Debtors’ creation and for which the Debtors bear sole responsibility.

48. The difference in recovery opportunity is stark: Non-Producing Royalty Claimants will not receive a single payment until 60 months after the Effective Date, while Producing Royalty Claimants may receive periodic payments immediately (unless, of course, production stops). This is unequal treatment within the same class and violates § 1123(a)(4).

ii. The Plan Treats Producing Royalty Claimants and Other Producing Royalty Claimants Differently

49. Even among Producing Royalty Claimants, the Plan does not provide equal treatment. The disparity stems from the fact that not all producing wells are equally in arrears. Some Producing Royalty Claimants are owed only a few months of unpaid royalties; others are owed years of unpaid amounts. Because the Plan repays prepetition arrearages solely through ongoing production at each individual well (ratably in respect of individual owners’ interests), claimants with smaller arrearages (measured by number of months/years in arrears as of the Petition Date) will be made whole in a matter of months, while those with larger arrearages (again measured by number of months/years in arrears as of the Petition Date) may wait many years—if they are repaid at all, given the compounded risk that production could cease before full repayment.

50. For example, if Claimant A is owed three months of unpaid royalties on a currently producing well (*see e.g.*, Marcia Pool), the go-forward payment structure will clear that arrearage

quickly. By contrast, Claimant B—whose well has been in arrears for several years (*see e.g.*, Robert Ramsey)—will require years of uninterrupted production to be repaid in full. Both are in Class 6, yet one recovers swiftly while the other remains exposed to extended repayment risk. In a perhaps poetically toxic way, the worse a royalty owner was treated prior to the Petition Date, the worse their treatment is under the Plan.

51. This disparity in repayment timing and attendant risk means that members of Class 6 are not receiving the “same treatment” as required by § 1123(a)(4). The Plan therefore cannot be confirmed.

C. The Plan Was Not Proposed in Good Faith and Therefore Cannot Satisfy 11 U.S.C. § 1129(a)(3)

SUMMARY: *Section 1129(a)(3) requires a plan to be proposed in good faith. This Plan does the opposite by: (1) allocating materially greater payment and operational risk to Class 6 Royalty Claimants; (2) offering Class 6 only a structurally out-of-the-money, functionally unenforceable lien in contrast to Class 7’s fixed, escrow-backed payments; (3) using a solicitation process that omitted hundreds of eligible voters and withheld Plan documents from many others; and (4) imposing an overbroad injunction that threatens to strip Royalty Claimants of state-law lease termination and lien rights. Viewed against the backdrop of the Debtors’ prepetition diversion of royalties, the Plan’s design cannot satisfy § 1129(a)(3).*

52. Section 1129(a)(3) requires that a plan be “proposed in good faith and not by any means forbidden by law.” Good faith demands more than facial compliance with the Bankruptcy Code’s technical provisions; it requires a plan to be designed to achieve the objectives and purposes of chapter 11—namely, the fair and equitable reorganization or liquidation of the debtor for the benefit of creditors.

i. Solicitation and Plan Treatment Is Not Proposed in Good Faith

53. The structure and solicitation of this Plan reveal the opposite. Rather than crafting a plan that treats similarly situated creditors equally and maximizes the likelihood of payment to all impaired classes, the Debtors have designed a scheme that:

- Channels materially greater risk to a disfavored subset of unsecured creditors (Class 6 Royalty Claimants) while insulating other unsecured creditors (Class 7) from that same risk;
- Purports to “secure” Class 6’s recovery with a lien that is structurally out of the money and practically unenforceable;
- Withholds payment entirely from hundreds of Class 6 Claimants for nearly five years;
- Distributes materially different repayment timelines even within the same class; and
- Solicited votes without providing clear access to the Plan or Disclosure Statement to all creditors entitled to vote, while failing to solicit hundreds who should have been given the opportunity.

54. The inequitable treatment of Class 6 Creditors described above is not simply a matter of disparate economics—it reflects a deliberate choice to disadvantage those whose claims arose from the Debtors’ wrongful appropriation of property, while affording preferential certainty to those who knowingly extended unsecured credit. The former are, in essence, involuntary creditors—victims of an unauthorized taking—yet the Plan imposes upon them the highest degree of repayment risk. The latter are voluntary creditors who assumed business risk, yet the Plan insulates them entirely from operational realities. This inversion of risk allocation—rewarding voluntary risk-takers while penalizing involuntary victims—cannot be squared with the good faith requirement of § 1129(a)(3) or with the Bankruptcy Code’s fundamental purpose of equitable treatment among similarly situated creditors. It is precisely the type of plan design that, under the

“judgment of conscience” standard endorsed in *In re City of Detroit* should be rejected. 524 B.R. at 255-56.

55. Where, as here, a plan’s design and solicitation process work together to disadvantage specific groups of creditors and to insulate that design from scrutiny, courts have found the good faith requirement of § 1129(a)(3) unsatisfied. The Plan should be denied confirmation on this basis as well.

ii. The Plan Injunction Is Not Proposed in Good Faith

56. The Plan’s injunction provision is drafted so broadly that it may operate to bar royalty interest owners from exercising fundamental property rights under their leases in the event of future defaults. Many oil and gas leases provide the lessor with the right to terminate the lease upon specified defaults by the lessee, including failure to make timely royalty payments or cessation of production. Yet the Plan’s permanent injunction purports to enjoin “any suit, action or other proceeding of any kind” and “any...enforcing...or otherwise recovering in any manner” against the Reorganized Debtors or their property “on account of a Claim” without regard to whether the post-confirmation default arises from new, independent conduct. This language is sufficiently sweeping to encompass the assertion of lease termination rights, particularly where the lessee is also the obligor on prepetition royalty arrearages. In effect, the Plan risks converting a terminable mineral lease into a perpetual one, stripping lessors of state-law remedies and further entrenching the Plan’s unequal allocation of risk. Such overreach is inconsistent with the good faith requirement of § 1129(a)(3) and with the preservation of non-bankruptcy property rights that the Bankruptcy Code does not purport to extinguish.

iii. The Plan May Impermissibly Neuter State Law Lien Rights

57. Further, the Plan does not *expressly* preserve the secured lien rights of the Royalty Owners to their liens on post-confirmation production and/or mineral sales under their pre-bankruptcy leases and Chapter 67 of the Texas Property Code. This glaring omission – also evidence of bad faith – leaves the Royalty Owners exposed to arguments not only that they were disenfranchised of their liens by the Debtors’ unauthorized usurpation, misapplication and conversion of their royalties pre-petition, but that the Plan has effectively done the same thing to them under 11 U.S.C. § 1141(b) and (c) by failing to expressly preserve their post-confirmation liens under their leases and Texas law.

iv. The Debtors’ Prepetition Tradition of Theft and Conversion Informs the § 1129 Good Faith Inquiry

58. Finally, it should be noted that it is the Debtors’ good faith (or bad faith) that the Bankruptcy Code mandates this Court examine, and their pre-bankruptcy conduct *is* relevant to, that inquiry. In that regard, some of the Debtors’ unauthorized theft and misapplication of royalties benefitted others of the Debtors and occasionally, their creditors, prior to bankruptcy. In contrast, the general unsecured creditors were simply doing business with one or several Debtors. The difference in how the Class 6 and Class 7 Claims arose *might* have been a good faith justification for treating the Royalty Owners *better* than general unsecured creditors; there is no good faith justification for treating the Royalty Owners *worse* than the unsecured creditors, and the fact that the Plan does so institutionalizes the Royalty Owners’ continuing victimization.

D. The Plan Does Not Comply with 11 U.S.C. 1129(a)(11) Because the Debtors Cannot Establish that Operations Will Fund Plan Obligations

SUMMARY: *Section 1129(a)(11) requires that a Chapter 11 plan be feasible, yet the Debtors’ projections rest on speculative oil and gas operations that have historically produced dry wells and financial losses. Once the Plan’s requirement to remit all royalty revenues to*

their rightful owners is honored, the Debtors lose a key cash source that has been underwriting their operations and carrying costs for unsold ranch properties. Without safeguards against a return to high-risk drilling or a credible showing of alternative funding, the Plan fails to demonstrate that it can sustain operations and meet obligations without further financial reorganization.

59. Section 1129(a)(11) of the Bankruptcy Code provides that the Court may confirm a plan “only if it determines that confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.” This “feasibility” requirement ensures that a plan rests on more than speculative projections and that the reorganized debtor will have the operational and financial capacity to perform its obligations without returning to bankruptcy.

60. Here, the Debtors cannot satisfy this standard. The Debtors’ future viability hinges almost entirely on the continued success of oil and gas operations, yet the record reflects that a material cause of their insolvency was the failure of multiple dry wells drilled at the direction of Mr. Hoerauf. These drilling missteps—coupled with the volatility inherent in oil and gas production—underscore that the Debtors’ projections are far from certain.

61. Moreover, the Plan’s feasibility must be evaluated on the assumption that the Debtors will comply with the Bankruptcy Code and the Plan’s own terms. Prior to the Petition Date, the Debtors routinely diverted mineral and royalty revenues owed to Class 6 Claimants and insiders to fund operations, including expenses associated with maintaining the Oregon Ranch and Llano Ranch while seeking buyers. Although Class 6 Claimants have received some royalty payments during these Chapter 11 Cases, the Debtors have continued to rely on royalty revenues from other sources—particularly insider interests—as a key component of their working capital. If, post-confirmation, those revenues must actually be remitted to their rightful owners as the Plan

requires, the Debtors will lose what has historically been their primary source of cash. They have offered no credible showing that, without using royalty funds to underwrite the carrying costs of unsold ranch properties, they can sustain ongoing operations and meet their Plan obligations.

62. The Objecting Royalty Owners believe that the Debtors will again revert to a speculative “drill, baby, drill” strategy that contemplates new wells generating sufficient production to fund operations and creditor payments. But new drilling requires capital, carries substantial geological and market risk, and—as recent history demonstrates—can result in dry holes that deplete resources rather than generate them. The Debtors have not demonstrated that they have secured the financing necessary to fund these drilling projects, nor that such projects will yield production at levels sufficient to cover fixed costs, Plan payments, and the inherent decline in production from existing wells.

63. While the Debtors’ financial projections notably assume no new drilling activity, nothing in the Plan prevents them from resuming speculative drilling immediately after confirmation—even while carrying the significant holding costs of the Oregon and Llano Ranch properties. If the Debtors truly intend to suspend new drilling until those ranches are sold, they should say so in the Plan. If not, the Plan should at least impose objective financial safeguards—such as minimum cash reserves, a defined debt service coverage ratio, or sustained production revenue thresholds—before authorizing any post-confirmation drilling. Without such protections, the Plan leaves creditors vulnerable to the very same high-risk drilling program that precipitated the Debtors’ insolvency, undermining both the credibility of the projections and the feasibility of the Plan.

64. A plan cannot be confirmed on the basis of optimism alone. Courts routinely deny confirmation where feasibility depends on speculative or high-risk ventures, particularly in

industries—like oil and gas—where revenue streams are inherently volatile and operational missteps can be catastrophic. See, e.g., *In re Friendship Dairies*, No. 12-20405-RLJ-11, 2014 Bankr. LEXIS 13 (Bankr. N.D. Tex. Jan. 3, 2014) (denying confirmation where debtor’s projections relied on speculative operational improvements and failed to account for loss of historic funding sources).

65. Even assuming the Debtors’ projections are otherwise accurate, the Plan provides no contingency analysis for common operational and market risks inherent in oil and gas production. The projections are silent on the impact of (i) the loss of a single high-producing well, (ii) delays or shortfalls in expected ranch sale proceeds, or (iii) a sustained decline in commodity prices. Each of these scenarios is both foreseeable and historically recurring in this industry, yet the Plan contains no reserve requirements, insurance provisions, or alternative funding sources to address them. Without such stress-testing, the feasibility analysis rests on a single optimistic case and ignores realistic downside outcomes—making it impossible for the Court to conclude that performance of the Plan is “not likely” to be followed by liquidation or further reorganization, as required by § 1129(a)(11).

66. In short, once the Debtors account for the loss of improperly retained royalty revenues and the speculative nature of their drilling plans, the numbers do not add up. Without a credible demonstration that post-confirmation operations can generate sufficient cash to meet both operating expenses and Plan obligations, § 1129(a)(11) cannot be satisfied.

E. The Exculpation Provision Impermissibly Includes Parties or Entities Not Entitled to Exculpation in the Fifth Circuit and Therefore Cannot Satisfy Section 1129(a)(1)

67. In the Fifth Circuit, the Debtors, the creditors’ committee and its members, and trustees are the only parties for which the Fifth Circuit has allowed exculpation. Despite this, Section 8.4 of the Plan provides as follows:

Exculpation. Except as specifically provided for herein, on and after the Effective Date, on the Effective Date, and without the need for further action, the Plan and Confirmation Order shall constitute a release and discharge of all actions, causes of action, claims, suits, debts, damages, judgments, liabilities, and demands whatsoever, whether matured or unmatured, whether at law or in equity, whether before a local, state, or federal court, state or federal administrative agency or commission, regardless of location and whether now known or unknown, liquidated or unliquidated, that the Debtor or the Estate may have or be able to assert against: (i) Munsch Hardt Kopf & Harr, P.C., its attorneys, employees, officers, agents, and shareholders; (ii) Brad Walker, LLC d/b/a Riverbend Special Situations Group, its shareholders, officers, directors, managers, agents, and employees, including Bradford C. Walker; (iii) Lain Faulkner & Co., P.C., its shareholders, officers, directors, managers, agents and employees; (iv) Jobe Law PLLC, its attorneys, employees, officers, agents, and shareholders; (v) the Committee, its Professionals, and its members; and (vi) any person who was a shareholder, director, officer, employee, representative, member, manager, or agent of the Debtors after the Petition Date through the Effective Date, solely for any actions or inactions taken by any of the foregoing in, or arising against the foregoing as a result of, the Bankruptcy Case, the Disclosure Statement, or the Plan, including with respect to the negotiation, execution, and delivery of any document or instrument in connection with the Plan; *provided, however,* that nothing contained in this Plan or the Confirmation Order shall relieve any of the foregoing from the normal requirements applicable to the allowance of an Administrative Claim or Professional Claim if approval from the Bankruptcy Court for such allowance is required, and no defenses to said allowance are waived or released; *provided further,* however, that nothing in this Plan releases any claim against any of the foregoing for gross negligence or intentional act.

68. This Exculpation provision seeks to exculpate individuals and entities in violation of applicable Fifth Circuit precedent, including current and former affiliates, current and former affiliates' equity holders, subsidiaries, officers, directors, managers, principals, members, employees, agents, advisors, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals.

69. To the extent that applicable law authorizes exculpation beyond 11 U.S.C. § 1125(e), the Plan’s exculpation provision is overly broad in violation of Fifth Circuit precedent. The Fifth Circuit in 2022 affirmed that, following its prior decision in *Bank of New York Tr. Co., NA v. Official Unsecured Creditors’ Comm. (In re Pac. Lumber Co.)*, 584 F.3d 229 (5th Cir. 2009), “any **exculpation in a Chapter 11 reorganization plan be limited to the debtor, the creditors’ committee and its members** for conduct within the scope of their duties, 11 U.S.C. § 1103(c), and the trustees within the scope of their duties” *In re Highland Cap. Mgmt., L.P.*, 48 F.4th at 437 (5th Cir. 2022) (emphasis added).

70. Accordingly, the following parties are not entitled to exculpation:

- Munsch Hardt Kopf & Harr, P.C., its attorneys, employees, officers, agents, and shareholders;
- Brad Walker, LLC d/b/a Riverbend Special Situations Group, its shareholders, officers, directors, managers, agents, and employees, including Bradford C. Walker;
- Lain Faulkner & Co., P.C., its shareholders, officers, directors, managers, agents and employees;
- The Committee professionals;
- Jobe Law PLLC, its attorneys, employees, officers, agents, and shareholders; and
- any person who was a shareholder, director, officer, employee, representative, member, manager, or agent of the Debtors after the Petition Date through the Effective Date.

71. Although the Debtor may be exculpated, Mr. Hoerauf cannot and should not be exculpated. This apparent attempt to obtain exculpation for Mr. Hoerauf and a myriad of other parties violates the law in the Fifth Circuit. Accordingly, the Plan cannot be confirmed.

F. The Plan Does Not Comply with 11 U.S.C. § 1129(a)(1) Because Plan Solicitation Was Not Solicited in Conformance with 11 U.S.C. § 1125(b) (or the Solicitation Order)

SUMMARY: *Plan solicitation was defective in two respects: (1) votes were solicited without providing creditors with copies of the Plan or the Disclosure Statement, in violation of both the Solicitation Order and Bankruptcy Code § 1125(b); and (2) hundreds of creditors holding noncontingent, liquidated, and undisputed Class 6 or Class 7 claims were not solicited at all.*

i. Voting Class Creditors May Not Have Known They Receive Copies of the Plan or Disclosure Statement

72. Section 1125(b) of the Bankruptcy Code provides:

An acceptance or rejection of a plan may not be solicited...from a holder of a claim or interest...unless, at the time of or before such solicitation, there was transmitted to such holder the plan or a summary of the plan and a written disclosure statement. . .

(emphasis added).

73. The Solicitation Order incorporated this requirement, approving Solicitation Procedures that expressly required the Debtors to mail a Solicitation Package—including the Plan and Disclosure Statement—to each voting creditor. *See* Docket No. 462 at E.1–E.2.

74. The Objecting Royalty Owners thought—for three weeks—that they’d received no such package. Instead, the Objecting Royalty Owners believed until hours before filing this objection that the Debtors sent only a customized ballot, a notice of the confirmation hearing, and a letter from the Official Committee of Unsecured Creditors. The mailing seemed to not include the Plan, the Disclosure Statement, the Solicitation Order, or the Solicitation and Voting Procedures. Upon information and belief, numerous other voting creditors received similarly deficient mailings.

75. The issue? Stretto’s solicitation used a paperclip that evidently doubles as a drive, but it’s not self-evident at all that the solicitation materials were embedded in the plastic paperclip:

Front



Back



76. The Objecting Royalty Owners acknowledge that it is commonplace for claims agent to cut printing and mailing costs by including digital copies of documents, but—and you can call us luddites—this digital delivery format was not self-evident. Nowhere in the solicitation materials is there any indication that digital media is enclosed, and only upon the 10th or 12th examination of the packet did counsel discover that the paperclip contained a gold-colored drive-resembling bands of metal (and two of paper clips were unceremoniously thrown away immediately upon receipt). We cannot help but think others did not realize the paper clips were drives as well.¹⁰ If digital copies of solicitation materials were going to be provided, the materials should have made it clear. Instead, it is not apparent to any reasonable creditor that they received copies of the requisite materials that were supposed to be readily provided by the Solicitation Package.

77. By failing to clearly transmit the Plan and Disclosure Statement as required, the Debtors violated both the plain terms of § 1125(b) and the express requirements of the Solicitation Order. The result is a solicitation process that has (likely) deprived voting creditors of the very information Congress deemed essential to an informed decision, rendering the vote and tabulation fatally flawed. The Plan therefore cannot be confirmed.

¹⁰ In fact, we know others didn't realize it, because our respective clients also did not make mention or notice the paper clip doubled as a drive.

78. The Plan’s solicitation defects are exacerbated by the Debtors’ use of a ballot form that contains a mandatory certification which many Class 6 Royalty Owners could not truthfully make—lest they actually realized that the plastic paper clip was a drive containing the missing solicitation materials. Specifically, the ballot requires each voting creditor to certify that it “has received the Solicitation Package and acknowledges that the solicitation is being made pursuant to the terms and conditions set forth therein.” See Docket 462 at p. 19.

79. Because this certification was not optional, creditors may have been placed in an untenable position: either sign a false certification to the Court to preserve their right to vote, or refrain from voting and risk disenfranchisement. That such a choice may have been necessary illustrates the extent to which the Debtors’ solicitation process was structurally defective.

80. This combination of procedural and substantive defects warrants not only denial of confirmation but also rejection of the Debtors’ eventual vote tabulation.

ii. Debtors Failed to Solicit Votes from Hundreds of Class 6 and/or Class 7 Claimants

81. The solicitation process was further defective because the Debtors failed to solicit votes from hundreds of creditors holding liquidated, noncontingent, and undisputed claims. Stretto’s Certificate of Service [Docket No. 469] (the “Solicitation Certificate”) purports to show solicitation of all Class 6 and Class 7 voting creditors. Exhibits H and I to the Solicitation Certificate list the recipients of ballots for Class 6 and Class 7, respectively. *See* Docket No. 469 at pp. 4–5, 25–32. The record makes clear, however, that hundreds of creditors entitled to vote were never given the opportunity.

82. Exhibit I (Class 7 recipients) lists only 164 creditors, and Exhibit H (Class 6 recipients) lists only 136 creditors. By contrast, the Smackover Debtor alone schedules more than 400 unsecured creditors as holding uncontingent, liquidated, and undisputed claims. *See* Case No.

25-90007, Docket No. 21, Schedule E/F, Items 3.1–3.418 (the “Smackover GUC Schedule”). Many of these scheduled creditors received nothing more than a Notice of Confirmation Hearing, without a ballot or solicitation package. *See* Docket No. 469 at pp. 6, 36–48 (listing parties receiving only the Notice of Confirmation Hearing).

83. Although the Objecting Royalty Owners have not conducted a full reconciliation, the following examples illustrate the scope of the problem—each is a creditor with a liquidated, noncontingent, undisputed scheduled claim who received no ballot:

- William Sidney Price Sr. (*see* Docket No. 469 at p. 48; Smackover GUC Schedule at 3.415 (receiving no ballot yet having liquidated, noncontingent, undisputed claim scheduled));
- William H. Henley (*see* Docket No. 469 at p. 48; Smackover GUC Schedule at 3.414) (receiving no ballot yet having liquidated, noncontingent, undisputed claim scheduled);
- TGB Holdings, LLC (*see* Docket No. 469 at p. 47; Smackover GUC Schedule at 3.388) (receiving no ballot yet having liquidated, noncontingent, undisputed claim scheduled);
- Taybecs Royalties, LLC (*see* Docket No. 469 at p. 47; Smackover GUC Schedule at 3.383) (receiving no ballot yet having liquidated, noncontingent, undisputed claim scheduled);
- Starrett Royalty, LLC (*see* Docket No. 469 at p. 47; Smackover GUC Schedule at 3.359) (receiving no ballot yet having liquidated, noncontingent, undisputed claim scheduled);
- Reese Edward Jones (*see* Docket No. 469 at p. 45; Smackover GUC Schedule at 3.314) (receiving no ballot yet having liquidated, noncontingent, undisputed claim scheduled);
- Jennifer Darlene Beets (*see* Docket No. 469 at p. 41; Smackover GUC Schedule at 3.202) (receiving no ballot yet having liquidated, noncontingent, undisputed claim scheduled); and
- JTE Energy LLC (*see* Docket No. 469 at p. 42; Smackover GUC Schedule at 3.214) (receiving no ballot yet having liquidated, noncontingent, undisputed claim scheduled).

84. Each of these creditors—and likely hundreds more—was entitled to vote under the Solicitation Procedures, which expressly provide that creditors may vote in “the Claim amount listed in the Schedules...provided that such Claim is not scheduled as contingent, disputed, or unliquidated and/or has not been paid.” See Docket No. 465 at F.2.e. Every example listed above meets these criteria, yet no ballot was sent.

85. A vote count and tabulation based on such a materially incomplete solicitation cannot satisfy § 1129(a)(1). The Plan should be denied confirmation on this basis alone.

CONCLUSION

WHEREFORE, the Objecting Royalty Owners respectfully request that the Court deny confirmation of the Debtors’ Plan for the foregoing reasons, and grant such other and further relief as the Court may deem just and proper.

Dated: August 11, 2025

Respectfully submitted,

/s/ Mark Stromberg

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ATTORNEYS FOR AD HOC ROYALTY
INTEREST OWNERS GROUP

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has transmitted a true and correct copy of the foregoing via the Court's Electronic Case Filing system to all persons participating therein on August 11, 2025.

/s/ Eric T. Haitz

Eric T. Haitz