

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FISKER, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-11390 (TMH)

(Jointly Administered)

Hearing Date: December 9, 2024 at 11:00 a.m.
(ET)

Objection Deadline: November 27, 2024 at
4:00 p.m. (ET)

**MOTION OF THE LIQUIDATING TRUSTEE FOR ENTRY OF AN ORDER
EXTENDING THE PERIOD TO FILE AND SERVE OBJECTIONS TO
ADMINISTRATIVE CLAIMS THROUGH AND INCLUDING APRIL 18, 2025**

Matthew Dundon, solely in his capacity as the Liquidating Trustee (the “**Liquidating Trustee**”) of the Fisker Liquidating Trust (the “**Liquidating Trust**”), hereby submits this *Motion of the Liquidating Trustee for Entry of an Order Extending the Period to File and Serve Objections to Administrative Claims Through and Including April 18, 2025* (the “**Motion**”), pursuant to sections 105(a) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rule 9006(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 9006-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”). In support of the Motion, the Liquidating Trustee respectfully states as follows:

JURISDICTION AND VENUE

1. The United States District Court for the District of Delaware has jurisdiction over

¹ The debtors in these chapter 11 cases, along with the last four digits of their respective employer identification numbers or Delaware file numbers, are as follows: Fisker Inc. (0340); Fisker Group Inc. (3342); Fisker TN LLC (6212); Blue Current Holding LLC (6668); Platinum IPR LLC (4839); and Terra Energy Inc. (0739). The address of the debtors’ corporate headquarters is 14 Centerpointe Drive, La Palma, CA 90623.



this Motion pursuant to 28 U.S.C. § 1334, which was referred to the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) under 28 U.S.C. § 157 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012.

2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Bankruptcy Court may enter a final order consistent with Article III of the United States Constitution.²

3. The statutory bases for the relief requested herein are sections 105(a) of the Bankruptcy Code, Bankruptcy Rule 9006(b), and Local Rule 9006-2.

BACKGROUND

4. On June 17 and 19, 2024, as applicable (the “**Petition Date**”), the Debtors commenced the above-captioned cases (the “**Chapter 11 Cases**”) in the Bankruptcy Court under chapter 11 of the Bankruptcy Code.

5. On October 15, 2024, the Debtors filed their fourth amended *Combined Disclosure Statement and Chapter 11 Plan of Liquidation of Fisker Inc. and its Debtor Affiliates* (the “**Plan**”) [D.I. 713].³

6. On October 16, 2024, the Court entered the *Findings of Fact, Conclusions of Law, and Order, Approving the Disclosure Statement on a Final Basis, Confirming the Debtors’ Joint Chapter 11 Plan of Liquidation, and Granting Related Relief* (the “**Confirmation Order**”) [D.I.

² Pursuant to Local Rule 9013-1(f), the Liquidating Trustee hereby confirms his consent to entry of a final order by the Bankruptcy Court in connection with this Motion if it is later determined that the Bankruptcy Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

³ Any capitalized term used but not otherwise defined herein shall have the meaning ascribed to it in the Plan.

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7. Pursuant to the Confirmation Order, the appointment of the Liquidating Trustee was approved in all respects, including:

[T]o (a) carry out all rights and duties set forth in the Plan and Liquidating Trust Agreement, (b) appear and be heard on all matters related to the Chapter 11 Cases (as a representative of the Liquidating Trust and/or the Debtors, as applicable), (c) as set forth in Article VIII.B.3 of the Plan and this Order, investigate, prosecute and resolve, in the name of the Debtors and/or the name of the Liquidating Trustee, any Preserved Estate Claims (including, for the avoidance of doubt, any criminal causes of action), and (d) present to creditors and other courts of competent jurisdiction this Order as evidence of such authority.

See Confirmation Order ¶ 73.

8. On October 17, 2024 (the “**Effective Date**”), the Plan went effective pursuant to a *Notice of (I) Effective Date of Combined Disclosure Statement and Chapter 11 Plan of Liquidation of Fisker Inc. and its Debtor Affiliates and (II) Certain Claims Bar Dates* [D.I. 730].

9. The Liquidating Trust was established on the Effective Date, into which the Debtors transferred “all of the Debtors’ and Estates’ rights, title, and interest in and to all of the Liquidating Trust Assets, and, in accordance with section 1141 of the Bankruptcy Code, the Liquidating Trust Assets, ... automatically vest[ed] in the Liquidating Trust free and clear of all Claims, Liens, encumbrances, or interests.” See Confirmation Order ¶ 75.

10. The Plan provides that, after the Effective Date, the Liquidating Trustee, subject to the Liquidating Trust Agreement:

[S]hall have the sole authority to (a) file, withdraw or litigate to judgment, objections to Claims; (b) settle or compromise any Disputed Claim without any further notice to or action, order or approval by the Bankruptcy Court (other than a Professional Fee Claim); and (c) direct the Claims and Noticing Agent to adjust the claims register to reflect any such resolutions without any further notice to or action, order, or approval by the Bankruptcy Court.

See Plan at Article X.B.

11. Pursuant to the Plan, “the holder of an Administrative Claim ... must file with the Bankruptcy Court and serve on the Debtors and the Office of the United States Trustee, notice of such Administrative Claim by no later than the Administrative Claims Bar Date,” which is defined in the Plan as the day that is thirty (30) days following the Effective Date. The day that is thirty (30) days following the Effective Date falls on November 16, 2024, a Saturday. The deadline is therefore extended until November 18, 2024 (the “**Administrative Claims Bar Date**”), pursuant to FED. R. BANKR. P. 9006.

12. The Confirmation Order further provides that “[e]xcept as otherwise provided in the Plan or this Order, requests for payment of Administrative Claims must be filed no later than the Administrative Claims Bar Date in accordance with the Plan.” *See Confirmation Order* ¶ 101.

13. The Plan further provides that an Administrative Claim subject to the Administrative Claims Bar Date, as well as Claims under section 503(b)(9) of the Bankruptcy Code (“**Section 503(b)(9) Claims**”) pursuant to which a valid Proof of Claim was filed prior to the applicable Claims Bar Date, “shall become an Allowed Administrative Claim if no objection is filed within thirty (30) days after the later of (i) the Effective Date, (ii) the date of service of the applicable notice of Administrative Claim, or (iii) such later date as may be (A) agreed to by the holder of such Administrative Claim or (B) approved by the Bankruptcy Court on motion of a party in interest, without notice or a hearing” (the “**Administrative Claims Objection Deadline**”). *See Plan at Article V.A.2.*

14. With respect to the timing of distributions on account of Allowed Administrative Claims, including Section 503(b)(9) Claims, the Plan further provides that:

On the later of (a) the Effective Date or (b) the date such Allowed

Administrative Claim becomes due in the ordinary course, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for such Claim, each holder of an Allowed Administrative Claim (other than holders of Professional Fee Claims) shall receive (i) the amount of such holder's Allowed Administrative Claim in one Cash payment, or (ii) such other treatment as may be to by such holder of an Allowed Administrative Claim and the Debtors (prior to the Effective Date, with the consent of the Secured Noteholder and the Committee) or the Liquidating Trust (on or after the Effective Date) ... Any Allowed Administrative Claim (other than a Professional Fee Claim) that becomes due after the Effective Date shall be paid by the Liquidating Trust from the First Tier Claims Reserve.

See Plan at Article V.A.3.

15. Following the occurrence of the Effective Date, the Liquidating Trustee, through its professionals, began a review and analysis of all Administrative Claims, including Section 503(b)(9) Claims, as part of an ongoing reconciliation process.

16. To date, approximately one-hundred and ninety (190) Section 503(b)(9) Claims and approximately nineteen (19) other Administrative Claims have been filed against the Debtors.

17. Given the recent occurrence of the Effective Date and the volume of Administrative Claims, including Section 503(b)(9) Claims, asserted to date, the Liquidating Trustee and his advisers have only just begun the process of claims review and reconciliation.

18. The Liquidating Trustee therefore requires additional time to undertake the process of effectively reviewing, resolving, and/or objecting to Administrative Claims, including Section 503(b)(9) Claims.

19. Accordingly, the Liquidating Trustee believes that an extension of the Administrative Claims Objection Deadline, including for Section 503(b)(9) Claims, through and including April 18, 2025, is necessary and appropriate under the circumstances.

RELIEF REQUESTED

20. By this Motion, the Liquidating Trustee requests the entry of an order, substantially

in the form attached hereto as **Exhibit A** (the “**Proposed Order**”), extending the Administrative Claims Objection Deadline through and including April 18, 2025.⁴

21. Such an extension of the Administrative Claims Objection Deadline is without prejudice to the rights of the Liquidating Trustee or any successor-in-interest to seek further extensions thereof.

BASIS FOR RELIEF

22. The Plan, Bankruptcy Code, and Bankruptcy Rules provide ample authority on which the Bankruptcy Court may grant the requested relief. Additionally, the facts and circumstances of these Chapter 11 Cases demonstrate that cause exists to extend the Administrative Claims Objection Deadline.

23. First, the deadline for objecting to Administrative Claims, including Section 503(b)(9) Claims, is outlined in the Plan at Article V.A.2, and will expire unless extended. Moreover, distributions to holders of Allowed Administrative Claims, including Section 503(b)(9) Claims, are due upon the later of (a) the Effective Date or (b) the date such Allowed Administrative Claim becomes due in the ordinary course. *See* Plan at Article V.A.3.

24. Second, section 105(a) of the Bankruptcy Code provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a).

25. Third, Bankruptcy Rule 9006(b)(1) provides, in pertinent part, that:

when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the

⁴ Pursuant to Local Rule 9006-2, the filing of this Motion prior to the expiration of the Administrative Claims Objection Deadline automatically extends such deadline(s) until such time as the Bankruptcy Court rules on this Motion, to the extent applicable.

request therefor is made before the expiration of the period originally prescribed or as extended by a previous order

See FED. R. BANKR. P. 9006(b)(1).

26. Fourth, extension of the Administrative Claims Objection Deadline will not affect any claimant's substantive defense(s) to any objection.

27. Furthermore, this is the first request for an extension of the Administrative Claims Objection Deadline.

28. Absent the extension, the Liquidating Trustee and the Debtors' estates and creditors may suffer unnecessary and unfair prejudice. Either the Liquidating Trustee could be precluded from challenging invalid and/or overstated Administrative Claims, including Section 503(b)(9) Claims, or alternatively, he could be forced to lodge hastily prepared "protective" objections without the benefit of a full review and analysis by the Liquidating Trustee and his professionals.

29. Conversely, the requested extension will allow the Liquidating Trustee to continue to diligently review unresolved Administrative Claims, including Section 503(b)(9) Claims, and conserve resources for the benefit of all creditors by allowing the Liquidating Trustee adequate time to pursue settlement, and avoid the delay and expense of unnecessary objections and litigation.

30. The Liquidating Trustee submits that good cause exists to extend the Administrative Claims Objection Deadline through and including April 18, 2025. As stated, the Liquidating Trustee and his advisors have only just begun the claims reconciliation process and require additional time for further review claims and negotiation with claimants, and to prepare and file objections to Administrative Claims, including Section 503(b)(9) Claims, as applicable.

NOTICE AND NO PRIOR REQUEST

31. The Liquidating Trustee has provided notice of this Motion to the following or in

lieu thereof, their counsel, if known: (a) the Office of the U.S. Trustee for the District of Delaware; (b) all parties who have filed an Administrative Claim, including a Section 503(b)(9) Claim, that remains outstanding as of the date hereof; and (c) all parties who have requested notice pursuant to Bankruptcy Rule 2002.

32. In light of the nature of the relief requested herein, the Liquidating Trustee submits that no other or further notice need be given. No previous request for the relief sought in this Motion has been made to this or any other court.

CONCLUSION

33. For all of the reasons set forth herein, the Liquidating Trustee respectfully requests that the Bankruptcy Court enter the Proposed Order granting the relief requested herein and granting such other and further relief as is just and proper.

Dated: November 13, 2024
Wilmington, Delaware

COLE SCHOTZ P.C.

/s/ Justin R. Alberto

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Co-Counsel to the Liquidating Trustee

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FISKER, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-11390 (TMH)

(Jointly Administered)

**Hearing Date: December 9, 2024 at 11:00 a.m.
(ET)**

**Objection Deadline: November 27, 2024 at
4:00 p.m. (ET)**

**NOTICE OF MOTION OF THE LIQUIDATING TRUSTEE FOR ENTRY OF AN
ORDER EXTENDING THE PERIOD TO FILE AND SERVE OBJECTIONS TO
ADMINISTRATIVE CLAIMS THROUGH AND INCLUDING APRIL 18, 2025**

PLEASE TAKE NOTICE, that on November 13, 2024, Matthew Dundon, solely in his capacity as the Liquidating Trustee (the “**Liquidating Trustee**”) of the Fisker Liquidating Trust (the “**Liquidating Trust**”), filed the *Motion of the Liquidating Trustee for Entry of an Order Extending the Period to File and Serve Objections to Administrative Claims Through and Including April 18, 2025* (the “**Motion**”), pursuant to sections 105(a) of title 11 of the United States Code, Rule 9006(b) of the Federal Rules of Bankruptcy Procedure, and Rule 9006-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, with the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”). A copy of the Motion is enclosed herein.

PLEASE TAKE FURTHER NOTICE, that objections or responses, if any, to the Motion must be filed with the Clerk of the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **November 27, 2024 at 4:00 p.m. (ET)** (the “**Objection Deadline**”). At the same time, you must serve a copy of the objection or response upon the undersigned counsel so as to be received on or before the Objection Deadline.

PLEASE TAKE FURTHER NOTICE, that, if an objection or response is timely filed and served, and such objection or response is not otherwise timely resolved, a hearing with respect to the Motion will be held before The Honorable Thomas M. Horan, United States Bankruptcy Judge, at the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 3rd Floor, Courtroom #7, Wilmington, Delaware 19801 on **December 9, 2024 at 11:00 a.m. (ET)**

¹ The debtors in these chapter 11 cases, along with the last four digits of their respective employer identification numbers or Delaware file numbers, are as follows: Fisker Inc. (0340); Fisker Group Inc. (3342); Fisker TN LLC (6212); Blue Current Holding LLC (6668); Platinum IPR LLC (4839); and Terra Energy Inc. (0739). The address of the debtors’ corporate headquarters is 14 Centerpointe Drive, La Palma, CA 90623.

(the "Hearing").

PLEASE TAKE FURTHER NOTICE THAT IF NO OBJECTION OR RESPONSE IS RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY ENTER THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: November 13, 2024
Wilmington, Delaware

COLE SCHOTZ P.C.

/s/ Justin R. Alberto

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Co-Counsel to the Liquidating Trustee

Exhibit A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FISKER, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-11390 (TMH)

(Jointly Administered)

Re: D.I. ___

**ORDER EXTENDING THE PERIOD TO FILE AND SERVE OBJECTIONS TO
ADMINISTRATIVE CLAIMS THROUGH AND INCLUDING APRIL 18, 2025**

This matter having come before the Court on the motion (the “**Motion**”)² of Matthew Dundon, solely in his capacity as the Liquidating Trustee (the “**Liquidating Trustee**”) of the Fisker Liquidating Trust (the “**Liquidating Trust**”), filed the *Motion of the Liquidating Trustee for Entry of an Order Extending the Period to File and Serve Objections to Administrative Claims Through and Including April 18, 2025* (the “**Motion**”), pursuant to sections 105(a) of title 11 of the United States Code, Rule 9006(b) of the Federal Rules of Bankruptcy Procedure, and Rule 9006-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, as more fully described in the Motion; and the Court having reviewed the Motion; and the Court finding that: (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; (ii) venue is

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² Capitalized terms utilized but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

appropriate pursuant to 28 U.S.C. §§ 1408 and 1409; (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and a final order may be entered on this matter under Article III of the U.S. Constitution; (iv) notice of the Motion was sufficient under the circumstances and no other or further notice is necessary; and (v) a sound business purpose exists for the relief granted herein; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor; it is hereby ordered that

1. The Motion is GRANTED to the extent provided herein.
2. The Administrative Claims Objection Deadline is extended through and including April 18, 2025.
3. The relief granted herein is without prejudice to the Liquidating Trustee's or any successor-in-interest's right to seek further extensions of the Administrative Claims Objection Deadline.
4. The Liquidating Trustee and his authorized representatives are authorized and empowered to take any and all actions necessary to implement the terms of this Order.
5. The terms and conditions of this Order shall be immediately enforceable and effective upon its entry.
6. This Court retains jurisdiction over all matters arising from or related to the interpretation, implementation and enforcement of this Order.