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**IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE EASTERN DISTRICT OF VIRGINIA
 ALEXANDRIA DIVISION**

In re:)	
)	Chapter 11
)	
ENVIVA INC., <i>et al.</i> ,)	Case No. 24-10453 (BFK)
)	
Debtors. ¹)	(Jointly Administered)

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS’ STATEMENT IN SUPPORT OF DEBTORS’ MOTION UNDER BANKRUPTCY RULES 9023 AND 9024 REQUESTING RECONSIDERATION OF MEMORANDUM OPINION AND ORDER DENYING DEBTORS’ APPLICATION TO EMPLOY VINSON & ELKINS LLP

The Official Committee of Unsecured Creditors (the “Committee”) of Enviva Inc. and certain of its affiliates, as debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (the “Chapter 11 Cases”), by and through its undersigned counsel, hereby files this statement (the “Statement”)² in support of the *Debtors’ Motion Under Bankruptcy Rules 9023 and 9024 Requesting Reconsideration of Memorandum Opinion and Order Denying Debtors’ Application to Employ Vinson & Elkins LLP* [ECF No. 663]

¹ Due to the large number of Debtors in these jointly administered chapter 11 cases, a complete list of the Debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://kcellc.net/enviva>. The location of the Debtors’ service address is: 7272 Wisconsin Avenue, Suite 1800, Bethesda, MD 20814.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the *Declaration of Glenn Nunziata in Support of Chapter 11 Petitions* [ECF No. 27].



(the “Reconsideration Motion”). In support of this Statement, the Committee respectfully states as follows:

STATEMENT

1. The Committee previously reviewed and considered the V&E Retention Application³ seeking to retain Vinson & Elkins LLP (“V&E”) as the Debtors’ lead restructuring counsel in these Chapter 11 Cases, and the disclosures provided in connection therewith, in order to determine whether the Committee would take a position on V&E’s retention. In connection with its review, the Committee was aware of V&E’s connections with Riverstone Investment Group LLC and its affiliates (“Riverstone”) and was keenly focused on (i) the potential influence that Riverstone may have over the Debtors, including in connection with the Debtors’ future plan of reorganization (the “Plan”), and (ii) the potential bias that V&E would exert in favor of its long-time client. Riverstone created the Debtors nearly a decade ago and has a long history with the Debtors as an owner and a counterparty to numerous affiliate transactions. V&E has a long history representing both Riverstone in unrelated matters and Enviva. V&E’s institutional knowledge of the Debtors going back a decade is important to the Debtors and their management team and will benefit the estates as the Debtors tackle numerous legal workstreams necessary to exit chapter 11. Having carefully considered these issues and the circumstances of these Chapter 11 Cases, the Committee concluded in the exercise of its discretion that an objection to V&E’s retention would not be in the best interests of the estates or unsecured creditors.

2. The Committee does not take the Court’s decision on the V&E Retention Application⁴ lightly and believes that V&E and the Debtors must take meaningful steps to address

³ Debtors’ Application for Entry of an Order Authorizing the Retention and Employment of Vinson & Elkins L.L.P. as Attorneys for the Debtors and Debtors in Possession Effective as of the Petition Date [ECF No. 183] (the “V&E Retention Application”).

⁴ See Memorandum Opinion and Order Denying Debtors’ Application to Employ Vinson & Elkins L.L.P. [ECF No.

the concerns about potential bias in the Plan process if the Court is to grant the Reconsideration Motion. The Committee remains concerned about how the Debtors and the board of directors (the “Board”) will manage conflicts between the interests of shareholders and unsecured creditors now that the Debtors are in chapter 11. The Court has already heard the Committee’s concerns with the RSA that purports to give five percent (5%) of the equity of the reorganized Debtors to existing equity holders while impairing general unsecured creditors. The Court has also presided over a contested evidentiary hearing where the Committee challenged the Debtors’ ability to syndicate \$100 million of the DIP Facility (which will convert into equity of the reorganized Debtors) to their existing equity holders.⁵ The Committee remains singularly focused on preventing any improper allocation of reorganization value from impaired unsecured creditors to existing equity holders.

3. While the Committee has taken note of V&E’s proposal to (i) recently establish an ethical wall and (ii) have certain V&E partners forgo participation in Riverstone-related profits, the Committee has pushed the Debtors to do more to address the Court’s concerns about how the Plan process can move forward given the Court’s concerns about V&E’s Riverstone connections. To that end, since entry of the Order, the Committee has been engaged with the Debtors to negotiate governance reforms to the Board that the Committee believes will improve governance on issues relating to the Plan. As a result of these negotiations, an agreement between the Debtors and the Committee has been reached as of June 13, 2024.⁶ Specifically, the Debtors, in consultation with the Committee, have created a special committee of the Board (the “Plan

653] (the “Order”).

⁵ See also *Notice of Appeal* [ECF No. 564].

⁶ While the Committee was aware of the Court’s June 12, 2024 deadline for filing responses to the Reconsideration Motion, the Committee delayed filing this Statement until it reached agreement with the Debtors on the proposed governance reforms.

Evaluation Committee”) that will possess authority to, among other things, review, evaluate, assess, approve, and authorize the filing of or entering into (as applicable), the Plan or other restructuring transaction in these Chapter 11 Cases. Additionally, the Plan Evaluation Committee will have authority over the inclusion in the Plan of any releases of claims or causes of action against the Debtors’ directors, officers, affiliates, or shareholders (including Riverstone). Most importantly, the Plan Evaluation Committee will retain independent counsel to advise it in connection with discharging its responsibilities.⁷ This does not mean that V&E will be sidelined from representing the Debtors in Plan negotiations. It does mean, however, that the Plan Evaluation Committee—which will be charged with approving the Plan (along with any amendments)—will have the benefit of restructuring advice from its own independent counsel. The Committee believes that these significant governance changes will ensure that the board members entrusted with overseeing the Debtors’ prosecution of the Plan during these Chapter 11 Cases will have the benefit of legal counsel with no connections to Riverstone.⁸

4. Finally, while not dispositive, the Committee is concerned about the costs and potential for delay in these cases if the Debtors are required to replace V&E as not only their lead restructuring counsel, but also their decades-long corporate counsel with longstanding institutional knowledge. The Committee submits that any negative impact on (i) the Debtors’ reorganization value and (ii) the Debtors’ cash needs at emergence likely will be disproportionately borne by the Debtors’ unsecured creditors. As a result, the Committee, like the Ad Hoc Group,⁹ submits that

⁷ The Debtors have represented to the Committee that the Plan Evaluation Committee will be approved by the Board and will be implemented regardless of the outcome on the Reconsideration Motion.

⁸ For the avoidance of doubt, the Committee’s support of the creation of the Plan Evaluation Committee under the circumstances in no way affects the Committee’s rights with respect to any future decisions or transactions approved by the Plan Evaluation Committee and any such rights are expressly reserved.

⁹ See *Statement of Ad Hoc Group in Support of Debtors’ Motion Under Bankruptcy Rules 9023 and 9024 Requesting Reconsideration of Memorandum Opinion and Order Denying Debtors’ Application to Employ Vinson & Elkins LLP* [ECF No. 703].

the interests of the stakeholders of the Debtors' estates should be weighed by the Court in connection with the Reconsideration Motion, even if not a decisive legal factor.

RESERVATION OF RIGHTS

5. This Statement is submitted without prejudice to, and with a full reservation of, the Committee's rights, claims, defenses and remedies, including the right to amend, modify or supplement this Statement. Nothing contained herein shall constitute a waiver of any of the rights or remedies of the Committee, each of which is expressly reserved.

CONCLUSION

6. For the reasons set forth herein, and with full acknowledgement of the Court's concerns raised in the Order, the Committee respectfully requests that the Court (i) grant the Debtors' request to reconsider the Order, subject to the establishment of (a) the Plan Evaluation Committee on the terms and conditions described herein, (b) the ethical walls and Riverstone-related profit sharing carve-outs described in the Reconsideration Motion, and (c) any other safeguards or conditions required by this Court, (ii) approve the V&E Retention Application, as modified, and (iii) grant such other and further relief as is just and proper.

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Dated: June 14, 2024

Respectfully submitted,

/s/ Kristen E. Burgers

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CERTIFICATE OF SERVICE

I hereby certify that, on June 14, 2024, a true and correct copy of the foregoing document was served via email through the Bankruptcy Court's Electronic Case Filing System on the parties that have consented to such service.

/s/ Kristen E. Burgers

Kristen E. Burgers