IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: F21 OPCO, LLC, *et al*.,[1] Debtors.	Chapter 11 Case No. 25-10469 (MFW) **Related Docket Nos. 123, 124 & 126** (Jointly Administered)

OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO DEBTORS' MOTION FOR ENTRY OF AN ORDER (I) APPROVING (A) THE ADEQUACY OF THE DISCLOSURE STATEMENT; (B) THE SOLICITATION AND NOTICE PROCEDURES WITH RESPECT TO CONFIRMATION OF THE DEBTORS' JOINT CHAPTER 11 PLAN; AND (C) THE FORMS OF BALLOTS AND NOTICES IN CONNECTION THEREWITH; (II) SCHEDULING CERTAIN DATES WITH RESPECT THERETO; AND (III) GRANTING RELATED RELIEF

The Official Committee of Unsecured Creditors (the "Committee") of the above-captioned debtors and debtors in possession (collectively, the "Debtors"), by and through its undersigned proposed counsel, hereby submits this objection (this "Objection") to the *Debtors' Motion for Entry of an Order (I) Approving (A) the Adequacy of the Disclosure Statement; (B) the Solicitation and Notice Procedures With Respect to Confirmation of the Debtors' Joint Chapter 11 Plan; and (C) the Forms of Ballots and Notices in Connection Therewith; (II) Scheduling Certain Dates With Respect Thereto; and (III) Granting Related Relief* [Docket No. 126] (the "Motion") and to the *Disclosure Statement for Debtors' Joint Plan Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 124] (the "Disclosure Statement").[2] In support of this Objection, the Committee respectfully states as follows:

[1] The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: F21 OpCo, LLC (8773); F21 Puerto Rico, LLC (5906); and F21 GiftCo Management, LLC (6412). The Debtors' address for purposes of service in these Chapter 11 Cases is 110 East 9th Street, Suite A500, Los Angeles, CA 90079.

[2] Capitalized terms used but not defined herein have the meanings ascribed to them in the Motion, the Disclosure Statement, or the Plan (as defined below), as applicable.

PRELIMINARY STATEMENT

1. The Debtors have made clear that they intend to move these cases forward quickly, notwithstanding the fact that their proposed Disclosure Statement lacks adequate information for general unsecured creditors to reach an informed decision on whether to vote in favor of the Plan or the broad releases contemplated therein. The Committee has requested additional information from the Debtors, and certain requests remain outstanding.

2. The Disclosure Statement cannot be approved because it (a) improperly designates certain classes of claims as impaired and (b) does not contain adequate information (i) regarding the scope of, and justification for, the releases contemplated by the Plan; and (ii) describing the events leading to these Chapter 11 Cases (as defined herein); and (c) concerning the purported impairment under the Plan of the ABL Claims, Term Loan Claims, and Subordinated Loan Claims.

FACTUAL BACKGROUND

A. General Background

3. On March 16, 2025, each of the Debtors commenced a voluntary petition for relief (collectively, the "Chapter 11 Cases") under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware. These Chapter 11 Cases have been jointly consolidated for administrative purposes only.

4. The Debtors are operating their businesses and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. No request has been made for the appointment of a trustee or examiner in these Chapter 11 Cases.

6. Additional information regarding the Debtors, including their businesses and affairs, their capital and debt structures, and the events leading to the filing of these Chapter 11

Cases is set forth in the *Declaration of Stephen Coulombe in Support of Chapter 11 Petitions and First Day Pleadings* [Docket No. 2].

7. On March 26, 2025, the United States Trustee for Regions 3 and 9 appointed the Committee, which is comprised of the following members: (i) C&C Nantong Cathay Clothing Co, Ltd, (ii) Hangzhou Qidi Fashion Apparel Co Ltd, (iii) Shanghai Toex International Co Ltd, (iv) Grand Apparels Designs Limited, (v) Guang Zhou Hong Ying Da Clothing Co. Ltd., (vi) Denim & Beyond LLC, and (vii) Urban National Apparel, Inc. *See* Docket No. 115.

B. The Debtors' Proposed Plan—Key Provisions

8. The Debtors commenced these Chapter 11 Cases with a Plan Support Agreement [Docket No. 17] (the "PSA") in place, which was executed by each of the Debtors and the holders, or representatives of holders, of (i) ABL Claims, (ii) Term Loan Claims, and (iii) Subordinated Loan Claims. PSA at 1.[3]

9. The PSA contemplates the following milestones, as modified pursuant to the *Final Order (I) Authorizing Postpetition Use of Cash Collateral, (II) Granting Adequate Protection to the Secured Parties, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief* [Docket No. 223] (the "Final Cash Collateral Order") entered on April 15, 2025:

Date	Event
May 12, 2025	Entry of orders approving Disclosure Statement and Solicitation Procedures
June 2, 2025	Expiration of Challenge Period
June 24, 2025	Entry of Confirmation Order
June 30, 2025	Effective Date of Plan

[3] Notwithstanding the substantial number of co-obligors under the Prepetition Loan Documents (as defined in the Final Cash Collateral Order), none of the other Catalyst Brand or SPARC entities are parties to the PSA or are Debtors in these Chapter 11 Cases, despite their joint and several liability for the obligations.

10. In accordance with the PSA, on March 28, 2025, the Debtors filed their *Joint Plan Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 123] (the "Plan"), the Disclosure Statement, and the Motion. The Plan provides the following treatment of ABL Claims, Term Loan Claims, and Subordinated Claims:

- ABL Claims (Class 3 Creditors) will be allowed in the aggregate principal amount of $1,085,633,778.08 of the outstanding ABL Loans, which includes $925,733,778.08 in aggregate principal amount of the Revolving Loans and $160,000,000 in aggregate principal amount of FILO Loans, plus unpaid interest, fees (including attorneys' and financial advisors' fees), and other charges. The ABL Claims also include letters of credit in the aggregate undrawn face amounts of $178,372,737.26. The percentage of the payout is contingent upon whether the general unsecured creditors vote to accept or reject the Plan. If general unsecured creditors vote to accept the Plan, the holders of ABL Claims will receive the pro rata share of 94% of Net Proceeds (defined below); if the general unsecured creditors vote to reject the Plan, 97% of the Net Proceeds. Following the liquidation, the holders of the ABL Claims will receive 100% of any excess amount of cash remaining in the estate.

- Term Loan Claims (Class 4 Creditors) will be allowed in the aggregate principal amount of $320,875,000 of the outstanding Term Loans, plus unpaid interest, fees (including attorneys' and financial advisors' fees), and other charges. The holders of Term Loan Claims have agreed to waive receipt of any distribution in exchange for releases under the Plan.

- Subordinated Loan Claims (Class 5 Creditors) will be allowed in the aggregate principal amount of $176,147,053.95 of the outstanding Subordinated Loans, plus unpaid interest, fees (including attorneys' and financial advisors' fees), and other charges. The holders of Subordinated Loan Claims have agreed to waive receipt of any distribution in exchange for releases under the Plan.

Plan, Art. III(B)(3)-(5).[4]

11. The Plan also provides for a *de minimis* distribution of 3% to 6% of Net Proceeds for allowed General Unsecured Claims. "Net Proceeds" means all Cash held by the Debtors on the Effective Date *after* funding wind-down costs, the Professional Fee Escrow Amount, and the

[4] All Class 3, 4, and 5 Claims are deemed impaired and entitled to vote. *See* Plan, Art. III(B)(3)-(5).

other costs associated with these Chapter 11 Cases. *See* Plan, Art. I(A)(71). Therefore, general unsecured creditors would only receive 6% of Net Proceeds *if such class affirmatively votes to accept* the Plan. Plan, Art. III(B)(6).

12. The Plan further provides that the intercompany payable allegedly owed by the Debtors to SPARC pursuant to the Cash Pooling Arrangement will be deemed an allowed General Unsecured Claim in an amount not less than approximately $323 million (the "SPARC Payable"), although SPARC is waiving its right to recover 75% of the SPARC Payable on the Effective Date of the Plan. If allowed, the remaining 25% of the SPARC payable will further dilute the non-insider general unsecured claims pool. *See* Plan, Art. IV(B).

13. Finally, the Plan contains various releases, including a release of all of the Debtors' direct and derivative claims, other than actual fraud, willful misconduct, or gross negligence, against, among other parties, the Debtors' direct and indirect subsidiaries, the Debtors' directors and officers, the ABL lenders, the term loan lenders, the subordinated loan lenders, the SPARC Parties, and, solely to the extent they opt in, all Holders of Claims. *See* Plan, Art. VIII(B).

C. The Committee's Discovery Requests & Status Regarding Same

14. Shortly after its appointment, the Committee served targeted discovery requests on the Debtors and other key parties-in-interest in connection with its investigation to determine whether there are any valuable estate causes of action against the Released Parties. As of May 1, 2025, the Committee has received 5 productions totaling 638 documents from the Debtors, as well as 130 documents from counsel for the SPARC Parties, JC Penney, ABG, and Simon. The Committee continues to meet and confer regarding the scope of ongoing discovery and expects to receive and review a substantial number of additional documents, including the results of a custodial search currently being undertaken by the Debtors.

OBJECTION

I. The Disclosure Statement and Plan Improperly Designate the ABL Claims, Term Loan Claims, and Subordinated Loan Claims as Impaired.

15. The Plan and Disclosure Statement state that Class 3 – ABL Claims, Class 4 – Term Loan Claims, and Class 5 – Subordinated Loan Claims are impaired and entitled to vote. The Committee believes that these classes are not truly "impaired" and should not be designated as such, as designating these classes as impaired—clearly in an effort to obtain the vote of an "impaired" consenting class—ignores the practical reality that the ABL lenders, term loan lenders, and subordinated loan lenders (together, the "Secured Creditors") will be made whole by non-Debtor affiliated entities (the "Affiliated Entities") who are joint and severally liable on each of the obligations owing to the Secured Creditors. The Secured Creditors' status as impaired under the Plan is an issue the Committee expects to raise in connection with confirmation.

16. In *In re Glob. Ocean Carriers Ltd.*, the Court noted that a debtor may not satisfy the confirmation requirement under section 1129(a)(10)—that at least one impaired class accept the plan—"by manufacturing an impaired class for the sole purpose of satisfying [that requirement] and thereby forcing the plan upon a truly impaired class that has voted to reject the plan." 251 B.R. 31, 41-42 (Bankr. D. Del. 2000) (quoting *In re Daly*, 167 B.R. 734, 736-37 (Bankr. D. Mass. 1994) (internal quotation marks omitted)). The *Daly* court further explained that a "contrived and artificial impairment can be viewed either as a violation of the requirement of an accepting impaired class, § 1129(a)(10), or as a violation of the requirement that the plan be proposed in good faith, § 1129(a)(3), or as both." 167 B.R. at 737. In either case, it prevents confirmation of the plan.

17. Here, the Debtors have essentially manufactured impaired classes because the Plan itself in no way modifies the obligations of the borrowers under the respective credit agreements, nor does it modify any of the obligations of any non-Debtor guarantor. The Plan only modifies any

rights and recourse under the respective credit agreements as to the Debtors, and the modification of such rights and recourse was specifically bargained for and supported by the Secured Creditors under the PSA. Further, the Secured Creditors are each oversecured when the full value of the collateral pledged from the Affiliated Entities is accounted for, as the total value of such collateral exceeds the debt owed under the respective credit agreements. Therefore, the Debtors have clearly designated Classes 3, 4, and 5 as impaired in an effort to manufacture an impaired consenting class and not in good faith.

18. The Third Circuit has noted that "good faith" means that the plan was "proposed with honesty, good intentions and a basis for expecting that a reorganization can be effected with results consistent with the objectives and purposes of the Bankruptcy Code. . . . with the most important feature being an inquiry into the fundamental fairness of the plan." *In re W.R. Grace & Co.*, 729 F.3d 332, 348 (3d Cir. 2013) (quoting *In re ACandS, Inc*., 311 B.R. 36, 43 (Bankr. D. Del. 2004) (internal quotation marks omitted)). In *In re ACandS, Inc.*, the bankruptcy court found that the plan had not been proposed in good faith because it had been drafted primarily for the benefit of a prepetition committee and memorialized a prepetition settlement to the detriment of other claimants. 311 B.R. at 43.

19. As in *ACandS, Inc.*, the Plan and the Debtors' designation of the Secured Creditors are not in good faith because the Plan was primarily drafted to benefit the Secured Creditors and reflects the prepetition bargain they struck with the Debtors to secure broad releases, and ignores the joint and several nature of the Secured Creditors' loans, whereby numerous healthy companies are joint and severally liable to pay the full amount of the obligations due and owing to the Secured Creditors. Thus, not only will the Secured Creditors be repaid in full, but the Plan also provides them with broad releases for which they have provided no meaningful consideration.

20. Importantly, nothing in the Plan impairs the Secured Creditors' rights to be repaid in full. In *Solow v. PPI Enters. (U.S.), Inc. (In re PPI Enters. (U.S.), Inc.*, the debtor's plan limited the landlord's claim for lease termination damages to the statutory cap under § 502(b)(6) of the Code. 324 F.3d 197, 204-05 (3d Cir. 2003). Agreeing with the bankruptcy court, the Third Circuit found that the landlord was unimpaired. The Court reasoned that even if a creditor's rights are impaired under nonbankruptcy law, the relevant analysis is section 1124(a)—"whether the plan itself is a source of limitation on a creditor's legal, equitable, or contractual rights." *Id.* at 205-07. Because the landlord's rights were limited by the Bankruptcy Code, and the plan simply provided for what the landlord was entitled to receive under the Bankruptcy Code, the landlord's claim was not impaired and therefore not eligible to vote. *See id.*

21. Here, the crucial elements of the Plan, including the treatment of the Secured Creditors, were negotiated and agreed to by the Secured Creditors in the PSA and accompanying Plan Term Sheet. Where the Secured Creditors' rights and recourse against the Debtors under the Plan are modified as compared to such rights and recourse under the applicable credit agreement, this is the result of the deal struck between the Debtors and the Secured Creditors prior to the Debtors' filing their Chapter 11 Cases. As in *Solow*, it is not the Plan that is the source of the limitation of the Secured Creditors' rights, rather the Secured Creditors' rights are limited by the PSA and the terms the Secured Creditors bargained for and agreed to. The Plan simply reflects the mutually agreed upon terms between the Debtors and the Secured Creditors. Accordingly, the Secured Creditors' claims should not be designated as impaired and these creditors should not be entitled to vote. Rather, Holders of General Unsecured Claims are the sole impaired class.

II. The Disclosure Statement Cannot Be Approved Because It Does Not Contain Adequate Information as Required by Section 1125 of the Bankruptcy Code.

22. The Disclosure Statement does not contain adequate information to allow unsecured creditors to make an informed decision regarding whether to accept or reject the Plan.

The Disclosure Statement should be amended to address the objections and issues raised below; otherwise, the Court should not authorize its dissemination.

23. Section 1125(b) of the Bankruptcy Code requires that a disclosure statement contain "adequate information" regarding a proposed plan for holders of impaired claims and interests entitled to vote on such plan. 11 U.S.C. § 1125(b). "Adequate information" means "information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records . . . that would enable . . . a hypothetical investor of the relevant class to make an informed judgment about the plan." 11 U.S.C. § 1125(a)(1).

24. The Third Circuit has emphasized the importance of adequate disclosure, stating that, given the reliance creditors and bankruptcy courts place on disclosure statements, "we cannot overemphasize the debtor's obligation to provide sufficient data to satisfy the Code standard of adequate information." *Oneida Motor Freight. Inc. v. United Jersey Bank*, 848 F.2d 414, 417 (3d Cir. 1988). Whether a disclosure statement contains "adequate information" should be assessed from the perspective of the claims or interest holders with the ability to vote. *See In re Phx. Petroleum Co.*, 278 B.R. 385, 393 (Bankr. E.D. Pa. 2001) (citing *In re Monroe Well Serv., Inc.*, 80 B.R. 324, 330 (Bankr. E.D. Pa. 1987)). In addition, a disclosure statement must contain, at a minimum, adequate information concerning "all those factors presently known to the plan proponent that bear upon the success or failure of the proposals contained in the plan." *In re Beltrami Enters., Inc.*, 191 B.R. 303, 304 (Bankr. M.D. Pa. 1995). The determination of what is "adequate information" is guided by consideration of judicially developed and accepted factors, including, but not limited to:

a. A complete description of the available assets and their value;
b. The anticipated future of the debtor;
c. A liquidation analysis setting forth the estimated return that creditors would receive under chapter 7;

d. The accounting and valuation methods used to produce the financial information in the disclosure statement;
e. Any financial information, valuations or pro forma projections that would be relevant to creditors' determinations of whether to accept or reject the plan; and
f. The existence, likelihood, and possible success of non-bankruptcy litigation.

See In re Metrocraft Publ'g Servs., Inc., 39 B.R. 567, 568 (Bankr. N. D. Ga. 1984) (collecting cases). Whether a disclosure statement provides "adequate information will be determined by the facts and circumstances of each case." *Oneida Motor Freight, Inc.*, 848 F.2d at 417. "In short, a proper disclosure statement must clearly and succinctly inform the average unsecured creditor what it is going to get, when it is going to get it, and what contingencies there are to getting its distribution." *See In re Ferretti*, 128 B.R. 16, 19 (Bankr. D.N.H. 1991). In other words, the Debtors must provide some indication of recovery to their impaired classes of creditors. The Disclosure Statement fails on all counts. In its current form, the Disclosure Statement is both facially and substantively deficient with respect to critical Plan-related issues, and thus, fails to satisfy the basic disclosure requirements of section 1125(a) of the Bankruptcy Code.

A. The Disclosure Statement Does Not Provide Adequate Information on the Potential Claims and Causes of Action Being Released.

25. The Plan contains extremely broad releases of potentially valuable estate claims, but the Disclosure Statement fails to contain sufficient information for a creditor to determine what potential claims and causes of action are actually being released, the basis for the releases, any investigation findings, the value of the claims being released and exculpated, the potential impact on the outcome of the Chapter 11 Cases and creditor recoveries if the underlying claims are pursued successfully, or the availability of insurance coverage for such claims. Indeed, the Disclosure Statement merely attempts to justify the releases through general, nonspecific, and generic language. *See* Disc. Statement, Art. III(D) and (E).

26. For instance, the Disclosure Statement mentions an "Investigation" conducted by Young Conaway Stargatt & Taylor, LLP ("Young Conaway") on behalf of the "independent

Board" with respect to potential claims or causes of action of the Debtors against "insiders, including SPARC, Simon, Brookfield, and ABG" and states that the inquiry focused on "(i) the basis for the SPARC Payable, which the Debtors estimate to be approximately $338 million as of the Petition Date, (ii) the leases which govern the Debtors' occupancy at premises owned by Simon and Brookfield, (iii) the licensing arrangement entered into with an ABG subsidiary which governs the Debtors' use of material intellectual property, (iv) a dividend issued to SPARC in 2021, and (v) the facts and circumstances surrounding the SPARC Acquisition." Disc. Statement, Art. III(D). *There is no description, however, of any specific findings made or conclusions reached with respect to the investigation nor of the number and kinds of documents requested and reviewed.* Instead, the Disclosure Statement contains a vague blanket statement that "[b]ased on the analysis presented by Young Conaway, the Board determined that the Debtors do not have any colorable or valuable claims and/or causes of action against the Debtors' insiders relating to any prepetition conduct of such parties." *Id.*

27. Despite the Board's determination that the Debtors do not possess colorable claims or causes of action against insiders, the Disclosure Statement nonetheless states without more that, "given other considerations relevant to these Chapter 11 Cases, including the overall anticipated recovery for general unsecured creditors and the liquidating context of these proceedings, the Board determined that it was appropriate to secure consideration in return for the Debtor Release provided for in the Plan." *Id*. Indeed, the Disclosure Statement lacks any explanation as to how the Board determined there were no colorable or valuable claims or causes of action against insiders, but at the same time, required and calculated an amount of consideration to be given by certain insiders in exchange for the Debtor Releases. *See Id.* These concepts are not even intellectually consistent with one another, let alone adequately described in the Disclosure

Statement, and as discussed above in Part I, the "consideration" provided to receive a release is illusory given the lenders will be made whole in any event.

28. Accordingly, the Committee requests that the Debtors revise the Disclosure Statement to include the following:[5]

- all specific findings of Young Conaway's investigation with respect to potential causes of action against insiders, including findings regarding the basis for the SPARC Payable, the leases that govern the Debtors' occupancy at premises owned by Simon and Brookfield, the licensing arrangement entered into with an ABG subsidiary, the dividend issued to SPARC in 2021, and the facts and circumstances surrounding the SPARC Acquisition;

- a summary of Young Conaway's recommendations following the completion of its investigation;

- precise description of the number and kinds of information, documents, and materials requested by Young Conaway from the Debtors, certain of their advisors, and SPARC;

- a disclosure of the identities of the 12 individuals interviewed by Young Conaway and an overview of resulting findings;

- a summary of the information received from BRG and the Debtors' real estate consultant related to the SPARC Payable and the Debtors' lease portfolio;

- a precise description of the "good and valuable consideration" received by the Debtors with respect to the SPARC Settlement and in exchange for broad releases given to the SPARC Parties, including how the waiver of 75% of the SPARC Payable was arrived at and why this amount represents fair consideration; and

- a precise description of the consideration received by the Debtors in exchange for broad releases given to the term loan lenders and the subordinated loan lenders.

29. Further, and as noted above, the Committee has not yet received complete responses to its discovery propounded on the Debtors and other insiders that would help the Committee and its advisors fill in this critical information. This missing critical information makes it impossible for the Committee to currently assess whether greater recoveries could be available to unsecured creditors if the claims are preserved and pursued instead of released under the Plan. The Disclosure Statement fails to note that the Committee is currently investigating various

[5] The Committee has previewed these disclosure requests with the Debtors, and the parties are discussing potential modifications to the Disclosure Statement to address the Committee's concerns.

potential litigation claims to be released under the Plan, and that such investigation remains ongoing. Moreover, while the Debtors informed the Committee of their high-level conclusions resulting from the Debtors' investigation, the Committee has concerns regarding the scope and depth of that process, not to mention the fact that it was conducted by Debtors' own counsel, not independent counsel. The Disclosure Statement must inform unsecured creditors that the Committee questions the completeness and reliability of the Debtors' investigation. Simply put, there are no facts present in the Disclosure Statement to justify the proposed releases in favor of the Released Parties, and there is insufficient information about the scope and results of the Debtor's investigation and the Committee's concerns related thereto. Thus, the Disclosure Statement provides insufficient information to allow unsecured creditors to make an informed decision on whether to vote to accept the Plan and the broad releases contained therein.

B. The Disclosure Statement Lacks Adequate Information Concerning the Debtors' Prepetition Affairs.

30. The Disclosure Statement also lacks an adequate description of various material prepetition transactions, including (a) the licensing arrangement entered into with an ABG subsidiary in connection with the F21 Acquisition which governs the Debtors' use of material intellectual property; (b) the calculation of the SPARC Payable (listed as $323 million in Article II(C)(2) and subsequently listed as $338 million in Article II(F)(7)); (c) the JC Penney acquisition of SPARC (the "SPARC Acquisition"); (d) the equity in Catalyst Brands held by affiliates of Simon, ABG, and Brookfield as a result of the SPARC Acquisition; and (e) the Debtors' assumption of JC Penney's debt following the SPARC Acquisition. The Committee requests that the Debtors revise the Disclosure Statement to include additional information and a description of the transactions listed above in (a) through (e), more specifically:

- why the licensing arrangement was entered into and how it benefits the Debtors;
- how the SPARC Payable was calculated;

- the amount of equity in Catalyst Brands held by affiliates of Simon, ABG, and Brookfield; and
- a more fulsome (and plain English) explanation of the Debtors' assumption of JC Penney's debt.

For unsecured creditors to make an informed choice in voting to accept or reject the Plan, the Disclosure Statement must provide additional information regarding these material prepetition transactions.

C. The Disclosure Statement Lacks Adequate Information Concerning the Impairment of the ABL Claims, Term Loan Claims, and Subordinated Loan Claims.

31. The Disclosure Statement only briefly mentions the Debtors' belief that the Secured Creditors are "impaired" under the Plan and thus entitled to vote. The Committee believes that the Secured Creditors are oversecured and will be repaid in full by the Affiliated Entities. The Affiliated Entities' payment and collateral obligations under the respective credit agreements (under which the Debtors are guarantors) have not been adequately described in the Disclosure Statement. The seemingly artificial impairment of the Secured Creditors' claims is not only problematic from the perspective of plan confirmation but also affects the adequacy of the Disclosure Statement itself, as it does not address why the Secured Creditors are designated as impaired if they are oversecured and will be repaid in full by Affiliated Entities. Without further information, it appears that the granting of broad releases to such parties is entirely gratuitous.

D. The Disclosure Statement Cannot Contain "Adequate Information" Under the Current Case Timeline.

32. The Disclosure Statement requires numerous key pieces of information to meet the "adequate information" requirements. Given the lack of clarity on, let alone the resolution of, myriad critical case issues (*e.g.*, the propriety of the releases, Young Conaway's investigation findings, the Committee's investigation findings, and the impairment of Secured Claims), it would be nearly impossible for the Debtors to adequately revise the Disclosure Statement within the

current case timeline. Only the Disclosure Statement itself can provide the necessary adequate information pursuant to section 1125 of the Bankruptcy Code, and the Debtors cannot rely on the promise of additional filings tomorrow to get approval of the Motion today. Further, given that the Final Cash Collateral Order pushed back several milestones in the PSA and to facilitate the Debtors' provision of adequate disclosure, the Voting Record Date and the Confirmation Hearing Date should be pushed back by at least seven days, along with each of the intermediate deadlines in the solicitation and confirmation timeline contained in the Motion.

III. Solicitation Packages Should be Emailed and Should Include a Committee Letter.

33. The Committee's analysis of the proposed Plan's defects is ongoing. In addition, discovery requested from the Debtors, the Secured Creditors, and the SPARC Parties is not yet complete. The Committee intends to provide the Debtors with additional comments to the Disclosure Statement, along with the Solicitation and Voting Procedures. Notably, the Solicitation and Voting Procedures currently provide that Solicitation Packages will be distributed only via regular mail. Given the condensed timeline of the Chapter 11 Cases and abundance of creditors located outside of the United States, Solicitation Packages must also be transmitted via electronic mail to protect the rights of unsecured creditors.

34. Moreover, to the extent that the Court approves the Disclosure Statement, the Committee believes that holders of General Unsecured Claims should be made aware of the Committee's views of the Plan through a letter (the "Committee Letter") to be included as part of the Solicitation Packages. The Committee Letter, among other things, would contain the Committee's recommendation to holders of General Unsecured Claims regarding voting on the Plan and electing whether to opt-in to the Third-Party Release. Courts have frequently authorized committees to include such letters in solicitation materials. *See, e.g.*, *In re FTX Trading Ltd.*, No. 22-11068 (Bankr. D. Del. 2024) [Docket No. 19068] (approving disclosure statement and allowing

creditors' committee to include in solicitation package a letter outlining the committee's issues with the proposed plan).

35. Therefore, the Committee respectfully requests that the Court authorize and direct the Debtors to include the Committee Letter in the Solicitation Packages so that it is visible to and easily accessible to voting parties. The Committee hopes to engage in further discussions with the Debtors and the Secured Creditors regarding the terms of an acceptable plan and, as such, the Committee's views may change prior to the Voting Deadline. Accordingly, the Committee respectfully requests that the Court authorize and direct the Debtors to post a copy of the Committee Letter and any update(s) thereto on the Solicitation Agent's website for these Chapter 11 Cases.

RESERVATION OF RIGHTS

36. The Committee has also identified a number of substantive objections to the Plan that it intends to raise at the Confirmation Hearing. This Objection is submitted without prejudice to, and with a full reservation of, the Committee's rights to object to confirmation of the Plan or any other plan of reorganization proposed in these Chapter 11 Cases, including any amendment, supplement, or other modification thereto, on any and all grounds. In addition, the Committee reserves all rights to raise additional objections and supplement this Objection on any grounds, at any time up to or at any hearing. The Committee remains committed to working with the Debtors to reach a consensual resolution of its concerns regarding the Plan in advance of the deadline to vote to approve or reject the same.

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CONCLUSION

WHEREFORE, the Committee requests that the Court deny the Motion seeking approval of the Disclosure Statement and grant such other relief that the Court finds just and proper.

Dated: May 5, 2025
Wilmington, Delaware

/s/ Justin R. Alberto

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