

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

In re:

FULCRUM BIOENERGY, INC.,

Debtor.

Chapter 11

Case No.: 24-12008 (TMH)

Confirmation Date: April 14, 2025

Confirmation Time: 10:00 a.m. (ET)

**STATE OF NEVADA, EX REL. ITS DEPARTMENT OF TAXATION'S
AMENDED OBJECTION TO CONFIRMATION OF DEBTOR'S
AMENDED JOINT CHAPTER 11 PLAN OF LIQUIDATION**

COMES NOW, the State of Nevada, *ex rel.* its Department of Taxation (“Department”), by and through counsel Aaron D. Ford, Attorney General, and Kayla D. Dorame, Deputy Attorney General, hereby files its Amended Objection to the Amended Joint Chapter 11 Plan of Liquidation.¹

POINTS AND AUTHORITIES

1. The Department timely filed its Proof of Claims (hereinafter “Claims”) claiming a priority unsecured claim of \$120,321,093.18 and a general unsecured claim of \$1,019,785.28 in case 24-12006-TMH on October 3, 2024.² In addition, in case 24-12008-TMH, a priority unsecured claim of \$346,786.78 and a general unsecured claim of \$29,769.49.³

2. These cases, 24-12006-TMH and 24-12008-TMH, were jointly administered on September 12, 2024, under case no. 24-12008-TMH.

3. On December 6, 2024, Fulcrum BioEnergy, Inc. (“Fulcrum” or “Debtor”), filed their Amended Schedules of Assets and Liabilities for Fulcrum Sierra Biofuels, LLC, Case No. 24-12006 (TMH).⁴ Debtor listed the Nevada Department of Taxation’s claim as unliquidated and

¹ Doc. 456.

² Claim #19.

³ Claim #20.

⁴ Doc. 304.



disputed with the amount identified as undermined.⁵ Debtor also has another claim from the Department in the amount of \$51,130.15, with what appears to be allowed.⁶

4. On December 18, 2024, this Court issued an Order (I) Establishing Certain Bar Dates for Filing Proofs of Claim Against the Debtors, and (II) Granting Related Relief, Including Notice and Filing Procedures.⁷ The New Government Bar Date is now March 10, 2025 at 5:00 p.m. eastern time.⁸ It was also noted that a proof of claim must be filed but a person or entity whose claim is listed on the applicable Debtor's Schedules as contingent, unliquidated, or disputed.⁹

5. Since the Department's claim was listed as unliquidated and disputed, the Department file their Proofs of Claims on February 13, 2025.¹⁰

6. On February 3, 2025, Debtors filed their Disclosure Statement for Joint Chapter 11 Plan of Liquidation accompanied by the Plan (the "Plan").¹¹

7. On March 6, 2025, Debtors filed their Notice of Filing of the Amended Joint Chapter 11 Plan of Liquidation.¹²

8. In Debtor's Plan, does not list either of the Department's. It also does not provide for the payment of interest on the Department's priority unsecured claim.¹³ In fact, the Plan as written does not provide for any payment to the Department.

9. Debtors' Plan makes no reference, at all, to the Department's claims. The Department does not consent to such treatment or any treatment less than what is owed.

⁵ *Id.* at 46.

⁶ The Department is unaware of how Debtor's calculated the amount of this claim. That amount does not appear on either of the Department's Claims.

⁷ Doc. 320.

⁸ *Id.* at 2.

⁹ *Id.* at 3.

¹⁰ Claims #173 and #174.

¹¹ Doc. 415 and 415-1.

¹² Doc. 456.

¹³ *See generally* Doc. 456-1.

10. The Plan also does not account for an annual fixed rate of 9% that must be paid to the Department on any unpaid taxes.¹⁴

11. The Department opposes the Debtor's Amended Plan as it fails to adequately provide for the Department's Claims.

WHEREFORE because the Debtor's Amended Plan fails to provide for full payment of the Department's Claims through the Plan, the Department respectfully requests that the Court enter and Order denying confirmation of the Plan and granting such other and further relief as the Court deems just.

DATED this 12th day of March, 2025.

AARON D. FORD
Attorney General

By: /s/ Kayla D. Dorame
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*Attorneys for the State of Nevada,
ex rel. its Department of Taxation*

¹⁴ NRS 360.419.

EXHIBIT A

EXHIBIT A



Web Site: <https://tax.nv.gov>
Call Center: (866) 962-3707

LAS VEGAS OFFICE
700 E. Warm Springs Rd, Suite 200
Las Vegas, Nevada 89119
Phone (702) 486-2300
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JOE LOMBARDO
Governor
GEORGE KELESIS
Chair, Nevada Tax Commission
SHELLIE HUGHES
Executive Director

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August 30, 2024

FULCRUM SIERRA BIOFUELS, LLC/ FULCRUM
BIOENERGY



NOTICE OF AUDIT DETERMINATION

Dear Taxpayer:

The Nevada Department of Taxation conducted an audit of your records for the below tax type(s) and period(s).

Reference Taxpayer ID / Case ID						
Tax Type	Audit Period		Tax	Interest	Penalty	Total by Tax Type
	From	To				
Business Use Tax	8/1/2018	5/31/2023	\$19,240,857.22	\$96,585,687.73	\$604,268.90	\$116,430,813.85
Sales and/or Use Tax	3/1/2023	4/30/2024	\$ 4,130,165.01	\$ 364,069.69	\$ 413,016.51	\$ 4,907,251.21
Modified Business Tax	4/1/2021	3/31/2024	\$ 274,689.21	\$ 48,746.78	\$ 27,468.92	\$ 350,904.91
Audit Total	8/1/2018	4/30/2024	\$ 23,645,711.44	\$ 96,998,504.20	\$ 1,044,754.33	\$ 121,688,969.97

Penalties-percentage: Interest was assessed on the abatement portion at prime plus 2% per the abatement contract with no penalty. All other assessments were assessed at 9% annually with the penalty of 10%. The interest was calculated t

Penalties Criteria/Reason(s): NRS 360.417 - For periods when a return was filed the taxpayer did not pay the tax due in a timely manner.

Pursuant to NRS 360.360, if you disagree with any portion of this determination, you MUST PETITION THE DEPARTMENT FOR A REDETERMINATION WITHIN 45 DAYS of the date of this notice. If a petition for redetermination is not filed in person or postmarked by the below due date, you are deemed to have waived your right to contest the determination and the determination becomes final.

The audit resulted in a deficiency. This audit does not reflect any prior debits or credits on the account.

Jeopardy Deficiency - Due Date: 9/9/2024

Pursuant to NRS 360.414, if you disagree with any portion of this determination, you MUST PETITION THE DEPARTMENT FOR A REDETERMINATION WITHIN 10 DAYS of the date of this notice. If a petition for

EXHIBIT B

EXHIBIT B

STATE OF NEVADA
DEPARTMENT OF TAXATION

IN THE MATTER OF
FULCRUM SIERRA BIOFUELS LLC/
FULCRUM BIOENERGY



Case ID: [REDACTED]
Due Date: 09/09/2024
Date of Determination: 08/30/2024

Name, address, phone number and email address of an attorney, accountant or other representative (in place of yourself), if any, whom you have authorized to accept Department correspondence and service of legal documents on your behalf, and to whom the Department may release information regarding your account:

Michael Huie, [REDACTED]

IMPORTANT

If you disagree with all or any portion of the attached notice of deficiency determination, the law requires you to file a timely petition for redetermination with the Department of Taxation. Failure to file a timely petition for redetermination will result in the determination becoming final with no right of appeal or refund.

In filling out this petition you must state specifically the grounds upon which you are contesting the deficiency determination. Failure to specify the grounds upon which your petition for redetermination is based will delay the process and may detrimentally affect the ability to present your position. Pursuant to NRS 360.360, you have 45 days to file this petition for redetermination as set forth on the attached notice of deficiency determination. If you have any questions concerning the date this petition for redetermination is due, please contact the Department. The Department will review your petition and any information provided to substantiate the grounds listed in contesting the deficiency determination and make any adjustments to the determination that the Department deems justified. If the Department determines that there is no basis for re-determining the original deficiency determination or if there still exists a dispute, you will be sent a Request for Hearing. Unless you have requested a hearing by returning the Request for Hearing form within 30 days, you will have waived your right to a hearing and any subsequent appeals, and the re-determined deficiency determination will be final.

Any adverse decision from the Administrative Law Judge may be appealed to the Nevada Tax Commission. Pursuant to NRS 233B.130, you may seek judicial review in District Court of any adverse decision from the Nevada Tax Commission

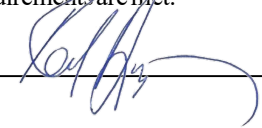
PETITION FOR REDETERMINATION

The undersigned petitions for redetermination of all or part of the Department's deficiency determination and understands that in the absence of specific information, his petition will be delayed. The petitioner alleges that the determination is erroneous for the following reasons (continue on the reverse side if necessary).

See attachment

By signing below, I, Richard D. Barraza, understand that I am representing to the Department of Taxation that I meet the requirements of NAC 360.085, and copy of which is attached thereto/the language of which is copied below. In the space that follows, please explain how you meet the requirements of NAC 360.085 and provide documentation to support that the requirements are met.

Printed Name: Richard D. Barraza

Signature: 

Relation to Petitioner: Officer and Secretary

Phone Number: [REDACTED]

Date: September 9, 2024

To email, save this form to your computer and email the attachment to nevadaolt@tax.state.nv.us with the subject of: Universal Petition for Redetermination.

Your email, including attachments, cannot exceed 10 MB