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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SANTA ROSA DIVISION

In re LEFEVER MATTSON, a California corporation, et al.[1], Debtor and Debtor in Possession	Case No. 24-10545 (Jointly Administered) Chapter 11 **FEDERAL HOME LOAN MORTGAGE CORPORATION'S OBJECTION TO AMENDED DISCLOSURE STATEMENT IN SUPPORT OF SECOND AMENDED JOINT CHAPTER 11 PLAN OF LIQUIDATION** Date: November 18, 2025 Time: 11:00 AM Room: 215

[1] The last four digits of LeFever Mattson's tax identification number are 7537. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://veritaglobal.net/LM. The address for service on the Debtors is 6359 Auburn Blvd., Suite B, Citrus Heights, CA 95621.

The Federal Home Loan Mortgage Corporation ("***Freddie Mac***") files this objection (the "***Objection***") to the adequacy of the *Amended Disclosure Statement in Support of First Amended Joint Chapter 11 Plan of Liquidation* [Dkt. No. 2567] (the "***Disclosure Statement***"). In support of this Objection, Freddie Mac respectfully states as follows:

I. PRELIMINARY STATEMENT

Freddie Mac is a secured creditor that made two market-rate loans, secured by income-generating properties, to two distinct, single-purpose Debtors. Freddie Mac's loans were made on commercial terms, in good faith, and without any knowledge of any fraud, wrongdoing, or other misconduct by the Debtors or their management. And there is no suggestion in the Committee's investigative report to the contrary. During these cases, the Debtors sold the properties securing Freddie Mac's loans for prices far exceeding the secured debt, demonstrating that Freddie Mac was, at all times, protected by its security interests and the value of its collateral and not in any way dependent upon the Debtors' alleged Ponzi scheme or the Debtors' business operations to recover its principal and interest in full. If any Ponzi scheme existed, Freddie Mac was not an "investor" in it.

The Disclosure Statement makes no assertion that Freddie Mac participated in, had knowledge of, or benefitted from the Debtors' alleged Ponzi scheme, likely because there is no evidence to support such an assertion. Nevertheless, while not revealed in the Disclosure Statement, the Committee apparently intends to pursue claims against Freddie Mac as though it were one of the "winners" in a Ponzi scheme from whom recoveries might be sought for the benefit of the "losers" in that scheme. The Committee's threatened claims are based on a superficial reading of a recent Ninth Circuit decision and are meritless. Freddie Mac is prepared to address those claims in the context of a properly commenced adversary proceeding. Yet the Disclosure Statement appears to suggest a process that could deny Freddie Mac its due process rights, short-circuiting the protections afforded by an adversary proceeding.

While the Disclosure Statement describes the Committee's intent to seek a Ponzi-scheme determination at the confirmation hearing with respect to the Plan's treatment of "Investor" claims, the Disclosure Statement ***utterly fails to disclose*** the intended use of that determination against Freddie Mac or other secured creditors (which are expressly defined not to be Investors). Indeed, the

Disclosure Statement describes at length how the Ponzi-scheme finding would impact *Investor* claims, but there is not a single comment regarding the potential use of that finding against secured creditors. The Disclosure Statement's silence regarding the treatment of secured creditors suggests that the requested Ponzi-scheme determination will only impact Investors, not secured creditors. The Committee, however, has refused to confirm that reading of the Disclosure Statement and Plan, which prompted Freddie Mac's concern and this objection.

If the Committee intends to utilize the requested Ponzi-scheme finding in subsequent litigation against Freddie Mac, the Court should decline to approve the Disclosure Statement as violative of Freddie Mac's due-process rights. The Committee acknowledges that it has spent more than a year investigating the purported Ponzi scheme, reviewing millions of pages of documents and interviewing dozens of witnesses; the investigation has cost millions of dollars. Freddie Mac should not be required to litigate the expansive and factually complex Ponzi-scheme determination in the truncated confirmation process; due process requires that Freddie Mac be presented the procedural protections of an adversary proceeding or other formal litigation, including sufficient time to conduct discovery and prepare for trial, before any factual determinations should bind Freddie Mac.

II. BACKGROUND

A. FHFA as Conservator

Congress chartered Freddie Mac to facilitate the nationwide secondary residential mortgage market. See 12 U.S.C. § 1451. The Housing and Economic Recovery Act of 2008 ("HERA"), Pub. L. No. 110- 289, 122 Stat. 2654 (codified as 12 U.S.C. § 4511 et seq.), established the Federal Housing Finance Agency ("FHFA" or "Conservator") as Freddie Mac's primary regulator.

On September 6, 2008, pursuant to HERA, the Director of FHFA placed Freddie Mac into conservatorship, where it remains to this day. See 12 U.S.C. § 4617(a). As Conservator, FHFA succeeded to all of Freddie Mac's rights, titles, powers, privileges, and assets. 12 U.S.C. § 4617(b)(2)(A)(i). FHFA, as Conservator is statutorily empowered to "preserve and conserve [Freddie Mac's] assets and property," to "operate" Freddie Mac, to "perform all [of Freddie Mac's] functions in [Freddie Mac's] name," and to "collect all obligations and money due" Freddie Mac. 12 U.S.C. § 4617(b)(2)(B)(i)-(iv). Congress also mandated that "no court may take any action to

restrain or affect the exercise of [FHFA's] powers or functions ... as a conservator." 12 U.S.C. § 4617(f).

B. The Freddie Mac Loans

Freddie Mac was both the secured lender and the special servicer with respect to two properties (collectively, the "***Properties***") previously owned by Red Cedar Tree, LP and Red Mulberry Tree, LP (collectively with all other debtors in the above-captioned jointly administered cases, the "***Debtors***"): the "Carmichael Apartments"[2] (the "***Carmichael Property***") and the "Courtyard Cottages" (the "***Courtyard Property***").[3]

The Carmichael Property was encumbered by a Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "***Carmichael Deed of Trust***")[4] to secure repayment of a note dated September 8, 2022, in the amount of $4,579,000.00 (the "***Carmichael Note***"), issued by Red Cedar in favor of Greystone Servicing Company LLC ("***Greystone***"). On the same day, Greystone assigned to Freddie Mac the Carmichael Note, the Carmichael Deed of Trust, and all other accompanying loan documents.

The Courtyard Property was likewise encumbered by a Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "***Courtyard Deed of Trust***," together with the Carmichael Deed of Trust, the "***Deeds of Trust***")[5] to secure repayment of a note dated September 8, 2022, in the amount of $3,678,000.00 (the "***Courtyard Note***," together with the Carmichael Note, the "***Notes***"), issued by Red Mulberry Tree, LP in favor of Greystone. On the same day, Greystone assigned to Freddie Mac the Courtyard Note, the Courtyard Deed of Trust, and all other accompanying loan documents.

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[2] Debtor Red Cedar Tree LP (Case No. 24-10517) owned the Carmichael Apartments, which are located at 5800 Engle Road, Carmichael CA 95608.

[3] Debtor Red Mulberry Tree LP (Case No. 24-10518) owned the Courtyard Cottages, which are located at 7337 Power Inn Road, Sacramento CA 95828.

[4] The Carmichael Deed of Trust was recorded in the official records of Sacramento County on September 8, 2022, as instrument number 202209080892.

[5] The Courtyard Deed of Trust was recorded in the official records of Sacramento County on September 8, 2022, as instrument number 202209080871.

C. The Chapter 11 Cases

On September 12, 2024 (the "***Petition Date***"), the Debtors filed voluntary petitions under Chapter 11 of the United States Bankruptcy Code initiating the above-entitled Chapter 11 Cases.

On October 9, 2024, the Office of the United States Trustee appointed the Official Committee of Unsecured Creditors (the "***Committee***," together with the Debtors the "***Plan Proponents***") [Docket No. 135].

On August 27, 2025, Red Mulberry Tree, LP filed its notice of sale of the Courtyard Property [Dkt. No. 2178] for a sales price of $5,485,350. The Court entered an order approving the sale of the Courtyard Property on September 25, 2025 [Dkt. No. 2415]. The net sales proceeds, after deducting sales-related commissions and expenses and Red Mulberry Tree, LP's outstanding obligations to Freddie Mac, were approximately $1,273,139.00.

On August 29, 2025, Red Cedar Tree, LP filed its notice of sale of the Carmichael Property [Dkt. No. 2191] for a net sales price, after deducting sales-related commissions and expenses, of $6,150,000. The Court entered an order approving the sale of the Carmichael Property on September 25, 2025 [Dkt. No. 2417]. The net sales proceeds, after deducting sales-related commissions and expenses and Red Cedar Tree LP's outstanding obligations to Freddie Mac, were approximately $796,964.00.

On September 5, 2025, the Debtors and the Committee filed their first Joint Chapter 11 Plan of Liquidation [Dkt No. 2226]. The Debtors later amended the Joint Chapter 11 Plan of Liquidation on October 15, 2025 [Dkt. No. 2561]. The Debtors filed their First Amended Joint Chapter 11 Plan of Liquidation and amended Disclosure Statement in support of the same on October 15, 2025 (the "***Disclosure Statement***" and the "***Plan***") [Dkt. Nos. 2567, 2561].

III. THE LEGAL STANDARD

Disclosure statements are governed by 11 U.S.C. § 1125(b), which requires a disclosure statement to contain "adequate information" before it can be approved for the solicitation of votes on the accompanying 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 such a hypothetical investor of the relevant class to make an informed judgment about the plan, but adequate information need not include such information about any other possible or proposed plan.

11 U.S.C. § 1125(a)(1). If a plan is patently unconfirmable on its face, then the application to approve the disclosure statement must be denied because solicitation of the vote would be futile. *See In re Beyond.com Corp.*, 289 B.R. 138, 140 (Bankr. N.D. Cal. 2003) (collecting cases).

IV. OBJECTION

A. The Plan Confirmation Process Potentially Violates Secured Creditors' Due Process Rights.

1. *Any Ponzi-scheme Finding Should Not Bind Freddie Mac.*

The Disclosure Statement fails to provide adequate information regarding the Plan Proponents' intended treatment of secured creditors, including Freddie Mac. While the Disclosure Statement and Plan describe at length the Plan Proponents' intent to obtain a Ponzi-scheme determination at the confirmation hearing as a predicate to redistributing recoveries among "Investors," there is no discussion of whether (and how) the requested Ponzi-scheme finding might be utilized, if at all, against secured creditors (which, by the Plan's definitions, are not Investors[6]).

If the Plan Proponents intend to use the requested Ponzi-scheme determination as a preclusive finding in forthcoming litigation against Freddie Mac, the Court should decline to approve the Disclosure Statement because the proposed Plan process would violate Freddie Mac's due process rights. The Ninth Circuit Court of Appeals has held that a Ponzi-scheme determination creates an irrebuttable presumption, in the context of a fraudulent-transfer claim, that a debtor acted with the actual intent to defraud creditors. *See Kirkland v. Rund (In re EPD Inv. Co., LLC)*, 114 F.4th 1148, 1157 (9th Cir. 2024). The presumption would thus arguably establish one element of a potential fraudulent-transfer claim.

[6] See Exhibit A to Joint Chapter 11 Plan, Defined Terms (defining Investor as "a Person or Entity that holds an Investor Claim")

Yet as a predicate to recovering alleged fraudulent transfers from Freddie Mac, the Debtors must initiate an adversary proceeding or similar litigation, providing Freddie Mac with the procedural protections, discovery, and litigation schedule commensurate with the litigation's complexity. *See* FED R. BANKR. P. 7001(a) & (b) (requiring an adversary proceeding to "recover money or property" or "to determine the validity, priority, or extent of a lien or other interest in property"); *see also In re Mansaray-Ruffin*, 530 F.3d 230, 237 (3d Cir. 2008) (comparing "contested matters" with adversary proceedings and noting the greater procedural safeguards found within an adversary proceeding). With respect to any Debtor claims against Freddie Mac, the issue of whether the Debtors operated as a Ponzi scheme should therefore be determined in the context of that adversary proceeding, not in a truncated confirmation process.

The Committee has already acknowledged the immense task required to discover and understand the Debtors' prepetition actions, noting that its investigation has included the review of millions of pages of documents. *See, e.g.,* Dkt. No. 2568, PWC Investigation Report, p. 12. While the Committee seems prepared to present its conclusions and underlying evidence to support its Ponzi-scheme allegations at confirmation, Freddie Mac has not had the opportunity, nor the motivation, to address the Committee's assertions. Indeed, until approximately one month ago, Freddie Mac had no indication that it was even a litigation target, much less that the Committee intended to assert, without any controlling legal authority, that a secured lender that made an arms-length, market-based loan secured by income-producing properties with values exceeding the applicable loan obligations could be subject to claw-back litigation under a Ponzi-scheme theory. If the Committee intends to pursue that tenuous theory, then it should not be permitted to end-run Freddie Mac's due process rights by seeking a binding determination in the context of a confirmation hearing.

The confirmation process is not a proper vehicle for merits adjudication of potential avoidance actions against secured lenders. Notably, the Ninth Circuit's *EPD* decision, upon which the Committee apparently intends to rely in support of its threatened claims against Freddie Mac,

emanated from an adversary proceeding that involved a six-day jury trial;[7] the defendants there were afforded the procedural protections that Freddie Mac requests here. The Court should therefore either deny approval of the Disclosure Statement or make clear that any Ponzi-scheme finding obtained at confirmation will not be binding on secured creditors, including Freddie Mac, in any avoidance actions or other litigation.

2. *Any Substantive Consolidation Finding Should Not Bind Freddie Mac.*

The Plan Proponents also seek to have the Debtors' estates substantively consolidated for distribution purposes. As a secured creditor with valid liens in sale proceeds, Freddie Mac's rights against the Debtors would not normally be impaired by the requested substantive consolidation; Freddie Mac's liens would continue in the applicable sale proceeds notwithstanding consolidation.

Freddie Mac, however, might oppose substantive consolidation if the Debtors intend to use that finding to impair Freddie Mac's defenses (or other rights) relating to the Debtors' threatened claw-back litigation. For example, if certain Debtors operated as a Ponzi scheme (of which Freddie Mac has no knowledge), it is possible that not all Debtors operated in that manner, including Freddie Mac's debtors, Red Mulberry Tree, LP and Red Cedar Tree, LP. The Plan Proponents should not be permitted to obtain a substantive consolidation finding for "distribution purposes" and then use that finding to subsequently bootstrap fraudulent-transfer claims against secured lenders, arguing that the consolidated Debtors operated as a Ponzi-scheme (without proving that individual Debtors meet the Ponzi-scheme standards).

Notably, the Plan Proponents seek an express finding that substantive consolidation does not impact, among other rights, the *Debtors'* anticipated avoidance actions against secured lenders:

> The contemplated substantive consolidation also will not: (i) affect the separate legal existence of the Debtors and KSMP Investment Entities for purposes other than implementation of the Plan pursuant to its terms, including without limitation the ability of the Plan Recovery Trustee to bring any Plan Recovery Trust Action in the name of an individual Debtor or KSMP Investment Entity; (ii) impair, prejudice, or otherwise affect any individual Debtor's or KSMP Investment

[7] *See Kirkland v. Rund (In re EPD Inv. Co., LLC)*, 114 F.4th 1148, 1153 (9th Cir. 2024).

> Entity's Causes of Action, including Avoidance Actions, against any Person that vest in the Plan Recovery Trust; (iii) constitute or give rise to any defense, counterclaim, or right of netting or setoff with respect to any Cause of Action vesting in the Plan Recovery Trust that could not have been asserted against the consolidated Debtors and KSMP Investment Entities; . . . .

Second Amended Disclosure Statement, p. 26.

The Plan should similarly provide that substantive consolidation shall not impair or otherwise affect Freddie Mac's defenses, counterclaims, or any other rights that Freddie Mac might assert in any estate-related litigation. Absent that express reservation of Freddie Mac's rights, the Court should not approve the Disclosure Statement.

3. *Secured Lenders Should Not Be Required to Bear the Expense of Litigating the Ponzi-scheme and Substantive Consolidation Findings at Confirmation.*

As noted above, the Court should decline to approve the Disclosure Statement unless the Plan Proponents make clear that any Ponzi-scheme finding and any substantive-consolidation determination will not bind Freddie Mac for purposes of any litigation that the Debtors may assert. Putting aside the due process concerns, Freddie Mac (and other secured lenders) should not be forced to bear the burden and expense of litigating these extraordinarily fact-intensive issues at confirmation (or otherwise). As the Court is aware, the adversary rules permit defendants to avoid the tremendous costs of discovery and pretrial litigation by addressing legal infirmities in a plaintiff's claims through a motion to dismiss. Freddie Mac should not be denied those procedural protections and be forced to litigate, at confirmation, factual disputes that likely would not be reached in an adversary proceeding.

While the Disclosure Statement fails to disclose anywhere the Committee's plan to assert avoidance actions against secured creditors, the Committee's counsel has expressed at hearings in these cases that its anticipated claw-back litigation is based upon a superficial reading of the Ninth Circuit's decision in *Kirkland v. Rund (In re EPD Inv. Co., LLC)*, 114 F.4th 1148 (9th Cir. 2024) ("***EPD***"). In that case, a jury instruction had directed jurors that "lenders are investors for purposes of a Ponzi scheme," *see id.* at 1156, which the Committee reimagines to mean that third-party secured lenders—and not merely those individuals who participate in a Ponzi scheme through the

use of debt instruments rather than equity instruments—fall into the category of Ponzi-scheme victims. .

The "lenders" in *EPD* were thinly disguised investors by another form. In fact, EPD filed a general denial in state-court litigation asserting that the lenders' funds "were an investment, rather than a loan that required repayment." *Id.* at 1161, n.8. And the Ninth Circuit noted that a reasonable lender would have understood that the promised above-market returns were investments because they were subject to risk and depended in part on the success of the underlying business. *Id. EPD* merely recognizes that Ponzi-scheme investors cannot avoid liability by characterizing their investments as loans. There is no suggestion in *EPD* that a secured lender like Freddie Mac, that made a market-rate loan on commercial terms, secured by income-generating properties with values far exceeding the debt, could be characterized as a Ponzi-scheme participant and subject to claw-back litigation. The Committee's interpretation of *EPD* is novel and unprecedented. And the Disclosure Statement makes no disclosure of this untested theory.

In the context of a properly commenced adversary proceeding, Freddie Mac would have the opportunity to seek dismissal of such a legally deficient claim at the outset, without subjecting itself to the immense economic burden that would attend expansive discovery necessary to address underlying fact issues relating to the purported Ponzi scheme and substantive consolidation. Secured creditors should not be compelled to incur the substantial burdens of defending against these theories until this Court adjudicates their legal viability in the correct procedural posture and on an appropriate record**.** The Plan Proponents should not be permitted to deny Freddie Mac those procedural protections by forcing litigation of those issues, on an expedited and truncated basis, in the context of confirmation.

B. The Plan Proponents Seek to Disenfranchise Freddie Mac.

The Plan Proponents contend that Freddie Mac, a party whose loans were largely repaid during the case,[8] should not be classified as a creditor, nor be permitted to vote on the Plan.[9] The

[8] While Freddie Mac's claims have largely been paid, Red Cedar continues to owe Freddie Mac approximately $10,000. Freddie Mac believes that Red Cedar does not dispute this outstanding obligation and intends to pay Freddie Mac in relatively short order.

Disclosure Statement asserts that Freddie Mac and similarly situated secured creditors cannot vote because their Class 3 claims have been "paid in full," even as the Plan Proponents signal their intent to recover loan payments made to Freddie Mac as avoidable transfers. As a threshold matter, the Plan Proponents are simply incorrect about Freddie Mac's status as a creditor. Even if the currently outstanding amounts are paid, Freddie Mac holds a secured claim for its attorney's fees and other expenses that it continues to incur to address Freddie Mac's treatment under the Plan and the Committee's threatened litigation. *See* Loan Agreements, § 8.02 (Freddie Mac's entitlement to recover its Attorneys' Fees and Costs is "secured by the Security Instrument, will be added to, and become part of, the principal component of the Indebtedness, [and] will be immediately due and payable.") Because Freddie Mac's loans were both materially oversecured, Freddie Mac is entitled to recover its attorney's fees from the sale proceeds currently held by the Red Mulberry and Red Cedar Tree estates.

C. The Plan is Patently Unconfirmable.

If a plan is unconfirmable as a matter of law, a bankruptcy court should deny approval of the disclosure statement. *See In re Arnold*, 471 B.R. 578, 586 (Bankr. C.D. Cal. 2012) (quoting *In re Silberkraus*, 253 B.R. 890, 899 (Bankr. C.D. Cal. 2000)); *see also* 7 Alan N. Resnick & Henry J. Sommer, Collier on Bankruptcy ¶ 1125.03[4] at 1125-23 (16th ed. 2011) ("most courts will not approve a disclosure statement if the underlying plan is clearly unconfirmable on its face") (citations omitted). Here, the Plan as articulated by Plan Proponents violates the absolute priority rule and is unconfirmable.

The absolute priority rule prohibits "the bankruptcy court from approving a plan that gives the holder of a claim anything at all unless all objecting classes senior to him have been paid in full." *In re Perez*, 30 F.3d 1209, 1214 (9th Cir. 1994). While neither the Plan nor the Plan Proponents' intentions are clear, Freddie Mac understands that the Plan Proponents seek to ultimately recover contractually required loan payments from secured lenders and redistribute those funds to, among

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[9] See Amended Disclosure Statement, footnote 7.

others, the Debtors' investors and equity holders. Even if the Debtors were successful in recovering alleged fraudulent transfers from secured creditors, those creditors would be entitled to assert claims for the recovered funds under Bankruptcy Code section 502(h). 11 U.S.C. § 502(h). And those claims, while potentially unsecured, should be entitled to priority of distribution ahead of the Debtors' investors and equity holders. Indeed, absent substantive consolidation, unsecured claims (including section 502(h) claims) against individual debtors should be paid in full before any funds are distributed to corporate parents or equity holders. Here, it is unclear—because the Disclosure Statement is entirely silent on this point—whether the Plan Proponents intend to redistribute potential recoveries from secured creditors to investors and equity holders; if so, the Plan violates the absolute priority rule, and the Court should decline to approve the Disclosure Statement.

WHEREFORE, Freddie Mac respectfully requests that for the reasons set forth above, the Court enter an order denying the Debtors' request for approval of the Disclosure Statement and grant Freddie Mac such other and further relief as is appropriate.

Dated: November 12, 2025.

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By: /s/ *Marsha A. Houston*

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CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing notice to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of the filing to all parties on the NEF list.

/s/ Marsha A. Houston
Marsha A. Houston (CA Bar No. 129956)