

1 Craig A. Welin (State Bar No. 138418)
 cwelin@frandzel.com
 2 Gerrick M. Warrington (State Bar No. 294890)
 gwarrington@frandzel.com
 3 FRANDZEL ROBINS BLOOM & CSATO, L.C.
 1000 Wilshire Boulevard, Nineteenth Floor
 4 Los Angeles, California 90017-2427
 Telephone: (323) 852-1000
 5 Facsimile: (323) 651-2577

6 Attorneys for KeyBank National Association

7
 8 **UNITED STATES BANKRUPTCY COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**
 10 **SANTA ROSA DIVISION**

11 In re

12 LEFEVER MATTSON, a California
 corporation, *et al.*,

13 Debtors.
 14

Case No. 24-10545 CN (Lead Case)

(Jointly Administered)

Chapter 11

15 In re

16 KS MATTSON PARTNERS, LP,

17 Debtor.
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28

**SUPPLEMENTAL OBJECTIONS OF KEYBANK
 NATIONAL ASSOCIATION TO:**

**1. Third Amended Disclosure Statement in Support
 of Second Amended Joint Chapter 11 Plan of
 Liquidation [Dkt. 3055]; and**

**2. Proposed Modifications to (1) Second Amended
 Chapter 11 Plan, (2) Second Amended Disclosure
 Statement, and (3) Liquidation and Recovery
 Analysis [Dkt. 3019]**

Hearing Date:

Date: December 9, 2025

Time: 1:00 p.m. (Pacific time)

Place: United States Bankruptcy Court
 1300 Clay Street, Courtroom 215
 Oakland, CA 94612

Judge: Honorable Charles Novack



1 **I. INTRODUCTION¹**

2 The Plan is designed to distribute Avoidance Action recoveries from a post-confirmation
3 trust to Investors on account of their claims for damages arising from an alleged Ponzi scheme.

4 But § 510(b) **mandates subordination** of such claims to general unsecured claims.

5 How will the Plan overcome this subordination mandate?

6 This is import to KeyBank because, although its real property collateral is being sold under
7 § 363(b), KeyBank will incur attorneys' fees and costs and may end up with § 502(h) claims from
8 defending such litigation, which is expected to occur **after the Effective Date**.

9 Accordingly, the Disclosure Statement must explain:

10 (a) how Secured Lenders' post-Effective Date fee claims and § 502(h) claims will be
11 classified and treated; and

12 (b) how § 510(b) affects post-Effective Date distributions.

13 The Modifications clarify that § 502(h) claims are not Investor Claims. And at the last
14 hearing, Committee counsel stated that Secured Lenders' unsecured claims would be treated as
15 "Trade Claims."

16 But, neither the Plan nor the Disclosure Statement explicitly says this.

17 And more importantly, these Secured Lender claims **are not "substantially similar"** to
18 Trade Claims. So they may not be classified together, and doing so dilutes Secured Lenders'
19 votes.

20 These are material disclosure issues for creditors and Investors alike.

21
22
23
24 ¹ KeyBank National Association ("KeyBank") objects to the *Third Amended Disclosure*
25 *Statement in Support of Second Amended Joint Chapter 11 Plan of Liquidation* ("Disclosure
26 *Statement*") [Dkt. 3055]; and *Proposed Modifications to (1) Second Amended Chapter 11 Plan,*
27 *(2) Second Amended Disclosure Statement, and (3) Liquidation and Recovery Analysis*
28 *("Modifications")* [Dkt. 3019] filed by LeFever Mattson, a California corporation, ("LFM"), its
affiliated debtors and debtors in possession (collectively with LFM, the "LFM Debtors"), and KS
Mattson Partners, LP ("KSMP" and together with the LFM Debtors, the "Debtors"), and the
Official Committee of Unsecured Creditors (the "Committee" and together with the Debtors, the
"Plan Proponents"), which was appointed in these chapter 11 cases to represent the interests of
general unsecured creditors as well as the Investors.

1 **II. HOW ARE POST-EFFECTIVE DATE FEE AND § 502(h) CLAIMS CLASSIFIED?**

2 The Plan and Disclosure Statement should explicitly say how Secured Lenders' post-
3 Effective Date fee claims and § 502(h) claims are classified and treated.

4 The Modifications confirm that § 502(h) claims are not Investor Claims (*see* Dkt. 3019 at
5 20 of 34). **But what are they?** At the last hearing, Committee counsel stated that any unsecured
6 claims of KeyBank would be classified as "Trade Claims" (Transcript at 63:8–9).

7 But the Plan and Disclosure Statement don't say that.

8 And classifying Secured Lenders' post-Effective Date fee claims and § 502(h) claims with
9 Trade Claims is improper. These lender-related claims arise from loan agreements and avoidance
10 litigation, not from prepetition vendor transactions. They are contingent and unliquidated, unlike
11 Trade Claims, which are defined as "(i) ... Claims owed to ... vendors, suppliers and providers of
12 goods and services received ... during the ordinary course of business prepetition relating to such
13 goods and services, and (ii) Rejection Claims." Plan at Exh. A.

14 Combining these dissimilar claims violates § 1122(a), which "mandates that dissimilar
15 claims cannot be placed into the same class." *In re Loop 76, LLC*, 465 B.R. 525, 536 (B.A.P. 9th
16 Cir. 2012), *aff'd*, 578 F. App'x 644 (9th Cir. 2014). It also dilutes Secured Lenders' votes.

17 The Plan Proponents should amend the Plan and Disclosure Statement to separately
18 classify Secured Lenders' post-Effective Date fee claims and § 502(h) claims.

19 **III. INVESTOR DISTRIBUTIONS ARE MANDATORILY SUBORDINATED.**

20 Although it was suggested at the last hearing that § 510(b) is a "confirmation issue" (*see*
21 Transcript at 62:8–10), it's actually a critical disclosure issue. The Plan is patently unconfirmable
22 because it proposes distributions to Investors before paying all general unsecured claims in full.

23 Section 510(b) **mandates** subordination, for distribution purposes, of claims for damages
24 arising from the purchase or sale of securities. The Ninth Circuit interprets § 510(b) broadly to
25 include tort and contract claims arising from such transactions. *See In re Del Biaggio*, 834 F.3d
26 1003, 1009 (9th Cir. 2016) (citations omitted); *In re Tristar Esperanza Props., LLC*, 782 F.3d 492,
27 495 (9th Cir. 2015) (citations omitted).

1 A claim “arises from” the purchase or sale of securities if it shares a “nexus or causal
2 relationship” with that transaction. *Del Biaggio*, 834 F.3d at 1009. Congress enacted § 510(b) to
3 prevent disappointed investors from elevating their claims to parity with general unsecured
4 creditors. *Id.* at 1011 (citation omitted).

5 Here, all Investor Claims—including fraud and misrepresentation claims—flow from the
6 purchase or sale (or attempted purchase or sale) of securities, regardless of whether the interest
7 was formally recorded. The Joint Investigation Report [Dkt. 2568] identifies multiple categories of
8 Investor Claims tied to such securities transactions.

9 Accordingly, all Investor Claims must be subordinated below general unsecured claims,
10 including KeyBank’s fee and § 502(h) claims. *See Tristar Esperanza*, 782 F.3d at 497–98.

11 This is not merely a confirmation issue or an issue for another day.

12 **Subordination materially affects recoveries** for creditors and Investors and will impact
13 on their voting. Creditors and Investors are entitled to disclosure of how § 510(b) impacts their
14 distributions.

15 **IV. CONCLUSION**

16 The Plan Proponents should classify the Secured Lenders’ post-Effective Date fee claims
17 and § 502(h) claims separately from “Trade Claims,” and they should **explicitly disclose** how
18 § 510(b) impacts distributions.

19 DATED: December 8, 2025

FRANDZEL ROBINS BLOOM & CSATO, L.C.

21 By: /s/ Gerrick M. Warrington

22 GERRICK M. WARRINGTON

23 Attorneys for KeyBank National Association
24
25
26
27
28

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.

By: /s/ Annette Chase
Annette Chase