IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	§	Chapter 11
RHODIUM ENCORE LLC, *et al.*,[1]	§	Case No. 24-90448 (ARP)
Debtors.	§	(Jointly Administered)

EMERGENCY REQUEST FOR STATUS CONFERENCE REGARDING DEBTORS' NON-COMPLIANCE WITH AUGUST 4 DISCLOSURE AGREEMENT AND REQUEST TO RESTORE SAFE AHG TERMINATION MOTION TO CALENDAR

The Ad Hoc Group of SAFE Parties (the "**SAFE AHG**")[2] in the above-captioned chapter 11 cases (the "**Chapter 11 Cases**") of Rhodium Encore LLC and its affiliated debtors and debtors in possession (the "**Debtors**") files this emergency request for a status conference regarding the disclosure agreement made, but not discharged, by the Debtors in advance of the August 4, 2025 status conference (the "**August 4 Conference**"), and request by the SAFE AHG to restore to the calendar the hearing on the SAFE AHG's June 7, 2025 *Amended Emergency Motion to Terminate Exclusivity* [Dkt. No. 1246] (the "**Termination Motion**").

DISCUSSION

1. The SAFE AHG respectfully asks the Court to convene a status conference concerning the Debtors' failure to comply with the disclosure commitments the Debtors made to

[1] The Debtors in these chapter 11 cases and the last four digits of their corporate identification numbers are as follows: Rhodium Encore LLC (3974), Jordan HPC LLC (3683), Rhodium JV LLC (5323), Rhodium 2.0 LLC (1013), Rhodium 10MW LLC (4142), Rhodium 30MW LLC (0263), Jordan HPC Sub LLC (0463), Rhodium 2.0 Sub LLC (5319), Rhodium 10MW Sub LLC (3827), Rhodium 30MW Sub LLC (4386), Rhodium Encore Sub LLC (1064), Rhodium Enterprises, Inc. (6290), Rhodium Industries LLC (4771), Rhodium Ready Ventures LLC (8618), Rhodium Renewables LLC (0748), Air HPC LLC (0387), Rhodium Renewables Sub LLC (9511), Rhodium Shared Services LLC (5868), and Rhodium Technologies LLC (3973). The mailing and service address of the Debtors in these chapter 11 cases is 2617 Bissonnet Street, Suite 234, Houston, TX 77005.

[2] As defined in the *Third Supplemental Verified Statement of Ad Hoc Group of SAFE Parties Pursuant to Bankruptcy Rule 2019* [Dkt. No. 1346].

the SAFE AHG moments before the August 4 Conference began. In reliance on those commitments, the SAFE AHG withdrew its conference request concerning apparent discrepancies between (i) statements made on the record by the Debtors at the July 2, 2025 hearing on the *Debtors' Omnibus Objection to Claims* [Dkt. No. 1126] (the "**Claim Objection**"), and (ii) information provided in connection with a proposed (but apparently still not agreed) settlement term sheet with the Debtors' D&O insurance carriers.

2. The Debtors began, but did not complete, the question-and-answer process to which they agreed on August 4. [redacted]. The SAFE AHG submits that the Debtors should be ordered to make their professionals, including their tax professionals, available to the SAFE AHG again promptly, as the Debtors specifically agreed on August 4 and [redacted], so that the SAFE AHG can complete its inquiries concerning the distributable cash discrepancies raised in the SAFE AHG's original status conference request and at the August 4 Conference. *See SAFE AHG's Emergency Request for a Status Conference Regarding Debtors' Putative D&O Insurance Settlement Agreement and SAFE AHG Motion to Compel* [Dkt. No. 1493] (the "**Request for August 4 Status Conference**").

3. In addition, the SAFE AHG respectfully asks that its June 7, 2025 Termination Motion be restored to the calendar for hearing and decision. Today is the one-year anniversary of the initial Debtor bankruptcy petition. *See* Voluntary Petition for Rhodium Encore LLC dated August 24, 2024 [Dkt. No. 1]. Unfortunately, the Debtors have failed utterly to achieve consensus

among their key stakeholders concerning an exit, despite the comparative simplicity of these liquidating cases. The SAFE AHG submits it is time for the Debtors' monopoly over the plan process to end, and to allow competing approaches to be advanced and considered by Rhodium's actual economic stakeholders.

4. The SAFE AHG agreed to adjourn the hearing on its Termination Motion previously scheduled for June 24, 2025 to permit the parties to focus on briefing and preparing for argument on the Claim Objection, which is now pending. Regardless of the Court's ruling on the Claim Objection, the SAFE AHG submits that prompt consideration of the Termination Motion is warranted and will help advance these cases to conclusion. The only plan structure the Debtors ever have proposed releases or neutralizes valuable breach of fiduciary duty and other claims against the insiders, who continue to dominate and control the Debtors' plenary board.[3] The Debtors' approach fosters conflict amongst parties-in-interest, including by dramatically reducing the value of estate assets available for allocation between SAFE creditors and innocent Rhodium Enterprises, Inc. ("**REI**") stock owners.

5. To the extent the Claim Objection is overruled, the Debtors' insider-release plan violates the absolute priority rule, and is not supported by SAFE creditors. In that scenario, the SAFE AHG believes its proposed approach will bring these cases to a swift and consensual resolution, including based on the SAFE AHG's willingness to begin sharing recoveries with junior stakeholders even before SAFE claims are paid in full. *See, e.g.*, Termination Motion [Dkt. No. 1246], Ex. A. Conversely, if the Claim Objection were sustained, the insider-release plan still would not enjoy the support of a majority of the estates' stakeholders, by number or value.

[3] While the Debtors' original placeholder plan [Dkt. No. 1174] did not expressly release the insiders, it provided no funding for a litigation trust, and left in the hands of the insider-dominated plenary board the decision whether or not to pursue those claims, which was as good as a release.

6. The Debtors never have plausibly explained how the dollar-denominated $87 million claim of the SAFE creditors can be converted into common stock were the SAFEs deemed interests rather than claims. But the SAFE parties are the single largest investor group in the Debtors (by far). If such a conversion were required, the number of shares due to the SAFE parties necessarily would be vast, and would result in the common stockholders who currently support the plan representing only a small minority of all such holders. [redacted].

7. If authorized, the SAFE AHG intends to propose a plan that will be confirmable regardless of the Court's decision on the Claim Objection. The SAFE AHG plan will provide the estates' economic stakeholders with an alternative to the Debtors' insider-release approach and allow those stakeholders to choose the path they prefer. To do so on a timeline that permits simultaneous solicitation and consideration by parties-in-interest and the Court – and thus save substantial estate resources – the SAFE AHG respectfully asks the Court to set a hearing date (and briefing schedule) on its Termination Motion, and to do so at the Court's earliest convenience.

I. The Debtors Have Not Complied With Their August 4 Disclosure Agreement

A. The Debtors Agreed To Make Their Professionals Available To Answer The SAFE AHG's Questions "At Whatever Length Is Needed"

8. During the July 2, 2025 Claim Objection hearing (the "**July 2 Hearing**"), the Debtors represented to the Court that, under the Debtors' proposed plan of reorganization, SAFE creditors would receive something "akin to $55 million of $100 to $110 million in distributable proceeds" available at Rhodium Technologies LLC ("**RTL**," or "**Technologies**"). Ex. A, July 2,

2025 Hr'g Tr. at 56:23-24. During the July 2 Hearing, the Debtors' argued that their representations were relevant to the "fairness aspect to the [Debtors' proposed insider-release] plan."[4] *Id.* at 56:25-57:1. A few weeks later, the Debtors provided the SAFE AHG with a draft term sheet with insurance carriers that appeared to indicate there would be only approximately $[redacted] in distributable value at RTL.[5]

9. By email dated July 28, 2025, the SAFE AHG asked for an explanation of the discrepancy between the July 2 representation and the term sheet (the "**Discrepancy**"). The Debtors refused. On July 31, 2025, the SAFE AHG sought an emergency status conference with the Court. As the SAFE AHG noted, the Debtors presumably made their representations on July 2 concerning distributable value "because they believed them to be relevant to the Claim Objection." Request for Aug. 4 Conference [Dkt. No. 1493], ¶ 24. The SAFE AHG argued that, "if those representations were not accurate, they should be corrected immediately," while the Court still is considering the Claim Objection. *Id.*

10. Between July 31 and August 4, the SAFE AHG sought to resolve the conference request by convening a meeting with the Debtors' professionals and then updating the Court. For example, in an August 3, 2025 email, the SAFE AHG explained that it sought "to determine whether [representations made by Debtors concerning distributable value] were false," and that "**obviously the Court and parties must be notified**" if the representations were false, and if they were not false, how the July 2 representation "can be squared with the term sheet." The Debtors

[4] Even if true, there would be nothing "fair" about SAFE creditors receiving $55 million in respect of their collective $87 million in claims, while junior common stockholders receive multiples of their original investments, and insiders get releases worth at least $75 million, plus distributions in excess of $15 million.

[5] Specifically, the draft term sheet provided that 60.8% of distributable cash would be worth just $[redacted], which implies distributable cash of $[redacted].

replied that the July 2 claim in fact could be reconciled with the term sheet figures, based primarily on alleged tax savings associated with the settlement:

> Specifically, the [insider] settlement assumes a but for the settlement world in which Imperium remains in RTL. In that world, the estates would have to pay taxes with the benefit of consolidation for tax purposes. In addition, the estates would have to indemnify the Founders for taxes as set out in the [RTL] operating agreement.
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> In other words, the but-for world on which the term sheet is based will, in point of fact, have tens of millions less in distributable cash than in the post-settlement world.

11. Mr. Schmeltz insisted that the SAFE AHG provide a copy of his email to the Court in the event his representations were challenged. That correspondence is attached as Exhibit B (Email Chain between SAFE AHG and the Special Committee) (Aug. 3, 2025). The SAFE AHG offered to withdraw its status conference request in exchange for an opportunity to question the Debtors' professionals concerning the "updated budget/waterfall" and "anticipated tax situation." In a voicemail and email messages sent shortly before the August 4 Conference began, the Debtors agreed.

12. During the August 4 Conference, the Debtors previewed for the Court how they intended to harmonize their July 2 representations with their later statements. According to the Debtors, once "tax savings" allegedly associated with the Debtors' insider-release plan are taken into account, distributable cash would be shown to be "more in line with the 100-ish million that we have estimated previously before the Court," than the approximately $[redacted] implied by the term sheet. *See* Ex. C, Aug. 4 Hr'g Tr. [Dkt. No. 1514], at 7:17-22. Given the centrality of Debtors' claims concerning tax liabilities to their allegations about distributable cash, the SAFE AHG required that the call include Riveron, the Debtors' tax professionals, and the Debtors agreed. In the previously referenced voicemail left for the SAFE AHG just before the August 4 Conference

began, the Debtors committed that the August 8 call concerning the Discrepancy would continue for "***as much time . . . as you think you need.***" During the August 4 Conference, the Debtors similarly committed that their waterfall and tax presentation would proceed on Friday, August 8, 2025, and that the Debtors would "***let[the SAFE AHG] talk to our professionals at whatever length is needed.***" *Id.* at 8:1-2.

13. "[O]n that basis," the SAFE AHG agreed it could "at least from our perspective, move on from the portion of this status conference request that was aimed at the July 2 representation." *Id.* at 6:24-7:1; *see also Update Concerning SAFE AHG's Emergency Request for a Status Conference* dated August 4, 2025 [Dkt. No. 1501], ¶ 1 ("Earlier this morning, the Debtors agreed to cause their professionals, including tax professionals, to meet with the SAFE AHG on Friday, August 8, 2025 . . . to answer questions ***for as long as needed***," and "on this basis the SAFE AHG withdraws its request" concerning the Discrepancy.) (emphasis added). Representatives of certain common stockholders asked to be included in the Debtors' presentation and question-and-answer session as well, and the SAFE AHG agreed.

B. The Debtors Began But Did Not Complete The Agreed Disclosures

14. On August 8, 2025, the Debtors began the promised call with the SAFE AHG and other stakeholders which, as discussed below, was resumed on August 13, 2025. [redacted].

15. [redacted]

[redacted]. *See* Ex. D. [redacted].

16. Despite the claimed importance of tax issues to the Discrepancy, and their express promise to allow the SAFE AHG as much time as it needed to ask questions of Riveron, the Debtors at first refused to include Riveron on the reconvened call. Instead, the Debtors at first demanded that the SAFE AHG "detail in an email" any questions concerning "tax follow up." The SAFE AHG pointed out that Debtors agreed on August 4 to permit the SAFE AHG to ask questions of Riveron for as long as necessary, not provide written questions with the responses filtered through counsel. Nevertheless, the SAFE AHG previewed its follow-up inquiries as requested:

> By way of example, during the August 4 conference, you told Judge Perez that the draft "term sheet" with the insurance carriers presumes that "the settlement didn't occur," and in that scenario, there would be "tax burdens particularly on the Debtors' estate that would make distributable cash meaningfully less" [and that]… the insider settlement will create tax savings that will bring "distributable cash more in line with" representations you made to the Court on July 2 ("$100 to $110 million") by reducing those "tax burdens."
>
> ***
>
> [redacted]

[redacted][6]

17. The Debtors ultimately relented and Riveron joined the August 13 call. [redacted].

C. [redacted]

18. In the August 9 slide deck, the Debtors claimed [redacted]:

[redacted]

[6] [redacted]

[redacted]

19. [redacted]

[redacted].[7]

(i) [redacted]

20. In their August 9 slides, the Debtors claimed [redacted]

[redacted].

21. On August 18, 2025, in response to the SAFE AHG's queries, *see* Ex. E, the Debtors [redacted]

[7] The Debtors' July 2 estimate of "$100 to $110 million" is distributable cash also was not accurate. As of August 4, 2025, the Debtors estimate that, after distributing $13.2 million to insiders as called for under their insider-release plan, distributable cash at RTL will equal just $[redacted]. [redacted].

[redacted]

[redacted]

[redacted]"" *See* Ex. F (Email from SAFE AHG to the Special Committee) (Aug. 18, 2025). [redacted]

[redacted]

[redacted].

22. [redacted]

[redacted]

[redacted]. *See* Ex. E. [redacted]

[redacted].[8]

[8] [redacted]

23. This point is significant. [redacted] On August 14, [redacted].

(ii) The Debtors Have No Basis [redacted]

24. In his August 3 email, Mr. Schmeltz argued flatly that the estates are required "to indemnify the Founders for taxes as set out in the operating agreement." *See* Ex. B. [redacted].

[redacted].

[redacted]

25. But the Debtors' claim is incorrect and misleading on all fronts. First, RTL's operating agreement provides that REI (the "Manager" of RTL) "[redacted]" in RTL. Ex. H (First Am. to the Fourth Am. and Restated Op. Agr. of Rhodium Technologies LLC § 6.7) (emphasis added). RTL has just two "Members": Imperium and REI. Imperium (full name Imperium Investment Holdings LLC) is a pass-through entity that can have no "tax liabilities." Any tax liability "related" to gains allocated to Imperium would be owed not by Imperium, but by the individual "Founders" (to borrow Mr. Schmeltz's term from his August 3 email) who own Imperium, none of whom is a "Member" of RTL. [redacted].

26. Second, [redacted]

[redacted].

27. Third, and perhaps most remarkably, [redacted].

28. Notably, moreover, in their August 18 letter, the Debtors admit that "[redacted]

[redacted].[9]

D. The Debtors Cannot Use "Rule 408" To Conceal Critical Facts From the Court

29. Alarmed by the misstatements made by Debtors to the Court and in their August 9 slide presentation, a representative of a SAFE creditor emailed the Special Committee directly to ensure its members were aware of the presentation, and to express his concern. Counsel for the Special Committee responded with an eight-page, invective-filled letter, falsely accusing the SAFE creditor of "[redacted]," as well as "[redacted]," "[redacted]," "[redacted]," "[redacted]" and "[redacted]," all for addressing an email directly to members of the Special Committee. Buried in Mr. Schmeltz's eight-page August 18 letter were key admissions, [redacted].

30. Remarkably, Mr. Schmeltz labeled his haranguing letter "Confidential – Subject to FRE 408," even though it contained no offers of compromise or settlement negotiations of any kind. Despite that spurious label, Mr. Schmeltz [redacted]." The Debtors similarly have sought to insulate themselves from their August 9 misstatements by unilaterally and improperly labeling their slide presentation as "subject to Rule 408" and "mediation privilege."

31. The SAFE AHG never agreed that the Debtors' slides or presentation would be "off the record," however. On the contrary, the SAFE AHG sought the status conference, and

[9] The $[redacted] is labeled "[redacted]." [redacted].

agreed to the Debtors' proposed resolution, specifically to evaluate the Discrepancy, and the accuracy of the Debtors' related representations, and report back to the Court. Indeed, in its August 3, 2025 email, the SAFE AHG advised the Debtors that if their presentation revealed that prior representations by the Debtors were inaccurate, "obviously the Court and parties must be notified." Mr. Schmeltz responded by insisting that his own email also be provided to the Court. *See* Ex. B.

32. Rule 408 is irrelevant here in any case. The SAFE AHG is offering nothing into evidence, and [redacted]. Fed. R. Evid. 408 (excluding from evidence offers of compromise and compromise negotiations). [redacted]. Indeed, the Debtors have not engaged in any discussions that could be characterized as "settlement negotiations" with the SAFE AHG since May 17, 2025, at the latest – fully three months ago. Hence, the August 9 slides and related communications do not constitute material that could be subject to Rule 408.

33. Moreover, "Rule 408 does not require exclusion of evidence if offered for a purpose not prohibited by the terms of the Rule." *See, e.g.*, *Potenza v. City of New York Dep't of Transp.*, No. 03 CV 2430-RJD-RLM, 2008 WL 346369, at *2 (E.D.N.Y. Feb. 6, 2008). As noted above, the purpose for which the SAFE AHG is citing Debtors' statements is to provide context to the Court concerning representations made by the Debtors during the July 2 Hearing and the August 4 Conference, just as contemplated by the SAFE AHG's status conference request. Certainly, the SAFE AHG is not using an "offer of compromise" (the Debtors made none) to "prove an element of the claim the compromise offer was meant to settle," which is the "policy

concern[] underlying Rule 408." *See, e.g.*, *Larson Mnfg. Co. of South Dakota., Inc. v. Connecticut Greenstar, Inc*., 929 F.Supp.2d 924, 993(D.S.D. 2013).

34. And even if the SAFE AHG were offering evidence of a Debtor settlement communication (it is not), it would not be barred to the extent the communication is alleged to have been factually false. *Id.* In *Larson*, the court considered statements from a PowerPoint presentation delivered by the defendants during a settlement meeting, based on the plaintiffs' contention that the PowerPoint included false information. The court agreed the statements in question were "not protected by Rule 408," observing that "it is difficult to understand how protecting" inaccurate statements made in the course of settlement communications "will in any way advance parties' confidence in the settlement process." *Id*. (quoting *Dow Chem. Co. v. United States,* 250 F.Supp.2d 748, 805 (E.D. Mich. 2003)). The Debtors cannot rely on Rule 408 to keep misstatements in their presentation to stakeholders, which are directly relevant to the Discrepancy, from the Court's notice.

35. Likewise, to the extent statements of the kind reflected in the slides were used in settlement discussions with certain common stockholders prior to their decision to support the insider-release plan, they would be admissible despite Rule 408. *See* Fed. R. Evid. 408 advisory committee notes (providing that "Rule 408 is inapplicable" to show that inaccurate statements were made "in order to settle a litigation"). For example, in *Benson v. Giant Food Stores, LLC*, the court considered statements made in settlement negotiations by the plaintiff because they were not offered for a purpose forbidden by Rule 408, but instead "to demonstrate that Plaintiffs presented unsubstantiated claims as facts" in their "settlement brochure" in order "to settle the

litigation." 200 WL 6747421, at *6 (E.D. Pa. Dec. 22, 2011). The court rejected "Plaintiffs' contention that such a use is prohibited by Rule 408."[10]

II. The SAFE AHG Asks That The Termination Motion Be Restored To The Calendar

36. Today is the one-year anniversary of the filing of the first group of Rhodium Debtors in these cases. The plan of reorganization that the Debtors have proposed in these cases guarantees continuing strife among innocent stakeholders and, the SAFE AHG submits, is unconfirmable. Through its Termination Motion, which the Court originally scheduled for hearing on June 24, 2025, the SAFE AHG sought the opportunity to give stakeholders an alternative to the Debtors' preferred insider-release approach. Nevertheless, the SAFE AHG agreed to adjourn the hearing on its Termination Motion to permit the parties to focus on briefing and arguing the Claim Objection. That objection was heard on July 2, 2025, and is pending. The SAFE AHG asks the Court to restore the Termination Motion to the calendar for hearing and determination at its earliest convenience.

37. If the Court overrules the Claim Objection, allowing the SAFE AHG to propose a plan acceptable to the Debtors' only class of creditors would plainly be warranted. In that event, the SAFE AHG expects to quickly garner support for its plan from non-insider stakeholders, since the SAFE AHG offers to provide substantial recoveries to innocent REI common stockholders even before the SAFE creditors' claims are paid in full. *See, e.g.*, Termination Motion [Dkt. No. 1246], Ex. A. But even if the Court were to sustain the Debtors' Claim Objection, the SAFE AHG submits that allowing it to propose an alternative plan now will help move these cases to a

[10] Indeed, even if the parties had been engaged in settlement discussions (and they were not), the Debtors' purported statements of fact concerning [redacted] would not be excluded from evidence by Rule 408. *Id.* (refusing to exclude "purported statements of fact" made during settlement negotiations); *Potenza v. City of New York Dept. of Transp.*, 2008 WL 346369, at *2 (E.D.N.Y. Feb. 6, 2008) ("The Advisory Committee also reiterates that Rule 408 does not 'protect pre-existing information simply because it was presented to the adversary in compromise negotiations.'" (quoting Fed.R.Evid. 408 advisory committee's notes (2006 amendment))).

consensual resolution.

38. The Debtors' insider-release plan inevitably will lead to expensive and time-consuming plan confirmation litigation. Among many other fatal flaws, even if the Debtors were to prevail on their counter-textual argument that SAFE parties have interests, rather than claims, the *Amended Joint Chapter 11 Plan of Liquidation of Rhodium Encore LLC and Its Affiliated Debtors* [Dkt. No. 1297] (the "**Proposed Plan**") provides no plausible basis for converting the SAFE parties' aggregate $87 million claim for the Cash Out Amount – denominated in dollars – into shares of common stock. Whatever the basis for doing so, as the estates' largest class of investors by far, the SAFE parties necessarily would be entitled to a number of shares that would render the existing plan supporters only a small minority of the outstanding common stock. Hence, the insider-release plan only would be supported by the insiders themselves, not a majority even of REI common stockholders.[11]

39. Most problematically, however, the Proposed Plan would release all claims against the insiders, and distribute $13.2 million to Imperium, supposedly in respect of Imperium's 60.8% nominal equity interest in RTL. But the Debtors must enforce the Contribution Agreements between RTL and REI. Those contracts require RTL to pay back to REI the $87 million in SAFE proceeds transferred by REI to RTL in 2021. Separately, the Debtors have identified another $8 million in net debt owed by RTL to REI, and thus RTL owes a total of about $95 million to REI. *See* Request for August 4 Status Conference at 6-7, Exs. E, F, G. Hence, assuming RTL has cash of $[redacted] (the Debtors' most recent estimate), the maximum Imperium could receive in respect of its equity interest in RTL would be 60.8% of the remaining balance after repayment of

[11] The Debtors' Proposed Plan likewise would require litigation concerning the proposal to issue hundreds of millions of additional shares in REI to plan support parties based on a warrant agreement that, by its terms, allows for the issuance of a maximum of about [redacted]. It is this mechanism that the Debtors rely on to provide outsize payments and guarantees to the Transcend Group and other common stockholders who currently support the PSA.

REI. Since that remaining balance (according to the Debtors' estimates) would be [redacted]. Nevertheless, the Debtors propose to make an eight-figure cash distribution to Imperium in respect of an equity interest otherwise entitled to no distribution (and that would be subject to equitable subordination in any case). And on top of that, the Debtors proposed to release claims against the insiders worth $75 million or more, distribute millions more in respect of insider claims that should be disallowed, and pay the insiders' 2025 taxes.

40. Although the propriety of the settlement is not before the Court at this time, the SAFE AHG does not believe that the proposed insider settlement comes close to the "reasonableness" standard under Bankruptcy Rule 9019. Moreover, by proposing to release valuable estate claims against the insiders in exchange for no cash consideration (on the contrary, insiders get a large cash distribution), the Debtors reduce the value of the estates' assets by such a degree as to make agreement amongst innocent stakeholders on a consensual allocation of value much more difficult. This problem is further exacerbated by [redacted].

41. The economic stakeholders in these cases deserve an alternative to the insider-release approach favored by the Debtors. The SAFE AHG respectfully asks that its Termination Motion be returned to the calendar promptly.[12] That way, if the Court were to terminate exclusivity, any alternative plan can be sent for solicitation simultaneously with the Debtors' Proposed Plan (if by then they still believe their plan can be confirmed), and the stakeholder body can decide which approach suits them best.

[12] To the extent the Court grants the Termination Motion and the Debtors indicate a desire to proceed with the insider-release plan currently set forth in the PSA, the SAFE AHG understands that the stay would be lifted to allow all proposed plans to proceed simultaneously.

CONCLUSION

42. The SAFE AHG respectfully asks the Court to convene a status conference concerning (i) the Debtors' noncompliance with their August 4, 2025 disclosure agreement and (ii) the SAFE AHG's request to re-calendar the Termination Motion, and to discuss related procedural and scheduling matters.

EMERGENCY CONSIDERATION

43. The SAFE AHG respectfully requests emergency consideration of this Request at the Court's earliest convenience. The information sought by the SAFE AHG is directly relevant to the accuracy of assertions that the Debtors made during the July 2 Hearing and contended were relevant to their Claim Objection. The extent to which the Debtors' July 2 representations, and/or the Debtors' explanations of those representations provided during the August 4 Conference, are inaccurate should be available to the Court and parties as soon as possible. In addition, for the reasons set forth above, the SAFE AHG submits that returning the Termination Motion to the calendar will assist in bringing these cases to a consensual resolution. Further, to the extent the Court grants the Termination Motion, the SAFE AHG intends to file a proposed plan promptly, which may allow stakeholders and the Court to consider both the SAFE AHG plan and the Debtors' insider-release plan simultaneously, if the Debtors at that time continue to press the insider-release plan.

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Dated: August 24, 2025

Respectfully Submitted,

AKIN GUMP STRAUSS HAUER & FELD LLP

/s/ Sarah Link Schultz
Sarah Link Schultz (State Bar No. 24033047; S.D. Tex. 30555)
Elizabeth D. Scott (State Bar No. 24059699; S.D. Tex. 2255287)
2300 N. Field Street, Suite 1800
Dallas, TX 75201-2481
Telephone: (214) 969-2800
Email: sschultz@akingump.com
Email: edscott@akingump.com

- and -

Mitchell P. Hurley (admitted *pro hac vice*)
One Bryant Park
New York, NY 10036-6745
Telephone: (212) 872-1000
Email: mhurley@akingump.com

Counsel to the Ad Hoc Group of SAFE Parties

Certificate of Service

I hereby certify that on August 24, 2025, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Sarah Link Schultz
Sarah Link Schultz

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS (HOUSTON)

IN RE:	Case No. 24-90448
	Chapter 11
RHODIUM ENCORE LLC, et al.	
	515 Rusk Street
	Houston, TX 77002
Debtors.	
	Wednesday, July 2, 2025
	10:00 a.m.

TRANSCRIPT OF DEBTORS' OMNIBUS OBJECTION TO CLAIMS PURSUANT TO BANKRUPTCY CODE SECTIONS 502(B), BANKRUPTCY RULE 3007, AND LOCAL RULE 3007-1 BECAUSE SAFE HOLDERS DO NOT HOLD CLAIMS [1126]
BEFORE THE HONORABLE ALFREDO R. PEREZ
UNITED STATES BANKRUPTCY COURT JUDGE

TELEPHONIC APPEARANCES:

For the Debtors:	Quinn Emanuel Urquhart & Sullivan, LLP By: PATRICIA B. TOMASCO, ESQ. 700 Louisiana Street, Suite 3900 Houston, TX 77002 (713) 221-7000
	Quinn Emanuel Urquhart & Sullivan, LLP By: RACHEL HARRINGTON, ESQ. 295 5th Avenue, 9th Floor New York, NY 10016 (212) 849-7000
APPEARANCES CONTINUED.	
Audio Operator:	Akeita House, ECR
Transcription Company:	Access Transcripts, LLC 10110 Youngwood Lane Fishers, IN 46048 (855) 873-2223 www.accesstranscripts.com

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

TELEPHONIC APPEARANCES (Continued):

For the Debtors:	Quinn Emanuel Urquhart & Sullivan, LLP By: BEN ROTH, ESQ. RAZMIG IZAKELIAN, ESQ. 865 South Figueroa Street, 10th Floor Los Angeles, CA 90017 (213) 443-3000
For the Ad Hoc Group of SAFE Parties:	Akin Gump Strauss Hauer & Feld LLP By: MITCHELL P. HURLEY, ESQ. Bank of America Tower 1 Bryant Park New York, NY 10036 212-872-1011
	Akin Gump Strauss Hauer & Feld LLP By: SARAH A. SCHULTZ, ESQ. 2300 N. Field Street, Suite 1800 Dallas, TX 75201 214-969-4367
For the Official Committee of Unsecured Creditors:	McDermott Will & Emery LLP By: GRAYSON WILLIAMS, ESQ. 2801 N. Harwood St., Suite 2600 Dallas, TX 75201 214-295-8063
	McDermott Will & Emery LLP By: NATHANIEL ALLARD, ESQ. One Vanderbilt Avenue Manhattan, NY 10017-3852 (212) 547-5400
For Imperium Investment Holdings LLC, et al.:	Streusand Landon Ozburn Lemmon LLP By: RHONDA MATES, ESQ. 1801 S. Mopac Expressway, Suite 320 Austin, TX 78746 (512) 220-2689
For Nicholas Cerasuolo:	Shannon & Lee LLP By: KYUNG LEE, ESQ. 2100 Travis Street, Suite 1525 Houston, TX 77002 (713) 714-5770

TELEPHONIC APPEARANCES (Continued):

For the Special Committee:	Barnes & Thornurg By: TRACE SCHMELTZ, ESQ. One North Wacker Drive, Suite 4400 Chicago, IL 60606-2833 (312) 357-1313
For Proof Capital Special Situations Fund:	Cole Schotz, P.C. By: BRYANT CHURBUCK, ESQ. 1325 Avenue of the Americas 19th Floor New York, Ny 10019 (212) 752-8000
For DLT Data Center 1 LLC (DLT 1):	Olshan Frome Wolosky LLP By: THOMAS J. FLEMING, ESQ. MICHAEL S. FOX, ESQ. 1325 Avenue of the Americas New York, NY 10019 (212) 451-2300
For GR Fairbairn Family Trust, GRF Tiger Trust, Grant Fairbairn Revocable Trust, NC Fairbairn Family Trust, NCF Eagle Trust, Nina Claire Fairbairn Revocable Trust, and Transcend Partners Legend Fund LLC:	Munsch Hardt Kopf & Harr, P.C. By: BRENDA LYNN FUNK, ESQ. 700 Milam Street, Suite 800 Houston, TX 77002 (713) 222-5832
For Ad Hoc SAFE Claimants:	Genevieve Graham Law, PLLC By: GENEVIEVE MARIE GRAHAM, ESQ. P.O. Box 130378 Houston, TX 77219 (832) 367-5705
For Ranger Investment Partners, L.P. and Winchester Partners, L.P.:	Greenberg Traurig, LLP By: JAMES TILLMAN GROGAN III, ESQ. 1000 Louisiana Street, Suite 6700 Houston, TX 77002 (713) 374-3600

TELEPHONIC APPEARANCES (Continued):

For Liquid Mining Fund II, LLC:	Lessne Hoffman PLLC By: MATTHEW I. ROCHMAN, ESQ. 100 Southeast 3rd Avenue, 10th Floor Fort Lauderdale, FL 33065 (954) 372-5759
Also Present:	DAVID EATON MANISH KUMAR ANDREW POPESCU FARZAN SABZEVARI

that it's just a number. It's 87 million and that's a number.

But certainly in a situation in which you are treated like common stock and you are to get a ratable proportion, that calculation is easily done and it's easily done in the same way the SAFEs were given dividends in the past. And that dividend calculation applies here and it has a -- you take the purchase amount of the SAFEs. You take the liquidity price, which is the price per share equal to the valuation cap divided by the liquidity capitalization, and the liquidity capitalization includes everyone in the cap stack except for the SAFEs. And that gives you a conversion of the SAFEs to a number of shares. And then you would take that number of shares by the amount of money to be distributed relative to the total number of shareholders in the mix. And this is just by way of example. There are some levers that might change to change the calculation.

But if you go to the next slide, putting the SAFEs proportionate in the capital stack as proportionate to other common shareholders gives them a right to $3.6 million, not $87 million at this point. And as Your Honor is aware, under the plan support agreement and the plan that was filed based on it, the concept is to give them a much greater number at this point in the process, you know, something more akin to $55 million of $100 to $110 million in distributable proceeds. Just note that to suggest, you know, there's a fairness aspect

to the current plan that shouldn't be underestimated, because certainly in an agreement in which they are to get treated like common stock, their number would be materially lower.

That's all I have, Your Honor. I'm happy to stand for more questions and I obviously reserve any rebuttal.

THE COURT: All right. Right. Thank you. All right. Mr. -- anyone else in favor of the -- in support of the objection that wants to be heard?

MR. FLEMING: I would, Your Honor. Thomas Fleming.

THE COURT: Mr. Fleming, go ahead.

MR. FLEMING: Thank you, Your Honor. I'll be very brief. Thomas Fleming. We represent the DLT Data Center or the second-largest Class A holder. I'd just like to make a few comments. We've heard a lot about all the words and content of this agreement, but I would ask the Court to also consider the overall structure.

So the SAFEs holders, like equity, had no right to any repayment. Their return came on four specific events. Each of those events is tied to common. So there's a liquidity event -- I'm sorry, a listing event and an equity financing, in which case they convert at 85 percent of the market price. So they get common stock and the same time, the common is getting their exit. The other two events are a liquidity and dissolution event which we've been talking about at length.

But all the -- both of those events are events when

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EXHIBIT B

EXHIBIT C

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

IN RE:	§ CASE NO. 24-90448-11
	§ HOUSTON, TEXAS
RHODIUM ENCORE, LLC, ET AL.,	§ MONDAY,
	§ AUGUST 4, 2025
DEBTORS.	§ 9:30 A.M. TO 9:08 A.M.

STATUS CONFERENCE

BEFORE THE HONORABLE ALFREDO R. PEREZ
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES: SEE NEXT PAGE

COURTROOM DEPUTY/ERO: AKEITA HOUSE

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APPEARANCES:

FOR DEBTORS RHODIUM ENCORE, LLC, ET AL.:	QUINN EMANUEL URQUHART & SULLIVAN, LLP Patricia B. Tomasco, Esq. 700 Louisiana Street Suite 3900 Houston, TX 77002 713-221-7227
FOR THE AD HOC GROUP OF SAFE PARTIES:	AKIN GUMP STRAUSS HAUER & FELD Sarah A. Schultz, Esq. 2300 N. Field Street Suite 1800 Dallas, TX 75201 214-696-4367
	AKIN GUMP STRAUSS HAUER & FELD Mitchell P. Hurley, Esq. One Bryant Park Bank of America Tower New York, NY 10036 212-872-1011
FOR IMPERIUM INVESTMENTS HOLDINGS, LLC; CHASE BLACKMON, CAMERON BLACKMON AND NATHAN NICHOLS:	STREUSAND LANDON OZBURN LEMMON Rhonda Bear Mates, Esq. 1801 S. Mopac Expressway Suite 320 Austin, TX 78746 512-220-2689
FOR DLT DATA CENTER 1, LLC (DLT 1):	OLSHAN FROME WOLOSKY, LLP Michael S. Fox, Esq. 1325 Avenue of the Americas New York, NY 10019 212-451-2300
FOR SPECIAL COMMITTEE FOR THE BOARD:	BARNES THORNBURG, LLP Vincent P. Schmeltz, III, Esq. One North Wacker Drive Suite 4400 Chicago, IL 60606 312-214-4830

APPEARANCES (CONT'D):

FOR NICHOLAS CERASUOLO:	SHANNON & LEE, LLP RJ Shannon, Esq. 2100 Travis Street Suite 1525 Houston, TX 77002 713-714-5770
FOR THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS:	McDERMOTT WILL & SCHULTE, LLP Nathaniel Allard, Esq. One Vanderbilt Avenue New York, NY 10017 212-547-5330

(Please also see Electronic Appearances.)

MR. HURLEY: Of course.

(Pause in the proceedings.)

THE COURT: Okay. Go ahead.

MR. HURLEY: Okay. So starting with the good news, as Your Honor is aware from the submission being made with our request for a status conference in the first instance we had concerns about representations that were made by the Debtor on the Record on July 2 that appeared to be different than figures that at least to us looked like they were implied by material that was received on July 23.

And we, this morning, were able to reach agreement with Special Committee that the Special Committee and the Debtors are going to make their professionals available to us on Friday to give us what sounds like a detailed presentation on the waterfall, and it includes some elements of the waterfall that they have -- that yesterday they referenced, we don't have detail on yet, but it sounds like is going to provide an explanation for the difference between what we heard on July and what we saw on July 23 and will, we think anyway based on our communication so far, that they'll provide a bridge, and that's information obviously we don't -- haven't had to date and won't have until Friday, but there now is a plan for that information to be supplied to us on Friday.

And so on that basis I think we can, at least from our perspective, move on from the portion of this status

conference request that was aimed at the July 2 representation. And I'll pause there to see if Mr. Schmeltz or anyone else has anything to add.

MR. SCHMELTZ: Your Honor, I don't have anything material to add except to note for the Court's benefit that we've made representations to the Court about distributable cash that are at all times estimates based on the best understanding of the Debtors and the professionals working with both the Debtors and the Special Committee and we obviously have represented that as accurately as humanly possible at all times.

The settlement agreement, the term sheet that is in draft form that we've circulated confidentially at people's request describe the but for world in which, presuming the settlement didn't occur, there would be different expenses and burdens, tax burdens particularly on the Debtors' estate that would make that distributable cash meaningfully less. Our view, one of the benefits of settling with the founders now is to get that updraft of having more distributable cash, more in line with the 100-ish million that we have estimated previously before the Court as opposed to something much lower in a non-settled world.

I think -- I think we can walk that through with SAFE AHG relatively simply, and I'm hopeful -- we've committed to giving to giving them all the information they need to be

satisfied and letting them talk to our professionals at whatever length is needed. We hope that that will be both a productive exercise and may, you know, may even lead to more conversations of a better nature than -- you know, as Your Honor's aware, you know, we've had a little bit of a head butt of late and we'd like to resolve that with them if at all possible.

THE COURT: All right. Thank you.

MR. HURLEY: Okay. Your Honor, and, you know, I think it probably goes without saying, but some of the items that have identified one of the reasons we feel like we have to have this conversation is we just -- we don't understand how the bridge could work. It's doesn't seem consistent with our understanding of what the savings actually could be, but that's not for today.

So, Your Honor, if it's okay with you, I'll move on to the Imperium issue.

THE COURT: Go ahead.

MR. HURLEY: Okay. So the Imperium issue relates to disclosures that were the subject of our motion to compel that was heard May 21, 2025. At the hearing and the submission provided to you earlier this morning, I apologize, you know, the style, we've been working on these on these issues right up to the moment before the hearing started. Your Honor, I think there was an agreement that there were some documents

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EXHIBIT H