

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

In re:	§	Chapter 11
	§	
RHODIUM ENCORE LLC, <i>et al.</i> , ¹	§	Case No. 24-90448 (ARP)
	§	
Debtors.	§	
	§	(Jointly Administered)
	§	

If you object to the relief requested, you must respond in writing. Unless otherwise directed by the court, you must file your response electronically at <https://ecf.txsb.uscourts.gov/> within twenty-one days from the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within twenty-one days from the date this motion was filed. Otherwise, the court may treat the pleading as unopposed and grant the relief requested.

**MOTION TO ENFORCE THE PURCHASE AND SALE AGREEMENT
WITH WHINSTONE US, INC. FILED BY
THE DEBTORS AND THE SPECIAL COMMITTEE**

Rhodium Encore LLC and its affiliated debtors (the “Debtors” or “Rhodium”) and the Special Committee of the Board of Directors of Rhodium Enterprises, Inc. (the “Special Committee”) respectfully submit this Motion to Enforce the Purchase and Sale Agreement with Whinstone US, Inc. (the “Motion”).

¹ 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), Rhodium Enterprises, Inc. (6290), Rhodium Technologies LLC (3973), Rhodium Renewables LLC (0748), Air HPC LLC (0387), Rhodium Shared Services LLC (5868), Rhodium Ready Ventures LLC (8618), Rhodium Industries LLC (4771), Rhodium Encore Sub LLC (1064), Jordan HPC Sub LLC (0463), Rhodium 2.0 Sub LLC (5319), Rhodium 10MW Sub LLC (3827), Rhodium 30MW Sub LLC (4386), and Rhodium Renewables Sub LLC (9511). The mailing and service address of Debtors in these Chapter 11 Cases is 2617 Bissonnet Street, Suite 234, Houston, TX 77005.



JURISDICTION AND VENUE

1. This Court has jurisdiction over this Motion under 28 U.S.C. § 1334; this matter is a core proceeding under 28 U.S.C. § 157(b).

2. Pursuant to 28 U.S.C. §§ 1408 and 1409, venue in this district is proper.

3. The bases for the relief are Section 105(a) and 363 of the Bankruptcy Code, and this Court’s Order (I) Approving Emergency Motion For a Settlement and Compromise Between Debtors And Whinstone Us, Inc. Pursuant to Bankruptcy Rule 9019; (II) Authorizing the Use, Sale, or Lease of Certain Property of the Debtors’ Estate Pursuant to 11 U.S.C. § 363 and (III) Granting Related Relief, (ECF No. 921 at ¶ 34) (“This Court shall retain exclusive jurisdiction to, among other things, interpret implement, and enforce the terms of the Transaction Documents and this Order....”).

BACKGROUND

4. On March 21, 2025, the Debtors and Whinstone US, Inc. (“Whinstone”) executed a Term Sheet for the acquisition of certain of Debtors’ assets located at the Rockdale site and to resolve all existing litigation between the parties (the “Whinstone Litigation”) (ECF No. 880). The Court approved the resolution of the Whinstone Litigation on April 8, 2025 (ECF No. 921).

5. The Debtors and Whinstone entered into a Purchase and Sale Agreement (the “PSA”), within which (i) Rhodium Renewables LLC, (ii) Rhodium Technologies LLC, (iii) Rhodium 30MW LLC, (iv) Rhodium 2.0 LLC, (v) Rhodium 10MW LLC, (vi) Rhodium Encore LLC, and (vii) Jordan HPC LLC (each a “Seller” and, collectively, “Sellers”), sold all their tangible and certain intangible property located at the 2721 Charles Martin Hall Road, Rockdale, Texas 76567-3088 facility (the “Riot Facility”) to Whinstone (“Buyer”) (ECF No. 1530).

6. In Section 2.3 of the PSA, Whinstone and Debtors agreed to exchange proposals as to how to allocate the Purchase Price among the Property in an “Allocation Statement” in

accordance with Section 1060 of the Internal Revenue Code, 26 U.S.C. § 1060 (ECF No. 1530-3, at pp. 7-8). The parties were to attempt in good faith to resolve any dispute if they were unable to reach an agreement on the Allocation Statement. [*Id.*]

7. If the parties were unable to reach an agreement on the Allocation Statement during a mutually agreed time period, then the disputed items must be resolved by the Bankruptcy Court. [*Id.*] The Bankruptcy Court's determination on the Allocation Statement shall be final. [*Id.*]

8. The parties have been mutually agreeing to extend the time to negotiate the Allocation Statement. The parties have negotiated in good faith on the Allocation Statement.

9. The parties have determined they are unable to reach an agreement and require this Court to enforce the PSA and determine the appropriate allocation.

10. Debtors have determined the fair market value ("FMV") of the Property through the use of their tax financial professionals in order to designate an appropriate allocation.

11. In particular, Debtors conclude that the proper allocation is:

- a. \$6,120,000 of the Purchase Price shall be treated as the return of the Power Security Deposit;²
- b. \$43,580,470.00 of the Purchase Price shall be allocated to Property;
- c. \$75,000,000.00 of the Purchase Price should be allocated to the settlement of claims asserted by each of the Debtors in the Rhodium Lawsuit against Whinstone; and
- d. \$60,299,530.00 of the Purchase Price should be allocated to the Contract Termination Agreement proceeds held by each of the Sellers.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed in the PSA.

BASIS FOR RELIEF

12. The Fifth Circuit has long recognized that bankruptcy courts have the “inherent power to not only recognize and encourage settlements, but also to enforce such agreements.” *In re Lush*, 544 B.R. 575, 580 (Bankr. N.D. Miss. 2015) (citing *Matter of Omni Video, Inc.*, 60 F.3d 230, 232 (5th Cir. 1995)). It is well established that settlement agreements are “generally viewed as binding, final, and as conclusive of the rights of the parties as is a judgment entered by the court.” *Rodriguez v. VIA Metro. Transit Sys.*, 802 F.2d 126, 128 (5th Cir.1986) (citing *Thomas*, 534 F.2d at 613) and *Cia Anon Venezolana de Navegacion v. Harris*, 374 F.2d 33 (5th Cir.1967)).

13. The Allocation Statement cannot arbitrarily allocate the Purchase Price to Property.

14. Instead, the Purchase Price paid for the Property must reflect the FMV of those assets and the seller’s gain or loss and the buyer’s basis in the purchased assets for federal income tax purposes. *See* 26 U.S.C. § 1060(a) (requiring the consideration received in an asset purchase to be allocated by the buyer and seller among the assets in the manner required by 26 U.S.C. § 338(b)(5)).

15. Likewise, courts will make a similar allocation in the context of a settlement agreement, if the allocation is not otherwise made by the parties to that agreement, in order to calculate the federal income tax treatment of any settlement payment. *Bagley v. Commissioner*, 105 T.C. 396, 410 (1995) (United States Tax Court calculated, and held, that \$500,000 out of a \$1.5 million settlement actually reflected compensation for punitive damage, where the settlement agreement made no such allocation).

16. The Treasury Regulations provide “Sellers and purchasers must allocate the consideration under the residual method as described in §§ 1.338-6 and 1.338-7” 26 CFR § 1.1060-1(a); 26 U.S.C. § 338(b)(5) (requiring consideration to be allocated pursuant to treasury

regulations); INTERNAL REVENUE SERVICE, SALE OF A BUSINESS, www.irs.gov/businesses/small-businesses-self-employed/sale-of-a-business (last visited Sept. 5, 2025) (“both the buyer and seller of a business must use the residual method to allocate the consideration to each business asset transferred.”); “[C]onsideration is the amount in the aggregate, realized from selling the assets ... under section 1001(b).” 26 CFR § 1.1060-1(c)(1).

17. Section 1001(b) states that “[t]he amount realized from the sale or other disposition of property shall be the sum of any money received plus the FMV of the property (other than money) received” 26 U.S.C. § 1001(b).

18. The Treasury Regulations direct the parties to the sale of a business to first value each asset included in the sale independently. *See* 26 CFR § 1.338-6(a)(2).

19. The consideration is then generally allocated in sequential order among seven asset classes and then to each asset in each class in proportion to the assets’ FMV. 26 CFR §§ 1.1060-1(c)(2) and 1.338-6(b).

20. As a result, the Debtors and the Special Committee respectfully request that this Court grant this Motion and, through its authority to enforce the plain and unambiguous terms of Section 2.3 of the PSA to resolve the allocation dispute, and declare the allocation in the FMV amounts determined by Debtors’ tax financial professionals:

- a. \$6,120,000 of the Purchase Price should be treated as the return of the Power Security Deposit;
- b. \$43,580,470.00 of the Purchase Price should be allocated to Property;
- c. \$75,000,000.00 of the Purchase Price should be allocated to settlement of claims asserted by each of the Debtors in the Rhodium Lawsuit against Whinstone; and
- d. \$60,299,530.00 of the Purchase Price should be allocated to the Contract Termination Agreement proceeds held by each of the Sellers.

RESERVATION OF RIGHTS

21. The Debtors and Special Committee submit this Motion without prejudice to, and with a full reservation of the Debtors' and Special Committee's rights, claims, defenses and remedies, including the right to amend, modify or supplement this Motion to raise additional objections and to object to and introduce evidence at any hearing relating to the Motion, and without in any way limiting any other rights of the Debtors, as may be appropriate.

CONCLUSION

22. For the foregoing reasons, the Debtors and the Special Committee respectfully request that the Court grant this Motion to Enforce and grant such other relief as may be just and proper.

Respectfully submitted this 28th day of October, 2025.

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

/s/ Patricia B. Tomasco

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*Counsel to the Special Committee of the Board of
Directors of Rhodium Enterprises, Inc.*

Certificate of Service

I, Patricia B. Tomasco, hereby certify that on the 28th day of October, 2025, a copy of the foregoing was served via the Clerk of the Court through the ECF system to the parties registered to receive such service.

/s/ Patricia B. Tomasco
Patricia B. Tomasco

**IN THE UNITED STATES BANKRUPTCY COURT
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HOUSTON DIVISION**

In re:	§	Chapter 11
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	§	
Debtors.	§	
	§	(Jointly Administered)
	§	

**ORDER GRANTING THE MOTION OF THE DEBTORS
TO ENFORCE THE PURCHASE AND SALE AGREEMENT**

(Relates to ECF No. ____)

Upon the motion (the “Motion”)² of the Debtors for entry of an order declaring the allocation of the Property sold within the Purchase and Sale Agreement (“PSA”); the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, IT IS HEREBY ORDER THAT:

1. The Motion is hereby GRANTED.
2. Through this Court’s authority to enforce the plain and unambiguous terms of Section 2.3 of the PSA to resolve an allocation dispute, declare the allocation in the fair market value amounts as follows:
 - a. \$6,120,000 of the Purchase Price should be treated as the return of the Power Security Deposit;

¹ 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), Rhodium Enterprises, Inc. (6290), Rhodium Technologies LLC (3973), Rhodium Renewables LLC (0748), Air HPC LLC (0387), Rhodium Shared Services LLC (5868), Rhodium Ready Ventures LLC (8618), Rhodium Industries LLC (4771), Rhodium Encore Sub LLC (1064), Jordan HPC Sub LLC (0463), Rhodium 2.0 Sub LLC (5319), Rhodium 10MW Sub LLC (3827), Rhodium 30MW Sub LLC (4386), and Rhodium Renewables Sub LLC (9511). The mailing and service address of Debtors in these Chapter 11 Cases is 2617 Bissonnet Street, Suite 234, Houston, TX 77005.

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- b. \$43,580,470.00 of the Purchase Price should be allocated to the Property;
- c. \$75,000,000.00 of the Purchase Price should be allocated to the settlement of claims asserted by each of the Debtors in the Rhodium Lawsuit against Whinstone; and
- d. \$60,299,530.00 of the Purchase Price should be allocated to the Contract Termination Agreement proceeds held by each of the Sellers.

DATED:

Alfredo R. Perez
United States Bankruptcy Judge