Docket #0618 Date Filed: 10/17/2025

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1

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In re:	Chapter 11
CBRM REALTY INC., *et al.*,	Case No. 25-15343 (MBK) (Jointly Administered)
Debtors.[1]	

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: CBRM Realty Inc. (2420), Crown Capital Holdings LLC (1411), Kelly Hamilton Apts LLC (9071), Kelly Hamilton Apts MM LLC (0765), RH Chenault Creek LLC (8987), RH Copper Creek LLC (0874), RH Lakewind East LLC (6963), RH Windrun LLC (0122), RH New Orleans Holdings LLC (7528), RH New Orleans Holdings MM LLC (1951), and Laguna Reserve Apts Investor LLC (N/A). The location of the Debtors' service address in these chapter 11 cases is: In re CBRM Realty Inc., et al., c/o White & Case LLP, 1221 Avenue of the Americas, New York, New York 10020.

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DEBTORS' (I) MEMORANDUM OF LAW IN SUPPORT OF (A) FINAL APPROVAL OF THE DISCLOSURE STATEMENT AND (B) CONFIRMATION OF THE MODIFIED JOINT CHAPTER 11 PLAN OF CROWN CAPITAL HOLDINGS LLC AND CERTAIN OF ITS DEBTOR AFFILIATES AND (II) OMNIBUS REPLY TO OBJECTIONS THERETO

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The above-captioned debtors and debtors in possession (collectively, the "**Debtors**") file this memorandum of law (this "**Memorandum**") (a) in support of (i) final approval of the Disclosure Statement[1] and (ii) confirmation of the Plan for Debtors Crown Capital Holdings LLC, RH New Orleans Holdings LLC, RH New Orleans Holdings MM LLC, Laguna Reserve Apts Investor LLC, RH Chenault Creek LLC, RH Copper Creek LLC, RH Lakewind East LLC, and RH Windrun LLC and (b) in response to the *United States Trustee's Limited Objection to the Modified Joint Chapter 11 Plan of Crown Capital Holdings LLC and Certain of its Debtor Affiliates* [Docket No. 614] (the "**U.S. Trustee Objection**") and *The Sewerage and Water Board of New Orleans's Objection to Plan and Reservation of Rights* [Docket No. 609] (the "**Sewerage Objection**"). In further support of confirmation of the Plan, final approval of the Disclosure Statement, and in response to the Sewerage Objection, the Debtors rely upon and incorporate by reference the *Declaration of Matthew Dundon, Principal of IslandDundon LLC, in Support of Final Approval of the Disclosure Statement and Confirmation of the Modified Joint Chapter 11 Plan of Crown Capital Holdings LLC and Certain of Its Debtor Affiliates* (the "**Dundon Declaration**"), filed contemporaneously herewith, and the *Declaration of Andres A. Estrada with*

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[1] Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the *Modified Joint Chapter 11 Plan of Crown Capital Holdings LLC and Certain of Its Debtor Affiliates* [Docket No. 501] (including all exhibits and supplements thereto and as may be modified, amended, or supplemented from time to time, the "**Plan**"), the *Disclosure Statement for the Modified Joint Chapter 11 Plan of Crown Capital Holdings LLC and Certain of its Debtor Affiliates* [Docket No. 503, Ex. A] (including all exhibits thereto and as may be modified, amended, or supplemented from time to time, the "**Disclosure Statement**"), the *Order (I) Conditionally Approving the Adequacy of the Information Contained in the Disclosure Statement for the NOLA Debtors, (II) Approving the Solicitation and Voting Procedures with Respect to Confirmation of the Plan, (III) Approving the Form of Ballots and Notices in Connection Therewith, (IV) Scheduling Certain Dates with Respect Thereto, and (V) Granting Related Relief* [Docket No. 522] (the "**Disclosure Statement Order**"), or the *Order (I) Approving (A) Bidding Procedures, the Sale Timeline, and the Form and Manner of Notice Thereof for the NOLA Properties, (B) Process for Selecting a Stalking Horse Bidder and Offering Bid Protections, and (C) Assumption and Assignment Procedures, and (II) Granting Related Relief,* [Docket No. 382] (the "**Bidding Procedures Order**"), as applicable.

Respect to the Solicitation and the Tabulation of Votes on the Modified Joint Chapter 11 Plan of Crown Capital Holdings LLC and Certain of Its Debtor Affiliates [Docket No. 617] (the "**Voting Report**").[2]

Background

I. Company Background

1. The Debtors are part of a larger real estate portfolio indirectly owned by Debtor CBRM Realty Inc. and formed by real estate investor Moshe (Mark) Silber and certain affiliated parties (the "**Crown Capital Portfolio**"). The Crown Capital Portfolio holds dozens of multifamily housing projects across the United States, including the NOLA Properties, and has been historically funded, at least in part, by the federal government's housing assistance programs, such as Section 8. Ultimately, the Crown Capital Portfolio raised hundreds of millions of dollars of financing, including (i) over $200 million from the sale of bonds issued by Crown Capital and guaranteed by CBRM (the "**Notes**") and (ii) approximately $450 million of property-level mortgage loans provided by an array of different financing sources.

2. Among the assets in the Crown Capital Portfolio are the NOLA Properties—a group of multi-family housing assets owned by the NOLA Debtors. The NOLA Properties provide housing to low-income residents. Preserving the NOLA Properties is critical not only to maximizing the value of the Debtors' estates, but also to protecting vital affordable housing resources in the local community.

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[2] The *Declaration of Matthew Dundon, Principal of IslandDundon LLC, in Support of Debtors' Chapter 11 Petitions and First Day Pleadings* [Docket No. 44] (the "**First Day Declaration**"), and the *Declaration of Matthew Dundon, Principal of IslandDundon LLC, in Support of Debtors' Motion for Entry of an Order (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief* [Docket No. 156] (the "**DIP Declaration**") are incorporated by reference.

II. Founder Misconduct and Breakdown in Governance

3. Prior to the Petition Date, Mr. Silber was the target of an extensive investigation by the federal government in connection with a multi-year conspiracy to fraudulently induce a financial institution to issue a $74 million loan to BRC Williamsburg Holdings, LLC, a shell company controlled by Mr. Silber.[3] On April 17, 2024, Mr. Silber entered into a plea agreement with the Fraud Section of the Department of Justice and the United States Attorney for the District of New Jersey for conspiracy to commit wire fraud affecting an institution under 18 U.S.C. § 371.[4]

4. During the course of the investigations and plea negotiations, Mr. Silber neglected the management of the Crown Capital Portfolio, leading to numerous properties falling into default or becoming subject to receivership proceedings.[5] Indeed, as set forth in the First Day Declaration, a considerable share of the Debtors' distress arises from the fact that many, if not all, of the properties of the Debtors and their affiliates are likely worth much less today than the appraised values which supported the issuance of the Notes and certain of the property-level mortgage loans, largely as a result of Mr. Silber's negligence and mismanagement of the Crown Capital Portfolio.[6]

5. Once the plea became public, Mr. Silber was disqualified from continuing to manage the Crown Capital Portfolio.[7] By Mr. Silber's own admission, "[m]y guilty plea precipitated a crisis for my real estate business by making CBRM, Crown, and their dozens of subsidiaries unbankable while I remained in control of them. This left the business unable to

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3 *See USA v. Silber*, No. 24-00446 (D.N.J. July 9, 2024) [Docket No. 1].

4 *See USA v. Silber*, No. 24-00446 (D.N.J. July 9, 2024) [Docket No. 6].

5 *See* First Day Decl. ¶ 10.

6 First Day Decl. ¶ 10.

7 *Id.* ¶ 11.

access capital and credit it needed to perform day-to-day operations and pay expenses such as maintenance, repairs, utilities, wages, salaries, and debt service."[8]

6. Crown Capital Portfolio's stakeholders, including certain investors (the "**Noteholders**") who purchased the Notes from Debtor Crown Capital, as issuer, with Debtor CBRM as guarantor, were concerned about these developments because Crown Capital Portfolio's value supported the payment of principal and interest under the Notes.[9] On August 29, 2024, following discussions between Mr. Silber's counsel and the Noteholders' counsel and financial advisor, the parties entered into a forbearance agreement (the "**Forbearance Agreement**").[10] The Forbearance Agreement addressed various matters involving pending defaults under the Notes and Mr. Silber's go-forward involvement with the portfolio, and established a process to ensure that the Crown Capital Portfolio had sufficient fiduciary oversight.[11] The Forbearance Agreement, among other things, required "Mr. Silber to appoint an independent fiduciary" of CBRM and Crown Capital, and provided "that individual with an irrevocable proxy for so long as the obligations under the Forbearance Agreement remained pending."[12]

7. Mr. Silber and the Noteholders entered into the Forbearance Agreement because the Debtors and the Crown Capital Portfolio did not have sufficient capital and liquidity to manage

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8 *Motion of Party in Interest Moshe ("Mark") Silber for Appointment of an Equity Security Holders Committee or, in the Alternative, Appointment of Counsel* [Docket No. 348] (the "**Silber Motion**") ¶ 13.

9 First Day Decl. ¶ 11.

10 *Id*. ¶ 12.

11 *Id*.

12 *Id*.

the portfolio or pay interest payments to the Noteholders.[13] Many of the properties were in a state of disrepair and required substantial capital to improve and maintain.[14]

8. On September 26, 2024, the Noteholders party to the Forbearance Agreement consented to the appointment of Elizabeth A. LaPuma—a restructuring professional with over 20 years' experience as an investment banker and corporate director, including for companies in distress—as the independent fiduciary for CBRM and Crown Capital (the "**Independent Fiduciary**").[15] However, soon after Ms. LaPuma's appointment, Mr. Silber began to unwind the existing management structure for the Crown Capital Portfolio, including laying off many of his employees.[16] Mr. Silber's actions caused turnover issues, a lack of continuity in (or, in some cases, a complete absence of) employees, and a lapse in company recordkeeping, thus undermining the portfolio's ability to maintain its value.[17] For example, for certain entities, LAGSP LLC ("**LAGSP**")—the Debtors' asset manager—received organizational charts that were inaccurate or did not receive any organizational charts at all.[18] This lapse in information made it difficult for the new advisors to manage the Crown Capital Portfolio.[19]

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[13] *Supplemental Declaration of Matthew Dundon, Principal of IslandDundon LLC, in Support of (I) Debtors' Objection to Motion of Party in Interest Moshe ("Mark") Silber for Appointment of an Equity Security Holders Committee or, in the Alternative, Appointment of Counsel and (II) Debtors' Limited Objection to Motion of Party in Interest Moshe ("Mark") Silber for Issuance of a Subpoena Duces Tecum Pursuant to Fed. R. Bankr. P. 2004(C) and 9016* [Docket No. 376] (the "**Supplemental Dundon Declaration**") ¶ 6.

[14] Supplemental Dundon Decl. ¶ 6.

[15] First Day Decl. ¶ 13.

[16] Supplemental Dundon Decl. ¶ 8.

[17] *Id*.

[18] *Id*.

[19] *Id*.

9. In light of this situation, following Ms. LaPuma's appointment, Lynd created an asset recovery plan.[20] In connection with that plan, Lynd conducted a thorough analysis of the Debtors' properties to determine which, if any, had value in excess of their mortgage balances that could support unsecured creditor recoveries or even dividends upon equity.[21] Lynd Management Group LLC—the Debtors' property manager—determined, as a result of its analysis, that most of the properties in the Crown Capital Portfolio, potentially worth more than their respective mortgage balances, could only realize that incremental value with substantial additional capital investment.[22] Any rent collections within the portfolio exceeding day-to-day operating costs were used to maintain units.[23] IslandDundon LLC ("**IslandDundon**") reviewed Lynd's analyses, conducted its own analyses, and reached the same conclusions.[24]

10. This situation was exacerbated by the guilty pleas by Mr. Silber and his co-conspirator, Frederick Schulman, which made obtaining financing for the Debtors and the Crown Capital Portfolio nearly impossible.[25] As a general matter, lenders and other financing parties do not want to provide capital or financing to counterparties controlled by parties with felony convictions.[26] Mr. Silber is the sole equity holder of CBRM, which is the parent entity of the Crown Capital Portfolio.[27]

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20 Supplemental Dundon Decl. ¶ 9.

21 *Id*.

22 *Id*.

23 *Id*.

24 *Id.*

25 *Id*. ¶ 10.

26 *Id*.

27 *Id*.

11. On December 9, 2024, Ms. LaPuma was appointed as manager of the Debtors through an omnibus written consent. However, Mr. Silber, and in some instances, Mr. Schulman, had direct or indirect equity interests in many of the entities of the Crown Capital Portfolio.[28] As such, Mr. Silber's and Mr. Schulman's felony convictions and refusal to forfeit their equity interests made it impossible for the Debtors and other entities within the Crown Capital Portfolio to obtain prepetition financing.[29] Additionally, Mr. Silber and Mr. Schulman still retained control of multiple managing member entities within the Crown Capital Portfolio and did not give that control of such entities to the Independent Fiduciary.[30] This retention of control by Mr. Silber and Mr. Schulman caused serious issues with obtaining financing from lenders and funding from the Department of Housing and Urban Development with respect to certain properties within the Crown Capital Portfolio.[31] In March 2025, Mr. Silber was sentenced to a term of imprisonment of 30 months.[32]

III. The Chapter 11 Cases

12. On May 19, 2025 (the "**Petition Date**"), with no viable out-of-court restructuring alternatives and facing the imminent sheriff's sale in Rockland County, New York of certain CBRM assets—including its equity interest in Crown—the Debtors commenced these chapter 11 cases (the "**Chapter 11 Cases**"). On August 18, 2025, Laguna Reserve Apts Investor LLC filed a voluntary petition with this Court under chapter 11 of the Bankruptcy Code. These Chapter 11 Cases are being jointly administered pursuant to Bankruptcy Rule 1015(b). No request for the

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[28] Supplemental Dundon Decl. ¶ 10.

[29] *Id*.

[30] *Id*.

[31] *Id*.

[32] *See USA v. Silber*, No. 24-00446 (D.N.J. Mar. 24, 2025) [Docket No. 56].

appointment of a trustee or examiner has been made in these Chapter 11 Cases and no official committees have been appointed or designated.

13. Additional factual information regarding the Debtors' business, their capital structure, and the circumstances leading to these chapter 11 filings is contained in the First Day Declaration.

IV. The NOLA DIP Credit Agreement

14. Prior to commencing these Chapter 11 Cases, the Debtors pursued refinancing and restructuring efforts outside of court; however, these efforts were severely impaired by Silber's prosecution and the nature of the allegations against him.[33] With the assistance of their advisors, the Debtors engaged numerous parties regarding potential out-of-court financing initiatives, all of which proved to be unsuccessful.[34] The Debtors ultimately concluded that financing outside a court-supervised restructuring process was not feasible.[35]

15. At that time, the Debtors began to engage with a Noteholder regarding a potential financing facility secured by the assets of both Kelly Hamilton Apts LLC (the "**Kelly Hamilton Debtor**") and the NOLA Debtors (the "**Noteholder DIP Proposal**").[36]

16. While attempting to finalize documentation of the Noteholder DIP Proposal, the Debtors also recommenced discussions with Lynd and 3650 REIT regarding a revised financing proposal for the Kelly Hamilton Debtor (the "**Kelly Hamilton DIP Proposal**").[37] Following extensive negotiations among the Debtors, the Noteholder steering committee, the Kelly Hamilton

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[33] DIP Decl. ¶ 14.

[34] *Id.*

[35] *Id*.

[36] *Id*.

[37] *Id.* ¶ 16.

DIP Lender, and the prepetition lenders to the other Debtors, the Debtors ultimately finalized terms with the Kelly Hamilton DIP Lender, resulting in the Kelly Hamilton DIP Facility.[38]

17. Still needing to secure financing for the NOLA Debtors, the Debtors continued to explore options to secure much needed funding. The Debtors received unsolicited outreach from prepetition lenders DH1 Holdings LLC, CKD Funding LLC, and CKD Investor Penn LLC (collectively, the "**NOLA DIP Lenders**") regarding their interest in providing a consensual DIP facility secured by the NOLA Debtors' assets.[39] These investors possessed deep experience in the multifamily and affordable housing sectors.

18. On May 26, 2025, the Debtors and the NOLA DIP Lenders entered into that certain *NOLA Debtors Binding Term Sheet for Senior Secured, Superpriority Debtor-in Possession Financing.* On May 28, 2025, the Debtors filed the *Motion for Entry of an Order (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief* [Docket No. 61] (the "**NOLA DIP Motion**"). The Court held a hearing on interim approval of the NOLA DIP Motion on June 2, 2025. On June 5, 2025, the Court entered an order granting interim approval of the NOLA DIP Facility [Docket No. 110].

19. On June 26, 2025, the Court held a hearing on final approval of the NOLA DIP Facility. On July 2, 2025, the Court entered an order approving the NOLA DIP Facility on a final basis [Docket No. 251].

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[38] *Id.* ¶ 17.

[39] *Id*.

20. On July 1, 2025, entered into that certain *Superpriority Secured Promissory Note and Security Agreement* with the NOLA DIP Lenders.[40] The financing provided $17,422,728 in postpetition financing to the Debtors. Of that amount, approximately $8,461,524 was funded through new money loans, while the remaining $8,961,204 reflected a roll-up of prepetition obligations. Prior to the Petition Date, the NOLA DIP Lenders held the senior secured mortgage loans encumbering the NOLA Properties and were the Debtors' primary secured creditors. The NOLA DIP Facility has served as a critical bridge to fund operations and support a dual-track strategy for sale and plan confirmation.

V. The NOLA Sale Transaction

21. In May 2025, the Debtors retained IslandDundon as their financial advisor and investment banker. Among other things, IslandDundon advised the Debtors in connection with one or more postpetition transaction(s) concerning the NOLA Properties with the goal of maximizing their value for the Debtors' stakeholders. Following the Petition Date, IslandDundon, as the Debtors' financial advisor, assisted in structuring the sales process, coordinating marketing efforts, and leveraging its extensive real estate experience to identify potential bidders and facilitate the sale of the NOLA Properties. Likewise, the Debtors retained Larry G. Schedler & Associates, Inc. ("**L&A**") as the Debtors' exclusive real estate broker for the NOLA Properties. L&A provided on-the-ground support in connection with the marketing process and ensured that the NOLA Properties were effectively marketed to the appropriate buyer universe. The Debtors also retained Hilco Real Estate, LLC ("**Hilco**") as their real estate advisor. Hilco provided outreach to the distressed investment community and assisted L&A with describing the bankruptcy sales

[40] *See* [Docket No. 251, Ex. 1].

process to potential bidders. These efforts resulted in a thorough sales and marketing effort given a short time frame.

22. In order to further a bidding and sale process and preserve the value of the Debtors' estates—and to offer the Debtors a chance to increase the ultimate value provided by the monetization and disposition of the NOLA Properties—the Debtors sought approval of certain bidding and sale procedures for the NOLA Properties.[41] On August 15, 2025, the Court entered the Bidding Procedures Order.[42]

23. Pursuant to the Bidding Procedures Order, the Debtors and their advisors pursued a robust marketing process to test the market and secure the highest and best offer for the NOLA Properties. Specifically, the Debtors and IslandDundon, with the assistance of Hilco and L&A conducted an extensive marketing process which included reaching out to 249 potentially interested parties, distributed a non-confidential marketing overview to those parties, and provided further diligence materials to 48 parties who executed confidentiality agreements. Additionally, Larry G. Schedler & Associates, Inc. conducted 12 property tours. At the conclusion of this marketing process, 10 parties submitted offers including some providing offers on the whole portfolio, some providing offers on subsets of assets and some providing both. The Debtors encouraged bidders to provide offers in both forms in order to maximize proceeds of the asset sale. Parties in interest were afforded approximately six weeks between the filing of the Debtors'

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[41] *See Debtors' Motion for Entry of an Order (I) Approving (A) Bidding Procedures, the Sale Timeline, and the Form and Manner of Notice Thereof for the NOLA Properties, (B) Process for Selecting a Stalking Horse Bidder and Offering Bid Protections, and (C) Assumption and Assignment Procedures, and (II) Granting Related Relief* [Docket No. 350] (the "**Bidding Procedures Motion**").

[42] *See* [Docket No. 382].

Bidding Procedures Motion [Docket No. 350] and the bid deadline of September 12, 2025 at 4:00 p.m. (prevailing Eastern Time) to diligence and formulate bids for the NOLA Properties.

24. The Debtors also filed the *Notice of Proposed Sale of NOLA Properties, Bidding Procedures, Auction, Sale Hearing, and Confirmation and Sale Hearing* (the "**Sale Notice**") [Docket No. 386] and served this notice on interested parties in accordance with the Bidding Procedures Order. The Sale Notice, among other things, provided the bid deadline and the date of the auction for the NOLA Properties (if any). The Debtors also published the Sale Notice in the *New Orleans Advocate*.[43]

25. On or prior to the Bid Deadline of September 11, 2025, the Debtors received a Qualifying Bid from Lynd Acquisitions Group (the "**NOLA Purchaser**") to purchase all four of the Debtors' NOLA Properties for a purchase price of $26,125,000 to be implemented pursuant to the Plan, subject to the terms and conditions set forth in that certain Purchase and Sale Agreement dated September 12, 2025. The NOLA Sale Transaction is expected to satisfy the NOLA DIP Facility in full in cash and reflects a comprehensive resolution of key issues in these Chapter 11 Cases involving the Debtors, the Ad Hoc Group of Holders of Crown Capital Notes, Lynd Management Group LLC and its affiliated entities, and Cleveland International Fund – NRP West Edge, Ltd. Specifically, the NOLA Sale Transaction will provide for the resolution of the disputed mortgage granted by RH Lakewind East LLC to Cleveland International Fund – NRP West Edge, Ltd. and the opportunity for the Holders of Crown Capital Unsecured Claims to receive thirty percent (30%) of the distributable cash proceeds from any future sale of the NOLA Properties.

[43] *See Affidavit of Publication of Notice of Proposed Sale of NOLA Properties, Bidding Procedures, Auction, Sale Hearing, and Confirmation and Sale Hearing* [Docket No. 529].

26. On September 12, 2025, the Debtors filed the *Notice of Cancellation of Auction and Designation of Successful Bid for the NOLA Properties* (the "**Notice of Successful Bid**").[44] As set forth in the Notice of Successful Bid, although the Debtors received other bids on or before the Bid Deadline, the Debtors, in consultation with the Consultation Parties, determined that the NOLA Purchaser submitted the only Qualifying Bid for all four of the NOLA Properties and that there was no reasonable probability that any other bidder could provide such significant value to the Holders of Crown Capital Unsecured Claims and, accordingly, the Independent Fiduciary directed the Debtors to enter into the Purchase and Sale Agreement with the NOLA Purchaser.

VI. Plan Solicitation and Notification Process

27. On August 17, 2025, the Debtors filed a motion seeking conditional approval of the Disclosure Statement and associated voting and solicitation procedures [Docket No. 391] (the "**Disclosure Statement Motion**"). On September 5, 2025, the Court entered the Disclosure Statement Order. In compliance with the Disclosure Statement Order and the Bankruptcy Code, only Holders of Claims in Class 3 (CIF Mortgage Loan Claim), Class 4 (NOLA Go-Forward Trade Claims), Class 5 (Other NOLA Unsecured Claims), Class 6 (Crown Capital Unsecured Claims), and Class 7 (RH New Orleans Unsecured Claims) (the "**Voting Classes**") were entitled to vote to accept or reject the Plan.[45] The following Classes of Claims and Interests were not entitled to vote on the Plan, and the Debtors did not solicit votes from the Holders of such Claims and Interests:

Class	Claims and Interests	Status	Voting Rights
Class 1	Other Priority Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)

[44] Docket No. 554.

[45] 11 U.S.C. § 1126.

Class 2A	Other Secured Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
Class 2B	Akiri Mortgage Loan Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
Class 2C	CKD Penn Mortgage Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
Class 8	Intercompany Claims	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 9	Intercompany Interests	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 10	Crown Capital Interests	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 11	RH New Orleans Interests	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 12	Section 510(b) Claims	Impaired	Not Entitled to Vote (Deemed to Reject)

28. The voting results, as reflected in the Voting Report, are summarized as follows:

Class	**Total Ballots Received**			
	Accept		**Reject**	
	Number (% of Number Voted)	**Amount (% of Amount Voted)**	**Number (% of Number Voted)**	**Amount (% of Amount Voted)**
Class 3 – CIF Mortgage Loan Claim[46]	0%	0%	0%	0%

[46] The Voting Deadline for Class 3 – CIF Mortgage Loan Claim has been extended to Monday, October 20, at 4:00 p.m. (prevailing Eastern Time), by agreement between the Debtors and CIF. Nonetheless, pursuant to Plan Art. III. D, a class will be deemed to accept the Plan if no votes are cast and the class contains claims or interests eligible to vote. *See In re Adelphia Communications Corp*., 368 B.R. 140, 260 (Bankr. S.D.N.Y. 2007) (upholding plan presumption with respect to non-voting creditors where the plan and disclosure statement both announced that a nonvoting class would be deemed to have accepted the plan); *In re Tribune*, 464 B.R. 126, 183-84 (Bankr. D. Del. 2011) (explaining that a non-voting impaired class may be deemed to accept a plan in the absence of objection from the class); *see also In re Cypresswood Land Partners, I*, 409 B.R. 396, 430 (Bankr. S.D. Tex. 2009) (finding where no ballot was cast in a class and no objection was filed the class cannot be a rejecting class).

Class 4 – NOLA Go-Forward Trade Claims	80%	0.37%	20%	99.63%
Class 5 – Other NOLA Unsecured Claims	96.30%	99.82%	3.70%	0.18%
Class 6 – Crown Capital Unsecured Claims	96.15%	99.82%	3.85%	0.18%
Class 7 – RH New Orleans Unsecured Claims	96.97%	99.78%	3.03%	0.22%

VII. The Objections

29. On October 10, 2025, the Sewerage and Water Board of New Orleans ("**SWBNO**") filed the Sewerage Objection. On October 15, 2025, a formal objection was filed by the U.S. Trustee. To the extent the Debtors are unable to consensually resolve the Sewerage Objection and U.S. Trustee Objection prior to the Combined Hearing Date, the Debtors request that the Court overrule the objections.

Argument

30. For the reasons set forth herein, the Debtors respectfully request that the Court overrule the remaining Objection and (a) approve the adequacy of the Disclosure Statement on a final basis and (b) confirm the Plan.

I. The Disclosure Statement Contains "Adequate Information" as Required by Section 1125 of the Bankruptcy Code, and the Debtors Complied with the Applicable Notice Requirements

A. The Disclosure Statement Contains Adequate Information

31. The purpose of a disclosure statement is to provide "adequate information" that allows parties entitled to vote on a proposed plan to make an informed decision as to whether to

vote to accept or reject the plan.[47] "Adequate information" is a flexible standard, based on the facts and circumstances of each case.[48] Courts within the Third Circuit and elsewhere acknowledge that determining what constitutes "adequate information" for the purpose of satisfying section 1125 of the Bankruptcy Code resides within the broad discretion of the court.[49]

32. Courts look for certain information when evaluating the adequacy of the disclosures in a proposed disclosure statement, including:

a. the events which led to the filing of a bankruptcy petition;

b. the relationship of a debtor with its affiliates;

c. a description of the available assets and their value;

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[47] *See, e.g.*, *Krystal Cadillac-Oldsmobile GMC Truck, Inc. v. Gen. Motors Corp.,* 337 F.3d 314, 321–22 (3d Cir. 2003) (providing that a disclosure statement must contain "adequate information to enable a creditor to make an informed judgment about the Plan" (internal quotations omitted)); *Century Glove, Inc. v. First Am. Bank of N.Y.*, 860 F.2d 94, 100 (3d Cir. 1988) ("[Section] 1125 seeks to guarantee a minimum amount of information to the creditor asked for its vote."); *In re Monnier Bros.,* 755 F.2d 1336, 1342 (8th Cir. 1985) ("The primary purpose of a disclosure statement is to give the creditors the information they need to decide whether to accept the plan."); *In re Phx. Petroleum, Co.,* 278 B.R. 385, 392 (Bankr. E.D. Pa. 2001) ("[T]he general purpose of the disclosure statement is to provide 'adequate information' to enable 'impaired' classes of creditors and interest holders to make an informed judgment about the proposed plan and determine whether to vote in favor of or against that plan."); *In re Unichem Corp.,* 72 B.R. 95, 97 (Bankr. N.D. Ill. 1987) ("The primary purpose of a disclosure statement is to provide all material information which creditors and equity security holders affected by the plan need in order to make an intelligent decision whether to vote for or against the plan.").

[48] 11 U.S.C. § 1125(a)(1) ("'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"); *see also Oneida Motor Freight, Inc. v. United Jersey Bank,* 848 F.2d 414, 417 (3d Cir. 1988) ("From the legislative history of § 1125 we discern that adequate information will be determined by the facts and circumstances of each case."); S. Rep. No. 95-989, at 121 (1978), reprinted in 1978 U.S.C.C.A.N. 5787, 5907 ("the information required will necessarily be governed by the circumstances of the case").

[49] *See, e.g.*, *Lisanti v. Lubetkin (In re Lisanti Foods, Inc.),* 329 B.R. 491, 507 (Bankr. D.N.J. 2005) ("The information required will necessarily be governed by the circumstances of the case."); *Kirk v. Texaco, Inc.,* 82 B.R. 678, 682 (S.D.N.Y. 1988) ("The legislative history could hardly be more clear in granting broad discretion to bankruptcy judges under § 1125(a): 'Precisely what constitutes adequate information in any particular instance will develop on a case-by-case basis. Courts will take a practical approach as to what is necessary under the circumstances of each case.'" (quoting H.R. Rep. No. 595, at 408–09 (1977))); *see also In re River Vill. Assoc.,* 181 B.R. 795, 804 (E.D. Pa. 1995) ("[T]he Bankruptcy Court is thus given substantial discretion in considering the adequacy of a disclosure statement."); *In re Tex. Extrusion Corp.,* 844 F.2d 1142, 1157 (5th Cir. 1988) ("The determination of what is adequate information is subjective and made on a case by case basis. This determination is largely within the discretion of the bankruptcy court."); *In re Phx. Petroleum Co.,* 278 B.R. at 393 (same).

d. the anticipated future of the company;

e. the source of information stated in the disclosure statement;

f. the present condition of a debtor wile in chapter 11;

g. the claims asserted against a debtor;

h. the estimated return to creditors under a chapter 7 liquidation;

i. the future management of a debtor;

j. the chapter 11 plan or a summary thereof;

k. the financial information, valuations, and projections relevant to the claimants' decision to accept or reject the chapter 11 plan;

l. the information relevant to the risks posed to claimants under the plan;

m. the actual or projected realizable value from recovery of preferential or otherwise voidable transfers;

n. the litigation likely to arise in a nonbankruptcy context; and

o. the tax attributes of a debtor.[50]

33. The Disclosure Statement, which was previously approved on a conditional basis, contains adequate information.[51] The Disclosure Statement contains descriptions and summaries of, among other things: (a) the Debtors' business operations and capital structure;[52] (b) certain events preceding the commencement of these Chapter 11 Cases;[53] (c) key events in these chapter

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[50] *In re U.S. Brass Corp.,* 194 B.R. 420, 424–25 (Bankr. E.D. Tex. 1996) (listing factors courts have considered in determining the adequacy of information provided in a disclosure statement); *Westland Oil Dev. Corp. v. MCorp Mgmt. Sols., Inc.,* 157 B.R. 100, 102 (S.D. Tex. 1993) (same); *In re Scioto Valley Mortg. Co.,* 88 B.R. 168, 170–71 (Bankr. S.D. Ohio 1988) (same); *In re Metrocraft Publ'g Servs., Inc.,* 39 B.R. 567, 568 (Bankr. N.D. Ga. 1984) (same). Disclosure regarding all topics "is not necessary in every case." *In re U.S. Brass Corp.,* 194 B.R. at 425; *see also In re Phx. Petroleum,* 278 B.R. at 393 ("[C]ertain categories of information which may be necessary in one case may be omitted in another . . . .").

[51] *See* Disclosure Statement Art. V.

[52] *See* Disclosure Statement Art. V.

[53] *See* Disclosure Statement Art. V.

11 cases;[54] (d) the Debtors' sale efforts;[55] (e) an overview of the Plan;[56] (f) a description of the Debtor Release, the Third-Party Release and related opt-in, and exculpation provisions in the Plan;[57] (g) risk factors affecting the Plan;[58] (i) the Liquidation Analysis, which sets forth the estimated return that holders of Claims and Interests would receive in a hypothetical chapter 7 liquidation;[59] and (j) federal tax law consequences of the Plan.[60]

34. As discussed above, section 1125(a) requires only "adequate information" sufficient for parties entitled to vote on a proposed plan to make an informed decision about whether to vote to accept or reject the plan. Accordingly, the Disclosure Statement contains adequate information within the meaning of section 1125(a) of the Bankruptcy Code and should be approved on a final basis.

B. The Disclosure Statement Complied with the Applicable Notice and Solicitation Requirements

35. In addition to conditionally approving the adequacy of the Disclosure Statement, the Disclosure Statement Order granted final relief regarding solicitation and noticing procedures and materials including, among other things: (a) approving the Solicitation and Voting Procedures; (b) approving the Ballots; (c) approving the Notice of Non-Voting Status; (d) approving the Cover Letter; (e) approving the Combined Hearing Notice; (f) approving the Plan Supplement Notice; (g) approving the Assumption Notice; (h) approving the manner and form of the Solicitation

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[54] *See* Disclosure Statement Art. VI.

[55] *See* Disclosure Statement Art. VII.

[56] *See* Disclosure Statement Art. VII.

[57] *See* Disclosure Statement Art. VIII.

[58] *See* Disclosure Statement Art. X.

[59] *See* Disclosure Statement Ex. C.

[60] *See* Disclosure Statement Art. IX.

Packages and the materials contained therein; and (i) scheduling the dates and deadlines related thereto. The Debtors have complied with the procedures approved by the Disclosure Statement Order and the timeline approved therein. No objections to compliance with respect to any dates and deadlines set forth in the Disclosure Statement Order were filed or received by the Debtors.

C. Solicitation of the Plan Complied with the Bankruptcy Code and Was in Good Faith

36. Section 1125(e) of the Bankruptcy Code provides that "a person that solicits acceptance or rejection of a plan, in good faith and in compliance with the applicable provisions of this title . . . is not liable" on account of such solicitation for violation of any applicable law, rule, or regulation governing solicitation of acceptance or rejection of a plan.[61]

37. As set forth in the Disclosure Statement and Disclosure Statement Motion, and as demonstrated by the Debtors' compliance with the Disclosure Statement Order, the Debtors at all times took appropriate actions in connection with the solicitation of the Plan in compliance with section 1125 of the Bankruptcy Code. Therefore, the Debtors request that the Court grant the parties the protections provided under section 1125(e) of the Bankruptcy Code.

38. For the foregoing reasons, the Court should enter an order approving the Disclosure Statement on a final basis.

II. The Plan Satisfies Each Requirement for Confirmation

39. To confirm the Plan, the Court must find that the Debtors have satisfied the requirements of section 1129 of the Bankruptcy Code.[62] As described in detail below, the Plan complies with all relevant provisions of the Bankruptcy Code and all other applicable law.

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[61] 11 U.S.C. § 1125(e).

[62] *See In re Premier Int'l Holdings, Inc.,* No. 09-12019 (CSS), 2010 WL 2745964, at *4 (Bankr. D. Del. Apr. 29, 2010) (holding that the plan proponent must prove each element of section 1129(a) and 1129(b) of the Bankruptcy

A. The Plan Complies with the Applicable Provisions of the Bankruptcy Code (Section 1129(a)(1))

40. Under section 1129(a)(1) of the Bankruptcy Code, a plan must "compl[y] with the applicable provisions of [the Bankruptcy Code]."[63] The legislative history of section 1129(a)(1) of the Bankruptcy Code explains that this provision also encompasses and incorporates the requirements of sections 1122 and 1123 of the Bankruptcy Code, which govern the classification of claims and the contents of a plan, respectively.[64] As explained below, the Plan complies with the requirements of sections 1122 and 1123 in all respects.

1. The Plan Satisfies the Classification Requirements of Section 1122 of the Bankruptcy Code

41. The classification requirement of section 1122(a) of the Bankruptcy Code provides, in pertinent part, as follows:

> Except as provided in subsection (b) of this section, a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class.[65]

42. Courts in this jurisdiction and others have recognized that plan proponents have significant flexibility in placing similar claims into different classes, provided there is a rational

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Code by a preponderance of the evidence); *In re TCI 2 Holdings, LLC,* 428 B.R. 117, 148 (Bankr. D.N.J. 2010) ("The plan proponent bears the burden to show by a preponderance of the evidence that the proposed Chapter 11 'plan has a reasonable probability of success,' and is more than a 'visionary scheme [].'") (citing *Wiersma v. Bank of the West (In re Wiersma),* 227 F. App'x 603, 606 (9th Cir. 2007)) (internal quotation marks omitted).

63 11 U.S.C. § 1129(a)(1).

64 S. Rep. No. 95-989, at 126, *reprinted in* 1978 U.S.C. C.A.N. 5787, 5912 (1978); H.R. Rep. No. 95-595, at 412, *reprinted in* 1978 U.S.C. C.A.N. 5963, 6368 (1977); *In re S & W Enter.,* 37 B.R. 153, 158 (Bankr. N.D. Ill. 1984) ("An examination of the Legislative History of [section 1129(a)(1)] reveals that although its scope is certainly broad, the provisions it was most directly aimed at were [s]ections 1122 and 1123."); *In re Nutritional Sourcing Corp.,* 398 B.R. 816, 824 (Bankr. D. Del. 2008) ("As confirmed by legislative history, 11 U.S.C. § 1129(a)(1), which provides that the plan must 'compl[y] with the applicable provisions of this title,' requires that a plan comply with 11 U.S.C. §§ 1122 and 1123.").

65 11 U.S.C. § 1122(a).

basis to do so.[66] Moreover, the requirement of substantial similarity does not mean that claims or interests within a particular class must be identical or that all similarly situated claims must receive the same treatment under a plan.[67]

43. The Plan's classification of Claims and Interests satisfies the requirements of section 1122 of the Bankruptcy Code because the Plan places Claims and Interests into fourteen separate Classes, with Claims and Interests in each Class differing from the Claims and Interests in each other Class in a legal or factual way or based on other relevant criteria.[68] Specifically, the Plan provides for the separate classification of Claims and Interests into the following Classes:

Class 1: Other Priority Claims

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[66] *See, e.g.*, *In re Rochem, Ltd.,* 58 B.R. 641, 642 (Bankr. D.N.J. 1985) ("Although Section 1122(a) of the Code requires that claims be substantially similar within a particular class, there is no requirement within Section 1122 or elsewhere in the Code that all substantially similar claims be included within a particular class."). Courts have identified grounds justifying separate classification, including: (a) where members of a class possess different legal rights, and (b) where there are good business reasons for separate classification. *See John Hancock Mut. Life Ins. Co. v. Route 37 Bus. Park Assocs. (In re Route 37 Bus. Park Assocs.),* 987 F.2d 154, 158–59 (3d Cir. 1993) (holding that, as long as each class represents a voting interest that is "sufficiently distinct and weighty to merit separate voice in the decision whether the proposed reorganization should proceed," the classification is proper); *In re Jersey City Med. Ctr.,* 817 F.2d 1055, 1061 (3d Cir. 1987) (recognizing that separate classes of claims must be reasonable and allowing a plan proponent to group similar claims in different classes); *see also Frito-Lay, Inc. v. LTV Steel Co. (In re Chateaugay Corp.),* 10 F.3d 944, 956–57 (2d Cir. 1993) (finding separate classification appropriate because classification scheme had a rational basis related to the bankruptcy court-approved settlement); *In re Heritage Org., L.L.C.,* 375 B.R. 230, 303 (Bankr. N.D. Tex. 2007) (explaining that "the only express prohibition on separate classification is that it may not be done to gerrymander an affirmative vote on a reorganization plan"); *In re 500 Fifth Ave. Assocs.,* 148 B.R. 1010, 1018 (Bankr. S.D.N.Y. 1993) (holding that, although discretion is not unlimited, "the proponent of a plan of reorganization has considerable discretion to classify claims and interests according to the facts and circumstances of the case") (internal quotations omitted), *aff'd*, No. 93 CIV. 844 (LJF), 1993 WL 316183 (S.D.N.Y. May 21, 1993); *In re Drexel Burnham Lambert Grp. Inc.,* 138 B.R. 723, 757 (Bankr. S.D.N.Y. 1992) ("Courts have found that the Bankruptcy Code only prohibits the identical classification of dissimilar claims. It does not require that similar classes be grouped together.").

[67] *See, e.g.*, *In re Greate Bay Hotel & Casino, Inc.,* 251 B.R. 213, 224 (Bankr. D.N.J. 2000) ("Separate classification of similar claims has been found to be permissible where the classification is offered in good faith, does not foster an abuse of the classification system, and promotes the rehabilitative goals of Chapter 11."); *In re Nickels Midway Pier, LLC,* No. 03-49462 (GMB), 2010 WL 2034542, at *7 (Bankr. D.N.J. May 21, 2010) (proffering just one rule regarding classification of separate classification of similar classes under section 1122, which is that "thou shalt not classify similar claims differently in order to gerrymander an affirmative vote on a reorganization plan").

[68] *See* Plan Art. III.

Class 2A: Other Secured Claims

Class 2B: Akiri Mortgage Loan Claims

Class 2C: CKD Penn Mortgage Claims

Class 3: CIF Mortgage Loan Claim

Class 4: NOLA Go-Forward Trade Claims

Class 5: Other NOLA Unsecured Claims

Class 6: Crown Capital Unsecured Claim

Class 7: RH New Orleans Unsecured Claims

Class 8: Intercompany Claims

Class 9: Intercompany Interests

Class 10: Crown Capital Interests

Class 11: RH New Orleans Interests

Class 12 Section 510(b) Claims

44. Except for General Administrative Claims, Professional Compensation Claims, NOLA DIP Claims, and Priority Tax Claims, which need not be designated as Classes under the Plan, the Plan's classification scheme is rational and was not proposed to create a consenting impaired Class and thereby manipulate voting. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Interests created under the Plan, and such Classes do not unfairly discriminate between Holders of Claims and Interests. The Plan also

provides for the separate classification of Claims against and Interests in each Debtor based upon the differences in legal nature and/or priority of such Claims and Interests.

45. Accordingly, the Claims or Interests assigned to each particular Class described above are substantially similar to the other Claims or Interests in each such Class, and the distinctions among Classes are based on valid business, factual, and legal distinctions. The Debtors submit that the Plan fully complies with and satisfies section 1122 of the Bankruptcy Code, and no party has asserted otherwise.

2. The Plan Satisfies the Mandatory Plan Requirements of Section 1123(a) of the Bankruptcy Code

46. Section 1123(a) of the Bankruptcy Code sets forth seven criteria that every chapter 11 plan must satisfy.[69] The Plan satisfies each of these requirements.[70]

i. Designation of Classes of Claims and Equity Interests: § 1123(a)(1)

47. For the reasons set forth above, Article III of the Plan properly designates Classes of Claims, other than Claims of the type described in sections 507(a)(2), 507(a)(3), and 507(a)(8) of the Bankruptcy Code, and Classes of Interests, as required by section 1123(a)(1), and thus satisfies the requirement of section 1122 of the Bankruptcy Code.

ii. Specification of Unimpaired Classes: § 1123(a)(2)

48. Section 1123(a)(2) of the Bankruptcy Code requires that the Plan "specify any class of claims or interests that is not impaired under the plan." The Plan meets this requirement by identifying each Class in Article III that is Unimpaired.

iii. Treatment of Impaired Classes: § 1123(a)(3)

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[69] 11 U.S.C. § 1123(a)(1)–(7).

[70] *See* 11 U.S.C. § 1123(a)(1)–(8). Section 1123(a)(8) of the Bankruptcy Code is only applicable to individual debtors.

49. Section 1123(a)(3) of the Bankruptcy Code requires that the Plan "specify the treatment of any class of claims or interests that is impaired under the plan." The Plan meets this requirement by setting forth the treatment of each Class in Article III that is Impaired.

iv. Equal Treatment Within Classes: § 1123(a)(4)

50. Section 1123(a)(4) of the Bankruptcy Code requires that the Plan "provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to a less favorable treatment of such particular claim or interest."[71] The Plan meets this requirement because the treatment of each Claim or Interest in each particular Class is the same as the treatment of each other Claim or Interest in such Class (except as otherwise agreed to by a Holder of a particular Claim or Interest). Stated another way, all Holders of Allowed Claims or Interests in each Class will receive the same rights and treatment as other Holders of Allowed Claims or Interests within such Holders' respective Class.

v. Means for Implementation: § 1123(a)(5)

51. Section 1123(a)(5) of the Bankruptcy Code requires that the Plan provide "adequate means" for its implementation. The Plan satisfies this requirement because Article IV of the Plan, as well as other provisions thereof, provide for the means by which the Plan will be implemented. Among other things, Article IV of the Plan provides for: (i) consummation of the NOLA Sale Transaction;[72] (ii) identification of the sources of consideration for Distributions under the Plan;[73] (iii) appointment of the Wind-Down Officer;[74] and (iv) appointment of the Creditor Recovery

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71 11 U.S.C. § 1123(a)(4).

72 *See* Plan Art. IV.A.

73 *Id*.

74 *See* Plan Art. IV.C.

Trustee.[75] The definitive terms governing the implementation of these transactions are set forth in the Plan and in the applicable agreements, instruments, and documents included in the Plan Supplement. Collectively, these measures establish the structure necessary to consummate the Plan, facilitate the orderly wind-down of the Debtors' Estates, and maximize recoveries for creditors in accordance with the Bankruptcy Code.

52. The terms governing the execution of these transactions are set forth in greater detail in the Plan and the Plan Supplement, as applicable. Thus, the Plan satisfies section 1123(a)(5).

B. The Debtors Have Complied with the Applicable Provisions of the Bankruptcy Code (Section 1129(a)(2))

53. The principal purpose of section 1129(a)(2) is to ensure that a plan proponent has complied with the requirements of the Bankruptcy Code regarding solicitation of acceptances of a plan.[76] The legislative history to section 1129(a)(2) provides that section 1129(a)(2) is intended to encompass the disclosure and solicitation requirements set forth in section 1125 and the plan acceptance requirements set forth in section 1126 of the Bankruptcy Code.[77] As discussed in more detail in Section III herein, and as set forth below, the Debtors have complied with these provisions, including sections 1125 and 1126 of the Bankruptcy Code, as well as Bankruptcy Rules

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[75] *Id*.

[76] *See In re TCI 2 Holdings, LLC,* 428 B.R. at 170 ("Section 1129(a)(2) requires that '[t]he proponent of the plan compl[y] with the applicable provisions of this title.'") (citing 11 U.S.C. § 1129(a)(2)); *In re PWS Holding Corp.,* 228 F.3d 224, 248 (3d Cir. 2000) ("§ 1129(a)(2) requires that the plan proponent comply with the adequate disclosure requirements of § 1125").

[77] *See In re TCI 2 Holdings,* 428 B.R at 170; H.R. Rep. No. 95-595, 95th Cong., 1st Sess. 412 (1977), *reprinted in* 1978 U.S.C.C.A.N. 5936; S. Rep. No. 95-989, 95th Cong., 2d Sess. 126 (1978), *reprinted in* 1978 U.S.C.C.A.N. 5787 (collectively, the legislative history refers to section 1125, regarding disclosure, as an example of one of those "applicable provisions").

3017 and 3018, by distributing the Disclosure Statement and soliciting acceptances of the Plan through their Claims and Noticing Agent in accordance with the Disclosure Statement Order.

1. The Debtors Have Complied with the Disclosure and Solicitation Requirements of Section 1125

54. Section 1125 of the Bankruptcy Code prohibits the solicitation of acceptances or rejections of a plan "unless, at the time of or before such solicitation, there is transmitted to such holder the plan or a summary of the plan, and a written disclosure statement approved, after notice and a hearing, by the court as containing adequate information."[78] Section 1125 ensures that parties in interest are fully informed regarding the debtor's condition so that they may make an informed decision whether to approve or reject the plan.[79]

55. Section 1125 is satisfied here. Before the Debtors solicited votes on the Plan, the Court conditionally approved the Disclosure Statement.[80] The Court also approved the Solicitation Packages provided to Holders of Claims entitled to vote on the Plan, the non-voting materials provided to parties not entitled to vote on the Plan, and the relevant dates for voting on the Plan and objecting to the Plan and the Disclosure Statement.[81] As stated in the Voting Report, the Debtors, through the Claims and Noticing Agent, complied with the content and delivery requirements of the Disclosure Statement Order, satisfying sections 1125(a) and 1125(b) of the Bankruptcy Code.[82] The Debtors also satisfied section 1125(c) of the Bankruptcy Code, which

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78 11 U.S.C. § 1125(b).

79 *See In re Union Cnty. Wholesale Tobacco & Candy Co., Inc.,* 8 B.R. 442, 443 (Bankr. D.N.J. 1981) (holding that the standards of section 1125 "essentially require information sufficient to enable a hypothetical reasonable investor to make an informed judgment re acceptance or rejection of the plan").

80 *See* Disclosure Statement Order.

81 *See generally* Discourse Statement Order.

82 *See* Voting Report at 6.

provides that the same disclosure statement must be transmitted to each holder of a claim or interest in a particular Class.

56. Based on the foregoing, the Debtors submit that they have complied in all respects with the solicitation requirements of section 1125 of the Bankruptcy Code and the Disclosure Statement Order, and no party has asserted otherwise.

2. The Debtors Have Satisfied the Plan Acceptance Requirements of Section 1126

57. Section 1126 of the Bankruptcy Code provides that only holders of allowed claims and equity interests in impaired classes that will receive or retain property under a plan on account of such claims or equity interests may vote to accept or reject a plan.[83] The Debtors did not solicit votes on the Plan from the following Classes:

- Classes 1, 2A, 2B, and 2C, which are not impaired under the Plan and, therefore, are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.[84]

- Classes 8, 9, 10, 11, and 12, which pursuant to section 1126(g) of the Bankruptcy are deemed to have rejected the Plan.[85]

58. Accordingly, the Debtors solicited votes only from Holders of Allowed Claims in the Voting Classes—Class 3, 4, 5, 6, and 7—because these Classes are Impaired and entitled to receive a distribution under the Plan.[86] With respect to the Voting Classes of Claims, section 1126(c) of the Bankruptcy Code provides that:

> A class of claims has accepted a plan if such plan has been accepted by creditors, other than any entity designated under subsection (e) of [section 1126], that hold at least two-thirds in amount and more than one-half in number of the allowed claims

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83 *See* 11 U.S.C. § 1126.

84 *See* Plan Art. III.

85 *See id.*

86 *See id.*

> of such class held by creditors, other than any entity designated under subsection (e) of [section 1126], that have accepted or rejected such plan.[87]

59. The Voting Report, summarized above, demonstrates that the Plan has been accepted by the Voting Classes in accordance with section 1126 of the Bankruptcy Code.[88] Based on the foregoing, the Debtors submit that they have satisfied the requirements of section 1129(a)(2), and no party has asserted otherwise.

C. The Debtors Proposed the Plan in Good Faith and Not by Any Means Forbidden by Law (Section 1129(a)(3))

60. Section 1129(a)(3) of the Bankruptcy Code requires that a chapter 11 plan be "proposed in good faith and not by any means forbidden by law."[89] Where a plan satisfies the purposes of the Bankruptcy Code and has a good chance of succeeding, the good faith requirement of section 1129(a)(3) of the Bankruptcy Code is satisfied.[90] To determine whether a plan seeks relief consistent with the Bankruptcy Code, courts consider the totality of the circumstances surrounding the development of the Plan.[91]

61. The Plan was proposed with integrity, good intentions, and with the goal of maximizing stakeholder recoveries. The Plan is the product of extensive, arm's-length negotiations among the Debtors, the Ad Hoc Group of Holders of Crown Capital Notes, Lynd Management Group LLC and its affiliated entities, and Cleveland International Fund – NRP West

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87 11 U.S.C. § 1126(c).

88 *See generally* Voting Report.

89 11 U.S.C. § 1129(a)(3); *see also In re Diocese of Camden, New Jersey,* 653 B.R. 309, 350 (Bankr. D.N.J. 2023) (citing *In re PWS Holding Corp.,* 228 F.3d at 242); *In re TCI 2 Holdings,* 428 B.R. at 134.

90 *See, e.g.*, *In re PWS Holding Corp.,* 228 F.3d at 242 (quoting *In re Abbotts Dairies of Pa., Inc.*, 788 F.2d 143, 150 n.5 (3d Cir. 1986)); *In re Century Glove, Inc.,* No. Civ. A. 90-400 (SLR), 1993 WL 239489, at *4 (D. Del. Feb. 10, 1993); *In re NII Holdings, Inc.,* 288 B.R. 356, 362 (Bankr. D. Del. 2002).

91 *See, e.g.*, *Fin. Sec. Assurance Inc. v. T-H New Orleans Ltd. P'ship (In re T-H New Orleans Ltd. P'ship)*, 116 F.3d 790, 802 (5th Cir. 1997); *In re W.R. Grace & Co.*, 475 B.R. 34, 87 (D. Del. 2012), aff'd, 729 F.3d 311 (3d Cir. 2013); *In re Century Glove*, 1993 WL 239489, at *4.

Edge, Ltd., and other key stakeholders. These negotiations resulted in a consensual framework that resolved competing creditor interests and provided a clear path to maximize value through the NOLA Sale Transaction and the Wind-Down of the Debtors' Estates following consummation of the NOLA Sale Transaction. The Debtors worked constructively with their stakeholders throughout the process, incorporating their comments into both the Plan and the Confirmation Order. The overwhelming support for the Plan by the creditors that voted in favor of it is strong evidence that the Plan has a proper purpose and enjoys broad stakeholder support.

62. Importantly, the Plan reflects hard-fought but constructive compromises. For example, it provides for the release of certain Released Parties in exchange for substantial contributions that facilitated the Plan's implementation, while at the same time preserving other causes of action to be pursued for the benefit of unsecured creditors through the Creditor Recovery Trust. The Plan also equitably balances the treatment of creditor groups by, among other things, providing the Holders of Crown Capital Unsecured Claims with access to monetized litigation recoveries through the Creditor Recovery Trust and ensuring that Wind-Down Claims are reconciled and satisfied under the Wind-Down structure. These features demonstrate that the Plan was designed not only to maximize recoveries, but also to ensure fairness and transparency in the treatment of claims.

63. In exchange for the releases granted under the Plan, the Released Parties made meaningful and valuable contributions to these Chapter 11 Cases, including by providing financing, support, and concessions that were critical to enabling the consummation of the NOLA Sale Transaction. Without these efforts, creditors likely would have faced the lower recoveries of a piecemeal liquidation under chapter 7. As a result, the Plan will provide Holders of Allowed

Unsecured Claims with materially greater recoveries than they would receive in any alternative restructuring scenario.

64. The acceptance of the Plan by the Holders of Claims that voted on the Plan and the support of the Plan further reflects the Plan's fairness and the good faith efforts of the parties to achieve the objectives of chapter 11. Accordingly, the Debtors have acted in good faith and with the best intentions for creditors in proposing the Plan, in accordance with section 1129(a)(3) of the Bankruptcy Code.

D. The Plan Provides That the Debtors' Payment of Professional Fees and Expenses Are Subject to Bankruptcy Court Approval (Section 1129(a)(4))

65. Section 1129(a)(4) of the Bankruptcy Code requires that certain fees and expenses paid by the plan proponent, by the debtor, or by a person receiving distributions of property under the plan, be subject to approval by the Court as reasonable.[92] Courts in this district and elsewhere have construed this section to require that all payments of professional fees paid out of estate assets be subject to review and approval by the Court as to their reasonableness.[93]

66. The Plan satisfies section 1129(a)(4) of the Bankruptcy Code. The Plan provides that all Professional Compensation Claims must be approved by the Court pursuant to final fee applications in accordance with section 1129(a)(4) of the Bankruptcy Code. Further, the Plan provides that the Court shall retain jurisdiction to hear and determine all Professional Compensation Claims. Therefore, it is my understanding that the Plan complies with the

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92 11 U.S.C. § 1129(a)(4).

93 *In re Lisanti Foods, Inc.,* 329 B.R. at 503 ("Pursuant to § 1129(a)(4), a [p]lan should not be confirmed unless fees and expenses related to the [p]lan have been approved, or are subject to the approval, of the Bankruptcy Court."), *aff'd*, 241 F. App'x 1 (3d Cir. 2007); *In re Future Energy Corp.,* 83 B.R. 470, 488 (Bankr. S.D. Ohio 1988); *In re Chapel Gate Apartments, Ltd.,* 64 B.R. 569, 573 (Bankr. N.D. Tex. 1986) (noting that before a plan may be confirmed, "there must be a provision for review by the Court of any professional compensation").

requirements of section 1129(a)(4) of the Bankruptcy Code with respect to the Debtors' professionals.

E. The Plan Does Not Require Additional Disclosures Regarding Directors, Officers, and Insiders (§ 1129(a)(5))

67. The Bankruptcy Code requires the plan proponent to disclose the affiliation of any individual proposed to serve as a director or officer of the debtor or a successor to the debtor under the plan.[94] Section 1129(a)(5)(A)(ii) further requires that the appointment or continuance of such officers and directors be consistent with the interests of creditors and equity security holders and with public policy.[95]

68. In accordance with section 1129(a)(5) of the Bankruptcy Code, the identity of the Creditor Recovery Trustee and the Wind-Down Officer was disclosed in the *Notice of Filing of Plan Supplement* [Docket No. 411] in connection with the CBRM Plan.

69. Therefore, the requirements under section 1129(a)(5) of the Bankruptcy Code are satisfied, and no party has asserted otherwise.

F. The Plan Does Not Require Governmental Regulatory Approval (§ 1129(a)(6))

70. Section 1129(a)(6) of the Bankruptcy Code permits confirmation only if any regulatory commission that has or will have jurisdiction over a debtor after confirmation has approved any rate change provided for in the plan. The Plan does not provide for any rate changes and the Debtors are not subject to any such regulation. Section 1129(a)(6) of the Bankruptcy Code is inapplicable to these Chapter 11 Cases, and no party has asserted otherwise.

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[94] 11 U.S.C. § 1129(a)(5)(A)(i).

[95] 11 U.S.C. § 1129(a)(5)(A)(ii).

G. The Plan Is in the Best Interests of All the Debtors' Creditors (§ 1129(a)(7))

71. The "best interests test" of section 1129(a)(7) of the Bankruptcy Code requires that, with respect to each impaired class of claims or interests, each individual holder of a claim or interest has either accepted the plan or will receive or retain property having a present value, as of the effective date of the plan, of not less than that which such holder would receive if the debtor were liquidated under chapter 7 of the Bankruptcy Code at that time. The best interests test is satisfied where the estimated recoveries for a debtor's stakeholders in a hypothetical chapter 7 liquidation are less than or equal to the estimated recoveries for a holder of an impaired claim or interest under the debtor's chapter 11 plan that rejects the plan.[96]

72. To determine whether the Plan satisfies the best interests of creditors test, the Debtors, with the assistance of IslandDundon, prepared the Liquidation Analysis. The Liquidation Analysis represents a good-faith estimate of what creditors would recover in a hypothetical liquidation under chapter 7 of the Bankruptcy Code. The analysis, methodology, and assumptions applied as part of the Liquidation Analysis are set out in greater detail therein.

73. For all of the reasons set forth in the Liquidation Analysis, and subject to the limitations and assumptions contained therein, the Liquidation Analysis demonstrates that the Plan will provide each Holder of an Allowed Claim or Interest in an impaired class an amount that is not less than what such Holder would otherwise receive or retain through a liquidation of the Debtors under chapter 7 of the Bankruptcy Code.

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[96] *See Bank of Am. Nat'l Trust & Sav. Ass'n v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 441 n.13 (1999) ("The 'best interests' test applies to individual creditors holding impaired claims, even if the class as a whole votes to accept the plan."); *In re Cypresswood Land Partners, I,* 409 B.R. 396, 428 (Bankr. S.D. Tex. 2009) ("This provision is known as the 'best-interest-of-creditors-test' because it ensures that reorganization is in the best interest of individual claimholders who have not voted in favor of the plan.").

74. The Liquidation Analysis represents a good-faith estimate of recoveries in a hypothetical chapter 7 case, taking into account the limited assets of the Debtors, primarily consisting of the NOLA Properties, as well as remaining cash on hand. The analysis assumes that a chapter 7 trustee would be appointed shortly after conversion of the cases, that the trustee would conduct a sale of the NOLA Properties, and that the chapter 7 estates would incur additional administrative expenses, including trustee fees and professional costs, in connection with such process.

75. As set forth in the Liquidation Analysis, recoveries for Holders of Claims in a hypothetical chapter 7 liquidation are projected to be materially lower than under the Plan. In particular, Holders of Allowed Other NOLA Unsecured Claims, Crown Capital Unsecured Claims, and RH New Orleans Unsecured Claims would receive no recovery in a chapter 7 scenario, as compared to potential recoveries of up to 100% under the Plan.

76. The estimates regarding the Debtors' assets and liabilities that are incorporated into the Liquidation Analysis are based upon the knowledge and familiarity of the Debtors' advisors with the Debtors' business and their relevant experience in chapter 11 proceedings. As such, the Debtors' Liquidation Analysis is reasonable and should be afforded deference.

77. Based on the Liquidation Analysis, no Holder of Claims or Interests would receive more in a hypothetical chapter 7 liquidation than it would receive under the Plan. Accordingly, the Plan satisfies the requirements of the best interests of creditors test under section 1129(a)(7) of the Bankruptcy Code.

H. The Bankruptcy Code's Voting Requirements of Section 1129(a)(8) of the Bankruptcy Code

78. Section 1129(a)(8) of the Bankruptcy Code requires that each class of claims or interests must either accept a plan or be unimpaired under a plan.[97] If any class of claims or interests rejects the plan, the plan must satisfy the "cramdown" requirements with respect to the claims or interests in that class.[98]

79. As set forth in the Voting Report, Holders of Claims in Classes 1, 2A, 2B, and 2C are not impaired under the Plan and, therefore, are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code, and Holders of Claims in Classes 8, 9, 10, 11, and 12 are impaired and deemed to reject the Plan. Additionally, as evidenced by the Voting Report, the Plan has been accepted by well in excess of two-thirds in amount and one-half in number of Holders of the CIF Mortgage Loan Claim, Other NOLA Unsecured Claims, Crown Capital Unsecured Claims, and RH New Orleans Unsecured Claims entitled to vote and who voted on the Plan.

80. However, the Plan has not been accepted by the requisite number of Holders of Claims in Class 4 (NOLA Go-Forward Trade Claims). As to Class 4, the Plan may be confirmed over their dissent under the "cram down" provisions of section 1129(b) of the Bankruptcy Code. Accordingly, the Debtors will seek confirmation under section 1129(b) of the Bankruptcy Code, rather than section 1129(a)(8). For the reasons set forth below, the Plan does not discriminate unfairly and is fair and equitable. Therefore, the Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code and is confirmable.

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[97] 11 U.S.C. § 1129(a)(8).

[98] 11 U.S.C. § 1129(b).

I. The Plan Provides for Payment in Full of All Allowed Priority Claims (§ 1129(a)(9))

81. Section 1129(a)(9) of the Bankruptcy Code requires that certain priority claims be paid in full on the effective date of a plan and that the holders of certain other priority claims receive deferred cash payments.[99] In particular, pursuant to section 1129(a)(9)(A) of the Bankruptcy Code, holders of claims of a kind specified in section 507(a)(2) of the Bankruptcy Code—administrative claims allowed under section 503(b) of the Bankruptcy Code—must receive on the effective date cash equal to the allowed amount of such claims.[100] Section 1129(a)(9)(B) of the Bankruptcy Code requires that each holder of a claim of a kind specified in section 507(a)(1) or (4) through (7) of the Bankruptcy Code—generally wage, employee benefit, and deposit claims entitled to priority—must receive deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim (if such class has accepted the plan), or cash of a value equal to the allowed amount of such claim on the effective date of the plan (if such class has not accepted the plan). Finally, section 1129(a)(9)(C) of the Bankruptcy Code provides that the holder of a claim of a kind specified in section 507(a)(8) of the Bankruptcy Code—*i.e.,* priority tax claims—must receive cash payments over a period not to exceed five years from the petition date, the present value of which equals the allowed amount of the claim. The Plan satisfies all of these requirements.

82. The Plan provides that, unless otherwise agreed to by the Holder of an Allowed General Administrative Claim and the Debtors, each Holder of an Allowed General Administrative Claim will receive, in full and final satisfaction of, and, in exchange for such General

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[99] 11 U.S.C. § 1129(a)(9).

[100] 11 U.S.C. § 1129(a)(9)(A).

Administrative Claim, treatment as is consistent with the provisions of section 1129(a)(9) of the Bankruptcy Code or an amount of Cash equal to the unpaid amount of such Allowed General Administrative Claims in accordance with the following: (a) if such General Administrative Claim is Allowed as of the Effective Date, on the Effective Date or as soon as reasonably practicable thereafter (or, if not then due, when such Allowed General Administrative Claim is due or as soon as reasonably practicable thereafter); (b) if such General Administrative Claim is not Allowed as of the Effective Date, no later than sixty (60) days after the date on which an order Allowing such General Administrative Claim becomes a Final Order, or as soon as reasonably practicable thereafter; (c) if such Allowed General Administrative Claim is based on liabilities incurred by the Debtors in the ordinary course of their business after the Petition Date in accordance with the terms and conditions of the particular transaction giving rise to such Allowed General Administrative Claim without any further action by the Holder of such Allowed General Administrative Claim, when such Allowed General Administrative Claim is due or as soon as reasonably practicable thereafter; or (d) at such time and upon such terms as set forth in a Final Order of the Bankruptcy Court.

83. Moreover, the Plan provides that, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code, unless otherwise agreed by the Holder of an Allowed Priority Tax Claim and the Debtors, prior to the Effective Date, each Holder of an Allowed Priority Tax Claim will receive, at the option of the Debtor, in full and final satisfaction of, and in exchange for, its Allowed Priority Tax Claim, (a) Cash in an amount equal to the amount of such Allowed Priority Tax Claim or (b) Cash in an aggregate amount of such Allowed Priority Tax Claim payable in instalment payments over a period of time not to exceed five (5) years after the Petition Date, pursuant to section

1129(a)(9)(C) of the Bankruptcy Code. Accordingly, the Plan satisfies the requirements of section 1129(a)(9) of the Bankruptcy Code.

J. At Least One Impaired Class of Claims Has Accepted the Plan (Section 1129(a)(10))

84. Section 1129(a)(10) of the Bankruptcy Code provides that, to the extent there is an impaired class of claims, at least one impaired class of claims must accept the plan, "without including any acceptance of the plan by any insider," as an alternative to the requirement under section 1129(a)(8) of the Bankruptcy Code that each class of claims or interests must either accept the plan or be unimpaired under the plan.[101]

85. As set forth in the Voting Report, Classes 3, 5, 6 and 7 are entitled to vote on the Plan, are Impaired, and have accepted the Plan, without including the acceptance of the Plan by any Insiders in such Class. Accordingly, the Plan satisfies section 1129(a)(10) of the Bankruptcy Code.

K. The Plan Is Feasible and Is Not Likely to Be Followed by the Need for Further Financial Reorganization (Section 1129(a)(11))

86. Section 1129(a)(11) of the Bankruptcy Code requires that the Court determine, in relevant part, that confirmation is not likely to be followed by the liquidation or further financial reorganization of the Debtors (or any successor thereto), unless such liquidation or reorganization is proposed in the Plan. The debtor bears the burden of demonstrating the feasibility of the plan by a preponderance of the evidence.[102] The Court need not require a guarantee of success to find the

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[101] 11 U.S.C. § 1129(a)(10).

[102] *See, e.g.*, *In re Prussia Assocs.,* 322 B.R. at 584 (quoting approvingly that "[t]he Code does not require the debtor to prove that success is inevitable, and a relatively low threshold of proof will satisfy § 1129(a)(11) so long as adequate evidence supports a finding of feasibility.") (internal citations omitted); *Berkeley Fed. Bank & Tr. v. Sea Garden Motel & Apartments (In re Sea Garden Motel & Apartments),* 195 B.R. 294, 305 (D.N.J. 1996); *In re Tribune Co.,* 464 B.R. 126, 185 (Bankr. D. Del. 2011), *overruled in part on other grounds,* 464 B.R. 208 (Bankr. D. Del. 2011).

Plan feasible.[103] Instead, the Court must find that the "plan offers a reasonable expectation of success.[104]

87. In determining standards of feasibility, courts have identified the following probative factors:

- the adequacy of the capital structure;
- the earning power of the business;
- the economic conditions;
- the ability of management;
- the probability of the continuation of the same management; and
- any other related matter which determines the prospects of a sufficiently successful operation to enable performance of the provisions of the plan.[105]

88. The Plan proposes the consummation of the NOLA Sale Transaction and an orderly wind-down of the Debtors' remaining affairs. The Plan's means of implementation authorize all actions necessary to effectuate the NOLA Sale Transaction and related transactions, and identifies sources of cash for distribution—namely, Sale Proceeds, the NOLA Debtor Contributed Creditor Recovery Trust Assets, and Wind-Down Assets.

89. To carry out this wind-down, the Plan establishes a Wind-Down Officer, who is empowered to (a) liquidate any remaining assets after the NOLA Sale Transaction, (b) resolve

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[103] *Crestar Bank v. Walker (In re Walker),* 165 B.R. 994, 1004 (E.D. Va. 1994) (noting that the "plan [must] present a workable scheme of reorganization and operation from which there may be a reasonable expectation of success").

[104] *See In re G–I Holdings Inc.,* 420 B.R. 216, 267 (D.N.J. 2009) ("[The] key element of feasibility is whether there is a reasonable probability the provisions of the Plan can be performed.").

[105] *See In re Aleris Int'l, Inc.,* No. 09-10478 (BLS), 2010 WL 3492664, at *28 (Bankr. D. Del. May 13, 2010) (internal citations omitted).

disputed wind-down claims, (c) make Plan distributions, (d) file final tax returns, and (e) oversee the ultimate dissolution of the Debtors. This centralized post-Effective Date administration provides a clear path to promptly conclude the Estates.[106] Thus, the Plan satisfies the feasibility requirement under section 1129(a)(11) of the Bankruptcy Code.

90. In sum, the Plan's implementation provisions, funding sources, wind-down framework, and distribution mechanics establish that confirmation will not be followed by the need for further reorganization. Instead, the Plan provides a practical, fully articulated path to consummate the NOLA Sale Transaction, administer and distribute the remaining assets (including through the Creditor Recovery Trust), and promptly close these cases.

L. The Plan Provides for the Payment of All Fees Under 28 U.S.C. § 1930 (Section 1129(a)(12))

91. Section 1129(a)(12) of the Bankruptcy Code requires the payment of "[a]ll fees payable under section 1930 of title 28 [of the United States Code], as determined by the court at the hearing on confirmation of the plan." Section 507(a)(2) of the Bankruptcy Code provides that "any fees and charges assessed against the estate under [section 1930 of] chapter 123 of title 28" are afforded priority as administrative expenses. The Plan satisfies section 1129(a)(12) of the Bankruptcy Code because the Debtors have paid all chapter 11 statutory and operating fees required to be paid during these Chapter 11 Cases. Further, pursuant to the Plan, all Quarterly Fees payable on or before the Effective Date shall be paid by the Debtors in full in Cash on the Effective Date. After the Effective Date, the Debtors, the Creditor Recovery Trust, the Creditor Recovery Trustee, and the Wind-Down Officer shall pay any and all Quarterly Fees in full in cash when due in each Chapter 11 Case for each quarter (including any fraction thereof) until the earliest

[106] *See* Dundon Decl.

of such Chapter 11 Case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code. Accordingly, the Plan satisfies section 1129(a)(12) of the Bankruptcy Code.

M. Sections 1129(a)(13) Through 1129(a)(16) of the Bankruptcy Code Do Not Apply to the Plan

92. Several of the Bankruptcy Code's confirmation requirements are inapplicable to the Plan. Section 1129(a)(13) requires that all retiree benefits continue post-effective date at any levels established in accordance with section 1114 of the Bankruptcy Code.[107] The Debtors do not have any remaining obligations to pay retiree benefits (as defined in section 1114 of the Bankruptcy Code) or will not have any such obligations as of the Effective Date. Section 1129(a)(14) of the Bankruptcy Code is inapplicable to the Plan because the Debtors are not subject to any domestic support obligations.[108] Section 1129(a)(15) of the Bankruptcy Code is inapplicable to the Plan because none of the Debtors are "individuals" as that term is defined in the Bankruptcy Code.[109] Section 1129(a)(16) of the Bankruptcy Code is also inapplicable because the Plan does not provide for any property transfers by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.[110]

N. The Plan Satisfies the Cramdown Requirements (Section 1129(b))

93. Section 1129(b)(1) of the Bankruptcy Code provides that, if all applicable requirements of section 1129(a) of the Bankruptcy Code are met other than section 1129(a)(8) of

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[107] 11 U.S.C. § 1129(a)(13). Section 1114(a) of the Bankruptcy Code defines "retiree benefits" as: "[P]ayments to any entity or person for the purpose of providing or reimbursing payments for retired employees and their spouses and dependents, for medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death under any plan, fund, or program (through the purchase of insurance or otherwise) maintained or established in whole or in part by the debtor prior to filing a petition commencing a case under this title." 11 U.S.C. § 1114(a).

[108] 11 U.S.C. § 1129(a)(14).

[109] 11 U.S.C. § 1129(a)(15).

[110] 11 U.S.C. § 1129(a)(16).

the Bankruptcy Code, a plan may be confirmed so long as the requirements set forth in section 1129(b) of the Bankruptcy Code are satisfied. To confirm a plan that has not been accepted by all impaired classes (thereby failing to satisfy section 1129(a)(8) of the Bankruptcy Code), the plan proponent must show that the plan does not "discriminate unfairly" and is "fair and equitable" with respect to the non-accepting impaired classes.[111]

94. As set forth above, Classes 8, 9, 10, 11, and 12 are deemed to reject the Plan, and Class 4 voted to reject the Plan. As set forth below, the Plan satisfies the requirements under section 1129(b) of the Bankruptcy Code, and no party has asserted otherwise.

1. The Plan Is Fair and Equitable (§ 1129(b)(2)(B)(ii))

95. A plan is "fair and equitable" with respect to an impaired class of claims or interests that rejects a plan (or is deemed to reject a plan) if it follows the "absolute priority" rule.[112] This requires that an impaired rejecting class of claims or interests either be paid in full or that a class junior to the impaired accepting class not receive any distribution under a plan on account of its junior claim or interest.[113] The Plan satisfies section 1129(b) of the Bankruptcy Code. Notwithstanding the fact that Classes 8, 9, 10, 11, and 12 are deemed to have rejected the Plan and that Class 4 rejected the Plan, the Plan is confirmable.

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[111] *John Hancock Mut. Life Ins. Co.,* 987 F.2d at 157 n.5 ; *In re S B Bldg. Assocs. Ltd. P'ship*, 621 B.R. 330, 375 (Bankr. D.N.J. 2020) (holding that a plan must be "'fair and equitable' and may not unfair[ly] discriminat[e] [under the] requirements of section 1129(b)").

[112] *Bank of Am. Nat. Trust & Sav. Ass'n*, 526 U.S. at 441–42 ("As to a dissenting class of impaired unsecured creditors, such a plan may be found to be 'fair and equitable' only if the allowed value of the claim is to be paid in full, § 1129(b)(2)(B)(i), or, in the alternative, if 'the holder of any claim or interest that is junior to the claims of such [impaired unsecured] class will not receive or retain under the plan on account of such junior claim or interest any property,' § 1129(b)(2)(B)(ii). That latter condition is the core of what is known as the 'absolute priority rule.'").

[113] 11 U.S.C. § 1129(b)(2)(B)(ii).

96. Pursuant to section 1129(b)(2) of the Bankruptcy Code, the Plan distributes value to Holders of Claims and Interests pursuant to the priority scheme set forth in the Bankruptcy Code, and, with respect to Classes 8, 9, 10, 11, and 12 (each of which is deemed to have rejected the Plan), and Class 4, which has rejected the Plan, no Holder of a Claim or Interest in a class junior to such Impaired Classes will receive or retain any property under the Plan on account of such junior Claim or Interest. Accordingly, the Plan may still be confirmed under section 1129(b) of the Bankruptcy Code.

2. The Plan Does Not Unfairly Discriminate with Respect to the Impaired Classes That Have Not Voted to Accept the Plan (§ 1129(b)(1))

97. Unlike the concept of "fair and equitable," which is defined under the Bankruptcy Code, the Bankruptcy Code does not provide a standard for determining when "unfair discrimination" exists. Courts typically examine the facts and circumstances of the particular case to make the determination.[114] In general, courts have held that a plan unfairly discriminates in violation of section 1129(b) of the Bankruptcy Code only if it provides materially different treatment for creditors and interest holders with similar legal rights without compelling justifications for doing so.[115] A threshold inquiry to assessing whether a proposed chapter 11 plan

[114] *See In re TCI 2 Holdings,* 428 B.R. at 157 (neglecting to apply a set standard or test to ascertain whether a plan unfairly discriminates, instead opting to consider "various standards" for a general analysis of unfair discrimination including whether the discrimination is "supported by a reasonable basis" and is "proposed in good faith"); *In re S B Bldg. Assocs.,* 621 B.R. at 375-77 (considering the unique factual circumstances to determine whether the requirements of section 1129(b) are satisfied).

[115] *See In re Ocean View Motel, LLC*, No. 20-21165-ABA, 2022 WL 243213, at *1 (Bankr. D.N.J. Jan. 25, 2022) (stating that "[u]nder 1129(b)(1), a plan unfairly discriminates when it treats similarly situated classes differently without a reasonable basis for the disparate treatment") (internal citations omitted).

unfairly discriminates against a dissenting class is whether the dissenting class is equally situated to a class allegedly receiving more favorable treatment.[116]

98. Class 4 includes all Unsecured Claims against Debtors RH Chenault Creek LLC, RH Copper Creek LLC, RH Lakewind East LLC, and RH Windrun LLC held by a Holder that provides, and will continue to provide following the consummation of the NOLA Sale Transaction, goods and services necessary to the operation of the NOLA Properties. Class 8 includes Claims held by a Debtor or Affiliate of a Debtor against another Debtor or Affiliate of a Debtor. Class 9 includes Interests in one Debtor held by another Debtor or Affiliate of a Debtor. Class 10 includes the equity interests in Crown Capital. Class 11 encompasses the equity interests of Moshe (Mark) Silber in RH New Orleans Holdings MM LLC. Finally, Class 12 includes all Section 510(b) Claims subject to subordination pursuant to the Bankruptcy Code.

99. The Plan's treatment of Classes 4, 8, 9, 10, 11, and 12 is proper and does not represent unfair discrimination because no similarly situated Class of Claims or Interests will receive more favorable treatment under the Plan. Specifically, the Plan classifies all similarly-situated Holders of Claims and Interests together and all similarly-situated Holders of Claims and Interests will receive the same treatment. In fact, there are no similarly situated Classes or Interests pursuant to the Plan, so the Plan does not discriminate unfairly.

O. The Plan Complies with the Other Provisions of Section 1129 of the Bankruptcy Code (Sections 1129(c)–(e))

100. The Plan satisfies the remaining provisions of section 1129 of the Bankruptcy Code. ***First,*** section 1129(c) of the Bankruptcy Code, which prohibits confirmation of multiple plans, is

[116] *See Aleris Int'l*, 2010 WL 3492664, at *31 (citing *In re Armstrong World Indus., Inc.*, 348 B.R. 111, 121 (Bankr. D. Del. 2006)).

not implicated because there is only one proposed plan. ***Second,*** the purpose of the Plan is not to avoid taxes or the application of section 5 of the Securities Act of 1933. Moreover, no governmental unit or any other party has requested that the Court decline to confirm the Plan on such grounds. Accordingly, the Plan satisfies the requirements of section 1129(d) of the Bankruptcy Code. ***Finally,*** section 1129(e) of the Bankruptcy Code is inapplicable because none of the Debtors' chapter 11 cases is a "small business case." Accordingly, the Plan satisfies the requirements of section 1129(c), (d), and (e) of the Bankruptcy Code, and no party has asserted otherwise.

III. The Plan Complies with the Discretionary Provisions of Section 1123(b) of the Bankruptcy Code

101. Finally, the Plan contains provisions implementing certain releases and exculpations, compromising claims and interests, and enjoining certain causes of action. These provisions are substantially consistent with those approved by the Court in precedent chapter 11 plans.[117] Each of these provisions is appropriate because, as applicable, they (a) are the product of arm's-length negotiations, (b) were critical to obtaining the support of the various constituencies for the Plan, (c) are given for valuable consideration, (d) are fair and equitable and in the best interests of the Debtors, their Estates, and these Chapter 11 Cases, and (e) are consistent with the relevant provisions of the Bankruptcy Code and Third Circuit law. Such provisions are discussed in turn below, but, in summary, satisfy the requirements of section 1123(b).

[117] *See, e.g.*, *In re CBRM Realty Inc.*, No. 25-15343 (MBK) (Bankr. D.N.J. Sept. 5, 2025) (confirming the CBRM Plan that contained the same third party and debtor releases); *In re BlockFi Inc.*, No. 22-19361 (MBK) (Bankr. D.N.J. Oct. 3, 2023) (confirming liquidating chapter 11 plan with third party and debtor releases substantially consistent with those in the Plan); *In re Bed Bath & Beyond Inc.*, No. 23-13359-VFP (MBK) (Bankr. D.N.J. Sept. 14, 2023) (same); *In re Revel AC, Inc.,* No. 14-22654 (MBK) (Bankr. D.N.J. June 30, 2014) (same).

A. The Plan Complies with Section 1123(d) of the Bankruptcy Code

102. Section 1123(d) of the Bankruptcy Code provides that "if it is proposed in a plan to cure a default the amount necessary to cure the default shall be determined in accordance with the underlying agreement and nonbankruptcy law."[118] With respect to the Debtors' Executory Contracts or Unexpired Leases, the Plan provides for the assumption or rejection by the Debtors or the assumption and assignment thereof to the NOLA Purchaser in accordance with the NOLA Purchase Agreement, which satisfies section 1123(b)(2) of the Bankruptcy Code. Further, as contemplated by section 1123(d) of the Bankruptcy Code, the Debtors filed and served certain notices of cure costs and potential assumption and assignment of Executory Contracts and Unexpired Leases, which set forth a list of Executory Contracts and Unexpired Leases that may be assumed and assigned to the NOLA Purchaser in connection with the NOLA Sale Transaction.[119]

103. Accordingly, the Plan satisfies the requirements of section 1123(d) of the Bankruptcy Code, and no party has asserted otherwise.

B. The Plan Appropriately Incorporates Settlements of Certain Claims and Interests

104. The Bankruptcy Code states that a plan may "provide for . . . the settlement or adjustment of any claim or interest belonging to the debtor or to the estate."[120] The Plan provides for a settlement of certain Claims and Interests to the extent provided for by the Bankruptcy Code.

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[118] 11 U.S.C. § 1123(d).

[119] *See* [Docket Nos. 436, 597].

[120] 11 U.S.C. § 1123(b)(3)(A).

105. Settlements are favored in chapter 11 because they minimize litigation and expedite the administration of the bankruptcy case.[121] Settlements are considered a "normal part of the process of reorganization" and a "desirable and wise method[] of bringing to a close proceedings" that would otherwise be "lengthy, complicated, and costly."[122] Ultimately, approval of a compromise is within the "sound discretion" of the Court.[123]

106. The standards for approval of a settlement under section 1123 of the Bankruptcy Code are generally the same as those under Bankruptcy Rule 9019.[124] Generally, courts in the Third Circuit will approve a settlement by the debtors if the settlement "exceed[s] the lowest point in the range of reasonableness."[125] The Third Circuit has provided the following four criteria that a Court should consider when approving a settlement pursuant to Bankruptcy Rule 9019: (a) the probability of success in litigation; (b) the likely difficulties in collection; (c) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and (d)

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[121] *See Myers v. Martin (In re Martin)*, 91 F.3d 389, 393 (3d Cir. 1996) ("To minimize litigation and expedite the administration of a bankruptcy estate, [c]ompromises are favored in bankruptcy.") (internal quotations omitted).

[122] *Rivercity v. Herpel (In re Jackson Brewing Co.)*, 624 F.2d 599, 602 (5th Cir. 1980).

[123] *See Matter of AWECO, Inc.*, 725 F.2d 293, 297–98 (5th Cir. 1984) ("The decision of whether to approve a particular compromise lies within the discretion of the trial judge . . . The term 'discretion' denotes the absence of a hard and fast rule. When invoked as a guide to judicial action, it means a sound discretion, that is to say, a discretion exercised not arbitrarily or willfully, but with regard to what is right and equitable under the circumstances and the law, and directed by the reason and conscience of the judge to a just result.") (citations omitted); *see also In re Jackson Brewing Co.,* 624 F.2d at 602–03 (same).

[124] *See In re S B Bldg. Assocs.*, 621 B.R. at 380 ("The standards for approving a settlement are the same under both Bankruptcy Rule 9019 and section 1123(b)(3).").

[125] *In re TCI 2 Holdings*, 428 B.R. at 136 (citation omitted); *Will v. Nw. Univ. (In re Nutraquest, Inc.),* 434 F.3d 639, 644 (3d Cir. 2006) ("Settlements are favored, but the unique nature of the bankruptcy process means that judges must carefully examine settlements before approving them.").

the paramount interest of creditors.[126] In addition, the court must determine whether the proposed settlement is fair and equitable, and in the best interests of the estate.[127]

107. The Plan incorporates the settlement or adjustment of certain Claims or Interests belonging to the Debtors or to the Estates in consideration for the classification, Distributions, releases, and other benefits provided under the Plan. The settlements embodied in the Plan are fair and equitable and consistent with the Bankruptcy Code.

108. Among the compromises embodied in the Plan is the Crown Capital Noteholder Settlement, a global resolution among the Debtors, the Ad Hoc Group of Holders of Crown Capital Notes, and the NOLA Purchaser, as implemented through the Plan and the NOLA Purchase Agreement. See Plan Art. IV.C. Under this settlement, the NOLA Purchaser has agreed to provide the Crown Capital Noteholder Settlement Amount—cash equal to 30 percent of the net proceeds realized by the NOLA Purchaser from any future sale—to the Holders of Allowed Crown Capital Unsecured Claims in accordance with Article III.B.6 of the Plan.

109. In consideration for these distributions and related benefits, each Holder of an Allowed Crown Capital Unsecured Claim is deemed to hold an Allowed Claim against each Debtor in an amount equal to the amount of such Holder's Allowed Crown Capital Unsecurred Claim and shall be deemed and to have voted to accept the Plan on account of such Allowed Claim against each Debtor. The Plan further provides that, pursuant to section 1123(b) of the Bankruptcy Code, the Crown Capital Noteholder Settlement constitutes a good-faith compromise and settlement of all Claims, Interests, and controversies among the Debtors, the NOLA Purchaser,

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[126] *See In re WebSci Techs., Inc.*, 234 Fed. Appx. 26, 29 (3d Cir. 2007) (quoting *In re Martin,* 91 F.3d at 393).

[127] *See In re Nutraquest, Inc.*, 434 F.3d at 645 ("Under the 'fair and equitable' standard, [the court looks] to the fairness of the settlement to other parties, *i.e.,* the parties who did not settle.").

and the Holders of Crown Capital Unsecured Claims arising from the Crown Capital Notes or related guarantees. Confirmation of the Plan will therefore constitute the Court's approval of the Crown Capital Noteholder Settlement as fair, equitable, and reasonable and in the best interests of the Debtors, their Estates, the NOLA Purchaser, and the Holders of Crown Capital Unsecured Claims. *See* Plan Art. III.C.

110. The Crown Capital Noteholder Settlement satisfies the *Martin* factors and easily exceeds the "lowest point in the range of reasonableness." First, litigation regarding the Crown Capital Notes and related guarantees would have been complex, fact-intensive, and expensive, potentially delaying confirmation and impairing the NOLA Sale Transaction. Second, the settlement eliminates significant uncertainty regarding the allocation of sale proceeds and potential noteholder claims against the Debtors and the NOLA Purchaser. Third, the resolution was negotiated among sophisticated parties represented by experienced counsel in a transparent, arm's-length process and was integral to achieving the overall restructuring embodied in the Plan. Finally, the settlement is squarely in the best interests of creditors: it facilitates a sale expected to satisfy Allowed Other Priority Claims, Other Secured Claims, Akiri Mortgage Loan Claims, CKD Penn Mortgage Claims, and up to 100% of outstanding CIF Mortgage Claims, NOLA Go-Forward Trade Claims, Other NOLA Unsecured Claims, and RH New Orleans Unsecured Claims; establishes a Creditor Recovery Trust for the benefit of certain creditors; resolves disputes that could otherwise erode estate value; and provides a defined recovery mechanism for noteholders tied to future value creation at the NOLA Properties.

111. Accordingly, the Plan's settlements—including the Crown Capital Noteholder Settlement—satisfy the standards of section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019 and are in the best interests of the Debtors, their Estates, and all parties in interest.

C. The Plan Provides for the Sale of Estate Assets

112. Section 1123(b)(4) provides that a plan may provide for the sale of all or substantially all of the property of the estate, and the distribution of the proceeds of such sale among holders of claims or interests.[128] As permitted by section 1123(b)(4) of the Bankruptcy Code, the Plan provides for the consummation of the NOLA Sale Transaction pursuant to the NOLA Purchase Agreement, which will effectuate a value-maximizing sale of the Debtors' NOLA Properties.

113. As discussed in the Disclosure Statement, during these Chapter 11 Cases, the Debtors pursued a Court-approved, public, and transparent process for a value-maximizing sale transaction. The Debtor cast a wide net to prospective purchasers and conducted a fair marketing process in accordance with the Bankruptcy Court-approved Bidding Procedures. The NOLA Sale Transaction effectuated through the Plan is the result of those immense efforts.

114. The NOLA Sale Transaction is the result of a heavily negotiated, arm's length bargaining process. As set forth more fully in the Dundon Declaration, the NOLA Sale Transaction was proposed in good faith and appropriate under the circumstances. Accordingly, the Plan is consistent with Bankruptcy Code section 1123(b)(4).

D. Modifications of Rights of Holders of Claims and Interests

115. Section 1123(b)(5) of the Bankruptcy Code provides that a plan may "modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence, or of holder of unsecured claims, or leave unaffected the rights of holders of any class of claims."[129]

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[128] 11 U.S.C. § 1123(b)(4).

[129] 11 U.S.C. § 1123(b)(5).

116. As permitted by section 1123(b)(5) of the Bankruptcy Code, the Plan modifies, or may modify, the rights of Holders of Claims and Interests in Classes 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, and leaves unaffected the rights of Holders of Claims in Classes 1, 2A, 2B, and 2C.

E. The Plan's Release, Exculpation, and Injunction Provisions Satisfy Section 1123(b) of the Bankruptcy Code

117. The Plan includes consensual and customary releases of Claims held by the Debtors and parties in interest, an exculpation provision, and an injunction provision. These provisions are the product of good-faith, arm's-length negotiations among the Debtors and their key stakeholders, informed by the extensive investigation and review undertaken by the Independent Fiduciary and the Debtors' professionals. The releases are narrowly tailored, supported by valuable consideration provided by the Released Parties—including their efforts to negotiate and implement the Plan and their contributions that enabled the NOLA Sale Transaction and establishment of the Creditor Recovery Trust—and are critical to achieving the settlements embodied in the Plan. Moreover, the approval of the Plan by the Debtors' stakeholders strongly supports the conclusion that these Plan provisions are appropriate. The Debtors and their stakeholders believe these provisions are fair, reasonable, and in the best interests of creditors, and they are consistent with the Bankruptcy Code.

1. The Release by Holders of Claims and Interests Is Appropriate

118. The Plan provides for certain consensual third-party releases granted by Releasing Parties. The Disclosure Statement and solicitation materials clearly disclosed the third-party release in conspicuous terms and explained the consent mechanics.

119. Courts in the Third Circuit routinely approve such release provisions if, as here, they are consensual and appropriately tailored.[130] Here, Holders of Claims or Interests were afforded the opportunity to affirmatively consent to the third-party release through their Ballots or opt-in forms; only those parties who provided affirmative consent are treated as Releasing Parties under the Plan. Specifically, a Holder of a Claim in Class 3, Class 4, Class 5, or Class 6 affirmatively consented to grant the third-party release set forth in Article VIII.D of the Plan if the Holder either (a) voted to accept the Plan, or (b) abstained or did not affirmatively vote to accept the Plan but checked the box on the Holder's Ballot indicating that the Holder opts to grant the release. Holders of Claims or Interests in Class 1, Class 2A, Class 2B, Class 2C, Class 8, Class 9, Class 10, Class 11, and Class 12, which were not entitled to vote, could affirmatively consent to grant the release by submitting a completed Opt-In Form and checking the box on the form indicating their consent.

120. In addition to being consensual, the third-party release is (a) specific in scope, (b) a key inducement for stakeholder concessions, and (c) supported by valuable consideration of all of the Released Parties that will allow the Debtors to consummate the NOLA Sale Transaction, establish the Creditor Recovery Trust, and facilitate the orderly wind-down of the Debtors' affairs. The consensual third-party release provides a substantial level of finality that is fair, reasonable, and appropriate.

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[130] *See, e.g.*, *In re Indianapolis Downs,* 486 B.R. 286, 304–06 (Bankr. D. Del. 2013) (approving third-party release that applied to unimpaired holders of claims deemed to accept the plan as consensual); *U.S. Bank Nat'l Ass'n v. Wilmington Trust Co. (In re Spansion, Inc.)*, 426 B.R. 114, 144 (Bankr. D. Del. 2010) (same); *In re Wash. Mut.*, 442 B.R. 314, 352 (Bankr. D. Del. 2011) (observing that consensual third-party releases are permissible); *In re Zenith Elecs. Corp.,* 241 B.R. 92, 105, 111 (Bankr. D. Del. 1999) (approving non-debtor releases for creditors that voted in favor of the plan); *In re Mallinckrodt PLC*, 639 B.R. 837, 877-81 (Bankr. D. Del. 2022) (approving third-party release that applied to shareholders deemed to reject the plan and unsecured creditors who were unimpaired or who did not return a ballot with the opt out box checked or otherwise submit an opt out form as consensual).

2. The Debtor Release Is Appropriate

121. The releases are limited in scope and supported by consideration, including the Released Parties' support for the Plan, the NOLA Sale Transaction, and the creation and funding of the Creditor Recovery Trust. The Released Parties include: (a) the Independent Fiduciary; (b) the NOLA Purchaser; (c) the Asset Manager; (d) the Property Manager; (e) the NOLA DIP Lenders; (f) the Ad Hoc Group of Holders of Crown Capital Notes and each of its members; (g) with respect to each of the foregoing entities in clauses (b) through (f), such Entity's current and former subsidiaries, officers, directors, managers, principals, members, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals; and (h) with respect to the Debtors and the Debtors' non-Debtor subsidiaries, White & Case LLP as counsel, IslandDundon LLC as financial advisor, Ken Rosen Advisors PC as New Jersey counsel and co-counsel, and the Claims and Noticing Agent. For the avoidance of any doubt, no Person or Entity identified on the Schedule of Excluded Parties shall constitute a Released Party for purposes of the Plan.

122. Section 1123(b)(3)(A) of the Bankruptcy Code provides that a chapter 11 plan may provide for "the settlement or adjustment of any claim or interest belonging to the debtor or to the estate."[131] A debtor may release claims under section 1123(b)(3)(A) "if the release is a valid

[131] 11 U.S.C. § 1123(b)(3)(A); *See In re S B Bldg. Assocs.*, 621 B.R. at 380 ("The standards for approving a settlement are the same under both Bankruptcy Rule 9019 and section 1123(b)(3)."); *In re Nutraquest, Inc.*, 434 F.3d at 644 ("Settlements are favored, but the unique nature of the bankruptcy process means that judges must carefully examine settlements before approving them."). *See also In re WebSci Techs., Inc.*, 234 Fed. Appx. at 29 (holding that to approve a settlement pursuant to Rule 9019, the court must balance "'(1) the probability of success in litigation; (2) the likely difficulties in collection; (3) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (4) the paramount interest of the creditors.'") ((quoting *In re Martin*, 91 F.3d at 393).

exercise of the debtor's business judgment, is fair, reasonable, and in the best interests of the estate."[132]

123. Courts in this jurisdiction and elsewhere generally analyze five factors when determining the propriety of a debtor release, commonly known as the *Zenith* or *Master Mortgage* factors.[133] The analysis includes an inquiry into whether there is: (1) identity of interest between the debtor and non-debtor; (2) contribution to the plan by the non-debtor; (3) the necessity of the release to the plan; (4) overwhelming acceptance of the plan and release by creditors and interest holders; and (5) payment of all or substantially all of the claims of the creditors and interest holders.[134] These factors are "neither exclusive nor conjunctive requirements" but rather serve as guidance to courts in determining fairness of a debtor's releases.[135] The Debtor Releases easily meet the applicable standard and should be approved.[136]

124. ***First***, an identity of interest exists between the Debtors and the proposed Released Parties. All of the Debtors' Released Parties engaged as crucial participants in the Plan process and share a common goal with the Debtors in seeing the Plan succeed. The Released Parties seek to confirm the Plan and implement the transactions contemplated thereunder, and that each

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[132] *In re Spansion, Inc.*, 426 B.R. at 143; *see also In re Wash. Mut., Inc.,* 442 B.R. at 327 ("In making its evaluation [whether to approve a settlement], the court must determine whether the compromise is fair, reasonable, and in the best interest of the estate.") (internal citations omitted).

[133] *See In re Indianapolis Downs*, 486 B.R. at 303 (citing *In re Zenith Elecs. Corp.,* 241 B.R. at 110); *In re Master Mortg. Inv. Fund, Inc.*, 168 B.R. 930, 937 (Bankr. W.D. Mo. 1994). The *Master Mortgage* factors have been adopted by the Third Circuit, including application by the Bankruptcy Court of the District of New Jersey as "neither exclusive nor conjunctive requirements, but . . . guidance in the Court's determination of fairness." *See In re 710 Long Ridge Rd. Operating Co., II, LLC*, No. 13-13653 (DHS), 2014 WL 886433, at *14 (Bankr. D.N.J. Mar. 5, 2014) (citing *In re Wash. Mut.,* 442 B.R. at 346).

[134] *See In re Wash. Mut.,* 442 B.R. at 346 *(*citing *In re Zenith Elecs. Corp.*, 241 B.R. at 110; *In re Master Mortg.*, 168 B.R. at 937).

[135] *Id.* (citing *In re Master Mortg.,* 168 B.R. at 935).

[136] A further discussion of the Debtor Releases, including the facts and circumstances leading up to these Chapter 11 Cases which warrant the approval of such releases, is set forth below in Section IV.F herein.

Released Party has worked constructively with the Debtors to promote their wind-down efforts, both prior to and following the Petition Date.

125. Specifically, since September 26, 2024, the Independent Fiduciary has acted in a fiduciary capacity for the Debtors and other non-debtor entities owned by Debtors CBRM Realty Inc. and Crown Capital Holdings LLC.[137] Prior to the Petition Date, the Independent Fiduciary took steps to revitalize the Debtors' portfolio, including by ensuring that each property owned by the portfolio had sufficient staffing and other resources, with the goal of ensuring that residents had safe, clean homes, as well as providing periodic updates to the Noteholders. Since the Petition Date, the Independent Fiduciary has engaged with the Debtors' professionals and stakeholders to promote the Debtors' restructuring efforts, including by directing and overseeing the negotiation and execution of the NOLA Purchase Agreement, the marketing of the NOLA Properties, and the proposed Plan.

126. Similarly, the NOLA DIP Lender and the NOLA Purchaser are active participants in these Chapter 11 Cases, providing both the debtor-in-possession financing needed to reach confirmation and the successful bid for the NOLA Properties. Accordingly, the NOLA DIP Lender and the NOLA Purchaser maintain a strong interest in seeing the Plan confirmed and the NOLA Sale Transaction contemplated therein be consummated. Moreover, as set forth in the in the NOLA DIP Order, the Debtors may be required to indemnify the NOLA DIP Lender for certain claims. I have been advised that, where such indemnification obligations exist, there is an identity of interest between the indemnitor and the indemnitee.

[137] *See* First Day Decl.

127. The Noteholders also played a crucial role in the Plan process. As stakeholders, the Noteholders share the common goal of confirming the Plan, which includes the creation of the Creditor Recovery Trust for the benefit of, among others, Noteholders with Allowed Crown Capital Unsecured Claims. In the absence of an official unsecured creditors' committee, the Ad Hoc Group of Holders of Crown Capital Notes served as the primary voice and coordinating constituency for unsecured creditors in these Chapter 11 Cases.

128. Finally, as explained in greater detail below, the Debtors' Asset Manager and Property Manager were also integral parties to the Plan process, including the negotiation and execution of the Plan. Indeed, the services provided by these parties were necessary to preserve the value of the NOLA Properties, which is central to the Debtors' restructuring efforts. Accordingly, these parties share the common goal of ensuring the Plan's success and consummation.

129. ***Second***, the Released Parties have each made a substantial contribution to the Debtors' Estates, as each Released Party played an integral role in the formulation of the Plan and the administration of these Chapter 11 Cases. As courts in this jurisdiction have recognized, a wide variety of acts may illustrate a substantial contribution to a debtor's bankruptcy efforts.[138] As explained above, the Independent Fiduciary has negotiated with critical stakeholders, overseen the administration of these Chapter 11 Cases, and managed the negotiation, drafting, and execution of

[138] *See, e.g.*, *In re Zenith Elecs. Corp.,* 241 B.R. 92, 111 (Bankr. D. Del. 1999) (finding non-debtor parties had substantially contributed where (a) officers and directors made substantial contributions by designing and implementing the operational restructuring and negotiating the financial restructuring, (b) plan sponsor funded the plan and agreed to compromise its claim, and (c) a committee negotiated the plan and assisted in the solicitation of its constituents); *In re Tribune Co.,* 464 B.R. 126, 189 (Bankr. D. Del. 2011) (finding non-debtor party had substantially contributed where non-debtor parties entered into a settlement where non-debtor parties agreed to reduce their claim); *In re Long Ridge Road,* 2014 WL 886433, at *15 (finding that the non-debtor party had substantially contributed by providing financial support, without which the plan would not be feasible).

the Plan, including the NOLA Sale Transaction pursuant to the terms of the NOLA Purchase Agreement. Moreover, the Independent Fiduciary has agreed to forego payment of certain fees that arose prior to the Petition Date and/or may be forced to forego payment of certain fees and expenses incurred postpetition in exchange for the releases contemplated in the Plan. As a result, the Independent Fiduciary has provided substantial monetary and non-monetary contributions to the Debtors' wind-down efforts.

130. Moreover, the NOLA DIP Lender and the NOLA Purchaser have affirmatively contributed value that was necessary to consummate the Plan. Indeed, as set forth above, the NOLA DIP Lender provided the financing needed to fund these Chapter 11 Cases, including to market, auction, and sell the NOLA Properties, and the NOLA Purchaser invested the time and resources to negotiate the NOLA Purchase Agreement.[139] Accordingly, the NOLA DIP Lender and the NOLA Purchaser have made substantial contributions to the Debtors' wind-down efforts.

131. The Noteholders also provided substantial contributions to the Debtors and their Estates and were instrumental in negotiating the terms of the Plan on behalf of a key group of Holders of Unsecured Claims. Indeed, certain of the Noteholders have agreed to serve on the Advisory Committee (as defined in the Creditor Recovery Trust Agreement), which will ensure that the Creditor Recovery Trust is managed by a body with a fiduciary responsibility to its beneficiaries.

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[139] *See In re Midway Gold US, Inc.,* 575 B.R. 475, 510 (Bankr. D. Colo. 2017) (finding that without the contributions of the third parties being granted releases by the debtors, which include the provision of financing for the chapter 11 cases and consent to the use of their cash collateral by the debtors, the chapter 11 cases would not likely have reached confirmation); *In re Premier Int'l Holdings, Inc.,* 2010 WL 2745964, at *10 ("[T]he releases are an integral part of the agreement with the [non-debtor parties] to finance the chapter 11 cases and to fund the [p]lan.").

132. The Debtors' professionals have made significant contributions to the Debtors' efforts in these Chapter 11 Cases. With respect to Debtors' counsel, White & Case LLP played an instrumental role in the Debtors' bankruptcy proceedings, including by (i) facilitating the commencement of the chapter 11 cases through the filing of the Debtors' voluntary petitions, (ii) securing, revising, and filing motions that, among other things, secured the necessary postpetition financing needed to administer these Chapter 11 Cases, and (iii) negotiating and filing the proposed Plan and Disclosure Statement.[140] Similarly, the Debtors' New Jersey counsel, Ken Rosen Advisors PC, has provided vital contributions to the Debtors throughout these Chapter 11 Cases, including by assisting the Debtors as New Jersey counsel with respect to matters and proceedings in the Chapter 11 Cases.

133. IslandDundon has similarly made substantial contributions to the Debtors' bankruptcy efforts. Indeed, as set forth above, IslandDundon advised the Debtors in connection with the NOLA Purchaser's proposed terms to purchase the NOLA Properties.

134. The Debtors' Claims and Noticing Agent provided valuable services that have allowed the Debtors to propose and seek to confirm the Plan. For example, the Claims and Noticing Agent solicited votes from each class of creditors entitled to vote on the Plan, tabulated these votes, and published the Voting Report setting forth the results of the vote, along with ensuring that the Disclosure Statement and Plan were properly noticed.

135. In addition to the Independent Fiduciary, the Debtors' professionals, including White & Case LLP, IslandDundon LLC, Ken Rosen Advisors PC, and Kurtzman Carson Consultants, LLC dba Verita Global, have agreed to forego payment of certain fees that arose prior

[140] *See Attorney Monthly Fee Statement for the Period May 19, 2025 Through May 31, 2025* [Docket No. 369]; *Attorney Monthly Fee Statement for the Period August 1, 2025 Through August 31, 2025* [Docket No. 591].

to the Petition Date and/or may be forced to forego payment of certain fees and expenses incurred postpetition, in exchange for the releases contemplated in the Plan.

136. As explained above, the NOLA Sale Transaction is a crucial cornerstone of the proposed Plan. The Debtors' Property Manager was charged with day-to-day operations, tenant relations, staffing, and maintenance of the Debtors' properties, including the NOLA Properties, while the Asset Manager's duties included contracting with professionals, including property managers and contractors, and monitoring their performance, managing and disbursing funds, establishing reserves, and recommending cash resource investment strategies, reviewing and monitoring the property manager's operations, preparing strategic asset and marketing plans, recommending and overseeing major repairs, replacements, and critical improvements at the Debtors' properties, and providing information for annual financial statements and tax returns.[141] These services helped obtain the highest and best bid for the NOLA Properties and kept the Debtors operational during the course of these Chapter 11 Cases. Accordingly, the Asset Manager and Property Manager and the Claims and Noticing Agent provided substantial value to the Debtors, and thus the Debtor Releases are appropriate with respect to these parties.

137. ***Third***, the Debtor Releases are essential to the success of the Debtors' Plan because they constitute an integral term of the Plan. Absent the Debtor Releases, it is highly unlikely that the Released Parties would have agreed to support the Plan. As described above, each Released Party contributed substantial value to these Chapter 11 Cases and did so with the understanding that they would receive releases from the Debtors. In the absence of the Released Parties' support, the Debtors would not be in a position to confirm the Plan, implement the Plan, and maximize

[141] *See Debtors' Motion for Entry of an Order Authorizing the Debtors to Assume Certain Amended and Restated Property Management and Asset Management Agreements* [Docket No. 128].

value for creditors. The Debtor Releases, therefore, are essential to the Debtors' Restructuring Transactions.

138. For example, the NOLA DIP Lender insisted on these Debtor Releases during the negotiation of the NOLA DIP Credit Agreement, as evidenced by that certain NOLA Debtors Binding Term Sheet for Senior Secured, Superpriority Debtor-in-Possession Financing dated as of May 26, 2025, attached as Exhibit 1 to the NOLA DIP Order.[142]

139. Importantly, the Debtor Releases are the product of arm's-length negotiations between the Debtors and their key stakeholders, all of which was overseen by the Debtors' Independent Fiduciary. In consideration for the Debtor Releases, the Debtors and their Estates will receive releases from each of the Releasing Parties, along with the substantial contributions made by each Released Party as set forth above. The Debtor Releases provide finality, and underpin the settlement and compromise of issues achieved by the Plan. Therefore, the inclusion of the Debtor Releases is appropriate and inures to the benefit of all the Debtors' stakeholders.

140. ***Fourth***, a substantial majority of the Debtors' creditors voted to accept the plan with the proposed releases. As reflected in the Voting Report, all but one of the classes entitled to vote on the Plan voted to accept it. Further, apart from the U.S. Trustee—who is not an affected creditor under the Plan—no party has objected specifically to the Debtor Releases. Accordingly, there is overwhelming support of the Debtor Releases by the parties affected by such releases.

3. The Exculpation Provision Is Appropriate

141. Article VIII.E of the Plan provides that each Exculpated Party shall be released and exculpated from any Cause of Action for acts or omissions in connection with these Chapter 11

[142] *See* Kelly Hamilton Final DIP Order, Ex. 1.

Cases, the Plan, and related transactions, except for acts or omissions determined by Final Order to constitute actual fraud, willful misconduct, or gross negligence. The exculpation is narrowly tailored in time and scope.

142. Courts evaluate the appropriateness of exculpation provisions based on a number of factors, including whether the plan was proposed in good faith, whether liability is limited, and whether the exculpation provision was necessary for plan negotiations.[143] Exculpation provisions that are limited to claims not involving a criminal act, actual fraud, willful misconduct, or gross negligence, are customary and generally approved in this district under appropriate circumstances.[144] Unlike third-party releases, exculpation provisions do not affect the liability of third parties *per se* but rather set a standard of care of gross negligence or willful misconduct in future litigation by a non-releasing party against an "Exculpated Party" for acts arising out of the Debtors' restructuring.[145] Exculpation for parties participating in the Plan process is appropriate where Plan negotiations could not have occurred without protection from liability.[146]

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[143] *See In re Congoleum Corp.,* 362 B.R. 167, 195–97 (Bankr. D.N.J. 2007) (evaluating the appropriateness of the plan's exculpation provisions based on whether the parties played a significant role in the negotiations that led to the plan and whether the exculpation is necessary to the plan).

[144] *See In re Wash. Mut., Inc.,* 442 B.R. at 351 (holding that an exculpation clause that encompassed "the fiduciaries who have served during the chapter 11 proceeding: estate professionals, the [c]ommittees and their members, and the [d]ebtors' directors and officers" was appropriate); *In re BlockFi Inc.,* No. 22-19361 (MBK) (Bankr. D.N.J. Oct. 3, 2023) (confirming plan where exculpation provision covered the debtors and wind down debtors, the creditors' committee, and related parties, including current and former control persons and professionals); *In re Bed Bath & Beyond Inc.,* No. 23-13359-VFP (MBK) (Bankr. D.N.J. Sept. 14, 2023) (same).

[145] *See In re PWS Holding Corp.,* 228 F.3d at 245 (finding that an exculpation provision "is apparently a commonplace provision in Chapter 11 plans, [and] does not affect the liability of these parties, but rather states the standard of liability under the Code"); *see also In re Premier Int'l Holdings, Inc.,* 2010 WL 2745964, at *10 (approving a similar exculpation provision as that provided for under the Plan); *In re Spansion, Inc.,* No. 09-10690 (KJC), 2010 WL 2905001, at *16 (Bankr. D. Del. 2010) (same).

[146] *In re Aegean Marine Petroleum Network, Inc.,* 599 B.R. 717, 721 (Bankr. S.D.N.Y. 2019) ("I believe that an appropriate exculpation provision should say that it bars claims against the exculpated parties based on the negotiation, execution, and implementation of agreements and transactions that were approved by the Court.").

143. The Exculpated Parties have participated in good faith in formulating and negotiating the Plan as it relates to the Debtors, and they should be entitled to protection from exposure to any lawsuits related to this chapter 11 process filed by unsatisfied parties. Moreover, the Exculpation provision and the liability standard it sets represent a conclusion of law that flows logically from certain findings of fact that the Court must reach in confirming the Plan as it relates to the Debtors. As discussed above, this Court must find, under section 1129(a)(2), that the Debtors have complied with the applicable provisions of the Bankruptcy Code. Additionally, this Court must find, under section 1129(a)(3), that the Plan has been proposed in good faith and not by any means forbidden by law. These findings apply to the Debtors and, by extension, their Related Parties. Further, these findings imply that the Plan was negotiated at arm's-length and in good faith.

144. Here, the estate fiduciaries and professionals acted in good faith and in reliance on the Bankruptcy Code and orders of the Court, which is consistent with sections 105, 1125, and 1129(a)(1) of the Bankruptcy Code. The exculpation provision is an integral component of the Plan and supports an efficient conclusion of these Chapter 11 Cases while preserving accountability for wrongful conduct.

4. The Injunction Provision Is Appropriate

145. Article VIII.F of the Plan implements the Plan's release and exculpation provisions by permanently enjoining all Persons and Entities who have held, hold, or may hold Claims or Interests that are fully satisfied pursuant to the Plan or any Claim or Interest that is subject to the releases and exculpations set forth in the Plan from enforcing, pursuing, or seeking any setoff or relief with respect to such Claims or Interests, except for the receipt of the payments or Distributions that are contemplated by the Plan. Thus, the Injunction Provision is a necessary part

of the Plan precisely because it enforces the discharge, release, and exculpation provisions that are centrally important to the Plan.[147] Further, the injunction provided for in the Plan is narrowly tailored to achieve its purpose.

IV. The Remaining Objections to Confirmation of the Plan and Final Approval of the Adequacy of the Disclosure Statement Should be Overruled

146. The Debtors received two objections: the U.S. Trustee Objection and the Sewerage Objection. To the extent the Debtors are unable to consensually resolve such objections prior to the Confirmation Hearing, the Debtors request that the Court overrule such objections for the reason set forth herein.

A. The Court Should Overrule the U.S. Trustee's Objection to the Debtor Releases Under the Plan

147. While the Debtors and the U.S. Trustee have resolved several informal objections to the Plan, the U.S. Trustee objects to the releases granted by the Debtors and their Estates pursuant to Article VIII.C of the Plan.[148] Specifically, the U.S. Trustee argues that: (i) it is inappropriate for estate fiduciaries to receive both an exculpation and a release, (ii) the Plan does not establish that each of the Releasing Parties are providing adequate consideration in exchange for receiving such releases, and (iii) there are "many individuals and entities included in n the definition of Released Parties that are unknown parties."[149] For the following reasons, the U.S. Trustee Objection should be overruled.

1. Estate Fiduciaries Are Entitled to Receive a Release in Addition to an Exculpation

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[147] *See SEC v. Drexel Burnham Lambert Grp. (In re Drexel Burnham Lambert Grp.)*, 960 F.2d 285, 293 (2d Cir. 1992) (holding that a court may approve an injunction provision where such provision "plays an important part in the debtor's reorganization plan").

[148] *See* U.S. Trustee Objection.

[149] U.S. Trustee Obj. ¶ 29-36.

148. The U.S. Trustee takes issue with the estate fiduciaries receiving the Debtor Releases when they "are being exculpated for their actions or inactions between the Petition Date and the Effective Date" under the Plan.[150] As an initial matter, the U.S. Trustee offers no support for this argument. In fact, courts within the Third Circuit have approved releases in favor of exculpated parties—even where such releases were contested.[151] Although some courts have questioned, in dicta, whether it is necessary for fiduciaries to receive both a release and exculpation, those courts have granted both where the record demonstrated that the releases were necessary and the result of substantial contributions.[152]

149. Here, it is appropriate for the estate fiduciaries to receive a release, as each party has contributed to the Plan process and waived significant prepetition claims.[153] Further, the estate

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150 U.S. Trustee Obj. ¶¶ 36.

151 *See, e.g.*, *In re BL Santa Fe, LLC*, Case No. 21-11190 [Docket No. 162] (Bankr. D. Del. 2021) (approving uncontested debtor releases defining "released parties" to include, among others, "exculpated parties"); *In re MEA RemainCo Holdings, LLC*, Case No. 20-12088 [Docket No. 508] (Bankr. D. Del. 2021) (same); *In re Chaparral Energy, Inc.*, Case No. 16-11144 [Docket No. 958] (Bankr. D. Del. 2017) (same). This Court has even approved plans that include exculpated parties in the definition of released parties in cases where the U.S. Trustee has objected to the proposed releases. *See, e.g.*, *In re InMarketing Group, Inc.*, Case No. 19-25754 (SLM) [Docket No. 212] (Bankr. D.N.J. 2019) (approving contested debtor releases in favor of exculpated parties where debtors agreed to limit releases to certain of the exculpated parties and filed a revised plan reflecting such compromise); *In re MRPC Christiana LLC*, 18-26567 (SLM) [Docket No. 345] (Bankr. D.N.J. 2018) (approving contested debtor releases defining "exculpated parties" identically with "released parties" where debtors did not file an amended plan or other pleading evidencing a compromise)

152 *See, e.g.*, *In re Wash. Mut., Inc.*, 442 B.R. at 350 (holding that proposed releases to exculpated debtor professionals did not satisfy *Zenith* factors absent evidence that such parties contributed to debtors' reorganization or that releases were necessary); *In re PWM Property Management LLC*, Case No. 21-11445 (MFW) (Bankr. D. Del. Oct. 31, 2021) (granting debtor releases to estate fiduciaries upon evidence at confirmation hearing that such releases were necessary and the product of substantial contributions). In *PWM*, at the confirmation hearing, the court requested that the debtors remove exculpated professionals from the definition of released parties, stating that it did not "think there's any reason to grant a release that's coterminous with the typical exculpation." Aug. 30, 2022 Hr'g Tr., 35:20-24 [Docket No. 993]. Ultimately, however, upon representations by the plan sponsor that such debtor releases were necessary and the product of substantial contributions, the court granted the releases to estate fiduciaries but explicitly noted that its confirmation order was not to be used as persuasive authority. *Id*. at 39:1-5.

153 *See supra* § III.E.2

fiduciaries would not have been willing to take on this matter but for the assurance of obtaining the Debtor Releases given the unique circumstances that led to these Chapter 11 Cases.[154]

150. These Chapter 11 Cases were filed to restructure the Crown Capital Portfolio following Mr. Silber's fraud and conviction. Since September 2024, estate professionals have worked diligently to revitalize the Crown Capital Portfolio—a challenging endeavor due to the severe mismanagement and neglect attributable to Mr. Silber and his co-conspirator.[155] As a result of this history, it is particularly appropriate for the estate fiduciaries to be granted a release as well as an exculpation. In accordance with applicable law, the exculpations provided under the Plan apply to conduct throughout these Chapter 11 Cases.[156] However, the estate fiduciaries and professionals have been working on this matter before the Petition Date and were appointed in the midst of extreme turmoil. The Debtor Releases are therefore necessary to protect the Released Parties from potential claims arising prior to the Petition Date that stem from no fault of their own, but rather from Mr. Silber's misconduct. Without these releases, fiduciaries and professionals who played no role in the fraud could nonetheless face ongoing litigation related to Mr. Silber's actions. Accordingly, the Debtor Releases should be approved as to these parties.

2. Estate Fiduciaries Are Entitled to Receive a Release in Addition to an Exculpation

151. As explained above in Section III.E.2 herein, all estate fiduciaries and professionals are entitled to the Debtor Releases because (1) an identity of interest between the parties exists; (2) each party has made a substantial contribution to the plan; (3) the Debtor Releases are necessary

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154 *Id*.

155 *See* First Day Decl. at 5.

156 *See In re Wash. Mutual*, 442. B.R. at 348.

to the reorganization; and (4) the Plan and Debtor Releases have been accepted by creditors and interest holders.

3. The Scope of the Debtor Releases Is Appropriate

152. The U.S. Trustee briefly notes that the Debtor Releases are improper to the extent that "unknown parties" are included in the definition of Released Parties.[157] But that is not the case. Instead, the releases extend only to narrowly defined categories of parties affiliated with the primary Released Parties—namely, current and former subsidiaries, officers, directors, managers, principals, members, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals. The U.S. Trustee offers no additional support or explanation for its objection. This Court has previously approved plans that included debtor releases in favor of similarly situated parties.[158]

153. Further, the unique facts and circumstances leading up to the Chapter 11 Cases, discussed above (*see supra* at ¶¶ 3-11), support the inclusion of related parties of the NOLA Purchaser, the Asset Manager, the Property Manager, the NOLA DIP Lenders, and the Noteholders (such named parties, the "**Primary Released Parties**"), including their "representatives" and "other professionals" for purposes of the Debtor Releases.[159] As described above (*see supra* ¶¶ 120–137), each Primary Released Party is entitled to the Debtor Releases under the standard set forth in *Zenith*. Each has worked constructively with the Debtors to facilitate their efforts during

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[157] U.S. Trustee Obj. ¶ 29.

[158] *See, e.g.*, *In re Marketing Group, Inc.*, Case No. 19-25754 (SLM) [Docket No. 212] (Bankr. D.N.J. 2019) (approving contested debtor releases and resolution of similar objection by the U.S. Trustee where debtors agreed to limit releases to certain parties); *id.* [Docket No. 207] (such revised releases were limited to "Alan Traiger, David Weiss (the two Holders of Equity Interests) (collectively, the "Principals"), the DIP Lenders, the 2018 Lenders, the Creditors' Committee, each member of the Creditors' Committee, ***and their respective financial advisors, attorneys, and other professionals***.") (emphasis added).

[159] *See* Plan Art. I.A.122 (defining "Released Party").

these cases, both before and after the Petition Date, and has made substantial contributions to the Debtors' Estates—whether through their roles in financing these Chapter 11 Cases, waiving certain claims against the Debtors, advancing the Plan process, supporting the NOLA Sale Transaction, or assisting in the overall administration of the cases. These critical efforts would not have been possible without the support of their respective representatives, professionals, and other related parties. Without the inclusion of these related parties in the Debtor Release, the Primary Released Parties would not have agreed to support the Plan. Accordingly, the *Zenith* analysis justifying the Debtor Releases for each Primary Released Party likewise supports extending those releases to their affiliated representatives, professionals, and related parties. For the reasons set forth above, the Debtor Releases should extend to all Released Parties, including the estate fiduciaries, their respective representatives, professionals, and other related parties identified therein.

B. The Court Should Overrule the Sewerage Objection to the Plan

154. The SWBNO objects to confirmation of the Plan on several grounds, asserting that (i) the Plan unfairly discriminates against Class 5 vis-à-vis Classes 6 and 7, (ii) the NOLA Sale Transaction fails to maximize value for the Debtors' estates, (iii) the Debtors have not satisfied the business judgment standard in connection with rejection of the SWBNO Contracts, and (iv) the Plan lacks sufficient clarity regarding classification, contract treatment, and SWBNO's potential administrative expense rights. Each of these arguments lacks merit.

155. As set forth herein, the Plan satisfies the requirements of section 1129 of the Bankruptcy Code and fully comports with applicable law governing classification, sale transactions, and executory contract treatment. The Sewerage Objection reflects a misunderstanding of both the structure of the Plan and the distinct nature of the Debtors' estates. The Plan's classification scheme, sale process, and contract provisions are the product of extensive

negotiations, a robust marketing process, and sound business judgment—all of which are supported by the evidentiary record.

156. The Debtors respectfully submit that the Sewerage Objection should be overruled in its entirety. The Plan is fair, equitable, and proposed in good faith. It maximizes value for all creditors, provides for equal treatment among similarly situated claimants, and satisfies all confirmation requirements under the Bankruptcy Code.

1. The Plan Does Not Unfairly Discriminate Against Class 5

157. Although the Bankruptcy Code does not provide a standard for determining when "unfair discrimination" exists, courts typically examine the facts and circumstances of the particular case to make the determination.[160]

158. In general, courts have held that a plan unfairly discriminates in violation of section 1129(b) of the Bankruptcy Code *only if* it provides materially different treatment for creditors and interest holders with similar legal rights without compelling justifications for doing so.[161] A threshold inquiry in assessing whether a proposed plan of reorganization unfairly discriminates

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[160] *See In re TCI 2 Holdings, LLC*, 428 B.R. at 158 (neglecting to apply a set standard or test to ascertain whether a plan unfairly discriminates, instead opting to consider "various standards" for a general analysis of unfair discrimination including whether the discrimination is "supported by a reasonable basis" and is "proposed in good faith"); *In re S B Bldg. Assocs*., 621 B.R. at 375 (considering the unique factual circumstances to determine whether the requirements of section 1129(b) are satisfied*); Hargreaves v. Nuverra Env't Sols., Inc. (In re Nuverra)*, 590 B.R. 75, 93 (D. Del. 2018), aff'd, 834 F. App'x 729 (3d Cir. 2021), *as amended* (Feb. 2, 2021) ("As unfair discrimination is not defined in the Bankruptcy Code, courts must examine the facts and circumstances of the particular case to determine whether unfair discrimination exists.").

[161] *See In re Ocean View Motel, LLC*, No. 20-21165 (ABA), 2022 WL 243213, at *1 (Bankr. D.N.J. Jan. 25, 2022) (stating that "[u]nder 1129(b)(1), a plan unfairly discriminates when it treats similarly situated classes differently without a reasonable basis for the disparate treatment") (citation omitted); *In re Lernout & Hauspie Speech Prods., N.V*., 301 B.R. 651, 661 (Bankr. D. Del. 2003) (permitting different treatment of two classes of similarly situated creditors upon a determination that the debtors showed a legitimate basis for such discrimination); *In re Johns-Manville Corp.*, 68 B.R. 618, 636 (Bankr. S.D.N.Y. 1986) (finding no unfair discrimination where the interests of objecting class were not similar or comparable to those of any other class).

against a dissenting class is whether the dissenting class is equally situated to the class allegedly receiving more favorable treatment.[162]

159. Applying these standards, the Plan does not unfairly discriminate against Class 5. Class 5 consists of all Unsecured Claims against Debtors RH Chenault Creek LLC, RH Copper Creek LLC, RH Lakewind East LLC, RH Windrun LLC, RH New Orleans Holdings LLC, and Laguna Reserve Apts Investor LLC that are not NOLA Go-Forward Trade Claims. By contrast, Class 6 Crown Capital Unsecured Claims and Class 7 RH New Orleans Claims arise under a distinct set of prepetition financing instruments—specifically, the approximately $201.5 million in unsecured notes issued by Crown Capital and guaranteed by RH New Orleans Holdings MM LLC. These note obligations were undertaken as part of a capital markets financing, not in the ordinary course of trade or operations, and thus reflect a different credit profile, risk allocation, and recourse structure than the general unsecured claims comprising Class 5. Because the note obligations are supported by separate debt instruments, obligors, and asset pools, their classification apart from general unsecured claims is both appropriate and consistent with section 1122(a) of the Bankruptcy Code.

160. Indeed, as mentioned herein, to satisfy section 1122 not all substantially similar claims or interests must be placed in the same class, nor must all similarly situated claims receive identical treatment under a plan.[163] Courts in this jurisdiction and other jurisdictions have

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[162] *See In re Aleris Int'l, Inc*., 2010 WL 3492664, at *31 (citing *In re Armstrong World Indus*., 348 B.R. at 121).

[163] *In re Greate Bay Hotel & Casino, Inc.*, 251 B.R. 213, 224 (Bankr. D.N.J. 2000) ("Separate classification of similar claims has been found to be permissible where the classification is offered in good faith, does not foster an abuse of the classification system, and promotes the rehabilitative goals of Chapter 11."); *In re Nickels Midway Pier, LLC*, No. 03-49462 (GMB), 2010 WL 2034542, at *7 (Bankr. D.N.J. May 21, 2010) (proffering just one rule regarding classification of separate classification of similar classes under section 1122, which is that "thou shalt not classify similar claims differently in order to gerrymander an affirmative vote on a reorganization plan").

recognized that that debtors have significant flexibility in placing similar claims into different classes, provided there is a rational basis to do so.[164] Courts have accepted various independent grounds for separate classification, including differences in the legal rights of claimholders[165] or a debtor's consideration of non-creditor interests.[166] Consistent with that principle, courts have repeatedly approved plans that separately classify noteholder claims from general unsecured claims, recognizing that capital markets debt and trade or operational liabilities arise from fundamentally different transactions and relationships.[167]

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[164] *See In re Rochem, Ltd*., 58 B.R. 641, 642 (Bankr. D.N.J. 1985) ("Although Section 1122(a) of the Code requires that claims be substantially similar within a particular class, there is no requirement within Section 1122 or elsewhere in the Code that all substantially similar claims be included within a particular class."). Courts have identified grounds justifying separate classification, including: (a) where there are good business reasons for separate classification, and (b) where members of a class possess different legal rights. *See John Hancock Mut. Life Ins. Co. v. Route 37 Bus. Park Assocs*., 987 F.2d 154, 158–59 (3d Cir. 1993) (holding that, as long as each class represents a voting interest that is "sufficiently distinct and weighty to merit a separate voice in the decision whether the proposed reorganization should proceed," the classification is proper); *In re Jersey City Med. Ctr*., 817 F.2d 1055, 1061 (3d Cir. 1987) (recognizing that separate classes of claims must be reasonable and allowing a plan proponent to group similar claims in different classes); *see also Frito-Lay, Inc. v. LTV Steel Co. (In re Chateaugay Corp.)*, 10 F.3d 944, 956–57 (2d Cir. 1993) (finding separate classification appropriate because classification scheme had a rational basis related to the bankruptcy court-approved settlement); *In re Heritage Org., L.L.C.*, 375 B.R. at 303 ("[T]he only express prohibition on separate classification is that it may not be done to gerrymander an affirmative vote on a reorganization plan."); *In re 500 Fifth Ave. Assocs*., 148 B.R. 1010, 1018 (Bankr. S.D.N.Y. 1993) (holding that, although discretion is not unlimited, "the proponent of a plan of reorganization has considerable discretion to classify claims and interests according to the facts and circumstances of the case" (quoting *In re Bryson Props., XVIII*, 961 F.2d 496, 502 (4th Cir. 1992))), *aff'd*, No. 93 CIV. 844 (LJF), 1993 WL 316183 (S.D.N.Y. May 21, 1993); *In re Drexel Burnham Lambert Grp. Inc.*, 138 B.R. 723, 757 (Bankr. S.D.N.Y. 1992) ("Courts have found that the Bankruptcy Code only prohibits the identical classification of dissimilar claims. It does not require that similar classes be grouped together . . . .").

[165] *See In re Charter Commc'ns*, 419 B.R. 221, 264 (Bankr. S.D.N.Y. 2009); *In re Drexel Burnham Lambert Grp*., Inc., 138 B.R. 714, 715 (Bankr. S.D.N.Y. 1992).

[166] *See In re Save our Springs (S.O.S.) Alliance, Inc*., 632 F.3d 168, 174 (5th Cir. 2011) (holding that a non-creditor interest may justify separate classification if one creditor has "a different stake in the future viability" of the debtor's business that may cause it to vote for reasons other than its economic interest in the claim) (internal citation omitted).

[167] *In re Mallinckrodt PLC*, No. 20- 12522 (JTD), 2022 WL 404323, at *6 (Bankr. D. Del. Feb. 8, 2022) (confirming plan with separate classes for guaranteed note claims and general unsecured claims); *In re Charter Commc'ns*, 419 B.R. 221, 264 (Bankr. S.D.N.Y. 2009) (finding separate classification of general unsecured claims and noteholders was "appropriate given the disparate legal rights and payment expectations" and relying upon alternate sources of recovery as further grounds for separate classification); *In re Mesa Air Grp., Inc*., No. 10-10018 (MG), 2011 Bankr. LEXIS 189, *77 (Bankr. S.D.N.Y Jan. 20, 2011) (confirming plan with separate classes for guaranteed notes and general unsecured claims); *In re Mirant Corp*., No. 03-46590, 2007 WL 1258932, at *7 (Bankr. N.D. Tex. Apr. 27, 2007) (permitting separate classification because holders of claims had different legal interests in the debtor's estate); *see also In re WeWork Inc.*, No. 23-19865 (JKS) (Bankr. D.N.J. May 30, 2025)

161. The differing recoveries among Classes 5, 6, and 7 therefore result not from discriminatory treatment, but from the distinct nature of the underlying claims and the discrete sources of recovery available to each. Class 5 claims generally consist of trade and operating liabilities incurred in the ordinary course of business and are limited to the Cash proceeds of the sale of the NOLA Properties. By contrast, Classes 6 and 7 represent noteholder claims arising from prepetition financing transactions and are entitled, under the Plan, to share in additional recoveries distributed through the Creditor Recovery Trust—including, for example, Claims and Causes of Action against Mark Silber, Frederick Shulman, Piper Sandler & Co., and other Excluded Parties—because those recoveries stem from the same transactions and capital structures that gave rise to the notes themselves. All Class 5 creditors receive equal treatment within their class, and no junior class receives or retains any property under the Plan until Class 5 has received its full pro rata share of the proceeds from the NOLA Sale Transaction. Accordingly, the Plan does not unfairly discriminate against Class 5 and satisfies section 1129(b) of the Bankruptcy Code.

2. The NOLA Sale Transaction Maximizes Estate Value

162. SWNBO objects to the outcome of the sale, asserting that excluding the Noteholder Recovery in the NOLA Sale Transaction structure "would likely" have produced more cash.[168] That is speculation unsupported by the record.

[Docket No. 2060] (approving plan that separately classified and provided different treatment to general unsecured claims and unsecured noteholder claims); *In re Invitae Corp.*, No. 24-11362 (MBK) (Bankr. D.N.J. August 2, 2024) [Docket No. 913] (approving plan that separately classified and provided different treatment to parent unsecured claims and subsidiary unsecured claims).

[168] SWBNO Obj. ¶¶ 10.b, 17-20.

163. The legal standard focuses on value maximization through a fair process and the Debtors' sound business judgment, not on a litigant's hindsight preference for a particular form of consideration.[169] Here, the Debtors complied with Court-approved procedures, negotiated at arm's length, consulted with the Consultation Parties, and acted at the direction of the Independent Fiduciary with respect to the NOLA Properties. Although the Debtors received multiple bids by the September 11, 2025 bid deadline, the Debtors received only one Qualifying Bid for all four of the NOLA Properties—the bid from the NOLA Purchaser—for consideration of $26,125,000, on terms consistent with the Bidding Procedures. This record demonstrates good faith and sound business judgment.

164. In any event, SWBNO's critique of "non-cash" consideration ignores the Bidding Procedures, which expressly permit value in forms beyond cash.[170] SWNBO did not file an objection to the Bidding Procedures, did not appear at the hearing, did not appeal the Bidding Procedures Order, and did not seek an extension of time to file an appeal.[171] SWBNO cannot

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[169] *See e.g.*, *In re New Rite Aid*, No. 25-14861 (MBK), 2025 Bankr. LEXIS 2317, at *7 (Bankr. D. N.J. Sep. 15, 2025) (overruling a lessor's objection to the sale of multiple, packaged leases wherein the lessor argued that the debtors should have instead subjected each individual lease to a competitive bidding process, and noting that, although such a process "*could* have resulted in a higher individual bid for a given lease, such a result is not guaranteed," thus, absent evidence of fraud or collusion, the Court would not reverse the results of a properly conducted auction); *In re TWA*, No. 01-00056 (PJW), 2001 Bankr. LEXIS 980, at *32-33 (Bankr. D. Del. Apr. 2, 2001) (holding that the purpose of conducting a sale of estate assets is to "maximize the benefit to the debtor's entire estate. Where a sale results in disparate treatment of similarly situated creditors, the sale may appear to be at the expense of individual creditor constituencies. However, if the sale is in the best interests of the estate, it follows that the entire estate suffers in the absence of the sale."); *see also See In re Bigler, LP*, 443 B.R. 101, 109 (Bankr. S.D. Tex. 2010) ("[A] bankruptcy court abuses its discretion when, after a properly conducted auction has already been held, it reopens the bidding process and approves a late bid merely because a slightly higher offer has been received after the bidding is closed.") (citing *In re Gil-Bern Indus., Inc.*, 526 F.2d 627, 629 (1st Cir. 1975)).

[170] Bidding Procedures Order ¶ 11.

[171] Pursuant to Federal Rule of Bankruptcy Procedure 8002(a) and (c), a party seeking to appeal the Bidding Procedures Order must: (a) have filed a notice of appeal on or before August 29, 2025, (b) have sought to extend the appeal period on or before August 29, 2025, (c) file a motion seeking an extension of time upon a showing of "excusable neglect" on or before September 18, 2025.

collaterally attack the Bidding Procedures Order now in connection with plan confirmation.[172] The Noteholder Recovery is a bargained-for term that resolved complex intercreditor disputes and aligned stakeholders to enable the transaction. The proper question is whether, in the aggregate, the proposal represents the highest and best offer; here, it does.

165. The Noteholder Recovery forms part of a comprehensive settlement embedded in the Plan to resolve Crown Noteholder disputes and clear the path to closing. The Sale Transaction (i) delivers $26,125,000 in consideration, (ii) is expected to satisfy the DIP Facility in full in cash, (iii) resolves the Cleveland International Fund–NRP West Edge mortgage dispute, and (iv) provides a defined sharing mechanism for Holders of Crown Capital Unsecured Claims through the Noteholder Recovery. Collectively, these features maximize creditor recoveries.

166. SWBNO's claim that, absent the Noteholder Recovery, the Purchaser "would almost certainly" have paid more cash is conjecture that contradicts the bid results and asks the Court to replace evidence with speculation.[173] The Noteholder Recovery does not represent cash currently held by the NOLA Purchaser and does not divert any cash from the Debtors' Estates. It is a contingent obligation of the NOLA Purchaser payable only from its future net proceeds realized from any sale of the NOLA Properties. Stripping out that term would not magically convert it into incremental cash to the Estates upon closing. SWBNO does not identify a single higher and better bid the Debtors declined to pursue, nor does it challenge the fairness of access, timing, or information. Instead, it improperly asks the Court to re-trade a negotiated, arm's-length

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[172] Upon expiration of the appeal period, a bankruptcy court's order becomes final and parties who failed to seek appropriate relief will be bound by the terms of that order. *Fox v. Cong. Fin. Corp. (In re Target Indus., Inc.)*, 328 B.R. 99, 115 (Bankr. D. N.J. 2005) (citing *Katchen v. Landy*, 382 U.S. 323, 334 (1966)).

[173] SWBNO Obj. ¶ 18.

term. That is not the standard.[174] Where, as here, the Debtors ran a robust process and produced a transaction expected to pay the DIP in full and resolve key disputes, the sale reflects sound business judgment and value maximization.

167. Furthermore, courts in this Circuit have consistently held that a completed, court-sanctioned sale should not be reopened absent clear evidence of fraud, unfairness, mistake, or a gross inadequacy of price.[175] This principle is particularly strong where the proposed sale was conducted pursuant to Court-approved procedures.[176] Here, SWBNO offers no such evidence. There is no showing of fraud, unfairness, or an inadequate price—indeed, SWBNO has not demonstrated that a viable competing bid for all four of the NOLA Properties even exists.

168. Accordingly, the inclusion of the Noteholder Recovery is a reasonable, value-enhancing component of the overall consideration that enabled the Debtors to maximize value for the benefit of their estates and creditors, and the Court should overrule SWBNO's objection.

3. Rejection of SWBNO Contracts Satisfies the Business Judgment Standard

169. Section 365(a) of the Bankruptcy Code provides that a debtor in possession, "subject to the court's approval, may . . . reject any executory contract or unexpired lease of the debtor." The decision to assume or reject an executory contract or unexpired lease is a matter

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[174] *See supra* ¶ 160; *see also Oxford Fin. LLC v. McLellan*, No. 19-4839, 2020 U.S. Dist. LEXIS 73008, at *11-12 (E.D. Pa. Apr. 23, 2020) ("Courts enforce but do not rewrite agreements into which parties enter."); *In re Rappaport*, 517 B.R. 518, 537 (Bankr. D.N.J. 2014) (same).

[175] *In re Ananko*, 89 B.R. 399, 407 (Bankr. D.N.J. 1988) (citing *In re Stanley Eng'g Corp*., 164 F.2d 316 (3d Cir. 1947).

[176] *See In re Bigler, LP*, 443 B.R. at 109 ("[A] bankruptcy court abuses its discretion when, after a properly conducted auction has already been held, it reopens the bidding process and approves a late bid merely because a slightly higher offer has been received after the bidding is closed.") (citing *In re Gil-Bern Indus., Inc.*, 526 F.2d 627, 629 (1st Cir. 1975)).

within the "business judgment" of the debtor.[177] Application of the business judgment standard requires a court to approve a debtor's business decision unless the decision is the product of bad faith, whim, or caprice.[178] Further, "[t]his provision allows a trustee to relieve the bankruptcy estate of burdensome agreements which have not been completely performed."[179]

170. Rejection of a contract or unexpired lease is appropriate where such rejection would benefit the estate.[180] Upon finding that a debtor has exercised its sound business judgment in determining that rejection of certain contracts or leases is in the best interests of its creditors and all parties in interest, a court should approve the rejection under section 365(a).[181]

171. Rejection of the SWBNO Contracts represents a sound exercise of the Debtors' business judgment and will materially benefit the estates. Continuing to perform under the SWBNO Contracts would require the Debtors—or any successor purchaser—to recognize and potentially satisfy approximately $2,031,670.31 in asserted prepetition obligations.[182] The Debtors, in consultation with their advisors, have reviewed these asserted amounts and understand

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[177] *See Nat'l Labor Relations Bd. v. Bildisco & Bildisco (In re Bildisco)*, 682 F.2d 72, 79 (3d Cir. 1982) ("The usual test for rejection of an executory contract is simply whether rejection would benefit the estate, the 'business judgment' test." (citation omitted)); *see also Glenstone Lodge, Inc. v. Buckhead Am. Corp. (In re Buckhead Am. Corp.)*, 180 B.R. 83, 88 (Bankr. D. Del. 1995).

[178] *See, e.g., In re HQ Glob. Holdings, Inc*., 290 B.R. 507, 511–12 (Bankr. D. Del. 2003).

[179] *Stewart Title Guar. Co. v. Old Republic Nat'l Title Ins. Co*., 83 F.3d 735, 741 (5th Cir. 1996) (citation omitted).

[180] *See Sharon Steel Corp. v. Nat'l Fuel Gas Distrib. Corp. (In re Sharon Steel Corp.)*, 872 F.2d 36, 39–40 (3d Cir. 1989).

[181] *See Mission Prod. Holdings, Inc. v. Tempnology, LLC*, 139 S. Ct. 1652, 1658 (2019) (stating that the bankruptcy court will generally approve a debtor's choice to assume or reject an executory contract under the deferential "business judgement rule"); *In re Nickels Midway Pier, LLC*, 332 B.R. 262, 271 (Bankr. D.N.J. 2005), *aff'd in part, rev'd in part and remanded*, 341 B.R. 486 (D.N.J. 2006), *aff'd*, 255 F. App'x 633 (3d Cir. 2007) (stating that a bankruptcy court should defer to a debtor's decision to reject a contract unless it is so unreasonable that the decision could only be based on bad faith or whim); *In re Cent. Jersey Airport Servs., LLC*, 282 B.R. 176, 183 (Bankr. D.N.J. 2002) (stating that to satisfy the "business judgement test" for rejecting executory contracts and unexpired leases, the debtor must establish that the rejection will benefit the estate).

[182] Dundon Decl. ¶ 49.

that a substantial portion of the claim arises from excessive water usage charges attributable to a leak on the properties for which SWBNO failed to mitigate. Accordingly, the Debtors believe the asserted amounts materially overstate any legitimate prepetition liability.

172. Moreover, under the NOLA Purchase Agreement and the Plan, any obligation to pay cure costs associated with executory contracts designated for assumption and assignment would rest with the NOLA Purchaser—not the Debtors. The NOLA Purchaser has determined that assumption of the SWBNO Contracts would require an unjustified cure payment and has therefore elected not to assume or take assignment of those contracts. The Debtors, in turn, have determined that rejection is the most prudent and value-maximizing course, as the SWBNO Contracts no longer serve a legitimate economic purpose for the estates and continued performance would impose unnecessary administrative burdens and legacy liabilities. This conclusion is further supported by the fact that the properties to which these contracts relate are being sold and the Debtors' Estates are being wound down following consummation of the NOLA Sale Transaction. Rejecting the SWBNO Contracts will avoid a significant and immediate drain on liquidity, reduce administrative costs, and preserve resources for the benefit of creditors. Importantly, rejection will not result in any disruption of essential utility services: the NOLA Purchaser will be able to enter into new agreements directly with SWBNO upon closing of the NOLA Sale Transaction to ensure that water and sewer services for the properties continue uninterrupted. Rejection thus eliminates uneconomic prepetition exposure while preserving operational continuity for the underlying assets.

173. The Debtors' decision to reject the SWBNO Contracts is not the product of bad faith, whim, or caprice, but a reasoned, value-maximizing determination consistent with their fiduciary duties and the objectives of chapter 11. Here, rejection will (i) eliminate an inflated and

disputed prepetition liability, (ii) avoid unnecessary cure obligations that neither the Debtors nor the NOLA Purchaser are willing to bear, (iii) prevent further accrual of administrative expenses, and (iv) ensure that available funds are preserved for distribution to legitimate creditor claims. At the same time, the NOLA Purchaser retains the ability to establish new commercial arrangements directly with SWBNO to ensure continued service to the properties. Accordingly, rejection of the SWBNO Contracts pursuant to section 365(a) of the Bankruptcy Code is appropriate and should be approved.

4. Clarifications Regarding SWBNO Classification and Treatment

174. SWBNO objects to the timing of the Debtors' decision to assume or reject its contracts and asserts that the Plan does not clearly describe the resulting treatment of any claims arising therefrom. Both concerns are unfounded.

175. First, the Bankruptcy Code expressly permits a debtor to assume or reject executory contracts at any time before confirmation of a plan.[183] The Plan appropriately preserves that flexibility. Specifically, Article V of the Plan provides that the Debtors and the NOLA Purchaser may determine whether to assume or reject executory contracts up to the date of confirmation, consistent with sections 365(d)(2) and 1123(b)(2) of the Bankruptcy Code. This approach is necessary in complex chapter 11 cases involving multiple properties, where assumption and rejection decisions often depend on ongoing negotiations with the purchaser.

176. Second, the Plan and Plan Supplement provide ample clarity regarding the treatment of the SWBNO contracts. As disclosed in the Plan Supplement filed on September 30, 2025 [Docket No. 587], the Debtors currently intend to reject the SWBNO contracts in connection

[183] *See* 11 U.S.C. § 365(d)(2).

with the NOLA Sale Transaction. The Plan further specifies the treatment of any claims arising from such rejection. Specifically, it provides:

> Unless otherwise provided by a Final Order of the Bankruptcy Court, all Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, pursuant to the Plan or the Confirmation Order, if any, must be Filed with the Bankruptcy Court within 30 days after entry of the Confirmation Order. . . . All Allowed Claims arising from the rejection of any Executory Contracts or Unexpired Leases shall constitute and be treated as Unsecured Claims. Nothing herein shall constitute an extension of any Claims Bar Date otherwise applicable to a Claim arising from an Executory Contract or Unexpired Lease that was previously rejected by the Debtors.

Thus, any rejection-damage claim asserted by SWBNO must be filed within thirty (30) days after entry of the Confirmation Order and, once allowed, will be treated as a general unsecured claim in Class 5 under the Plan. For the avoidance of doubt, however, the Debtors have filed a revised Plan contemporaneously herewith to make clear that any such claim will be treated as Class 5 Other NOLA Unsecured Claims.

177. Separately, to the extent SWBNO provided postpetition water and sewer services prior to the effective date of rejection, SWBNO retains its right to seek allowance and payment of an administrative expense claim pursuant to section 503(b) of the Bankruptcy Code and in accordance with the procedures established in the Plan for the assertion of administrative expense claims.

178. Accordingly, no modification of the Plan is required. The Plan fully complies with sections 365(d)(2) and 1123(b)(2) of the Bankruptcy Code, provides clear notice of the proposed rejection through the Plan Supplement, and preserves all rights available to SWBNO under both the Bankruptcy Code and the Plan—including the right to file a timely administrative expense

request for postpetition services and to file any rejection-damage claim within the period specified by the Plan.[184]

Reservation of Rights

179. The Debtors reserve all rights with respect to the subject matter of this Memorandum, including, without limitation, the right to amend or supplement this response or the arguments made herein at the Confirmation Hearing. The Debtors also reserve all rights, claims and causes of action against the U.S. Trustee and SWBNO, including in connection with the matters set forth herein.

Conclusion

180. For the reasons set forth herein, the Debtors respectfully request that the Court overrule the Sewerage Objection, provide final approval of the Disclosure Statement, and confirm the Plan for Debtors Crown Capital Holdings LLC, RH New Orleans Holdings LLC, RH New Orleans Holdings MM LLC, Laguna Reserve Apts Investor LLC, RH Chenault Creek LLC, RH Copper Creek LLC, RH Lakewind East LLC, and RH Windrun LLC.

[184] *See* Plan Art. II.

Dated: October 17, 2025
New York, New York

Respectfully submitted,

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