IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS (DALLAS)

IN RE:	.	Case No.: 25-80121-MVL-11
	.	(Jointly Administered)
HIGHER GROUND EDUCATION, INC., *et al.*	.	
Debtors.	.	Monday, October 14, 2025
	.	9:35 A.M.

TRANSCRIPT OF HEARING ON MOTION FOR CONDITIONAL APPROVAL OF DISCLOSURE STATEMENT FILED BY DEBTOR HIGHER GROUND EDUCATION, INC. (98); AND MOTION FOR RELIEF FROM STAY FILED BY CREDITOR SHEENA WATKINS (511); AND MOTION OF THE UNITED STATES TRUSTEE FOR A STAY OF HEARING ON DEBTORS' MOTION FOR ENTRY OF AN ORDER (I) CONDITIONALLY APPROVING THE DISCLOSURE STATEMENT; (II) SCHEDULING A COMBINED DISCLOSURE STATEMENT APPROVAL AND PLAN CONFIRMATION HEARING; (III) ESTABLISHING A PLAN AND DISCLOSURE STATEMENT OBJECTION DEADLINE AND RELATED PROCEDURES; (IV) APPROVING THE SOLICITATION AND NOTICE PROCEDURES; AND (V) GRANTING RELATED RELIED IN LIGHT OF LAPSE OF APPROPRIATIONS FILED BY UNITED STATES TRUSTEE (522)

BEFORE THE HONORABLE MICHELLE V. LARSON
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES ON THE NEXT PAGE.

Audio Recorder:	Bryon A. Robinson Earle Cabell Federal Building 1100 Commerce Street, Room 1254 Dallas, Texas 75242
Transcription Service:	Liberty Transcripts 9107 Topridge Drive Austin, Texas 78750 (847) 848-4907 DBPATEL1180@GMAIL.COM www.libertytranscripts.com

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

APPEARANCES:

For the Debtors:

Foley & Lardner LLP
BY: TIMOTHY C. MOHAN, ESQUIRE
600 17th Street, Suite 2020S
Denver, Colorado 80202
(720) 437-2014
tmohan@foley.com

Foley & Lardner LLP
BY: THOMAS CHARLES SCANNELL, ESQUIRE
2021 McKinney Avenue, Suite 1600
Dallas, Texas 75201
(214) 999-4289
tscannell@foley.com

Foley & Lardner LLP
BY: NATHAN C. WALSH, ESQUIRE
2021 McKinney Avenue, Suite 1600
Dallas, Texas 75201
(214) 999-3385
nate.walsh@foley.com

Foley & Lardner LLP
BY: NORA McGUFFEY, ESQUIRE
321 North Clark Street, Suite 3000
Chicago, Illinois 60654
(312) 832-4700
nora.mcguffey@foley.com

For the Official Committee of Unsecured Creditors:

Gray Reed & McGraw LLP
1601 Main Street, Suite 4600
Dallas, Texas 75201
(469) 320-6199
acarson@grayreed.com

For the United States Trustee:

Office of the United States Trustee
BY: MEREDYTH KIPPES, ESQUIRE
1100 Commerce Street , Room 976
Dallas, Texas 75242
(214) 767-1079
meredyth.kippes@usdoj.gov

APPEARANCES (CONTINUED):

For Creditors Ramandeep Giro and Rebecca Giro:

Dentons LLP
BY: CLAY MARSHALL TAYLOR, ESQUIRE
100 Crescent Court, Suite 900
Dallas, Texas 75201
(214) 647-2496
clay.taylor@dentons.com

For Creditors 2HR Learning, Inc. and YYYYY LLC:

Cozen O'Connor
BY: TREVOR HOFFMANN, ESQUIRE
3 WTC, 175 Greenwich Street
New York, New York 10007
(212) 453-3735
thoffmann@cozen.com

For Creditor Carl B. Barney:

Cavazos Hendricks Poirot, P.C.
BY: CHARLES CHUCK HENDRICKS, ESQUIRE
900 Jackson Street, Suite 570
Dallas, Texas 75202
(214) 573-7302
chuckh@chfirm.com

For Creditors A. Venture Lending & Leasing IX, Inc. and A. WTI Fund X, Inc.:

Fox Rothschild LLP
BY: TREY ANDREW MONSOUR, ESQUIRE
Saint Ann Court
2501 North Harwood Street, Suite 1800
Dallas, Texas 75201
(713) 927-7469
tmonsour@foxrothschild.com

For Creditor 214 E. Hallandale Beach LLC:

Winstead PC
BY: ANNMARIE CHIARELLO, ESQUIRE
2728 North Harwood Street
500 Winstead Building
Dallas, Texas 75201
(214) 745-5410
achiarello@winstead.com

APPEARANCES (CONTINUED):

For Creditors Guidepost Global Education Inc. and Learn Capital LLC:

Kane Russell Coleman Logan PC
BY: JASON BINFORD, ESQUIRE
401 Congress Avenue, Suite 2100
Austin, Texas 78701
(512) 487-6566
jbinford@krcl.com

For Creditor Sheena Watkins:

Hartline Dacus Barger Dreyer
BY: KERON A. WRIGHT, ESQUIRE
8750 North Central Expressway
Suite 1600
Dallas, Texas 75231
(214) 369-2100
kwright@hdbdlaw.com

INDEX

Page

MATTERS HEARD

MOTION FOR CONDITIONAL APPROVAL OF DISCLOSURE STATEMENT FILED BY DEBTOR HIGHER GROUND EDUCATION, INC. (98)

Court's Ruling - Granted **53**

MOTION FOR RELIEF FROM STAY FILED BY CREDITOR SHEENA WATKINS (511)

Court's Ruling - Continued to November 24, 2025 **55**

MOTION OF THE UNITED STATES TRUSTEE FOR A STAY OF HEARING ON DEBTORS' MOTION FOR ENTRY OF AN ORDER (I) CONDITIONALLY APPROVING THE DISCLOSURE STATEMENT (II) SCHEDULING A COMBINED DISCLOSURE STATEMENT APPROVAL AND PLAN CONFIRMATION HEARING; (III) ESTABLISHING A PLAN AND DISCLOSURE STATEMENT OBJECTION DEADLINE AND RELATED PROCEDURES; (IV) APPROVING THE SOLICITATION AND NOTICE PROCEDURES; AND (V) GRANTING RELATED RELIED IN LIGHT OF LAPSE OF APPROPRIATIONS FILED BY UNITED STATES TRUSTEE (522)

Court's Ruling - Denied **27**

(Proceedings commenced at 9:41 a.m.)

THE COURT: Good morning, everyone. We're here on our 9:30 docket. We have one matter on the docket this morning and that is Case Number 25-80121, Higher Ground Education, Inc. I'll take appearances for the record, and I'll start with those in the courtroom.

MR. MOHAN: Thank you, Your Honor.

Tim Mohan of Foley & Lardner on behalf of the Debtors. I'm joined here today with my colleagues Tom Scannell and Nate Walsh in the courtroom and then Nora McGuffey is attending via Webex. Mr. John McCarthy, the Debtors' interim president and secretary, is present today on Webex, and we are also joined by Carl Moore and Sharon Corwin from Sierra Capital Partners, and Adam Gorman from Veritas, our claims and noticing agent.

THE COURT: All right, thank you very much.

MR. MOHAN: Thank you.

THE COURT: Ms. Carson.

MS. CARSON: Good morning, Your Honor.

Amber Carson from Gray Reed on behalf of the Official Committee of Unsecured Creditors.

THE COURT: Thank you. Mr. Taylor.

MR. TAYLOR: Good morning, Your Honor.

Clay Taylor from Dentons on behalf of Rebecca and Ray

Girn.

THE COURT: Thank you very much. Ms. Kippes.

MS. KIPPES: Good morning, Your Honor.

Meredyth Kippes on behalf of the United States Trustee.

THE COURT: Good morning.

MR. HOFFMAN: Good morning, Your Honor.

THE COURT: Good morning.

MR. HOFFMAN: Trevor Hoffman, Cozen O'Connor, on behalf of 2HR Learning and YYYYY, LLC, the plan sponsor and senior DIP lender.

THE COURT: Thank you.

MR. HENDRICKS: Good morning, Your Honor.

Chuck Hendricks on behalf of Carl Barney.

THE COURT: Good morning.

Mr. Walsh, is that the first time on that side?

MR. WALSH: Yes, Your Honor.

THE COURT: Good morning. Nice to see you.

All right. In terms of Webex appearances, I do have an electronic role, so I'll see if there's anyone else. With the Winstead firm, I have Annmarie Chiarello on behalf of 214 East Hallandale Beach, LLC. I have Mr. Jason Binford with the Kane Russell Coleman Logan law firm on behalf of Guideposts Global Education and Learn Capital.

Is there anyone else on Webex who'd like to make an

appearance at this time?

MR. MONSOUR: Good morning, Your Honor.

Trey Monsour from Fox Rothschild on behalf of Venture Lending and Leasing and WTI Fund X.

THE COURT: Good morning.

Anyone else wish to make an appearance?

(No audible response)

THE COURT: Have you already been able to clear the two phone numbers, Mr. Robinson?

THE CLERK: No, Your Honor.

THE COURT: All right.

THE CLERK: they joined after we started.

THE COURT: Okay, excellent.

Could the party at 214 ending in 00 identify themselves? You can press *6 to unmute.

(No audible response)

THE COURT: All right, you can disconnect that line.

Can the party at 949 ending in 01 please identify themselves?

(No audible response)

THE COURT: You can disconnect that line.

THE CLERK: Yes, Your Honor.

THE COURT: Any other phone numbers that I can't see, Mr. Robinson?

THE CLERK: No.

THE COURT: Okay, thank you.

All right, thank you very much.

So we've got two matters on the docket today, I think. Three, if you include the stay motion that is related to the disclosure statement motion. I'll begin with the second matter with the motion for relief from stay and then we'll hit the disclosure statement issues.

Mr. Mohan?

MR. MOHAN: Thank you, Your Honor.

So with respect -- so just to confirm, Your Honor, we are going to start with the --

THE COURT: Sheena Watkins motion for relief from stay.

MR. MOHAN: Yes, so Mr. Wright's client's motion for relief from stay.

THE COURT: Yes.

MR. MOHAN: As it was his motion, I defer to him to present, unless you would like, Your Honor, to hear the Debtors' thoughts or arguments before.

THE COURT: No, it is certainly Mr. Wright's motion. I understood that the Debtors have entered into an agreed form of order with the movant. Is that correct?

MR. MOHAN: So, Your Honor, we have an agreed form of order, but for one piece of language that we and the Committee have been working through with the movant. The language

specifically is requesting a waiver and withdrawal of the movant's proof of claim as a requirement for agreed relief from stay. The idea here, Your Honor, which has been communicated to Mr. Wright before, is that the Debtors are okay with granting, with agreeing to relief from stay to allow the movant to pursue insurance coverage as long as it doesn't have an impact on the estate.

THE COURT: Correct.

MR. MOHAN: And whether that means that we're not -- the Debtors' estates are not going to pay any deductibles, any retention, any sort of money there. And if the party wishes to pursue claims against insurance, we also do not want that to have an impact on credit recoveries, as well. And so, Your Honor, that was the request that both the Debtors and the Committee have made to the movant. We have not been able to reach an agreement yet on that language, Your Honor.

THE COURT: Okay.

MR. MOHAN: So, at this point, is the -- are the parties prepared to go to final? Is that where we're going?

MR. MOHAN: I believe so, Your Honor, unless Mr. Wright can confirm that his client has agreed to the language proposed by the Debtors and the Committee.

THE COURT: Okay. Thank you very much, Mr. Mohan.

Mr. Wright.

MR. WRIGHT: Good morning, Your Honor. We, or my

client has not agreed to the language regarding the waiver of her claim.

THE COURT: Okay.

MR. WRIGHT: I do have an additional proposal I would like to make to the parties. And I think we may, if we can take it offline, that would be appreciated. But otherwise, my client is not willing to necessarily waive her claim given the potential impact it might have on the argument of the actual existence of the claim for the insurance to cover. So, that's part of what -- part of the language we're trying to resolve.

THE COURT: Okay. So, here's what we're going to do. Going forward, Mr. Wright, if you could make an appearance at the beginning of the hearing, that would be helpful to the Court.

MR. WRIGHT: Yes, Your Honor.

THE COURT: Also, maybe what makes sense is we'll take up the issues relative to the disclosure statement. We'll take a brief recess. I'll allow the parties to talk. If there is a resolution, we can announce it on the record. If there is no resolution, then we will schedule a final hearing at that time. But rather than go through that process now, I'll give you guys an opportunity.

If you want to shoot an email to Ms. Carson and Mr. Mohan's team relative to whatever agreement you'd like to make, then that's fine. But of course, they'll be in the middle of a

hearing.

MR. MOHAN: Right.

MR. WRIGHT: Yeah.

THE COURT: So, maybe it could be addressed on recess. Okay?

MR. WRIGHT: Yes. Thank you, Your Honor. I'll do that.

THE COURT: All right. Any other suggestions, Mr. Mohan, Ms. Carson?

MR. MOHAN: None for me, Your Honor.

THE COURT: All right. So, we are here on now the Debtors' motion to conditionally approve the disclosure statement, schedule the combined hearing on disclosure statement and confirmation, and approve the solicitation and notice procedures. There was a motion filed by the United States Trustee for a stay of the hearing.

Ms. Kippes, I'll start with you.

MS. KIPPES: Thank you, Your Honor.

Meredyth Kippes on behalf of the United States Trustee.

As the Court knows, there's been a lapse in appropriations for a large portion of the executive branch's functions. And that includes the U.S. Trustee Program. And so, we're limited in what we can and can't do, and that's why the motion was filed. However, if the Court denies the motion

to stay, I am permitted to go forward because we have a live objection. But we would urge the Court to stay the proceeding until appropriations are restored. Thank you.

THE COURT: Okay. Thank you very much, Ms. Kippes.

Mr. Mohan, I'll hear from you on the stay and also on expedition at this point because I recognize things have been -- you filed a motion to conditionally approve a disclosure statement that was filed a few months ago, I think. And now, I'm not sure the reason for the delay, but the actual disclosure statement that you'd like the Court to conditionally approve today wasn't even filed with, I think it's like, what, 10 days' notice. And maybe there's another draft floating around.

So, I'll hear you on expedition and in response to Ms. Kippes' motion to stay.

MR. MOHAN: Thank you, Your Honor.

Again, Tim Mohan from Foley & Lardner on behalf of the Debtors.

With respect to the motion to stay, Your Honor, we wholeheartedly appreciate the U.S. Trustee's concerns with respect to the shutdown and the sensitive nature of that impact on their operations, Your Honor.

But as stated in our objection to that motion, Your Honor, there are two main reasons why we believe that we need to continue right now, Your Honor. First, delaying conditional

approval of the disclosure statement and the solicitation process will cause harm to the Debtors' estates and creditors. Why the plan settlement, Your Honor? Debtors have little wiggle room here with the confirmation timeline in seeking to have the plan confirmed by the end of November 2025. This is important because the Debtors' DIP budget gets very lean as we get closer to that timeline.

Based on the budget, the Debtors, we are still working with our financial advisors and the Committee and the DIP lenders to understand the full impact, particularly if this becomes a contested matter for confirmation, which appears to be more likely than not right now, that a continued confirmation period here would cause irreparable harm for these cases and the ability to pay administrative costs and fund the plan settlement as set forth in the plan.

And also, the DIP lenders have made clear to the Debtors that there's no money coming. No additional money is planned to come to fund the ongoing operations of this case if it were to continue further in light of the plan settlement, which requires additional monies from those parties, as well. And so, Your Honor, also as we said, this is a conditional approval of the disclosure statement. All rights are reserved by the U.S. Trustee. We've included language in both the disclosure statement and the proposed order approving the disclosure statement that those rights are reserved with

respect to the adequacy of information included in the disclosure statement and confirmation of the plan until the combined hearing.

And for those reasons, Your Honor, while we would love to accommodate the U.S. Trustee here, we simply don't have the ability to continue this process further than what we've scheduled among the parties.

THE COURT: All right. Thank you, Mr. Mohan. Anything else on expedition?

MR. MOHAN: Expedition of the --

THE COURT: Disclosure statement hearing.

MR. MOGAN: -- disclosure statement. Your Honor, the disclosure statement was filed on October 6th. Well, the first amended disclosure statement was filed on October 6th, resulting from numerous negotiations with the Debtors, the Committee, the settlement parties, the majority of which were the RSA supporting parties. Now they're labeled the settlement parties.

And so we filed it last Monday on the 6th, Your Honor, and that was based on finalizing negotiations amongst the parties. We feel, again, Your Honor, that this is conditional approval of the disclosure statement. It's not final approval. Parties had the ability, if they believe that information is inadequate, which we do not agree with, we think that the information is more than adequate to provide parties

sufficient information to make a decision on whether or not they will vote in favor of or against the plan. We believe that the disclosure statement provides that information and that the conditional approval of the disclosure statement allows for parties to reserve those rights.

So while we wish we were able to file the disclosure statement earlier and provide more time, we believe that the disclosure statement that was filed as the first amended, even the prior disclosure statement, provided sufficient information for parties to make their decisions with respect to voting on the plan.

THE COURT: So nothing on expedition?

MR. MOHAN: I'm sorry, with respect to?

THE COURT: Why should the Court expedite the hearing from 17 days' notice to 8 days' notice?

MR. MOHAN: Well, Your Honor, so that's -- we had already filed a motion with respect to the disclosure statement, approval of the disclosure statement.

THE COURT: Right, but you're not pursuing that disclosure statement.

MR. MOHAN: Your Honor, the disclosure statement has been amended from the RSA version of the plan to the current version of the plan. And so the expedited nature of it was focused on, the parties already knew that all parties had notice that the disclosure statement had been continued to a

future date. All parties had notice that the objection deadline with respect to the conditional approval of the disclosure statement had been formally noticed to the parties here.

The shortened notice for this, in our opinion, Your Honor, it was simply as related to any other plan settlement that affects the disclosure statement or the plan set for hearing. If there is an amendment to those plans based on settlement negotiations, we would continue forward with the hearing scheduled for that motion. It's just changed because of the settlement.

THE COURT: So your focus is on the hearing date, not on the disclosure statement?

MR. MOHAN: Our focus is on the, yeah, Your Honor, correct.

THE COURT: Okay.

MR. MOHAN: We are focused on the hearing date being today and working towards filing a disclosure statement that was agreed to amongst the settlement parties, the Debtors, and the Committee. And that is the reason why the timing was filed, why the document was filed on October 6th instead of earlier.

Your Honor, I agree with you. We would have liked to file it earlier, but we do believe that it provides sufficient notice to the parties that we had a hearing on this date, that

the objection deadline was Friday, and that parties had the ability to -- we believe they had sufficient time to review any changes to the disclosure statement, which, again, the treatment in the disclosure -- or under the plan is significantly similar to the RSA plan. There's some modifications there, but those modifications are not significant. And, again, the parties have the ability to reserve those rights and make those arguments at the combined hearing.

THE COURT: Thank you, Mr. Mohan.

I'll hear from Ms. Carson, as well.

All I'll say is this hearing was scheduled today based upon the last two hearings when I was told, it's coming, it's coming, it's coming, it's coming. And when I say that, I mean the disclosure statement. And it wasn't filed until, again, eight days ago, which obviously resulted in a flurry of activity yesterday on a federal holiday. So a little concerned with respect to notice.

Ms. Carson.

MS. CARSON: Thank you, Your Honor.

Amber Carson, again, for the record on behalf of the Committee.

Just quickly as far as expediting notice, we also believe that notice is very, very important here. And I think it's important to note that the additions or the amendments

that were made to the disclosure statement since the time of the first disclosure statement when it was filed back in June were only additive. They added more information.

And since in the last few days, the Court may have noticed that many parties withdrew their objections --

THE COURT: Yes.

MS. CARSON: -- to conditional approval of the disclosure statement because they presumably now agree that it provides adequate information. We worked very hard with the Debtors to ensure that adequate information was included in the disclosure statement. And it seems -- personally, it seems unlikely that any parties would have an objection to conditional approval if they didn't have an objection to conditional approval of the original disclosure statement. So we felt comfortable moving forward on an expedited basis for that reason. And, again, of course, the Committee is looking out for the interests of all of the general unsecured creditors in this case.

As far as the U.S. Trustee's motion, we, of course, have sympathy for the U.S. Trustee's position. They're in a very difficult position. We understand that they've had to file these motions in many different cases across the country because of this. Under the circumstances here, though, and in this case, we do echo the Debtors' request to have the hearing heard today on the normal time frame.

Again, the original disclosure statement was filed back in June. The U.S. Trustee filed an objection to conditional approval of that disclosure statement back in August at Docket Number 390. And, again, since the disclosure statement was amended since that time and the proposed order granting conditional approval of the disclosure statement has been amended, I believe that those amendments largely resolved the U.S. Trustee's concerns.

Of course, the big outstanding issue remains the third-party releases and opt-outs. I don't believe that the third-party releases and opt-outs here are particularly unique in this case, and it looks like the U.S. Trustee's arguments in that regard are the same or similar to the arguments that they've made in this Court numerous times in many other cases.

The Debtors stated in their objection to the continuance request that they believe this is a confirmation issue, and we agree with that. And like Mr. Mohan said, we're happy to work with the U.S. Trustee to ensure that she feels comfortable that all of her rights and objections are reserved for confirmation and for final approval of the disclosure statement. Mr. Mohan here mentioned that funds are very tight, and they are very, very tight here. So we would, again, and Ms. Kippes is with us today in person. Lovely to see her, as always.

So we would echo the request that the Court hear the

disclosure statement hearing today so that we can continue moving forward to confirmation and getting money into the hands of creditors as quickly as possible. THANK YOU.

THE COURT: Thank you, Ms. Carson.

Something further, Mr. Mohan?

MR. MOHAN: Yes, Your Honor. I just wanted to bring up -- again, Tim Mohan from Foley & Lardner on behalf of the Debtors. I did want to bring up some of the nuance about the timing of why it was filed on October 6th.

THE COURT: Sure.

MR. MOHAN: Your Honor, we do have some people who are Jewish and observe the Jewish holidays. Rosh Hashanah was on September 22nd through the 24th. Yom Kippur was October 1st through the 2nd. Those holidays, people are out of pocket completely. And so, again, as a newly converted Jewish person myself --

THE COURT: Congratulations.

MR. MOHAN: -- in the last couple of years, I tried to work as much as I could to move this process forward. Unfortunately, I'm not going to infringe on other people's celebrations and practices.

THE COURT: And I appreciate that.

MR. MOHAN: Thank you.

THE COURT: Thank you very much. I appreciate it.

Anyone else wish to be heard with respect to the

disclosure statement, the expedition, or the stay?

Ms. Kippes.

MS. KIPPES: Thank you, Your Honor.

Meredyth Kippes on behalf of the United States Trustee.

This was really going to be a little bit part of my argument on the disclosure statement, but I'll go ahead and make it here. Mega case rules provide for 14 days' notice, which is already expedited. And so eight days is even more expedited, and I understand that it's based on a prior form of motion. But we've been -- I mean, we're like two months past when the original deadline by which conditional approval should be obtained under the original milestones. So what's one more week?

I know the Court has a busy schedule, but -- and bearing in mind that we have no idea when the -- I might be back again saying please stay. But keeping all that in mind, it doesn't seem like --

THE COURT: We may be back again with the lights off.

MS. KIPPES: Yeah, I have heard that the courts may run out of money, too. I'm not privy to that. But at any rate, it seems like given that we're two months past the original milestone deadline, the urgency is somewhat diminished. And, again, what's one more week until next week, if the Court has time, to give people the full 14 days. And

I'll reserve the rest of my argument for --

THE COURT: The substance, understood.

All right. Anyone else wish to be heard?

Please, Mr. Hoffman.

MR. HOFFMANN: Good morning again, Your Honor.

Trevor Hoffmann on behalf of YYYYY LLC, which is the senior DIP lender in this case.

I just wanted to echo what both Mr. Mohan and Ms. Carson had stated as far as the DIP budget. My view, just sort of on the outside looking in, is everybody is really acting in good faith, attempting to use every day that they can to move this case forward.

THE COURT: That I believe.

MR. HOFFMANN: And it really is unfortunate in terms of the timing. But the funds for this case are tight. And I think everybody is trying to do their best to get this case done as quickly as possible and to negotiate with the parties. There's obviously a lot of moving parts. And I think as a result, there was some slippage with the holidays, et cetera. But I just wanted to say, at least from the DIP lender's perspective, I echo the fact that funds are tight in this case and there is some urgency and that I do believe that the parties are working in good faith and not simply delaying for the purpose of delay, not attempting to deny anybody due process, et cetera. Thank you.

THE COURT: All right. Thank you very much, Mr. Hoffman.

Anyone on Webex wish to be heard?

(No audible response)

THE COURT: All right. So what I'll start with is basically the complex rules and expedition is there's been repeated requests now in our mega cases to conditionally approve disclosure statements. That is the exception. It is not the rule, but the exception is swallowing the rule in a lot of cases.

And so as Ms. Kippes has noted, we have provided for a shortened period of time, 14 days under the rule, which is 17 days under the mailing rule. And I honestly think that people are getting a little too lax with, we'll just amend, amend, amend, amend up until hours before the hearing and then we'll just have a hearing. I completely recognize that all of the changes were additive. All of the changes were based upon the formation of a Committee, the participation of the Committee, the change in the RSA, and I recognize how much time that takes outside of court.

It's quite easy to sit up here on the bench and say, well, what were you doing? Well, obviously I've got 200 pages of redline. I see what you were doing. But it doesn't change the fact that the timing and the deadlines are there for a reason. And the reason is due process; it is to get people

here with an opportunity to have reviewed what you would like conditional approval of. We've obviously got the issues that are distinct to the United States Trustee and any other governmental agencies. Thanks, Congress. Keep doing all that good work. I'd just like to take shots at them at every hearing that I can because I feel so strongly about it.

But in any event, I do recognize how tight the DIP was. We recognize that the DIP was tight on day one. But I've got to say, when it comes to confirmation and what will be the disclosure statement hearing, I want there to be as much notice as possible.

I mean, one of the reasons, Mr. Mohan, that I'm a little persnickety is because I was told the week before that it was going to be filed within days, the week before that, that it was going to be filed within days. And none of those informal deadlines were met either. And it's not really a deadline, but just the promises weren't kept. And I recognize how hard you guys were probably working.

The biggest issue that I do recognize is fall is always hard. It's the imposition of the Jewish holidays in the middle of these deadlines. I recognize that there are lots of observant folks in this particular case such that that would have made the deadlines more difficult to meet and also don't want to put more time into the process that would cause DIP funds to run out.

But I didn't want to go without saying that the Court considers this expedition. The Court does not consider that you can set a hearing and file a disclosure statement in June and sometime in October rely upon that as notice. That's not due process. That's not the substantially in the form of type of disclosure statement that you want to get approved.

So I'm going to go forward today primarily because we have, you've resolved a great deal of objections. I saw that the Girns withdrew their objection, I think, last night. You've resolved the disclosure statement objection of Mr. Barney and the others. I'll obviously hear the United States Trustee out today on her objections as well.

But, again, I just wanted to stake my flag in the ground. I consider this expedition. And I've noticed a trend where we are sizing our budgets to milestones. And I've said for God and everyone that I hate them. And this is why; it is because we are sizing a case and now we are running a case based upon a milestone. And I just want to say due process be damned is not going to be a regular strategy. We need to build the proper time in to give people the proper due process and the proper opportunity to be heard on issues, especially when you're trying to take advantage of an exception to the rule by conditional approval rather than the disclosure statement process.

We could all have a discussion at a conference or

over a beer about the disclosure statement process and how expensive it is and what as a whole we can do better, but it's in the Code. And like I said, this is an exception rather than a rule. So I'm going to go forward today. I'm going to deny the United States Trustee's motion for a stay. I certainly appreciate Ms. Kippes being here. The United States Trustee's Office is making herculean efforts to not only cover two districts' worth of work, but also to appear here during an otherwise government shutdown.

So with that, the motion for stay is denied. We're going to go forward on the disclosure statement. Mr. Mohan and Ms. Carson, I'll let you walk me through the changes in the disclosure statement. And I'll hear Ms. Kippes' objections and anyone else who wishes to be heard today.

Mr. Mohan.

MR. MOHAN: Thank you, Your Honor.

Again, Tim Mohan of Foley & on behalf of the Debtors.

Your Honor's message is heard loud and clear. Again, this was not an attempt --

THE COURT: I may not be eloquent, but I am loud. And honest, forthright.

MR. MOHAN: And it was understood as well, very clearly understood. Your Honor, again, we were not trying to rush this through and ramjam it. It was, again, trying to be consensual and collective was the goal of it. We could have

filed a disclosure statement that would have been further amended to have that 17 days, but we wanted to have one that we thought was going to be the one that we were going to present, so.

THE COURT: Appreciate it.

MR. MOHAN: Thank you, Your Honor.

So, Your Honor, before we get into the discussion of the disclosure statement, just want to provide a little bit of the background and the settlement that we got to, if that's okay with Your Honor.

THE COURT: Please.

MR. MOHAN: So, the Debtors, the Committee, as joint proponents of the plan, have worked with the majority of the RSA parties, now known as the settlement parties, not all of them, but the vast majority of them, to reach the plan settlement. That's what we consider to be in the value maximizing plan of reorganization in front of Your Honor.

At a very high level, the settlement includes the following elements: the creation of a liquidating trust to hold certain assets for the benefit of the liquidating trust beneficiaries which are primarily general unsecured creditors here. There's a cash settlement payment from the settlement parties that will be paid on the effective date in the amount of $1.95 million. That amount will be reduced on a dollar-for-dollar basis by the excess surplus DIP cash, defined

term in the plan. So, for example, if there's $100,000 of excess surplus DIP cash, then the settlement payment will be reduced to $1.895 million.

The plan sponsor will distribute the plan sponsor consideration, if any, to the liquidating trust. The junior DIP lender will fully fund the remaining unfunded amount of the junior DIP to fund towards liquidating trust. There's a D&O claims resolution process whereby all the Debtors' retained causes of action against the non-released D&Os, a defined term under the plan, will be transferred to, assigned, and invested in the liquidating trust for the benefit of the liquidating trust beneficiaries. So any proceeds from that settlement or that resolution will be there. And then the Debtors are getting releases from the settlement parties. And upon the full payment of the settlement payment, the releasing parties and settlement parties will be mutually released amongst each other.

As Your Honor has seen through the number of documents that were filed in the last 24 hours, there's been a significant amount of movement in the last I'll give it 72 hours, Your Honor. Following the Girns' objections to the disclosure statement, which has been withdrawn, the Debtors and the Committee filed a further revised plan and disclosure statement yesterday.

The second amended plan is at Docket Number 549. The

second amended disclosure statement is at Docket Number 551. The Debtors also filed modified versions of the proposed disclosure statement order and solicitation procedures at Docket Number 552. Those revisions to the order and the solicitation procedures were made to incorporate modifications suggested by Veritas, our claims and noticing agent, to make sure that the process, the solicitation process is smooth, and to include the U.S. Trustee's clear and explicit reservation rights to object to the plan and the disclosure statement. Both of those are in the disclosure statement and the disclosure statement order.

And the Debtors last night, thank you to Ms. Carson for the suggestion, filed a clean version of the proposed disclosure statement order and all exhibits at Docket Number 558.

THE COURT: Right.

MR. MOHAN: So, Your Honor, to now get to the evidence before Your Honor, the Debtors filed their admitted witness and exhibit list at docket number 553 yesterday. If it pleases Your Court, I'd like to move the declaration of Mr. John McCarthy, his first-day declaration, which was filed at Docket Number 15. I'd like to move that into evidence.

Your Honor, Mr. McCarthy is here today on Webex if needed for testimony. If that's okay, Your Honor, I would like to move his declaration into evidence.

THE COURT: All right. Is there anyone who has an objection to the admission of Exhibit Number 1 filed at Docket 553?

(No audible response)

THE COURT: All right, hearing no objection, Exhibit Number 1 is admitted.

(Debtors' Exhibit Number 1 admitted into evidence)

THE COURT: This is Mr. McCarthy's first-day dec, so he has -- do you intend to put him on right now?

MR. MOHAN: No, Your Honor.

THE COURT: No, okay.

MR. MOHAN: We have no intent to put him on.

THE COURT: Okay, all right.

MR. MOHAN: And then, Your Honor, with respect to Exhibits 2 through 15 that was filed at Docket Number 553, we'd ask to admit all at once unless Your Honor would like to go through any specific exhibit individually.

THE COURT: Okay, thank you very much.

Is there any objection to the admission of Debtors' Exhibits 2 through 15, again, filed at Docket 553?

(No audible response)

THE COURT: Hearing no objection, each of those exhibits is hereby admitted.

(Debtors' Exhibit Numbers 2 through 15 admitted into evidence)

THE COURT: I'm ready when you are, Mr. Mohan.

MR. MOHAN: Thank you, Your Honor.

So now to the conditional approval of the disclosure statement. As Your Honor noted, four objections were filed to the disclosure statement, one from Hallandale, one from Mr. Carl Barney. Both of those objections were withdrawn with respect to revised language in the plan settlement set forth in the first amended disclosure statement and plan.

THE COURT: Right.

MR. MOHAN: The U.S. Trustee's objection remains outstanding, and then the Girns filed -- Rebecca and Ray Girn filed their objection yesterday to it. The Debtors provided -- and the Committee filed a second amended plan and disclosure statement, which we believe addressed the vast majority of the Girns' objections. And the Girnses last night filed a withdrawal of their motion or their objection and reserved rights to confirmation.

THE COURT: Sure.

MR. MOHAN: The Debtors filed a reply yesterday at Docket Number 554, as well.

Your Honor, when we look at that one outstanding objection here, the U.S. Trustee's objection, the U.S. Trustee objects to conditional approval, arguing that the facts and circumstances do not support conditional approval. The third-party release and injunction provisions in the plan make the

plan patently unconfirmable, and the ballot and notice of non-voting status do not provide sufficient notice regarding the third-party releases.

The Debtors believe that we have addressed the disclosure statement objections filed by the U.S. Trustee, and through that, Your Honor, we've modified the ballot notice. We've modified the notice of non-voting status to more clearly provide the release language. We've included definitions of released parties, releasing parties, and I believe related parties, as well, in those documents. I've been communicating with Ms. Kippes, as well. We are going to add additional language that clearly identifies -- we are likely going to provide USBs with the solicitation materials and so that will clearly identify that the USBs are there. They've gotten smaller and smaller, and so we want to make sure that people know that it's not just a paperclip. It's something that's useful for them.

We believe we've addressed at least the third part of the U.S. Trustee's objection through that additional language there. The facts and circumstances, Your Honor, of the case, we believe that this objection was filed when the Debtors originally had their disclosure statement here, before we had a settlement with the Committee, before we have this -- the plan in front of Your Honor.

We believe that as the Committee has done their

analysis and as other parties have done their analysis, people have sufficient time to review the disclosure statement. We believe that we have the consensus of the Debtors' key stakeholders for the most part here to support it, and that conditional approval, as Your Honor said, is not the standard. It's the exception. We believe that we satisfy the exception in this case here.

And then, Your Honor, with respect to the last part from the U.S. Trustee, we believe those issues with respect to third-party releases and injunction are confirmation issues that can be better addressed at the combined hearing. We don't -- as we've noted in our reply, even though we state that they should be addressed at the combined hearing, we also argue that those -- our opt-out provision and our injunction provisions are in compliance with the law of the Fifth Circuit, are routine in front of this Court, and are not unique, as Ms. Carson said earlier today, as well.

And so for that, Your Honor, we do believe that the U.S. Trustee's objections have either been resolved or are objections that are better heard at our combined hearing. And as we've stated multiple times, we've provided that the U.S. Trustee explicitly has reserved their rights to object to those revisions at the confirmation hearing.

THE COURT: And how were the Girns' objections resolved? Is it specifically just to carry on to confirmation

or are there additional changes in the disclosure statement?

MR. MOHAN: Yes, Your Honor. So the second amended disclosure statement was done specifically -- and the second amended plan were it was revised and filed specifically to address the Girns' concerns.

THE COURT: Okay.

MR. MOHAN: The Girns' concerns related to non-consensual release of other settlement parties there. We've removed the Girns from that definition --

THE COURT: Right.

MR. MOHAN: -- of the non-consensual release. We've modified the treatment of the Bridge CN3 loan treatment back to what we had under the RSA plan, which provides for $500,000 for allowed claims.

THE COURT: Okay.

MR. MOHAN: We've made clear that the Debtors believe that any claims asserted by the Girns are disputed claims. We've made clear that the Girns had concerns with the prepetition foreclosures. And we've added language that discusses the Girns' claims and discusses the Debtors' causes of actions related to fraudulent and preferential transfers that the Girns received. And we intend to pursue those causes of action for the benefit of the Debtors' estates.

And so, Your Honor, from that, we believe that it addressed the disclosure-statement specific issues and the plan

issues related to the releases and the treatment of their claims. We don't believe that any of those render the plan patently unconfirmable. We do know that they may still object to the plan, likely. And we will address those objections and concerns as we move forward, as we did yesterday when we filed the second amended plan and continue to negotiate a potential resolution and settlement with the Girns' counsel.

THE COURT: Is there an iterative redline from first amended to second amended on the docket?

MR. MOHAN: Yes, Your Honor, there is one.

THE COURT: Okay.

MR. MOHAN: So the second amended disclosure statement was filed at 551.

THE COURT: Right, okay.

MR. MOHAN: The redline was filed at 550. And for the plan, the plan was filed at 549. And the redline from the first to the second amended was 548. It's at the bottom, both of them, in those notices. We have a clean version first and then the redline second.

THE COURT: And the redline, it must be just based on the number of pages. Okay.

MR. MOHAN: Yes. Yes, Your Honor.

THE COURT: I've learned to read in kilobytes how long something is.

MR. MOHAN: Sure.

THE COURT: Excellent. Okay, appreciate that. Thank you so much.

Ms. Carson.

MS. CARSON: Thank you, Your Honor.

Again, Amber Carson on behalf of the Committee.

I'm going to do my best not to duplicate anything that Mr. Mohan said or anything that I've already said about the U.S. Trustee's outstanding objection regarding third-party releases.

One thing that I did want to discuss are the changes to the disclosure statement because, obviously, that was one of the Committee's pet issues. One of the main things that we are focused on is, in the original plan, there were many releases of many different parties for what we felt was insufficient or no consideration. And, of course, this new version of the plan now provides for fewer releases of fewer people, and the people who are getting or entities that are getting releases are now providing what we believe is sufficient consideration.

And so we wanted to add a lot more information into the disclosure statement about the pre-petition actions, potential estate causes of action. We talk a lot about the settlement negotiations and the ultimate settlement. And so there's a lot of -- you'll see a lot of the redlines and sections are Article 5, Section I and J, and then, again, Articles 6 and Article 7G just outlining all of this and doing

our best to describe this whole process and what the plan now provides for the benefit of all of the creditors.

I don't believe I have anything else that hasn't already been said, so I will, for the sake of the Court's time, I will step back. Thank you.

THE COURT: Thank you, Ms. Carson.

All right, Ms. Kippes.

MS. KIPPES: I'm going to use this pen that happens to be conveniently here because mine just ran out.

THE COURT: Let us know if you need some.

MS. KIPPES: Thank you, YOUR HONOR.

THE COURT: I've got a whole bunch of pink highlighters if you need that. I just realized I have more highlighters than I do pens.

MS. KIPPES: Again, Your Honor, Meredyth Kippes on behalf of the United States Trustee.

I'm just going to adopt the argument that I made earlier with regard to notice. And I'll add one thing, I completely agree with the Court that the exception is beginning to swallow the rule, and I also agree with the Court that it appears as if, with the use of milestones and other things, cases Debtors are engineering themselves into the exception, which is a concerning trend.

With regard to the changes to the plan and the changes to the notices and the balance, I do appreciate the

changes that have been made, and I want to acknowledge the hard work of the Committee and the Debtors to get where it is, and it is better. I have to acknowledge that it is better.

With regard to our objections, I'll just stand on the U.S. Trustee's pleading. You do not need to hear me repeat over and over again. And as Mr. Mohan noted, we have reserved all the U.S Trustee's rights to object to final approval of the disclosure statement and all confirmation objections. And I believe that language is in Paragraph 6 of the most recently filed form of order approving conditional approval.

Unless the Court has any questions for me, I will rest on that.

THE COURT: Okay, I don't think I do.

MS. KIPPES: Thank you.

THE COURT: Thank you very much, Ms. Kippes.

All right. Mr. Taylor.

MR. TAYLOR: Good morning, Your Honor. I rise not to object to the conditional approval of the disclosure statement but, like the U.S. Trustee, the Girns have severe reservations about the confirmability of this plan and the final approval of this disclosure statement. The Court may or may not have had time to read our withdrawal that had an express reservation of rights.

Regarding their concerns about the final approval of this, the Girns will, while we will continue to work with all

parties to see if a consensual deal can still be reached, maybe that's possible and maybe that's not, but in the meantime, they would like to pursue discovery. And we don't want to have to prematurely file an objection to the plan to initiate a contested matter where we can issue subpoenas and issue discovery.

I think it would be appropriate for Your Honor to advise as to whether our reservation of rights will allow us to kick out discovery and issue subpoenas to parties based upon our reservation of rights and our anticipated filing of an objection to confirmation.

THE COURT: All right. Thank you, Mr. Taylor.

Before I address that, I'll hear anyone else with respect to conditional approval disclosure statement.

I'll turn to Mr. Mohan with specific regard to your issue on discovery, Mr. Taylor, but let me gather all of the objections first.

Mr. Hendricks?

MR. HENDRICKS: Your Honor, Chuck Hendricks again for Carl Barney.

We've withdrawn our objection based on the understanding that the third-party releases are going to be acceptable. There's a confusing patchwork of releases in this plan. There are a lot of parties, a lot of releases, some conditional releases. But it's better than the first one, and

we think it's acceptable, but so long as we reserve our rights to object to the plan --

THE COURT: Of course.

MR. HENDRICKS: -- that's satisfactory at this time.

THE COURT: Thank you.

Is there anyone -- Mr. Hoffman, do you wish to be heard at all? No.

MR. HOFFMAN: I don't, thank you.

THE COURT: Okay. Thank you very much.

Anyone online who wishes to be heard with respect to conditional approval disclosure statement?

(No audible response)

THE COURT: Hearing no takers. Mr. Mohan, I'll hear you on Mr. Taylor's request, or anything else you wish to follow up on.

MR. MOHAN: Thank you, Your Honor.

Again, Tim Mohan, Foley & Lardner, on behalf of the Debtors.

Your Honor, with respect to Mr. Taylor's comments with regards to their concerns about the disclosure statement, we've made over a half dozen requests to the Girns about what language they would like added to the disclosure statement. They provided no language that they would like added to the disclosure statement. If they have any between now and when we present the final order to Your Honor, we're happy to include

reasonable language that they would have.

But, Your Honor, that is all just to say we have asked to try to resolve any potential issues that they may have with respect to the disclosure statement, understanding that there are plan issues that they have, though, that will not be --

THE COURT: Well, I mean from the disclosure statement perspective, today is the day. I mean, I want people to tell me if they have issues with respect to the adequacy of the disclosure statement today. I don't mind minor changes that happen between the hearing and the presentation of the order, but I don't think today's the day to have entire new redlines after the hearing. So, on that perspective, I think the question is now for that. As to confirmability issues, as to plan issues, as to discovery issues, that is for another day. So, any issues with respect to the Girns pursuing discovery between now and confirmation?

MR. MOHAN: From the Debtors' perspective, Your Honor, no. The Debtors have worked with parties to have informal discovery, and we have provided information to parties as they requested to prevent the need to file a 2004 motion and incur the cost of potentially litigating those issues. We have seen a 2004 motion been filed by certain EB-5 investors, and we are working with those investors to try to resolve that and provide information without having a need for a hearing on that

motion, as well.

So, from the Debtors' perspective, we are fine with the Girns requesting reasonable discovery from the parties, reserving all rights with respect to any requests for production or discovery requests made by the Girns. I cannot speak to the Committee or any other parties who the Girns may seek discovery from, though.

THE COURT: Of course. Thank you very much, Mr. Mohan.

MR. MOHAN: Thank you.

THE COURT: All right. Anyone else wish to be heard with respect to discovery or anything else?

MR. MONSOUR: Your Honor, this is Trey Monsour from Fox Rothschild on behalf of Venture Lending & Leasing and WTI.

I just ask that we've already produced a number of documents to the Debtor and the Committee in connection with the disclosure statement, and I would just ask if the Debtor would release, if they're identical requests made by the Girns, that the Debtor release those documents as opposed to making the claimants reproduce all of that at the expense of the claimant. This is my only concern.

THE COURT: So, in other words, you've made a document production to the Debtors, and you're asking that if the Girns want discovery from your clients that the Debtors release that production to the Girns?

MR. MONSOUR: To the extent it's relevant, yes.

THE COURT: Okay.

MR. MOHAN: So, Your Honor, I believe that what Mr. Monsour is referring to is the information that the Debtors collected for the benefit of the Committee and their diligence request. We'll ask for written confirmation from these parties to authorize the release of that information.

THE COURT: Sure.

MR. MOHAN: Upon that, the Debtors are happy to work with the Girns and these parties to provide that information in the event we have that information available.

MR. MONSOUR: Thank you.

THE COURT: The one concern, and again, I'll just put it out there, Mr. Monsour, the one concern that the Court would have is if the Debtors want to release, as part of any production, anything that you give specific consent to be released, you do need to direct the Debtors in terms of what you want to release with specificity. I'd hate to see an issue where the Debtor releases a box of documents and you said, oh, no, no, no, all I really wanted you to release is, like you said, what's relevant. Determination of what is relevant is for you to make.

MR. MONSOUR: Yes.

THE COURT: I don't want there to be a shift in --

MR. MONSOUR: Understand.

THE COURT: -- that to the Debtors.

MR. MONSOUR: Understand.

THE COURT: Okay.

MR. MOHAN: Yeah. Your Honor, thank you for that --

MR. MONSOUR: I understand, Your Honor. Thank you.

THE COURT: All right. You're very welcome.

MR. MOHAN: Yes. Because, yes, Your Honor, if we are asked to release, we probably would release in just a bunch --

THE COURT: Right.

MR. MOHAN: -- as it's not our documents. And so --

THE COURT: Right. If they're Bates-stamped and they want to say 1 through 500 and 600 through 750, that's fine. But I just don't want the Debtors to release 1 through 1,000 and find out that there was specificity there.

MR. MONSOUR: Understood, Your Honor.

MR. MOHAN: Correct.

MR. MONSOUR: Understood. It's very clear. Thank you.

THE COURT: Okay.

MR. MONSOUR: We'll do that.

THE COURT: Thank you both.

MR. MOHAN: Thank you.

THE COURT: All right. So, Mr. Taylor, with respect to discovery and the issuance of subpoenas, confirmation is considered a contested matter. Discovery would be appropriate.

But let's talk about it a little bit because between now and don't make me give a date off the top of my head. I know the objections, I think, and the voting is due on the 17th. When is confirmation set for? A week thereafter? I think it's like the Tuesday of Thanksgiving maybe?

MS. CARSON: November 24th, Your Honor.

THE COURT: It is. Okay, thank you, about a week later. So what are you asking from the Court, Mr. Taylor?

MR. TAYLOR: Well, what my concern is that until we file an objection to confirmation, some people might argue there is no contested matter under which I have the ability to issue a subpoena. And I want to give -- now, we don't have to answer. There's no contested matter to which you are a party. And that's not the case. We have reserved all rights and we still do have concerns about whether this is patently unconfirmable. That was one of our arguments made --

THE COURT: Sure.

MR. TAYLOR: -- and the withdrawn objection. And we want to pursue those and be able to issue subpoenas and be able to come with a motion to enforce those subpoenas if we get resistance from parties saying this is improperly issued or if it is a party to the plan. As a settlement party, I would say they're almost a plan proponent. We can issue just without issuing a subpoena, but can just issue a request for production or otherwise.

And I wanted to just flesh those issues out just because I don't want to have to deal with a discovery fight to get the information on a compressed timeline.

THE COURT: Okay. Well, I don't want to tread too far into things that haven't happened yet. With respect to confirmation, I think that one of the issues I think that might cut through some of the contested matter noise is the fact that there are objections to confirmation, essentially confirmability objections that have been made in live objections that are here today with respect to disclosure statement.

As the Court has said numerous times before, I consider confirmation objections at confirmation, and I consider disclosure statement objections here. That's due process, notice, adequate information, and the like. So I believe that by carrying your confirmability objections to confirmation, you have what you need in terms of a contested matter.

Everything else related to discovery, I think that the answer is let's get on it. Let's start the process. If you wait two, three weeks to send a subpoena or to send a document request, I'm going to have one of these due process hearings again. And so I think that folks would be better served after this hearing to start talking discovery sooner rather than later just so that there are less fights.

And likewise, if there is, once you guys talk process, if you need a status conference or a discovery scheduling conference to flesh things out, then come back at that time. I don't really want to, notwithstanding my nature, talk about too much hypothetically such that people have an opportunity to confirm.

MR. TAYLOR: So I will advise the Court we have lots of discussion amongst all the professionals here. And while our clients do not see eye to eye, working with the professionals overall has been, as always within this bar, a very good experience.

THE COURT: Thank you very much, Mr. Taylor. That's what I see here, so I'm glad to hear it behind the scenes, as well.

All right. Anyone else wish to be heard with respect to discovery or disclosure statement?

(No audible response)

THE COURT: All right. I'm going to take a brief recess. I want to take a look at the most recently filed redline. I had a few comments in the documents before all the filings yesterday. I just want to see if they were picked up. And then this will also be the recess that will give you, the Committee, and the Debtors an opportunity to speak with Mr. Wright and take a look at his proposal to see if that motion to lift stay can be resolved. If it can, so be it.

If not, we'll carry it, and then you guys can make a determination if you want to carry it with confirmation or if you want to carry it somewhere short of that for an evidentiary hearing. Obviously, given where we are, perhaps there is the potential for a resolution. Otherwise, it's an in-person evidentiary hearing, and we'll have it as time permits, okay.

The Court will stand in recess.

THE CLERK: All rise.

THE COURT: I'll try to come back out around 11.

(Recessed at 10:45 a.m./Reconvened at 11:07 a.m.)

THE CLERK: All rise.

THE COURT: Please be seated. Do we have everybody? All right.

MR. TAYLOR: We lost Mr. Hendricks. He said he was ducking out.

THE COURT: Oh, okay. Fair enough. Thank you.

All right, we're going to go back on the record in Case Number 25-80121. I will start with disclosure statement and then I will move to the motion to lift stay.

All right, a few comments. Ms. Kippes, has the United States Trustee's objection for the clarification of governmental entities not being released, that's been addressed, correct?

MS. KIPPES: Truthfully, Your Honor, I am not sure. I haven't --

THE COURT: Okay. Mr. Mohan, have you inserted --

MR. MOHAN: We have not inserted that language, Your Honor.

THE COURT: Okay.

MR. MOHAN: We consider that a confirmation objection, and we can deal with that as we deal with any confirmation objections.

THE COURT: Okay.

(Pause)

THE COURT: Am I correct, Ms. Kippes, this has been in our last three or four plans confirmed, correct?

MS. KIPPES: Yes, Your Honor, that or some version of that --

THE COURT: Correct.

MS. KIPPES: -- Has been in there.

THE COURT: That's what I thought.

All right, Mr. Mohan. Given the reservation of the United States Trustee's right to object to confirmation issues there, I'll let you carry this portion of the objection to confirmation, but be prepared to tell me why the government's police and regulatory powers can somehow be infringed under a plan.

MR. MOHAN: Understood, Your Honor.

THE COURT: All right. Okay. In terms of the disclosure statement, just in terms of the verbiage, there's

one little nit on Page 2, paragraph beginning "On June 26th." In the second sentence, I'll let you guys fix that. It just says, "After its appointment, the Committee made raised." So there's just a little nit there. I'll let you guys take a look at that.

With respect to the professional holdback escrow, I'm assuming everything that's going on with the professional holdback escrow is going to happen in conjunction with confirmation and the effective date, correct?

MR. MOHAN: Your Honor, well, so the professional -- so there's two components here.

THE COURT: Okay.

MR. MOHAN: So as part of the settlement, the DIP lenders are going to fully fund the professional fee escrow in whole within, I believe it's three days, five days of the disclosure statement being entered.

THE COURT: Okay.

MR. MOHAN: And then the release of funds from those escrows will -- from the escrow will be paid either through interim relief or through final approvals of professional fee applications.

THE COURT: Okay. My question is because it says, "Funds held in the professional holdback escrow shall not be considered property of the Debtors' estates or of the reorganized HGE." So I'm trying to understand if I am ordering

that today or if that is effective at some later time.

MR. MOHAN: That will be -- sorry. Apologies, Your Honor. That will be effective as of the effective date.

THE COURT: Okay.

THE COURT: Yes, because it's not ordered today.

THE COURT: Okay. I appreciate that. Thank you.

So in your confirmation schedule or your timeline, I noticed the objection deadline was November 17th. If I'm doing the calendar math correctly, you're agreeing to serve by Friday, correct?

MR. MOHAN: That's the plan, Your Honor.

THE COURT: Okay. And so that's 31 days on Friday. So let's make sure that you guys -- I think it's three days from the order. But no matter what day you get your order entered, you'll serve by Friday.

MR. MOHAN: Yes, Your Honor. We have been working with Veritas to get the documents together and ready for distribution. So it's been a process that's been ongoing.

THE COURT: Excellent. I appreciate that. The only other comment that I have is Paragraph 13 of your form of conditional approval order. And that says that the service by mail is hereby waived for those folks who have a valid and confirmed email address, and then those folks can be served in an electronic manner. I want the Debtors to know you're doing that at your own risk, okay?

When you consider the request that you have for consensual third-party releases using the opt-out, consider the due process that will have to take place to reach consent. So if you have confirmed email addresses and that you've been going back and forth with these folks through the history of the case, that's one thing for those recognized parties. But to rely upon email service for purposes of the opt-out, just consider what you're asking the Court to do. Okay?

MR. MOHAN: Understood.

THE COURT: Other than that, the Court will conditionally approve the disclosure statement as set forth substantially in the form of the second amended disclosure statement, recognizing there could be a couple of nits and nats that are altered between now and service.

The Court will schedule the combined disclosure statement approval and plan confirmation hearing as set forth. You already have a hearing date for confirmation. Yes, November 24th. We just discussed that. And I'll also establish the objection periods that the Debtor requested with the specific point that the Debtors must serve the solicitation packages by Friday in order to keep their November 17th objection and voting deadline.

With respect to the United States Trustee's live objection, the Court will remain consistent as it has in the various complex cases as well as smaller business cases that

have come before it when it comes to third-party releases and specifically with respect to the opt-in and opt-out process. The Court does consider those to be confirmation issues. I really appreciate what the parties have done thus far. The Debtors, the lenders, the Unsecured Creditors Committee, as well as the other objecting parties, including the United States Trustee, to get to the form of disclosure statement that we've got here at the second amended form as well as to the forms of the ballots.

And I think that they are, certainly at this juncture, more reflective of the agreements of the parties, more reflective of the responses to the objections that were filed. I've read all of the papers from the Debtors' papers to the United States Trustee's papers and the like, and you've got the Court's benefit of prior rulings in similar cases. But what I'll tell you is, again, I've said it a ton of times, it's a factual determination to determine whether or not releases are appropriate in size and in scope as well as whether there's been due process and whether any opt-in or out process that is proposed by the Debtors has worked.

So all of that will carry to confirmation. But as we sit here today on a conditional basis, I will approve the form of the disclosure statement as containing adequate information in accordance with 1125. And we will address any further disclosure statement objections and any further confirmation

objections as a part of the combined hearing.

So with that, I'll look for the form of order from you, Mr. Mohan, if you can run that by the other parties.

MR. MOHAN: Yes, Your Honor.

THE COURT: Okay. Does anyone have any questions with respect to the scheduling of the combined hearing or conditional approval disclosure statement?

(No audible response)

THE COURT: Okay, hearing no takers, where are we on the lift stay, Mr. Mohan?

MR. MOHAN: Thank you, Your Honor. We have been exchanging emails with Mr. Wright.

THE COURT: Okay.

MR. MOHAN: And we have agreed to continue this matter to November 24th.

THE COURT: Okay. All right. So let me pull up the calendar and see what we have.

All right. So it looks like we have confirmation at 1:30. We'll reserve the remainder of the day probably for you guys for that day. I will carry the motion to lift stay to the same time. Again we've got a limited number of time. That will be an evidentiary hearing on that day. And so to the extent that the objection and the motion is still live, it will be in person and evidentiary.

So for sake of the record, I'm going to carry Docket

511, the motion for relief from stay filed by Sheena Watkins to final hearing on November 24th at 1:30, together with confirmation.

MR. WRIGHT: Thank you, Your Honor.

THE COURT: You're very welcome. Anyone else wish to be heard with respect to that or any other issues?

(No audible response)

THE COURT: Mr. Mohan, Mr. Taylor, do you want me to look at the calendar and tell you what we have if discovery issues should arise? Or --

MR. TAYLOR: I don't think --

THE COURT: Because I'm chock full of emergency motions right now, I can tell you that.

MR. TAYLOR: Quite frankly, I don't think it will be necessary.

THE COURT: Okay. All right.

MR. TAYLOR: I will contact the Court or your staff if so, but I don't anticipate it will.

THE COURT: Contact Settings if you guys need a status conference or you need a scheduling conference at all. Again, I certainly commend and hope that the parties can continue to work courteously in that way. Obviously, Dondi rules apply. But if you do need time, reach out as soon as possible because it is full.

All right. You guys have a great day. The Court

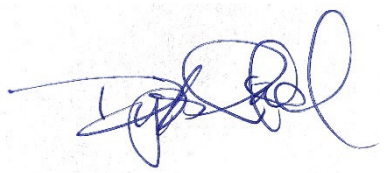
will stand in recess.

(Proceedings adjourned at 11:20 a.m.)

* * * * *

C E R T I F I C A T I O N

I, DIPTI PATEL, court-approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, and to the best of my ability.



_____

DIPTI PATEL, AAERT CET-997

Expires: December 6, 2026

Liberty Transcripts Date: October 17, 2025