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

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

THE WIND DOWN DEBTOR'S OBJECTION TO B. RILEY SECURITIES, INC.'S SECOND AND FINAL APPLICATION FOR COMPENSATION

[Relates to Dkt. No. 2330]

The Wind Down Debtor[2] hereby files this *Objection* (the "Objection") *to B. Riley Securities, Inc.'s* ("B. Riley") *Second and Final Application for Compensation for Services for the Period from December 20, 2024, Through March 25, 2025* [Dkt. No. 2330] (the "Final Fee Application").

SUMMARY

1. B. Riley's demand for a $1.25 million "success fee" for the Whinstone Transaction[3] in the Final Fee Application is either: (1) simply devoid of evidence and too vague for R. Riley to carry its burden in establishing any actual "services" required under the Court's Employment Order, or (2) based on patently incorrect (yet easily available) information. In either event, at least

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

[2] The term "Wind Down Debtor," when used herein, refers to Rhodium Enterprises, Inc.

[3] The term "Whinstone Transaction" Is defined below.

as presently drafted, the Final Fee Application must be rejected by the Court.

2. The information cited in the Final Fee Application fails to show that B. Riley performed ***any*** "services" on the Whinstone Transaction during the relevant application period. Based on the contents (or lack thereof) in the Final Fee Application, B. Riley's $1.25 million requested "success fee" is precluded by the plain and unambiguous terms of this Court's Employment Order pre-approving B. Riley's retention, which requires post-Petition Date "services." *See* Final Fee Application [Dkt. 2330] at ¶ 14 ("the Debtors filed an application for authorization to retain BRS ***effective as of the Petition Date*** . . . which application the Court granted….") (emphasis added).

3. As this Court is intimately familiar, the funds at issue (*i.e.*, the $185 million from the Whinstone Transaction) were paid by Rhodium's ***pre-existing landlord*** (Whinstone), in connection with, among other things, settlement of Rhodium's highly contentious litigation with Whinstone. Pursuant to the Court's Employment Order,[4] B. Riley is entitled to compensation "***solely*** in connection with B. Riley's services provided with respect to the sale of assets at the data center." *See* Dkt. No. 418 at ¶11 (emphasis added). And yet, the Final Fee Application fails to establish any post-Petition Date "services" by B. Riley "with respect to the sale of assets [to Whinstone] at the [Rockdale] data center."[5] The Final Fee Application also fails to identify the "assets … at the data center" for which it seeks $1.25 million under the Employment Order.

4. For the reasons set forth herein, and as will be shown by the evidence the Wind Down Debtor will present at the contested hearing on the Final Fee Application, this Objection

[4] The term "Employment Order" is defined below.

[5] Upon information and belief, following the ***pre***-petition Winstone/Riot lawsuit against the Debtor, all of B. Riley's efforts were directed towards the sale of the Temple Green assets, for which B. Riley was paid in its Initial Fee Application.

should be sustained in full. Based on the Final Fee Application, B. Riley is not entitled to ***any*** "success fee" in connection with the Whinstone Transaction, because the Final Fee Application does not establish B. Riley performing any "services," especially post-Petition Date services, related to the sale of applicable assets in the Whinstone Transaction (services which are required for B. Riley to receive compensation under the terms of the Court's Employment Order).[6]

5. In the alternative (and for the reasons set forth below), if B. Riley is awarded any amount, which it should not based on the Final Fee Application, then it should be significantly less than the $1.25 million requested by B. Riley. First, B. Riley failed to identify the "assets at the data center" on which to base the $1.25 million "success fee." Second, the "back of the envelope" "success fee" calculation B. Riley performed is fatally flawed, in contravention of the Court's prior rulings (to the extent applicable), and otherwise unsupported.

PROCEDURAL HISTORY

6. On August 24 and 29, 2024, the Debtors filed their voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code. The bankruptcy cases were jointly administered by this Court.

7. On October 14, 2024, this Court entered its *Order Granting the Motion of the Debtors to Establish Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* [Dkt. No. 264] (the "Compensation Procedures Order"). The Compensation Procedures Order establishes the procedures for Interim and Final Fee Applications (as those terms are utilized within the Compensation Procedures Order).

[6] While Temple Green is mentioned often, the Wind Down Debtor could not locate a "Rockdale" reference on a single entry for any time sheets attached to the Initial Fee Application or Final Fee Application.

8. On October 18, 2024, the Debtors filed their *Application for Entry of an Order (I) Authorizing the Retention and Employment of B. Riley Securities, Inc. as Financial Advisor and Investment Banker to the Debtors and Debtors in Possession Effective as of the Petition Date and (II) Granting Related Relief* [Dkt. No. 287] (the "Employment Application"). Included in the Employment Application was that certain engagement letter dated September 1, 2023, between the Debtors and B. Riley (the "Engagement Letter").

9. On November 11, 2024, this Court entered its *Order Authorizing the Retention and Employment of B. Riley Securities, Inc. as Financial Advisor and Investment Banker to the Debtors and Debtors in Possession Effective as of the Petition Date and (II) Granting Related Relief* [Dkt. No. 418] (the "Employment Order").

10. On March 21, 2025, the Debtors filed their *Emergency Motion for Entry of an Order (I) Approving Settlement Between Debtors and Whinstone US, Inc.; (II) Authorizing the Use, Sale, or Lease of Certain Property of the Debtors' Estate Pursuant to 11 U.S.C. § 363; and (III) Granting Related Relief* [Dkt. No. 880] (the "Whinstone Transaction Motion"), seeking approval of the transaction with Whinstone US, Inc. ("Whinstone") evidenced by a Term Sheet settling claims between the Debtors and Whinstone and selling certain assets (the "Whinstone Transaction").

11. On April 8, 2025,[7] this Court entered its *Order (I) Approving Settlement Between Debtors and Whinstone US, Inc.; (II) Authorizing the Use, Sale, or Lease of Certain Property of the Debtors' Estate Pursuant to 11 U.S.C. § 363; and (III) Granting Related Relief* [Dkt. No. 921] (the "Whinstone Transaction Order").

[7] Notably, no professional at B. Riley entered an appearance for the hearing on April 8 on the 9019 Motion. *See Appearance Sheet*, Dkt. No. 923.

12. On March 2, 2026, B. Riley filed its Final Fee Application seeking allowance and approval of certain compensation to B. Riley on a final basis, identified on its cover sheet as a "success fee." The Final Fee Application identifies that B. Riley was previously awarded compensation in the amount of $689,075.35 and now seeks a "success fee" in the amount of $1,250,000. In its Final Fee Application, B. Riley vaguely alleges that its "services contributed to the sale of the Debtors' operating assets bringing in a total value to the Debtors' estates of over $100 million attributable to the non-damages portion of the Whinstone Transaction."[8] But the Application provides woefully inadequate support for such a conclusory statement.

13. The original deadline for any party to object or otherwise respond to the Application was March 23, 2026. The Wind Down Debtor and B. Riley entered into the *Stipulation* [Dkt. No. 2352] on March 16, 2026, providing the agreement amongst themselves that the deadline for the Wind Down Debtor to file an objection or other response be extended to Friday, May 15, 2026. The Wind Down Debtor and B. Riley subsequently entered into the *Second Stipulation* [Dkt. No. 2380] on May 15, 2026, providing the agreement amongst themselves that the deadline for the Wind Down Debtor to file an objection or other response be extended to Friday, May 22, 2026. The Wind Down Debtor thus timely files this Objection.

APPLICABLE LEGAL STANDARD

14. Section 328(a) of the Bankruptcy Code permits debtors, with ***court approval***, to provide for the compensation of professionals, including investment bankers, on "any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, or on a contingent fee basis." 11 U.S.C. § 328(a). Here, as described more fully below, the Court approved B. Riley's retention in the Employment Order, but with specific requirements and prerequisites for

[8] Final Fee Application, ¶ 34.

payment/earning of fees that have not been met with respect to the putative "success fee." B. Riley bears the burden to establish that its "services" entitle it to the "success fee" under the Employment Order. Fed. R. Bankr. P. 2016 ("the entity must file an application showing: (A) in detail the amounts requested and the services rendered … (C) the source of the paid or promised compensation…"); *In re Hight*, 393 B.R. 484, 506 (Bankr. S.D. Tex. 2008) (burden on applicant to establish Rule 2016 requirements).

OBJECTIONS

A. Burden not met: Final Fee Application does not establish B. Riley's entitlement to any "success fee" for the Whinstone Transaction under the plain and unambiguous terms of the Employment Order.

15. Based on the substance (or lack thereof) of the Final Fee Application, B. Riley has not met its burden for entitlement to the "success fee," because the terms of this Court's Employment Order "solely" permit a "success fee" based on (post-Petition Date) "services provided with respect to the sale of assets at the data center." The Final Fee Application simply makes no such required showing.

16. Paragraph 11 of the Employment Order provides that B. Riley is entitled to compensation "***solely*** in connection with B. Riley's ***services provided with respect to the sale of assets at the data center*** . . . pursuant to Section 363":

> *For the avoidance of doubt, notwithstanding anything to the contrary, B. Riley shall be entitled to compensation under the Agreement* ***solely in connection with B. Riley's services provided with respect to the sale of assets at the data center*** *of Rhodium Renewables LLC, located at 3505 Lorraine Avenue, Temple, Texas 76501 and the data center of Rhodium Enterprises, Inc. located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567,* ***pursuant to Section 363 of the U.S. Bankruptcy Code****. B. Riley will not be entitled to compensation for any services relating to financing, unless B. Riley and the Company enter into a separate agreement after the date hereof setting forth such services and compensation.*

See Dkt. No. 418 at ¶11 (emphasis).[9]

17. The Final Fee Application vaguely states that "BRS's services include … marketing process with respect to the Debtors' Temple and Rockdale facilities" and that B. Riley "ran a dual path process seeking to monetize the Temple site and the Rockdale site." However, B. Riley does not identify ***when*** those purported services were provided. *See* Dkt. 2330 at P. 2, ¶ 30. Indeed, the Final Fee Application details no services with respect to the Whinstone Transaction, which was negotiated at a mediation that commenced on February 19, 2025. Importantly, every one of the numerous B. Riley time entries included in Exhibit A to the Final Fee Application falls between September 1, 2024, and December 19, 2024. Not only are the entries all outside of the time period applicable to the Final Fee Application, the last such entry is fully two months before the parties engaged in the mediation that led to the transaction with Whinstone. Further, although the entries contain several references to the Temple Green transaction, there is ***no mention*** of "Rockdale" anywhere in the records.

18. Just as Rockdale is absent in the submitted time entries, B. Riley was entirely absent from the Whinstone mediation; it did ***not*** participate ***at all***. The significance of B. Riley's absence in this mediation is highlighted by B. Riley's own Final Fee Application, which states "[i]mportantly, the Rockdale site and related business operations were transferred in settlement of

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[9] And paragraph 13 makes clear that any expansion of B. Riley's approved scope of work required further Court authorization:

> *To the extent the Debtors wish to expand the scope of BRS's services beyond those services set forth in or contemplated by the Engagement Letter or this Order (and as to which additional compensation would otherwise be payable), the Debtors shall be required to seek further approval from this Court.*

See Dkt. No. 418 at ¶13.

the mediation, not through an auction." *See* Dkt. 2330 ¶ 31. Thus, B. Riley judicially admits that (i) the Whinstone Transaction was the product of the Whinstone mediation, and (ii) B. Riley had ***nothing*** to do with the Whinstone mediation. Moreover, the Final Fee Application otherwise points to no "services" by B. Riley used to effectuate the sale of the assets to Whinstone at the Rockdale data center.

19. Again, as the Final Fee Application fails to establish any post-Petition Date *"services"* with respect to the Whinstone Transaction, under the plain terms of the Employment Order, B. Riley cannot recover a "success fee" in any amount, much less the $1.25 million "success fee" it seeks. The Estate should not be required to pay B. Riley any amount in excess of the $689,075.35 that has already been paid by the Estate to B. Riley in connection with the Temple Green transaction.

B. Burden not met: In the alternative, the Final Fee Application fails to identify the "assets" sold at the data center for the "success fee."

20. In the alternative only, the Wind Down Debtor objects to B. Riley's calculation of its claimed "success fee," because such calculation directly contradicts the Court's prior rulings on which B. Riley bases its Final Fee Application, and B. Riley fails to meet its burden by largely (and incorrectly) guessing.

21. B. Riley cites to, and attempts "guesstimate" math purportedly based on, this Court's ruling on the LKC fee dispute. In particular, B. Riley posits that "the damages portion of the Whinstone Transaction was approximately $80,000,000 . . . and the energy credits were approximately $5,000,000 leaving $100,000,000 paid in connection with the Sale Transaction . . . ." *See* Dkt. 2330 ¶ 24. It then calculates a $1.25 million success fee as 1.25% of the $100 million amount. Even if reliance on the LKC fee dispute ruling were proper – which the Wind Down Debtor does not concede – B. Riley's analysis fails on its terms, because the Court's prior rulings

conclusively establish that B. Riley's own "success fee" calculation is fatally flawed and, therefore, the Wind Down Debtor's Objection to such calculation should be sustained.

22. In ruling on the LKC dispute, this Court held "with respect to the damages, it's going to be $100 million." *See* Dkt. 2210 at 81:6-11. Thus, the Court previously found that only $85 million remains from the Whinstone Transaction for "non-damages." This alone shows that B. Riley's own calculation analysis, whether the Wind Down Debtor agrees with it or not, is unsupported and incorrect. But the infirmities in B. Riley's faulty analysis does not stop there.

23. Further undercutting B. Riley's "success fee" calculation, in ruling on the Motion to Enforce the Purchase and Sale Agreement with Whinstone filed by the Debtors and Special Committee (Dkt. 1881), this Court granted the Motion "in part . . . [b]ased on Mr. Wheeler's declaration at 2140" with respect to the allocation of the hard assets, which is the only matter the Court found to be in dispute. *See* Dkt. 2210 at 80:6-18 (specifically stating that the Court "grants the motion in part" and "allocates the $43 million [plus change] to the hard assets").

24. In Mr. Wheeler's Amended Declaration, Mr. Wheeler stated: "I recommend that the Debtors adopt an allocation of the Purchase Price as follows: (a) $6,120,000 of the Purchase Price shall be treated as the return of the Power Security Deposit; (b) ***$43,580,470 of the Purchase Price shall be allocated to the tangible property***; and (c) the remainder of the Purchase Price shall be allocated to the payment for termination of the power contracts and the settlement of the Whinstone Litigation." *See* Dkt. 2140 ¶ 14 (emphasis).

25. As such, even if the Court were to award a success fee (which, based on the Final Fee Application, it cannot), and even if the Court agreed that reliance on the LKC fee dispute ruling for purposes of the Application were proper, the only portion of the record on that order relevant to a success fee calculation is the portion that addresses the assets located "at the" Rockdale "data

center" (*i.e.*, the $43,580,470). Accordingly, under B. Riley own analysis framework, the maximum "success fee" B. Riley can claim would be no more than 1.25% of $43,580,470 (*i.e.*, $544,755.88). To be clear, however, the Wind Down Debtor maintains that B. Riley has not shown entitlement to ***any*** "success fee" with respect to the Whinstone Transaction, that B. Riley failed to meet ***its*** burden in the Final Fee Application by establishing the "assets" under the Employment Order to base the "success fee," and offers this corrected calculation in the alternative only.

CONCLUSION

For these reasons, the Wind Down Debtor requests that the Court sustain this Objection and issue an order finding that B. Riley failed to meet its initial burden in the Final Fee Application and that B. Riley is not entitled to any "success fee" (or any other fee or compensation) in excess of the $689,075.35 that has already been paid to B. Riley. In the alternative only, and while not adopting or agreeing with B. Riley's calculation analysis for the "success fee," the Wind Down Debtor requests that the Court reduce the requested "success fee" from $1.25 million to a maximum of $544,755.88 given B. Riley's miscalculation of the claimed "success fee." The Wind Down Debtor further requests any additional relief to which it has shown itself to be entitled and reserves all rights.

Respectfully submitted,

/s/ Chase J. Potter

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on May 22, 2026, a true and correct copy of this document was electronically served via the Court's CM/ECF system on all parties entitled to such notice and emailed to B. Riley's counsel.

/s/ Chase J. Potter
CHASE J. POTTER