

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

**Caption in Compliance with D.N.J. LBR 9004-1**

**WICK PHILLIPS GOULD & MARTIN LLP**

Jason M. Rudd (admitted *pro hac vice*)  
Catherine A. Curtis (admitted *pro hac vice*)  
3131 McKinney Ave., Suite 500  
Dallas, TX 75204  
Telephone: (214) 692-6200  
jason.rudd@wickphillips.com  
catherine.curtis@wickphillips.com

*Counsel to OSL Investment VI, LLC, Assignee  
from NexBank and The Ohio State Life  
Insurance Company*

In re:

CBRM REALTY INC., *et al.*,

Debtors.<sup>1</sup>

Chapter 11

Case No. 25-15343 (MBK)  
(Jointly Administered)

**OSL INVESTMENT VI, LLC’S OBJECTION TO CONFIRMATION OF THE  
MODIFIED JOINT CHAPTER 11 PLAN OF CROWN CAPITAL HOLDINGS LLC  
AND CERTAIN OF ITS DEBTOR AFFILIATES**

OSL Investment VI LLC (“OSL”), through their undersigned counsel, hereby submit this objection (“Objection”) to confirmation of the Modified Joint Chapter 11 Plan of Crown Capital Holdings LLC and Certain of Its Debtor Affiliates (the “Plan”) (Dkt. 622-1), and respectfully states as follows:

<sup>1</sup> 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.



## SUMMARY

1. The Debtors materially altered the Plan post-solicitation by including the Ad Hoc Group of Holders of Crown Capital Notes in Class 5, despite these noteholders not holding valid claims that fall within the scope of Class 5. As a result, the projected size of Class 5 increased dramatically—from approximately \$6.5 million to nearly \$139 million—significantly diluting the class and rendering the financial projections in the Disclosure Statement obsolete. This constitutes a material modification to the Plan, which, pursuant to section 1127(c), necessitates additional disclosure and a renewed solicitation process under these circumstances. Accordingly, OSL respectfully requests that the Court deny confirmation of the Plan and direct the Debtors to resolicit it, thereby ensuring that all parties receive adequate notice of the material changes and a fair opportunity to object and vote anew.

## BACKGROUND FACTS

2. Before the petition date, Debtors RH Chenault Creek LLC, RH Windrun LLC, RH Copper Creek LLC, RH Lakewind East LLC, CBRM Realty Inc., Crown Capital Holdings, LLC, Kelly Hamilton Apts, LLC, Kelly Hamilton Apts MM LLC, RH New Orleans Holding LLC, and RH New Orleans Holdings MM LLC (altogether, the “Bound Debtors”) executed that certain *Binding Term Sheet for Senior Secured, Superpriority Debtor-in-Possession Financing Dated as of May 19, 2025* (“Binding Term Sheet”) with The Ohio State Life Insurance Company and NexBank, on behalf of themselves and any fund or separately managed account that they manage or any of their respective affiliates (the “Proposed DIP Lender”).

3. The Binding Term Sheet provides the Proposed DIP Lender could assign the Binding Term Sheet to “an affiliate or to any or all of its managed funds or accounts,” and accordingly, the Binding Term Sheet was assigned to OSL.

4. The Binding Term Sheet requires, among other things, the Bound Debtors to pay OSL a break-up fee of \$250,000 (“Break-up Fee”) if the Bound Debtors obtain financing from a debtor-in-possession lender other than OSL, and the Binding Term Sheet provides the obligation to pay the Break-up Fee survives the termination of the Binding Term Sheet.

5. On May 27, 2025, the Bound Debtors entered into a competing binding term sheet with another proposed debtor-in-possession lender, which triggered the Break-up Fee.

6. On July 28, 2025, OSL filed its proofs of claim in each of the Bound Debtors’ cases for the Break-up Fee.

7. On September 4, 2025, certain Debtors filed their *Disclosure Statement for the Modified Joint Chapter 11 Plan of Crown Capital Holdings LLC and Certain of Its Debtor Affiliates* [ECF No. 517, the “Disclosure Statement”).

8. OSL’s claim for the Break-up Fee qualifies for treatment under Class 5 (Other NOLA Unsecured), Class 6 (Crown Capital Unsecured), and Class 7 (RH New Orleans Unsecured) in the Plan.

9. In the Disclosure Statement, the Debtors projected the recovery for Class 5 to be between 13% and 42%, and estimated the allowed claim amount for Class 5 to total \$6,539,869.

<u>Estimated Recovery to Creditors</u>	<u>Estimated Claim Allowed</u>				
<i>Values shown are not inclusive of any recoveries on account of NOLA Debtor Contributed Creditor Recovery Trust Assets)</i>					
Chapter 11 Professional Fees	9	2,360,000	100.0%	2,360,000	100.0%
Proceeds Available to Admin Claims				\$20,920,497	\$26,950,621
NOLA DIP Facility		17,422,728	100.0%	17,422,728	100.0%
Proceeds Available to NOLA DIP Facility				\$20,920,497	\$26,950,621
Priority Tax Claims	10	0	100.0%	--	100.0%
Proceeds Available to Priority Tax Claims				\$3,497,769	\$9,527,893
Class 1 - Other Priority Claims	10	0	100.0%	--	100.0%
Proceeds Available to Class 1				\$3,497,769	\$9,527,893
Class 2 - Other Secured Claims	11	4,060,876	39.5%	1,604,481	98.6%
Proceeds Available to Class 2				\$3,497,769	\$9,527,893
Class 3 - CIF Mortgage Loan Claims	12	4,500,000	23.2%	1,042,913	61.7%
Proceeds Available to Class 3				\$1,893,288	\$5,523,803
Class 4 - NOLA Go-Forward Trade Claims	13	Undetermined	Undetermined	--	Undetermined
Proceeds Available to Class 4				\$850,375	\$2,746,997
Class 5 - Other NOLA Unsecured Claims	14	6,539,869	13.0%	850,375	42.0%
Proceeds Available to Class 5				\$850,375	\$2,746,997
Class 6 - Crown Capital Unsecured Claims	15	201,500,000	0.0%	--	0.0%
Proceeds Available to Class 6				--	--
Class 7 - RH New Orleans Unsecured Claims	15	201,500,000	0.0%	--	0.0%
Proceeds Available to Class 7				--	--

10. On September 12, 2025, certain Debtors executed and filed a Purchase and Sale Agreement with Lynd Acquisitions Group LLC (ECF No. 554, the “PSA”), which provided:

**2.2 Purchase Price.** In consideration of the sale of the Property by Seller to Buyer in accordance with the terms and conditions of this Agreement, Buyer shall pay or be deemed to pay the Purchase Price to Seller on the Closing Date by (a) paying the Purchase Price in cash and (b) assuming the Assumed Liabilities as of the Closing Date and (c) agreeing to fund the Noteholder Recovery in accordance with this Agreement, as the same shall be reflected in a modified version of the Plan.

11. The PSA defined the Noteholder Recovery as follows:

**“Noteholder Recovery”** shall mean an amount equal to thirty percent (30%) of the Net Proceeds realized from any sale, refinancing, or other capital transaction with respect to the Property to the Holders of Crown Capital Unsecured Claims, as defined in the Plan. For purposes of this provision, **“Net Proceeds”** shall mean the distributable cash proceeds remaining after (i) payment of all costs and expenses of such transaction, (ii) repayment of all debt, and (iii) payment in full of all equity capital and accrued equity returns. The Noteholder Recovery shall be non-recourse to Purchaser and payable solely from such Net Proceeds, if any, as and when distributed.

12. The Noteholder Recovery in the PSA provides the Ad Hoc Group of Holders of Crown Capital Notes (as defined in the Plan) with a 30% share of net proceeds from a future sale of the New Orleans properties. The PSA does not provide any other claims to the noteholders.

13. On October 10, 2025, OSL timely voted against the Plan under Classes 5, 6, and 7.

14. On October 17, 2025, Debtors filed their Memorandum in support of the Plan's confirmation [ECF No. 618], wherein Debtors state:

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.

15. In their Memorandum, Debtors specifically acknowledge that the Ad Hoc Group of Holders of Crown Capital Notes do not hold claims in Class 5, and that the claims in Class 6 and 7 are not substantially similar to the claims in Class 5 within the meaning of section 1122(a).

16. Yet, on October 18, 2025, Debtors filed the Modified Plan [ECF No. 622-1] that added the following:

C. *Crown Capital Noteholder Settlement.*

Pursuant to the Crown Capital Noteholder Settlement, the NOLA Purchaser has agreed to provide the Crown Capital Notes Settlement Amount to the Holders of Allowed Crown Capital Unsecured Claims. In accordance with the Crown Capital Noteholder Settlement, each Holder of an Allowed Crown Capital Unsecured Claim shall hold an Allowed Claim against each Debtor in an amount equal to the amount of such Holder's Allowed Crown Capital Unsecured Claim and shall be deemed to have voted to accept the Plan on account of such Allowed Claim against each Debtor, and the Debtors shall not be required to disseminate a Ballot to the Holders of Allowed Crown Capital Unsecured Claims on account of such Allowed Claims.

17. The modified Plan provided the following definitions for the “Crown Capital Noteholder Settlement”:

53. “*Crown Capital Noteholder Settlement*” means the settlement among the Ad Hoc Group of Holders of Crown Capital Notes and the NOLA Purchaser to implement the matters described in Section 2.2 of the NOLA Purchase Agreement with respect to the Crown Capital Noteholder Settlement Amount, which settlement shall be effectuated on the Effective Date pursuant to an agreement to be entered into on the Effective Date by and among the NOLA Purchaser and the Ad Hoc Group of Holders of Crown Capital Notes. Notwithstanding anything to the contrary in the Plan, the Debtors shall not be parties to such settlement; *provided, however*, that the Creditor Recovery Trust may effectuate a distribution of the proceeds thereof to the Ad Hoc Group of Holders of Crown Capital Notes if expressly requested in writing by the Ad Hoc Group of Holders of Crown Capital Notes.

54. “*Crown Capital Noteholder Settlement Amount*” means Cash in an amount equal to thirty percent (30%) of the Cash proceeds realized by the NOLA Purchaser from any future sale with respect to the NOLA Properties following (i) the payment of all costs and expenses of such transaction, (ii) the repayment of all outstanding liabilities secured by the NOLA Properties, and (iii) the payment in full of all equity capital and accrued equity returns.

18. Notably, the “Crown Capital Noteholder Settlement” introduced in Article IV(C) of the Plan purports to grant the Ad Hoc Group of Holders of Crown Capital Notes a claim against all Debtors, thereby placing them in Class 5. However, none of the Debtors comprising Class 5 were subject to prepetition claims by this group. In fact, the Plan’s definition of the “Crown Capital Noteholder Settlement” limits the group’s recovery to what is outlined in Section 2.2 of the PSA. The additional language in Article IV(C) of the Plan—conferring broader claims—was unilaterally inserted by the Debtors and was not disclosed to counsel for the Ad Hoc Group of Holders of Crown Capital Notes.

19. The result of the Debtors adding claims to Class 5 for the Ad Hoc Group of Holders of Crown Capital Notes is a complete dilution of the class, which is demonstrated in the Ballot Tabulation Summary filed at ECF No. 617-1.

Ballot Tabulation Summary

Class Name	Class Description	Not Tabulated	Members Voted	Members Accepted	Members Rejected	% Members Accepted	% Members Rejected	Total \$ Voted	\$ Accepted	\$ Rejected	% \$ Accepted	% \$ Rejected
3	CIF Mortgage Loan Claim	0	0	0	0	0.00	0.00	\$0.00	\$0.00	\$0.00	0.00	0.00
4	NOLA Go-Forward Trade Claims	0	5	4	1	80.00	20.00	\$2,039,204.09	\$7,533.78	\$2,031,670.31	0.37	99.63
5	Other NOLA Unsecured Claims	1	27	26	1	96.30	3.70	\$138,927,093.87	\$138,677,093.87	\$250,000.00	99.82	0.18
6	Crown Capital Unsecured Claims	0	26	25	1	96.15	3.85	\$138,922,687.22	\$138,672,687.22	\$250,000.00	99.82	0.18
7	RH New Orleans Unsecured Claims	0	33	32	1	96.97	3.03	\$113,922,687.22	\$113,672,687.22	\$250,000.00	99.78	0.22

20. By diluting OSL's expected recovery and its voting power in Class 5, the Debtors' post-solicitation modification of the Plan materially and adversely affects the treatment of OSL's claim and renders the modified Plan unconfirmable without further solicitation and opportunity to object.

## ARGUMENT & AUTHORITIES

21. Section 1127 of the Bankruptcy Code allows pre-confirmation plan modifications if the modified plan otherwise complies with classification, content, and disclosure requirements. *In re Am. Trailer & Storage, Inc.*, 419 B.R. 412, 419 (Bankr. W.D. Mo. 2009). "On its face, Section 1127(c) does not alter the requirement that adequate information within the meaning of Section 1125(a) be provided in connection with a solicitation of plan acceptance." *In re Islet Scis., Inc.*, 640 B.R. 425, 457 (Bankr. D. Nev. 2022). The Plan, as modified, violates the requirements of section 1127(c) and cannot be confirmed.

22. "When a modification to a Chapter 11 reorganization plan materially and adversely affects the treatment of a class of claim or interest holders, those claim or interest holders are entitled to a new disclosure statement and another opportunity to vote." *In re Am.-CV Station Grp., Inc.*, 56 F.4th 1302, 1305 (11th Cir. 2023). This is true even where the adversely affected creditor previously voted to reject the unmodified plan. *Id.* ("[I]nterest holders that previously rejected (or



did not vote for) a reorganization plan are still entitled to additional disclosure and voting if the treatment of their interests is materially and adversely affected by a modification.”).

23. There is no question that the Debtors’ post-solicitation, pre-confirmation modification of the plan “materially and adversely changes the way [OSL’s] claim . . . is treated.” *Id.* at 1309. Among other things, the modifications alter the composition of Class 5 and dramatically dilute OSL’s expected recovery on its claim. The projected size of Class 5 went from \$6.5 million to nearly \$139 million. The Ballot Tabulation Declaration filed at ECF No. 617 shows that absent the addition of the Ad Hoc Group of Holders of Crown Capital Notes to the class, OSL is actually the only claimant in Class 5.

24. The rule articulated in section 1127(c) is clear. “[I]f a modification materially and adversely changes the treatment of any claim or interest holder who has not accepted the modification in writing, then that claim or interest holder is entitled to a new disclosure statement and resolicitation of votes.” *Id.* at 1311. Section 1127(c), which incorporates the disclosure requirements of section 1125(a), require additional disclosure and solicitation under these circumstances. *Id.*

25. The fact that OSL voted to reject the Plan does not alter this result. “[A] dissenting vote on a Chapter 11 plan does not give the debtor a free pass to modify the plan to the detriment of that dissenting [creditor].” *Id.* As in *American-CV Station*, “[t]his case shows exactly why a new disclosure statement can protect a claim or interest holder who previously voted to reject the plan.” 56 F.4th at 1312. “A new disclosure statement with additional time to vote would have given the [OSL] an opportunity to object to the modification on substantive grounds.” *Id.* The modified Plan’s re-classification of certain noteholder claims into Class 5 contradicts the Debtors’ prior assertions regarding separate classification and appears designed to gerrymander and additional



impaired accepting class at OSL's expense. The Debtors' eleventh hour modification to the Plan deprives OSL of an opportunity to fully develop an evidentiary record in support of that objection.

26. The Eleventh Circuit's holding in *American-CV Station* is dispositive. After soliciting OSL's vote on the Plan, the Debtors impermissibly modified the Plan in a manner that materially and adversely affects the treatment of OSL's claim. Under section 1127(c), the material adverse change to the Plan requires resolicitation and renders the Plan unconfirmable.

### **RESERVATION OF RIGHTS**

27. OSL reserves all of their rights and objections regarding any and all future amendments to the Plan. OSL reserves the right to comment on and object to the proposed form of confirmation order. OSL reserves the right to amend or supplement this Objection.

### **CONCLUSION**

WHEREFORE, OSL respectfully requests that this Court sustain the Objection, deny confirmation of the modified Plan, direct the Debtors to resolicit the Plan, and grant such other relief it deems just and proper.

/s/ Catherine A. Curtis

Jason M. Rudd (admitted pro hac vice)

Catherine A. Curtis (admitted pro hac vice)

**WICK PHILLIPS GOULD & MARTIN LLP**

3131 McKinney Ave, Suite 500

Dallas, Texas 75204

Telephone: (214) 692-6200

jason.rudd@wickphillips.com

catherine.curtis@wickphillips.com

-and-

/s/ Kenneth L. Baum

Kenneth L. Baum

**LAW OFFICES OF KENNETH L. BAUM LLC**

201 W. Passaic Street, Suite 104

Rochelle Park, New Jersey 07662

Telephone: (201) 853-3030

[kbaum@kenbaumdebtsolutions.com](mailto:kbaum@kenbaumdebtsolutions.com)

*Counsel to OSL Investment VI, LLC, Assignee from  
NexBank and The Ohio State Life Insurance  
Company*

Dated: October 22, 2025