

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

FIKER, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-11390 (TMH)

(Jointly Administered)

Hearing Date: May 29, 2025 at 10:00 a.m. (ET)

Objection Deadline: May 14, 2025 at 4:00 p.m. (ET)

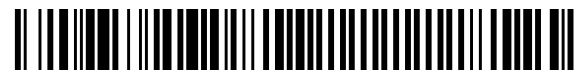
LIQUIDATING TRUSTEE'S EIGHTH OMNIBUS OBJECTION (SUBSTANTIVE)
PURSUANT TO 11 U.S.C. § 502, FED. R. BANKR. P. 3007 AND LOCAL RULE 3007-1
TO CERTAIN NON-DEBTOR AFFILIATE CLAIMS

TO THE HOLDERS OF THE NON-DEBTOR AFFILIATE CLAIMS ON SCHEDULE 1
TO THE PROPOSED ORDER ANNEXED HERETO AS EXHIBIT A:

- YOUR SUBSTANTIVE RIGHTS MAY BE AFFECTED BY THIS OBJECTION AND BY ANY FURTHER OBJECTION THAT MAY BE FILED BY THE LIQUIDATING TRUSTEE
- YOU ARE DIRECTED TO LOCATE YOUR CLAIM ON SCHEDULE 1 ATTACHED TO THE PROPOSED ORDER
- THE RELIEF SOUGHT HEREIN IS WITHOUT PREJUDICE TO THE LIQUIDATING TRUSTEE'S RIGHTS, OR THE RIGHTS OF OTHER PARTIES-IN-INTEREST, TO PURSUE FURTHER SUBSTANTIVE OR NON-SUBSTANTIVE OBJECTIONS AGAINST THE CLAIMS ADDRESSED HEREIN

Matthew Dundon, solely in his capacity as the Liquidating Trustee (the "Liquidating Trustee") of the Fisker Liquidating Trust (the "Liquidating Trust"), hereby submits this eighth omnibus objection (substantive) (the "Objection") seeking entry of an order (the "Proposed Order"), substantially in the form annexed hereto as Exhibit A, pursuant to, *inter alia*, section 502 of title 11 of the United States Code (the "Bankruptcy Code"), Rule 3007 of the Federal

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of their respective employer identification numbers or Delaware file numbers, are as follows: Fisker Inc. (0340); Fisker Group Inc. (3342); Fisker TN LLC (6212); Blue Current Holding LLC (6668); Platinum IPR LLC (4839); and Terra Energy Inc. (0739). The address of the Debtors' corporate headquarters is 14 Centerpointe Drive, La Palma, CA 90623.



Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 3007-1 of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”): (i) disallowing in full and expunging (a) Proof of Claim No. 4014 (the “**Fisker Denmark Claim**”), filed by non-debtor affiliate Fisker Denmark ApS (“**Fisker Denmark**”), and (b) Proof of Claim No. 4015 (the “**Fisker Germany Claim**” and together with the Fisker Denmark Claim, the “**Disputed Claims**” or the “**Non-Debtor Affiliate Claims**”), filed by non-debtor affiliate Fisker GmbH Germany (“**Fisker Germany**” and, together with Fisker Denmark, the “**Non-Debtor Affiliates**”), which Disputed Claims are listed on **Schedule 1** to the Proposed Order, because the Disputed Claims were interposed in a procedurally defective manner and fail to meet the legal standards required to establish entitlement to administrative priority, pursuant to Bankruptcy Code section 503; or alternatively (ii) reclassifying and fixing the priority status of the Disputed Claims to general unsecured Claims, because such Disputed Claims are not entitled to administrative priority pursuant to Bankruptcy Code section 502.² In support of the Objection, the Liquidating Trustee submits the Declaration of Rick Wright (the “**Wright Declaration**,” a copy of which is attached hereto as **Exhibit B** and incorporated by reference herein), and respectively represents as follows:

JURISDICTION AND VENUE

1. The United States District Court for the District of Delaware has jurisdiction over this Objection pursuant to 28 U.S.C. § 1334, which was referred to the United States Bankruptcy Court for the District of Delaware (the “**Court**”) under 28 U.S.C. § 157 and the *Amended Standing*

² The Liquidating Trustee expressly reserves all of his rights to interpose additional substantive and/or non-substantive objections to the Disputed Claims at a later date, and for any reason.

Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012.

2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Court may enter a final order consistent with Article III of the United States Constitution.³

3. The statutory bases for the relief requested herein are Bankruptcy Code section 502, Bankruptcy Rule 3007, and Local Rule 3007-1.

BACKGROUND

A. The Chapter 11 Cases

4. On June 17 and 19, 2024, as applicable (the “**Petition Date**”), Fisker, Inc. and its debtor affiliates (collectively, the “**Debtors**”) commenced the above-captioned cases (the “**Chapter 11 Cases**”) in the Court under chapter 11 of the Bankruptcy Code.

5. On October 15, 2024, the Debtors filed their fourth amended *Combined Disclosure Statement and Chapter 11 Plan of Liquidation of Fisker Inc. and its Debtor Affiliates* (as amended, the “**Plan**”)⁴ [D.I. 713].

6. On October 16, 2024, the Court entered the *Findings of Fact, Conclusions of Law, and Order, Approving the Disclosure Statement on a Final Basis, Confirming the Debtors’ Joint Chapter 11 Plan of Liquidation, and Granting Related Relief* (the “**Confirmation Order**”) [D.I. 722] confirming the Plan.

³ Pursuant to Local Rule 9013-1(f), the Liquidating Trustee hereby confirms his consent to entry of a final order by the Court in connection with this Objection if it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

⁴ Any capitalized term used but not otherwise defined herein shall have the meaning ascribed to it in the Plan (as defined below).

7. Pursuant to the Confirmation Order, the appointment of the Liquidating Trustee was approved in all respects, including:

[T]o (a) carry out all rights and duties set forth in the Plan and Liquidating Trust Agreement, (b) appear and be heard on all matters related to the Chapter 11 Cases (as a representative of the Liquidating Trust and/or the Debtors, as applicable), (c) as set forth in Article VIII.B.3 of the Plan and this Order, investigate, prosecute and resolve, in the name of the Debtors and/or the name of the Liquidating Trustee, any Preserved Estate Claims (including, for the avoidance of doubt, any criminal causes of action), and (d) present to creditors and other courts of competent jurisdiction this Order as evidence of such authority.

See Confirmation Order, ¶ 73.

8. On October 17, 2024 (the “**Effective Date**”), the Plan went effective, as set forth in the *Notice of (I) Effective Date of Combined Disclosure Statement and Chapter 11 Plan of Liquidation of Fisker Inc. and its Debtor Affiliates and (II) Certain Claims Bar Dates* [D.I. 730] (the “**Notice of Effective Date**”).

9. The Liquidating Trust was established on the Effective Date, into which the Debtors transferred “all of the Debtors’ and Estates’ rights, title, and interest in and to all of the Liquidating Trust Assets, and, in accordance with section 1141 of the Bankruptcy Code, the Liquidating Trust Assets, ... automatically vest[ed] in the Liquidating Trust free and clear of all Claims, Liens, encumbrances, or interests.” *See Confirmation Order, ¶ 75.*

10. The Plan provides that, after the Effective Date, the Liquidating Trustee: “[s]hall have the sole authority to (a) file, withdraw or litigate to judgment, objections to Claims; (b) settle or compromise any Disputed Administrative Claim without any further notice to or action, order or approval by the Bankruptcy Court (other than a Professional Fee Claim).” *See Plan, Article X.B.*

B. The Bar Dates

11. On August 15 and 16, 2024, each Debtor filed its respective schedule of assets and liabilities (the “**Schedules**”) and statement of financial affairs, as each may have been amended from time to time [D.I. 430-450].

12. On August 19, 2024, the Court entered its *Order (I) Establishing Certain Bar Dates for Filing Proofs of Claim Against the Debtors, and (II) Granting Related Relief, Including Notice and Filing Procedures* [D.I. 458] (the “**Bar Date Order**”).

13. Among other things, the Bar Date Order established (i) 5:00 p.m. prevailing Eastern Time on September 11, 2024 (the “**General Bar Date**”) as the deadline for all entities, other than governmental units, to file Proofs of Claim and (ii) 5:00 p.m. prevailing Eastern Time on December 16, 2024 (the “**Government Bar Date**”) as the deadline for governmental units to file Proofs of Claim.

14. The Plan and the Confirmation Order provided that holders of Administrative Claims were required to file such claims no later than the first Business Day that was thirty (30) days following the Effective Date, or November 18, 2024 (the “**Administrative Claims Bar Date**”) and, together with the General Bar Date and the Government Bar Date, the “**Bar Dates**”). *See* Confirmation Order, ¶ 100; *see also* Plan, Article I.15.

C. Claims Objection Deadlines

15. Pursuant to the *Order Extending the Period to File and Serve Objections to Administrative Claims Through and Including April 18, 2025* [D.I. 817], the deadline for the Liquidating Trustee to object to Administrative Claims, including claims under Bankruptcy Code section 503(b)(9), was extended April 18, 2025 (the “**Administrative Claims Objection Deadline**”), subject to the Liquidating Trustee’s right to seek additional extensions.

16. On April 10, 2025, the Liquidating Trustee filed the *Motion for Entry of an Order Further Extending the Time Period to File and Serve Objections to Administrative Claims* [D.I. 950], seeking to further extend the Administrative Claims Objection Deadline for 122 days, from April 18, 2025, through and including August 18, 2025, without prejudice to the Liquidating Trustee’s right to seek further extensions thereof (the “**Second Administrative Claims Objection Deadline Extension Motion**”).

17. A hearing on the Second Administrative Claims Objection Deadline Extension Motion is scheduled for May 29, 2025 at 10:00 a.m. (ET) in Wilmington, Del. Pursuant to Local Rule 9006-2, the filing of Second Administrative Claims Objection Deadline Extension Motion prior to the expiration of the Administrative Claims Objection Deadline automatically extended the Administrative Claims Objection Deadline until the Court rules on the Second Administrative Claims Objection Deadline Extension Motion.

18. Pursuant to the *Order Extending the Period to File and Serve Objections to Claims and Interests Through and Including July 14, 2025* [D.I. 883], the deadline for the Liquidating Trustee to object to Claims other than Administrative Claims is July 14, 2025, subject to the Liquidating Trustee’s right to seek additional extensions.

D. Case Requirements for Filing of Administrative Claims

19. Pursuant to the Bar Date Order, “[t]he following persons or entities holding prepetition claims against the Debtors shall not be required to file proofs of claim . . . c. [a]ny person or entity whose claim is allowable under §503(b) and §507(a)(2) of the Bankruptcy Code as an administrative expense (other than a claim arising under §503(b)(9) of the Bankruptcy Code).” *See* Bar Date Order, ¶ 5(c) (emphasis added).

20. Additionally, the Bar Date Order approved the customized proof of claim form (the “**Claim Form**”) to be utilized in the Chapter 11 Cases, which form is consistent with Official Bankruptcy Form B410 (2024) (“**Official Form B410**”). See Bar Date Order, ¶ 3; see also Official Form B410 (2024).

21. The customized Claim Form provides as follows at the top of page 1 (in bold type), “[t]his form is for making a claim for payment in a bankruptcy case. **Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.**” See Bar Date Order, Ex. 1 (emphasis added).⁵

22. Furthermore, the Plan provides that “[t]he holder of an Administrative Claim must file with the Bankruptcy Court and serve on the Debtors and the Office of the United States Trustee, notice of such Administrative Claim by no later than the Administrative Claims Bar Date. Such notice must include, at a minimum, (x) the name of the holder of the Claim, (y) the amount of the Claim, and (z) the basis of the Claim. Failure to file and serve such notice timely and properly shall result in the Administrative Claim being forever barred.” See Plan, Article V.A.1 (emphasis added).

23. The Plan further provides:

HOLDERS OF ADMINISTRATIVE CLAIMS THAT ARE REQUIRED TO, BUT DO NOT, FILE AND SERVE A REQUEST FOR PAYMENT OF SUCH ADMINISTRATIVE CLAIMS BY THE ADMINISTRATIVE CLAIMS BAR DATE SET FORTH HEREIN SHALL BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERTING SUCH

⁵ On August 21, 2024, the Debtors’ (and the Liquidating Trust’s) claims and noticing agent, Kurtzman Carson Consultants dba Verita Global (“**Verita**”) caused the Claim Form and the *Notice of Bar Dates for Filing Proofs of Claim Against the Debtors* [substantially in the form attached as Exhibit 2 to D.I. 458] (the “**Notice of Bar Dates**”) to be served via U.S. First Class Mail upon Fisker Denmark and Fisker Germany. See *Certificate of Service of Scott M. Ewing re: 1) Modified Official Form 410 Proof of Claim; and 2) Notice of Bar Dates for Filing Proofs of Claim Against the Debtors* [D.I. 495], filed on August 29, 2024.

ADMINISTRATIVE CLAIMS AGAINST THE DEBTORS, THE ESTATES, THE LIQUIDATING TRUST, THE IP/AUSTRIA ASSETS TRUST, OR THEIR PROPERTY, AND SUCH ADMINISTRATIVE CLAIMS SHALL BE DEEMED DISCHARGED AS OF THE EFFECTIVE DATE.

See id.

24. Moreover, the Notice of Effective Date provides:

3. Administrative Claims Bar Date. . . . [t]he holder of an Administrative Claim must file with the Bankruptcy Court and serve on the Debtors, the Liquidating Trustee, the IP/Austria Assets Trustee, and the Office of the United States Trustee, notice of such Administrative Claim by no later than 4:00 p.m. (ET) on November 18, 2024 . . . FAILURE TO FILE AND SERVE A REQUEST FOR PAYMENT OF SUCH ADMINISTRATIVE CLAIM BY THE ADMINISTRATIVE CLAIMS BAR DATE SHALL RESULT IN SUCH ADMINISTRATIVE CLAIM BEING FOREVER BARRED, ESTOPPED, AND ENJOINED FROM BEING ASSERTED AGAINST THE DEBTORS, THE ESTATES, THE LIQUIDATING TRUST, THE IP/AUSTRIA ASSETS TRUST, OR THEIR PROPERTY, AND SUCH ADMINISTRATIVE CLAIM SHALL BE DEEMED DISCHARGED AS OF THE EFFECTIVE DATE.

See Notice of Effective Date, ¶ 3 (emphasis added).⁶

D. The Claims Resolution Process

25. In the ordinary course of business, the Debtors maintained books and records (the “**Books and Records**”) that reflect, among other things, the Debtors’ liabilities and the amounts owed to their creditors. The Liquidating Trustee and his advisors (the “**Reviewing Parties**”) have been and continue to conduct an exhaustive review of the Proofs of Claim filed in these Chapter 11 Cases, including any supporting documentation and a comparison of these documents with the

⁶ On October 18, 2024, Verita caused the Notice of Effective Date to be served via U.S. First Class Mail upon Fisker Denmark, Fisker Germany, Fisker Germany’s insolvency administrator, and each of their respective counsel. *See Certificate of Service of Scott M. Ewing re: Notice of (I) Effective Date of Combined Disclosure Statement and Chapter 11 Plan of Liquidation of Fisker Inc. and its Debtor Affiliates and (II) Certain Claims Bar Dates* [D.I. 747], filed on October 23, 2024.

Books and Records, to determine the validity of the Proofs of Claim. This process includes identifying categories of claims that may be targeted for disallowance and expungement, reduction and/or reclassification.

26. Additionally, pursuant to the *Order Granting Liquidating Trustee's Motion for (I) Leave from Local Rule 3007-1(f) Related to the Filings of Substantive Omnibus Claim Objections and (II) Related Relief* [D.I. 894], the Court approved certain omnibus claim objection procedures (the “**Claims Objection Procedures**”). The Claims Objection Procedures permit the Liquidating Trustee to conduct the Claims reconciliation process in a more timely, efficient, and cost-effective manner as it relates to the filing of substantive omnibus Claim objections.

27. Bankruptcy Rule 3007 provides certain grounds upon which “objections to more than one claim may be joined in a single objection.” *See* Fed. R. Bankr. P. 3007(d). Additionally, Local Rule 3007-1 governs omnibus objections to Claims in this District and “applies to an omnibus objection to claims. . . . [(i.e.,] an objection that objects to claims filed by different claimants.” *See* Del. Bankr. L.R. 3007-1(a).

28. Pursuant to Local Rule 3007-1(c) and the Claims Objection Procedures, the Liquidating Trustee may file omnibus objections on a substantive basis to certain Claims.

E. The Fisker Denmark Claim

29. On October 4, 2024, after the General Bar Date but prior to the Administrative Claims Bar Date, Non-Debtor Affiliate claimant Fisker Denmark filed the Fisker Denmark Claim in the amount of \$3,531,767.00.⁷

⁷ In addition to the Fisker Denmark Claim, on October 4, 2024, Fisker Denmark filed a general unsecured Claim, Claim No. 4013, in the total amount of \$1,796,891.00. Given that Claim No. 4013 was filed well after the General Bar Date, the Liquidating Trustee anticipates that he will seek to disallow in full and expunge such Claim as part of a forthcoming non-substantive objection to certain late-filed claims. The Liquidating Trustee reserves all of his rights related thereto.

30. Fisker Denmark utilized the customized Claim Form created by the Debtors (and approved by the Court) for claimants asserting Claims other than Administrative Claims against the Debtors' estates. *See* Fisker Denmark Claim (emphasis added).

31. The Fisker Denmark Claim was signed by a Denmark-based Partner and the head of the Insolvency Department at the law firm of Kirk Larsen & Ascanius, H. C. Andersens Blvd, 1553 København V. *See Id.*

32. Fisker Denmark listed a New York-based Partner in the Corporate Reorganization & Bankruptcy group at the law firm of Hughes Hubbard & Reed LLP, One Battery Park Plaza, New York, New York 10004, in Box 3 as an additional notice party with respect to the Fisker Denmark Claim. *See Id.*

33. In Box 8 on the Fisker Denmark Claim, Fisker Denmark referred to an "attached rider" as the basis for the Claim. *See Id.*

34. In Box 12 on the Fisker Denmark Claim, Fisker Denmark asserted that the full amount of the Claim is entitled to priority under 11 U.S.C. § 502(a)(2). *See Id.*

35. The Fisker Denmark Claim attaches a "Rider to Proof Claim" (the "**Fisker Denmark Rider**") which states, among other things, that "[t]he Debtor was, as of June 28, 2024 (the "Postpetition Transfer Date") . . . and still is, indebted (or liable) to Claimant in the liquidated and non-contingent amount of not less than 3,531,767.00 USD (the "Claimed Amount") . . . in connection with the transfer(s) made from Claimant's bank account on the Postpetition Transfer Date." *See Id.*

36. The Fisker Denmark Rider further provides that, "[p]rior to the Postpetition Transfer Date, Geeta Gupta Fisker, COO and CFO of Fisker Inc., purportedly entered into an Account Pledge Agreement, dated May 17, 2024, on behalf of Fisker Denmark ApS . . . and other

Fisker entities for the benefit of CVI Investments, Inc. . . . [o]n the Postpetition Transfer Date, CVI withdrew funds from the Claimant’s bank account. This transfer, along with other intercompany transfers, gives rise to the Claimed Amount against the Debtor. Due to the circumstances of the transfer, the Claimed Amount is entitled to administrative priority pursuant to 11 U.S.C 503.” *See Id.*

37. Fisker Denmark failed to provide any documents in support of the Fisker Denmark Claim and/or the allegations contained in the Fisker Denmark Rider.

F. The Fisker Germany Claim

38. On October 4, 2024, after the General Bar Date but prior to the Administrative Claims Bar Date, Non-Debtor Affiliate claimant Fisker Germany filed the Fisker Germany Claim in the amount of \$2,226,659.33.⁸

39. Fisker Germany utilized the customized Claim Form created by the Debtors (and approved by the Court) for claimants to assert Claims other than Administrative Claims against the Debtors’ estates. *See* Fisker Germany Claim (emphasis added).

40. The Fisker Germany Claim was signed by “Dr. Michael Jaffé, Insolvency Administrator for Fisker GmbH Germany in bankruptcy, JAFFÉ Rechtsanwälte Insolvenzverwalter.” *See Id.* According to its website, the firm of JAFFÉ Rechtsanwälte Insolvenzverwalter “is one of Germany’s leading firms in the field of insolvency administration and insolvency.”

⁸ In addition to the Fisker Germany Claim, on October 4, 2024, Fisker Germany filed a general unsecured Claim, Claim No. 4016, in the total amount of \$9,395,897.01. Given that Claim No. 4016 was filed well after the General Bar Date, the Liquidating Trust anticipates that it will seek to disallow in full and expunge such Claim as part of a forthcoming non-substantive objection to certain late-filed claims. The Liquidating Trust reserves all of its rights related thereto.

41. Fisker Germany listed a New York-based Partner in the Corporate Reorganization & Bankruptcy practice group at the law firm of Hughes Hubbard & Reed LLP, One Battery Park Plaza, New York, New York 10004, in Box 3 as an additional notice party with respect to the Fisker Germany Claim.

42. In Box 8 on the Fisker Germany Claim, Fisker Germany referred to an “attached rider” as the basis for the Claim. *See Id.*

43. In Box 12 on the Fisker Germany Claim, Fisker Germany asserted that the full amount of the Claim is entitled to priority under 11 U.S.C. § 502(a)(2). *See Id.*

44. The Fisker Germany Claim attaches a “Rider to Proof Claim” (the “**Fisker Germany Rider**” and together with Fisker Denmark Rider, the “**Claim Riders**”) which states, among other things, that “[t]he Debtor was, as of July 2, 2024 and July 3, 2024 (the “Postpetition Transfer Dates”), and still is, indebted (or liable) to Claimant in the liquidated and non-contingent amount of not less than 2,226,659.33 USD (the “Claimed Amount”) in connection with the transfer made from Claimant’s bank account on the Postpetition Transfer Dates.” *See Id.*

45. The Fisker Germany Rider further provides that, “[p]rior to the Postpetition Transfer Dates, Geeta Gupta Fisker, COO and CFO of Fisker Inc., purportedly entered into an Account Pledge Agreements, dated January 19, 2024 and May 8, 2024, on behalf of Fisker GmbH (Germany) . . . and other Fisker entities for the benefit of CVI Investments, Inc. On the Postpetition Transfer Dates, CVI withdrew funds from the Claimant’s bank account. This transfer, along with other intercompany transfers, gives rise to the Claimed Amount against the Debtor. Due to the circumstances of the transfer, the Claimed Amount is entitled to administrative priority pursuant to 11 U.S.C § 503.”

46. Fisker Germany failed to provide any documents in support in support of the Fisker Germany Claim and/or the allegations contained in the Fisker Germany Rider.

RELIEF REQUESTED

47. By this Objection and for the reasons described more fully herein, the Liquidating Trustee objects to the Disputed Claims filed by the Non-Debtor Affiliates set forth on **Schedule 1** to the Proposed Order. The Liquidating Trustee respectfully requests entry of the Proposed Order disallowing, expunging and/or reclassifying the Disputed Claims, as applicable.

BASIS FOR RELIEF

A. The Non-Debtor Affiliates Failed to File and Prosecute a Timely Motion for Allowance of the Disputed Claims and Have Similarly Failed to Satisfy Their Burden Under § 503(b) and Applicable Law That the Disputed Claims are Entitled to Administrative Priority

48. It is axiomatic that the only proper method by which a party may interpose a request for allowance and payment of an administrative expense claim is by filing a motion and/or application on the court's docket. *See* 11 U.S.C. § 503(a) and (b). Specifically, Bankruptcy Code section 503(a) addresses allowance of administrative expenses and provides that, “[a]n entity may timely file a request for payment of an administrative expense, or may tardily file such request if permitted by the court for cause.” *See* 11 U.S.C. § 503(a). Bankruptcy Code section 503(b) requires “notice and a hearing” in order for parties to assert requests for payment of an administrative expense claim. *See* 11 U.S.C. § 503(b).

49. In contrast, Bankruptcy Code section 501 explicitly directs creditors to file a proof of claim form. *See* 11 U.S.C. § 501. In fact, Official Form B410, the official form for filing a proof of claim pursuant to Bankruptcy Code section 501, states “[d]o not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.” *See* Official Bankruptcy Form B410 (emphasis added).

50. Indeed, the vastly different statutory burdens of proof associated with proofs of claim versus requests for payment of administrative expense claims magnify the stark contrast between the two types of claims, the appropriate methods for asserting each, and the consequences of failing to properly do so.

51. To wit, Bankruptcy Code section 502(a) provides, in pertinent part, as follows: “[a] claim or interest, proof of which is filed under section 501 of [the Bankruptcy Code], is deemed allowed, unless a party in interest . . . objects.” *See* 11 U.S.C. § 502(a). By completing Official Form 410 and timely filing the claim on the docket, a proof of claim is deemed to be an allowed claim unless an objection is interposed. *See In re Allegheny Int’l Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992) (citation omitted). The filing of a proof of claim thus shifts the burden to the objector to prove why the claim should not be allowed. *See Id.* Once the *prima facie* validity of a claim is rebutted, “it is for the claimant to prove his claim, not for the objector to disprove it.” *In re Kahn*, 114 B.R. 40, 44 (Bankr. S.D.N.Y. 1990) (citations omitted).

52. On the other hand, “[t]o establish administrative expense priority the burden is on the claimant to demonstrate that the obligation claimed as administrative expenses (1) arose out a post-petition transaction with the debtor in possession and (2) directly and substantially benefitted the estate,” after notice and a hearing. *See Calpine Corp. v. O’Brien Environmental Energy, Inc. (In re O’Brien Environmental Energy, Inc.)*, 181 F.3d 527, 532-33 (3d Cir. 1999). In other words, the party seeking the allowance and payment of an administrative expense claim “may not avail himself of the favorable presumption of validity . . . [and] will have to come forward and prove his claim. *See In re Atcall, Inc.* 284 B.R. 791, 799-800 (Bankr. E.D. Va. 2002); *see also O’Brien*, 181 F.3d at 532-33.

53. As further explained by Chief Judge Stacey G.C. Jernigan of the U.S. Bankruptcy Court for the Northern District of Texas, Dallas Division:

Under § 503, the burden at the beginning is on the claimant to show reasonableness, necessity, and benefit to the estate. The Bankruptcy Code and the Bankruptcy Rules put a claimant in a completely different posture for an administrative-expense claim compared to a proof of claim. Requiring that § 503 administrative expense be in an application also ensures that the bankruptcy court will have an opportunity to pass judgment on the administrative expense and prevent any unreasonable, unnecessary, and non-beneficial claims from being charged to the estate. Creditors . . . ultimately bear the burden of persuasion and production to establish that their claims are in fact an administrative expense. Allowing creditors to satisfy their burden of production by burying an administrative expense in a proof of claim circumvents their statutory burdens. Allowing creditors to then indirectly satisfy their burden of persuasion—by preventing the Court from having an opportunity to rule on the nature of the administrative expense and forcing the trustee or some other interest-party to affirmatively raise this administrative expense as objectionable—directly contradicts § 503’s express requirement for allowance of an administrative expense “[a]fter notice and a hearing.”

See In re Taco Bueno Restaurants, Inc., 606 B.R. 289, 302 (Bankr. N.D. Tex. 2019) (emphasis added).

54. The *Taco Bueno* court elaborated that “[t]he way for a creditor to make a request on an administrative claim is to file an application requesting allowance and payment of an administrative-expense claim in the court’s docket.” *See Taco Bueno Restaurants*, 606 B.R. at 298. Notably, the *Taco Bueno* court added that “a creditor filing a proof of claim containing an administrative expense in the court’s claims register is not and cannot constitute a request for allowance and payment on an administrative claim ... [f]iling a proof of claim containing an administrative expense request is simply insufficient for a creditor to satisfy its obligation under § 503 to timely file and serve a request for payment of an administrative claim.” *See Id.* (emphasis added).

55. Courts in the Third Circuit, as well as in many other jurisdictions, have been similarly unequivocal in concluding that a proof of claim is an invalid avenue by which to assert a request for payment of an administrative expense, and that such applications must be timely filed on the docket with notice and a hearing. *See Ellis v. Westinghouse Electric Co., LLC*, 11 F.4th 221, 239 n.6 (3rd Cir. 2021) (“[a] claimant files a ‘request for payment’ rather than a ‘proof of claim’ for an administrative expense claim...” (citing *4 Collier on Bankruptcy* ¶ 503.02[1] (16th ed. 2021))); *In re First Century Corporation*, 166 B.R. 47, 48 (Bankr. M.D. Pa. 1994) ([p]roofs of claim are not the mechanism by which administrative claims should be advanced . . . [t]he filing of a Proof of Claim is not a substitute for a request for payment.”); *In re Momenta, Inc.*, 455 B.R. 353, 362 (Bankr. D.N.H. 2011) (“§ 503(a) requires a ‘request’ for an administrative expense not the filing of a proof of claim ... [i]n fact, official form B10, used for filing of proofs of claim, specifically states that ‘this form should not be used to make a claim for an administrative claim’”); *In re Plastech Engineered Products, Inc.*, 394 B.R. 147, 159 (“[a]dministrative expenses are pursued by filing a ‘request for payment’ under § 503(a), not by filing a proof of claim under § 501.”); *NL Industries, Inc. v. GHR Energy Corp.*, 940 F.2d 957, 966 (5th Cir. 1991) (noting that administrative expense claimants must file requests for payment of such postpetition claims rather than proofs of claim); *In re Packard Properties, Ltd.*, 118 B.R. 61, 63 (Bankr. N.D. Tex. 1990) (same); *In re Ames Dept. Stores, Inc.*, 582 F.3d. 422 (2nd Cir. 2009) (“[b]oth the filing of requests for payment of administrative expenses and the allowance thereof are governed by section 503 . . . [t]he procedure is independent from the procedure for filing and allowance of prepetition claims under sections 501 and 502, and differs in significant respects.”); *In re Sage Richmond, LLC*, 285 B.R. 364, 365 (Bankr. E.D. Va. 2002) (“[a] request for payment of an administrative claim is not the same as a proof of claim and should not be filed as such.”); *In re Jack Kline Co.*, 440 B.R. 712,

734-735 (Bankr. S.D. Tex. 2010) (“[a] creditor has an obligation to affirmatively request its post-petition interest by filing a § 506(b) application.”); *In re Cape Quarry*, 2020 WL 6749334, at *6 n.4 (Bankr. E.D. La. Sep. 16, 2020) ([t]o the extent [claimant] desires to assert a post-petition administrative expense claim against the estate, the Fifth Circuit requires a § 503(b) application to be filed in the main case; filing a proof of claim is wholly inappropriate.”); *In re Highland Capital Management*, 2022 WL 5219626 (Bankr. N.D. Tex. Sep. 30, 2022) (holding that, under applicable law and the key case documents including the chapter 11 plan at issue, requests for payment of administrative claims are required to be filed on the court’s docket in order to be deemed timely filed).⁹

56. In the instant case, there is no dispute that both Fisker Denmark and Fisker Germany failed to file on the Court’s docket and serve requests for allowance and payment of administrative expenses upon motion and a hearing, as explicitly required by the Bankruptcy Code, the Bankruptcy Rules and applicable case law, as set forth above.

57. Additionally, there is no dispute that Fisker Denmark and Fisker Germany were properly served with the Bar Date Order, the Claim Form, the Notice of Bar Dates and the Notice of Effective Date, all of which outlined the clear and explicit procedures and processes by which

⁹ Additionally, in an unreported 2021 decision, in the limited context of consideration of a claimants’ request for allowance of late-filed request for payment of administrative expense claims, the Court in *In re Bluestem Brands, Inc.*, agreed with a certain line of cases in which courts permitted timely-filed proofs of claim to be recharacterized as administrative claims “if they contain sufficient facts to put the debtor on notice that they are administrative claims.” 2021 WL 3174911, at *3 (Bankr. D. Del. Jul. 27, 2021). The *Bluestem Brands* case is highly distinguishable from the instant case because, among other things, the Disputed Claims were filed well after the General Bar Date in the form of a standard proof of claim, and in the absence of a finding that such Disputed Claims are entitled to administrative priority, would be subject to disallowance in full and expungement as late-filed Claims. More importantly, unlike in *Bluestem Brands*, the Disputed Claims are completely bereft of any legal, factual or documentary support, aside from bare-bones statements contained in the Claim Riders, that the claimants are entitled to administrative priority “[d]ue to the circumstances of the transfer.” *See generally* Claim Riders.

claimants were required to assert Administrative Claims against the Debtors' estates (which were also spelled out in the Plan), as outlined above.

58. Nonetheless, Fisker Denmark and Fisker Germany, which each appear to be represented by sophisticated U.S. restructuring counsel, Danish restructuring counsel, and a German firm specializing in insolvency matters, as applicable, for reasons unexplained, chose to interpose the Disputed Claims by submitting the customized Claim Form and the attached bare-bones Claim Riders, without any supporting documents or other supporting information, to Verita for processing, directly contrary to the specific instructions set forth in the aforementioned documents, the Bankruptcy Code, the Bankruptcy Rules and applicable law.

59. Accordingly, the Disputed Claims are invalid, must be disallowed and expunged, and are time-barred from re-assertion because the Administrative Claims Bar Date, i.e., November 18, 2024, has long since passed.

60. It stretches the imagination to believe that the Non-Debtor Affiliates and their teams of counsel and other insolvency professionals were unaware of their procedural and related timing obligations with respect to the assertion of alleged Administrative Claims against the Debtors' estates. Instead of complying with the foregoing, the Non-Debtor Affiliates chose to ignore all of those requirements in what appears to be an attempt to "hide the ball" by burying the Disputed Claims in standard proof of claim forms with no documentary support whatsoever.

61. As aptly stated by the court in *In re Westinghouse Electric Co.*, "[l]itigants must live with the consequences of their deliberate choices." WL 467797 at *11 (Bankr. S.D.N.Y. Feb. 15, 2022). The Court should not countenance the Non-Debtor Affiliates' thinly-veiled attempt to circumvent their statutory burdens of persuasion and production to establish that the Disputed Claims in fact qualify as administrative expenses.

62. The inquiry should end there. However, in addition to the significant procedural defects that bar the relief sought by the Non-Debtor Affiliates, the Liquidating Trustee further objects to the Disputed Claims on the basis that the Non-Debtor Affiliates have utterly failed to establish any entitlement to administrative priority.

63. This glaring deficiency comes as no surprise because, as discussed above, the Non-Debtor Affiliates made a conscious choice to improperly file the Disputed Claims in the form of standard proofs of claim (via the Claim Form) rather than pursuant to a motion or application on proper notice and a hearing. In doing so, the Non-Debtor Affiliates avoided, perhaps intentionally, having to establish their initial burden that the Disputed Claims qualify as Administrative Claims under the *O'Brien* standard. In such a motion, the Non-Debtor Affiliates would have been required to set forth in detail the factual and legal bases for their alleged entitlement to administrative priority as to the Disputed Claims. Instead, the Non-Debtor Affiliates improperly and intentionally attempted to sidestep those requirements through submission of standard Claim Forms to Verita.

64. Simply put, by submitting only the bare-bones Disputed Claims (including the Claim Riders), the Non-Debtor Affiliates are light years away from carrying their heavy burden to demonstrate how the Disputed Claims “directly and substantially benefitted the Debtors’ estates.” *See O'Brien*, 181 F.3d at 532-33. To add insult to injury, the Disputed Claims (including the Claim Riders) are devoid of any mention whatsoever or reference to any alleged benefit provided to the Debtors’ estates. Indeed, the Disputed Claims (including the Claim Riders) are based entirely on amounts purportedly withdrawn by CVI Investments, Inc. and, notably, do not include any amounts attributable to any intercompany transfers involving the Debtors.

65. With the Administrative Claims Bar Date now long-passed, the Court should not permit the Non-Debtor Affiliates to essentially use the original Disputed Claims as a “placeholder”

(but in a liquidated amount) - and then give them a second bite at the apple to substantiate the Disputed Claims in a response to the Objection. Given the large dollar amounts of potential Administrative Claims at issue here, such an outcome would unquestionably prejudice the Debtors' estates and the Liquidating Trust and be patently unfair at this stage of the proceedings.

66. Accordingly, the Disputed Claims should be disallowed in full and expunged.¹⁰

B. In the Alternative, the Disputed Claims Must be Reclassified to General Unsecured Claims, Pursuant to § 502(e)(2) and Applicable Law

67. Should the Court permit the Disputed Claims to be characterized as timely and properly-interposed requests for payment of Administrative Claims (which it should not, for all the reasons outlined above), in the alternative, the Disputed Claims must be reclassified to general unsecured Claims, pursuant to Bankruptcy Code section 502(e)(2) and applicable law, subject to the Liquidating Trustee's right to interpose additional objections to such Disputed Claims on a non-substantive and/or substantive basis at a later date and for any other reason, for the reasons set forth below.

68. Bankruptcy Code section 502(e)(2) provides that "[a] claim for reimbursement or contribution of such an entity that becomes fixed after the commencement of the case shall be determined, and shall be allowed under subsection (a), (b), or (c) of this section, or disallowed

¹⁰ Moreover, the Court should reject outright any potential argument by the Non-Debtor Affiliates in response to the Objection that they should now be permitted to file on the Court's docket and serve a motion or application for payment of administrative expenses under the "excusable neglect" standard outlined by the Supreme Court in *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395 (1993). While the Liquidating Trustee reserves all of his rights to file a written reply in opposition to any such argument (or any other argument), suffice it to say, the facts of the instant case cut heavily against any potential finding of excusable neglect, particularly in light of the fact that the Non-Debtor Affiliates have been represented throughout the process by numerous, sophisticated restructuring professionals keenly aware of the processes by which parties must interpose requests for payment of administrative expenses and undoubtedly cognizant of the marked distinctions between filing a standard proof of claim on a customized Official Form B410 (such as the Claim Form), on the one hand, and pursuing allowance of an Administrative Claim, on the other.

under subsection (d) of this section, the same as if such claim had become fixed before the date of the filing of the petition.” *See* 11 U.S.C. § 502(e)(2).

69. In that regard, it is well-established precedent in the Third Circuit “that an indemnity claim based on a pre-petition contract is a pre-petition, not an administrative, claim.” *See In re Trans World Airlines, Inc.*, 275 B.R. 712, 721 (Bankr. D. Del. 2000), citing *Avellino & Bienes v. M. Frenville Co., Inc. (In re M. Frenville Co., Inc.)*, 744 F.2d 332, 336–37 (3d Cir.1984); *see also In re Pinnacle Brands, Inc.*, 259 B.R. 46, 50 (Bankr. D. Del. 2001).

70. Other courts analyzing fact patterns similar to the case at bar have also routinely found that a contractual right to indemnification is a prepetition contingent claim if the contract at issue was executed prior to the petition date. *See In re Huffy Corp.*, 424 B.R. 295, 305-306 (Bankr. N.D. Ohio 2010); *see also Olin Corp. v. Riverwood Int'l Corp. (In re Manville Forest Products Corp.)*, 209 F.3d 125, 129–30 (2nd Cir. 2000) (same); *Siegel v. Federal Home Loan Mortgage Corp.*, 143 F.3d 525, 532–33 (9th Cir. 1998) (same); *Woburn Assocs. v. Kahn (In re Hemingway Transport, Inc.)*, 954 F.2d 1, 8–9 (1st Cir. 1992) (same); *In re Highland Group, Inc.*, 136 B.R. 475, 481 (Bankr. N.D. Ohio 1992) (“[w]here an indemnification agreement is entered into prior to a bankruptcy filing, such an execution gives the indemnitee a contingent prepetition claim [t]his is so even where the conduct giving rise to indemnification occurs postpetition.”).

71. As discussed above, the Non-Debtor Affiliates have entirely failed to carry their burden to demonstrate that the Disputed Claims are entitled to administrative priority because they chose to ignore the requirements of the Bankruptcy Code, the Bankruptcy Rules and the clear and explicit instructions contained in the key case documents and instead utilized the Claim Form to assert the Disputed Claims (and also failed to submit any documents in support thereof) without sufficient legal or factual support. Accordingly, the Non-Debtor Affiliates failed to demonstrate

how the Disputed Claims provided a substantial benefit to the Debtors' estates such that they qualify for administrative priority.

72. Nevertheless, to the extent that the (unstated) bases for the Disputed Claims are purported Claims for indemnification and/or contribution against the Debtors' estates based upon the Non-Debtor Affiliates' entry into certain prepetition "Account Pledge Agreements" referenced in the Claim Riders (but not attached thereto) with CVI Investments, Inc., such Disputed Claims, to the extent valid (which they are not), are undeniably general unsecured Claims and not entitled to any administrative priority.

73. Accordingly, should the Court choose to recharacterize the Disputed Claims, such Disputed Claims are not entitled to administrative priority and must be reclassified to general unsecured claims, with the Liquidating Trustee's right to further object to and/or contest the Claims at a later time and for any other reason fully preserved.

RESPONSES TO OMNIBUS OBJECTIONS

74. To contest this Objection, the Non-Debtor Affiliates must file and serve a written response (a "**Response**") so that it is received no later than May 14, 2025 at 4:00 p.m. (Eastern Time) (the "**Response Deadline**"). The Response must be filed with the Office of the Clerk of the United States Bankruptcy Court for the District of Delaware: 824 North Market Street, Wilmington, Delaware 19801, and served upon the following entities, so that the Response is received no later than the Response Deadline, at the undersigned addresses for counsel to the Liquidating Trustee.

75. Every Response to this Objection must contain, at a minimum, the following information:

- i. a caption setting forth the name of the Court, the name of the Debtors, the case number, and the title of the objection to which the response is directed;

- ii. the name of the claimant, his/her/its Claim number, and a description of the basis of the claim;
- iii. the specific factual basis and supporting legal argument upon which the party will rely in opposing this Objection;
- iv. any supporting documentation, to the extent it was not included with the Proof of Claim, previously filed with the clerk or claims agent, upon which the party will rely to support the basis for and amounts asserted in the Proof of Claim; and
- v. the name, address, telephone number, email address and fax number of the persons (which may be the claimant or the claimant's legal representative) with whom counsel for the Liquidating Trustee should communicate with respect to the Claim and/or the Objection and who possesses authority to reconcile, settle, or otherwise resolve the Objection to the Disputed Administrative Claim on behalf of the claimant.

76. If the Non-Debtor Affiliates fail to file and serve a timely Response by the Response Deadline, the Liquidating Trustee will present to the Court an appropriate order disallowing in full and expunging or, alternatively, reclassifying the Disputed Claims, as applicable, without further notice to the Non-Debtor Affiliates.

REPLIES TO RESPONSES

77. Consistent with Local Rule 9006-1(d), the Liquidating Trustee may, at his option, file and serve a reply to a Response no later than 4:00 p.m. (Prevailing Eastern Time) one (1) day prior to the deadline for filing the agenda for any hearing to consider the Objection.

SEPARATE CONTESTED MATTERS

78. Each of the above objections to the Disputed Claims constitute a separate contested matter as contemplated by Bankruptcy Rule 9014. The Liquidating Trustee requests that any order entered by this Court with respect to an objection asserted in this Objection shall be deemed a separate order with respect to each Claim.

RESERVATION OF RIGHTS

79. The Liquidating Trustee expressly reserves the right to amend, modify or supplement this Objection and to file additional objections to the Disputed Claims or any other Claims (filed or not) which may be asserted against the Debtors and/or the Liquidating Trust. Should one or more of the grounds of objection stated in this Objection be dismissed, the Liquidating Trustee reserve his rights to object on other stated grounds or on any other grounds that the Liquidating Trustee discovers during the pendency of these Chapter 11 Cases.

NOTICE

80. Notice of this Objection has been provided via first class mail and e-mail (if available) to (i) the Office of the United States Trustee for the District of Delaware; (ii) Fisker Denmark and Fisker Germany, and their respective counsel; and (iii) any persons who have filed a request for notice in these Chapter 11 Cases pursuant to Bankruptcy Rule 2002.

STATEMENT OF COMPLIANCE WITH LOCAL RULE 3007-1

81. The undersigned representative of Cole Schotz P.C. ("**Cole Schotz**") certifies that the firm has reviewed the requirements of Local Rule 3007-1 and that the Objection substantially complies with that Local Rule. To the extent that the Objection does not comply in all respects with the requirements of Local Rule 3007-1, Cole Schotz asserts that such deviations are not material and respectfully requests that any such requirement be waived.

CONCLUSION

82. Accordingly, the Liquidating Trustee respectfully requests that this Court: (i) enter the Proposed Order attached hereto as **Exhibit A** disallowing in full and expunging or, alternatively, reclassifying, as applicable, the Disputed Claims; and (ii) grant such other and further relief as is just and proper.

Dated: April 23, 2025
Wilmington, Delaware

COLE SCHOTZ P.C.

/s/ Justin R. Alberto

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Co-Counsel to the Liquidating Trustee

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FISKER, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-11390 (TMH)

(Jointly Administered)

Hearing Date: May 29, 2025 at 10:00 a.m. (ET)

Objection Deadline: May 14, 2025 at 4:00 p.m. (ET)

**NOTICE OF LIQUIDATING TRUSTEE'S EIGHTH OMNIBUS OBJECTION
(SUBSTANTIVE) PURSUANT TO 11 U.S.C. § 502, FED. R. BANKR. P. 3007 AND
LOCAL RULE 3007-1 TO CERTAIN NON-DEBTOR AFFILIATE CLAIMS**

**TO THE HOLDERS OF NON-DEBTOR AFFILIATE CLAIMS ON SCHEDULE 1 TO
THE PROPOSED ORDER ANNEXED TO THE OBJECTION AS EXHIBIT A:**

- **YOUR SUBSTANTIVE RIGHTS MAY BE AFFECTED BY THIS OBJECTION AND BY ANY FURTHER OBJECTION THAT MAY BE FILED BY THE LIQUIDATING TRUSTEE**
- **YOU ARE DIRECTED TO LOCATE YOUR CLAIM ON SCHEDULE 1 ATTACHED TO THE PROPOSED ORDER**
- **THE RELIEF SOUGHT HEREIN IS WITHOUT PREJUDICE TO THE LIQUIDATING TRUSTEE'S RIGHTS, OR THE RIGHTS OF OTHER PARTIES-IN-INTEREST, TO PURSUE FURTHER SUBSTANTIVE OR NON-SUBSTANTIVE OBJECTIONS AGAINST THE CLAIMS ADDRESSED HEREIN**

PLEASE TAKE NOTICE, that on April 23, 2025, Matthew Dundon, solely in his capacity as the Liquidating Trustee (the "**Liquidating Trustee**") of the Fisker Liquidating Trust, filed the *Liquidating Trustee's Eighth Omnibus Objection (Substantive) Pursuant to 11 U.S.C. § 502, Fed. R. Bankr. P. 3007 and Local Rule 3007-1 to Certain Non-Debtor Affiliate Claims* (the "**Objection**") with the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A copy of the Objection is enclosed herein.

PLEASE TAKE FURTHER NOTICE, that responses, if any, to the Objection must be filed with the Clerk of the Court, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **May 14, 2025 at 4:00 p.m. (ET)** (the "**Response Deadline**"). At the same time, you

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of their respective employer identification numbers or Delaware file numbers, are as follows: Fisker Inc. (0340); Fisker Group Inc. (3342); Fisker TN LLC (6212); Blue Current Holding LLC (6668); Platinum IPR LLC (4839); and Terra Energy Inc. (0739). The address of the Debtors' corporate headquarters is 14 Centerpointe Drive, La Palma, CA 90623.

must serve a copy of the response upon the undersigned counsel so as to be received on or before the Response Deadline.

PLEASE TAKE FURTHER NOTICE, that, if a response is timely filed and served, and such objection or response is not otherwise timely resolved, a hearing with respect to the Objection will be held before The Honorable Thomas M. Horan, United States Bankruptcy Judge, at the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 3rd Floor, Courtroom #5, Wilmington, Delaware 19801 on **May 29, 2025 at 10:00 a.m. (ET)**.

PLEASE TAKE FURTHER NOTICE THAT IF NO RESPONSE IS RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY ENTER THE RELIEF REQUESTED IN THE OBJECTION WITHOUT FURTHER NOTICE OR HEARING.

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Dated: April 23, 2025
Wilmington, Delaware

COLE SCHOTZ P.C.

/s/ Justin R. Alberto

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Co-Counsel to the Liquidating Trustee

EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FISKER, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-11390 (TMH)

(Jointly Administered)

Re: D.I. ____

**ORDER GRANTING LIQUIDATING TRUSTEE'S EIGHTH OMNIBUS OBJECTION
(SUBSTANTIVE) PURSUANT TO 11 U.S.C. § 502, FED. R. BANKR. P. 3007 AND
LOCAL RULE 3007-1 TO CERTAIN NON-DEBTOR AFFILIATE CLAIMS**

THIS MATTER having come before the Court² upon the *Liquidating Trustee's Eighth Omnibus Objection (Substantive) Pursuant to 11 U.S.C. § 502, Fed. R. Bankr. P. 3007 and Local Rule 3007-1 to Certain Non-Debtor Affiliate Claims* (the "**Objection**"), filed by Matthew Dundon, solely in his capacity as the Liquidating Trustee (the "**Liquidating Trustee**") of the Fisker Liquidating Trust, seeking entry of an order pursuant to 11 U.S.C. § 502, Bankruptcy Rule 3007 and Local Rule 3007-1 disallowing in full and expunging or, alternatively, reclassifying the priority status, of the Disputed Claims listed on **Schedule 1** annexed hereto; and it appearing that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §1334; and it appearing that this is a core proceeding pursuant to 28 U.S.C. §157; and it appearing that venue of this proceeding is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and adequate notice of the Objection and opportunity for response having been given; and it appearing that no other notice need be

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of their respective employer identification numbers or Delaware file numbers, are as follows: Fisker Inc. (0340); Fisker Group Inc. (3342); Fisker TN LLC (6212); Blue Current Holding LLC (6668); Platinum IPR LLC (4839); and Terra Energy Inc. (0739). The address of the Debtors' corporate headquarters is 14 Centerpointe Drive, La Palma, CA 90623.

² Any capitalized term used but not otherwise defined herein shall have the meaning ascribed to it in the Objection.

given; and the Court having considered the Objection, the Disputed Claims listed on **Schedule 1** annexed hereto, and any responses thereto; and upon the record herein; and, after due deliberation and sufficient cause appearing therefore, it is:

FOUND AND DETERMINED that:

- A. This Objection is a core proceeding under 28 U.S.C. § 157(b)(2).
- B. Each holder of a Disputed Claim listed on **Schedule 1** attached hereto was properly and timely served with a copy of the Objection, the Wright Declaration, this Order, the accompanying schedules, and the notice.
- C. Any entity known to have an interest in the Disputed Claims subject to the Objection has been afforded reasonable opportunity to respond to, or be heard regarding, the relief requested in the Objection.
- D. The relief requested in the Objection is in the best interests of the Debtors' creditors, the Debtors' estates, the Liquidating Trust and other parties-in-interest; and it is therefore:

ORDERED ADJUDGED AND DECREED that:

- 1. The Objection is GRANTED as set forth herein.
- 2. Any response to the Objection not otherwise withdrawn, resolved, or adjourned is hereby overruled on its merits.
- 3. Each of the Disputed Claims on **Schedule 1** hereto is hereby disallowed and expunged in its entirety.
- 4. The Liquidating Trustee's rights to further object at a later date and on any basis to Disputed Claims on **Schedule 1** hereto, if necessary, are fully preserved.
- 5. The official claims register in these Chapter 11 Cases shall be modified in accordance with this Order.

6. The Liquidating Trustee's rights and the rights of other parties in interest to file additional objections to the Disputed Claims or any other Claims (filed or not) which may be asserted against the Debtors and/or the Liquidating Trust, are preserved. Additionally, should one or more of the grounds of objection stated in the Objection be dismissed, the Liquidating Trustee's rights and the rights of other parties in interest to object on other stated grounds or on any other grounds that the Liquidating Trustee or other parties-in-interest may discover are further preserved.

7. Notwithstanding the possible applicability of Bankruptcy Rules 6004, 7062, 9014 or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry. All time periods set forth in the Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

8. This Court shall retain jurisdiction over the Liquidating Trustee and the claimants whose Disputed Claims are subject to the Objection with respect to any matters related to or arising from the Objection and the implementation of this Order.

Schedule 1 – Non -Debtor Affiliate Claims

#	Claimant Name	Claim No.	Asserted Claim Amount	Asserted Claim Priority	Reason for Disallowance
1	Fisker Denmark ApS in bankruptcy	4014	\$3,531,767.00	ADMINISTRATIVE	As set forth in more detail in the Objection, the Claim was interposed in a procedurally defective manner that defeats the Claim. The Claim also fails to meet the legal standards required to establish entitlement to an Administrative Claim pursuant to Bankruptcy Code section 503. Therefore, the Claim must be disallowed in full and expunged. ¹
2	Fisker GmbH Germany	4015	\$2,226,659.33	ADMINISTRATIVE	As set forth in more detail in the Objection, the Claim was interposed in a procedurally defective manner that defeats the Claim. The Claim also fails to meet the legal standards required to establish entitlement to an Administrative Claim pursuant to Bankruptcy Code section 503. Therefore, the Claim must be disallowed in full and expunged. ²

¹ Alternatively, the Claim should be reclassified to a general unsecured Claim in the same amount, because the Claim is not entitled to administrative priority pursuant to Bankruptcy Code section 502, as set forth in more detail in the Objection.

² Alternatively, the Claim should be reclassified to a general unsecured Claim in the same amount, because the Claim is not entitled to administrative priority pursuant to Bankruptcy Code section 502, as set forth in more detail in the Objection.

EXHIBIT B

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FISKER, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-11390 (TMH)

(Jointly Administered)

**DECLARATION OF RICK WRIGHT IN SUPPORT OF LIQUIDATING TRUSTEE'S
EIGHTH OMNIBUS OBJECTION (SUBSTANTIVE) PURSUANT TO 11 U.S.C. § 502,
FED. R. BANKR. P. 3007 AND LOCAL RULE 3007-1 TO CERTAIN NON-DEBTOR
AFFILIATE CLAIMS**

I, Rick Wright, hereby declare under penalty of perjury:

1. I submit this declaration (the “**Declaration**”) in support of the *Liquidating Trustee’s Eighth Omnibus Objection (Substantive) Pursuant to 11 U.S.C. § 502, Fed. R. Bankr. P. 3007 and Local Rule 3007-1 to Certain Non-Debtor Affiliate Claims* (the “**Objection**”),² filed by Matthew Dundon, solely in his capacity as the Liquidating Trustee (the “**Liquidating Trustee**”) of the Fisker Liquidating Trust.

2. I am a Managing Director at Dundon Advisers. In that capacity, I work under the direction of the Liquidating Trustee. I am familiar with the day-to-day operations, businesses, financial affairs, and books and records of Fisker, Inc. and its debtor affiliates (collectively, the “**Debtors**”). I make this Declaration on the basis of the review, by myself and those under my direction, of the Debtors’ respective books and records (the “**Books and Records**”), the register

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of their respective employer identification numbers or Delaware file numbers, are as follows: Fisker Inc. (0340); Fisker Group Inc. (3342); Fisker TN LLC (6212); Blue Current Holding LLC (6668); Platinum IPR LLC (4839); and Terra Energy Inc. (0739). The address of the Debtors’ corporate headquarters is 14 Centerpointe Drive, La Palma, CA 90623.

² Any capitalized term used but not otherwise defined herein shall have the meaning ascribed to it in the Objection.

of claims (the “**Claims Register**”) prepared and provided by the Debtors’ (and the Liquidating Trust’s) notice and claims agent, Kurtzman Carson Consultants dba Verita Global (“**Verita**”), and the Proofs of Claim filed in these Chapter 11 Cases.

3. All matters set forth in this Declaration are based on: (a) my personal knowledge; (b) my review of relevant documents; (c) my view, based on my experience and knowledge of the Debtors’ operations and Books and Records; (d) information supplied to me by others at my request; and (e) as to matters involving United States bankruptcy law or rules or other applicable laws, my reliance on the advice of counsel or other advisors to the Liquidating Trustee. If called upon to testify, I could and would testify competently to the facts set forth herein.

4. During the Claims reconciliation process, the Reviewing Parties have conducted, and continue to conduct, a review of the Claims filed in these Chapter 11 Cases. In this regard, I, or another person at my direction, participated in the review of both the Claims Register and the Books and Records with respect to identifying certain Disputed Claims that are objectionable on substantive grounds and that are the subject of the Objection. I have read the Objection, the Proposed Order, and **Schedule 1** attached to the Proposed Order, and I am familiar with the information contained therein.

5. Upon the review of the Proofs of Claim filed in these Chapter 11 Cases, I have identified the Disputed Claims. To the best of my knowledge, information, and belief, and insofar as I have been able to ascertain after reasonable inquiry and investigation of the Books and Records, and upon the advice of counsel with respect to matters involving United States bankruptcy law or rules or other applicable laws, the Disputed Claims listed on **Schedule 1** attached to the Proposed Order and filed by the Non-Debtor Affiliates represent Disputed Claims

that should be disallowed in full and expunged or, alternatively, reclassified, as applicable, as set forth therein and further discussed below.

6. Accordingly, based upon my review of the Claims Register and the Books and Records, I believe that granting the relief requested in the Objection is in the best interest of the Liquidating Trust, the Debtors' estates and their creditors.

Dated: April 23, 2025

/s/ Rick Wright

Rick Wright