

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

In re:

Dynamic Aerostructures LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 25-10292 (LSS)

(Jointly Administered)

Related Docket Nos.: 16, 125 & 149

**STATEMENT OF TRM EQUITY AS POTENTIAL BIDDER SEEKING CLARITY
REGARDING STALKING HORSE BIDDER'S RIGHTS, IF ANY, TO CREDIT BID
THE RECENTLY PURCHASED BMO DEBT AT THE AUCTION**

TRM Equity ("TRM"), as a potential bidder in the above-captioned cases, by and through its undersigned counsel, hereby submits this statement seeking clarity of the Bidding Procedures² because:

- If the Stalking Horse Purchaser *is authorized to credit bid BMO's debt* that it recently purchased, TRM *will not submit* a bid or otherwise participate in any auction.³
- If the Stalking Horse Purchaser *is not authorized to credit bid BMO's debt* that it recently purchased, TRM *will submit* a Qualified Bid in excess of the Stalking Horse Purchaser's price and participate in any auction in good faith.

It is binary for TRM—which comes to this Court as a last resort. TRM asked the Debtors for their intentions respecting the conduct of the Auction and their understanding of the Stalking Horse Purchaser's credit bid rights with respect to the BMO Loans in advance of the hearing to consider

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Dynamic Aerostructures LLC (3076); Dynamic Aerostructures Intermediate LLC (9800); and Forrest Machining LLC (3421). The Debtors' service address is 27756 Avenue Mentry, Valencia, California 91355.

² Capitalized terms used but not defined herein shall have the meaning given to them in the "Bidding Procedures Motion" [D.I. 16], "Interim DIP Order" [D.I. 65], "Revised Proposed Bidding Procedures Order" [D.I. 125], and "Final DIP Order" [D.I. 149], as applicable.

³ The quantum of BMO's debt far exceeds any plausible theory of valuation—as demonstrated by BMO's willingness to "accept" \$1.5 million in full and final satisfaction of its more than \$54 million of prepetition claims under the Interim DIP Order and "Prepetition Agent Carve-Out."



the Bidding Procedures Motion. The clarification that TRM seeks goes to the conduct of the Auction and related processes. Therefore, TRM has standing to seek such a declaration. TRM submits this statement and intends to appear at the March 25 hearing with respect to same. The Debtors have represented to TRM that they have no issue with TRM raising these matters with the Court at that time.

STATEMENT

1. On March 14, 2025, the Stalking Horse Purchaser and Avem Partners filed that certain *Notice of Transfer of Claims of BMO Harris Bank N.A. to FMI Holdco LLC* [D.I. 102], which disclosed, among other things, that the Stalking Horse Purchaser had acquired (the “BMO Debt Purchase”) 100% of BMO’s right, title and interest in the claims, liens, and outstanding loans and commitments owed under the Prepetition Credit Agreement, which are reportedly in excess of \$54.7 million (the “BMO Loans”).

2. The BMO Debt Purchase raises questions as to whether and to what extent the Stalking Horse Purchaser would be permitted to credit bid the BMO Loans, which presently are not allowed claims and liens to any extent, at the Auction. If the Stalking Horse Purchaser is entitled to credit bid the BMO Loans, the Auction will be over before it starts. That is, these questions are relevant to all potential bidders, not just TRM.

3. To illustrate the uncertainty potential bidders like TRM face:

- Unlike the DIP Lender with regard to DIP Loans, the Final DIP Order does not affirmatively authorize the Stalking Horse Purchaser to credit bid the BMO Loans as part of a sale of the Debtors’ assets.⁴ ***Does that mean the Stalking Horse Purchaser cannot credit bid the BMO Loans?***

⁴ See Final DIP Order ¶ 38 (“the DIP Lender shall be authorized subject to section 363(k) of the Bankruptcy Code to credit bid on a dollar-for-dollar basis any or all of the outstanding DIP Obligations up to the full amount of the DIP Obligations ... of any DIP Collateral”).

- The Final DIP Order continues to include the \$1.5 million Prepetition Agent Carve-Out.⁵ *How could that even apply to the Stalking Horse Purchaser, especially in a BMO Loans credit bid scenario?*
- What other agreements or limitations did BMO—as Prepetition Agent *prior to selling the BMO Loans to the Stalking Horse Purchaser last week*—agree to that actually limit the Stalking Horse Purchaser’s right, if any, to credit bid the BMO Loans?
- The Final DIP Order provides that, notwithstanding the stipulations set forth therein, the “validity, allowability, and priority” of the BMO Loans remain subject to “Challenge” rights.⁶ *But there is no unsecured creditors committee in these chapter 11 cases that would normally enforce any such Challenge rights.*
- The Proposed Bidding Procedures Order authorizes the Stalking Horse Purchaser to credit bid the full amount of the Bid Protections in lieu of cash, but it is silent with respect to the BMO Loans.⁷ *Does that mean the Stalking Horse Purchaser cannot credit bid the BMO Loans?*
- Meanwhile, Article IV of the Proposed Bidding Procedures provides that any Qualified Bidder who has a valid and perfected lien on any assets of the Debtors’ estates shall have the right to credit bid all or a portion of such secured claims within the meaning of, and subject to, section 363(k) of the Bankruptcy Code. *Does the Stalking Horse Purchaser have that right with respect to the BMO Loans when the Final DIP Order and Proposed Bidding Procedures Order are silent?*

4. Based on TRM’s review of the various pleadings, the Stalking Horse Purchaser’s right to credit bid the BMO Loans appears neither affirmatively authorized nor expressly denied. It is an open question that unquestionably chills bidding. One that ought to be answered *before* the Bid Deadline and *before* potential bidders like TRM invest significant time, money, and effort to formulate a Qualified Bid, travel across the country, expend even more time and effort preparing

⁵ Final DIP Order ¶ 13(d).

⁶ A “Challenge” means “a timely and properly filed . . . contested matter or adversary proceeding challenging or otherwise objecting to . . . (a) the amount, validity, extent, priority, or perfection of the mortgages, security interests, and liens of the Prepetition Agent with respect to the Prepetition Collateral; (b) the validity, allowability and priority of the Prepetition Obligations; and (c) any releases set forth or agreed to herein or pursuant to the DIP Term Sheet.” Final DIP Order ¶ 41.

⁷ See Proposed Bidding Procedures Order ¶ 10.

for and attending the Auction—only to learn in the *second round* of bidding that the Stalking Horse Bidder will indeed attempt to credit bid the BMO Loans it recently purchased, leaving parties like TRM forced to litigate or live with the inherent uncertainty of whether such credit bid consideration will be acceptable to the Debtors during the Auction and/or respected by the Court after the Auction at the Sale Hearing. The sale process can and should be fixed now.

5. It is not only fair and appropriate to potential bidders like TRM, but also value maximizing for the Debtors and their estates, to have clarity on this entirely foreseeable issue now. The Debtors have acknowledged that they “have views” on whether the Stalking Horse Purchaser ought to be able to credit bid the BMO Loans, but declined to share them apart from saying they have not yet agreed that the Stalking Horse Purchaser may credit bid the BMO Loans—but still may do so at the Auction.

6. The Court can and should eliminate the mystery around the entirely foreseeable process dispute of whether the Stalking Horse Purchaser’s right to credit bid the BMO Loans. It should also require the Debtors, as sellers and estate fiduciaries, to share their views now—not wait until the Auction to do so—in the interest of fairness, transparency, and value-maximization. To be sure, absent additional clarity on this topic, TRM Equity does not intend to participate further in this sale process. It suspects other potential bidders, to the extent they exist, may feel the same. Uncertainty like this absolutely chills bidding. Accordingly, TRM respectfully requests that the Court and/or the Debtors provide guidance as to whether the Stalking Horse Purchaser may credit bid the BMO Loans at the Auction.

[Remainder of page intentionally left blank]

Dated: March 21, 2025
Wilmington, Delaware

Respectfully submitted,

DLA PIPER LLP (US)

/s/ Stuart M. Brown
Stuart M. Brown (DE 4050)
1201 North Market Street, Suite 2100
Wilmington, Delaware 19801
Telephone: (302) 468-5700
Facsimile: (302) 394-2462
Email: stuart.brown@us.dlapiper.com

-and-

Ben Winger (*pro hac vice admission* pending)
444 West Lake Street, Suite 900
Chicago, Illinois 60606
Telephone: (312) 368-4000
Facsimile: (312) 236-7516
Email: benjamin.winger@us.dlapiper.com

Counsel to the TRM Equity