

ENTERED

February 11, 2025

Nathan Ochsner, Clerk

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

In re:	§	Chapter 11
	§	
RHODIUM ENCORE LLC, <i>et al.</i> , ¹	§	Case No. 24-90448 (ARP)
	§	
Debtors.	§	
	§	(Jointly Administered)
	§	

**AGREED MEDIATION ORDER APPOINTING
JUDGE MARK MULLIN AS MEDIATOR**

Whereas the above-captioned Debtors and Whinstone US, Inc., the official committee of unsecured creditors and the ad hoc group of SAFE parties (collectively, the “Parties”) agree that mediation may be fruitful to consensually resolve *Debtors’ Motion to Assume Certain Executory Contracts with Whinstone US, Inc.* (ECF No. 7, 32) and Whinstone’s objection with respect thereto (the “Contested Matter”); and

Whereas, the Parties have jointly requested entry of an order appointing Judge Mark X. Mullin as mediator.

It is **HEREBY ORDERED** that:

1. The Parties shall participate in a mediation (“Mediation”) of all issues relating to and arising out from this Contested Matter before the Honorable Judge Mark X. Mullin, United States Bankruptcy Judge (“Judge Mullin”).

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). The mailing and service address of the Debtors in these chapter 11 cases is 2617 Bissonnet Street, Suite 234, Houston, TX 77005.



2. The Mediation shall commence on February 19, 2025, at such time as determined by Judge Mullin, and shall terminate on the date which Judge Mullin determines that the Mediation has terminated. Any Party may withdraw from the mediation by informing Judge Mullin that it no longer desires to continue mediation.

3. The Court adopts Section S of the Procedures for Complex cases in the Southern District of Texas; provided, that nothing herein shall alter, modify, or otherwise prejudice or impair any of the Parties' rights or obligations under any pre-existing confidentiality agreements or protective orders, all of which shall remain in full force and effect. The assignment of the Contested Matter to Mediation does not delay or stay discovery, any hearings scheduled, or any deadlines set by the Court or agreed to by the Parties.

4. Each Party at the Mediation shall participate to the extent practicable with a principal or other representative (or multiple principals or other representatives as needed). Any such principal or representative of a Party shall either have reasonable settlement authority or have sufficient stature in his or her organization to be able to recommend to any ultimate person, board or commission that a proposal or settlement be approved.

5. Parties' financial advisors may participate in the Mediation, as necessary.

6. Judge Mullin has absolute discretion as to the timing, means and methods of the Mediation; *provided, however*, that the Mediation shall be non-binding.

7. Judge Mullin will mediate this Contested Matter in his capacity as a United States Bankruptcy Judge and will have full, unqualified judicial immunity in his role as a mediator.

8. Judge Mullin may not be called as a witness in this Contested Matter or any other proceeding concerning his role herein as the mediator.

9. Each Party shall bear its own costs and expenses incurred in connection with the Mediation, including attorneys' fees.

10. The Parties and their respective counsel shall participate in the Mediation in good faith.

11. All communications made by and all submissions prepared by a Party in connection with the Mediation, including but not limited to discussions or communications with or in the presence of Judge Mullin and all settlement proposals, counterproposals, and offers of compromise made during the Mediation shall (a) be subject to protection under Rule 408 of the Federal Rules of Evidence and any other equivalent or comparable federal and state laws and rules, (b) not be submitted or offered as evidence in any court, tribunal, or other proceeding, including, without limitation, in any pleading or other submission to any court, (c) not be subject to discovery in any pending or forthcoming proceeding, including but not limited to the above-referenced bankruptcy proceeding or any adversary proceeding related thereto, (d) be subject to any applicable confidentiality agreements entered into between the Parties governing the disclosure of confidential information (including, if applicable, any cleansing provisions relating to material non-public information), (e) be protected from disclosure under the Texas Public Information Act, Texas Government Code Chapter 552, and (f) not constitute material nonpublic information.

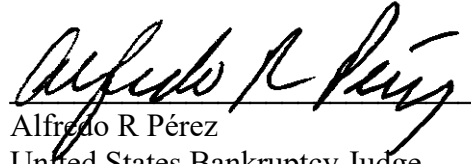
12. Each Party may share with Judge Mullin any information it has received pursuant to a protective order without regard to the provisions thereof; *provided, however*, the sharing with Judge Mullin of any information designated as Confidential or Highly Confidential shall not waive the confidentiality designation of such information and Judge Mullin shall not disclose such information to anyone else.

13. The disclosure by a Party of privileged information to the Mediator does not waive or otherwise adversely affect the privileged nature of the information.

14. As soon as practicable after the conclusion of the Mediation, Judge Mullin shall file a mediation statement in the Contested Matter which shall identify who participated in the Mediation and state whether the proceeding was settled or an impasse was declared by Judge Mullin.

15. The Court retains exclusive jurisdiction with respect to all matters arising out from or related to the implementation, interpretation, and enforcement of this Order.

Signed: February 10, 2025


Alfredo R Pérez
United States Bankruptcy Judge

AGREED AS TO FORM AND CONSENT:

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