

**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)
	§	

**MOTION OF DEBTORS, PURSUANT TO FEDERAL RULE OF BANKRUPTCY
PROCEDURE 9024, REQUESTING MODIFICATION OF FINAL ORDER (I)
AUTHORIZING DEBTORS TO USE CASH COLLATERAL; (II) GRANTING
ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES; (III)
MODIFYING AUTOMATIC STAY; AND (IV) GRANTING RELATED RELIEF**
(Relates to ECF Nos. 37 and 178)

Pursuant to section rule 9024 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rhodium Encore LLC, and its affiliates, as debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (these “Chapter 11 Cases”), hereby file this motion (the “Motion”) to amend the *Final Order (I) Authorizing Debtors to Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; (III) Modifying Automatic Stay; and (IV) Granting Related Relief* (the “Final Cash Collateral Order”)² (ECF No. 178). In support of the Motion, the Debtors respectfully state as follows:

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 Any capitalized terms used but not defined herein shall have the meaning ascribed to them in the Final Cash Collateral Order.



PRELIMINARY STATEMENT

RELIEF REQUESTED

1. By this Motion, the Debtors seek entry of an order (the “Proposed Order”):
 - (i) amending the Final Cash Collateral Order as described in the Proposed Order (the “Stipulated Amendment”); and
 - (ii) granting such other and further relief as the Court deems just and proper.

JURISDICTION

2. The United States Bankruptcy Court for the Southern District of Texas (the “Court”) has jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). The Debtors confirm their consent to the Court’s entry of a final order in connection with this Objection.

3. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested are §§ 105, 361, 362, 363, and 506 of title 11 of the United States Code (the “Bankruptcy Code”), Bankruptcy Rules 2002, 4001, and 9024, and rule 9014, and Rules 4001-1, 4002-1, and 9013-1 of the Bankruptcy Local Rules for the Southern District of Texas (the “Local Rules”).

BACKGROUND

5. On August 24 and August 29, 2024, the Debtors each commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code. The cases are jointly administered.

6. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On November 22, 2024, the Office of the United States Trustee for the Southern District of Texas (the “U.S. Trustee”) appointed an official committee of unsecured creditors (the “Committee”). No trustee or examiner has been appointed in these Chapter 11 Cases.

7. On August 29, 2024, the Debtors filed the *Emergency Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors' Use of Cash Collateral, (II) Granting Adequate Protection, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief* (the "Cash Collateral Motion") (ECF No. 37); and the *Emergency Motion of Debtors for Entry of Interim and Final Orders (A) Authorizing the Debtors to Obtain Postpetition Financing, (B) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (C) Modifying the Automatic Stay, (D) Scheduling a Final Hearing, and (E) Granting Related Relief* (the "DIP Motion") (ECF No. 38).

8. On August 30, 2024, the Court held an interim hearing, and the Court entered the *Interim Order (I) Authorizing Debtors to Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; (III) Modifying Automatic Stay; and (IV) Granting Related Relief* (ECF No. 83).

9. On September 23, 2024, the Court held a final hearing, and the Court entered the (A) Final Cash Collateral Order; and (B) *Final Order (I) Authorizing the Debtors to Obtain Secured Superpriority Postpetition Financing (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief* (ECF No. 186).

10. On November 26, 2024, after a hearing, the Court entered the *Order (I) Authorizing the Sale of the Debtors' Temple Lease; and (II) Granting Related Relief* (ECF No. 509), approving the Debtors' sale (the "Temple Sale") of the Debtors' facility in Temple, Texas (the "Temple Site") to Temple Green Data, LLC. On December 18, 2024, the Debtors closed the Temple Sale.

11. As a result of the Temple Sale, Debtor Rhodium Renewables LLC (“Rhodium Renewables”) ceased its operations as a bitcoin miner, and the Debtors moved certain equipment from the Temple Site into their facility in Rockdale, Texas.

12. On December 19, 2024, using proceeds from the Temple Sale, the Debtors paid all outstanding amounts due under or on account of the DIP Facility (as defined in the DIP Motion), and the DIP Facility was terminated.

13. After conferral, the Debtors and the Consenting Prepetition Secured Parties,³ have agreed to seek the relief in this Motion and to amend the Final Cash Collateral Order in accordance with the Stipulated Amendment. Prior to filing this Motion, the Stipulated Amendment was circulated to (i) the Committee, (ii) the ad hoc group of SAFE parties, and (iii) the U.S. Trustee. All parties have confirmed they do not object to the relief sought herein.

BASIS FOR RELIEF

14. Bankruptcy Rule 9024 provides that rule 60 of the Federal Rules of Civil Procedure (the “Federal Rules”) applies in all cases under the Bankruptcy Code. Federal Rule 60 provides, in relevant part, that “[o]n motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for ... any reason that justifies relief.” Fed. R. Civ. P. 60(b)(6).

15. Relief to amend the Final Cash Collateral Order under Federal Rule 60(b)(6) is appropriate in these circumstances. The Debtors and affected creditors have agreed to the relief requested herein in light of the satisfaction of the Debtors’ obligations under the DIP Loans, consummation of the Temple Sale, and other related developments in these Chapter 11 Cases.

³ The Stipulated Amendment amends the definition of Consenting Prepetition Secured Parties to include additional parties. All references herein to Consenting Prepetition Secured Parties refer to the Consenting Prepetition Secured Parties *after* giving effect to the Stipulated Amendment.

A. The Debtors' Proposed Grant Of Adequate Protection Is Appropriate.

16. Section 363(e) requires adequate protection of interests in property (on request of an entity that has such an interest) when a debtor uses cash collateral. Further, section 362(d)(1) provides that the lack of adequate protection of an interest in property may constitute cause to lift the automatic stay with respect to such property. While section 361 provides examples of forms of adequate protection, such as granting replacement liens and administrative claims, courts decide what constitutes sufficient adequate protection on a case-by-case basis. *See, e.g., Resol. Tr. Corp. v. Swedeland Dev. Grp., Inc. (In re Swedeland Dev. Grp., Inc.)*, 16 F.3d 552, 564 (3d Cir. 1994); *In re Beker Indus. Corp.*, 58 B.R. 725, 736 (Bankr. S.D.N.Y. 1986) (explaining that the application of adequate protection “is left to the vagaries of each case”).

17. The concept of adequate protection is designed to shield a secured creditor from diminution in the value of its interest in collateral during the period of a debtor's use. *See, e.g., Beker Indus.*, 58 B.R. at 736 (noting that the focus of adequate protection is the “protection of the secured creditor from diminution in the value of its collateral during the reorganization process”); *In re Carbone Cos.*, 395 B.R. 631, 635 (Bankr. N.D. Ohio 2008) (“The test is whether the secured party's interest is protected from diminution or decrease as a result of the proposed use of cash collateral.”). Courts have found that using cash collateral to preserve the value of a secured creditor's collateral is a form of adequate protection in itself. *See, e.g., In re Salem Plaza Assocs.*, 135 B.R. 753, 758 (Bankr. S.D.N.Y. 1992). Here the Debtors do not concede that any cash is cash collateral but have negotiated the proposed Stipulated Amendment to avoid unnecessary litigation of the issue.

18. The Debtors' proposed additional adequate protection package comprises: (a) for the Prepetition Secured Parties, Adequate Protection Liens on all assets of Rhodium Renewables; and (b) for the Consenting Prepetition Secured Parties, AP Interest Payments (as defined in the

Stipulated Amendment), pursuant to § 506(b) of the Bankruptcy Code. The AP Interest Payments may be recharacterized as repayment of principal under certain circumstances.

19. The Debtors believe the proposed additional adequate protection is necessary to protect against diminution in value, as required by §§ 363(c)(2) and 363(e) of the Bankruptcy Code. The Debtors further believe that the provision of the proposed additional adequate protection is fair and appropriate under the circumstances of these Chapter 11 Cases to ensure the Debtors are able to continue using the Cash Collateral, subject to the terms and limitations set forth in the Final Cash Collateral Order, for the benefit of all parties in interest and their estates. Accordingly, the Debtors respectfully submit that the proposed forms of adequate protection should be approved.

B. The Automatic Stay Should Be Modified On A Limited Basis.

20. The relief requested herein contemplates a modification of the automatic stay to the extent necessary to permit the parties to accomplish the transactions contemplated by the Stipulated Amendment and effectuate all of the terms and provisions of the Stipulated Amendment. Stay modifications of this kind are ordinary and standard features for the use of cash collateral and, in the Debtors' business judgment, are reasonable and fair under the present circumstances.

Reservation of Rights

21. Nothing contained herein is intended to be or shall be deemed as (i) an admission as to the validity of any claim against the Debtors or the existence of any lien, (ii) a waiver or limitation of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim or lien, (iii) a waiver of the Debtors' rights under the Bankruptcy Code or any other applicable nonbankruptcy law, (iv) an agreement or obligation to pay any claims, (v) a waiver of any claims or causes of action which may exist against any creditor or interest holder,

or (vi) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

WHEREFORE, the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Respectfully submitted this 12th day of March, 2025.

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

/s/ Patricia B. Tomasco

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*Counsel to the Debtors and
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CERTIFICATE OF SERVICE

I, Patricia B. Tomasco, hereby certify that on the 12th day of March, 2025, a copy of the foregoing Motion was served via the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Patricia B. Tomasco

Patricia B. Tomasco

**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)
	§	
	§	
	§	

**STIPULATED MODIFICATION TO FINAL ORDER (I) AUTHORIZING DEBTORS
TO USE CASH COLLATERAL; (II) GRANTING ADEQUATE PROTECTION TO
PREPETITION SECURED PARTIES; (III) MODIFYING AUTOMATIC STAY; AND
(IV) GRANTING RELATED RELIEF**

(Relates to ECF No. ____)

WHEREAS, on August 29, 2024, the Debtors filed the *Emergency Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors' Use of Cash Collateral, (II) Granting Adequate Protection, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief* (the "Cash Collateral Motion"), ECF No. 37;

WHEREAS, on August 29, 2024, the Debtors filed the *Emergency Motion of Debtors for Entry of Interim and Final Orders (A) Authorizing the Debtors to Obtain Postpetition Financing, (B) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (C) Modifying the Automatic Stay, (D) Scheduling a Final Hearing, and (E) Granting Related Relief*, ECF No. 38;

WHEREAS, on August 30, 2024, the Court held an interim hearing;

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.

WHEREAS, on August 30, 2024, the Court entered the *Interim Order (I) Authorizing Debtors to Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; (III) Modifying Automatic Stay; and (IV) Granting Related Relief*, ECF No. 83;

WHEREAS, on September 23, 2024, the Court held a final hearing;

WHEREAS, on September 23, 2024, the Court entered the *Final Order (I) Authorizing Debtors to Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; (III) Modifying Automatic Stay; and (IV) Granting Related Relief* (the “Final Cash Collateral Order”),² ECF No. 178;

WHEREAS, on September 23, 2024, the Court entered the *Final Order (I) Authorizing the Debtors to Obtain Secured Superpriority Postpetition Financing (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief* (the “Final DIP Order”), ECF No. 186; and

WHEREAS, all obligations under the DIP Loan have been satisfied;

NOW THEREFORE, the parties agree to amend the Final Cash Collateral Order as follows (this “*Amendment*”):

1. Paragraph H of the Final Cash Collateral Order is modified as follows:

Debtors’ Stipulations. After consulting with their attorneys and financial advisors, and without prejudice to the rights of other parties in interest, including any Official Committee, the Debtors admit, stipulate, acknowledge, and agree to the statements set forth in this paragraph (collectively, the “*Debtors’ Stipulations*”): (i) as of the Petition Date, certain of the Debtors issued, and were Borrowers (as defined in the Prepetition Notes) under the Consenting Prepetition Notes, and thus were justly and lawfully indebted and liable to the Consenting Prepetition Secured Parties, without defense, counterclaim, or offset of any kind, in an aggregate principal amount plus accrued and unpaid interest of not less than the amounts set forth in footnote 7, plus fees, expenses (including advisors’ and professionals’ fees and expenses, in each case, that are chargeable or reimbursable under the applicable agreements), disbursements, charges, claims, indemnities and other costs and obligations of whatever nature incurred in connection therewith which are chargeable

² All terms not defined herein have the meaning ascribed to them in the Final Cash Collateral Order.

or otherwise reimbursable under the applicable agreements or applicable law (collectively, the “**Consenting Prepetition Obligations**”);⁷ (ii) the Consenting Prepetition Obligations are secured by legal, valid, perfected, binding, enforceable, and nonavoidable senior liens on and security interests in substantially all assets of Rhodium 2.0, or Rhodium Encore, as applicable, whether now owned or hereafter acquired as set forth in the Rhodium 2.0 Security Agreements, or Rhodium Encore Security Agreements, as applicable (the “**Consenting Prepetition Collateral**”) to secure the Consenting Prepetition Obligations (collectively, the “**Consenting Prepetition Liens**”); and (iv) the Debtors acknowledge and agree that as of the Petition Date (a) the Consenting Prepetition Liens on the Consenting Prepetition Collateral were valid, binding, enforceable, non-avoidable, and properly perfected and were granted to, or for the benefit of, the Consenting Prepetition Secured Parties for fair consideration and reasonably equivalent value; (b) the Consenting Prepetition Liens were senior in priority over any and all other liens on the Consenting Prepetition Collateral.

2. Footnote 7 of the Final Cash Collateral Order is modified as follows:

The “**Consenting Prepetition Secured Parties**” and the approximate principal amount of notes issued by Rhodium 2.0 and Rhodium Encore, as applicable, held by each (such holdings being the “**Consenting Prepetition Notes**”) are as follows: (i) Private Investor Club Feeder Fund 2020-G LLC, \$10.19 million; (ii) Private Investor Club Feeder Fund 2020-H LLC, \$8.06 million; (iii) Stadlin Group Investments–Series Rockdale LLC, \$735,000, (iv) Shane Blackmon, \$1,052,000; (v) Elysium Mining, \$1,242,000; and (vi) the parties listed on Schedule D, Part 1, to Encore’ Schedules of Assets and Liabilities, \$22,150,148.

3. Paragraph 4(a) of the Final Cash Collateral Order is modified as follows:

The Prepetition Secured Parties, are hereby granted, effective and perfected as of the entry of this Final Order, and without the necessity of the execution, recordation or filing by the Debtors or any of the Prepetition Secured Parties of any pledge, collateral or security documents, mortgages, deeds of trust, financing statements, notations of certificates of title for titled goods, or any similar document or instrument, or the taking of any other action (including, without limitation, entering into any control agreements or taking possession or control of any Prepetition Notes Collateral), of the Prepetition Notes Liens in the Prepetition Notes Collateral (including Cash Collateral, if any) from and after the applicable Petition Date, valid, binding, enforceable and automatically perfected post-petition liens on and security interests in (the “**Adequate Protection Liens**”) all property of the Debtors, whether existing on the applicable Petition Date or thereafter acquired that is not subject to valid, perfected, and non-avoidable liens or perfected after the applicable Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code except for all claims and causes of action (and the proceeds thereof) under sections 502(d), 506(c), 544, 545, 547, 548, 549, 550, or 724(a) of the Bankruptcy Code or under any applicable state law (the “**Adequate Protection Collateral**”, and together with the Prepetition Notes Collateral, the “**Collateral**”). The Adequate Protection Liens shall be subject only to the Carve Out (as defined in the DIP Motion), as set forth in and subject to the terms and

conditions of the DIP Orders, and shall be junior and subordinated to the Prior Permitted Liens,⁸ if any, on such assets, and senior to all other liens on such assets.

4. Paragraph 4 of the Final Cash Collateral Order is further modified by the addition of section (d) as follows:

(d) As additional adequate protection, the Debtors will pay the Consenting Prepetition Secured Parties post-petition interest (“**AP Interest Payments**”) at the rates provided for in the applicable Consenting Prepetition Notes in an amount not to exceed \$800,000 in the aggregate, which amount shall be comprised of a maximum of \$400,000 to each of (i) holders of Rhodium Encore Secured Notes and (ii) holders of Rhodium 2.0 Secured Notes. Consenting Prepetition Secured Parties may submit invoices to Province, LLC, as financial advisor for the Debtors, and the Debtors will pay such amounts within fourteen (14) days of receipt. For the avoidance of doubt, (i) AP Interest Payments shall reduce, on a dollar for dollar basis, the amount of any allowed claim against the Debtors held by the recipient of any AP Interest Payments in respect of post-petition interest payable under section 506(b) of the Bankruptcy Code, and (ii) the maximum amount of AP Interest Payments set forth above shall operate only as the maximum amount of post-petition interest to be paid prior to the effective date of any chapter 11 plan, but shall not in any way cap or otherwise limit (A) post-petition interest or other amounts that that may otherwise accrue or be payable under section 506(b) of the Bankruptcy Code or (B) claims of the Consenting Prepetition Secured Parties under and pursuant to the underlying notes and applicable law.⁹

Except as expressly provided herein, nothing in this Final Order shall be construed as a waiver by the Debtors of any claims or defenses against any of the Consenting Prepetition Secured Parties, and the Debtors expressly reserve all rights with respect to any claims held by the Consenting Prepetition Secured Parties, including with respect to the applicable interest rate under the Consenting Prepetition Notes. Payment of any AP Interest Payments shall not be, and shall not be construed as, an admission or agreement of any kind with respect to the characterization of such payment as interest or with respect to the correct interest rate of the Consenting Prepetition Notes.

⁹ For the further avoidance of doubt, any amounts of AP Interest Payments which exceed the amount of interest ultimately deemed allowed as a component of any claims held by the Consenting Prepetition Secured Parties on account of the Consenting Prepetition Notes shall reduce, on a dollar for dollar basis, the amount of principal owed with respect to such claims.

5. **Retention of Jurisdiction.** The Court has and will retain jurisdiction to enforce this Amendment and the Final Cash Collateral Order and with respect to all matters arising from or related to the implementation of the same.

Dated: _____, 2025

THE HONORABLE ALFREDO PEREZ
UNITED STATES BANKRUPTCY JUDGE