

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

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

**SPECIAL COMMITTEE’S MOTION FOR CLARIFICATION
OF THE COURT’S ORDER GRANTING LIQUID MINING GROUP’S REQUEST FOR
RELIEF FROM AGREED MEDIATION ORDER**

The Special Committee of the Board of Directors of Debtor Rhodium Enterprises, Inc. (the “**Special Committee**”) respectfully moves for clarification of Paragraph 5 of the Court’s April 23, 2025 Order, Dkt. 1002 (the “**Order**”). This paragraph relieves Liquid Mining Fund I, LLC, Liquid Mining Fund II, LLC, and Liquid Mining Fund III, LLC (collectively, “**Liquid Mining Group**”) from all obligations under the Agreed Mediation Order filed on April 21, 2025, Dkt. 966 (the “**Agreed Mediation Order**”).

Liquid Mining Group’s Motion was agreed as to the withdrawal of counsel but was *not* agreed to in full. The Agreed Mediation Order reflects the consensus of multiple parties; these parties did not agree to Liquid Mining Group’s Motion insofar as Liquid Mining Group sought to

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.



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be relieved from all of its obligations under the Agreed Mediation Order, including its obligations to maintain confidentiality.

If Liquid Mining Group simply wishes to be relieved of the obligation to appear for mediation, the Special Committee has no objection to this. However, the Agreed Mediation Order imposes on all parties who signed the agreement, including Liquid Mining Group, obligations beyond participation in the mediation. The Special Committee therefore seeks clarification of the impact of the Court's Order on the confidentiality provisions of the Agreed Mediation Order. For the following reasons, the Special Committee believes that the Court's Order should not be interpreted to relieve Liquid Mining Group's from its obligation to maintain the confidentiality of material received in connection with mediation.

First, Liquid Mining Group provides no justification or basis for its request to be relieved of *all* obligations under the Agreed Mediation Order and none exists. The parties to the mediation purposefully negotiated the terms of the Agreed Mediation Order and included standard confidentiality provisions governing information exchanged in connection with the mediation. Liquid Mining Group freely chose to sign the agreement with legal representation. Such an obligation to maintain confidentiality of information continues even if Liquid Mining Group is not represented by counsel. *See* Agreed Mediation Order, Dkt. 966, ¶ 13 (requiring the signing parties, including Liquid Mining Group, to treat "communications" and "submissions" received in connection with the mediation, among other things, as information "subject to any applicable confidentiality agreements entered into between" the signing parties).

Second, Liquid Mining Group has received confidential information pursuant to the Agreed Mediation Order that it signed and the implied representation it made to comply with the Agreed Mediation Order. The Special Committee relied on Liquid Mining Group's

representation when it provided Counsel to Liquid Mining Group with access to confidential, highly sensitive information.

Third, an interpretation of the Court's Order as to relieve Liquid Mining Group from its confidentiality obligations is in direct contrast with the parties' intent to enter into an agreement containing these provisions. Indeed, confidentiality provisions in an Agreed Mediation Order are precisely to bind parties to such obligations, even if a party is later excused from participating at a mediation. Allowing parties to disclaim such obligations would defeat the central purpose of signing such a term, and expose parties to the dissemination of their confidential, sensitive information that was exchanged in connection with mediation. Interpreting the Court's Order to include a relief from the confidentiality provisions would mean Liquid Mining Group can disclose confidential information to anyone or use it in ways against the wishes of parties to the Agreed Mediation Order, which would severely prejudice the other parties. Thus, the Court's Order should not be interpreted to allow Liquid Mining Group to disclaim its obligations under the Agreed Mediation Order when other parties relied on Liquid Mining Group's promise to comply and provided it with confidential information that it would not have otherwise obtained.

Fourth, authorizing counsel for Liquid Mining Group to withdraw does not automatically exempt Liquid Mining Group from complying with court orders to which it is subject. Indeed, courts consistently evaluate whether withdrawal of counsel will result in any delay in complying with court orders, prejudice against the other parties, or otherwise disrupt the case, demonstrating that a party's obligations arising from the litigation continues even if counsel is allowed to withdraw. *See Denton v. Suter*, No. 3:11-CV-2559-N, 2013 WL 5477155, at *4 (N.D. Tex. Oct. 2, 2013) (collecting cases denying motions to withdraw when parties have obligations arising from the litigation, such as discovery obligations, responses to motions, and upcoming hearings).

Thus, the Special Committee respectfully requests that the Court clarifies its Order regarding the Agreed Mediation Order's obligation to take affirmative action, such as to appear at mediation, and the passive obligation to maintain the confidentiality of sensitive information.

Finally, an interpretation that Liquid Mining Group is relieved from its confidentiality obligations would create inconsistencies. Specifically, the Agreed Mediation Order is not the only source of confidentiality requirements that apply to Liquid Mining Group. Through its counsel, Liquid Mining Group agreed that pre-Mediation Order discussions between Liquid Mining Group and the Special Committee were subject to mediation privilege. Counsel for Liquid Mining Group also signed an acknowledgment of the Protective Order in this case. *See* Dkt. 149-1. Liquid Mining Group has not requested relief from the Protective Order. The Special Committee requests that the Court clarify that Liquid Mining Group's obligations are unchanged under the Protective Order and based on the representations made by its counsel regarding the confidentiality of pre-Mediation discussions.

In sum, for the reasons described above, the Special Committee respectfully requests that the Court clarify the relief awarded to Liquid Mining Fund regarding its obligations under the Agreed Mediation Order, including Liquid Mining Fund's obligations to abide by paragraph 13 of the Agreed Mediation Order regarding information it has received in connection with the mediation.

Dated: April 24, 2025

/s/ Trace Schmeltz

Trace Schmeltz

Vincent P. (Trace) Schmeltz III

(Pro Hac Vice)

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CERTIFICATE OF SERVICE

I certify that on April 24, 2025, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Trace Schmeltz

Trace Schmeltz