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)
RHODIUM JV LLC, RHODIUM 30MW LLC, RHODIUM 2.0 LLC, RHODIUM 10MW LLC, RHODIUM ENCORE LLC, AIR HPC LLC, JORDAN HPC LLC, RHODIUM INDUSTRIES LLC AND RHODIUM RENEWABLES LLC,	§	Adversary Proceeding No. 25-03047
Plaintiffs,	§	Jury Trial Demanded
v.	§	
WHINSTONE US, INC., RIOT PLATFORMS, INC.,	§	
Defendants.	§	

DEFENDANT RIOT PLATFORMS, INC.'S MOTION TO WITHDRAW THE REFERENCE

IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST RESPOND IN WRITING. UNLESS OTHERWISE DIRECTED BY THE COURT, YOU MUST FILE YOUR RESPONSE ELECTRONICALLY AT HTTPS://ECF.TXSB.USCOURTS.GOV/ WITHIN TWENTY-ONE DAYS FROM THE DATE THIS MOTION WAS FILED. IF YOU DO NOT HAVE ELECTRONIC FILING PRIVILEGES, YOU MUST FILE A WRITTEN OBJECTION THAT IS ACTUALLY RECEIVED BY THE CLERK WITHIN TWENTY-ONE DAYS FROM THE DATE THIS MOTION WAS FILED. OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

[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).

A HEARING WILL BE CONDUCTED ON THIS MATTER ON APRIL 22, 2025, AT 8:30 A.M. (PREVAILING CENTRAL TIME) IN COURTROOM 400, 515 RUSK, HOUSTON, TEXAS 77002. YOU MAY PARTICIPATE IN THE HEARING EITHER IN PERSON OR BY AN AUDIO AND VIDEO CONNECTION.

AUDIO COMMUNICATION WILL BE BY USE OF THE COURT'S DIAL-IN FACILITY. YOU MAY ACCESS THE FACILITY AT 832-917-1510. ONCE CONNECTED, YOU WILL BE ASKED TO ENTER THE CONFERENCE ROOM NUMBER. JUDGE PÉREZ'S CONFERENCE ROOM NUMBER IS 282694. VIDEO COMMUNICATION WILL BE BY USE OF THE GOTOMEETING PLATFORM. CONNECT VIA THE FREE GOTOMEETING APPLICATION OR CLICK THE LINK ON JUDGE PÉREZ'S HOME PAGE. THE MEETING CODE IS "JUDGEPEREZ". CLICK THE SETTINGS ICON IN THE UPPER RIGHT CORNER AND

ENTER YOUR NAME UNDER THE PERSONAL INFORMATION SETTING. HEARING APPEARANCES MUST BE MADE ELECTRONICALLY IN ADVANCE OF BOTH ELECTRONIC AND IN-PERSON HEARINGS. TO MAKE YOUR APPEARANCE, CLICK THE "ELECTRONIC APPEARANCE" LINK ON JUDGE PÉREZ'S HOME PAGE. SELECT THE CASE NAME, COMPLETE THE REQUIRED FIELDS, AND CLICK "SUBMIT" TO COMPLETE YOUR APPEARANCE.

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Defendant Riot Platforms, Inc. ("Riot") hereby files this *Motion to Withdraw the Reference* (the "Motion") and respectfully submits as follows:

I. Summary of Argument

1. The Supreme Court's decision in *Stern v. Marshall*, 131 S. Ct. 2594 (2011), made clear that a threshold question in ruling on a motion to withdraw the reference is whether the bankruptcy court has both constitutional and statutory authority to enter a final judgment on the claims before it. The claims brought by Plaintiffs here – state-law breach of contract and tortious interference claims – are quintessential state law claims with no connection to Plaintiffs' chapter 11 cases beyond the fact that they were asserted in an adversary proceeding related to that filing and seek damages to augment the size of the bankruptcy estate. The Supreme Court's decision in *Stern* removed any doubt about whether the bankruptcy courts have authority to enter final orders on these types of claims. Because Riot is entitled to a final adjudication of Plaintiffs' claims in the District Court, the Bankruptcy Court is not the appropriate forum to try them.

2. This Court should recommend that the reference be immediately withdrawn under 28 U.S.C. § 157(d). Under the Fifth Circuit's withdrawal standards, this Adversary Proceeding should be heard by the District Court, not by the Bankruptcy Court.

3. Withdrawal is necessary because Riot has asserted its Seventh Amendment right to a jury trial and does not consent to a trial before this Court.

4. Immediate withdrawal also is warranted under the permissive withdrawal standard. Plaintiffs assert only non-core state-law claims for damages. The claims against Riot are precisely the type of non-core claims that a bankruptcy court may not finally determine, especially where, as here, Riot has not consented to a trial in the Bankruptcy Court. Riot is not seeking to forum shop, but rather is exercising its constitutional right to have the claims against it heard by the

District Court. In addition, immediate withdrawal would further uniformity in bankruptcy administration because the claims at issue do not affect the administration of the estate, the Complaint invokes no substantive rights under the Bankruptcy Code, and the Bankruptcy Court has not yet reached a significant level of familiarity with the Adversary Proceeding. In light of the constitutional limitations on bankruptcy courts, this Court would only be able to enter a report and recommendation on the Plaintiffs' claims; immediate withdrawal would allow the Adversary Proceeding to be litigated and tried in the District Court, which would further the efficient administration of the Debtors' estate and expedite the bankruptcy process.

5. For these reasons and those explained below, Riot's motion to immediately withdraw the reference should be granted.

II. Relief Requested

6. Riot respectfully requests, under 28 U.S.C. § 157(d), Rule 5011 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 5011-1 of the Local Rules of the United States Bankruptcy Court for the Southern District of Texas (the "Bankruptcy Court"), that (*i*) the Court recommend to the District Court that the reference be withdrawn as to all claims against Riot in this adversary proceeding (the "Adversary Proceeding"); and (*ii*) the District Court withdraw the reference.

III. Demand for Jury Trial

7. Riot demands a jury trial on all issues so triable.

IV. Notice Of Non-Consent to Entry of Final Orders

8. Riot does not consent to the entry of final orders by the Court in this Adversary Proceeding.

V. Relevant Background

9. On February 11, 2025, Plaintiffs – certain of the debtors and debtors in possession in *In re Rhodium Encore LLC*, No. 24-90448 (the "Bankruptcy") – initiated this Adversary Proceeding against Riot and Whinstone US, Inc. ("Whinstone").

10. The Complaint asserts seven state-law claims against Riot – five for breach of contract (Counts I-V), one for tortious interference with a prospective business relationship (Count VI), and one for tortious interference with contracts (Count VII). Plaintiffs seek "more than ***$300 million in damages***." (Compl. ¶ 1 (emphasis in original).)[2] The Complaint asserts no claims based on bankruptcy law.

11. The Complaint's allegations relate to underlying events that all predate the Bankruptcy. (*Compare* Compl. ¶¶ 22-59 (allegations from 2019 to July 19, 2024), *with* Bankr. Dkt. No. 1 (petition filed August 24, 2024).) The thrust of the allegations is that Whinstone, a company that provides hosting services to bitcoin mining companies like Plaintiffs, breached a number of contracts with certain Plaintiffs, and a lawsuit that Whinstone brought and later voluntarily dismissed against certain Plaintiffs interfered with Plaintiffs' preliminary negotiations to potentially sell an asset to an unnamed third party. Riot is neither a party to any of the contracts at issue nor involved in the allegedly interfering litigation.

12. A summons was issued to Riot on February 13, 2025. (Adv. Dkt. No. 4.)

13. Riot is not a creditor of Plaintiffs and has not filed a proof of claim in the Bankruptcy.

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[2] As detailed in Riot's simultaneously filed motion to dismiss, those claims are meritless. The claims against Riot in the Complaint should be dismissed with prejudice.

14. No discovery has been conducted in this Adversary Proceeding, nor has this Court considered any substantive matters in this Adversary Proceeding.

VI. Basis for Relief Requested

15. A district court "may withdraw, in whole or in part, any case or proceeding referred [to the Bankruptcy Court] . . . on timely motion of any party, for cause shown." 28 U.S.C. § 157(d).

16. There is "cause" under 28 U.S.C. § 157(d) for the District Court to withdraw this case. The reference must be withdrawn because Riot is entitled to, and has timely demanded, a jury trial before the District Court on all claims against it. *See In re Clay*, 35 F.3d 190, 196-98 (5th Cir. 1994).

17. Immediate withdrawal also is warranted under the permissive withdrawal standard to allow the District Court to preside over this jury-trial case from the start, including for pre-trial proceedings. *See Holland Am. Ins. Co. v. Succession of Roy*, 777 F.2d 992, 998-99 (5th Cir. 1985). Each claim is non-core, sounds in non-bankruptcy law, and is based entirely on events predating the Bankruptcy. Moreover, because Riot is filing this motion promptly after being served, no discovery has been conducted in this Adversary Proceeding, and this Court has expended no resources on Plaintiffs' meritless claims. This Court should recommend complete and immediate withdrawal of the reference.

A. Riot's Jury Demand Necessitates Withdrawal.

18. Withdrawal is required because Riot (*i*) has a Seventh Amendment right to a jury trial on the claims asserted and (*ii*) does not consent to have the claims against it adjudicated in the Bankruptcy Court. *In re Clay*, 35 F.3d at 196-97; *In re Bellon*, 2024 WL 2027502, at *1 (Bankr. S.D. Tex. Apr. 30, 2024). Courts in this district have underscored that a valid jury trial demand "coupled with the lack of consent to a jury trial in bankruptcy court [is] dispositive of the need for

withdrawal of the reference." *Byman v. Brown Lab Investments, LLC (In re Align Strategic Partners LLC)*, 2019 WL 2524938, at *5 (Bankr. S.D. Tex. Mar. 5, 2019); *see also In re Bellon*, 2024 WL 2027502, at *1; *In re Quality Lease & Rental Holdings, LLC*, 2016 WL 416961, at *5 (Bankr. S.D. Tex. Feb. 1, 2016), *report and recommendation adopted*, 2016 WL 11644051 (S.D. Tex. Feb. 29, 2016).

19. *First*, Riot is entitled to a jury trial on each claim asserted against it. The Seventh Amendment guarantees a jury trial if the value in controversy exceeds $20 and the dispute concerns "legal rights." *In re Bellon*, 2024 WL 2027502, at *1; *see also Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33, 41 (1989). Plaintiffs seek $300 million in a dispute that plainly requires the determination of legal rights. (Compl. ¶ 1.) Plaintiffs' "request for a money judgment generally indicates that the [underlying] claim" is legal in nature. *In re Bellon*, 2024 WL 2027502, at *1; *see also, e.g.*, *Dairy Queen, Inc. v. Wood*, 369 U.S. 469, 477 (1962) ("[T]he[] claim for a money judgment is a claim wholly legal in its nature however the complaint is construed."). Courts also routinely hold that Plaintiffs' causes of action against Riot – state-law causes of action for breach of contract and tortious interference – are legal claims. *See, e.g.*, *Chauffeurs, Teamsters & Helpers, Local No. 391 v. Terry*, 494 U.S. 558, 569–70 (1990) (breach of contract is legal claim); *In re Harvey*, 2011 WL 1045349, at *2 (Bankr. S.D. Tex. Mar. 17, 2011) (breach of contract and tortious interference are legal claims).

20. Neither Plaintiffs' agency, veil piercing and alter ego theories nor Plaintiffs' demand for an injunction diminishes the need for immediate withdrawal. As an initial matter, Plaintiffs attempt to allege agency, alter ego and veil piercing to try to assert the purely legal claims of breach of contract and tortious interference against Riot. *See, e.g.*, *In re Grothues*, 226 F.3d 334, 338 (5th Cir. 2000) ("veil-piercing [is] simply [a] method of assigning liability on [an] 'underlying cause

of action'" (quoting *Peacock v. Thomas*, 516 U.S. 349, 353 (1996))); *Hansen v. Protective Life Ins. Co.*, 642 F. Supp. 3d 587, 595 (S.D. Tex. 2022) ("Agency . . . [is] not [a] separate cause[] of action but [is], instead, [a] theor[y] of vicarious liability through which a principal may be held liable"). And in any event, when legal claims for damages are joined with a request for equitable relief, "the right to jury trial on the legal claim, including all issues common to both claims, remains intact." *Curtis v. Loether*, 415 U.S. 189, 196 n.11 (1974); *id.* ("The right cannot be abridged by characterizing the legal claim as 'incidental' to the equitable relief sought.").

21. *Second*, Riot does not consent to the adjudication of its claims in Bankruptcy Court. Riot has timely demanded a jury trial before the District Court. (*See supra* ¶ 2.)

22. Accordingly, where, as here, a party seeks to assert its constitutional rights to adjudication and a jury trial in the District Court, withdrawal of the reference is necessary.

B. Complete Withdrawal, Including for Pre-Trial Motions, Is Also Warranted Under the Permissive Withdrawal Standards.

23. While Riot submits that the jury demand is dispositive of the issue, the requirements for permissive withdrawal are also satisfied here. Courts in the Fifth Circuit considering permissive withdrawal look to whether:

> (1) the underlying lawsuit is a non-core proceeding; (2) uniformity in bankruptcy administration will be promoted; (3) forum shopping and confusion will be reduced; (4) economical use of debtors' and creditors' resources will be fostered; (5) the bankruptcy process will be expedited; and (6) a party has demanded a jury trial.

In re MPF Holding US LLC, 2013 WL 12146958, at *1 (Bankr. S.D. Tex. Apr. 26, 2013) (citing *Holland*, 777 F.2d at 998-99).

24. These factors (the "*Holland* factors") inform the District Court's discretion on not only *whether*, but also *when*, to withdraw the bankruptcy reference. *See, e.g.*, *In re Align*, 2019 WL 2524938, at *2-5 (examining "the *Holland America* factors" to "recommend[] that the District

Court immediately withdraw the reference of the Adversary Proceeding"); *NRG New Roads Holdings LLC v. Horton*, 2015 WL 6167817, at *4 (M.D. La. Oct. 21, 2015) (granting immediate withdrawal after assessing the *Holland* factors).

25. As described below, here, the *Holland* factors favor immediate and complete withdrawal of the reference.

i. Plaintiffs' state-law claims make this proceeding non-core.

26. Because Plaintiffs assert only state-law causes of action, this proceeding is non-core. That strongly favors withdrawal.

27. Core proceedings are those that either (*i*) "arise under" the Bankruptcy Code, i.e., "'invoke[] a substantive right provided by title 11'" or (*ii*) "arise in" a bankruptcy – i.e., claims that "'could arise only in the context of a bankruptcy case.'" *In re Morrison*, 555 F.3d 473, 479 (5th Cir. 2009) (quoting *Wood v. Wood (In re Wood)*, 825 F.2d 90, 97 (5th Cir. 1987)). By contrast, non-core proceedings do "not invoke a substantive right created by the federal bankruptcy law and [are ones] that could exist outside of bankruptcy." *In re Wood*, 825 F.2d at 97.

28. The claims in the Adversary Proceeding are plainly non-core. The claims do not arise under the Bankruptcy Code because they do not invoke substantive rights created by federal bankruptcy law. *See id.* ("If the proceeding does not invoke a substantive right created by the federal bankruptcy law and is one that could exist outside of bankruptcy it is not a core proceeding; it may be related to the bankruptcy because of its potential effect, but under section 157(c)(1) it is an 'otherwise related' or non-core proceeding."); *In re EbaseOne Corp.*, 2006 WL 2405732, at *3 (Bankr. S.D. Tex. June 14, 2006) (that "the Complaint in no way invoke[d] a substantive right

provided by the Bankruptcy Code . . . strongly favor[ed] a withdraw of the reference").[3] Likewise, the claims here do not "arise in" a bankruptcy case, because they do not stem from the Bankruptcy itself. Indeed, Plaintiffs' only causes of action – claims for prepetition breach of contract and tortious interference – are garden-variety state-law claims that could be asserted against Riot and Whinstone outside of the Bankruptcy. Both sets of claims are quintessentially non-core. *See, e.g.*, *In re Royce Homes, L.P.*, 2011 WL 13340482, at *2 (Bankr. S.D. Tex. Oct. 13, 2011) (claims "based upon state law for prepetition breaches of contract" and "prepetition tortious conduct" are "non-core proceedings"); *Curtis v. Cerner Corp.*, 2020 WL 1983937, at *2 (S.D. Tex. Apr. 27, 2020) (breach of contract claim "could be brought independent of federal bankruptcy law and [is] therefore noncore").

29. This conclusion is reinforced by the underlying rationale for the distinction between "core" and "non-core" claims. State-law damages claims for breach of contract or tortious interference against a party that has not filed a proof of claim cannot be decided by a bankruptcy court because the right of a debtor in bankruptcy to recover "damages to augment its estate is 'one of private right, that is, of the liability of one individual to another under the law as defined,'" and not one of public right.[4] *N. Pipeline Construction Co. v. Marathon Pipe Line Co*., 458 U.S. 50, 57, 71-72 (1982) (plurality opinion) (quoting *Crowell v. Benson*, 285 U.S. 22, 52 (1932)); *see Apache Corp. v. Castex Energy Offshore, Inc. (In re Castex Energy Partners LP)*, 2018 WL 3068803, at *2-3 (S.D. Tex. June 21, 2018); *Tow v. Park Lake Cmtys., LP (In re Royce Homes,*

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[3] Nor do the claims in the Adversary Proceeding fall within any of the categories of "core" proceedings identified in 28 U.S.C. § 157(b)(2)(A)-(P).

[4] Any "public right" exception is limited "to cases in which the claim at issue derives from a federal regulatory scheme, or in which resolution of the claim by an expert Government agency is deemed essential to a limited regulatory objective within the agency's authority." *Stern v. Marshal*, 564 U.S. 462, 490 (2011).

LP), 578 B.R. 748, 758-59 (S.D. Tex. Nov. 2, 2017). For this reason, the Court lacks the authority to enter final orders on the claims asserted in the Adversary Proceeding.[5]

30. Because Plaintiffs assert non-core claims in the Adversary Proceeding, this factor favors withdrawal.

ii. Immediate withdrawal would further uniformity.

31. Immediate withdrawal would further uniformity in bankruptcy administration for three reasons.

32. *First*, litigating Plaintiffs' claims in the same court that will ultimately try the Adversary Proceeding will not interfere with the uniform administration of Rhodium's Bankruptcy. The Adversary Proceeding seeks solely to augment the estate, not to re-order priorities among creditors. The claims at issue thus do not affect the administration of the estate.

33. *Second*, Plaintiffs' Complaint "in no way invokes a substantive right provided by the Bankruptcy Code." *In re EbaseOne*, 2006 WL 2405732, at *3. "[T]he mostly noncore nature of the claims indicates that the Bankruptcy Court does not possess the resident expertise and uniformity in bankruptcy administration would not be promoted by declining to withdraw the reference." *Curtis*, 2020 WL 1983937, at *3; *see also M. Fabrikant & Sons, Inc. v. Long's Jewelers Ltd.*, 2008 WL 2596322, at *4 (S.D.N.Y. June 26, 2008) ("Withdrawing the reference would not hamper uniform administration of the bankruptcy code because this case is a 'non-core' proceeding . . . concern[ing] a contract dispute under New York law."); *Solutia Inc. v. FMC Corp.*, 2004 WL

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[5] As explained by one court: "Under the Constitution, Article I bankruptcy judges can issue final orders only with respect to public rights, unless all parties consent to the issuance of final orders by the bankruptcy judge. Accordingly, the Supreme Court held that state law causes of action that do not implicate bankruptcy-related public rights can only be resolved through final orders by Article III judges. Subsequently, § 157's core versus non-core claims provision and the report and recommendation system were born." *Longhorn Partners Pipeline L.P. v. KM Liquids Terminals, L.L.C.*, 408 B.R. 90, 97 (Bankr. S.D. Tex. June 30, 2009).

1661115, at *4 (S.D.N.Y. July 27, 2004) ("Where an action involves garden variety breach of contract matters that are non-core, uniformity in bankruptcy law compels withdrawal of those claims." (internal quotations omitted)); *In re The VWE Group, Inc.*, 359 B.R. 441, 451 (S.D.N.Y. Jan. 5, 2007) ("Nor will withdrawal of the reference adversely affect the uniformity of bankruptcy administration because the Committee's non-core professional malpractice claim (a) is not brought under bankruptcy law; (b) arose prior to and independent of the Debtor's bankruptcy filing; and (c) does not otherwise concern administration of the bankruptcy estate.").

34. *Third*, the uniformity factor also supports immediate withdrawal because "the motion to withdraw reference [is being] filed shortly after the filing of the complaint" and this Court (*i*) has not "reached a significant level of familiarity with the case," *In re Align*, 2019 WL 2524938, at *3, or (*ii*) resolved substantive issues in the Adversary Proceeding, *Curtis*, 2020 WL 1983937, at *3. This Adversary Proceeding is in its infancy. There have been no substantive developments since the Complaint was filed, and the preliminary conference is not set to occur until April 22, 2025. (Adv. Dkt. Nos. 1, 15.) Because this Court has not reached a significant level of familiarity or resident expertise with the facts of the Adversary Proceeding, withdrawal would further uniformity. *See In re MPF Holding US LLC*, 2013 WL 12146958, at *2 (uniformity factor favored withdrawal where the court "has held few hearings in [the adversary proceeding], and none of [those] hearings concerned issues relating to the underlying facts of the suit," the court "has not held an evidentiary hearing in" the adversary proceeding and "has not gained any familiarity with the underlying facts"); *In re Royce Homes, L.P.*, 2011 WL 13340482, at *3 (uniformity factor favored withdrawal where "[t]here have been no lengthy hearings where testimony has been adduced and substantive rulings issued"); *In re EbaseOne Corp.*, 2006 WL

2405732, at *1, 4 (uniformity factor favored withdrawal where motion was filed two months after Adversary Proceeding filed).

35. While the Court previously held a hearing relating to certain of the contracts at issue, that proceeding did not address or resolve the claims at issue in the Complaint, nor did it encompass many of the issues raised by the Complaint in the Adversary Proceeding. Moreover, Riot was not a party to that proceeding, it cannot be bound by any findings therein, and to date, this Court has not conducted any inquiries relating to the claims against Riot. *See Taylor v. Sturgell*, 553 U.S. 880, 884 (2008) ("It is a principle of general application in Anglo–American jurisprudence that one is not bound by a judgment *in personam* in a litigation in which he is not designated as a party" (quoting *Hansberry v. Lee*, 311 U.S. 32, 40 (1940))); *see generally* Bankr. Dkt. (Riot not a party). Even if a bankruptcy court is familiar with the parties and allegations made by a plaintiff, this factor – whether withdrawal would further uniformity – weighs in favor of withdrawal when the court has not resolved substantive issues in the adversary proceeding. *See Curtis*, 2020 WL 1983937, at *3 ("Here, the Bankruptcy Court is familiar with the debtor and the 'allegations made by the [Plaintiff] Trustee,' but has resolved no substantive issues in the adversary proceeding"). Here, the Court has not addressed, let alone resolved, the claims asserted in the Adversary Proceeding, and this factor favors withdrawal.

iii. Immediate withdrawal would reduce forum shopping and confusion.

36. The forum shopping factor strongly supports immediate withdrawal because Riot (*i*) has not been affected by any adverse ruling in the Adversary Proceeding that would lead it to forum shop, (*ii*) is entitled to a jury trial before the District Court, and (*iii*) "moved very quickly to seek a withdrawal of the reference." *In re Align*, 2019 WL 2524938, at *4; *see also In re MPF Holding US LLC*, 2013 WL 12146958, at *2.

37. *First*, Riot is not forum shopping. Riot is not a creditor of Plaintiffs, has filed no claim in the Bankruptcy, and has not been subject to an adverse ruling in the Adversary Proceeding. For this reason, there is no basis to conclude Riot is engaged in forum shopping. *See In re Align*, 2019 WL 2524938, at *4 ("Defendants have a good faith right to a jury trial in the District Court . . . and nothing in the record indicates that they are forum shopping").

38. *Second*, Riot is entitled to a jury trial before the District Court, and its exercise of that right is not forum shopping. (*Supra* ¶ 2.) The claims in the Adversary Proceeding must be decided by the District Court whether or not the reference is withdrawn. Thus, withdrawal of the reference will not change the ultimate forum for resolution of Plaintiffs' state law claims. *See Joseph DelGreco & Co*., 2011 WL 350281, at *5 (S.D.N.Y. Jan. 26, 2011) (holding that "there is no evidence that [movant's] motion is an attempt to engage in forum shopping" because movant "has a right to a jury trial on the malpractice claims, and absent consent by [movant] to a trial in bankruptcy court, the parties have no choice but to try the case in this Court or in New York state court").

39. *Third*, Riot has moved even more "quickly to seek withdrawal of the reference" than did the defendants in *In re Align*. There, the forum shopping factor favored immediate withdrawal where the defendants moved to withdraw "several days after they filed the Motion to Dismiss," making clear to the Bankruptcy Court that they had not "sat on their hands and let this Court spend significant time becoming acquainted with the . . . [c]laims and then, on the eve of trial, sought to withdraw the reference." *In re Align*, 2019 WL 2524938, at *4. Here, Riot has moved to withdraw promptly and has done so at the same time it filed a motion to dismiss. This, too, favors withdrawal of the reference. *See id.*

iv. Immediate withdrawal is the most efficient outcome.

40. "One of the major goals of bankruptcy law is the efficient use of the debtor's and creditors' resources in efforts to administer the debtor's estate and to resolve any related litigation." *In re Bay Area Reg'l Med. Ctr., LLC*, 2019 WL 13156596, at *4 (Bankr. S.D. Tex. Dec. 18, 2019), *report and recommendation adopted as modified sub nom. Curtis v. Cerner Corp.*, 2020 WL 1983937 (S.D. Tex. Apr. 27, 2020). That goal would be served in this case by withdrawal.

41. Riot does not consent to resolution of its claims in Bankruptcy Court. Thus, any decisions of this Court would be subject to review by the District Court. Such duplicative review would unnecessarily expend the parties' and court resources when the Adversary Proceeding could be litigated and tried in a single court. *See id.* ("unnecessary costs can be avoided if the district court simply tries the suit under its original jurisdiction rather than having the facts adduced first in the bankruptcy court and later reviewed de novo by the district court"); *Yaquinto v. Mid-Continent Cas. Co. (In re Bella Vita Custom Homes)*, 2018 WL 2966838, at *2 (Bankr. N.D. Tex. May 27, 2018) ("Keeping the Adversary Proceeding in the Bankruptcy Court would add an unnecessary, costly, and duplicative layer to the proceedings as any ruling made by the Bankruptcy Court on the non-core breach-of-contract claim is subject to de novo review by the District Court."). Immediate withdrawal thus would "serve the interest of judicial economy and conservation of resources" where, as here, it would allow the District Court to "gain familiarity with the facts of the Adversary Proceeding before trial, and then hold a jury trial on" the claims. *In re Align*, 2019 WL 2524938, at *4; *see also In re MPF Holding US LLC*, 2013 WL 12146958, at *3.

42. Withdrawal of the reference will avoid additional expense and delay and will minimize litigation costs for the Debtors' estate and the defendants by "dispens[ing] with the need

for the District Court to conduct a *de novo* review of proposed findings and conclusions of" this Court on any substantive motions. *See Curtis*, 2020 WL 1983937, at *4 (quoting *Mirant Corp. v. The S. Co.*, 337 B.R. 107, 122 (N.D. Tex. Jan. 2006)); *see also, e.g.*, *In re Align*, 2019 WL 2524938, at *4.

v. Immediate withdrawal would expedite the bankruptcy process.

43. Immediate withdrawal of the reference will expedite the bankruptcy process. "If the District Court withdraws the reference, [this Court] may immediately enter a final judgment, thereby expediting the bankruptcy process." *In re MPF Holding US LLC*, 2013 WL 12146958, at *3. By contrast, absent withdrawal, adjudication of the claims at issue will be slowed because this Court will be required to submit reports and recommendations to the District Court. For that reason, "refusal to withdraw the reference will delay final administration of the bankruptcy case because the two-step de novo review . . . would 'delay the resolution of the dispute and consequently, the final administration of the bankruptcy estate.'" *Curtis*, 2020 WL 1983937, at *4 (citations omitted).

vi. Riot's timely jury demand is dispositive.

44. Because Riot's right to a jury trial is paramount, this factor outweighs all others. *See, e.g.*, *In re Bellon*, 2024 WL 2027502, at *1-2; *In re MPF Holding US LLC*, 2013 WL 12146958, at *3. Riot timely asserted its Seventh Amendment right to a jury trial. For the reasons explained above, withdrawal is appropriate where a party has asserted a timely jury demand.

VII. Conclusion and Prayer

45. For the reasons above, Riot respectfully requests that: (*i*) this Court recommend that the District Court grant this Motion; (*ii*) the District Court enter an order withdrawing the reference of the Adversary Proceeding from this Court and order that all further proceedings be

conducted by the District Court; and (*iii*) this Court grant Riot such other and further relief to which it may be justly entitled.

Dated: Houston, Texas
March 17, 2025

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CERTIFICATE OF SERVICE

I certify that on March 17, 2025, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas on those parties required to receive service pursuant to the Bankruptcy Rules.

/s/ Sean T. Wilson
Sean T. Wilson

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)
RHODIUM JV LLC, RHODIUM 30MW LLC, RHODIUM 2.0 LLC, RHODIUM 10MW LLC, RHODIUM ENCORE LLC, AIR HPC LLC, JORDAN HPC LLC, RHODIUM INDUSTRIES LLC AND RHODIUM RENEWABLES LLC,	§	Adversary Proceeding No. 25-03047
Plaintiffs,	§	Jury Trial Demanded
v.	§	
WHINSTONE US, INC., RIOT PLATFORMS, INC.,	§	
Defendants.	§	

REPORT AND RECOMMENDATION REGARDING DEFENDANT RIOT PLATFORMS, INC.'S MOTION TO WITHDRAW THE REFERENCE

[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).

Upon consideration of Riot Platforms, Inc.'s *Motion to Withdraw the Reference* (the "Motion") [Docket No. __] filed in the above-captioned adversary proceeding (the "Adversary Proceeding"); and after considering the briefing, relevant facts, and applicable law, the Court recommends that the District Court withdraw the reference in this Adversary Proceeding pursuant to 28 U.S.C. § 157(d).

Signed: _____, 2025

_____
THE HONORABLE ALFREDO R. PÉREZ
UNITED STATES BANKRUPTCY JUDGE