

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE 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)
	§	

**STATEMENT IN RESPONSE TO DEBTORS' EMERGENCY MOTION FOR ENTRY OF
AN ORDER (I) APPROVING THE ACCELERATED PAYMENT PROCEDURES; AND
(II) GRANTING RELATED RELIEF**

The Ad Hoc Group of SAFE Parties (the “**SAFE AHG**”)² in the above-captioned chapter 11 cases of Rhodium Encore LLC and its affiliated debtors and debtors in possession (collectively, the “**Debtors**”), by and through its undersigned counsel, respectfully submits this statement (the “**Statement**”) in response to the *Debtors' Emergency Motion for Entry of an Order (I) Approving the Accelerated Payment Procedures; and (II) Granting Related Relief* [Docket No. 1057] (the “**Motion**”). In support of this Statement, the SAFE AHG submits as follows:

¹ 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), Jordan HPC Sub LLC (0463), Rhodium 2.0 Sub LLC (5319), Rhodium 10MW Sub LLC (3827), Rhodium 30MW Sub LLC (4386), Rhodium Encore Sub LLC (1064), Rhodium Enterprises, Inc. (6290), Rhodium Industries LLC (4771), Rhodium Ready Ventures LLC (8618), Rhodium Renewables LLC (0748), Air HPC LLC (0387), Rhodium Renewables Sub LLC (9511), Rhodium Shared Services LLC (5868), and Rhodium Technologies LLC (3973). The mailing and service address of Debtors in these chapter 11 cases is 2617 Bissonnet Street, Suite 234, Houston, TX 77005.

² The members of the Ad Hoc Group of SAFE Parties are set forth in the *First Supplemental Verified Statement of Ad Hoc Group of SAFE Parties Pursuant to Bankruptcy Rule 2019* [Docket No. 607].



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STATEMENT

1. The Debtors propose to repay 34 holders of allowed unsecured claims with outstanding aggregate debt totaling \$10,265,754 (the “**Subject Creditors**”). According to Motion Exhibit A, of that total sum, at least \$9,208,381 comprise obligations (the proposed “**Expedited Technologies Obligations**”) of Rhodium Technologies, LLC (“**Technologies**”). Technologies also owes to Debtor Rhodium Enterprises Inc. (“**REI**”) intercompany debt and/or other liabilities totaling approximately \$95 million, though the Debtors’ insiders and other potential estate claim defendants may contest the amount of REI’s claim. REI is the counterparty to all SAFE Agreements, and also is the issuer of the only common stock that is owned by outsiders (the insiders own all of their common stock at Technologies). Based on information supplied by the Debtors, including during a conference call with the Debtors Co-Chief Restructuring Officer on May 26, 2025, the SAFE AHG understands that at least \$95 million in value is anticipated to remain available at Technologies for satisfaction REI’s claims against Technologies (to the extent those claims are allowed) after the Expedited Technologies Obligations are repaid. On that basis, the SAFE AHG does not object to repayment of the Subject Creditors.

2. The Debtors also allege that the Whinstone transaction proceeds are sufficient to “ensure a full recovery for the estates’ creditors.” Mot. ¶ 9. As the SAFE AHG has explained previously, the SAFE parties’ are creditors, whose right to payment of the \$87 million Cash Out Amount has been triggered by the Whinstone Transaction. *See, e.g., Emergency Mot. of the SAFE AHG to Compel Prod. by Imperium Parties and Debtors* [Docket No. 1080], ¶¶ 3–4.³ While the Cash Out Amount is contractually subordinated to payment of other creditors, under the absolute

³ Indeed, the value of the SAFE AHG’s claims is greater than the value of all of Debtors’ other creditors combined. Likewise, holders of equity “paid in” less than \$45 million in actual cash capital contributed to REI, around half of the amount of cash supplied by the SAFE holders.

priority rule and the express terms of the SAFE, payment of the Cash Out Amount is a “liquidation preference” that is senior to equity. *See id.*, Ex. B at 1(d) (providing that recoveries on par with “payments for Common Stock” are “junior to payments ... [of] Cash Out Amounts or similar liquidation preferences”).

3. However, absent enforcement of REI’s intercompany and other claims against Technologies, equitable subordination of the insiders’ claims, or other potentially available remedies, a substantial portion of the value of the Whinstone transaction could be trapped at Technologies as a result of the upside-down corporate structure engineered by the Debtors’ insiders pre-petition. Were that to happen—and the SAFE AHG respectfully submits that such an outcome is forbidden by the terms of the relevant agreements, applicable law and principles of equity—it could result in the SAFE creditors receiving *less* than a full recovery on their claims. In other words, the repeated characterization by the Debtors of these estates as “solvent” is dependent on assuring that value remaining after repayment of senior debt is sufficient to repay the SAFEs, and, consistent with the governing contracts and law, in fact is available and used to satisfy SAFE claims in full. Provided that occurs, the estates are indeed solvent.

RESERVATION OF RIGHTS

4. This Statement is submitted without prejudice to, and with a full reservation of, the SAFE AHG’s rights, claims, defenses and remedies, including the right to amend, modify or supplement this Statement to raise additional objections and to introduce evidence at any hearing relating to the Motion, and without in any way limiting any other rights of the SAFE AHG to further respond to the Motion, on any grounds, as may be appropriate.

CONCLUSION

For the reasons set forth in this Statement, the SAFE AHG does not object to repayment of the Subject Creditors as proposed by the Debtors in their Motion, except as discussed herein.

Dated: May 26, 2025

Respectfully Submitted,

AKIN GUMP STRAUSS HAUER & FELD LLP

/s/ Sarah Link Schultz

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CERTIFICATE OF CONFERENCE

I hereby certify that on May 26, 2025, counsel to the SAFE AHG conferred with counsel to the Debtors in a good faith effort to resolve the issues raised in this Statement. I hereby certify that we have engaged in good faith discussions in an attempt to address the SAFE AHG's concerns. The dispute remains unresolved.

/s/ Sarah Link Schultz
Sarah Link Schultz

CERTIFICATE OF SERVICE

I hereby certify that on May 26, 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.

/s/ Sarah Link Schultz
Sarah Link Schultz