

**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)
	§	

SAFE AHG REQUEST CONCERNING ORDER GRANTING MOTION TO STRIKE

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 files this request concerning the Court’s *Order Granting Debtors’ and Special Committee’s Emergency Motion for Status Conference Concerning and Motion to Strike SAFE AHG Amended Emergency Motion to Terminate Exclusivity* (the “**Order**”). As discussed below, the SAFE AHG respectfully asks the Court to consider, at the Status conference scheduled for June 16, 2025, withdrawing or modifying the Order.

DISCUSSION

Late in the evening on Wednesday, June 11, 2025, without any prior notice to the SAFE AHG, the Debtors and the Special Committee filed an “emergency motion” (the “**Debtor**

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 *Second Supplemental Verified Statement of Ad Hoc Group of SAFE Parties Pursuant to Bankruptcy Rule 2019* [Docket No. 1264].



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Motion”) for a status conference with the Court and to strike the *SAFE AHG Amended Motion to Terminate Exclusivity* [Docket No. 1247] (the “**Exclusivity Termination Motion**”).³ Unfortunately, the Debtor Motion contains a number of misleading and inaccurate statements to which the SAFE AHG had not responded when the Court’s Order was entered on June 12, 2025 at approximately 12:43 p.m. Central Time. The SAFE AHG is hopeful that the Court may be open at the June 16, 2025 status conference to reconsidering the Order, including based on the information discussed below.

I. Debtors Inaccurately Claim That Exclusivity Termination Motion Violates Mediation Privilege and Make Assertions That Contradict the Debtors’ On-The-Record Statements

The Debtor Motion claims incorrectly that the SAFE AHG was forbidden from filing with its Exclusivity Termination Motion two letters (the “**Demand Letters**”) sent by the Special Committee to Imperium Holdings LLC (“**Imperium**”) and the insiders based on “mediation privilege.” As a preliminary matter, the Demand Letters were sent on April 5 and 19, 2025, before the mediation order even was entered, and the SAFE AHG argued in its May 12, 2025 motion to compel (“**Motion to Compel**”) that their designation was unwarranted and should be removed.⁴

But even to the extent the mediation privilege designation was valid in the first place, the Special Committee agreed through its counsel at the May 21, 2025 hearing on the Motion to Compel that the Demand Letters could be filed in these cases by the SAFE AHG, provided that the Demand Letters were treated as “Confidential” within the meaning of the Protective Order.

³ *Debtors’ and Special Committee’s Emergency Motion for Status Conference Concerning and Motion to Strike SAFE AHG Amended Emergency Motion to Terminate Exclusivity* [Docket No. 1057]

⁴ The *Agreed Mediation Order* [Docket No. 966] was entered on April 21, 2025. Indisputably, the Demand Letters to Imperium would be subject to discovery in the ordinary course of these cases, without any ability to designate them as mediation privileged.

The Court may recall that the Demand Letters were specifically addressed at the May 21, 2025 hearing, including in the demonstrative used by the SAFE AHG:

NO BURDEN REQUEST TO MODIFY USE RESTRICTIONS ON PREVIOUSLY PRODUCED DOCUMENTS	
Debtors <ul style="list-style-type: none"> Special Committee – findings of fact Special Committee – slides concerning viability of insider claims General Ledgers – 2021 and 2022 Special Committee Demand Letters sent to Imperium 	Insiders <ul style="list-style-type: none"> Imperium Tax Returns – 2021 and 2022 Individual Insiders' Tax Returns – 2021 and 2022
MINIMAL BURDEN REQUESTS FOR PRODUCTION OF ADDITIONAL DOCUMENTS	
Debtors <ul style="list-style-type: none"> Full report of Special Committee investigation Correspondence with insurance carriers Pre-petition invoices and payments to LKC and Stris Documents and communications relating to post-petition Proof transaction 	Imperium <ul style="list-style-type: none"> ESI previously produced by Imperium to the Special Committee

At the hearing, Mr. Schmeltz agreed that the Special Committee's Demand Letters could be used by the parties in these cases, notwithstanding their designation as "mediation privileged." For example, Mr. Schmeltz pointed out that the Special Committee had shared with the SAFE AHG "our demand letter to the Imperium founders, the people, so they not only have the conclusions, they have the demand that we made based on those conclusions." *See In re Rhodium Encore LLC*, Case No. 24-90448 (ARP) [Docket No. 1178] May 21, 2025 Hr'g Tr. at 57:1-4 (the "May 21 Transcript," cited excerpts attached as Exhibit A). The Court inquired specifically of Mr. Schmeltz about whether the Demand Letters would be usable by the parties, including in connection with plan disputes, despite the fact that they previously had been marked "mediation privilege." In response to the Court's direct query, Mr. Schmeltz responded "Yes, your honor." *Id.* at 57:15-19.

The Special Committee returned to the issue later in the hearing, noting that Mr. Schmeltz’s response about the ability to use the Demand Letters in litigation (“Yes, your honor”) appeared inconsistent with his designation of those documents as mediation privileged. The Court responded, “we’ll enter an order” providing that such documents can be used by the parties “in your filings,” provided that confidential information is “file[d]” subject to redactions from the public record “as we do” in this Court. *Id.* at 72:18-73:7. The Court asked “Mr. Schmeltz, is that – does that work?” Mr. Schmeltz replied “I – we don’t have a problem with that, provided they’re treated as confidential in filing.” *Id.* at 73:8-14. That is exactly what the SAFE AHG did, filing the Demand Letters with the Exclusivity Termination Motion, but redacting them from the public record. In response to a June 11, 2025 letter from the Special Committee that it (improperly) marked “mediation privileged,” the SAFE AHG reminded the Special Committee of these facts, but received no substantive response. Instead, without any prior notice to the SAFE AHG, or any attempt to meet and confer over the scheduling of a status conference, the Special Committee and the Debtors filed the Debtor Motion.

Indeed, the SAFE AHG was so convinced that the Special Committee had agreed to treatment of the Demand Letters as merely “Confidential” that the SAFE AHG did not believe it even was necessary to include in the proposed order the SAFE AHG submitted on its Motion to Compel. *See Notice of Filing of Proposed Order for the Emergency Motion of the Ad Hoc Group of SAFE Parties to Compel Production of Documents* [Docket No. 1200]. The SAFE AHG continues to believe that the Special Committee consented to that treatment at the hearing. In light of the Debtor Motion, however, the SAFE AHG submits herewith a revised proposed order providing explicitly that the Demand Letters are redesignated as “Confidential.” *See Exhibit B, Revised Proposed Order ¶ 2(c)* (revision of Docket No. 1200). Finally, the SAFE AHG notes that

it provided unredacted versions of its Exclusivity Termination Motion *only* to other parties to the April 28 and 29, 2025 mediation who requested copies. In other words, the SAFE AHG's filing of the Exclusivity Termination Motion did not result in disclosure of the Demand Letters to any party who did not already have copies of them before the Exclusivity Termination Motion was filed.

II. The SAFE AHG Exclusivity Termination Motion Does Not Violate Exclusivity

According to the Debtor Motion, “the SAFE AHG . . . participated . . . actively” in plan negotiations that the Debtors claim proceeded “during the month of May and into early June.” *See* Debtor Motion ¶ 7. That contention is not accurate. As the SAFE AHG specifically alleged (and neither the Debtors nor the Special Committee deny), the Special Committee and the Debtors have not communicated with the SAFE AHG concerning potential plan terms since May 16, 2025, close to a month ago. Indeed, the Debtor Motion tacitly admits that the SAFE AHG has been cut out of plan discussion, arguing that the burden was on the SAFE AHG to “reinsert” itself in those discussions by abandoning its supposedly “untenable” position that SAFEs are not equity. *See* Debtor Motion ¶¶ 11, 7. Notably, while the Debtors now argue that SAFEs are equity, they argued exactly the opposite in submissions to the U.S. Trustee. *See Debtors’ Witness and Ex. List for Hearings Scheduled for May 21, 2025*, Ex. 10 [Docket No. 1124-10] (Letter from Patty Tomasco to the U.S. Trustee’s office dated September 25, 2022 arguing that “***under the Bankruptcy Code, SAFEs are not equity***”) (“Tomasco Letter”). And of course, the U.S. Trustee recently concurred that SAFE parties are creditors, not equity holders, when it appointed SAFE holder Infinite Mining to the unsecured creditors committee earlier this week. *Compare* Tomasco Letter with *The United States Trustee’s Notice of Reconstitution of Committee of Unsecured Creditors* [Docket No.

1255].⁵

In view of the unwillingness of the Debtors and the Special Committee to consider any plan that does not release the insiders, the SAFE AHG was well within its rights to seek to terminate exclusivity so that it can propose an alternative. The Debtors argue that merely by filing the Exclusivity Termination Motion and proposed term sheet, the SAFE AHG violated exclusivity. The Debtors are mistaken. As *Adelphia* contemplates, the Exclusivity Termination Motion argues that the Debtors have made insufficient progress to justify continuing exclusivity, including by (i) identifying the many deficiencies contained in the Placeholder Plan, (ii) pointing out that the Debtors have made no progress towards obtaining support for *any* plan from SAFE parties, the Debtors' only significant remaining creditor group, including because neither the Special Committee nor the Debtors have communicated with the SAFE AHG for close to a month, and (iii) providing the Court with a potential path forward. Addressing the *Adelphia* factors in this manner does not violate exclusivity.

It was similarly appropriate for the SAFE AHG to provide the Court with the Plan Summary to demonstrate that, if so authorized by this Court, the SAFE AHG is ready, willing and able to move the cases forward to the extent the Court grants the Exclusivity Termination Motion.⁶

⁵ To the extent the Debtors suggest the SAFE AHG asked Infinite Mining to obtain and provide to it the terms under negotiation between the Debtors and equity on June 1, 2025, that claim is categorically false. Compare Debtor Motion ¶ 10. And the Debtors were not exactly subtle concerning their plans for these cases. Long before the Special Committee cut the SAFE AHG out of plan discussions on May 16, 2025, it was perfectly clear that the Debtors and the Special Committee intended to do exactly what is now embodied in the PSA – provide a massive windfall and release to the insiders who dominate the Debtors' board, and do so by transferring recoveries owed to SAFE creditors to common stockholders, so those common stockholders would support the insider windfall and releases.

⁶ A plan summary filed in the context of a motion to terminate exclusivity, is not a plan, does not constitute solicitation and does not, in and of itself, violate exclusivity. See *In re Heritage Org. L.L.C.*, 376 B.R. 783, 791-2 (Bankr. N.D. Tex. 2007) (stating that the court would “align itself with those courts that have concluded that the term ‘solicitation’ as used in § 1125(b) should be viewed ‘very narrowly to refer only to a specific request for an official vote either accepting or rejecting a plan of reorganization.’”). The Debtors argument, that disclosing potential terms for a plan in a motion to terminate exclusivity constitutes “solicitation,” is out of step with prevailing law. See e.g., *First American Bank of New York (FAB) v. Century Glove, Inc.*, 81 B.R. 274, 280 (D. Del. 1988) (adopting a narrow interpretation of “solicitation” under Bankruptcy Code section 1125(b) and finding

The Debtors cite a host of decisions supposedly supporting their contrary argument, but most of those cases involved creditors filing plans, and in some cases, full disclosure statements, on the docket before exclusivity is terminated. The SAFE AHG did no such thing in connection with the Exclusivity Termination Motion.

The Debtors' reliance on *In re Temple Retirement Community, Inc.* and an unpublished ruling in *In re Circus and Eldorado Joint Venture* is likewise unavailing. The courts in those cases found that a non-debtor party attempted to influence voting on a plan that has been approved for solicitation, and was in the midst of solicitation, by disseminating information to creditors without court approval. Again, that is not our case. This Court has yet to even hold a hearing to approve the adequacy of the Debtors' proposed disclosure statement. The SAFE AHG did not attempt to sway other creditors outside of the purview of this Court. Rather, it simply sought to reassure the Court that if the Exclusivity Termination Motion is granted, the SAFE AHG is ready to proceed swiftly to move these cases to a confirmable plan.

III. The SAFE AHG Submits That Terminating Exclusivity Remains Critical To Moving These Cases To a Confirmable Resolution

The SAFE AHG appreciates that the Order entered by the Court is without prejudice to the SAFE AHG renewing its Exclusivity Termination Motion "pending [the Special Committee] filing an amended plan and disclosure statement reflecting the PSA," Order ¶ 4, and if necessary, the SAFE AHG intends to move quickly to modify and refile its request. Significantly, however, the Special Committee has provided no indication of *when* an amended plan and disclosure statement

that a creditor did not violate the debtor's exclusivity period when it sent copies of a draft plan to other creditors); *see also In re Indianapolis Downs, LLC*, 486 B.R. 286, 295 (Bankr. D. Del. 2013) ("Congress intended that creditors have the opportunity to negotiate with debtors and amongst each other; to the extent that those negotiations bear fruit, a narrow construction of 'solicitation' affords these parties the opportunity to memorialize their agreements in a way that allows a Chapter 11 case to move forward."); *In re Snyder*, 51 B.R. 432, 437 (Bankr. D. Utah 1985) (holding that the term "solicitation" should be construed narrowly to refer only to a specific request for an official vote to accept or reject a plan and does not refer to negotiations, discussions, or tentative agreements between parties in interest).

will be filed, and the SAFE AHG respectfully submits that these cases cannot accommodate substantial additional delay while the parties wait for the Special Committee to make its next move. Moreover, while the recently filed PSA provides new information concerning *how* the Debtors and Special Committee intend to release Imperium and the insiders – at the expense of SAFE creditors – it does not change the SAFE AHG’s opposition to proceeding on those terms. The SAFE AHG hopes the Court at the June 16, 2025 conference will consider authorizing the SAFE AHG to renew its Exclusivity Termination Motion promptly.

The Debtors already have extended exclusivity multiple times, and after nearly 300 days, still have proposed only the unconfirmable Placeholder Plan, and the PSA, which does not enjoy the support of the estates’ only significant remaining creditor group. Instead, of working on plan terms that could garner SAFE creditor support, the Debtors have focused on transferring to equity recoveries that are due to SAFE creditors, to induce stockholders to grant windfall recoveries and releases to Imperium and the insiders. For example, the term sheet proposes to pay SAFE creditors substantially less than the face amount of their claims, while providing “at least” \$15 million to Transcend equity holders, who paid substantially less than that sum for their Encore stock. Under the Plan, in other words, Transcend would receive a large premium on its *equity* interest, while the SAFEs are expected to take a haircut on their senior claims. This is exactly the kind of behavior that the SAFE AHG seeks to bring to an end by terminating the Debtors’ exclusivity.

Without saying how, the Debtors claim the Exclusivity Termination Motion misstated their position in the Demand Letters. That is not true, as the SAFE AHG explained to the Special Committee before the Debtor Motion was filed. The Debtor Motion also states flatly that Imperium would be entitled to receive tens of millions of dollars in recoveries in these cases but for the compromise proposed in the PSA. That claim is likewise false, and somewhat shocking

coming from estate fiduciaries. Imperium owns equity only, and owns it at Technologies. Technologies is party to contracts with REI that require Technologies to pay to REI at least \$87 million in the event the SAFE agreements are triggered. Technologies also has other net liabilities to REI amounting to about \$8 million. That means that at least \$95 million of the estimated \$100 million at Technologies must be paid to REI before Imperium receives a thing.

Hence, even if Imperium's interest at Technologies was not otherwise subject to equitable subordination – and it is – the *maximum* Imperium could receive would be about \$3 million. Instead, the Debtors and the Special Committee offer to provide *\$13 million to Imperium, plus additional multi-million-dollar distributions to the individual insiders who own Imperium, plus releases against the Insiders' personal assets.* The SAFE AHG submits that it should be given an opportunity to promptly renew its Exclusivity Termination Motion, and if granted, present to stakeholders another path forward, one that does not result in releases for, and extravagant recoveries to, Imperium and the insiders. The SAFE AHG believes it is entitled at least to try to persuade the Court that Debtors should no longer be permitted to hold the SAFE creditors “hostage” through continuing exclusivity. *See Utd. Savings Ass'n v. Timbers of Inwood Forest Assocs., Ltd. (In re Timbers of Inwood Forest Assocs., Ltd.)*, 808 F.2d 363, 372 (5th Cir. 1987) (en banc), *aff'd*, 484 U.S. 365 (1988).

RESERVATION OF RIGHTS

This request 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 request to raise additional objections and to introduce evidence at any hearing relating to the Debtor Motion, and without in any way limiting any other rights of the SAFE AHG to further respond to the Debtor Motion, on any grounds, as may be appropriate.

CONCLUSION

For the foregoing reasons, the SAFE AHG respectfully requests that the Court (i) reconsider the Order striking the Exclusivity Termination Motion and (ii) provide the SAFE AHG such other and further relief as the Court may deem just, proper and equitable.

Dated: June 13, 2025

Respectfully submitted,

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/s/ Sarah Link Schultz

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CERTIFICATE OF SERVICE

I hereby certify that on June 13, 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

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS (HOUSTON)

IN RE: . Case No. 24-90448
. Chapter 11
RHODIUM ENCORE LLC and .
AIR HPC LLC, . 515 Rusk Street
. Houston, TX 77002
Debtors. .
. Wednesday, May 21, 2025
. 1:00 p.m.
.

TRANSCRIPT OF MOTION TO EXTEND TIME - NICHOLAS CERASUOLO'S
MOTION FOR AN ORDER ALLOWING LATE FILED CLAIM TO BE TREATED AS
TIMELY FILED [881]

EMERGENCY MOTION OF THE SAFE AHG TO COMPEL PRODUCTION BY
IMPERIUM PARTIES AND DEBTORS [1080];
EMERGENCY MOTION FOR A PROTECTIVE ORDER REGARDING REQUESTS FOR
PRODUCTION OF DOCUMENTS FROM AD HOC GROUP OF SAFE PARTIES AND
OPPOSITION TO MOTION TO COMPEL [1113]
BEFORE THE HONORABLE ALFREDO R. PEREZ
UNITED STATES BANKRUPTCY COURT JUDGE

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Also Present:	NICHOLAS CERASUOLO



1 MR. SCHMELTZ: We've also shared -- yeah, we've also
2 shared our demand letter to the Imperium founders, the people,
3 so they not only have the conclusions, they have the demand
4 that we've made based on those conclusions.

5 THE COURT: Okay. All right. So have -- so as it
6 relates to the special committee findings of fact, the slides
7 that you just showed and the special committee demand letter
8 sent to Imperium, have they been able to share that with their
9 clients?

10 MR. SCHMELTZ: Yeah, it's produced under mediation
11 privilege, but not under PEO. In other words, they -- that
12 is --

13 THE COURT: All right. So --

14 MR. SCHMELTZ: -- readily shareable.

15 THE COURT: Okay. So I understand that it's been
16 produced under the mediation privilege, but if they wanted to
17 use it in connection with plan confirmation, I presume they
18 could use it under plan confirmation, correct?

19 MR. SCHMELTZ: Yes, Your Honor.

20 THE COURT: Okay. All right. Okay. Thanks.

21 All right. And then --

22 MR. SCHMELTZ: So --

23 THE COURT: So then -- and I guess this is more a
24 question for Ms. Tomasco. So -- or maybe the special
25 committee. The plan -- let's say the plan is filed and it



1 Committee findings effect and the slides had been provided to
2 parties. You asked him, can those materials be used, for
3 example, in court? And the answer he gave you was yes, and
4 that's not right.

5 Your Honor, the order governing the mediation in
6 these cases incorporates the complex procedures, including
7 Section S, which provides "the mediator and participants in
8 mediation are prohibited from divulging, outside of mediation,
9 any oral or written information disclosed by the parties in the
10 course of mediation. No person may rely on or introduces
11 evidence in any arbitral, judicial, or other proceeding,
12 evidence pertaining to any aspect of the mediation effort,
13 including but not limited to," and it goes on.

14 Having designated the materials mediation privilege,
15 we absolutely cannot use the material --

16 THE COURT: All right. So --

17 MR. HURLEY: -- in the way that he described.

18 THE COURT: -- we'll enter an order saying that with
19 respect to these documents that -- regardless of the
20 designation as -- or he can de-designate mediation privilege,
21 they will still be confidential. But to the extent that you,
22 other professionals, and the clients can see them, my
23 understanding is there was no objection to that. Just don't
24 make them public, if you will.

25 MR. HURLEY: Well, see them and use them.



1 THE COURT: Yeah, see them and use them, correct.
2 Yeah, see them and use them, and in your filings, to the
3 extent, you know, like you did, you know, block it out -- block
4 out the specific thing --

5 MR. HURLEY: Uh-huh.

6 THE COURT: -- that you want to do it, and file it as
7 we do.

8 Mr. Schmeltz, is that -- does that work? Wait, wait,
9 hold on a second. I think I -- okay, sorry about that. I
10 accidentally muted you.

11 MR. SCHMELTZ: I -- well, after my, you know, earlier
12 profanity at this -- my camera, I could see why you muted me,
13 Your Honor. But listen, I -- we don't have a problem with
14 that, provided they're treated as confidential in filing.
15 Although, I suppose I find it ironic, given that Mr. Hurley
16 stood in front of you and told you almost word for word
17 something we had discussed in mediation, and said, this is
18 mediation privilege, and I'm just going to tell it to you, but
19 pretend I'm not. I suppose I find it ironic, but I don't have
20 a problem with it.

21 THE COURT: Okay. All right. So we'll -- let's
22 agree on an order with Mr. Schmeltz as it relates to the
23 Special Committee findings, the slides, the general ledger,
24 that's not an issue anymore, and the Committee demand letter to
25 Imperium. So those aren't issues.



EXHIBIT B

**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)
	§	

**REVISED ORDER REGARDING THE EMERGENCY MOTION OF THE SAFE AHG TO
COMPEL PRODUCTION BY IMPERIUM PARTIES AND DEBTORS**

Upon consideration of the *Emergency Motion of the SAFE AHG to Compel Production by Imperium Parties and Debtors* [Dkt. No. 1080] (the “Motion”) and the responses and replies thereto, the Court having jurisdiction to consider this matter and the relief requested therein pursuant to 28 U.S.C. § 1334; and this Court having found that venue of this proceeding in this district is proper pursuant to 28 U.S.C. § 1408; and this Court having reviewed the Motion and the responses and replies thereto; and in accordance with the Court’s oral ruling at the May 21, 2025 hearing on this Motion; it is **HEREBY ORDERED THAT:**

1. To the extent set forth herein, the Motion is **GRANTED**.
2. The Special Committee of the Board of Directors of Debtor Rhodium Enterprises, Inc. (the “Special Committee”) shall:
 - a. on or before May 30, 2025, produce to the SAFE AHG all documents and

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.

communications exchanged between the Special Committee and the Debtors' directors and officers' liability insurance carriers ("Carriers") concerning alleged misconduct of the Debtors' insiders, Chase Blackmon, Cameron Blackmon, Nathan Nichols, and Nicholas Cerasuolo, such as (but not limited to) the alleged breaches of duty summarized in the SAFE AHG's letters to the Special Committee and Debtors dated December 26, 2024, and January 10, 2025, including, for the avoidance of doubt, all claims notices provided to Carriers and any coverage letters or opinions provided by Carriers in response, but excluding, for the time being, any correspondence that constitutes settlement communications, and, for the further avoidance of doubt, nothing shall preclude the SAFE AHG or any other parties from renewing its request for documents or communications that constitute settlement communications;

- b. on or before May 30, 2025, produce an unredacted copy of the "Timeline and Key Facts" section of the Special Committee's Investigative Report (the "Investigation Facts") as transmitted to the SAFE AHG on or around March 24, 2025, unless the Special Committee contends that the redacted material is protected from disclosure by the attorney-client privilege or work product doctrine, in which case the Special Committee, at its option, may instead produce to the SAFE AHG a redaction log identifying and describing the basis for each redaction made to the Investigation Facts in accordance with Federal Rule of Civil Procedure 26, and, for the avoidance of doubt, the SAFE AHG's right to challenge any redactions shall be preserved; and
- c. promptly remove the "mediation privilege" designation from all demand letters

(“Demand Letters”) sent by the Special Committee to insiders Chase Blackmon, Cameron Blackmon, Nathan Nichols, and Nicholas Cerasuolo (the “Insiders”), including but not limited to the Demand Letters dated April 5, 2025 and April 19, 2025; the Investigation Facts; and the slide deck providing a summary of the conclusions of law reached by the Special Committee (the “Investigation Conclusions”) in connection with its investigation of allegations concerning Imperium Investment Holdings LLP (“Imperium”) and the Insiders (together with Imperium, the “Imperium Parties”), such that parties may treat the Demand Letters, Investigation Facts, and Investigation Conclusions as if they had been marked Confidential within the meaning of the Protective Order [ECF No. 152], subject to such parties’ continuing rights pursuant to Section 6 thereof.

3. The Debtors shall:

- a. on or before May 30, 2025 produce to the SAFE AHG all pre-petition invoices, redacted for privilege as, and to the extent appropriate, issued by the firm Stris & Maher LLP for services provided to any of the Debtors from November 2023 through August 2024;
- b. on or before May 30, 2025 produce to the SAFE AHG all pre-petition invoices, redacted for privilege as and to the extent appropriate, issued by the firm Lehotsky Keller Cohn LLP for services provided to any of the Debtors from May 16, 2023 through August 2024;
- c. promptly file a submission with the Court that describes the transaction or transactions pursuant to which purported debt held by Proof Proprietary

Investment Fund, Inc., Proof Capital Alternative Income Fund, and Proof Capital Alternative Growth Fund (together, the “Proof Funds”), purportedly was equitized (the “Equitization Transaction”), which shall attach or otherwise include all documents associated with the Equitization Transaction, as well as all communications concerning or leading up to the Equitization Transaction.

4. On or before May 30, 2025, Imperium shall produce to the SAFE AHG copies of all documents from the subset of documents that Imperium had initially produced to the Special Committee and that the Special Committee had marked as relevant for its investigation (the “Special Committee Marked Subset”) but that were previously withheld from the SAFE AHG on the basis of the Imperium Parties’ alleged privilege, and, for the avoidance of doubt, such production shall not by itself constitute a subject-matter waiver with respect to the subject matters set forth in the Special Committee Marked Subset.

5. On or before June 2, 2025, Imperium shall produce to the SAFE AHG copies of all other documents that Imperium previously produced to the Special Committee that were withheld from production to the SAFE AHG based on a claim of privilege by Imperium (the “Additional Withheld Documents”), provided, however, that (i) Imperium is not required to produce Additional Withheld Documents that are purely of a personal nature and/or that have no arguable connection to the matters at issue in these cases, and (ii) Imperium may withhold Additional Withheld Documents that they contend are subject to a non-waived privilege held by the Debtors, but must provide on or before June 2, 2025, a privilege log of all such documents providing the information required by Federal Rule of Civil Procedure 26; for the avoidance of doubt, the SAFE AHG’s rights to challenge such withholding shall be preserved.

6. The Imperium Parties shall promptly meet and confer with the SAFE AHG

regarding allowing one or more members of the SAFE AHG to review documents at Bates numbers Cerasuolo00001, Cerasuolo00108, Cerasuolo00176, and the Imperium-produced tax returns for Cameron Blackmon, Chase Blackmon, and Nathan Nichols, or other documents that may be produced concerning allegations of tax-related misconduct (the “Tax Documents”), notwithstanding any Professionals’ Eyes Only designation on such documents.

7. Notwithstanding any Professionals’ Eyes Only designation, counsel to the SAFE AHG is entitled to provide summaries of the information disclosed in the Tax Documents to its client, and the members of the SAFE AHG who have signed the Protective Order acknowledgment.

8. The Professionals’ Eyes Only designations on documents produced by the Debtors at Bates numbers RHOD-BK-00092677 through RHOD-BK-00092681 and the 2021 U.S. Internal Revenue Service Form 1065 and U.S. Return of Partnership Income of Imperium Investments Holdings LLC, including any schedule or attachment thereto, produced by Imperium (the “Subject Documents”) shall be deemed immediately ineffective, and parties may treat the Subject Documents as if they had been marked Confidential within the meaning of the Protective Order, subject to such parties’ continuing rights pursuant to Section 6 thereof.

9. To the extent not expressly granted herein, the Motion is **DENIED**.

SO ORDERED.

Dated: _____, 2025
Houston, Texas

THE HONORABLE ALFREDO R. PEREZ
UNITED STATES BANKRUPTCY JUDGE