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

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

THE TRANSCEND GROUP'S OBJECTION TO THE SOLICITATION AND THE CONDITIONAL APPROVAL OF THE DISCLOSURE STATEMENT FOR JOINT CHAPTER 11 PLAN OF LIQUIDATION OF RHODIUM ENCORE LLC AND ITS AFFILIATED DEBTORS

[Relates to ECF Nos. 1750, 1751, and 1752]

Transcend Partners Legend Fund LLC; Valley High LP; GR Fairbairn Family Trust; Grant Fairbairn Revocable Trust; Nina Claire Fairbairn Revocable Trust; NCF Eagle Trust; GRF Tiger Trust; and NC Fairbairn Family Trust (collectively, the "Transcend Group") file this objection to the conditional approval of the *Disclosure Statement for the Joint Chapter 11 Plan of Liquidation of Rhodium Encore LLC and its Affiliated Debtors* [ECF No. 1751] (the "Disclosure Statement") filed by Rhodium Encore LLC and its affiliated debtors and debtors-in-possession (collectively, the "Debtors") and the Ad Hoc Group of SAFE Parties (the "SAFE AHG" and with the Debtors, the "Plan Proponents"), and would respectfully show the Court 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.

I.
SUMMARY OF OBJECTIONS

1. While the Plan Proponents assert "[t]he proposed voting and confirmation timeline is designed to bring the chapter 11 case to an expedient, value-maximizing, conclusion…"[2], the reality is they are attempting to move at a lightning pace[3] to force through a premature Plan[4] that serves only to benefit the Plan Support Parties to the detriment of the Estates at large. In so doing, the Plan Proponents have put forth a Disclosure Statement that is so patently inadequate it should not be considered, much less approved, even on a conditional basis.

2. The Plan includes *at least* three settlements: one with Imperium, the Founders, and Insurance Carriers for the Debtors' directors' and officers' liability policies; one with the holders of SAFEs resolving pending claim objections and the Debtors' pending appeal of this Court's August 30th ruling; and one with undisclosed parties holding purported severance claims (it appears the Plan may also be attempting to release claims against others for no consideration and no disclosure/analysis of the potential claims). There is very little discussion of the claims against Imperium and the Founders in the Disclosure Statement, much less a discussion of the risk factors involved with continuing litigation. There is nothing in the Disclosure Statement regarding the decision to settle with SAFEs versus continuing appeal. And there is not even a mention of severance payments in the Disclosure Statement.

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[2] ECF No. 1752 at ¶ 50.

[3] Indeed, through their previous requests to extend their exclusivity, the Debtors have recognized that a more appropriate confirmation timeline is approximately twice as long, if not *three times* as long, as what is currently being attempted. *See* First Exclusivity Motion [ECF No. 455] (approx. 2 months), Second Exclusivity Motion [ECF No. 832] (approx. 2 months), and Third Exclusivity Motion [ECF No. 1058] (approx. 3 months).

[4] Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms with the Disclosure Statement or Plan, as applicable.

3. Separately, Plan confirmation is neither possible nor practical in this case without first resolving the current appeal of the Order Overruling Debtors' Omnibus Objection at ECF No. 1126 to the SAFE Proofs of Claim (the "SAFE Appeal"). *See, e.g.*, ECF No. 1725. The issues being litigated in the SAFE Appeal strike at the very heart of the Disclosure Statement and Plan. The SAFE Appeal divests this Court of jurisdiction to rule further on the matter, through the Confirmation Order or otherwise, while the SAFE Appeal is pending. Thus, approving the Disclosure Statement at this time is premature. Without the benefit of a final ruling on the SAFE Appeal, there are still unanswered questions regarding the Disclosure Statement and Plan. Accordingly, the Plan's proposed allocation of value to creditors and interests is, at best, a shot in the dark, making solicitation of the Plan a useless exercise.

4. Additionally, the Plan as written is patently non-confirmable and should be summarily denied. In particular, not only is confirmation impossible while at least $89.6 million of SAFE Claims remain in limbo between "claims" and "equity interests," the Plan impermissibly gerrymanders those very same alleged "claims" for the sole purpose of creating a consenting class. As a result, the Plan the Disclosure Statement describes cannot be confirmed.

II.
JURISDICTION AND VENUE

5. The Court has jurisdiction over this Objection pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

III.
OBJECTIONS

7. Perhaps the most glaring omission from the Disclosure Statement is any discussion of the effect of the SAFE Appeal – including the fact this Court is without jurisdiction to confirm

the Plan while that appeal is pending. "When reviewing a decision of the bankruptcy court, the district court functions as an appellate court and applies the standard of review generally applied in federal court appeals." *Sony Elecs., Inc. v. Daisytek, Inc. (In re Daisytek, Inc.),* No. 3:04CV0754, 2004 WL 1698284, at *3 (N.D. Tex. July 29, 2004) (quoting *Matter of Webb,* 954 F.2d 1102, 1103–04 (5th Cir.1992)). "The filing of a notice of appeal divests a bankruptcy court of "its control over those aspects of the case involved in the appeal." *Id.* (quoting *Griggs v. Provident Consumer Discount Company,* 459 U.S. 56, 58, 103 S.Ct. 400, 74 L.Ed.2d 225 (1982)). The Fifth Circuit has adopted a functional test to determine whether the bankruptcy court is divested of jurisdiction with respect to an issue on appeal to the district court: "once an appeal is pending, it is imperative that a lower court not exercise jurisdiction over those issues which, although not themselves expressly on appeal, nevertheless so impact the appeal so as to interfere with or effectively circumvent the appeal process." *In re Acis Capital Management, L.P*., 604 B.R. 484, 522 (Bankr. N.D. Tex. July 18, 2019) (quoting, *In re Whispering Pines Estates, Inc.,* 369 B.R. 752, 759 (1st Cir. BAP 2007).

8. In the instant case, until there is a final resolution of the SAFE Appeal, this Court has been divested of its "control over those aspects of the case involved in the appeal." *See* ECF No. 1725. The SAFE Appeal will determine the extremely important issue of whether the SAFE Agreements represent a contingent claim against Debtor Rhodium Enterprises, Inc. or an equity interest (and related issues like whether 11 U.S.C. § 510(b) should apply, and whether the SAFE Agreements create a liquidation priority over distributions in respect of common stock of Debtor Rhodium Enterprises, Inc.). These determinations will have a massive impact on stakeholders in this bankruptcy case – and the waterfall of distributable funds – and are necessary for plan confirmation. *See, e.g.*, ECF 1725. These core and critical issues must be finally adjudicated and determined before any plan can be confirmed in this case.

9. The jurisdictional roadblock to confirmation notwithstanding, the Disclosure Statement still cannot be approved, even on a conditional basis. Under § 1125(b) of the Bankruptcy Code, a disclosure statement must contain "adequate information" before the debtor may solicit acceptance of a plan or reorganization or liquidation. 11 U.S.C. § 1125(b). The Bankruptcy Code defines "adequate information" as "information of kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, including a discussion of the potential material Federal tax consequence of the plan to the debtors, any successor to the debtors, and a hypothetical investor typical of the holders of claims or interests in the case, that would enable such a hypothetical reasonable investor of the relevant class to make an informed judgment about the plan…" 11 U.S.C. § 1125(a)(1).

10. The Plan Proponents recognize the necessity for "adequate information" in their *Emergency Motion for Entry of an Order Conditionally Approving the Adequacy of the Disclosure Statement*. *See* ECF No. 1752. The Plan Proponents specifically list the following factors considered by Courts when determining "adequate information": (1) the events that led to the filing of a bankruptcy petition, (2) the relationship of the debtors with their affiliates, (3) a description of the available assets and their value, (4) the anticipated future of the companies, (5) the source of information stated in the disclosure statement, (6) the present condition of the debtors while in chapter 11, (7) claims asserted against the debtor, (8) the estimated return to creditors under a chapter 7 liquidation, (9) the chapter 11 plan or summary thereof, (10) financial information, valuations, and projections relevant to the creditors' decision to accept or reject the chapter 11 plan, (11) information relevant to risks posed to creditors under the plan, (12) the actual or projected realizable value from recovery of preferential or otherwise avoidable transfers, (13)

litigation likely to arise in a non-bankruptcy context, and (14) tax attributes of the debtors. *Id.* at ¶ 16.[5] Despite acknowledging the applicable requirements to provide "adequate information," the Disclosure Statement fails to do so and is woefully insufficient.

11. The Disclosure Statement is completely devoid of *any* information as to the Debtors' current cash position or the estimated amounts of distributions per class. *See* ECF No. 1751. Despite referring to "Distributable Cash" no less than 10 separate times, nowhere in the Disclosure Statement is there *any* disclosure of the estimated amount of this "Distributable Cash." *Id.* Moreover, despite frequent references to the Debtors' liquidation analysis, no such analysis is disclosed. *Id*.

12. Not only have the Plan Proponents failed to provide creditors and interest holders any information as to how much they might expect to receive under the proposed Plan, but they have likewise failed to provide any information as to how these projections might change. *Id*. While the Disclosure Statement mentions the fee application of Lehotsky Keller Cohn, LLP ("LKC"), and the Debtors' objection thereto, it conveniently omits the most crucial detail - the amount in controversy. *Id.* at Pg. 27. Nowhere do the Plan Proponents disclose LKC is seeking over $9 million, while the Plan Proponents assert the amount should be much lower (perhaps only $600,000). Thus, not only have the Plan Proponents failed to disclose their estimates for "Distributable Cash," but they have also failed to disclose the effect on that cash in the event the Court grants LKC's fee application.

13. Moreover, in connection with the very same transaction in which LKC asserts it is entitled to a success fee, investment banker B. Riley also seeks a success fee. *See* ECF No. 1530.

[5] In support of their listed factors, the Plan Proponents cite *In re U.S. Brass Corp*., 194 B.R. at 424-25 (citing *In re Metrocraft Pub. Servs*., Inc., 39 B.R. 567, 568 (Bankr. N.D. Ga. 1984)); *see* also *In re Phoenix Petroleum Co*., 278 B.R. 385, 393 (Bankr. E.D. Pa. 2001) (citing factors that courts have considered in determining the adequacy of information provided in a disclosure statement).

There is zero mention in the Disclosure Statement of this additional "success fee," the dollars at issue, or the effect on the mysterious amount of "Distributable Cash." *See* ECF No. 1751.

14. Similarly, the Disclosure Statement generally discusses the patent infringement litigation defined as the "MGT Action" and the fact the Debtors potentially face "compensatory and other damages." *Id.* at 28 (D. iv. *The MGT Action*). Unsurprisingly, however, the Plan Proponents wholly fail to disclose (i) how much is at stake in the MGT Action, (ii) how MGT would be treated under the Plan in the event of an adverse ruling in the litigation, and (iii) how that would (adversely) affect the "Distributable Cash" allegedly available..*See id.*

15. The Disclosure Statement lists "Exhibit C: Liquidation Analysis" as an incorporated exhibit and represents to the stakeholders that liquidation analysis is necessary for them to evaluate the plan under the "best interests" test of Section 1129(a)(7) of the Bankruptcy Code. *See id.* At 63. This is reiterated in several places, where creditors and interest holders are explicitly directed to review the attached liquidation analysis to understand the effects of a hypothetical Chapter 7 liquidation. *See Id* at Pgs. 54, 63, and 65. However, "Exhibit C: Liquidation Analysis" is only a placeholder attached as "[TO BE FILED]." *See id.* at 155-156. As an integral part of the Disclosure Statement, failure to file the liquidation analysis with the Disclosure Statement by the Court's imposed deadline (October 7, 2025) in order for the Court to consider the Disclosure Statement (on a conditional basis) during the currently scheduled hearing on October 15, 2025, renders the Disclosure Statement untimely and should be stricken.

16. Without this necessary financial information, stakeholders are left to speculate as to the effects of the hypothetical Chapter 7 liquidation and therefore could not be deemed to have been provided "adequate information." In *Divine Ripe*, another Southern District of Texas Bankruptcy Court considered a similar objection to a disclosure statement, specifically challenging

the adequacy of information provided by the debtors. *See In re Divine Ripe, L.L.C.*, 554 B.R. 395 (Bankr. S.D. Tex. 2016). In that case, the disclosure statement was "devoid of any disclosures related to the debtor's assets, aside from a minimal disclosure about the amount of the loan held by Inter National Bank." *Id.* at 406. Additionally, the "liquidation analysis" included in the *Divine Ripe* disclosure statement only provided information on one significant asset and failed to include any details of the lesser assets of the debtor. *See id*. The Court reasoned the lack of analysis regarding all the assets made it "extremely difficult for a creditor to determine whether the liquidation analysis is an adequate, if not preferable, alternative to the debtor's plan." *Id*. Accordingly, the Court held the disclosure statement did not provide adequate information on the debtor's assets and their value, and the liquidation analysis was inadequate by failing to account for all assets, not just the primary asset. *Id*.

17. The Disclosure Statement's lack of adequate information is not just limited to potential distributions, but also the proposed settlements. The Disclosure Statement includes only boilerplate language stating the Plan constitutes a good-faith compromise and settlement of all claims under Rule 9019 of the Federal Rules of Bankruptcy Procedure. *See* ECF No. 1751 at Pgs. 24-25 (5.1 *Compromise and Settlement of Claims, Interests, and Controversies*). This is followed by the conclusory statement that the entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of the SAFE claims, the D&O Insurance Settlement, and the redemption of Rhodium Technologies' Interests. *See id*.

18. Absent, however, are the key factors that *must* be considered by Bankruptcy Courts within the Fifth Circuit when deciding whether a compromise is "fair, equitable, and in the best interest of the estate." *In re Roqumore,* 393 B.R. 474, 479 (Bankr. S.D. Tex. 2008). Specifically, courts must consider: (1) the probability of success in the litigation, with due consideration for the

uncertainty in fact and law; (2) the complexity and likely duration of the litigation and any attendant expense, inconvenience, and delay; and (3) all other factors bearing on the wisdom of the compromise including, but not limited to whether the compromise serves the paramount interest of creditors with prosper deference to their reasonable views and the extent to which the settlement is truly the product of arms-length bargaining and not of fraud or collusion." *Id.*, also *see Official Comm. of Unsecured Creditors v. Cajun Elec. Power Coop., Inc. (In re Cajun Elec. Power Coop.),* 119 F.3d 349, 356 (5th Cir. 1997); *In re Jackson Brewing Co.,* 624 F.2d 599, 602 (5th Cir. 1980); *In re Foster Mortgage Corp.,* 68 F.3d 914, 917 (5th Cir. 1995) *(citing Drexel v. Loomis,* 35 F.2d 800, 806 (8th Cir. 1929)).

19. Through the Plan, the Plan Proponents are attempting to settle valuable estate claims *without providing the necessary information* for parties (and the Court) to assess the reasonableness of such settlements and the corresponding releases. *See* ECF No. 1751. The Disclosure Statement acknowledges the Special Committee conducted an "investigation" and concluded there are colorable claims against the Founders that are "worth pursuing given the *significant* potential benefit a recovery would have to the Estates." *Id.* at 40 (*emphasis added*). What is absent, however, is the disclosure of (i) the total value the Special Committee attributed to these colorable claims after its investigation; (ii) the prospects for success and costs to the Estates if those claims were pursued; (iii) the total policy limits for the D&O insurance; (iv) the "value" received by the Estates in exchange for the releases proposed to Imperium and the Founders (especially after the Disclosure Statement incredibly acknowledges the Plan Proponents propose to pay the *entirety* of the settlement amount to counsel for SAFE AHG); (v) the total amount of the Special Committee's "Derivative Investigation Costs" (having already been paid by the Estates and with counsel for the Special Committee – Barnes & Thornburg ("B&T) – having

billed the Estates more than $6 million in the less than 13 months that have passed since the Debtors filed an application to employ B&T); and (vi) why the targets of what the Special Committee determined to be colorable claims (*i.e.*, Imperium and the Founders) are receiving allowed claims and distributions under the Plan totaling $1,839,130.28 in addition to full releases. *See* ECF No. 1751. The Disclosure Statement further fails to specifically identify the additional individuals or entities whom the Plan proposes to provide releases (*e.g.*, the Debtors' professionals), what claims are being released against such additional individuals or entities, what investigation – if any – was performed into the validity and value of such claims (and by whom), how it could possibly be appropriate to release such claims for no consideration, and/or any (much less sufficient) information to perform the analysis required by the Fifth Circuit outlined above.

20. The Disclosure Statement fails to provide any analysis for allowing SAFE claims instead of pursuing this novel issue on appeal. Further, through the Plan confirmation process, the Plan Proponents attempt to impermissibly bestow upon the SAFE AHG an administrative expense claim for an alleged substantial contribution in contravention of Sections 503(a) and 503(b)(1)(D) of the Bankruptcy Code. *See* ECF No. 1751 at Pgs. 43- 44. The Disclosure Statement's broad-strokes summary of what simply amounts to the SAFE AHG's participation in these bankruptcy cases comes nowhere close to identifying the alleged *substantial contribution* necessary to justify the outlandish $8.5 million claim. *See In re ASARCO LLC*, No. 05-21207, 2010 WL 3812642, at *7 (Bankr. S.D. Tex. Sept. 28, 2010) ("Failing to show a direct, significant and demonstrable benefit to the estate caused by the actions of the applicant is, therefore, fatal to a substantial contribution claim." (*internal citations omitted*)); *In re R.L. Adkins Corp.*, 505 B.R. 770, 780 (Bankr. N.D. Tex. 2014) ("[Substantial contribution] claims should not be granted except in unusual or rare circumstances."); *In re Am. Plumbing & Mech., Inc.*, 327 B.R. 273, 291 (Bankr.

W.D. Tex. 2005) ("Moreover, negotiating is an expected and routine activity in Chapter 11 cases, and absent some spectacular result, such as dramatically improving treatment of all creditors, expected and routine activities do not constitute substantial contribution." (*internal citations omitted*)); *see also In re KiOR, Inc.*, 567 B.R. 451 (D. Del. 2017) ("Sort of contribution that will rise to level of a 'substantial contribution' to Chapter 11 case and thus support allowance of administrative expense claim is exceedingly narrow: extensive and active participation in case, without more, does not qualify, nor do services which are duplicative of those of other estate professionals, activities which primarily further the applicant's self-interest, or expected or routine activities, such as encouraging negotiation among parties, commenting and participating in successful plan negotiations, and reviewing documents.").

21. This is especially true considering the Plan Proponents advocate for the SAFE AHG Substantial Contribution Claim being allowed in the *exact same amount* ($8.5 million) as the Plan Proponents propose to receive in connection with releasing Imperium and the Founders, resulting in a net zero to the Estates. It is incredible that counsel for the Special Committee billed the Estates over $6 million (without even filing a lawsuit against Imperium and/or the Founders) and now proposes giving the SAFE AHG every single penny of the proposed settlement of Estate claims against Imperium and the Founders (a proposed settlement the Transcend Group believes represents only a small fraction of the extremely valuable Estate claims against Imperium and the Founders – claims for which the Special Committee was made aware counsel for the Transcend Group (and likely other law firms) would have been willing to pursue on a contingency fee basis).

22. Moreover, the Plan contains a severance program available to former employees of the Debtors. ECF No. 1750 at Pgs. 37-38 (8.5 *Employee Arrangements and Employee Obligations*). However, there is no mention of this severance program in the Disclosure

Statement—in violation of the requirements for "adequate information" set forth in Section 1125 of the Bankruptcy Code. *See* ECF No. 1751. Specifically, the Disclosure Statement does not summarize, identify, or quantify the severance obligations outlined by the Plan for employees, thereby impairing stakeholders' ability to make informed decisions. *Id*. Moreover, the Debtors never sought this Court's approval for such a program in its first day motions or otherwise.

23. The Disclosure Statement and the Plan both recognize "LTIP Interests" as a component of "Common Interests" (Class 10) and thus eligible for a share of distributable cash after higher-priority claims are satisfied. *See* ECF No. 1751 at 9. However, the only description of LTIP interests comes from a definition in the Plan, that being, "LTIP Interests- means Interests held by participants in the Debtors' Long-Term Incentive Plan in any of the Debtors." *See* ECF No. 1750 at 8. Nowhere in the Disclosure Statement or Plan does it describe (1) what the LTIP is (*i.e.*, structure); (2) who the participants are, or the amount/percentages held by each; (3) when or how LTIP awards were exercised; (4) the rationale or policy for these awards; and (5) whether the awards or exercises are subject to court approval or were properly disclosed previously. All of this information is important to common shareholders who will be voting under the Solicitation Procedures proposed by the Debtors, and diluted by the unexplained LTIPs.

24. The Disclosure Statement references "ADI Warrants," issued by Rhodium Enterprises in October 2021 in connection with bridge financing with the Transcend Group. *See* ECF No. 1751 at Pg. 18 (C. iv. *Capital Raises)*. The Plan Proponents know the Transcend Group provided notice of its intent to exercise the ADI Warrants (and the Debtors and Special Committee previously recognized the validity of such ADI Warrants), but the Plan Proponents offer no analysis or discussion on the effects of the ADI Warrants.

25. Finally, approval of the Disclosure Statement, even on a conditional basis, must be denied because the Plan is facially unconfirmable. The Plan treats the SAFE Claims as unsecured claims (despite, as discussed above, the pendency of the SAFE Appeal on this very issue).[6] However, in so doing, the Plan Proponents have artificially impaired the SAFE Claims and classified them separately from the remaining General Unsecured Claims, for the sole purpose of impermissibly gerrymandering a consenting class in violation of Sections 1122(a) and 1129 of the Bankruptcy Code, and the well-settled law in this Circuit. *See Matter of Greystone III Joint Venture*, 995 F.2d 1274 (5th Cir. 1991), *on reh'g* (Feb. 27, 1992). Accordingly, the Court should deny the Disclosure Statement and save the Estates from a fruitless solicitation of a Plan that cannot be confirmed. *In re Am. Cap. Equip., LLC*, 688 F.3d 145, 154 (3d Cir. 2012).[7]

IV.
RESERVATION OF RIGHTS

26. The Transcend Group reserves its right to object to approval of the Disclosure Statement, on a final basis, and to confirmation of the Plan (which was filed only one week before this filing) on any basis by the deadline to be set by the Court for the filing of objections to the

[6] For the avoidance of doubt, the Transcend Group respectfully disagrees that the SAFE Claims are unsecured claims, rather than equity interests, and are actively pursuing the SAFE Appeal on such issue. *See* ECF No. 1725.

Further, in addition to the SAFE Appeal and the objections and arguments raised therein, the Transcend Group expressly reserves all its rights to object to the SAFE Claims on any other grounds.

[7] In denying confirmation at the disclosure statement hearing, the Court noted "[c]ommentators agree that '[i]t appears to be within the discretion of the bankruptcy court to withhold approval of a disclosure statement if the accompanying plan is unconfirmable[.]' *The Disclosure Statement Hearing,* 6 Norton Bankr. L. Prac. § 110:15 (3d ed. 2012); *accord* Barbara J. Houser, et al., *Disclosure Statements: Confirmation and Cramdown of Chapter 11 Plans,* ST005 A.L.I.–A.B.A. 2177 (2011) ('[N]umerous courts have heard objections to the disclosure statement based upon contentions that the accompanying plan of reorganization is nonconfirmable—in other words, if a plan is not confirmable on its face as a matter of law, then the court will withhold approval of the disclosure statement.'); 9C Am. Jur. 2d Bankr. § 2900 ('The bankruptcy court may consider objections and refuse to approve a disclosure statement when it is apparent that the accompanying plan is not confirmable.')."

Plan, including but not limited to (a) the feasibility of the Plan, (b) the proposed exculpation and release provisions of the Plan, (c) the retention of jurisdiction contained in the Plan, (d) the Plan was not proposed in good faith, (e) the Plan discriminates unfairly against and is not fair and equitable with respect to certain interest holders, (f) the proposed indemnification of certain parties, and/or (g) any other valid basis for objections to the Plan.

27. The Transcend Group reserves the right to raise additional grounds for relief requested in this Objection and to supplement and/or amend this Objection, including in response to any amendments to the Plan and/or Disclosure Statement the Plan Proponents may file on or after the date hereof.

V.
CONCLUSION

The Transcend Group respectfully requests this Court: (a) not conditionally approve the Disclosure Statement at this time, or in the alternative, if the Court is inclined to conditionally approve the Disclosure Statement, set a hearing on confirmation of the Plan on a date that accommodates resolution of the SAFE Appeal prior to the confirmation hearing; and (b) award the Transcend Group any and all relief to which it may be entitled, at law or in equity.

Respectfully Submitted,

MUNSCH HARDT KOPF & HARR, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of October, 2025, a true and correct copy of the foregoing document was served electronically through the Court's ECF transmission facilities on all parties registered to receive ECF notice in the above-captioned case.

/s/ Chase J. Potter
CHASE J. POTTER