

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

In re:

RHODIUM ENCORE LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 24-90448 (ARP)

Jointly Administered

**PROOF OF ADMINISTRATIVE CLAIM OR, IN THE ALTERNATIVE, CLAIM FOR
DAMAGES RELATING TO REJECTION OF INDEMNIFICATION AND OTHER
OBLIGATIONS, ASSERTED BY SPENCER WELLS**

1. This Proof of Administrative Claim (the “Administrative Claim”) or, in the alternative, claim for damages relating to the rejection of certain indemnification and other obligations (as described in more detail below) (the “Rejection Damages Claim” and, collectively with the Administrative Claim, the “Claim”) is asserted by Spencer Wells, in his capacity as a former director of Rhodium Enterprises, Inc., one of the debtors and debtors-in-possession in the above-captioned chapter 11 cases (“Rhodium Enterprises”), and as a former member of the Special Committee of Rhodium Enterprises’ Board of Directors (the “Special Committee”).

2. Pursuant to this Claim, Mr. Wells asserts a claim against the debtors and debtors-in-possession in these chapter 11 cases and their estates (collectively, the “Debtors”) pursuant to section 503(b) of title 11 of the United States Code (the “Bankruptcy Code”). This Claim seeks

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 Special Committee in these chapter 11 cases is 2617 Bissonnet Street, Suite 234, Houston, TX 77005.



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payment of any and all amounts owed by the Debtors, their estates, and successors (including, without limitation, the Wind-Down Debtor) to Mr. Wells in connection with any and all claims or causes of action that have been or may be asserted by Lehotsky Keller Cohn LLP (“LKC”) or its principals against Mr. Wells, the Debtors, and/or the Special Committee, including, without limitation, those set forth in that certain demand letter sent by LKC to Mr. Wells and others dated as of January 8, 2026 (the “Demand Letter”).² All events and actions that gave rise to the LKC dispute, including the allegations made in the Demand Letter, occurred postpetition and in connection with Mr. Wells discharging his duties as a member of the Rhodium Enterprises Board of Directors as well as the Special Committee on behalf of the Debtors.

GENERAL BACKGROUND

3. On August 24 and 29, 2024 (collectively, the “Petition Date”), Rhodium Enterprises and certain of its affiliates commenced voluntary cases under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”).

4. On December 19, 2025, the Bankruptcy Court confirmed the *Second Amended Joint Chapter 11 Plan of Liquidation for Rhodium Encore LLC and Its Affiliated Debtors Proposed by Debtors and Ad Hoc Group of SAFE Parties* (Docket No. 2062) (the “Plan”) ³ and entered the *Order Approving the Disclosure Statement for, and Confirming, Second Amended Joint Plan of Liquidation for Rhodium Encore LLC and its Affiliated Debtors Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 2170] (the “Confirmation Order”).

² Mr. Wells believes that counsel to the Plan Administrator is already in possession of the Demand Letter. To the extent required to reconcile this Claim, Mr. Wells will provide a copy upon request.

³ Capitalized terms not defined in this Claim shall have the meanings ascribed to them in the Plan.

5. In connection with confirmation of the Plan, the Bankruptcy Court also entered the *Order (I) Setting Bar Date for Filing Proofs of Administrative Expense Claims and (II) Approving Notice of the Administrative Expense Claims Bar Date, and (III) Granting Related Relief*, entered by the Bankruptcy Court on December 24, 2025 [Docket No. 2197] (the “Admin Bar Date Order”). The Admin Bar Date Order provides that Proofs of Administrative Expense Claims against the Debtors must be filed by 5:00 p.m. (prevailing Central Time) on the 30th day following the Effective Date of the Plan.

6. Similarly, the Plan provides that Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, if any, must be Filed with the Bankruptcy Court by the later of thirty (30) days from (i) the date of entry of an order of the Bankruptcy Court approving such rejection, (ii) the effective date of the rejection of such Executory Contract or Unexpired Lease, and (iii) the Effective Date (the “Rejection Bar Date”).

7. The Plan became effective in accordance with its terms on January 14, 2026 [Docket No. 2247] (the “Effective Date”). Accordingly, Proofs of Administrative Expense Claims are due by 5:00 p.m. (prevailing Central Time) on February 13, 2026. Because the indemnification and other obligations owed to Mr. Wells described herein were rejected by operation of the Plan on the Effective Date, the Rejection Bar Date for the Rejection Damages Claim is also February 13, 2026.

BACKGROUND REGARDING THE CLAIM

8. After the Petition Date, or about September 24, 2024, Rhodium Enterprises made an offer to Mr. Wells to join its Board of Directors, which Mr. Wells accepted. The terms of Mr.

Wells service as a member of Rhodium Enterprises' Board of Directors were memorialized in an agreement executed by the parties (the "Board of Directors Agreement").⁴

9. The Board of Directors Agreement provides, in relevant part, that "with respect to or based upon any act or omission taken or omitted in any such capacity related to your service as a Director, [Rhodium Enterprises] agrees to indemnify you and advance costs and expenses to the greatest extent permitted by law in accordance with [Rhodium Enterprises'] by-laws and other formational documents of [Rhodium Enterprises]." See Board of Directors Agreement at 1. The Board of Directors Agreement also attached as exhibits thereto copies of Rhodium Enterprises' bylaws (the "Bylaws") and its Restated Certificate of Incorporation (the "Certificate of Incorporation").

10. The Bylaws provide, in relevant part, that:

Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "***Proceeding***"), by reason of the fact that he or she (or a person of whom he or she is the legal representative), is or was a director or officer of the Corporation or a director (or member of a similar governing body) or officer of any of its subsidiaries (any of the foregoing persons, a "***Mandatory Indemnatee***") shall be indemnified and held harmless by the Corporation to the fullest extent which it is empowered to do so by the [Delaware General Corporation Law] ... against all expense (including court costs, attorneys' fees, witness fees, fines (including but not limited to excise taxes assessed on a person with respect to an employee benefit plan), amounts paid in settlement or judgment and any other costs and expenses of any nature or kind incurred in connection with any Proceeding), liability and loss (including attorneys' fees actually and reasonably incurred by such person in connection with such Proceeding) and such indemnification shall inure to the benefit of his or her heirs, executors and administrators ... The right to indemnification conferred in this Article VII shall be a contract right and, subject to Sections 7.03 and 7.06, shall include the right to payment by the Corporation of the expenses incurred in defending any such Proceeding in advance of its final disposition.

⁴ Mr. Wells believes that counsel to the Plan Administrator is already in possession of the Board of Directors Agreement. To the extent required to reconcile this Claim, Mr. Wells will provide a copy upon request.

Bylaws at § 7.02. The Certificate of Incorporation further provides, in relevant part, as follows:

The Corporation shall indemnify to the fullest extent permitted by law any person made or threatened to be made a party to an action or proceeding ... by reason of the fact that he, his testator or intestate is or was a director or officer of the Corporation...

Certificate of Incorporation at 4, clause EIGHTH.

11. Mr. Wells' service as a director of Rhodium Enterprises and a member of the Special Committee ceased as of the Effective Date pursuant to the Plan (including, without limitation, sections 5.6 and 12.18 thereof).

THE DEMAND LETTER

12. On January 8, 2026, LKC sent the Demand Letter. The Demand Letter makes numerous allegations (that Mr. Wells disputes) concerning the conduct of the Special Committee and its counsel, asserts certain claims and causes of action, and indicates that LKC intends to pursue all available remedies.

13. Prior to LKC sending the Demand Letter, its limited objection to confirmation of the Plan was resolved by including language in the Confirmation Order providing that LKC is not a Releasing Party and that, "notwithstanding anything in the Plan to the contrary (including but not limited to section 10.6 of the Plan), no claims of LKC related to the LKC engagement, the LKC Success Fee, or the Special Committee's motions, actions, and claims related to LKC are released under the Plan or Confirmation Order and such claims are fully preserved." See Confirmation Order at ¶ 5.

14. All of the conduct referenced in the Demand Letter occurred after the Debtors commenced their chapter 11 cases on August 24 and 29, 2024 and prior to the Effective Date. Accordingly, any claims asserted against Mr. Wells in the Demand Letter stem from Mr. Wells'

service as a director of Rhodium Enterprises and a member of the Special Committee after the Petition Date.

BASIS FOR THE ADMINISTRATIVE CLAIM

15. Mr. Wells asserts a claim pursuant to section 503(b) of the Bankruptcy Code for indemnification, reimbursement, and advancement of costs and expenses pursuant to the Board of Directors Agreement, the Bylaws, and/or the Certificate of Incorporation, in all cases with respect to the matters asserted in the Demand Letter or relating to the facts and circumstances alleged therein or otherwise carved out of the Release provisions of the Plan. This Administrative Claim is intended to include all claims Mr. Wells may have against the Debtors and/or their estates and successors (including the Wind-Down Debtor) relating to allegations that have been or may be asserted by LKC or its principals arising out of, in connection with, or relating to Mr. Wells' service to Rhodium Enterprises as a director (including, without limitation, as a member of the Special Committee on behalf of the Debtors) subsequent to the Petition Date and which provided a benefit to the estate. In addition, Mr. Wells' service on the Rhodium Enterprises Board of Directors began postpetition and all agreements to indemnify and advance expenses to Mr. Wells are postpetition obligations of the Debtors' estates.

16. The Administrative Claim is unliquidated.

BASIS FOR THE REJECTION DAMAGES CLAIM

17. In the alternative, Mr. Wells asserts a claim for the Debtors' rejection of obligations owed to Mr. Wells that were otherwise rejected by operation of sections 8.1 and 8.4 of the Plan. Pursuant to section 8.4 of the Plan, "[a]ll Indemnification Obligations of the Debtors shall be deemed and treated as Executory Contracts to be rejected under the Plan." *See also* Confirmation Order at ¶ 24 ("[a]ll Claims for damages resulting from the rejection of an Executory

Contract....shall be asserted in accordance with Article 8.3 of the Plan and shall be treated as General Unsecured Claims, as applicable, pursuant to Article 4.6 of the Plan...”.

18. The Plan further provides, at section 8.1, that all Executory Contracts and Unexpired Leases to which any of the Debtors are parties shall be deemed rejected, unless such contract or lease (i) was previously assumed by the Debtors, pursuant to a Final Order of the Bankruptcy Court, (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto, (iii) is the subject of a motion to reject filed by the Debtors on or before the Confirmation Date, or (iv) is specifically designated as a contract or lease to be assumed on the Schedule of Assumed Contracts.

19. Rhodium Enterprises agreed to indemnify, reimburse, and advance costs to Mr. Wells for his service as a director and a member of the Special Committee pursuant to the Board of Directors Agreement, the Bylaws, and the Certificate of Incorporation, as described herein. Mr. Wells asserts a rejection damages claim against the Debtors and their estates (including the Wind-Down Debtor) arising out of the rejection of those indemnification and other obligations by operation of the Plan and Confirmation Order.

20. The Rejection Damages Claim is intended to include all claims Mr. Wells may have against the Debtors and/or their estates (including the Wind-Down Debtor) arising out of or in any way related to the rejection the obligations owed to Mr. Wells described above. In addition, Mr. Wells’ service on the Rhodium Enterprises Board of Directors began postpetition and all agreements to indemnify and advance expenses to Mr. Wells are postpetition obligations of the Debtors’ estates. Accordingly, Mr. Wells’ Rejection Damages Claim is also entitled to administrative expense priority.

21. The Rejection Damages Claim is unliquidated.

RESERVATION OF RIGHTS

22. The Claim is without prejudice and specifically made without any election of rights and remedies, and Mr. Wells hereby reserves all rights, remedies and claims against any person or entity, including all rights Mr. Wells may have to assert and collect any and all such additional amounts and other obligations due and payable to Mr. Wells, in addition to the filing and pursuit of this Claim. This Claim is not intended to be, and shall not be construed as, a waiver of any past, present, or future defaults or a waiver or limitation of any claims or interests of Mr. Wells against any person, entity, or property, or a waiver of any rights, defenses, or remedies Mr. Wells may have, including, without limitation, a right to a jury trial on any issue. Mr. Wells does not waive, and expressly reserves, all rights and remedies at law or in equity that he, individually or as the claimant, has or may have against any person or entity. Nothing herein shall be deemed to be a waiver of any right or remedy of Mr. Wells against any other person or entity in this or any other forum.

23. Mr. Wells reserves the right to amend, modify, and/or supplement this Claim at any time and in any respect, including, without limitation, for the purpose of (a) setting forth or changing the basis or the amount of the Claim described herein; (b) further describing said Claim; and (c) providing further evidence relating to said Claim.

24. Without limiting the foregoing, the filing of this Claim is not and should not be construed to be:

- a. A waiver or release of any rights against any other entity or person liable for all or part of any Claim described herein;
- b. A waiver of the right to seek to have the reference withdrawn with respect to the subject matter of the Claim, any objection or other proceedings commenced with respect thereto, or any other proceedings commenced in the above-captioned case against or otherwise involving Mr. Wells;

- c. An acknowledgement that Mr. Wells received adequate notice of any matter scheduled in these chapter 11 cases;
- d. A consent to the jurisdiction of the Bankruptcy Court or any other court with respect to proceedings, if any, commenced in any case against or otherwise involving Mr. Wells;
- e. A consent to the jurisdiction or authority of the Bankruptcy Court with respect to the litigation of any non-core matter or any core matter constituting what is commonly referred to as a “*Stern* claim;”
- f. A waiver or release of the right to trial by jury in the Bankruptcy Court or any other court in any proceeding as to any and all matters so triable herein, whether or not the same be designated legal or private rights or in any case, controversy, or proceeding related hereto, notwithstanding the designation or not of such matters as “core proceedings” pursuant to 28 U.S.C. § 157(b)(2), and whether such jury trial right is pursuant to statute or the United States Constitution;
- g. A consent to a jury trial in the Bankruptcy Court or any other court in any proceeding as to any and all matters so triable herein or in any case, controversy, or proceeding related hereto, pursuant to 28 U.S.C. § 157(e) or otherwise;
- h. An election of remedy which waives or otherwise affects any other remedy of Mr. Wells;
- i. A waiver or release of any of Mr. Wells’ rights of setoff and/or recoupment existing now or in the future;
- j. A waiver of any rights Mr. Wells may have under the Bankruptcy Code; or
- k. A waiver of any additional claims or other rights Mr. Wells may have any entity or individual.

SUPPORTING DOCUMENTS

25. The Board of Directors Agreement and Demand Letter contain confidential information and are not attached to this Claim. Upon request and entry into appropriate safeguards to protect such confidential information, Mr. Wells will provide copies of such documents.

NOTICE

26. All notices regarding this Claim should be sent to:

BAKER BOTTS L.L.P.
Thomas E. O'Brien (TX 24046543)
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-and-

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Dated: February 10, 2026

/s/ Spencer Wells
Spencer Wells

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 10, 2026, I caused a copy of the foregoing to be served on (i) all parties eligible to receive service through the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas by electronic mail and (ii) the following parties via overnight courier.

Quinn Emanuel Urquhart & Sullivan LLP
Attn: Patricia B. Tomasco
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Akin Gump Strauss Hauer & Feld, LLP
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By: /s/ Travis A. McRoberts
Travis A. McRoberts