IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	
	)	
Noble Supply & Logistics, LLC, *et al*.,	)	Case No. 26-11369 (CTG)
	)	
	)	Chapter 11
Debtors.[1]	)	(Jointly Administered)
	)	
	)	**Hearing Date: October 28, 2026 at 10:00 a.m. (ET)**
	)	
	)	Re: Dkt. Nos. 327, 366
	)	

UNITED STATES' REPLY TO DEBTORS' OBJECTION TO ITS MOTION FOR ENTRY OF AN ORDER (I) GRANTING ADEQUATE PROTECTION UNDER SECTIONS 361, 363(e), and 553 OF THE BANKRUPTCY CODE AND (II) GRANTING RELATED RELIEF

The United States of America, on behalf of its agencies, departments, and instrumentalities (each, a "Federal Agency"), including the Defense Logistics Agency ("DLA"), submits this reply to the Debtors' objection to the United States' motion for adequate protection.[2] (the "Objection"). Dkt. No. 366. The Debtors' objection is silent as to their burden on the question of adequate protection, but instead offers only two arguments, both of which overlook the limited scope of the relief that the United States requests.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926) ("Noble"); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266).

[2] Capitalized terms used but not defined herein shall have meanings ascribed to such terms in the United States' Motion (Dkt. No. 327).

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First, DLA has remitted payments to the Debtors in the ordinary course for properly invoiced goods and services, and in compliance with the Court's order to do so "with due regard for the exigencies of the circumstances."[3] Because the United States does not seek to setoff amounts at this time, the Court should reject the Debtors' mischaracterization that the Motion is a collateral attack that violates this Court's order. Second, the United States proffered the Asiyanbi Declaration only to apprise the Court of the partial lifts of seal that were recently obtained in the FCA Actions, even though the Debtors have been aware of such investigations for years. The Asiyanbi Declaration is not being submitted to prove the amount or validity of any government claims but merely corrects the record that the United States has significant potential claims against Noble. Therefore, the Court should also reject how the Debtors misconstrue the Motion as trying to establish a claim in order to effectuate a setoff.

ARGUMENT

I. The Motion Seeks Adequate Protection of the Limited Amounts Paid by DLA in Compliance with the Court's September 18 Order.

1. Contrary to the Debtors' assertion, the United States is not trying to relitigate issues already decided by this Court. *See* Obj., ¶ 18. This Court inherently found that the United States is entitled to adequate protection of its setoff rights when it found that the United States was adequately protected by payables that would become due by DLA. *See* Dkt. No. 151, ¶6. The Court based its finding that such protection was adequate, in part, on the Debtors' representations that (i) there were only two claims alleged by the United States against Noble and (ii) the Government was "absolutely adequately protected just by virtue of the mere dollars that are going to be owed [by DLA] after [Noble's Disputed Claim is] paid for the next few

[3] September 18 Order on Debtors' motion to compel at Dkt. No. 151, ¶ 8.

weeks." Transcript at 60:18 - 61:3. Debtors' counsel relied on Noble's Disputed Claim (Mot., ¶ 28) and urged this Court that "all [the Court had] to do is find that [Noble's] claim …. [Noble's] eighty-million dollar claim is at least $7.9 million and it becomes a wash. It's like a defense or a recoupment to this," Transcript at 66:1-8, adding: "So my point is, that [the United States is] adequately protected to allow [the Debtors] to get paid and the release CAGE-block in so many ways." Transcript at 66:10-12.

2. These references reflect the Court's and the parties' understanding during the September 16 hearing that adequate protection of the United States' setoff defense was certainly warranted, so much so that the Court ordered that the United States could seek further relief to protect its setoff rights, including seeking "replacement rights." *See* Dkt. No. 151, ¶ 9. Thus, the hearing, the resulting order, the DLA payments on invoices, and the filing of the Motion all show compliance with this Court's order, belying the Debtors' allegation that the United States launched an "impermissible collateral attack."

3. Next, is the Debtors' corollary argument that the Motion violates of the Court's order "because the Government seeks indiscriminate and indefinite adequate protection to protect purported setoff rights that it has neither established nor sought to establish." *See* Obj., ¶ 18. The adequate protection of the United States' right to set off is not unlimited. If this Court grants a super-priority administrative claim to the United States, such claim would be capped at the amount of prepetition payables received by Noble, which are finite. Any super-priority administrative claim cannot exceed the dollar amounts DLA has paid and continues to pay for goods and services ordered before the Petition Date. In other words, any claim is the lesser of what DLA owes to the Debtors and what the Debtors owe to the government. The Debtors are

well-aware of the millions of dollars they have already received on account of DLA payments since the Petition Date.

4. Further, neither the Debtors nor the estates are prejudiced if the Court grants the Motion because if the Debtors are correct that the Government has no claims against Noble, or that such claims have a zero value, then at the end of the day, the United States' allowed super-priority administrative claim cannot be greater than $0.

5. In sum, the United States identified, and this Court already duly recognized, the United States' common law setoff rights that are preserved by section 553(a) of the Code. *See* Mot., ¶ 25. Otherwise, this Court's efforts to ensure such setoff rights were adequately protected would have been for naught. The Debtors calling these rights "purported" or not established rings hollow.

II. The Motion Does Not Seek to Liquidate or Prove the Validity of any Government Claims.

6. Section II of the Debtors' Objection assails the Asiyanbi Declaration and assumes incorrectly that it is being offered as proof of the amount or validity of the United States' claims related to the FCA Actions. First, by submitting the declaration, the United States sought to clarify the exchange between the Court and the Debtors' counsel at the September 16 hearing where the Air Force FCA Settlement was disclosed by Debtors' counsel as one of the Government's claims against the Debtors, but the FCA Actions were not.

> THE COURT: What about the False Claims Act claim?
>
> MR. DEAN: That's the -- the False Claims Act claim is the settle -
>
> -the settlement agreement claim, is my understanding.
>
> THE COURT: Oh, that's been reduced to a settlement?

> MR. DEAN: That's the settlement agreement claim. Counsel can correct me if I'm wrong, but I believe that's the case.
>
> THE COURT: Okay. Got it. Okay.
>
> MR. DEAN: Okay. So there's just two claims that they've alleged against us. One is the settlement agreement claim, the false acts claim, and then the other is the seven nine it's consumed in this litigation --
>
> THE COURT: I understand that.
>
> MR. DEAN: -- that we commenced against them for $80 million.

Transcript 60:8-24.

7. Second, the Asiyanbi Declaration gives context to the Court for why bankruptcy counsel for the United States did not disclose or confirm any details of the Government's investigation against Noble at the time of the hearing: the United States was in the process of seeking partial lifts of seal protecting the *qui tam* actions filed against Noble. Thus, the Asiyanbi Declaration is not being presented to prove the amount of the Government's claim based on the FCA Actions, but instead corrects Debtors' counsel representations that there are only two known claims by the Government against Noble.

8. The Objection itself even refers to the Debtors' first day declaration where Mr. Albergotti states that the Debtors "intend[] to cooperate fully with the [United States'] investigations *until the matters are resolved.*" (emphasis added). Dkt. No. 15, ¶ 21. Mr. Albergotti also revealed that "Noble has entered into an ability to pay process with the Department of Justice, and is in the process of negotiating a settlement." *Id*. Debtors' do not deny they were aware of the investigations or the potential damages sought by the United States

but offer no explanation why they failed to inform the Court of these claims at the September 16 hearing.

9. Moreover, the FCA Actions covered by the Asiyanbi Declaration represent only one potential claim by the United States, but the examination of other potential claims remains ongoing (and is expected to be completed to timely file proofs of claim by the governmental bar date). Indeed, the Debtors' first day declaration refers to a criminal investigation, which could also lead to claims for fines and restitution. *See* Dkt. No. 15, ¶ 21. As of this filing, the United States anticipates multiple claims will be filed against the Debtors that will likely exceed one billion dollars.

10. Therefore, contrary to Debtors' assertion, the United States is not inviting the Court to presume that any of the Government's potential claims are valid. *See* Obj., ¶ 23. Just as the Court, in ruling on the emergency motion, did not need to liquidate Noble's Disputed Claim against DLA that Debtors raised at the hearing,[4] the United States is neither requesting, nor should the Court liquidate or otherwise assess the validity of any unfiled proofs of claim at this time.

11. By the Debtors' counsel's own words, estimation was not needed then when their emergency motion shifted to analysis of setoff based on the properly invoiced amounts that were payable:

> MR. DEAN: So that's the spread of the dispute; it's about $2.4 million.

[4] Debtors acknowledge the Disputed Claim must follow the administrative appeals process under the Contract Disputes Act, *see* First Day Decl. Dkt. No. 15, ¶ 56. Appealing to the Armed Services Board of Contract Appeals or filing a suit in the Court of Federal Claims after the contracting officer's decision is issued are available to the Debtors. *See* Motion, ¶ 29.

> THE COURT: And I take it your fundamental position is, okay, even if we owe them $3 million, that's still --
>
> MR. DEAN: It's so -- the math still works.
>
> THE COURT: -- they're still -- so, therefore, if I accept that, t here's no reason for me to hurt my head over this, right?
>
> MR. DEAN: The math still works. I just -- I only say if you're going to say anything about an estimation hearing on the other piece of it, which we'll talk about in a minute, I don't think we need to do that here because this is purely a legal issue that the Court can rule on.

Transcript 65:4-17.

12. Such is the case here, where the Motion affirmatively states the United States is *not* seeking to effectuate a setoff. Motion, ¶ 2. The Asiyanbi Declaration only sheds additional light on the "spread of the dispute." But again, it is not necessary for the Court to undertake any estimation of claims, even though the Debtors are attempting to endorse estimation as a requirement for the relief requested. If the Debtors' position is that the resolution of their emergency motion was only a legal question, when a purported setoff <u>was</u> at issue, the Motion before this Court now is likewise much more a legal question where the United States is not seeking to effectuate a setoff or freeze any monies. The United States is still mindful of the Court's concern that Debtors' have funds to complete a sale process, which is why it is not seeking to preclude payment of any valid invoices that are due and owing.[5]

[5] The United States reserves all rights with respect to the Disputed Claim and the Adversary Proceeding, including but not limited to the position that disputed deliveries and invoices are not

13. Accordingly, the United States' requested relief only preserves the parties' rights, the extent and validity of which, will be determined in the future. In the meantime, the United States bears the risk of not being made whole, which is why both forms of adequate projection are needed: a super-priority administrative claim and sale proceeds reserve are minimal protections in the face of maximum risk.

CONCLUSION

14. The United States respectfully requests that the Court overrule the Debtors' Objection and enter the proposed order granting adequate protection pursuant to 11 U.S.C. §§ 363(e); 506(a), 507 attached as Exhibit A to the Motion, and grant such other and further relief as the Court deems just and proper.

Dated: October 23, 2026

Respectfully submitted,

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payables immediately owed by DLA and that any disputes must be adjudicated via the Contract Disputes Act process, *see infra* fn. 4.

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CERTIFICATE OF SERVICE

I certify that on October 23, 2026, I caused copies of the United States' Reply to the Debtors' Objection to its Motion for Entry of an Order (I) Granting Adequate Protection Under Sections 361, 363(e), and 553 of the Bankruptcy Code and (II) Granting Related Relief, to be served through the Court's CM/ECF system on all parties registered to receive electronic notice in these cases.

Dated: October 23, 2026

Respectfully submitted,

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