IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	)	Chapter 11
SAMSON RESOURCES CORPORATION, *et al.*,[1]	)	Case No. 15-11934 (CSS)
	)	(Joint Administration Requested)
Debtors.	)	**Hearing Date and Time: Sept. 18, 2015 at 3:00 p.m. (Eastern)**
	)	**Related D.I. 5, 6, 18, 19, 22**

OMNIBUS RESPONSE OF AD HOC GROUP OF SENIOR NOTEHOLDERS
TO CERTAIN FIRST DAY PLEADINGS

The ad hoc group of certain holders (the "**Ad Hoc Group of Senior Noteholders**") of approximately fifty percent of the $2.25 billion aggregate principal amount of 9.75% Senior Notes due 2020 (the "**Senior Notes**") issued by Samson Investment Company ("**Samson Investment**"), by and through its undersigned counsel, submits this response (the "**Response**") to certain of the First Day Pleadings (as hereinafter defined) filed by the above-captioned debtors and debtors in possession (collectively, the "**Debtors**"). In support of this Response, the Ad Hoc Group of Senior Noteholders respectfully represents:

PRELIMINARY STATEMENT

1. These chapter 11 cases arise from the failed leveraged buyout of Samson Investment (the "**Acquisition**" or the "**LBO**") in December 2011. The $7.2 billion LBO was financed with a $1.35 billion secured reserve-based revolving credit facility, a $2.25 billion

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Geodyne Resources, Inc. (2703); Samson Contour Energy Co. (7267); Samson Contour Entergy E&P, LLC (2502); Samson Holdings, Inc. (8587); Samson-International, Ltd. (4039); Samson Investment Company (1091); Samson Lone Star, LLC (9455); Samson Resources Company (8007); and Samson Resources Corporation (1227).

unsecured bridge facility, and a $4.145 billion equity contribution by the Sponsors (as hereinafter defined). Fewer than four years later, the Debtors have presented a plan of reorganization based on a value of the assets of the Debtors *below* the amounts outstanding on the first lien revolver. Thus, the Debtors concede that more than $6 billion in purported value has somehow vanished over a period in which spot natural gas prices (from which the Debtors' oil and gas revenues primarily are derived) have declined by only approximately 15% since the closing of the LBO transaction. The Debtors now have come to this Court seeking approval of a Restructuring Support Agreement that attempts to lock in the 80% plus loss in value and wash all LBO claims away, for no consideration, solicit the proposed plan of reorganization beginning six weeks from now on October 30, 2015, and confirm a plan by December 1, 2015.

2. The Debtors tautologically assert that "time is of the essence" because the RSA says so. But the Debtors' 13-week cash flow submitted as part of the cash collateral motion shows that the Company, with its interest holiday,[2] is not in extremis. The only explanation for the rush to the exit that makes sense is that the Debtors seek to forestall any meaningful investigation into the circumstances surrounding the flawed LBO, the extent and validity of the first liens under the RBL Facility (which were granted in connection with the LBO), the recoverability of distributions to shareholders and the over $100 million paid to the Sponsors at the time of and after the LBO, and the extent and validity of the second liens under the Second Lien Term Loan (which were granted six months *after* the issuance of the Senior Notes). In furtherance of this apparent goal, the RSA and the Plan provide the First Lien Lenders with a

[2] Prepetition, the Debtors were obligated to pay $110 million in interest on the Senior Notes twice annually and $12.5 million in interest on the Second Lien Term Loan quarterly. Pursuant to the proposed 13-week budget, the Debtors' only interest expense over that time period would be $7.838 million on the RBL Facility. In any event, current payment of postpetition interest on the RBL Facility is not appropriate here, as described below.

$300 million cash payment and reinstate the remainder of their debt, give the holders of the Second Lien Term Loan virtually all of the equity in the reorganized company (despite their being wholly unsecured and thus *pari passu* with the Senior Notes), and grant broad releases to the First Lien Lenders, the Second Lien Lenders, the Sponsors, and the Debtors' pre-LBO shareholders and post-LBO directors and officers. In contrast, the Plan essentially wipes out holders of more than $2.25 billion of Senior Notes as well as other unsecured claims, granting the entire class 1% of the post-reorganization equity, subject to substantial dilution. The Plan further provides that the reorganized Debtors will retain the right to any unreleased avoidance actions post-emergence and that such avoidance actions shall not revert to prepetition unsecured creditors, thereby ensuring that the Second Lien Lenders, as the equity holders of the reorganized Debtors, will realize on all unencumbered value to the exclusion of over $2.25 billion of pari unsecured debt.

3. As discussed below, there are numerous outcome-determinative issues that need to be investigated before certain of the relief requested by the Debtors can be fully considered. These issues include (i) the circumstances surrounding the LBO and the steep and fast decline in the Debtors' value thereafter, (ii) any claims to avoid any improper transactions that diverted assets or value away from the Debtors, (iii) the extent, validity, and potential avoidance of the liens under the RBL Facility, (iv) the significant fees paid to the sponsors in connection with the LBO, (v) the amounts received by the pre-LBO equity holders of Samson Investment, (vi) the circumstances surrounding the liens and guaranties granted under the Second Lien Term Loan, (vii) the extent, validity, and potential avoidance of the liens under the Second Lien Term Loan, and (viii) the circumstances surrounding the RSA, the Plan, and the releases granted therein. To

that end, the Ad Hoc Group is contemporaneously serving requests for production of documents and deposition notices.[3]

4. The Ad Hoc Group of Senior Noteholders further believes that a valuation of the collateral underlying the RBL Facility and the Second Lien Term Loan will demonstrate that the first-lien debt under the RBL Facility is *undersecured* and that the second-lien debt under the Second Lien Term Loan is wholly *unsecured*. First, there are, as the Debtors admit, unencumbered assets. Most importantly, there are (i) material assets (including approximately 5% of the Debtors' total proved reserves) that were not pledged to the First Lien Lenders or the Second Lien Lenders, (ii) oil and gas properties subject to security interests that were not properly perfected or only became perfected within the preference window, and (iii) cash at the Debtors which are not pledging parties. Despite including financial projections and a valuation analysis, the Debtors' Plan does not include a liquidation analysis, which would be particularly relevant to the value of the collateral, securing the first-lien and second-lien obligations, as well as unencumbered assets. The value of the Debtors' collateral is a key consideration for the cash collateral motion and the cash management motion. It also will be one of the key considerations in the plan process, as the Plan now on file seeks to treat one group of unsecured creditors (the Second Lien Lenders) materially better than their peers (everyone else).

5. All of the foregoing demonstrates that the Plan is fatally flawed. As such, all of the first day relief associated with the implementation of the Plan milestones, such as the Backstop Agreement Motion and the Disclosure Statement Motion, should be held in abeyance

[3] The time to respond to the Ad Hoc Group's discovery requests, and the need to seek an expedited discovery schedule, will depend on the timetables set by the Court with respect to the First Day Pleadings as well as the Debtors' position on responding. As such, the Ad Hoc Group does not wish to burden the Court with a motion seeking expedited discovery until the Court fixes such timetables and the Debtors' inform the Ad Hoc Group of their position regarding the discovery schedule.

at the least. Moreover, the diminished value of collateral also impacts the Debtors' motion seeking authority to use cash collateral (the "**Cash Collateral Motion**"). Among other things, with respect to the First Lien Lenders, the proposed forms of adequate protection, including the payment of prepetition and postpetition interest and other fees and costs under the RBL Facility, are overly broad as they are not oversecured. Furthermore, because the Second Lien Lenders are wholly unsecured, they have no interest in the collateral and have no rights as secured creditors. Accordingly, they are not entitled to any adequate protection or, for that matter, any of the other protections and waivers applicable to secured parties set forth in the proposed order approving the Cash Collateral Motion. Further, the investigation and challenge periods for third parties and the unsecured creditors' committee are far too short, and the budget provided to the committee for such purposes is much too low, to permit an adequate investigation of the relevant issues. Additionally, the First Lien Lenders should not be deemed to have perfected security interests in any proceeds of the Debtors' Hedge Agreements, and the Hedge Banks should not be granted relief from the automatic stay with respect to their asserted rights to set off amounts owed to the Debtors under the Hedge Agreements against the debts owed under the RBL Facility. The waivers of the 506(c) surcharge and the "equities of the case" exception under section 552(b) of the Bankruptcy Code are also completely inappropriate. The Debtors' estates should not be forced to pay, out of unencumbered property, the cost of maintaining, and allowing the lenders under the RBL Facility (the "**First Lien Lenders**") to foreclose upon their collateral. Finally, and most important, the First Lien Lenders and the Second Lien Lenders should not be granted any lien on avoidance action proceeds, particularly where they may be subject to investigation.

6. The Debtors' proposed cash management order is also problematic. The proposed order needs to be modified to ensure that cash that is, or is determined to be, unencumbered after

appropriate investigation has not been moved to postpetition accounts where such cash would become encumbered, and that the Debtors' estates have appropriate recourse in the event of such occurrence.

7. Finally, the order approving the Debtors' motion for payment of operating expenses, joint interest billings, marketing expenses, and other prepetition claims [D.I. 6] should be amended to provide the Ad Hoc Group of Senior Noteholders – as the most significant unsecured creditors in these Chapter 11 Cases – an advance list of parties to receive payments pursuant to the motion in order to determine whether such payments are warranted. Given the significant disparity in anticipated recoveries between claimants to be paid pursuant to this order and other general unsecured creditors, any relief granted by the Court should be for payments that are absolutely necessary.

8. The Ad Hoc Group's specific objections to the First Day Pleadings begin on page 21.

BACKGROUND

9. Samson Resources Corporation ("**Samson Resources**") was formed in November 2011 in connection with the flawed leveraged buyout of Samson Investment by Kohlberg Kravis Roberts & Co., L.P. and certain of its affiliates ("**KKR**"), Crestview Partners II GP, L.P. and certain of its affiliates ("**Crestview**"), and ITOCHU Corporation and its affiliates ("**ITOCHU**," and together with KKR and Crestview, the "**Sponsors**").

10. Samson Resources financed the $7.2 billion Acquisition, which closed in December 2011 (and included payment of substantial fees and expenses), through (i) a Credit Agreement, dated as of December 21, 2011, among Samson Investment, as Borrower, JPMorgan Chase Bank, N.A., as Administrative Agent and Collateral Agent, and the lenders thereto (as

amended, the "**RBL Credit Agreement**"), which provides for a secured reserve-based revolving credit facility in an aggregate principal amount of approximately $1.345 billion (the "**RBL Facility**"), and is guaranteed by Samson Resources and certain of its subsidiaries; (ii) a syndicated senior unsecured interim loan agreement, pursuant to which Samson Investment borrowed senior unsecured loans in an aggregate principal amount of $2.25 billion (the "**Bridge Facility**"); and (iii) the Sponsors' contribution of $4.145 billion of equity capital. Samson Resources also issued 180,000 shares of cumulative redeemable preferred stock (the "**Cumulative Preferred Stock**") to the selling stockholders, the members of the Schusterman family.

11. In connection with the Acquisition, the Debtors paid certain affiliates of KKR, Crestview, and ITOCHU transaction, syndication, and other fees in the amount of $89.4 million ($77.4 million of which was paid to KKR and Crestview). Also as part of the Acquisition, the Sponsors extracted significant benefits through a "consulting agreement" (the "**Consulting Agreement**"), pursuant to which the Debtors have paid the Sponsors "advisory fees" totaling $38.4 million through the end of 2014. It is unclear how and to what extent these payments benefitted the Debtors.

12. Following the Acquisition, on February 8, 2012, Samson Investment issued 9.75% Senior Notes due 2020 in the aggregate principal amount of $2.25 billion, pursuant to an Indenture with certain subsidiary guarantors and Wells Fargo Bank, National Association, as Indenture Trustee (the "**Indenture**"), which also was guaranteed by Samson Resources. The proceeds from the Senior Notes were used to repay the outstanding borrowings under the Bridge Facility, plus accrued and unpaid interest, and related fees and expenses.

13. Subsequently, despite substantial outstanding indebtedness and a collapse in asset values, in September 2012, Samson Investment entered into a Second Lien Term Loan Credit Agreement (the "**Second Lien Credit Agreement**"), with Bank of America, N.A., as administrative agent and collateral agent, and the other agents and lenders party thereto (the "**Second Lien Lenders**"), and Samson Resources and certain subsidiaries as guarantors, which provided for a $1 billion secured second lien term loan credit facility (the "**Second Lien Term Loan**"). According to public filings, approximately $853 million of the proceeds of borrowings under the Second Lien Term Loan were used to pay down amounts outstanding under the RBL Facility, and the balance of the proceeds were used to pay fees and expenses associated with the financing and for general corporate purposes.

14. In May 2014, the RBL Credit Agreement was amended to, among other things, (i) reduce the borrowing base from $1.8 billion to $1 billion, and (ii) permit Samson to incur an additional $500 million of second lien debt without a reduction to the borrowing base, subject to certain conditions. On March 18, 2015, the RBL Credit Agreement was amended further to, among other things, (i) reduce the borrowing base from $1 billion to $950 million and (ii) require minimum liquidity of $150 million (the "**Minimum Cash Covenant**") after giving effect to any interest payment, subsequent to July 1, 2015, in respect of certain other indebtedness, including payments in respect of the 9.75% Senior Notes and the Second Lien Term Loan. Additionally, the March 2015 amendment provided for an increase of the First Lien Lenders' minimum collateral coverage of mortgaged properties from 80% to 95% of the company's PV-9 total proved reserves. In the Cook Declaration (as hereinafter defined), the Debtors state that because of this increase in collateral coverage, the First Lien Lenders were granted a security interest in at least 95% of the company's PV-9 total proved reserves. The Debtors do not indicate whether

they have conducted an analysis regarding whether the First Lien Lenders' security interests have been properly perfected or otherwise may be avoided. Moreover, the Debtors do not explain if, why, and for what consideration the Second Lien Lenders' collateral package was increased. Nor do the Debtors indicate whether they have conducted an analysis regarding whether the Second Lien Lenders' security interests have been properly perfected or otherwise may be avoided.

15. As a result of the new restrictions in the RBL Credit Agreement, and in light of severe liquidity constraints, on May 20, 2015, Samson Resources suggested during its first quarter earnings call that it would not be able to make the $110 million interest payment for the Senior Notes due on August 17, 2015 without tripping the Minimum Cash Covenant. Prior to this announcement, on May 7, 2015, the holders of the Senior Notes (the "**Senior Noteholders**") submitted a proposal for a potential out-of-court exchange and investment transaction to be effectuated through a new secured debt investment by certain holders of the Senior Notes and an exchange offer for the Senior Notes. Thereafter, Samson and the Senior Noteholders engaged in negotiations to execute a new money investment alongside an exchange transaction, which would have added liquidity to the balance sheet, but the proposal ultimately was rejected by the Debtors. As Samson's liquidity position worsened, on June 16, 2015, Samson Resources entered into a stock repurchase agreement with ITOCHU, pursuant to which Samson Resources agreed to purchase all of the shares of Samson Resources common stock held by ITOCHU, approximately 25%, for $1.00.

16. On August 14, 2015, Samson Resources and certain subsidiaries, including Samson Investment (collectively, "**Samson**"), entered into a Restructuring Support Agreement (the "**RSA**") with certain Second Lien Lenders (as set forth and defined in the RSA, the

"**Backstop Parties**"), who agreed to backstop the Rights Offering (as hereinafter defined) and the existing equity owners (as set forth in the RSA, the "**RSA Sponsors**"). At that time, the Backstop Parties directly or indirectly held or controlled the voting power with respect to 45.5% of the Second Lien Term Loan.

17. The RSA contemplates a restructuring transaction (the "**Restructuring Transaction**") that is required to be implemented pursuant to a joint plan of reorganization that constitutes an "**Acceptable Plan**." The RSA incorporates a term sheet (the "**Term Sheet**") that was subsequently incorporated into the Plan filed by the Debtors on September 17, 2015, as further described below. The RSA and the Plan are premised on a proposed $450 million new money investment (the "**New Money Investment**"), which includes (i) a minimum of $325 million to purchase the New Common Stock (as hereinafter defined), which is struck at a *20% discount* to the Plan Enterprise Value (as defined in the Term Sheet) of $1.275 billion, and (ii) a maximum of $125 million of new second lien debt issued by the reorganized Company for new second lien term loans to Samson (the "**New Debt**") to be funded pursuant to (a) a proposed rights offering (the "**Equity Offering**") for new common stock (the "**New Common Stock**") in the reorganized Samson and (b) a proposed rights offering (the "**Debt Offering**," and together with the Equity Offering, the "**Rights Offering**"). The proceeds of the Rights Offering are to be used to pay down the RBL Facility to $650 million and the fees and expenses of the Backstop Parties, with the remainder for general corporate purposes. In addition to the payment of fees and expenses to the Backstop Parties, the Term Sheet provides that "[u]pon Closing," the Backstop Parties will receive a *$10 million work fee*. Furthermore, if Samson exercises its fiduciary out and does not accept the Restructuring Transaction, Samson will pay the Backstop

Parties a *$10 million breakup fee*. Those fees obviously came at the expense of unsecured creditors.

18. Under the RSA and the Plan, the Rights Offering will be offered to the Second Lien Lenders. The Second Lien Lenders will receive all of the New Common Stock less the New Common Stock issued to the Rights Offering participants, the Senior Noteholders (as discussed below), and participants in a board and management incentive plan (the "**Management Incentive Plan**," pursuant to which 10% of the New Common Stock will be reserved). The Backstop Parties have committed to backstop the Rights Offering, including $413.25 million in New Common Stock (the "**Equity Backstop**") and $36.75 million in New Debt (the "**Debt Backstop**"). Thus, under the RSA and the Plan, the Second Lien Lenders and the Backstop Parties would own substantially all of the equity in the reorganized company (i.e., approximately 59% to 84% of the reorganized equity would be owned by the Backstop Parties depending on utilization of the backstop and prior to dilution under the Management Incentive Plan, and approximately 15% to 40% would be owned by the other Second Lien Lenders depending on utilization of the backstop).

19. In contrast, the holders of the Senior Notes (as well as the Debtors' general unsecured creditors) receive next to nothing under the Plan. Specifically, the RSA and the Plan provide that the Senior Noteholders and other general unsecured creditors only would receive 1.0% of the New Common Stock if they vote in favor of the Acceptable Plan and 0.5% of the New Common Stock if they vote against the Acceptable Plan. And these amounts are subject to dilution. Specifically, the Plan, the RSA, and the Term Sheet provide that (i) the Second Lien Lenders will share in such consideration to the extent of any deficiency claim, and (ii) 10% of the reorganized equity of Samson will be reserved for the Management Incentive Plan.

20. Thus, the RSA and the Plan provide for the Backstop Parties and the other Second Lien Lenders to own essentially all of the equity in the reorganized Samson, while no recovery would be provided to the Senior Noteholders, even though it appears that both the Second Lien Lenders and the Senior Noteholders have *pari passu* claims, as addressed below.

21. The RSA also provides for upfront mutual Releases between each Backstop Party and each Sponsor, subject to an exception for fraud, gross negligence, and willful misconduct, for any claims arising from, among other things, the Restructuring Transaction, the Acceptable Plan, or related agreements. The RSA and the Plan further provide for other releases, upon the effective date of the Plan, of the Sponsors, the Debtors, the First Lien Lenders, the Second Lien Lenders, the current and former Sponsor-appointed directors of the Debtors, and the current officers and directors of the Debtors, including third party releases that are required to be granted by any creditor approving the Plan and also will be binding on any creditor that fails to opt out of such releases. Notably, the Plan includes such releases of the First Lien Lenders and the Second Lien Lenders notwithstanding the existence of potential avoidance actions against their liens and guaranties. Similarly, the Plan includes such releases of the Sponsors notwithstanding the existence of potential avoidance actions against the Sponsors and the fact that the Sponsors are not providing any value to the Debtors under the Plan. In their First Day Pleadings, the Debtors argue that the Sponsors are providing value by foregoing transferring or taking a worthless stock deduction for their common stock. However, the Debtors have filed a motion asking the Court to impose restrictions on the Sponsors and holders of preferred stock from so transferring their stock without notice and prior Court approval, as any such value could limit or impair the Debtors' substantial NOLs. Such order should be granted and would be sufficient to protect the Debtors' NOLs. The Debtors need not release the Sponsors from the estates' potentially material

avoidance actions to arrive at the same result. It also is notable that the Debtors' trading motion seeks to impose the same restrictions on the holders of the preferred stock (i.e., the pre-LBO equity holders), without proposing to provide the same release to the preferred stockholders (who expressly are carved out of the definition of Released Parties).

22. The Plan further provides that any avoidance actions that are not released shall be retained by the Debtors and shall not revert to creditors. Thus, any potential avoidance actions brought against the pre-LBO equity holders for the billions they received for the sale of their equity less than four years ago would be retained for the benefit of the Second Lien Lenders, as the equity holders of the reorganized Debtors.

23. Moreover, without any stated or apparent business justification, the RSA contains very aggressive milestones (the "**RSA Milestones**"), e.g., deadlines to (i) file an Acceptable Plan (the Petition Date) (which the Debtors already failed to meet), (ii) finalize an amended RBL Facility (October 15, 2015), (iii) obtain an order approving the Disclosure Statement (October 15, 2015, unless extended by the Required Backstop Parties (as defined in the RSA)), (iv) commence solicitation to accept or reject the Acceptable Plan (October 30, 2015), (v) confirm the Acceptable Plan (December 1, 2015), and (vi) have the Acceptable Plan go effective (January 15, 2016).[4]

24. As a result of the RSA, on August 14, 2015, Samson Resources announced it would not make the August 17, 2015 interest payment due on the Senior Notes and, instead,

[4] The RSA also provided that if holders of if holders of at least 66 2/3% of the aggregate outstanding Second Lien Term Loans are not parties to the RSA by October 14, 2015, the Company will have the ability to pursue a sale of substantially all of its assets pursuant to section 363 of the Bankruptcy Code (the "**363 Sale**") to the Backstop Parties, in which case the Backstop Parties will act as the stalking horse bidder through the commitments contemplated in the Term Sheet. In light of the increased support of the RSA to over 68% of the outstanding loans under the Second Lien Term Loan (Cook Decl. ¶ 81), the milestones under the RSA relating to the 363 Sale have been waived.

would use the thirty-day grace period to obtain broader support for the RSA and implement the Restructuring Transaction as part of a filing under chapter 11 of the Bankruptcy Code.

25. On September 16, 2015 (the "**Petition Date**"), the Debtors commenced these chapter 11 cases (the "**Chapter 11 Cases**"). On September 17, 2015, the Debtors filed various first-day pleadings, as well as a motion for use of cash collateral (the "**Cash Collateral Motion**"), a motion for continued use of the Debtors' cash management system (the "**Cash Management Motion**"), a motion to fix October 30, 2015 as the last date to file proofs of claim, a motion authorizing entry into a backstop commitment agreement (the "**Backstop Commitment Agreement**"), a Joint Chapter 11 Plan of Reorganization (the "**Plan**"), a Disclosure Statement for the Plan (the "**Disclosure Statement**"), and a motion to approve the Disclosure Statement and establish solicitation procedures (collectively, the "**First Day Pleadings**").

26. Thus, consistent with the intent of the RSA, the Debtors are barreling forward to confirm a Plan without any regard to the rights of the Ad Hoc Group of Senior Noteholders and in disregard of the Debtors' fiduciary obligations to maximize their estates for the benefit of all creditors.

RESPONSE

<u>There Is No Emergency Justifying the Proposed Accelerated Timetable</u>

27. The accelerated timetable proposed by the Debtors as set forth in the RSA and certain of the First Day Pleadings not only is devoid of any justification, but also raises a number of red flags. There simply is no legitimate reason for the Debtors to be rushing to, among other things, commence a plan solicitation process six weeks from now and confirm the Plan one month thereafter on December 1, 2015. This is not a case where the assets of the estate are akin

to a melting ice cube, whose value is rapidly deteriorating with each passing day. The Debtors have not sought, and do not need, debtor in possession financing. The Debtors had approximately $129.5 million in cash on hand as of the Petition Date, and the Debtors 13-week budget shows an ending balance of approximately $119.4 million, which diminution largely consists of the $7.8 million in adequate protection interest payments proposed to be paid to the First Lien Lenders under the Cash Collateral Motion (as well as additional amounts for the advisor fees of the First Lien Lenders and the Second Lien Lenders). The Debtors' projections and 13-week budget therefore do not demonstrate any fiscal emergency that would warrant the expedited timeframe. Moreover, the Debtors have outstanding hedges, which currently stand in the Debtors' favor of approximately $105 million, which may provide the Debtors with an additional source of cash to fund these Chapter 11 Cases.

28. The Debtors provide no facts to support their assertion in the Declaration of Philip Cook in support of the First Day Pleadings (the "**Cook Declaration**") that "[t]ime is of the essence" other than that the RSA "requires it to move quickly through chapter 11 and seek confirmation of the proposed plan by December 1, 2015" (Cook Decl. ¶ 16).

<u>Time Is Needed to Investigate Outcome-Determinative Issues</u>

29. The Ad Hoc Group of Senior Noteholders and other creditors are entitled to due process and to develop and present a full record and argument as to many outcome-determinative issues presented in these Chapter 11 Cases (the "**Outcome Determinative Issues**"), including:

- <u>The circumstances surrounding the LBO</u>. An investigation is needed to determine whether viable claims exist to avoid any improper transactions that diverted assets or value from the Debtors in connection with the LBO, including whether the

liens granted in connection with the LBO are avoidable and whether the payments made to the former owners are recoverable;

- The extent and validity of the liens under the RBL Facility. Diligence is necessary in order to determine what constitutes the collateral package under the RBL Facility and whether each lien has been properly perfected;

- The fees paid in connection with the Acquisition and other amounts paid to the Sponsors. Diligence is necessary in order to determine whether the fees paid under the Consulting Agreement and other agreements described above are recoverable, including what services were rendered and whether such services justified the amount of fees that were paid;

- The circumstances surrounding the Second Lien Term Loan. An investigation is needed to determine whether viable claims exist to avoid the liens granted under the Second Lien Term Loan, including whether the Debtors' subsidiaries received any value in consideration for their granting of liens and guaranties under the Second Lien Term Loan;

- The extent and validity of the liens under the Second Lien Term Loan. Diligence is necessary in order to determine what constitutes the collateral package under the Second Lien Term Loan and whether such liens have been properly perfected.

- Cash/deposit accounts. An investigation is needed to identify where cash is being held by the Samson enterprise. To the extent cash is held in deposit accounts, further investigation is needed to understand, among other things, which deposit accounts, if any, are the subject of control agreements in favor of the secured

parties or their agents to determine whether or not liens granted on cash in such deposit accounts have been validly perfected.

- The circumstances surrounding the negotiation of the RSA. An investigation is needed to understand the circumstances surrounding the Debtors' negotiation of the RSA, pursuant to which the Senior Noteholders are virtually wiped out even though they appear to be *pari passu* with the Second Lien Lenders, as well as the releases that have been given to the RSA Sponsors for significant claims without any consideration. Notably, the Debtors themselves recognize that the appropriateness of the releases is an important issue as they have appointed an independent director to examine this issue. (Cook Decl. ¶ 86.) The RSA Sponsors' agreement to support the plan by foregoing transferring or taking a worthless stock deduction with respect to their common stock holdings to preserve the Debtors' tax attributes (Cook Decl. ¶ 81), is not a valid basis for the release of their claims. The Debtors have filed a motion seeking entry of a trading order preventing the Sponsors and other equity holders from so transferring or claiming a worthless stock deduction. Such order will provide sufficient protection to the Debtors' estates against any action by the Sponsors that would impair or eliminate the Debtors' tax attributes and restructuring by "cooperating to preserve the debtor's valuable tax attributes.

30. An appropriate investigation of the Outcome-Determinative Issues must be conducted so that they can be resolved and addressed in an orderly and equitable manner, which is impossible to accomplish under the timetable proposed by the Debtors. Significantly, the Ad Hoc Group of Senior Noteholders is not seeking to investigate these issues as a tactic to prolong

the Chapter 11 Cases. To the contrary, the Ad Hoc Group is contemporaneously serving requests for document production and deposition notices in order to begin the investigation of these issues promptly. As noted in the Preliminary Statement herein, the time to respond to the Ad Hoc Group's discovery requests, and the need to seek an expedited discovery schedule, will depend on the timetables set by the Court with respect to the First Day Pleadings as well as the Debtors' position on responding. Accordingly, the Ad Hoc Group does not wish to burden the Court with a motion seeking expedited discovery until the Court fixes such timetables and the Debtors' inform the Ad Hoc Group of their position regarding the discovery schedule.

31. An investigation into these Outcome-Determinative Issues is necessary in order to determine (i) whether there was any intent on the part of the Debtors to hinder, delay, or defraud creditors, and (ii) whether any Debtor transferred any of their property in exchange for something of no value or less than fair value while such Debtor was insolvent when the transfer was made, rendered insolvent as a result of the transfer, or left with unreasonably small capital.

32. There is a strong possibility that the value of Samson at the time of the LBO was materially lower than the debt incurred in connection with the LBO. First, the 82% drop in Samson's total enterprise value from approximately $7.2 billion (the purported value of Samson at the time of the LBO) to $1.275 billion (the Debtors' Plan Enterprise Value) from the end of 2011 to the present is remarkable for such a short period of time, even when the reduction in oil and gas prices is taken into consideration. The spot NYMEX natural gas benchmark price has fallen approximately 15% since December 21, 2011. Although Spot West Texas Intermediate crude oil benchmark pricing has declined over 50% since the LBO closed ($98.67 per Bbl in December 2011 vs. $46.44 on September 10, 2015), this has had a lesser impact on the Debtors' value given the strong weighting toward natural gas in the Debtors' portfolio. Second, on

February 24, 2012, just three months after the LBO was announced, a group led by Apollo Global Management LLC agreed to acquire El Paso Corporation's ("**El Paso**") oil and natural gas exploration and production business for $7.15 billion. Both Samson and El Paso had similar natural gas weighted asset portfolios consisting of diverse holdings in U.S. onshore producing basins at the time. According to IHS Energy, Inc., the El Paso transaction value implied a purchase price of ~$1.31 per thousand cubic feet equivalent ("**Mcfe**") for proved reserves and ~$5,806 per Mcfe of daily flowing production for El Paso's asset base. By comparison, the Samson LBO transaction value implied a purchase price of ~$2.48 per Mcfe for proved reserves and ~$17,191 per daily Mcfe produced for Samson's asset base. By applying the El Paso transaction metrics to the Samson transaction, an implied valuation for Samson at the time of the LBO would range from approximately $1.97 billion to $3.07 billion.

33. Based on the above, Samson may have been rendered insolvent by the LBO and the Debtors may not have received reasonably equivalent value for the security interests granted to the First Lien Lenders. Similarly, the liens securing the Second Lien Term Loan also may be subject to avoidance. It is unclear whether the Debtors' subsidiaries received reasonably equivalent value in consideration for their granting of liens and guaranties under the Second Lien Term Loan, and it appears that such obligations were incurred and liens were granted at a time when such entities were already insolvent or were rendered insolvent thereby.

34. Access to the relevant information is needed in order to examine these critical Outcome-Determinative Issues. Investigation of these, as well as other Outcome-Determinative Issues, necessarily will take longer than the timetable proposed by the Debtors. As the Debtors themselves recognize, "thousands of potentially relevant documents" exist in connection with the LBO. (Cook Decl. ¶ 83.)

The Plan and Cash Collateral Motion Are Based on Flawed Valuations

35. The proposed Plan is fatally flawed because, among other things, it is premised on an optimistic valuation and improperly releases the RSA Sponsors for no consideration. A reasonable set of assumptions exists that suggests that the value of the collateral securing the RBL Facility could be significantly less than the amount of the First Lien Lenders' claims as of the Petition Date, i.e., $942 million. Using market-based assumptions and other publicly available information, including current commodity pricing and a reasonable range of discount rates applied to the cash flows, there is substantial support for the claim that the value of the collateral is materially less than $942 million as of the Petition Date. As discussed above, it appears that less than 100% of the asset value constitutes secured collateral given that the RBL Facility is secured by 95 percent of the Debtors' proven oil and gas properties. Notably, the Debtors did not file a liquidation analysis along with their Plan that would shed light on this issue. While the Debtors did attach to the Plan a valuation analysis performed by Blackstone, this analysis provides only a range of values of estimated total enterprise value of the Reorganized Debtors, which is not an appropriate metric to demonstrate the value of the collateral of the First Lien Lenders and the Second Lien Lenders on the Petition Date.[5] Moreover, the Debtors' financial projections appear to be premised on the receipt of significant revenues from drilling undeveloped wells for which, according to publicly available information regarding the Debtors' reserves, the associated risk-adjusted returns would not exceed the necessary capital outlay to drill such wells given the current commodity price environment. It thus appears likely that a valuation of the underlying collateral would demonstrate that the First

[5] Even if Total Enterprise Value were relevant, and assuming all assets were encumbered (which is not the case), the Backstop Parties are receiving their reorganized equity at a 20% discount to the Plan Enterprise Value (i.e., $1.06 billion), which would be a more accurate indication of the Debtors' view of the true value of the collateral.

Lien Lenders are undersecured and the Second Lien Lenders are wholly unsecured. Thus, contrary to the entire premise of the RSA and the Plan, the Second Lien Lenders have the same priority as the holders of the Senior Notes and should not be afforded preferential treatment under the Plan.

36. In sum, to protect creditors and preserve due process rights, the Debtors should not be permitted to impose their overly aggressive RSA Milestones. For the reasons stated above, the LBO and the RSA raise a plethora of Outcome-Determinative Issues that must be addressed in an orderly manner and should not be ignored in order to conform to the Debtors' aggressive tactics.

Specific Objections to First Day Pleadings.

37. Accordingly, the Ad Hoc Group of Senior Noteholders respectfully ask that this Court not approve the relief requested in the First Day Pleadings to the extent such relief prejudices the Ad Hoc Group of Senior Noteholders or any of the Debtors' unsecured creditors, including in respect of any of the Outcome-Determinative Issues. Specifically, the Ad Hoc Group of Senior Noteholders objects to the following First Day Pleadings:

Cash Collateral Motion [D.I. 22]

38. The Debtors seek entry of an interim order (the "**Interim Cash Collateral Order**") and a final order (the "**Final Cash Collateral Order**," and together with the Interim Cash Collateral Order, the "**Cash Collateral Orders**") authorizing the use of cash purportedly constituting the cash collateral of (i) the First Lien Agent on behalf of the First Lien Lenders (the "**First Lien Parties**") and (ii) the Second Lien Agent on behalf of the Second Lien Lenders (the "**Second Lien Parties**," and together with the First Lien Parties, the "**Prepetition Lender Parties**") on terms and with conditions that significantly exceed the Debtors' adequate protection

obligations and serve only to improve the position of the Prepetition Lender Parties, which are the sole beneficiaries of the Plan process proposed by the Debtors at the expense and to the detriment of other stakeholders in these Chapter 11 Cases. Among other things, the proposed Interim Cash Collateral Order provides for:

- The granting of superpriority administrative expense claims and replacement liens on the Debtors' collateral, including any unencumbered collateral, to the lenders and agents under both the RBL Facility and the Second Term Loan[6];

- Subject to the entry of the Final Cash Collateral Order, the granting of such liens and claims on proceeds and property recovered in respect of the Debtors' claims and causes of action arising under sections 544, 545, 547, 548, 549, and 550 of the Bankruptcy Code or any other state or federal law (collectively, the "**Avoidance Actions**");

- Payment of (x) prepetition and postpetition interest and other fees and costs under the RBL Facility, including any fees, expenses, or disbursements of the Hedge Banks and the administrative agent under the RBL Facility and (y) prepetition and postpetition fees, expenses, and disbursements of the administrative agent under the Second Lien Term Loan;

- A waiver of any right to surcharge against the Prepetition Collateral or the Adequate Protection Collateral pursuant to section 506(c) of the Bankruptcy Code or any other applicable principle of equity or law, subject to the entry of the Final Cash Collateral Order;

- A waiver of the "equities of the case" exception under section 552(b) of the Bankruptcy Code, subject to the entry of the Final Cash Collateral Order;

- A significantly limited challenge period in which to investigate and potentially commence avoidance actions, together with limitations on the use of cash collateral to commence any such actions and a minimal investigation budget;

- Automatic lifting of the automatic stay to permit the setoff of certain hedge transactions without any further authorization or order of the Court;

- Extensive termination rights which, in most instances, trigger automatic termination and enforcement rights in favor of the lenders under the RBL Facility, and lifting of the automatic stay in such cases without notice to stakeholders or further order of the Court; and

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[6] Capitalized terms used in this section, but not otherwise defined herein, shall have the meanings ascribed to them in the proposed Interim Cash Collateral Order.

- A waiver of the "marshalling doctrine."

For the reasons set forth below, the Ad Hoc Group of Senior Noteholders objects to the relief requested in the Cash Collateral Motion.

39. The Proposed Adequate Protection Package Is Overly Broad and Unwarranted. As discussed above, potentially extensive investigation is necessary into a number of Outcome-Determinative Issues, including issues regarding the LBO and the extent and validity of the liens and claims asserted with respect to the RBL Facility and the Second Lien Term Loan as well as the cash held by the Samson enterprise. Prior to the investigation of such issues, the proposed Cash Collateral Order should not foreclose opportunities for potential recoveries and access to certain rights that may be available to unsecured creditors, e.g., by granting the Prepetition Lenders an overly broad and unfounded package of adequate protection and other rights as requested by the Debtors.

40. Further, based on the Debtors' pleadings, there is no basis for the adequate protection and other rights being requested. The Debtors' own projections regarding the collateral underlying the RBL Facility demonstrate that the first lien debt under the RBL Facility is undersecured while the second lien debt under the Second Lien Term Loan is wholly unsecured. As unsecured creditors, the Lenders under the Second Lien Term Loan have no interest in the collateral, including any cash collateral, and therefore are not entitled to any adequate protection, or any of the other proposed rights and waivers under the Cash Collateral Orders, including without limitation, any stipulations in regard to the Second Lien Term Loan set forth in paragraph D of the proposed Interim Cash Collateral Order.

41. With respect to the Lenders under the RBL Facility, the adequate protection package proposed for the Lenders under the RBL Facility is unwarranted as they are

undersecured. Furthermore, the Debtors have asserted that there are limited unencumbered assets available to satisfy unsecured claims. *See* Cash Collateral Motion ¶ 21 (stating that only "five percent of Samson's real property is unencumbered as is personal property," and indicating that "Samson believes that the unencumbered assets are not concentrated or readily marketable, are of little value to third parties, and are only valuable for use by Samson in connection with its business."). Under such circumstances, the operation of the Debtors' business serves primarily to protect the value of such Lenders' collateral. Absent a showing of any potential decline during the Chapter 11 Cases, additional adequate protection is neither necessary nor warranted here. *See, e.g., Zink v. Vanmiddlesworth*, 300 B.R. 394, 402-03 (N.D.N.Y. 2003) (holding that a secured party is not entitled to adequate protection absent a showing that its collateral is declining in value); *In re Cont'l Airlines, Inc.*, 146 B.R. 536, 539 (Bankr. D. Del. 1992) ("Post-*Timbers* courts have uniformly required a movant seeking adequate protection to show a decline in value of its collateral.").

42. To the extent any additional adequate protection may be granted, however, the adequate protection package proposed in the Cash Collateral Orders is overly broad. As discussed, the operation of the Debtors' business adequately protects any interest that the Prepetition Lenders have in the collateral. Moreover, they are not providing any additional value in the form of new money or financing to the estates. As an initial matter, the Prepetition Lenders should not receive any liens or claims on unencumbered assets, including, in particular, proceeds or products of Avoidance Actions. Such assets are likely to be the primary source of recovery for unsecured stakeholders and should be preserved for the benefit of the Debtors' estates, including unsecured creditors. *See In re Cybergenics Corp.*, 226 F.3d 237, 243-44 (3d Cir. 2000) (avoidance actions are not property of the estate and are not transferred to the debtor

in possession, but are rights held by the estate for the benefit of all creditors); *see also* 5 Collier on Bankruptcy ¶ 541.14 at n.1 (Alan N. Resnick & Henry J. Sommer, 16th ed.) ("The avoiding powers of a debtor in possession granted in chapter 5 of the [Bankruptcy] Code are not property of the estate but statutorily created powers to recover property."). Indeed, the Bankruptcy Code creates such avoidance powers so that debtors may recover property for the benefit of creditors as part of their fiduciary duties. *Cybergenics*, 226 F.3d at 243. Courts have repeatedly held that avoidance actions should be preserved for the benefit of unsecured creditors. *See, e.g., Buncher v. Official Comm. of Unsecured Creditors of GenFarm Ltd. P'ship IV*, 229 F.3d 245, 250 (3d Cir. 2000) ("The purpose of fraudulent conveyance law is to make available to creditors those assets of the debtor that are rightfully part of the bankruptcy estate, even if they have been transferred away. When recovery is sought under section 544(b) of the Bankruptcy Code, any recovery is for the benefit of all unsecured creditors, including those who individually had no right to avoid the transfer.") (internal citations omitted); *McCarthy v. Navistar Fin. Corp. (In re Vogel Van & Storage, Inc.)*, 210 B.R. 27, 33 (N.D.N.Y.1997) (noting that courts have refused to allow the assignment of avoidance claims because only the trustee or debtor-in-possession, as a representative of all creditors, can sue on an avoidance claim), *aff'd*, 142 F.3d 571 (2d Cir. 1998). As discussed above, there may be numerous potential avoidance actions available in these Chapter 11 Cases, including against the Prepetition Lenders, which may constitute meaningful sources of recovery. The Prepetition Lenders should not be permitted to further bolster their positions from such recoveries at the expense of unsecured creditors, particularly to the extent they are parties to such causes of action.

43. Furthermore, payment of prepetition and postpetition interest and other fees and costs under the RBL Facility, including any fees, expenses, or disbursements of the Hedge Banks

or the administrative agent under the RBL Facility is also inappropriate. Section 506(b) permits oversecured creditors to receive postpetition interest and fees. *See* 11 U.S.C. § 506(b); *United Sav. Ass'n v. Timbers of Inwood Forest Assoc., Ltd.*, 484 U.S. 365, 382 (1988). Undersecured creditors do not have the same entitlement. *Id.*; *In re Weinstein*, 227 B.R. 284, 297 (B.A.P. 9th Cir. 1998) (noting that "permitting such a bonus would be akin to providing the undersecured creditor with interest or lost opportunity costs which is expressly prohibited by *Timbers*").

44. Waiver of Section 506(c) Surcharge and Section 552(b) "Equities of the Case" Exception Is Inappropriate. The Debtors' proposed waiver of the right to seek a surcharge pursuant to section 506(c) of the Bankruptcy Code against the Prepetition Lenders (Interim Cash Collateral Order ¶ 13) is unwarranted, as it would impermissibly shift the risk of these cases from the Prepetition Lenders to the estates. This is particularly egregious where, as here, the Chapter 11 Cases are being run for the benefit of the Prepetition Lenders and the preservation of their collateral.

45. Section 506(c) of the Bankruptcy Code permits a debtor to recover the "reasonable, necessary costs and expenses of preserving, or disposing of, [secured property] to the extent of any benefit to the holder of such claim." 11 U.S.C. § 506(c). The purpose of section 506(c) is to allow a claimant who "expends money to provide for the reasonable and necessary costs and expenses of preserving or disposing of a secured creditor's collateral . . . to recover such expenses from the secured party or from the property securing an allowed secured claim held by such party," thus "prevent[ing] a windfall to the secured creditor at the expense of the claimant." *Precision Steel Shearing, Inc. v. Fremont Fin. Corp. (In re Visual Indus., Inc.)*, 57 F.3d 321, 325 (3d Cir. 1995). Accordingly, section 506(c) "understandably" shifts the costs of preserving or disposing of a secured party's collateral back to the secured party who has

benefited from the expenditure, "which costs might otherwise be paid from the unencumbered assets of the bankruptcy estate." *Id.* There is no basis for such shift here, and the Debtors' estates should not be forced to pay, out of unencumbered property, the cost of maintaining and allowing the secured creditors to foreclose upon their collateral.

46. The Debtors' proposed waiver of the section 552(b) "equities of the case" exception with respect to the Prepetition Lenders (Interim Cash Collateral Order ¶ 15) is similarly unwarranted, particularly as the proposed use of cash to fund the Debtors' postpetition operations primarily serves to preserve the collateral of the Prepetition Lenders and, as provided in the proposed budget, is used to make payments to the Prepetition Lenders under the RBL Facility. Section 552(b) of the Bankruptcy Code permits a court to disregard a postpetition lien on "proceeds, products, offspring, or profits" of collateral based on the "equities of the case." 11 U.S.C. § 552(b). "The purpose of the equity exception is to prevent a secured creditor from reaping benefits from collateral that has appreciated in value as a result of the trustee's/debtor-in-possession's use of other assets of the estate (which normally would go to general creditors) to cause the appreciated value." *In re Muma Servs., Inc.,* 322 B.R. 541, 558-59 (Bankr. D. Del. 2005) (quoting *Delbridge v. Prod. Credit Ass'n*, 104 B.R. 824, 826 (E.D. Mich. 1989)). The "equities of the case" exception is most commonly invoked where unencumbered cash is used to increase the value of the collateral for the benefit of a secured creditor. *See In re Cross Baking Co.,* 818 F.2d 1027, 1033 (1st Cir. 1987); *Toso v. Bank of Stockton (In re Toso)*, 2007 WL 7540985, at *13-14 (B.A.P. 9th Cir. Jan. 10, 2007). The Prepetition Lenders should not be able to benefit here at the expense of the unsecured creditors, and they have provided no justification for such proposed waiver. Accordingly, such relief should be denied.

47. The Proposed Order Does Not Adequately Preserve Challenged Rights. The Challenge Period under the proposed Cash Collateral Orders is 60 days from the appointment for a statutory committee and 75 days from entry of the Interim Cash Collateral Order for any other party. (Interim Cash Collateral Order ¶ 22.) This is an unreasonably short period in light of the complexity of these Chapter 11 Cases and the extent of the Outcome-Determinative Issues that require investigation. Stakeholders need time to adequately investigate, review, and analyze the LBO, not to mention the Debtors entry into the Second Lien Term Loan, and the extent and validity of the Prepetition Lenders' liens and claims. Nevertheless, the proposed Cash Collateral Orders attempt to hinder stakeholders by requiring any parties asserting challenges, including any statutory committee, to engage first in a potential dispute over their standing to commence such challenge. Considering the proposed expedited time frame proposed for the Chapter 11 Cases, and for the Challenge Period in particular, additional hurdles should be avoided. At a minimum, any statutory committee should be granted standing from the outset. The proposed Cash Collateral Orders further limit the use of any cash collateral to any investigation rights, with no amounts permitted to be used to assert any cause of action, and the investigation amount is limited to $50,000. Such proposed limitations do not allow stakeholders an adequate opportunity on behalf of the estates to conduct a thorough investigation into any potential recoveries. Accordingly, such limitations should be denied and the investigation amount significantly increased.

48. Lifting the Automatic Stay to Allow Setoff Rights to Hedge Banks Is Premature. According to the Debtors' filings, the Debtors are currently "in the money" in an amount equal to approximately $105 million with respect to certain outstanding Hedge Agreements, and such amounts may be owed by Hedge Banks who are lenders under the RBL Facility. (Cash

Collateral Motion ¶ 25.) Although further investigation into such agreements and the security interests of the First Lien Lenders is required, it appears that proceeds from such Hedge Agreements could potentially be a significant unencumbered source of value to the estates. Accordingly, at this juncture, the proceeds of any Hedge Agreements must not be required to be put into cash accounts of the First Lien Lenders and converted to encumbered property or deemed to be perfected collateral of the First Lien Lenders and converted to encumbered property or deemed to be perfected collateral of the First Lien Lenders, as set forth in the proposed Cash Collateral Orders. (Interim Cash Collateral Order ¶ 11.) Moreover, the proposed Cash Collateral Orders authorize the Prepetition Lenders to exercise setoff rights with respect to amounts owed under the Hedge Agreements against amounts under the RBL Facility and provides for lifting the automatic stay with regard thereto in the event a "Hedge Forbearance Termination Event" occurs, including the termination of the RSA. (Interim Cash Collateral Order ¶ 10.) Such relief is unwarranted without further information and investigation into the purported setoff rights and the ability of the Prepetition Lenders to exercise them. No showing has been made regarding why the automatic stay should be lifted preemptively under such circumstances and therefore such relief should not be granted. The Prepetition Lenders should be required to take the necessary affirmative steps and seek relief from the Court to exercise any purported setoff rights pursuant to section 553 of the Bankruptcy Code.

49. Other Objections to the Cash Collateral Orders. The proposed Interim Cash Collateral Order lists a significant number (21) of "Termination Events." Moreover, with respect to all but five of such Termination Events, the occurrence of such Termination Event gives the Prepetition Lenders the immediate ability to exercise rights and remedies under the Interim Cash Collateral Order or applicable law, including the ability to foreclose on collateral, and results in

the deemed lifting of the automatic stay to permit such actions, *without any notice* required to first be given to the Debtors or any other party. (Interim Cash Collateral Order ¶¶ 8, 9.) The extent of the Termination Events, together with the Prepetition Lenders' ability in most cases to exercise rights and remedies with respect to the collateral without notice to any party in the event such Termination Event occurs, creates significant risk to the estates, and is likely to have a chilling effect on the ability of stakeholders to exercise their rights. Accordingly, the five business day notice period currently proposed in the Interim Cash Collateral Order with respect to certain of the Termination Events should instead apply to all of them.

50. The proposed Interim Cash Collateral Order also limits the content of any hearing regarding the exercise of rights and remedies to "(x) whether, in fact, the Termination Date shall have occurred and (y) the quantum of the Adequate Protection Obligations" and, subject to the right to seek nonconsensual use of cash collateral under certain circumstances, and waives any right of the Debtors to seek relief, including under section 105 of the Bankruptcy Code, "to the extent such relief would in any way impair or restrict the rights and remedies" of the First Lien Lenders or the Second Lien Lenders under the Interim Cash Collateral Order or the respective prepetition credit documents. There is no basis for such limitations, and they should be denied.

51. In the event the Prepetition Lenders are provided with any liens or claims on unencumbered collateral, the waiver by the Prepetition Lenders of the equitable doctrine of marshalling (Interim Cash Collateral Order ¶ 8) with respect to the Prepetition Lenders should be denied. The Prepetition Lenders should be required to recover from encumbered assets first, and should not be permitted to potentially destroy the only value available to unsecured creditors.

52. The payments received pursuant to the proposed Interim Order should not be deemed to be free and clear of any claim, charge, assessment, or other liability. *See* Interim Cash

Collateral Order ¶ 14. In the event of a successful challenge to any of the prepetition liens or claims of the Prepetition Lenders, the proposed Cash Collateral Orders should preserve the right of the parties to seek and the Court to direct the recharacterization as principal and/or, if applicable, the disgorgement of any payments made under the Cash Collateral Orders.

53. The releases given by the Debtors with respect to any "defenses, affirmative defenses, counterclaims, claims, causes of action, recoupments, setoff or other rights that they may have to contest (i) any Defaults or Events of Default (as such terms, or similar terms are defined in the . . . Second Lien Loan Documents, respectively) that were or could have been declared by the . . . the Second Lien Agent or the Second Lien Lenders as of the Petition Date and (ii) the amount of the Debtors' indebtedness to the . . . the Second Lien Agent or the Second Lien Secured Parties as of the Petition Date" (Interim Cash Collateral Order ¶ 29), are not supported by any consideration and should not be permitted.

Cash Management Motion [D.I. 5]

54. Pursuant to the Cash Management Motion, the Debtors seek entry of an order authorizing the continued use of their cash management system, including the performance of intercompany transfers. Certain of the Debtors – in particular, Samson Resources Company – may hold significant amounts of unencumbered cash at the Petition Date. The Cash Collateral Motion, therefore, may transfer potentially unencumbered cash into encumbered accounts, subject to the control of certain secured parties. In exchange for these transfers, the Cash Management Motion provides the transferor entity solely with an administrative expense claim against the transferee entity.

55. Absent modification, this presents two material potential problems. First, the administrative priority expense of a transferor would, by definition, be junior to secured and

superpriority administrative expenses at the transferee entity. Accordingly, any administrative priority expense obtained by a transferor entity might fail to protect its substantive economic interests. Second, certain secured parties ultimately could seek to exercise rights and remedies against cash which, but for its transfer, would reside in unpledged accounts at the transferor entities. The transfers, therefore, would increase secured recoveries at the expense of unsecured recoveries.

56. In order to remedy these defects in the Cash Management Motion, any order granting such motion should be modified to provide that (i) any postpetition intercompany claims arising from cash transfers will have superpriority administrative expense status under sections 507(b) and 364(c)(1) of the Bankruptcy Code[7] that is senior to any potential superpriority administrative expense that may be asserted by any prepetition creditor, and (ii) nothing in any order granting the Cash Collateral Motion will be construed to create or perfect, in favor of any person or entity, any interest in cash of a Debtor that did not exist as of the Petition Date.

Motion Authorizing Payment of Operating Expenses, Joint Interest Billings, Marketing Expenses, Shipping and Warehousing Claims, and 503(b)(9) Claims and Confirming Administrative Expense Priority of Outstanding Orders (the "**Prepetition Payments Motion**") [D.I. 6].

57. The Prepetition Payments Motion seeks authority to pay prepetition amounts for operating expenses, joint interest billings, marketing expenses, shipping and warehouse claims,

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[7] Bankruptcy courts have routinely granted superpriority administrative expense status to authorized postpetition intercompany claims. *See, e.g., In re Edison Mission Energy*, Ch. 11 Case No. 12-49219 (Bankr. N.D. Ill. May 15, 2013) [D.I. 768]; *In re Genco Shipping & Trading Ltd.,* Ch. 11 Case No. 14-11108 (Bankr. S.D.N.Y. July 3, 2014) [D.I. 326]; *In re MPM Silicones, LLC*, Ch. 11 Case No. 14-22503 (Bankr. S.D.N.Y. May 16, 2014) [D.I. 222]; *In re Cengage Learning, Inc.,* Ch. 11 Case No. 13-44106 (Bankr. E.D.N.Y. Aug. 20, 2013) [D.I. 304]; *In re MF Global Holdings Ltd.*, Ch. 11 Case No. 11-15059 (MG) (Bankr. S.D.N.Y. Dec. 14, 2011) [D.I. 276].

and other claims arising from the delivery of goods within twenty days prior to the Petition Date. The Debtors cannot assert that they are required to make these payments or that these claimants are secured. Given this reality, and the short amount of time between the filing of the Prepetition Payments Motion and the hearing to consider the relief requested therein, the Ad Hoc Group of Senior Noteholders – the most significant unsecured creditors in these Chapter 11 Cases – should be presented with a list of parties who are to receive payments under this motion in order to determine whether such payments are warranted. Given the significant disparity in anticipated recoveries between claimants to be paid pursuant to the Prepetition Payments Motion and other general unsecured creditors of the Debtors, any relief granted by the Court should be limited to only making payments that are absolutely necessary.

Motion to Approve Backstop Agreement (the "**Backstop Agreement Motion**") [D.I. 19]

58. The Backstop Agreement is intended to facilitate consummation of the Plan and the receipt of the full amount of the New Money Investment, pursuant to which the Backstop Parties will purchase the New Debt and the New Common Stock. The Backstop Agreement Motion seeks approval of (i) an Equity Grant in an amount equal to $45 million of New Common Stock issued at a 20% discount to the Plan Enterprise Value, (ii) a Backstop Holdback Equity, pursuant to which New Common Stock in an amount equal to 22.5% of the New Money Investment will be offered solely to the Equity Backstop Parties that agree to purchase those shares, and (iii) a $10 million transaction fee paid to the Backstop Parties at closing. The Backstop Parties' obligations are conditioned on the occurrence of the RSA Milestones. As the Backstop Agreement Motion states, the Backstop Agreement "enables the Debtors to move expeditiously to confirm and consummate the Plan by ensuring that the New Money Investment will be fully funded." (Backstop Mot. ¶ 23.) In light of the Outcome-Determinative Issues, and

for the reasons discussed above, the Backstop Agreement Motion should be denied at this time. The statement in the Motion that "holders of general unsecured claims . . . are not impacted" is absurd. (*Id.* ¶ 25.)

Motion to Approve Disclosure Statement and Procedures in Connection Therewith (the "**Disclosure Statement Motion**") [D.I. 18]

59. The Debtors seek an order approving, among other things, the RSA Milestones in connection with the confirmation process, including establishing (i) October 8, 2015 as the deadline to object to the Disclosure Statement, (ii) October 30, 2015 as the deadline for solicitation packages, including ballots, to be distributed to creditors, (iii) November 20, 2015 as the deadline to submit ballots and to object to the Plan, and (iv) December 1, 2015 as the hearing date to consider confirmation of the Plan. Given the critical Outcome-Determinative Issues that must be resolved before a plan can be considered, both by parties entitled to vote on the plan as well as the Court, the aggressive deadlines requested in the Disclosure Statement Motion should not be approved for the reasons discussed above. Notably, the Debtors have failed to provide any legitimate reason for why this aggressive schedule should be approved. The fact that the RSA says so is tautological; it is not a valid reason.

CONCLUSION

WHEREFORE the Ad Hoc Group of Senior Noteholders requests that the Court deny the First Day Pleadings to the extent set forth herein and grant such further relief as the Court deems just and proper.

Dated: September 18, 2015

Respectfully submitted,

FARNAN LLP

/s/ Michael J. Farnan
Joseph J. Farnan, Jr. (Bar No. 100245)
Joseph J. Farnan, III (Bar No. 3945)
Michael J. Farnan (Bar No. 5165)
919 North Market St., 12th Floor
Wilmington, DE 19801
Telephone: (302) 777-0300
Facsimile: (302) 777-0301
farnan@farnanlaw.com
jjfarnan@farnanlaw.com
mfarnan@farnanlaw.com

WHITE & CASE LLP
Thomas E Lauria (*pro hac vice* pending)
Southeast Financial Center, Suite 4900
200 South Biscayne Blvd.
Miami, FL 33131
Telephone: (305) 371-2700
Facsimile: (305) 358-5744
tlauria@whitecase.com

Glenn M. Kurtz (*pro hac vice* pending)
J. Christopher Shore (*pro hac vice* pending)
1155 Avenue of the Americas
New York, NY 10036
Telephone: (212) 819-8200
Facsimile: (212) 354-8113
gkurtz@whitecase.com
cshore@whitecase.com
Attorneys for the Ad Hoc Group
of Senior Noteholders

CERTIFICATE OF SERVICE

I, Michael J. Farnan, hereby certify that on September 18, 2015, a copy of Omnibus Response of Ad Hoc Group of Senior Noteholders to Certain First Day Pleadings was on the following as indicated:

Via E-Mail and Hand Delivery
Domenic E. Pacitti
Klehr Harrison Harvey Branzburg LLP
919 N. Market Street, Suite 1000
Wilmington, DE 19801
dpacitti@klehr.com

Attorneys for Debtors

Via E-Mail
Edward O. Sassower
James H.M. Sprayregen
Joshua Sussberg
Ryan J. Dattilo
Kirkland & Ellis LLP
edward.sassower@kirkland.com
james.sprayregen@kirkland.com
jsussberg@kirkland.com
ryan.dattilo@kirkland.com

Attorneys for Debtors

Via E-Mail and Hand Delivery
Tiiara N.A. Patton
United States Department of Justice
Office of the United States Trustee
J. Caleb Boggs Federal Building
844 King St., Suite 2207, Lockbox #35
Wilmington, DE 19801
tiiara.patton@usdoj.gov

U.S. Trustee

Via E-Mail
Morton R. Branzburg
Klehr Harrison Harvey Branzburg LLP
mbranzburg@klehr.com

Attorneys for Debtors

Via E-Mail and Hand Delivery
John H. Knight
Joseph C. Barsalona II
Richards, Layton & Finger, P.A.
One Rodney Square, 920 North King Street
Wilmington, DE 19801
knight@rlf.com
barsalona@rlf.com

Attorneys for Deutsche Bank Trust Company Americas

Via E-Mail
Margot B. Schonholtz
Ana Alfonso
Willkie Farr & Gallagher LLP
mschonholtz@willkie.com
aalfonso@willkie.com

Attorneys for Deutsche Bank Trust Company Americas

Via E-Mail and Hand Delivery
Jeffrey M. Schlerf
L. John Bird

Via E-Mail
Sean T. Scott
Charles S. Kelley

Fox Rothschild LLP
919 North Market Street, Suite 300
Wilmington, DE 19801
jschlerf@foxrothschild.com
lbird@foxrothschild.com

Attorneys for JPMorgan Chase Bank, N.A.

Mayer Brown LLP
stscott@mayerbrown.com
ckelley@mayerbrown.com

Attorneys for JPMorgan Chase Bank, N.A.

/s/ Michael J. Farnan
Michael J. Farnan (Bar No. 5165)