

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO**

In re:	)	
	)	Case No. 14-11360-TBM
SEQUOIA VOTING SYSTEMS, INC.	)	
	)	Chapter 11
Debtor.	)	

---

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING  
THE SECOND AMENDED (REVISED) PLAN OF SEQUOIA  
VOTING SYSTEMS, INC.**

---

On October 19, 2017, this Court conducted a hearing on confirmation of the Second Amended (Revised) Plan of Sequoia Voting Systems, Inc. (the “Plan”). Capitalized terms not defined herein shall have the meaning set forth in the Plan. In connection therewith, the Court finds as follows:

A. The Plan; Disclosure Statement for Second Amended (Revised) Chapter 11 Plan of Sequoia Voting Systems, Inc.; Order Approving Disclosure Statement and Setting Confirmation Hearing; and Ballot for Acceptance or Rejection of Plan of Reorganization were transmitted to all Holders of Claims and Equity Interests and other parties in interest in accordance with the Order Approving Disclosure Statement, as set forth in the Certificate of Service filed with the Bankruptcy Court [Docket No. 181].

B. On October 16, 2017, the Debtor’s Ballot Report Concerning Second Amended (Revised) Chapter 11 Plan of Sequoia Voting Systems, Inc. was filed, summarizing the voting on the Plan [Docket No. 184] (the “Voting Declaration”). The Voting Declaration certifies the results of the ballot tabulation for Class 2 voting to accept or reject the Plan.

C. No objections to confirmation of the Plan have been filed.

D. Pursuant to the Order Approving Disclosure Statement and Setting Confirmation Hearing, the Bankruptcy Court held a hearing commencing on October 19, 2017 at 1:30 p.m. (the “Confirmation Hearing”) to consider confirmation of the Plan.

NOW THEREFORE, based upon the Bankruptcy Court’s review and consideration of (i) the foregoing, and the other pleadings of record and other documents before the Bankruptcy Court in connection with the confirmation of the Plan, (ii) the record of the Confirmation Hearing (including all testimony proffered or presented and evidence admitted at the Confirmation Hearing), (iii) the entire record of this Chapter 11 Case, and (iv) the Bankruptcy Court finding that (A) notice of the Confirmation Hearing and the opportunity of any party in interest to object to confirmation were adequate and appropriate, in accordance with Bankruptcy Rule 2002(b) and the Order Approving Disclosure Statement and Setting Confirmation Hearing, and (B) the legal and factual bases presented at the Confirmation Hearing and as set forth in this Confirmation Order establish just cause for the relief granted herein; and after due deliberation thereon, and good cause appearing therefor;

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

THE COURT HEREBY FINDS AND CONCLUDES THAT:<sup>1</sup>

1. This Bankruptcy Court has jurisdiction over this Chapter 11 Case pursuant to 28 U.S.C. §§ 157 and 1334. Confirmation of the Plan is a “core proceeding” pursuant to 28 § 157(b)(2)(A), (L) and (O) and this Bankruptcy Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code, to determine whether the Plan should be confirmed and to enter a final order with respect hereto. Venue of this Chapter 11 Case is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The Debtor is qualified to be a chapter 11 debtor under section 109 of the Bankruptcy Code.

---

<sup>1</sup> Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Fed. R. Bankr. P. 7052.

2. The Debtor has standing under section 1121 of the Bankruptcy Code to file a plan. The Plan is dated and identifies the entity submitting it, thereby satisfying Bankruptcy Rule 3016(a). The filing of the Disclosure Statement with the Court satisfies Bankruptcy Rule 3016(b).

3. The Debtor has given notice of the Confirmation Hearing as required by Bankruptcy Rule 3017(d). Such notice was good and sufficient under the circumstances and no other or further notice is or shall be required.

4. Due, adequate and sufficient notice of the Disclosure Statement, Plan, and Confirmation Hearing, together with all deadlines for voting on or objecting to the Plan, has been given to known holders of Claims and Equity Interests, parties that requested notice in accordance with Bankruptcy Rule 2002, all counterparties to unexpired leases and executory contracts with the Debtor, and all taxing authorities listed on the Debtor's Schedules or claims register, in substantial compliance with Bankruptcy Rule 2002, 3017, and 3020, as shown on Docket No. 181, and no other or further notice is or shall be required.

5. The solicitation of votes to accept or reject the Plan satisfies Bankruptcy Rule 3018. The Plan was transmitted to all creditors entitled to vote on the Plan, and sufficient time was prescribed for such creditors to vote to accept or reject the Plan, thereby satisfying the requirements of Bankruptcy Rule 3018.

6. Prior to the Confirmation Hearing, the Debtor timely filed the Voting Declaration. All procedures used to tabulate the Ballots were fair and conducted in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, and all other applicable rules, laws, and regulations. As evidenced by the Voting Declaration, Creditors in Class 2 voted to accept the Plan. Unclassified Creditors with Administrative Claims, Priority Claims and

Convenience Claims in Class 1 are unimpaired and deemed to accept the Plan, and, therefore, are not entitled to vote to accept or reject the Plan.

7. The Debtor has met its burden of proving the elements of sections 1129(a) and (b) of the Bankruptcy Code by a preponderance of the evidence.

8. The Plan complies with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules and the orders of this Bankruptcy Court with respect to the Plan, thus satisfying the requirements of section 1129(a)(1) of the Bankruptcy Code.

9. The Debtor has complied with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules and the orders of this Bankruptcy Court with respect to the solicitation of acceptances or rejections of the Plan, including, without limitation, sections 1123, 1125 and 1126 of the Bankruptcy Code and Bankruptcy Rules 3017, 3018 and 3019, thus satisfying the requirements of section 1129(a)(2) of the Bankruptcy Code.

10. The Plan, and the compromises and settlements embodied therein, have been proposed in good faith and not by any means forbidden by law, thus satisfying the requirements of section 1129(a)(3) of the Bankruptcy Code.

11. All payments that have been made or are to be made by the Debtor under the Plan or by any person acquiring property under the Plan, for services or for costs and expenses in, or in connection with, the Chapter 11 Case, or in connection with the Plan and incident to the Chapter 11 Case, have been approved by, or will be subject to the approval of, the Bankruptcy Court as reasonable, thus satisfying the requirements of section 1129(a)(4) of the Bankruptcy Code.

12. The Debtor has made available all necessary information with respect to the identity of its officers, directors, and equity holders, and the appointment to, or continuance in,

office of such individuals is consistent with the interests of holders of Claims and Equity Interests and with public policy, thus satisfying the requirements of section 1129(a)(5) of the Bankruptcy Code.

13. The Debtor's business does not involve the establishment of rates over which any regulatory commission has jurisdiction or will have jurisdiction after confirmation. Thus, section 1129(a)(6) of the Bankruptcy Code is inapplicable to these Chapter 11 Cases.

14. Section 1129(a)(7) of the Bankruptcy Code requires that each holder of a Claim or Interest in an impaired class accept the Plan, or receive or retain under the Plan property having a value, as of the Effective Date of the Plan, that is not less than the amount that such holder would receive on account of such Claim or Interest if such Debtor were liquidated under Chapter 7 of the Bankruptcy Code. Classes 2 and 3 are impaired under the Plan. The Disclosure Statement and the other evidence proffered or adduced at the Confirmation Hearing (i) are persuasive and credible, (ii) have not been controverted by other evidence or challenged in any objection to confirmation of the Plan, and/or (iii) establish that each holder of an impaired Claim in Classes 2 and 3 has either accepted the Plan or will receive or retain under the Plan property having a value, as of the Effective Date of the Plan, that is not less than the amount that such holder would receive or retain if the Debtor were liquidated under Chapter 7 of the Bankruptcy Code on such date, thus satisfying the requirements of section 1129(a)(7) of the Bankruptcy Code.

15. Section 1129(a)(8) of the Bankruptcy Code requires that for each Class of Claims or Equity Interests under the Plan, such Class has either accepted the Plan or is not impaired under the Plan. Unimpaired Class 1 is conclusively presumed to have accepted the Plan without the solicitation of acceptances or rejections pursuant to section 1126(f) of the Bankruptcy Code. Impaired Class 2 has voted to accept the Plan.

16. The treatment of Administrative Expenses specified in Article 3 of the Plan satisfies the requirements of Bankruptcy Code section 1129(a)(9)(A). The treatment of Priority Claims for taxes under Article 3 of the Plan satisfies the requirements of Bankruptcy Code section 1129(a)(9)(C).

17. The Plan has been accepted by impaired Class 2 determined without consideration of any acceptance of the Plan by insiders, thus satisfying the requirement of section 1129(a)(10) of the Bankruptcy Code.

18. Confirmation of the Plan is not likely to be followed by the need for further financial reorganization of the Debtor, as the Plan is predicated upon the liquidation of the Debtor and the payment of all Allowed Administrative and Priority Claims, as and to the extent required by the Bankruptcy Code. Holders of Claims shall receive distributions in accordance with the priority scheme of the Bankruptcy Code and the provisions of the Plan, thus satisfying the feasibility requirements of section 1129(a)(11) of the Bankruptcy Code.

19. The Debtor has paid, or will pay on the Effective Date, all amounts due under 28 U.S.C. § 1930, thus satisfying the requirements of section 1129(a)(12) of the Bankruptcy Code.

20. The Debtor provides no retiree benefits, as that term is defined in section 1114 of the Bankruptcy Code, and thus the Plan satisfies the requirements of section 1129(a)(13) of the Bankruptcy Code.

21. The Debtor is not required by a judicial or administrative order, or by statute, to pay any domestic support obligations. Accordingly, section 1129(a)(14) of the Bankruptcy Code is inapplicable in this Chapter 11 Case.

22. The Debtor is not an individual and, accordingly, section 1129(a)(15) of the Bankruptcy Code is inapplicable in this Chapter 11 Case.

23. The Debtor is a moneyed, business, or commercial corporation and, accordingly, section 1129(a)(16) of the Bankruptcy Code is inapplicable in this Chapter 11 Case.

24. The Debtor has requested that the Bankruptcy Court confirm the Plan, notwithstanding the fact that the holders of Interests in Class 3 were deemed to reject the Plan (the "Rejecting Class"). The Debtor has satisfied the requirements of sections 1129(b)(1) and (b)(2) of the Bankruptcy Code with respect to the Rejecting Class as the Plan does not discriminate unfairly and is fair and equitable with respect to the Rejecting Class. Thus the Plan may be confirmed notwithstanding the rejection of the Plan by the Rejecting Class. Upon confirmation and the occurrence of the Effective Date, the Plan shall be binding upon the members of the Rejecting Class.

25. The Plan is the only Plan for which confirmation is sought at this time. As a result, the requirements of section 1129(c) of the Bankruptcy Code have been satisfied.

26. The principal purpose of the Plan is not the avoidance of taxes or avoidance of the requirements of section 5 of the Securities Act of 1933 and no governmental unit has requested that the Bankruptcy Court deny confirmation on such basis, thus satisfying the requirements of section 1129(d) of the Bankruptcy Code.

27. The Bankruptcy Court finds that it may properly retain jurisdiction over the matters set forth in Article 11(E) of the Plan and section 1142 of the Bankruptcy Code.

28. Article 2 of the Plan adequately and properly identifies and classifies all Claims and Equity Interests. The Claims or Equity Interests placed in each Class are substantially similar to other Claims or Equity Interests, as the case may be, in each such Class, and such classification is therefore consistent with Section 1122 of the Bankruptcy Code. Valid business, factual and legal reasons exist for the various Classes of Claims and Equity Interests created under the Plan, and such classification does not unfairly discriminate among holders of Claims or

Equity Interests. The Plan's classification scheme recognizes the differing legal and equitable rights of creditors versus holders of Equity Interests, secured versus unsecured Claims and priority versus non-priority Claims. Accordingly, the Plan satisfies section 1123(a)(1) of the Bankruptcy Code.

29. The Plan specifies in Article 2 that Class 1 is not impaired under the Plan, thereby satisfying section 1123(a)(2) of the Bankruptcy Code.

30. The Plan specifies in Article 2 the Classes of Claims and Equity Interests that are impaired, and specifies in Article 2 the treatment of the impaired Classes, thereby satisfying section 1123(a)(3) of the Bankruptcy Code.

31. The Plan provides for the same treatment for a Claim or Equity Interest in each respective Class unless the holder of a particular Claim or Equity Interest has agreed to a less favorable treatment of such Claim or Equity Interest, thereby satisfying section 1123(a)(4) of the Bankruptcy Code.

32. Article 6 of the Plan provides adequate and proper means for implementation of the Plan, thereby satisfying section 1123(a)(5) of the Bankruptcy Code. Among other things, Article 6 provides for (i) the continued existence and administration of the Debtor and (ii) the vesting of the property of the Debtor's Estate, free and clear of liens, except as provided in the Plan.

33. Article 6 of the Plan regarding corporate governance of the Debtor is consistent with the interests of creditors and equity security holders and with public policy, thereby satisfying section 1123(a)(7) of the Bankruptcy Code.

34. The Debtor will not assume any unexpired leases or executory contracts under the Plan.



Accordingly, it is hereby ORDERED, ADJUDGED AND DECREED that:

I. Approval. The Plan, including all exhibits, provisions, terms and conditions thereto, is approved and confirmed, as having satisfied all of the requirements of Chapter 11 of the Bankruptcy Code. There were no objections to the Plan. The terms of the Plan are incorporated herein by reference and are an integral part of this Confirmation Order.

II. Findings of Fact and Conclusions of Law. The findings of fact and conclusions of law of the Bankruptcy Court set forth herein and at the Confirmation Hearing shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, as made applicable herein by Bankruptcy Rule 9014, and the findings and conclusions of the Bankruptcy Court at the Confirmation Hearing are incorporated herein by reference. To the extent any finding of fact shall be determined to be a conclusion of law, it shall be so deemed, and vice versa.

III. Discharge of Claims.

A. As of the Effective Date, except as otherwise provided herein or in the Plan, all Persons shall be precluded from asserting against the Debtor any other or further claims, debts, rights, causes of action, claims for relief, liabilities, or equity interests relating to the Debtor based upon any act, omission, transaction, occurrence, or other activity of any nature that occurred prior to the Effective Date. In accordance with the foregoing, except as otherwise provided herein or in the Plan, this Confirmation Order constitutes a judicial determination of discharge of all such Claims and other debts and liabilities against the Debtor, pursuant to sections 524 and 1141 of the Bankruptcy Code, and such discharge shall void any judgment obtained against the Debtor at any time, to the extent that such judgment relates to a discharged Claim; provided, however, that none of the foregoing shall preclude an applicable governmental taxing authority from conducting a tax audit covering the postpetition, pre-Effective Date period

or from asserting and recovering a claim arising from such tax audit, to the extent such claim is an Allowed Claim.

B. Except as otherwise provided herein or in the Plan, all consideration distributed under the Plan shall be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims of any nature whatsoever against the Debtor or any of its assets or properties. Upon the Effective Date, the Debtor shall be deemed discharged and released under section 1141(d)(1)(A) of the Bankruptcy Code from any and all Claims, including, but not limited to, demands and liabilities that arose before the Effective Date, and all debts of the kind specified in section 502 of the Bankruptcy Code, whether or not (i) a Proof of Claim based upon such debt is filed or deemed filed under section 501 of the Bankruptcy Code, (ii) a Claim based upon such debt is Allowed under section 502 of the Bankruptcy Code, (iii) a Claim based upon such debt is or has been disallowed by Order of the Bankruptcy Court, or (iv) the holder of a Claim based upon such debt accepted the Plan.

IV. Effect of Confirmation; Binding Effect. The Debtor is hereby authorized but not directed to make the Plan effective and to consummate the Plan at any time following entry of this Confirmation Order in accordance with the terms of the Plan. The failure to reference any particular provision of the Plan in this Order or these findings shall have no effect on this Court's approval and authorization of, or the validity, binding effect and enforceability of such provision; and each provision of the Plan is authorized and approved and shall have the same validity, binding effect and enforceability as every other provision of the Plan, whether or not mentioned in this Order or these findings.

V. Authority to Effectuate Plan. Pursuant to Bankruptcy Code section 1142, and without further action by the Bankruptcy Court, the Debtor and the Plan Administrator shall be authorized to (a) execute, deliver and consummate all documents, agreements and instruments

and take all actions necessary or appropriate to enter into and perform all obligations under the Plan, and to take all other actions and execute, deliver, record and file all such other agreements, documents, instruments, financing statements, mortgages, deeds of trust, releases, applications, registration statements, reports and any changes, additions and/or modifications thereto in connection with the consummation of the transactions contemplated by the Plan, (b) take all other actions and execute, deliver, record, and file all other such agreements, documents, instruments, mortgages, deeds of trust, financing statements, releases, applications, registration statements, reports and changes, additions, or modifications thereto, and the performance thereof, including, (c) pay all fees, costs, and expenses, if any, to be paid in connection with the Plan.

To effectuate the Plan and such transactions, the officers or responsible representatives of the Debtor and the Plan Administrator are authorized, without further notice or application to or order of the Court, to execute, deliver, file or record such agreements or documents, and to take such other actions to effectuate the Plan and such transactions.

VI. General Authorizations. Under Bankruptcy Code section 1142(b) and the terms of the Plan, the Debtor and the Plan Administrator, as the case may be, and any officers thereof, are authorized without the need for further shareholder, member or Bankruptcy Court approval to execute and deliver, and take such action as is necessary to effectuate the terms of, implement, or further evidence, the contracts, instruments, securities and other agreements and documents contemplated by the Plan and the terms and conditions of the Plan. The approvals and authorizations specifically set forth in this Order are not intended to limit the authority of any Debtor or the Plan Administrator, or any officer thereof to take any and all actions necessary to implement, effectuate and consummate any and all documents or transactions contemplated by the Plan or this Order.

VII. Vesting of Property. The vesting in the Debtor on the Effective Date of the property of the Debtor's Estate (a) is a legal, valid, and effective transfer of property, (b) vests the Debtor with good title to such property free and clear of all liens, Claims, and Equity Interests, except as specifically provided in the Plan and this Confirmation Order, (c) does not constitute an avoidable transfer under the Bankruptcy Code or under applicable non-bankruptcy law, and (d) does not and shall not subject the Debtor to any liability by reason of such transfer under the Bankruptcy Code or under applicable non-bankruptcy law. Upon the vesting of such property in the Debtor on the Effective Date, except to the extent limited by the Plan, the Debtor is authorized to operate its business in the ordinary course of business and is further authorized to use, acquire and dispose of such property free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Court.

VIII. Executory Contracts and Leases. Except as otherwise provided in the Plan, or in any contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan, as of the Effective Date, all executory contracts and unexpired leases that are not to be assumed under the Plan or that have not previously been assumed, assumed and assigned, or rejected in these Cases pursuant to an order of the Court or subject to a pending motion are, as of the Effective Date, deemed automatically rejected by the Debtor without further action or notice, and any party thereto wishing to file a claim shall do so pursuant to the provisions of the Plan. Failure to do so shall permanently bar any such claim.

IX. Injunction. Except as provided in the Plan or this Confirmation Order, as of the Effective Date, all Persons that have held, currently hold, may hold, or allege that they hold, a Claim or other debt or liability that is discharged pursuant to the terms of the Plan are permanently enjoined from taking any of the following actions against the Debtor or its property on account of any such discharged Claims, debts, or liabilities: (i) commencing or continuing, in any manner

or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any lien, security interest or encumbrance; (iv) asserting a setoff or right of subrogation of any kind against any debt, liability, or obligation due to the Debtor; or (v) commencing or continuing any action, in each such case in any manner, in any place, or against any Person that does not comply with or is inconsistent with the provisions of the Plan.

Provided further, that as of the Effective Date, except to the extent prohibited or limited by applicable law, and except as provided in the Plan or this Confirmation Order, all Persons that have held, currently hold, or may hold, a Claim, obligation, suit, judgment, damage, demand, debt, right, cause of action, or liability that is released pursuant to the Plan are permanently enjoined from taking any of the following actions on account of such released Claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any lien, security interest or encumbrance; or (iv) commencing or continuing any action, in any manner, in any place, or against any Person that does not comply with or is inconsistent with the provisions of the Plan.

X. Distributions; Reserves. The provisions of the Plan governing distributions, reserves and the procedures for resolving and treating Contested Claims under the Plan are approved and found to be fair and reasonable.

XI. Section 1146(a) Waiver. By virtue of Bankruptcy Code section 1146(a), and notwithstanding any applicable nonbankruptcy law, neither the Debtor nor any party to a transfer, assignment, exchange of any property (including the transfer of any debt or equity security, or the creation of a lien or security interest), or any other transaction

contemplated by and/or implemented pursuant to the Plan, shall be liable for any stamp, mortgage, transfer, recording, documentary or intangible taxes or similar charges that otherwise would be payable to a governmental unit in connection with such transactions and the recordation of instruments in connection with such transactions.

XII. Retention of Jurisdiction. Notwithstanding confirmation of the Plan or the occurrence of the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising out of, and related to, this Case and the Plan to the fullest extent permitted by law, including among other things, jurisdiction over the matters set forth in Article 11 of the Plan.

XIII. Technical Amendments. Prior to the Effective Date, the Debtor may make appropriate technical amendments and modifications to the Plan without further order or approval of this Court, provided that such technical amendments and modifications do not adversely affect in a material way the treatment of holders of Claims or Equity Interests.

XIV. Notice of Entry of Confirmation Order. The Debtor shall serve notice of entry of this Confirmation Order no later than seven days after the Effective Date.

XV. Inconsistency. In the event of an inconsistency between the Plan and any other agreement, instrument or document intended to implement the provisions of the Plan, the provisions of the Plan shall govern unless otherwise expressly provided for in such agreements, instruments or documents. In the event of any inconsistency between the Plan, any agreement, instrument or document intended to implement the Plan and this Confirmation Order, the provisions of this Confirmation Order shall govern.

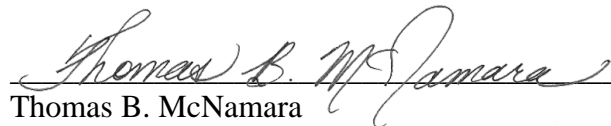
XVI. Enforceability. Pursuant to Bankruptcy Code sections 1123(a), 1141(a) and 1142(a) and subject to the occurrence of the Effective Date, the provisions of this Confirmation Order, the Plan, the Plan Supplement and all plan-related documents shall apply and be enforceable notwithstanding any otherwise applicable non-bankruptcy law.

XVII. Non-Severable. The Provisions of this Order are non-severable and mutually dependent.

XVIII. Third Party Rights. Nothing herein shall modify, alter or have any preclusive effect on the rights and remedies of any Creditor existing under applicable law with respect to parties other than the Debtor.

Dated: October 20, 2017

BY THE COURT:

  
Thomas B. McNamara  
United States Bankruptcy Judge