IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
PARAGON OFFSHORE PLC, *et al.*,	)	Case No. 16-10386 (CSS)
Debtors.[1]	)	Jointly Administered
	)	**Hearing Date: March 14, 2017 at 1:00 p.m. (ET)**
	)	**Ref. Docket No. 1094**

OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO THE MOTION OF DEBTORS FOR ENTRY OF ORDER (I) APPROVING PROPOSED DISCLOSURE STATEMENT AND FORM AND MANNER OF NOTICE OF DISCLOSURE STATEMENT HEARING, (II) ESTABLISHING SOLICITATION AND VOTING PROCEDURES, (III) SCHEDULING CONFIRMATION HEARING AND (IV) ESTABLISHING NOTICE AND OBJECTION PROCEDURES FOR CONFIRMATION OF THE PROPOSED PLAN PURSUANT TO SECTIONS 105, 502, 1125, 1126, AND 1128 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 2002, 3003, 3017, 3018, 3020, AND 9006 AND LOCAL RULES 2002-1, 3017-1, AND 9006-1

The Official Committee of Unsecured Creditors (the "Official Committee") of the above-captioned debtors and debtors in possession (collectively, the "Debtors"), by and through its undersigned proposed counsel, hereby objects (the "Objection") to the *Motion of Debtors for Entry of Order (I) Approving Proposed Disclosure Statement and Form and Manner of Notice of Disclosure Statement Hearing, (II) Establishing Solicitation and Voting Procedures,*

[1] The Debtors in the Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Paragon Offshore plc (6017); Paragon Offshore Finance Company (6632); Paragon International Finance Company (8126); Paragon Offshore Holdings US Inc. (1960); Paragon Offshore Drilling LLC (4541); Paragon FDR Holdings Ltd. (4731); Paragon Duchess Ltd.; Paragon Offshore (Luxembourg) S.à r.l. (5897); PGN Offshore Drilling (Malaysia) Sdn. Bhd. (9238); Paragon Offshore (Labuan) Pte. Ltd. (3505); Paragon Holding SCS 2 Ltd. (4108); Paragon Asset Company Ltd. (2832); Paragon Holding SCS 1 Ltd. (4004); Paragon Offshore Leasing (Luxembourg) S.à r.l. (5936); Paragon Drilling Services 7 LLC (7882); Paragon Offshore Leasing (Switzerland) GmbH (0669); Paragon Offshore do Brasil Ltda.; Paragon Asset (ME) Ltd. (8362); Paragon Asset (UK) Ltd.; Paragon Offshore International Ltd. (6103); Paragon Offshore (North Sea) Ltd.; Paragon (Middle East) Limited (0667); Paragon Holding NCS 2 S.à r.l. (5447); Paragon Leonard Jones LLC (8826); Paragon Offshore (Nederland) B.V.; and Paragon Offshore Contracting GmbH (2832). The Debtors' mailing address is 3151 Briarpark Drive, Suite 700, Houston, Texas 77042.

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(III) Scheduling Confirmation Hearing and (IV) Establishing Notice and Objection Procedures for Confirmation of the Proposed Plan Pursuant to Sections 105, 502, 1125, 1126 and 1128 of the Bankruptcy Code and Bankruptcy Rules 2002, 3003, 3017, 3018, 3020, and 9006 and Local Rules 2002-1, 3017-1, and 9006-1 [D.I. 1094] (the "Disclosure Statement Motion").[2] In support of this Objection, the Official Committee respectfully represents as follows:

PRELIMINARY STATEMENT

The Disclosure Statement does not contain "adequate information" for creditors to evaluate and vote on the Debtors' latest Plan.[3] Having failed twice to confirm a "reinstatement plan" in these cases, the Debtors have done a complete about-face and now seek confirmation of a vastly different plan that is premised largely on a previously undisclosed adequate protection claim asserted by the Secured Lenders (the "Adequate Protection Claim"), a brand new settlement of, among other things, the very same Adequate Protection Claim, and a vastly diminished valuation of the Debtors' business.

The Debtors, however, are not writing on a blank slate. There is a history here that bears directly on creditors' evaluation of the current Plan. Creditors are entitled to a fulsome explanation of what has changed to so dramatically alter creditor recoveries and why the Debtors are now adopting positions – most notably on valuation and adequate protection – that are entirely inconsistent with those they supported only mere months ago. Sure the Debtors' Prior Plans (as defined below) were not confirmed, and the Debtors of course note that in the

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[2] Capitalized terms used and not defined herein shall have the meanings ascribed them in the Disclosure Statement Motion or the *Disclosure Statement for Third Joint Chapter 11 Plan of Paragon Offshore PLC and its Affiliated Debtors* [D.I. 1093] (the "Disclosure Statement").

[3] The Official Committee also believes the Disclosure Statement describes a Plan that is unconfirmable. In addition, the Official Committee disputes whether the Bankruptcy Rule 9019 standard can displace Bankruptcy Code section 1129's more rigorous requirements, including the "best interests" requirement, particularly as to the Adequate Protection Claim. However, the Official Committee reserves argument on confirmation issues and standards for the confirmation trial that is scheduled to begin on June 5, 2017.

Disclosure Statement, but that does not suffice to explain the Debtors' about-face. Indeed, the Court was careful in its confirmation decision to not take a position on the value of the Debtors' enterprise or assets.[4] Why then in such a short period of time has the value of the Debtors' business, in their view, eroded so significantly – despite improvements in both oil and gas prices and the valuations of peer companies – and why all of a sudden are the Secured Lenders entitled to a massive Adequate Protection Claim that the Debtors settled almost as quickly as the Secured Lenders asserted it when up until recently there was no mention of such a claim? The Debtors' prior liquidation analysis filed in these cases and admitted into evidence makes no mention of any such claim. How do the Debtors reconcile such seemingly irreconcilable positions? Creditors deserve answers to these questions, and the Disclosure Statement is entirely bereft of them.

In addition to explaining what has changed, the Debtors need to disclose the details of the proposed settlement of the Adequate Protection Claim and the other claims that comprise the 9019 settlement with the Secured Lenders (the "Secured Lender Settlement"). Other than disclosing the terms of the settlement and some cursory and unsupported statements about the complexity and expense of litigating the various claims, there is absolutely no explanation of the various legal and factual issues, the plusses and minuses of the settlement, or the range of potential outcomes. Since by the Debtors' own account the Secured Lender Settlement is "the fundamental foundation of the Plan," creditors require all of that information if they are going to be asked to vote on the Plan.[5]

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[4] (*See Findings of Fact and Conclusions of Law Denying Confirmation of the Amended Joint Chapter 11 Plan of Paragon Offshore PLC and its Affiliated Debtors* [D.I. 890] ¶ 83 ("[I]t is not necessary for the Court to consider the extensive evidence submitted by the parties as to balance sheet solvency (or insolvency) in this case . . . .")

[5] (Disclosure Statement, at Art. VI.D.1.)

Another important aspect of the Plan about which the Debtors' disclosure is lacking is the Debtors' proposed settlement with Noble pursuant to the Noble Settlement Agreement (the "Noble Settlement"). Unlike the new Secured Lender Settlement discussed above, the Noble Settlement is the one significant constant between the Prior Plans and the current Plan. However, nowhere do the Debtors disclose the new developments since confirmation of the Second Amended Plan was denied that call into serious question the continuing bona fides of that settlement. Those include the following:

- The Debtors' prior assessment that bonding is required to challenge the potential Mexican tax liabilities may no longer be accurate. This bonding requirement was lauded in prior testimony as the key benefit the Debtors' estates would obtain from the Noble Settlement.[6]

- Contrary to the Debtors' Prior Plans, which assumed go-forward operations in Mexico, the Reorganized Debtors project only "some additional activity" in Mexico, thus calling into question the necessity of the Noble Settlement.

- The Mexican tax authorities did not file ***any*** proofs of claim prior to the General Bar Date and, therefore, are barred from asserting any claims against the Debtors pursuant to the Bar Date Order (as defined below).

In light of these new facts, and with unsecured creditor recoveries greatly diminished under the current Plan, creditors deserve disclosure around why continued pursuit of the Noble Settlement remains in their interests, as opposed to the Debtors abandoning the settlement and contributing the estates' claims against Noble into a litigation trust for the benefit of unsecured creditors.

The Disclosure Statement suffers from the following additional infirmities:

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[6] (Decl. of Todd D. Strickler in Support of Approval of the Noble Settlement Agreement Pursuant to Bankruptcy Rule 9019 (D.I. 716) ("Strickler Decl.") ¶ 63 (describing the terms of the Noble Settlement and noting that "[m]ost importantly, Noble agreed to cover all bonding fees . . . ."); ¶ 68 ("Paragon had no other viable options for bonding in Mexico . . . ."); ¶ 69 ("With the Noble Settlement Agreement, Paragon received the bonding it needs but cannot obtain elsewhere and obtained the flexibility it needed to negotiate a potential restructuring with its other creditor constituencies, both outcomes that are incredibly valuable to Paragon.")

- it is missing material terms affecting the New Equity Interests, including proposed minority protections, governance rights, and other terms to be included in the Shareholders Agreement; those terms should at least be summarized in the Disclosure Statement as they could meaningfully impact creditor recoveries given that the Senior Noteholders will receive approximately 42% of the reorganized Debtors' equity;[7]

- it lacks an explanation of the rationale for the Secured Lenders asserting both a secured and unsecured claim for the full principal amount owing to them;

- it lacks disclosure of the Senior Noteholders' assertion of their entitlement to make-whole payments under the Senior Notes; and

- it lacks information on the estimated recovery for holders of General Unsecured Creditors in Class 5.

For these and the other reasons set forth below, the Disclosure Statement should not be approved.

Alternatively, in the event the Disclosure Statement is approved with additional disclosure of the various matters raised herein, the Debtors should nonetheless be directed to include in the Solicitation Package a letter from the Official Committee addressed to all general unsecured creditors (the "Official Committee's Letter"), a draft copy of which is attached hereto as Exhibit A, setting forth the Official Committee's recommendation that unsecured creditors vote against the Plan.[8]

LEGAL STANDARD

1. Section 1125(b) of the Bankruptcy Code requires a plan proponent to furnish creditors with "a written disclosure statement approved, after notice and a hearing, by the court

[7] Relatedly, there should be some explanation of why board designation rights are not *pro rata* based on parties' New Equity Interests. It is proposed that the Secured Lenders, who will receive approximately 58% of the New Equity Interests, shall appoint five members of the New Board, while the Official Committee is entitled to appoint only one member, though the Senior Noteholders are to receive approximately 42% of the New Equity Interests.

[8] The Official Committee reserves the right to modify the Official Committee Letter prior to the mailing of the Solicitation Packages.

as containing adequate information" in order to solicit acceptances or rejections of a proposed chapter 11 plan. 11 U.S.C. § 1125(b). "Adequate information" is defined in the Bankruptcy Code as:

> [i]nformation of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records . . . that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan[.]

11 U.S.C. § 1125(a)(1).

2. As the Third Circuit has stated, "the importance of full and honest disclosure cannot be overstated." *Ryan Operations G.P.* v. *Santiam-Midwest Lumber Co.*, 81 F.3d 355, 362 (3d Cir. 1996); *see also Krystal Cadillac-Oldsmobile GMC Truck, Inc.* v. *Gen. Motors Corp.*, 337 F.3d 314, 322 (3d Cir. 2003) ("The importance of full disclosure is underlaid by the reliance placed upon the disclosure statement by the creditors and the court. Given this reliance, we cannot overemphasize the debtor's obligation to provide sufficient data to satisfy the Code standard of adequate information.") (quoting *Oneida Motor Freight, Inc.* v. *United Jersey Bank*, 848 F.2d 414, 417 (3d Cir. 1988)).

3. The plan proponent has the burden of proof regarding the adequacy of a disclosure statement. *See In re Am. Capital Equip., LLC*, 688 F.3d 145, 155 (3d Cir. 2012). To be approved, a disclosure statement must "contain simple and clear language delineating the consequences of the proposed plan on [creditors'] claims and the possible [Bankruptcy] Code alternatives . . . ." *In re Copy Crafters Quickprint, Inc.*, 92 B.R. 973, 981 (Bankr. N.D.N.Y. 1988). In particular, a disclosure statement must provide enough information for creditors "make an intelligent and informed decision as to whether to accept or reject the plan." *Id.* Courts determine the adequacy of information in a disclosure statement based on the facts and

circumstances of each case. *See In re Lisanti Foods, Inc.*, 329 B.R. 491, 507 (D.N.J. 2005), *aff'd sub nom. In re Lisanti Foods Inc.*, 2007 WL 2212720 (3d Cir. Aug. 2, 2007).

4. Critically, even if a party could find additional information through formal discovery, the availability of such information through discovery does not render a disclosure statement adequate. *See In re Michelson*, 141 B.R. 715, 719 (Bankr. E.D. Cal. 1992). Instead, the Bankruptcy Code expressly provides that reference to outside information for the "hypothetical investor" is limited to that which normal holders would generally have based on their general "relationship with the debtor." 11 U.S.C. 1125(a)(2). Thus, a disclosure statement is not supposed to be initially opaque only to have the full picture and basis of the plan revealed through creditors undertaking expert analysis and taking extensive discovery in connection with Plan confirmation. Rather, the Debtors have an obligation in the first instance to provide information sufficient to allow creditors to make informed determinations as to whether to accept or reject the Plan. They have not satisfied this obligation.

OBJECTION

I. THE PROPOSED DISCLOSURE STATEMENT DOES NOT CONTAIN ADEQUATE INFORMATION FOR CREDITORS TO VOTE ON THE PLAN

5. The Disclosure Statement lacks adequate information in the following important areas, each of which is necessary for creditors to make an informed decision on whether to accept or reject the Plan: (i) information underlying the purported Adequate Protection Claim; (ii) an explanation of the Debtors' prior inconsistent positions and previously undisclosed information with respect thereto; (iii) the Debtors' and Secured Lenders' respective positions regarding the Secured Lender Settlement; (iv) material changes in the facts and circumstances relating to the Noble Settlement since confirmation of the Second Amended Plan was denied; (v) a description of the material proposed terms of the Shareholder Agreement and other

corporate documents (*e.g.*, minority shareholder protections, governance and the like) which bear directly on the value that Senior Noteholders will receive under the Plan; (vi) information as to the classification and amount of the Secured Lenders' Class 4 Claims; and (vii) information on the potential recoveries for holders of Class 5 Claims.

A. The Proposed Disclosure Statement Does Not Contain Adequate Information as to the Amount and Basis of the Adequate Protection Claim Which, Together with the Secured Lender Settlement, Is the Central Component of the Plan

6. The centerpiece of the Plan – and the purported justification for the Debtors' disproportionate distribution of otherwise unencumbered cash – is the Debtors' proposed resolution of the Secured Lenders' purported Adequate Protection Claim. Except for the comparatively small adequate protection amount previously stipulated to[9], no party in these cases has ever before asserted the Adequate Protection Claim. Now, more than one year into these cases, the Debtors expect unsecured creditors to blindly accept the existence and quick settlement of a massive Adequate Protection Claim without any meaningful description whatsoever regarding the legal basis and factual underpinnings of the asserted magnitude of this alleged Adequate Protection Claim, and the Debtors' and Secured Lenders' respective positions with respect thereto. Where, as here, the Adequate Protection Claim is the fundamental element of the Plan and substantially diminishes unsecured creditors' recoveries, the short shrift the Debtors give to it in the Disclosure Statement is the antithesis of "adequate information."

7. By way of example, the amount of any adequate protection claim depends on a starting and ending valuation of the Secured Lenders' collateral. *See Official Comm. of*

[9] (*See Second Order Granting Relief Relating to the Final Order (I) Authorizing the Debtors to Utilize Cash Collateral and (II) Granting JPMorgan Chase Bank, N.A., as Administrative Agent for the Revolver Lenders and Collateral Agent for the Revolver Lenders and Term Loan Lenders, and Cortland Capital Market Services LLC, as Successor Administrative Agent for the Term Loan Lenders, Adequate Protection Pursuant to Sections 105, 361, 362, 363 and 507 of the Bankruptcy Code* ¶ 3 [D.I. 964].)

Unsecured Creditors v. *UMB Bank, N.A.* (*In re Res. Capital, LLC*), 501 B.R. 549, 594–95 (Bankr. S.D.N.Y. 2013). The Disclosure Statement, however, fails to provide even a baseline starting valuation for the collateral or any analysis of how that valuation was arrived at, let alone an analysis of how such valuation changed so dramatically. The Debtors instead provide only a projected Effective Date enterprise mid-point valuation of $613 million (with a range of $550 million to $675 million), with very little explanation of changes in the projected Effective Date valuation as compared to the Debtors' prior valuations, and no assessment of the impact of improvements in oil and gas prices, the overall market for rigs, and peer company valuations.

8. It is no excuse that the Plan contemplates a settlement of the purported Adequate Protection Claim. As discussed further below, settlements in bankruptcy still require adequate disclosure of the settlement and how the parties arrived at the settlement amount. *See Protective Committee for Independent Stockholders of TMT Trailer Ferry. Inc.* v. *Anderson*, 390 U.S. 414, 424 (1968) (explaining that "[t]here can be no informed and independent judgment as to whether a proposed compromise is fair and equitable until the bankruptcy judge has apprised himself of all facts necessary for an intelligent and objective opinion of the probabilities of ultimate success should the claim be litigated [including, among other things,] the complexity, expense and likely duration of such litigation . . . and all other facts relevant to a full and fair assessment of the wisdom of the proposed compromise."); *see also In re Jackson Brewing Co.*, 624 F.2d 605, 608 (5th Cir. 1980) (noting that "there must be a substantial factual basis for the approval of a compromise . . . ."). To support the settlement of the Adequate Protection Claim, the Debtors must, at a minimum, set forth in the Disclosure Statement the details underlying the Adequate Protection Claim and the methodology they and the Secured Lenders used for calculating the Adequate Protection Claim and arriving at the settlement, including the value of the Secured

Lenders' collateral as of the start and end dates for the Adequate Protection Claim calculations and any explanation of how and why they arrived at those valuations.

9. In addition, in respect of the proposed settlement of the Adequate Protection Claim, the Disclosure Statement provides only that the Secured Lenders contend that the Adequate Protection Claim exceeds $600 million and that the Debtors have settled with the Secured Lenders for $352 million. There is no explanation regarding: (a) the factual or legal basis for the Secured Lenders' assertion; (b) the Debtors' position on what, if any, Adequate Protection Claim the Secured Lenders are entitled to and why the Debtors' view has changed from their prior positions in these cases; (c) how the parties arrived at the settlement amount; or (d) the justification for the settlement amount. This disclosure is critical because the $352 million Adequate Protection Claim completely guts the Senior Noteholders' share of the unencumbered cash and, as discussed further below, is materially at odds with the Debtors' previous positions in these cases, including in the Debtors' prior disclosure statements (collectively, the "Prior Disclosure Statements") and the Original Plan and the Second Amended Plan (collectively, the "Prior Plans"). Creditors simply cannot meaningfully evaluate the settlement without receiving this basic information.

B. The Debtors' Prior Inconsistent Positions Must Be Explained

10. As this Court is very well aware, these cases have a history that bears directly on Plan confirmation. More to the point, the Debtors have previously advocated positions and introduced evidence in these cases that are directly at odds with many of the positions they now adopt in the Plan. Yet the Debtors offer virtually no explanation for their about-face. Having been solicited previously with information and views that are dramatically at odds with those contained in the Disclosure Statement, creditors are entitled to a detailed explanation of what changed and why.

11. Specifically, the Disclosure Statement should include information on the Debtors' prior positions on (a) Adequate Protection Obligations, (b) their liquidation analysis and (c) their valuation analyses. For example, the Prior Disclosure Statements, and the evidence adduced at the prior confirmation trials, included a liquidation analysis that contained ***no*** Adequate Protection Claim and a 30-33% cash recovery to Senior Noteholders. Significantly, no party, not even the Secured Lenders, took issue with that. All prior material inconsistencies should, at a minimum, be disclosed and explained.

C. Disclosure in Respect of the Other Terms of the Secured Lender Settlement Is Entirely Inadequate

12. Despite the Debtors' description of the Secured Lender Settlement as "the fundamental foundation of the Plan,"[10] very little information about it is provided and, as a consequence, creditors are unable to judge its soundness. The Disclosure Statement contains only two "facts" on the key economic driver of the settlement, the Adequate Protection Claim, and contains even less information on the other five identified matters subsumed within the settlement. Those five matters are:

> (i) the amount, value, and treatment under this Plan of the Term Loan Claims and the Revolver Claims . . . ([ii]) the validity, scope, extent, and priority of the Liens securing the Term Loan Claims and the Revolver Claims including with respect to Cash held by the Debtors; ([iii]) the valuation of encumbered and unencumbered assets; ([iv]) any Causes of Action that the Debtors or the Reorganized Debtors, as applicable, could potentially assert against the holders of Settled Claims; and ([v]) the rights with respect to, and security interests, in the Debtors' Intercompany Claims.[11]

13. For each of these matters, the Disclosure Statement should include information on (a) the factual or legal basis for the Secured Lenders' assertion(s); (b) the Debtors' position(s) on

[10] (*See* Disclosure Statement, at Art. I.V.D.1.)

[11] (*See id.* at Art. I.)

the merits and weaknesses of such assertion(s); (c) how the parties settled the particular matter; and (d) the justification for the settlement (*i.e.*, the likelihood of success on the merits of the various matters if litigated to judgment and the range of potential outcomes). The Debtors' entire analysis of the five, non-adequate protection-related matters being settled consists of only ***four*** conclusory sentences in the Disclosure Statement.[12] And there is no disclosure whatsoever regarding the factual or legal basis for ***any*** of the Secured Lenders' assertions. Nor, beyond stating that the Debtors dispute the Secured Lenders' purported lien on proceeds of draws under the Revolving Credit Agreement and that litigating this issue would be "complex," do the Debtors ever articulate the basis for settling the Secured Lenders' claims or their chances of success in litigation. The Debtors should disclose how much value was attributed to each component of the Secured Lender Settlement. Settling disputes for material value just because they are complex may or may not be justified. The Disclosure Statement does not provide information to enable creditors to evaluate the settlement either in part or in full.

14. Furthermore, there is ***no disclosure at all*** on anything relating to (a) the valuation of encumbered and unencumbered assets, (b) any Causes of Action that the Debtors or the Reorganized Debtors, as applicable, could potentially assert against the Secured Lenders and (c) the rights with respect to, and security interests in, the Debtors' Intercompany Claims. What are the valuation disputes as to encumbered or unencumbered assets? What Causes of Action potentially exist and in what amounts? What are the Intercompany Claims in dispute? The

[12] "In addition to the Settled Adequate Protection Claims, the Secured Lenders have agreed to accept Take Back Debt in an amount equal to $85,000,000, notwithstanding the fact that the value of the underlying collateral base value is well in excess of the amount of the Take Back Debt. Finally, the Secured Lenders have also asserted that approximately $343,000,000 of cash held by Paragon Parent, which cash is the proceeds of draws under the Revolving Credit Agreement described above, is subject to the Liens of the Secured Lenders. The Debtors have disputed such assertion. To avoid the cost and expense of complex litigation regarding this issue, the Secured Lenders determined to compromise this dispute as part of the overall settlements reflected in the Plan." (Disclosure Statement, at Art. IV.C.)

Disclosure Statement does not answer any of these questions. It is not enough for the Debtors to merely group issues together and declare a global settlement.

15. Given that the Debtors themselves describe the Secured Lender Settlement as the "fundamental foundation" of the Plan, and many of these matters have never before been raised in any meaningful way, much more must be disclosed to permit creditors to assess the Plan.

D. The Disclosure Statement Does Not Contain Adequate Information about the Noble Settlement and the Debtors Must Disclose Any Changed Circumstances Impacting the Noble Settlement

16. The Disclosure Statement fails to provide creditors with adequate information to decide whether to settle claims against Noble. As this Court will recall, according to Todd Strickler, the Debtors' general counsel, Noble's agreement to bond the Debtors' potential challenge of Mexican tax assessments was the "most important[]" part of the Noble Settlement.[13] The Disclosure Statement, however, provides no meaningful information as to the applicable bonding requirements under Mexican law, and therefore provides no meaningful information as to the value that Noble is allegedly providing the Debtors under the Noble Settlement. In particular, the Disclosure Statement fails to provide adequate information on the likelihood that the Debtors will be required to post a bond, when such bond will be due, the costs of providing such a bond, whether the Debtors may pursue alternative means for meeting any such bonding requirements and if so, why such alternatives are untenable, or whether such bonding must be provided at all. Without such information, creditors cannot adequately assess the merits of the Noble Settlement.

17. Moreover, the Noble Settlement was entered into over one year ago. The Debtors, therefore, have had significant time to continue challenging the Mexican tax

[13] (Strickler Decl. ¶ 63.)

assessments and are likely to have had communications with the relevant taxing authorities that might inform and update the Debtors' views on the likely outcome of the challenge and the likelihood that they may need to post a bond. However, the Disclosure Statement contains even less information than the Prior Disclosure Statements on these liabilities and processes, and what few words the Disclosure Statement does devote to the mere facts that Mexican tax assessments have been made and that the Debtors have challenged or intend to challenge them have been taken nearly word for word from the Prior Disclosure Statements, filed months ago. Accordingly, the Disclosure Statement should provide updated information concerning the Debtors' ongoing challenge of the Mexican tax assessments and the Debtors' current views on whether and when a bond will be required.

18. This updated information is even more important to creditors given the material changes in law and circumstances that call into serious question the merits of the Noble Settlement. *First*, the Debtors may no longer need to bond the Mexican tax assessments in order to challenge them. Pursuant to certain changes in applicable local law, effective as of January 1, 2017, the Debtors may be able to contest the Mexican tax assessments without having to provide the bonding that Mr. Strickler testified was the critical component of the Noble Settlement. *See* Administrative Litigious Procedure Federal Act (*Ley Federal del Procedimiento Contencioso Administrativo*), art. 58-19 (waiving the requirement of providing collateral (i.e., a bond) when a taxpayer elects to challenge a Federal tax assessment by means of a trial on substance (*juicio de resolución exclusiva de fondo*)). If the "most important" component of consideration the Debtors are to receive under the Noble Settlement no longer is necessary, shouldn't creditors know that in evaluating the settlement and the Plan, of which it is a part?

19. *Second*, unlike in the Prior Plans where the Debtors' business plan assumed significant go-forward operations in Mexico, the Reorganized Debtors only project "some additional activity in Mexico."[14] The rationale for this change in the Debtors' business plan should likewise be disclosed fully. Further, an analysis comparing the continued benefits from the Mexican operations to the benefits of the settlement should be included so that creditors can evaluate whether any operations are worth foregoing the potential claim against Noble.

20. *Third*, the Mexican tax authorities did not file any proofs of claim prior to the General Bar Date, as they were required to do in order to preserve any claim(s) they may have. Pursuant to the *Order Establishing Deadlines and Procedures for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof* [D.I. 958] (the "Bar Date Order"), the Mexican tax authorities are now "forever barred, estopped, and enjoined from asserting such claim against the Debtors." (Bar Date Order ¶ 9.) Further, the Official Committee's understanding is that the Mexican tax authorities cannot seek to assert or enforce the Mexican tax claims against any Debtor or non-Debtor affiliates and their assets, other than the obligors themselves and in certain limited circumstances, the obligors' direct parents (also both Debtors in these cases). *See* Federal Fiscal Code, art. 26(X). So, the other main economic benefit from the Noble Settlement – payment by Noble of half of the resolved amount of the Debtors' tax obligations in Mexico – also seems illusory.

21. It hardly seems possible for creditors to evaluate fairly the Noble Settlement without this additional disclosure and some explanation from the Debtors as to their re-evaluation of the settlement in light of this new information. *See In re Martin*, 91 F.3d 389, 394 (3d Cir. 1996) ("[T]he bankruptcy court must be apprised of all relevant information that will

[14] (*See* Disclosure Statement, at Art. VII.B.2.)

enable it to determine what course of action will be in the best interest of the estate. Accordingly, the trustee should inform the court and the parties of any changed circumstances since the entry into the stipulation of settlement."). Accordingly, these three material changes, all of which go straight to the heart of the settlement, must be disclosed, and the Debtors must explain the purported benefits of the settlement in light of these material changes.

E. The Disclosure Statement Does Not Contain Adequate Information Regarding Terms of the Shareholder Agreement and Other Documents That Form the Basis of Value of New Equity Interests to Be Distributed to Senior Noteholders

22. The Plan provides that distributions to Senior Noteholders will be made in the form of New Equity Interests and Cash. The value of such New Equity Interests rests not only on the underlying value of the Debtors' business but also on the rights to be afforded (or not) to holders of New Equity Interests. The Debtors have not, however, provided any detail regarding the material proposed terms of the Shareholder Agreement and other corporate documents, particularly with respect to critical minority shareholder protections and corporate governance.[15]

23. While the Official Committee acknowledges that debtors often provide such information in a plan supplement, this situation is different because the Senior Noteholders are to receive a substantial percentage of the New Equity Interests (estimated at approximately 42%), which makes this unlike the typical situation where one class of creditors gets the lion's share of the reorganized equity. Here the Senior Noteholders' main recovery will be in New Equity Interests – they will hold close to half of the reorganized Debtors' equity – yet they have no idea what governance rights and protections, if any, the Secured Lenders will propose.[16] Therefore,

[15] Additionally, the material terms of the restrictions on the ability of the Reorganized Paragon to make dividends pursuant to the Take Back Debt should be disclosed.

[16] The Official Committee is understandably concerned given that the Secured Lenders have given themselves the right to appoint 5 of the 6 members (excluding the CEO) of the New Board, even though they will only hold approximately 58% of the New Equity Interests. The Disclosure Statement should also explain why the appointment rights for the New Board are not *pro rata* based on New Equity Interests.

the Official Committee requests either that (a) the Disclosure Statement set out the material terms of the Shareholder Agreement and other key corporate governance documents, or (b) the Plan Supplement be provided well in advance of the Voting Deadline, as opposed to only ten days before the Voting Deadline, as the Debtors propose.

F. There Must Be Disclosure Regarding (A) the Legal Basis for the Size of the Secured Lender Unsecured Claims, (B) the Make-Whole Claim for the Senior Notes and (C) the Proposed Recovery for Holders of Class 5 General Unsecured Claims

24. There must be additional disclosure with respect to the estimated amount of Allowed Claims in Class 4. As an initial matter, there is no disclosure as to the basis for granting the Secured Lenders an unsecured claim for the ***full principal amount*** of their claims even though the Secured Lenders are receiving a recovery on account of their secured claim. Furthermore, the discussion of Class 4 does not contain any disclosure on the make-whole payment that the Senior Noteholders assert they are entitled to pursuant to the Senior Notes Indenture.

25. Additionally, holders of General Unsecured Claims in Class 5 are unable to make an informed judgment about the Plan for the additional reason that there is absolutely no disclosure regarding the potential recoveries they will receive under the Plan.

II. IF THE COURT ALLOWS DISSEMINATION OF THE DISCLOSURE STATEMENT, THE DEBTORS SHOULD BE REQUIRED TO INCLUDE A LETTER FROM THE OFFICIAL COMMITTEE EXPRESSING ITS CONCERNS REGARDING THE PLAN

26. Should the Court approve the Disclosure Statement, the Official Committee respectfully requests that it be permitted to provide the Official Committee's Letter as an enclosure to the Disclosure Statement reflecting the Official Committee's views, as summarized

in the letter, including the recommendation that unsecured creditors vote to reject the Plan. Letters from official committees are commonly included in solicitation packages.[17]

RESERVATION OF RIGHTS

27. The Official Committee reserves the right to amend or supplement this Objection based upon any facts or arguments that come to light prior to the hearing on these issues.

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[17] *See, e.g.*, *In re Molycorp.*, No. 15-11357 (CSS) (Bankr. D. Del. Jan. 20, 2016); *In re Boomerang Tube, LLC*, No. 15-11247 (MFW) (Bankr. D. Del. Aug. 14, 2015); *In re Trump Entm't Resorts, Inc.*, No. 14-12103 (KG) (Bankr. D. Del. Jan. 30, 2015); *In re S. Air Holdings, Inc.*, No. 12-12690 (CSS) (Bankr. D. Del. Jan. 29, 2013).

WHEREFORE, for all of the foregoing reasons, the Official Committee respectfully requests that this Court deny approval of the Disclosure Statement unless the deficiencies identified above are remedied through the inclusion of adequate information and appropriate modifications to the Disclosure Statement as set forth herein.

Dated: March 7, 2017
Wilmington, Delaware

/s/ *Jaime Luton Chapman*

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Proposed Counsel to the Official Committee of Unsecured Creditors of Paragon Offshore plc, et al.

Exhibit A

OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF PARAGON OFFSHORE PLC, et al.,

Chapter 11 Case No. 16-10386 (CSS)

c/o Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019

March _, 2017

To: Holders of Class 4 Senior Notes Claims and Holders of Class 5 General Unsecured Claims of Paragon Offshore plc and its affiliated debtors

Paul, Weiss, Rifkind, Wharton & Garrison LLP and Young Conaway Stargatt & Taylor, LLP are co-counsel to the Official Committee of Unsecured Creditors (the "**Official Committee**") in the above-referenced chapter 11 cases of Paragon Offshore plc, *et al.*, the debtors and debtors-in-possession (collectively, the "**Debtors**"). The Official Committee was appointed by the United States Trustee to represent the interests of all of the Debtors' unsecured creditors. We write to advise you of the Official Committee's position regarding the *Third Joint Chapter 11 Plan of Paragon Offshore plc and its Affiliated Debtors* [D.I. 1092] (the "**Plan**"). The Plan is described in, and attached as an exhibit to, the accompanying *Disclosure Statement for the Third Joint Chapter 11 Plan of Paragon Offshore plc and its Affiliated Debtors* [D.I. 1093] (the "**Disclosure Statement**"). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Disclosure Statement or the Plan, as applicable.

The Official Committee—which includes many of the Debtors' largest unsecured creditors—urges holders of Class 4 Senior Notes Claims and Class 5 General Unsecured Claims to vote to REJECT the Plan.

The Official Committee strongly believes that the Plan does not provide adequate recoveries to unsecured creditors and should **NOT** be confirmed for a number of reasons, including the following:

- First, the Plan is premised upon the settlement of an adequate protection claim (the "**Adequate Protection Claim**") asserted by the Term Lenders and the Revolver Lenders (together, the "**Secured Lenders**") for $352 million that is drastically inflated, based on flawed assumptions, and is a mechanism designed to inappropriately divert significant value from unsecured creditors to the Secured Lenders. Tellingly, the Adequate Protection Claim does not appear in, and is inconsistent with, the Debtors' prior pleadings and liquidation analysis proffered in connection with the Debtors' prior plans.

- Second, the Plan incorporates a decision by the Debtors to settle all claims and causes of action that the Debtors may hold against the Noble Entities arising under, relating to, or in connection with the Spin-Off. The Official Committee does not believe that

the Noble Entities have provided sufficient consideration to warrant the approval of the settlement, in light of the potential magnitude of these claims and causes of action as well as the change in facts and circumstances since the Debtors' entry into the Noble Settlement over one year ago. Specifically, such new developments include that (i) the Debtors' prior assessment that bonding is required to challenge the potential Mexican tax liabilities, which the Debtors previously described as a key benefit to the Debtors' estates, may no longer be accurate, (ii) contrary to the Debtors' prior plans, which assumed go-forward operations in Mexico, the Reorganized Debtors project only "some additional activity" in Mexico, and (iii) the Mexican tax authorities did not file ***any*** proofs of claim prior to the General Bar Date and, therefore, are barred from asserting any claims against the Debtors pursuant to the *Order Establishing Deadlines and Procedures for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof* [D.I. 958].

- Third, the Plan improperly provides that the Secured Lenders are entitled to assert Revolver Unsecured Claims and Term Loan Unsecured Claims, as applicable, in the ***full amount*** of their Revolver Secured Claims and Term Loan Secured Claims, thereby diluting the proposed recoveries for holders of Class 4 Senior Notes Claims.

- Fourth, the Plan offers holders of General Unsecured Claims an unknown recovery. Given the Debtors' lack of disclosure with respect to the size and composition of the General Unsecured Claims Reserve, the Official Committee is unable to even provide an estimate of potential recoveries for Holders of General Unsecured Claims.

- Fifth, the Plan violates the "best interests of creditors" test under section 1129(a)(7) of the Bankruptcy Code. The Official Committee believes that the new liquidation analysis created by the Debtors for the purpose of this Plan is flawed and, based on the liquidation analysis the Debtors previously submitted into evidence in connection with their prior plans, the proposed distribution to unsecured creditors under the Plan is below their potential recoveries in a hypothetical chapter 7 liquidation.

Accordingly, ***the Official Committee strongly encourages holders of Class 4 Senior Notes Claims and Class 5 General Unsecured Claims to vote to REJECT the Plan.***

The foregoing description is not intended as a substitute for the Disclosure Statement, which has been approved by the Bankruptcy Court. Creditors should read the Disclosure Statement and the Plan in their entirety, and then make their own respective independent decision as to whether the Plan is acceptable.

The Debtors have provided you with a Ballot with which to vote to accept or reject the Plan. In order to have your vote counted, you must complete and return the Ballot in accordance with the procedures set forth therein and in the accompanying Disclosure Statement Order. **PLEASE READ THE DIRECTIONS ON THE BALLOT CAREFULLY AND COMPLETE YOUR BALLOT IN ITS ENTIRETY BEFORE RETURNING IT TO THE DEBTORS' SOLICITATION AGENT**.

Should you have any questions about this letter, the Plan, the Disclosure Statement or the solicitation procedures, we would be pleased to discuss them with you at your convenience. Please direct any such questions to Samuel E. Lovett (212-373-3644; slovett@paulweiss.com).

Very truly yours,

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF PARAGON OFFSHORE PLC, *ET AL*.