

**UNITED STATES BANKRUPTCY COURT**  
**WESTERN DISTRICT OF LOUISIANA**  
**SHREVEPORT DIVISION**

<b>IN RE: S-3 PUMP SERVICE, INC.,</b>	*	<b>CASE NO. 16-10383</b>
<b>DEBTOR</b>	*	
	*	<b>CHAPTER 11</b>
	*	
	*	<b>JUDGE JEFFREY P. NORMAN</b>

**OBJECTIONS OF TRANSPORTATION ALLIANCE BANK, INC.  
TO DISCLOSURE STATEMENT FOR FIRST AMENDED PLAN OF  
REORGANIZATION PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE  
PROPOSED BY THE DEBTOR S-3 PUMP SERVICE, INC.**

TO: THE HONORABLE JEFFREY P. NORMAN  
UNITED STATES BANKRUPTCY JUDGE

Transportation Alliance Bank, Inc. (“**Lender**”) is a creditor of S-3 Pump Services, Inc. (the “**Debtor**”). The obligations of Debtor to Lender are evidenced by the Loan Documents as defined in the Joint Motion for Relief From Stay and for Approval of Joint Stipulation for Adequate Protection of Transportation Alliance Bank, Inc.’s Secured Interest in Equipment [Doc. No. 151].

With regard to the Disclosure Statement for First Amended Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code Proposed by the Debtor S-3 Pump Service, Inc. (the “**Statement**”), pursuant to Federal Rule of Bankruptcy Procedure 3017(a), Lender submits herewith, through undersigned counsel, the following objections, as the Statement fails to provide adequate information as required by 11 U.S.C. § 1125 in connection with the Debtor’s Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code (the “**Plan**”) and, therefore, is deficient because:

1. The definition of “Allowed” should not mechanically exclude post-petition

1754549.1

amounts due to the holder of a Claim, and instead, should comply with 11 U.S.C §506 to provide that post-petition amounts accrue only to the extent such Claim is oversecured;

2. The “Distribution Record Date” should be a date earlier than twenty (20) days prior to the Confirmation Hearing Date so as to allow any creditor negatively affected thereby to have sufficient time to file and have heard a motion with respect thereto prior to the Confirmation Hearing Date;

3. The definition of “Final Order” should be modified so that an order that is the subject of pending appeal that has not yet been resolved despite the lack of a “stay” does not constitute a “Final Order”;

4. The definition of “First Priority Lien” should be modified so that it means a first priority Lien on Collateral that is **not** subject to any liens arising under and superior to the First Priority Lien under applicable law, or the defined term should be changed to indicate that lien to which it references may be a subordinated lien;

5. The terms “Protected Parties” and “Released Parties” are very broad and appear to include guarantors of the obligations of Debtor to Lender, which is contrary to the provision of the United States Bankruptcy Code, including, without limitation, 11 U.S.C. §524(e);

6. For ease of reference, the Statement should provide separate, easy to understand and succinct statements that identify the assets and any liabilities that will be (i) retained by, delivered to, or assumed by, the Creditors Trust, (ii) retained by, delivered to, or assumed by, the Reorganized Debtor, and (iii) abandoned, sold or surrendered (*see, e.g.*, Article III on page 10 of the Statement and Article XIII, Section H).

7. The “Voting Record Date” set forth on page 3 of the Statement should be a date that is early enough so as to allow any creditor negatively affected thereby to have sufficient time

to file and have heard a motion with respect thereto prior to the Confirmation Hearing;

8. Although Debtor provides throughout the Statement that it has no duty to update the Statement (*see, e.g.*, Article I, Section E on page 4 of the Statement; Article I, Section I on page 5 of the Statement [“. . . the Debtor has no obligation to update [Forward-looking statements] to reflect changes that occur after the date they are made.”]; Article II, Section A on page 6 of the Statement, and Article XVI, Section G on page 53 of the Statement), it should be required to disclose any changes, modification or updates that are material to the creditors’ consideration of the Plan;

9. With regard to the \$1,000,000 cash contribution to be made by Malcolm and Linda Sneed, the Statement should:

a. Explain how it was determined that \$1,000,000 was the appropriate amount to pay for 100% of the new equity of the Reorganized Debtor as disclosed in paragraph number 8 on page 2, Article 1, of the Statement; the penultimate paragraph on page 9 of the Statement, and the third paragraph on page 27 of the Statement, Article XIII, Section C on page 37 of the Statement and Article XI, Section A on page 33 of the Statement, especially in light of the current and projected cash flow and net income of the Debtor and the reported current outlook for the fracking industry (*see* Article VII on page 24 of the Statement, Article VIII on page 28 of the Statement, Article X on page 32 of the Statement and Article XV, Section A on page 49 of the Statement) and the fact that the secured creditors are impaired and not receiving full payment of their claims with contractual interest and the unsecured creditors are not receiving full payment of their claims with interest; and

b. Provide more details as to the source of those proceeds (*see* Article XI on page 33 of the Statement) and how those proceeds will be used by the Reorganized Debtor;

10. The Statement should explain why the Reorganized Debtor has proposed to utilize a Creditors Trust as the mechanism to pay the Unsecured Creditors in light of:

a. Its complexity (including, without limitation, the contemplated transfers of assets at various times and the grant of security interests in other assets [*see* The first partial paragraph on page 35 of the Statement]);

b. The attendant costs associated with its administration and retention of the Trustee and professionals;

c. The lack of clarity about who will be responsible for bringing the pending adversary proceeding against First National Capital, LLC, and any other litigation, to a conclusion and for paying the professional fees and costs associated therewith;

d. The possible tax consequences of the Creditors Trust to its contemplated beneficiaries (*see* Article XVII, Section C on page 58 of the Statement) and inability of the beneficiaries to transfer their interests (*see* Article VIII, Section M(4)(b) on page 43 of the Statement);

e. The difficulty in determining the principal amount of the Master Note because of the uncertainty of the amounts that will be recovered by the Creditors Trust from its vested assets (*see* Article III, page 11 of the Statement); and

f. The Reorganized Debtor's obligation to pay the Unsecured Creditors in full.

In lieu of utilizing the Creditors Trust, the Reorganized Debtor should agree to pay the unsecured creditors in full from the amounts recovered from the assets that are earmarked for the distribution by the Creditors Trust;

11. Explain why the environmental remediation costs associated with the real estate

located at 412 Hamilton Road in Bossier City, Louisiana are afforded priority treatment under the plan;

12. The Statement should disclose the deadline by which the Miscellaneous Non-Retained Assets will be sold or abandoned by the Debtor or Reorganized Debtor and how those assets will be sold, and the process to be employed in deciding whether to surrender or sell non-retained trailer mounted frac pumps and other assets (*see* The penultimate paragraph found on page 10 of Article III of the Statement and Article XIII, Section H on page 39 of the Statement);

13. The Statement should disclose any and all Causes of Action, Avoidance Actions and other claims that may be asserted against each of the creditors so that each creditor can consider that information in connection with its analysis of the Plan (*see, e.g.*, Article XIII, Sections J on page 40 of the Statement) and unless disclosed, any such Causes of Action, Avoidance Action and other claims should be precluded;

14. The Statement should accurately disclose the amount of the secured and unsecured, if any, portions of the claim of Lender in the table that begins on page 12 of the Statement;

15. The Statement should establish a deadline for objecting to the claims of creditors that is early enough so as to allow any creditor negatively affected thereby to have sufficient time to file and have heard a motion to estimate claims for voting and other purposes with respect thereto prior to the Confirmation Hearing (*see, e.g.*, on page 15 of the Statement wherein Debtor explains that it is “continuing its investigation of the claims and has not made a final determination of all the claims that may be objected to”);

16. The Statement does not explain what efforts, if any, Malcolm and Linda Sneed have undertaken to attempt to collect the amounts due to the Debtor from S-3 Executive Air, LLC

(see Article VI on page 23 of the Statement) and what efforts have been made to sell that company;

17. With regard to Harper Ventures, LLC that was identified on page 23 of the Disclosure Statement for Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code Proposed by the Debtor S-3 Pump Service, Inc. (the “**Original Statement**”), the Statement should disclose what happened to Harper Ventures, LLC, which was formed in 2014 and owned 628 acres of timberland located near Benton, Louisiana;

18. The Statement should disclose the amount owed by Debtor in connection with its post-petition credit arrangement that is disclosed on page 24 of the Statement and how much it anticipates it will owe upon confirmation, as well as the security for such obligations;

19. With regard to the *S-3 Pump Service, Inc. v. First National Capital LLC*, Adversary Proceeding No. 16-01009 that was filed in connection with the captioned Bankruptcy Case as discussed on page 27 of the Statement, Debtor should explain how it will address any claim asserted by First National Capital LLC against the assignees of the leases that are the subject of that Adversary Proceeding;

20. With regard to the treatment of Lender’s secured claim, the Statement and Plan should also disclose the amount of the secured and the unsecured portions, if any, of the claim of Lender as contemplated by the Plan, and with regard to each obligation owed by Debtor to Lender, the Statement and Plan should contemplate that amendments to the existing Loan Documents will be executed prior to the Effective Date that are acceptable to Lender and Reorganized Debtor and consistent with the treatment proposed therein (as opposed to the documentation contemplated in the Plan and Statement; see, e.g., Article XII, Section C on page 40 of the Statement and Article XIII, Section E on page 48 of the Statement);

21. The Statement and Plan should expressly provide that nothing contained therein shall affect the obligations of the guarantors of Debtor's obligations to Lender, so that it is clear that certain of the language in the Article XI, Section C related to the Treatment of Classes found on page 34 of the Statement (pursuant to which it is proposed that a new promissory note is given "in full and final satisfaction, settlement, release and discharge of, and in exchange for," Lender's Claim), Article XIII, Sections A and G on pages 36 and 38 of the Statement, and Article XIV on page 48 of the Statement will not affect any such guarantees or the liability of any of the guarantors;

22. The forms of any written "employment arrangements" with Malcolm H. Sneed, III and Linda Sneed, if any, should be attached as exhibits to the Statement for consideration by the creditors when analyzing the Plan (*see* Article XIII, Section D on page 37 of the Statement);

23. The Statement should explain why an estimate by the Bankruptcy Court of "any contingent or unliquidated Claim . . . will constitute either the Allowed amount of the Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court," if such estimate by the Bankruptcy Court is not a "Final Order" with regard to determination of the allowance of such claim (*see* Article XIII, Section K(2) on page 41 of the Statement);

24. The Statement should explain why "[a]ny Claim held by a Person or Entity against whom the Debtor or the Creditors Trust has commenced a proceeding asserting an Avoidance Action shall be deemed a Disallowed Claim pursuant to §502(d) of the Bankruptcy Code and the Holder of such Claim shall not be entitled to vote to accept or reject the Plan" (*see* Article XIII, Section K(5) on page 42 of the Statement), rather than only after the liability of a creditor with respect thereto has been established and such creditor has not given effect to such liability;

25. With regard to any waiver of conditions or delay in the Effective Date as

contemplated in Article XIII, Section N (3) and (5) on page 47 of the Statement, the approval of the Bankruptcy Court should be required and an outside deadline by which the Effective Date shall occur should be established;

26. With regard to the tax consequences of the Creditors Trust upon its creditor beneficiaries, the Statement should provide an estimate of the tax which may be imposed upon the beneficiaries and an analysis of same; and

27. Lender reserves the right to further supplement these objections to the Statement and reserves its right to object to confirmation of the Plan for, among others, the forgoing reasons and the following reasons:

a. Because the release, exculpation, limitation of liability and indemnity provisions found in the Statement and the Plan may be contrary to 11 U.S.C. §524(e); and

b. Because under the Plan, Debtor may not have obtained the highest value for the equity interests of the Reorganized Debtor.

WHEREFORE, Lender, the party submitting these objection, prays that these objections be deemed good and sufficient and that Debtor be required by this Honorable Court to supplement and amend the Statement as set forth above and that this Court grant such other and



further relief as is just and equitable.

New Orleans, Louisiana, this 4<sup>th</sup> day of January, 2017.

Respectfully submitted,

McGlinchey Stafford

*/s/ Richard A. Aguilar*

---

RICHARD A. AGUILAR (#17439)

MARK J. CHANEY, III (#35704)

McGlinchey Stafford, PLLC

601 Poydras Street, 12<sup>th</sup> Floor

New Orleans, LA 70130

Telephone: (504) 586-1200

Attorneys for Transportation Alliance Bank, Inc.

**UNITED STATES BANKRUPTCY COURT**  
**WESTERN DISTRICT OF LOUISIANA**  
**SHREVEPORT DIVISION**

<b>IN RE: S-3 PUMP SERVICE, INC.,</b>	*	<b>CASE NO. 16-10383</b>
<b>DEBTOR</b>	*	
	*	<b>CHAPTER 11</b>
	*	
	*	<b>JUDGE JEFFREY P. NORMAN</b>

**AMENDED CERTIFICATE OF SERVICE**

I hereby certify that on January 4, 2017, I electronically filed the foregoing Objections of Transportation Alliance Bank, Inc. to Disclosure Statement for First Amended Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code Proposed by the Debtor S-3 Pump Service, Inc. with the Clerk of this Court using the CM/ECF electronic filing system. Notice of this filing will be sent to all counsel of record by operation of the Court's electronic filing system at the email addresses registered with the Court:

1. M. Thomas Arceneaux on behalf of Debtor S-3 Pump Service, Inc. [tarceneaux@bwor.com](mailto:tarceneaux@bwor.com)
2. Marianne Cosse Boston on behalf of Debtor S-3 Pump Service, Inc. [mboston@bwor.com](mailto:mboston@bwor.com)
3. Christopher T. Caplinger on behalf of Creditor Signature Financial, LLC [ccaplinger@lawla.com](mailto:ccaplinger@lawla.com)
4. E. Keith Carter on behalf of Creditor Citizen's National Bank, N.A. [ekcarter@rogerscarterlaw.com](mailto:ekcarter@rogerscarterlaw.com)
5. Leo D. Congeni on behalf of Creditor United Leasing, Inc. [leo@congenilawfirm.com](mailto:leo@congenilawfirm.com)
6. W. Lake Hearne on behalf of Creditor EH National Bank [lake.hearne@cookyanacey.com](mailto:lake.hearne@cookyanacey.com)
7. Frances Ellen Hewitt on behalf of U.S. Trustee Office of U. S. Trustee [frances.hewitt@usdoj.gov](mailto:frances.hewitt@usdoj.gov)

1754549.1

8. John S. Hodge on behalf of Interested Party Linda Sneed  
jhodge@wwmlaw.com
9. Robert W. Johnson on behalf of Debtor S-3 Pump Service, Inc.  
rjohnson@bwor.com
10. J. Eric Lockridge on behalf of Creditor PACCAR Financial Corp.  
eric.lockridge@keanmiller.com, Brenda.seneca@keanmiller.com
11. Arthur S. Mann, III on behalf of Creditor Ally Bank  
arthur@sundmakerfirm.com
12. Brent R. McIlwain on behalf of Creditor CIT Group  
brent.mcilwain@hklaw.com
13. Leann Opotowsky Moses on behalf of Creditor People's Capital & Leasing Corp.  
moses@carverdarden.com
14. Curtis R. Shelton on behalf of Creditor Bank of the West  
curtisshelton@arklatexlaw.com
15. Edgar Stewart Spielman on behalf of Creditor MB Financial Bank, N.A.  
sspielman@mcglinchey.com
16. Office of U. S. Trustee  
USTPRegion05.SH.ECF@usdoj.gov
17. Stephen D. Wheelis on behalf of Creditor Ford Motor Credit Company LLC,  
steve@wheelis-rozanski.com
18. Stephen L. Williamson on behalf of Creditor Dilley Independent School District  
swilliamson@monbar.com

/s/ Richard A. Aguilar