



CLERK, U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed August 20, 2018

  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**IN RE:**

**ARABELLA EXPLORATION, LLC, a Texas  
limited liability corporation, et al.,  
Debtors.<sup>1</sup>**

§ **Case No. 17-40120-rfn**  
§ **Chapter 11**  
§ **(Jointly Administered)**  
§ **Honorable Russell F. Nelms**  
§ **U.S. Bankruptcy Judge**  
§

**SECOND FINAL ORDER AUTHORIZING DEBTORS TO USE CASH COLLATERAL  
AND GRANTING ADEQUATE PROTECTION**

This matter comes before the Court on Debtors' *Motion for Second Final Order (a) Authorizing Debtors to Use Cash Collateral, and (b) Granting Adequate Protection* (the "Motion") in which Debtors moved this Court for, among other things, the entry of final order (this "Order") approving Debtors' use of cash collateral and granting certain relief to Platinum Partners Credit Opportunities Master Fund, LP ("Platinum"), and after notice, the Court finds, subject to the terms and conditions below, that (1) the use of cash collateral as requested in the Motion is in the best

<sup>1</sup> This case is jointly administered with the case of Arabella Operating, LLC, Case No. 17-41479.

interests of the Debtors' estates (the "Estates") and its creditors; (2) the use of cash collateral as requested in the Motion is necessary to provide Debtors with sufficient cash and liquidity to preserve the value of the Debtors' assets; (3) in accordance with Federal Bankruptcy Rules 4001(a), (b) and (d), due and proper notice of the Motion has been given and no other or further notice is necessary with respect to the relief requested; (4) this Court has jurisdiction over this case and the Motion pursuant to 28 U.S.C. §§ 157(b) and 1334; (5) consideration of the Motion constitutes a core proceeding as defined in 28 U.S.C. § 157(b)(2); and (6) upon this record, after due deliberation thereon, good and sufficient cause exists for the entry of this Order. Therefore,

**THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:<sup>2</sup>**

A. Petition Date. On January 8, 2017, Arabella Exploration, LLC ("AEX") filed its voluntary petition for relief under chapter 11 of the Bankruptcy Code (the "Petition Date") in the United States Bankruptcy Court for the Northern District of Texas (the "Bankruptcy Court" or this "Court"). On April 4, 2017, Arabella Operating, LLC ("AO") filed its voluntary petition for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court. The above-captioned chapter 11 cases are referred to herein collectively as the "Cases." The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to Bankruptcy Code sections 1107 and 1108.

B. Jurisdiction and Venue. This Court has core jurisdiction over these Cases, this Motion, this Order, and the parties and property affected hereby pursuant to 28 U.S.C. sections 157(b) and 1334. Venue is proper before this Court pursuant to 28 U.S.C. sections 1408 and 1409. The statutory bases for the relief set forth in this Order are sections 105, 361, 362, 363 and 507 of

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<sup>2</sup> The findings and conclusions set forth herein constitute the Bankruptcy Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052. To the extent any findings of fact constitute conclusions of law, they are adopted as such. To the extent any conclusions of law constitute findings of fact, they are adopted as such.

the Bankruptcy Code and Bankruptcy Rules 2002 and 4001.

C. Notice. Upon the record presented to the Court, and under the circumstances described in the Motion and herein, requisite notice of the Motion and the relief requested thereby has been provided in accordance with Bankruptcy Rules 4001(b) and 4001(c), which notice was appropriate under the circumstances and sufficient for the Motion, and the entry of this Order; and no further notice of, or hearing on, the entry of this Order is necessary or required.

D. Cash Collateral. Any and all cash of the Debtors, including cash and other amounts on deposit or maintained in any bank account or accounts of the Debtors and any amounts generated by the collection of accounts receivable, the sale of inventory, or other disposition of the Debtors' assets existing as of the Petition Date or arising or acquired after the Petition Date, together with all proceeds of any of the foregoing, is cash collateral within the meaning of section 363(a) of the Bankruptcy Code (the "Cash Collateral") of Platinum. For the avoidance of doubt, Cash Collateral includes any proceeds from the sale of inventory or any of Debtors' assets. However, none of the Cash Collateral which the Debtors propose to use includes collateral or proceeds thereof which are subject to liens, of (i) Sooner Pipe, LLC, or (ii) other parties in interest, in each case, to the extent that Sooner Pipe, LLC or such party in interest is determined by this Court to have a valid and existing secured claim against any asset of a Debtor in these Cases, which such finding is outside the scope of this Order. Pursuant to section 363(c)(2) of the Bankruptcy Code, Debtors are not able to use Cash Collateral without Platinum's consent or this Court's authorization after notice and a hearing. Platinum is willing to consent to the Debtors' use of the Cash Collateral, expressly limited to, and conditioned upon, the terms and conditions specified in this Order and the First Order.

E. Necessity for Relief Requested; Immediate and Irreparable Harm. Debtors have an immediate need for cash to preserve and protect the assets of the Estates, to facilitate the settlement of ongoing litigation filed by Founders Oil & Gas III, LLC and Founders Oil & Gas Operating, LLC (collectively, “Founders”) against the Debtors in these Chapter 11 Cases, and to facilitate the sale of substantially all assets of Debtors for the benefit of Debtors’ creditors. Absent the Debtors’ ability to use Cash Collateral, the Debtors would not have available sources of working capital or financing and would be unable to satisfy its obligations under the Founders Settlement<sup>3</sup>, to pay operating expenses, or maintain their assets to the detriment of their Estates and creditors. Accordingly, the relief requested in the Motion and the terms provided herein are (i) critical to the Debtors’ ability to maximize the value of the Estates, (ii) in the best interests of the Debtors and their Estates, and (iii) necessary, essential, and appropriate to avoid immediate and irreparable harm to the Debtors and the Debtors’ Estates, stakeholders, assets, goodwill, and reputation.

F. Adequate Protection. Platinum is entitled to the adequate protection provided in this Order as and to the extent set forth herein pursuant to sections 361, 362 and 363 of the Bankruptcy Code. Based on the Motion and on the record presented to the Court, the terms of the proposed adequate protection arrangements and of the use of the Collateral (as defined below), including the Cash Collateral, are fair and reasonable, reflect the Debtors’ prudent exercise of business judgment and constitute reasonably equivalent value and fair consideration for the use of Cash Collateral. Platinum shall have the right to seek additional adequate protection beyond the Adequate Protection provided in this Order, and nothing in this Order or otherwise shall be deemed or construed to limit, impair or otherwise prejudice any of Platinum’s rights to seek and/or

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<sup>3</sup> Any capitalized terms not defined in this Order shall have the same meaning given to them in the Motion.

obtain such other or additional adequate protection or any other relief.

G. Good Cause. Good cause has been shown for the entry of this Order, and this Order is in the best interests of the Debtors, the Estates and their stakeholders. The terms of the Debtors' use of Cash Collateral and adequate protection arrangements, as set forth in this Order, are fair and reasonable under the circumstances, and reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties.

H. Good Faith. The Debtors' use of Cash Collateral in accordance with the terms hereof has been negotiated in good faith and at arms' length among the Debtors and Platinum, and the consent of Platinum to the Debtors' use of Cash Collateral in accordance with the terms hereof shall be deemed to have been made in "good faith."

I. All parties who may have an interest in the Cash Collateral to be used that appeared at the hearing on the Motion have approved or consented to the entry of this Order as revised, or their objections have been overruled.

**BASED UPON THE STIPULATED TERMS SET FORTH HEREIN, AND FINDINGS OF FACT AND CONCLUSIONS OF LAW, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

**IT IS ORDERED THAT:**

1. Motion Granted. The Motion is GRANTED to the extent provided herein on a final basis. Any objection to the Motion, to the extent not withdrawn, waived or resolved, is hereby overruled.

2. Authorization to Use Cash Collateral. The Debtors are authorized on a final basis to use the Cash Collateral for the sole purpose of paying the Founders JIBs Payments. Debtors may not use Cash Collateral in any manner or for any purpose other than as explicitly set forth in this Order or further order of the Court.

3. Adequate Protection. As adequate protection for the amount of diminution in value of its interests in the Debtors' assets existing as of the Petition Date (the "Prepetition Collateral"), including, without limitation, the aggregate amount of Cash Collateral used by any Debtor on a dollar-for-dollar basis pursuant to this Order, the imposition of the automatic stay and any other act or omission which causes diminution in the value of its interests in the Prepetition Collateral, Platinum (collectively, the "Diminution in Value") is granted the following adequate protection (collectively, the "Adequate Protection"):

a. Replacement Liens. Platinum is hereby granted, pursuant to sections 361 and 363 of the Bankruptcy Code, valid, binding, enforceable and perfected replacement liens upon and security interests in all of each Debtor's presently owned or hereafter acquired property and assets, whether such property and assets were acquired by such Debtor before or after the Petition Date, of any kind or nature, whether real or personal, tangible or intangible, wherever located, and the proceeds and products thereof, including, without limitation, the proceeds from any disposition of any leasehold interests of the Debtors, senior to all other security interests in, liens on, or claims against any asset of a Debtor, including the prepetition liens and claims of Platinum, and all rights of payment of all other parties (collectively, the "Senior Replacement Lien"). However, nothing in this Order shall be construed to prime or subordinate (i) the tax liens of the ad valorem taxing entities or (ii) the liens of Sooner Pipe, LLC to the extent Sooner Pipe, LLC is determined by this Court to have a valid and existing secured claim against any asset of a Debtor in these Cases. The Senior Replacement Lien shall be valid, binding and enforceable against any trustee or other estate representative appointed in any Case, upon the conversion of any of the Cases to a case under chapter 7 of the Bankruptcy Code (collectively, "Successor Cases") and each a "Successor Case") and/or upon the dismissal of any Case or Successor Case.; and

b. 507(b) Priority Claim. Platinum is hereby granted pursuant to sections 503, 507(a) and 507(b) of the Bankruptcy Code, an allowed superpriority administrative expense claim in the Cases and any Successor Case (the "Senior Adequate Protection Superpriority Claim") in an amount equal to the Diminution in Value. The Senior Adequate Protection Superpriority Claim shall be subordinate only to (i) the payment of the statutory fees of the United States Trustee pursuant to 28 U.S.C. § 1930(a) and (ii) any and all fees payable to the Clerk of the Court, but otherwise shall have priority over all other administrative expense claims, including administrative expenses of the kinds specified in or ordered pursuant to sections 503(b) and 507(b) of the Bankruptcy Code, and unsecured claims against each Debtor and each Estate now existing or hereafter arising, of any kind or nature whatsoever.

Notwithstanding anything to the contrary set forth herein, the Adequate Protection granted by this Order is without prejudice to the rights of Platinum to seek additional adequate protections from this Court. The use of Cash Collateral pursuant to the terms and conditions this Order shall not be deemed to be a consent by Platinum to any other or further use of Cash Collateral.

4. Binding Effect. This Order shall be binding upon and inure to the benefit of the Platinum and the Debtors and their respective successors and assigns, including, without any limitation, any trustee, responsible officer, examiner, estate administrator or representative, or similar person appointed in a case for the Debtors under any chapter of the Bankruptcy Code. No rights are entered under this Order for the benefit of any creditor of the Debtors, any other party in interest in the Cases, or any other person or entities, or any direct, indirect or incidental beneficiaries thereof.

5. Effectiveness. The terms and conditions of this Order shall be (i) effective and immediately enforceable upon its entry by the Clerk of the Court notwithstanding any potential application of Fed. R. Bankr. P. 6004(g), 7062, 9014 or otherwise; and (ii) not be stayed absent (a) an application by a party in interest for such stay in conformance with such Fed. R. Bankr. P. 8005, and (b) a hearing upon notice to the Notice Parties.

6. Survival. The provisions of this Order and any actions taken pursuant hereto shall survive entry of any order which may be entered (a) confirming any plan of reorganization in any of the Cases, (b) converting any of the Cases to a case under chapter 7 of the Bankruptcy Code, (c) dismissing any of the Cases or Successor Cases, or (d) pursuant to which this Court abstains from hearing any of the Cases or Successor Cases. The terms and provisions of this Order, as well as the Senior Adequate Protection Superpriority Claim, the Senior Replacement Lien and all other claims and liens, if any, granted by this Order, shall (x) continue

in this Case, any Successor Case, or any other superseding case under the Bankruptcy Code, (y) be valid and binding on all parties in interest, including, without limitation the Committee, chapter 11 trustee, examiner or chapter 7 trustee, and (z) continue, notwithstanding any dismissal of any Case or Successor Case (and any such order of dismissal shall so provide), and such claims and liens shall maintain their priority as provided by this Order until the Obligations are paid in full.

7. Discharge Waiver. The Debtors expressly stipulate, and the Court finds and adjudicates that, neither the Senior Adequate Protection Superpriority Claim or the Senior Replacement Lien shall be discharged by the entry of an order confirming any plan of reorganization, notwithstanding section 1142(d) of the Bankruptcy Code, unless (i) the order is entered with the prior written consent of the Platinum, or (ii) the Senior Adequate Protection Superpriority Claim has been paid in full in cash on or before the effective date of such plan.

8. Retention of Jurisdiction. The Court has and will retain jurisdiction to enforce this Order in accordance with its terms and to adjudicate any and all matters arising from or related to the interpretation or implementation of this Order.

9. Reservation of Rights. Notwithstanding anything to the contrary set forth herein, nothing contained herein shall impair, impact or prejudice in any manner the rights or claims of Shafer and Weiner, PLLC, RHSV Caribbean and Forshey & Prostok, LLP, for themselves and for or on behalf of Solomon Harris and Maples and Calder, and 30294, LLC, and all such rights are hereby preserved in all respects, any other term of this Order notwithstanding. Platinum's respective rights and claims with respect to the foregoing are hereby reserved and preserved in all respects and nothing in this Order shall impact or prejudice such rights and claims.

10. The terms and provisions of this Order inure to the benefit of, and are binding upon, Platinum, the SEC Receiver, the Debtors and creditors of the Debtors, and their



respective successors and assigns, including, without limitation, any trustee or legal representative of the Debtors appointed in this case or in any superseding case under Chapter 7 of the Bankruptcy Code.

11. This Order integrates all terms and conditions mentioned or incidental thereto, and supersedes all prior negotiations, whether written or oral, and prior writings with respect to its subject matter. This Order is immediately valid and fully effective upon entry by this Court.

### END OF ORDER ###

**Prepared by:**

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