

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re: § Chapter 11
§
COBALT INTERNATIONAL ENERGY INC., *et al.*,¹ § Case No. 17-36709 (MI)
§
Reorganized Debtors. § (Jointly Administered)

**PLAN ADMINISTRATOR'S SEVENTH OMNIBUS OBJECTION TO
CERTAIN PROOFS OF CLAIM (WRONGLY CLASSIFIED CLAIMS)**

THIS IS AN OBJECTION TO YOUR CLAIM. THE OBJECTING PARTY IS ASKING THE COURT TO RECLASSIFY THE CLAIM THAT YOU FILED IN THIS BANKRUPTCY CASE. YOU SHOULD IMMEDIATELY CONTACT THE OBJECTING PARTY TO RESOLVE THE DISPUTE. IF YOU DO NOT REACH AN AGREEMENT, YOU MUST FILE A RESPONSE TO THIS OBJECTION AND SEND A COPY OF YOUR RESPONSE TO THE OBJECTING PARTY WITHIN 21 DAYS AFTER THE OBJECTION WAS SERVED ON YOU. IF YOU DO NOT FILE A RESPONSE WITHIN 21 DAYS AFTER THE OBJECTION WAS SERVED ON YOU, YOUR CLAIM MAY BE RECLASSIFIED WITHOUT A HEARING.

A HEARING WILL BE CONDUCTED ON THIS MATTER ON OCTOBER 18, 2018 AT 10:00 A.M. (PREVAILING CENTRAL TIME) IN COURTROOM 404, 4TH FLOOR, UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF TEXAS, 515 RUSK STREET, HOUSTON, TEXAS 77002.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

THIS OBJECTION SEEKS TO RECLASSIFY CERTAIN PROOFS OF CLAIM. CLAIMANTS RECEIVING THIS OBJECTION SHOULD LOCATE THEIR NAMES AND CLAIMS ON SCHEDULE 1 TO EXHIBIT B ATTACHED TO THIS OBJECTION.

¹ The Reorganized Debtors in the Chapter 11 Cases, along with the last four digits of each Reorganized Debtor's federal tax identification number, are: Cobalt International Energy, Inc. (1169); Cobalt International Energy GP, LLC (7374); Cobalt International Energy, L.P. (2411); Cobalt GOM LLC (7188); Cobalt GOM # 1 LLC (7262); and Cobalt GOM # 2 LLC (7316). The Reorganized Debtors' service address is: 945 Bunker Hill Road, Suite 625, Houston, TX 77024.



Nader Tavakoli, solely in his capacity as the Lead Member and Chairman of the Plan Administrator Committee of Cobalt International Energy, Inc., *et al.* (the “Plan Administrator”) appointed under the *Fourth Amended Joint Chapter 11 Plan of Cobalt International Energy, Inc. and Its Debtor Affiliates*, confirmed on April 5, 2018 (the “Plan”),² respectfully states as follows in support of this omnibus claims objection (this “Objection”), and submits the *Declaration of Aaron Skidmore in Support of the Plan Administrator’s Seventh Omnibus Objection to Certain Proofs of Claim (Wrongly Classified Claims)* attached hereto as **Exhibit A** (the “Skidmore Declaration”):

Relief Requested

1. The Plan Administrator seeks entry of an order, substantially in the form attached hereto as **Exhibit B** (the “Order”), reclassifying each claim identified on **Schedule 1** to the Order (collectively, the “Wrongly Classified Claims”) as a Class 6 General Unsecured Claim.

Jurisdiction, Venue, and Procedural Background

2. The United States Bankruptcy Court for the Southern District of Texas (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The bases for the relief requested in this Objection are sections 105(a), 502(b) of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rule 3007-1 of the Bankruptcy Local Rules for the Southern District of Texas, and the Omnibus Objection Procedures Order (as defined below).

² Capitalized but undefined terms used herein shall have the meanings given to such terms in the Plan.

3. On December 14, 2017 (the “Petition Date”), Cobalt International Energy, Inc. and its debtor affiliates (collectively, the “Debtors”, and after the Effective Date, the “Reorganized Debtors”) filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. These cases are being jointly administered under the caption *In re Cobalt International Energy, Inc., et al.*, Case No. 17-36709 (the “Chapter 11 Cases”). A detailed description of the facts and circumstances leading to these Chapter 11 Cases is set forth in the *Declaration of David D. Powell, Chief Financial Officer of Cobalt International Energy, Inc., in Support of Chapter 11 Petitions and First Day Motions* [Dkt No. 16].

4. On April 5, 2018, the Court entered its *Order (I) Confirming the Fourth Amended Joint Chapter 11 Plan of Cobalt International Energy, Inc. and Its Debtor Affiliates, and (II) Approving the Sale Transaction* [Dkt. No. 784] (the “Confirmation Order”) confirming the Plan. Pursuant to the Plan and Confirmation Order, the Plan Administrator was charged with acting for the Debtors in the same fiduciary capacity as applicable to a board of directors and officers and appointed to, *inter alia*, resolve Disputed Claims, make all distributions pursuant to the Plan, and to administer the Plan in an efficacious manner.³

5. On April 10, 2018, the effective date of the Plan occurred.⁴

6. Among other things, the Plan provides: “[O]n and after the Effective Date, the Plan Administrator is authorized to and may issue, execute, deliver, file, or record such contracts, securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and

³ See Plan, at § IV(D)(1).

⁴ See *Notice of (I) Entry of Order Confirming the Fourth Amended Joint Chapter 11 Plan of Cobalt International Energy, Inc. and Its Debtor Affiliates and Approving the Sale Transaction and (II) Occurrence of Effective Date* filed in these Chapter 11 Cases on April 10, 2018 (Dkt. No. 804).

conditions of the Plan and the Sale Transaction Documentation.”⁵ As the successor to all of the powers of the Debtors’ directors and officers, “the Plan Administrator shall be empowered to . . . object to, Allow, or otherwise resolve any General Unsecured Claim, Priority Claim, or Other Secured Claim, subject to the terms hereof,” without any further notice to or action, order, or approval by the Bankruptcy Court.⁶

7. On June 21, 2018, the Court entered its *Order Granting Plan Administrator’s Expedited Motion for Approval of (I) Omnibus Claims Objection Procedures and (II) the Form of Notice to Claimants of Such Objections* [Dkt. No. 920], which provides for certain omnibus claims objection procedures (the “Omnibus Objection Procedures Order”). This Objection is filed in accordance with the Omnibus Objection Procedures Order.

The Claims Reconciliation Process

8. On January 29, 2018, the Debtors filed their Statements of Financial Affairs and Schedules of Assets and Liabilities, as required by section 521 of the Bankruptcy Code (collectively, the “Schedules”). On February 22, 2018, the Court entered the *Order (I) Setting Bar Dates for Filing Proofs of Claim, Including Requests for Payment Under Section 503(B)(9), (II) Establishing Amended Schedules Bar Date and Rejection Damages Bar Date, (III) Approving the Form of and Manner for Filing Proofs of Claim, Including Section 503(B)(9) Request, and (IV) Approving Notice of Bar Dates* [Dkt No. 469], which, among other things, established (a) March 19, 2018 at 5:00 p.m. (Prevailing Central Time) as the deadline for all non-governmental entities holding or wishing to assert a “claim” (as defined in section 101(5) of the Bankruptcy Code) against any of the Debtors that arose before the Petition Date to file a proof of

⁵ See Plan, at § IV(D)(1).

⁶ See Plan, at § VI(B).

such claim in writing and (b) June 12, 2018 at 5:00 p.m. (Prevailing Central Time) as the deadline for all governmental entities holding or wishing to assert a “claim” (as defined in section 101(5) of the Bankruptcy Code) against any of the Debtors that arose before the Petition Date to file a proof of such claim in writing.

9. To date, approximately 450 proofs of claim have been filed against the Debtors on an aggregate basis. The Plan Administrator and his advisors, along with certain employees of the Reorganized Debtors (collectively, the “Reviewing Parties”), have been working diligently to review the Disputed Claims, including any supporting documentation filed therewith. For the reasons set forth below, and based on the review to date, the Reviewing Parties have determined that the Wrongly Classified Claims should be reclassified as set forth herein.

Basis for Relief

10. As set forth in Bankruptcy Rule 3001(f), a properly executed and filed proof of claim constitutes *prima facie* evidence of the validity and the amount of the claim under section 502(a) of the Bankruptcy Code. *See, e.g., In re Jack Kline Co., Inc.*, 440 B.R. 712, 742 (Bankr. Tex. 2010). A proof of claim loses the presumption of *prima facie* validity under Bankruptcy Rule 3001(f) if an objecting party refutes at least one of the allegations that are essential to the claim’s legal sufficiency. *See In re Fidelity Holding Co., Ltd.*, 837 F.2d 696, 698 (5th Cir. 1988). Once such an allegation is refuted, the burden reverts to the claimant to prove the validity of its claim by a preponderance of the evidence. *Id.* Despite this shifting burden during the claim objection process, “the ultimate burden of proof always lies with the claimant.” *In re Armstrong*, 347 B.R. 581, 583 (Bankr. N.D. Tex. 2006) (citing *Raleigh v. Ill. Dep’t of Rev.*, 530 U.S. 15 (2000)).

11. Section 502(b)(1) of the Bankruptcy Code provides that a claim may be disallowed to the extent that it is “unenforceable against the debtor and property of the debtor, under any agreement or applicable law.” 11 U.S.C. § 502(b)(1).

12. Section 503(b)(9) of the Bankruptcy Code provides priority to certain claims to the extent such claims are for, “the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor’s business.” 11 U.S.C. § 503(b)(9).

13. Bankruptcy Rule 3007 sets forth certain grounds upon which an omnibus objection may be based. In addition, the Objection Procedures provide that the Plan Administrator may file omnibus objections to claims on the grounds that, *inter alia*, “[a] Claim was incorrectly classified.” See Objection Procedures, at ¶1(f).

Wrongly Classified Claims

14. As set forth herein and the Skidmore Declaration, the Reviewing Parties have thoroughly reviewed the Debtors’ books and records, the claims register, any relevant filings in these Chapter 11 Cases, and the Wrongly Classified Claims and supporting documentation, and have determined that each Wrongly Classified Claim improperly asserts a priority claim under Section 503(b)(9) of the Bankruptcy Code when each such claim should have been filed as Class 6 General Unsecured Claim. Failure to reclassify the Wrongly Classified Claims could result in the applicable claimant receiving an unjustly enriched return on their claim to the detriment of other similarly-situated creditors. Accordingly, the Plan Administrator requests that the Court enter an order reclassifying the Wrongly Classified Claims identified on **Schedule 1** to the Order as Class 6 General Unsecured Claims.

Reservation of Rights

15. This Objection is limited to the grounds stated herein. Accordingly, it is without prejudice to the rights of the Plan Administrator to object to any claim on any grounds whatsoever. The Plan Administrator expressly reserves all further substantive or procedural objections. Nothing contained herein or any actions taken pursuant to such relief is intended or should be construed as: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Plan Administrator's right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Objection or any order granting the relief requested by this Objection; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver of the Plan Administrator's rights under the Bankruptcy Code or any other applicable law.

Separate Contested Matter

16. To the extent that a response is filed regarding any Wrongly Classified Claim and the Plan Administrator is unable to resolve any such response, each such Wrongly Classified Claim, and the Objection as it pertains to such Wrongly Classified Claim, will constitute a separate contested matter as contemplated by Bankruptcy Rule 9014. Further, the Plan Administrator requests that any order entered by the Court regarding an objection or other reply asserted in response to this Objection be deemed a separate order with respect to each proof of claim.

Notice

17. The Plan Administrator will provide notice of this Objection to: (a) Office of the United States Trustee for the Southern District of Texas; (b) holders of Wrongly Classified Claims; and (c) any party that has requested post-Effective Date notice pursuant to Bankruptcy Rule 2002. The Plan Administrator submits that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

18. No prior request for the relief sought in this Objection has been made to this or any other court.

WHEREFORE, the Plan Administrator respectfully requests entry of the Order, substantially in the form attached hereto as **Exhibit B**, granting the relief requested herein and such other and further relief as is just and equitable.

Dated: September 11, 2018

GREENBERG TRAURIG, LLP

By: /s/ David R. Eastlake

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***Counsel for Nader Tavakoli, solely in his capacity
as the Lead Member and Chairman of the Plan
Administrator Committee of Cobalt International
Energy, Inc. et al.***

Exhibit A

**Declaration of Aaron Skidmore in Support of Plan Administrator's Seventh Omnibus
Objection to Certain Proofs of Claim (Wrongly Classified Claims)**

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	§ Chapter 11
	§
COBALT INTERNATIONAL ENERGY, INC.,	§ Case No. 17-36709 (MI)
<i>et al.</i> , ¹	§
	§
Reorganized Debtors.	§ (Jointly Administered)

DECLARATION OF AARON SKIDMORE IN SUPPORT OF PLAN
ADMINISTRATOR'S SEVENTH OMNIBUS OBJECTION TO CERTAIN
PROOFS OF CLAIM (WRONGLY CLASSIFIED CLAIMS)

I, Aaron Skidmore, hereby declare under penalty of perjury:

1. Under the *Fourth Amended Joint Chapter 11 Plan of Cobalt International Energy, Inc. and Its Debtor Affiliates*, confirmed on April 5, 2018 (the "Plan"), Nader Tavakoli was appointed as the Lead Member and Chairman of the Plan Administrator Committee of Cobalt International Energy, Inc. *et al.* (the "Plan Administrator"). The Plan Administrator has been utilizing certain employees of the Reorganized Debtors to assist him in reconciling and, if necessary, objecting to claims filed against the Debtors, consistent with the duties assigned to the Plan Administrator under the confirmed Plan. I am the current Treasurer of Cobalt International Energy, Inc. and I have assisted the Plan Administrator in this capacity.

2. I am generally familiar with the Debtors' operations, financing arrangements, business affairs, and books and records that reflect, among other things, the Debtors' liabilities and the amount thereof owed to their creditors as of the Petition Date. I have read the *Plan*

¹ The Reorganized Debtors in the Chapter 11 Cases, along with the last four digits of each Reorganized Debtor's federal tax identification number, are: Cobalt International Energy, Inc. (1169); Cobalt International Energy GP, LLC (7374); Cobalt International Energy, L.P. (2411); Cobalt GOM LLC (7188); Cobalt GOM # 1 LLC (7262); and Cobalt GOM # 2 LLC (7316). The Reorganized Debtors' service address is: 945 Bunker Hill Road, Suite 625, Houston, TX 77024.

Administrator's Seventh Objection to Certain Proofs of Claim (Wrongly Classified Claims) (the "Objection"), filed contemporaneously herewith.²

3. To the best of my knowledge, information and belief, the assertions made in the Objection are accurate. In evaluating the Wrongly Classified Claims, the Reviewing Parties, of which I am a member, have reviewed the Debtors' books and records, the claims register, any relevant filings in these Chapter 11 Cases, and the Wrongly Classified Claims and supporting documentation. Pursuant to that review, the Reviewing Parties have determined that each Wrongly Classified Claim improperly asserts a priority claim under Section 503(b)(9) of the Bankruptcy Code. Accordingly, I believe that the reclassification of the Wrongly Classified Claims on the terms set forth in the Objection is appropriate. I believe the failure to reclassify the Wrongly Classified Claims could result in the applicable claimant receiving an unjustly enriched return on their claim to the detriment of other similarly-situated creditors.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the facts set forth in the foregoing declaration are true and correct to the best of my knowledge, information and belief.

Dated: September 11, 2018

/s/ Aaron Skidmore

Aaron Skidmore

Treasurer

Cobalt International Energy, Inc.

² Capitalized but undefined terms herein shall have the same meaning ascribed to them in the Objection.

Exhibit B

Proposed Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	§ Chapter 11
	§
COBALT INTERNATIONAL ENERGY, INC., <i>et al.</i> , ¹	§ Case No. 17-36709 (MI)
	§
Reorganized Debtors.	§ (Jointly Administered)

ORDER SUSTAINING PLAN ADMINISTRATOR'S SEVENTH
OMNIBUS OBJECTION TO CERTAIN PROOFS OF CLAIM
(WRONGLY CLASSIFIED CLAIMS)

Upon the *Plan Administrator's Seventh Omnibus Objection to Certain Proofs of Claim (Wrongly Classified Claims)* (the "Objection");² and upon consideration of the Objection and the relief requested therein being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Objection having been provided; and it appearing that no other or further notice need be provided; and the Court having determined that there exists just cause for the relief granted herein; and upon the record of any hearing before the Court, and any responses to the Objection having been withdrawn, resolved, or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED** that:

1. The Objection is sustained as set forth herein.
2. Each Wrongly Classified Claim identified on Schedule 1 attached to this Order is hereby reclassified as a Class 6 General Unsecured Claim.

¹ The Reorganized Debtors in the Chapter 11 Cases, along with the last four digits of each Reorganized Debtor's federal tax identification number, are: Cobalt International Energy, Inc. (1169); Cobalt International Energy GP, LLC (7374); Cobalt International Energy, L.P. (2411); Cobalt GOM LLC (7188); Cobalt GOM # 1 LLC (7262); and Cobalt GOM # 2 LLC (7316). The Reorganized Debtors' service address is: 945 Bunker Hill Road, Suite 625, Houston, TX 77024.

² Capitalized but undefined terms herein shall have the same meaning as ascribed to them in the Objection.

3. Kurtzman Carson Consultants, LLC, as Claims, Noticing and Solicitation Agent, is authorized and directed to update the claims register maintained in these Chapter 11 Cases to reflect the relief granted in this Order.

4. To the extent a response is filed regarding any Wrongly Classified Claim, each such Wrongly Classified Claim, and the Objection as it pertains to such Wrongly Classified Claim, will constitute a separate contested matter as contemplated by Bankruptcy Rule 9014. This Order will be deemed a separate order with respect to each Wrongly Classified Claim.

5. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Plan Administrator's right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Objection or any order granting the relief requested by this Objection; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver of the Plan Administrator's rights under the Bankruptcy Code or any other applicable law.

6. The terms and conditions of this Order will be immediately effective and enforceable upon its entry.

7. The Plan Administrator is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Objection.

8. This Court shall retain exclusive jurisdiction to resolve any dispute arising from or related to this Order.

Signed: _____, 2018

HONORABLE MARVIN ISGUR
UNITED STATES BANKRUPTCY JUDGE

Wrongly Classified Claims¹

Name of Claimant		Claim No.	Debtor Name	Secured Amount	Priority Amount	Unsecured Amount	Total	Proposed Amount	Unliquidated
1	RSC Inspection Services, Inc. Mark Talbot 106 Capital Blvd Houma, LA 70360	402	Cobalt International Energy, Inc.	\$0.00	\$190.00	\$0.00	\$190.00	\$190.00	<input type="checkbox"/>
Legal and Factual Basis: This claim asserts a priority under Section 503(b)(9) of the Bankruptcy Code that is not warranted upon review of the claim, which should have been filed as a Class 6 General Unsecured Claim.									
2	Daniel J. Edelman, Inc. Office of the General Counsel 200 East Randolph Drive, Floor 62 Chicago, IL 60601	405	Cobalt International Energy, Inc.	\$0.00	\$1,285.00	\$0.00	\$1,285.00	\$1,285.00	<input type="checkbox"/>
Legal and Factual Basis: This claim asserts a priority under Section 503(b)(9) of the Bankruptcy Code that is not warranted upon review of the claim, which should have been filed as a Class 6 General Unsecured Claim.									
Count		2		\$0.00	\$1,475.00	\$0.00	\$1,475.00	\$1,475.00	

¹ Refer to pages 5-6 of the Objection pertinent to stated grounds.