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VIA ECF FILING

September 12, 2021

Re: In re MatlinPatterson Global Opportunities Partners II L.P.,
et al, Case No. 21-11255 (DSJ)

The Honorable David S. Jones
United States Bankruptcy Judge
United States Bankruptcy Court for the
Southern District of New York
One Bowling Green
New York, New York 10004

Dear Judge Jones:

We write in response to the letter filed by King & Spalding on behalf of its client VRG at ECF No. 140, asking the Court to strike the Debtors' Solicitation Procedures Motion.¹

The Debtors are not aware of any legal basis for VRG's request for a motion "to be stricken" and VRG offers none. The Solicitation Procedures Motion is scheduled for a hearing on October 14, 2021 – consistent with the "28+7" day notice period of a disclosure statement hearing set forth in Bankruptcy Rule 2002(b). VRG has ample opportunity to object and be heard. The October 14, 2021 hearing is the appropriate time for VRG to raise any objections to the proposed schedule, rather than through *ad hoc* letters to the Court seeking extraordinary relief that has no legal basis.

¹ "*Solicitation Procedures Motion*" means the Motion for Entry of an Order (I) Approving the Disclosure Statement; (II) Establishing a Voting Record Date; (III) Establishing Procedures for the Rejection of Executory Contracts and Unexpired Leases; (IV) Establishing a Schedule for Objections to Litigation Claims and Hearing Case Motions; (V) Approving Solicitation Packages and Solicitation Procedures; (VI) Approving the Forms of Ballots; (VII) Establishing Voting and Tabulation Procedures; and (VIII) Establishing Notice and a Schedule for Confirmation of the Plan [ECF No. 138].



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Under the Bankruptcy Code, the Debtors currently enjoy the exclusive right to file and prosecute a plan, and the last day of the Debtors' exclusive period for approval of a plan is January 3, 2022. Accordingly, the Debtors respectfully submit that the schedule they have proposed, in addition to being inherently reasonable and fair, could not have been a surprise in light of the deadline set by the Bankruptcy Code. Further mitigating any supposed surprise should have been the fact that the Debtors' plan and disclosure statement have been on file for over two months.

To justify delaying a hearing on the Debtors' Solicitation Procedures Motion, VRG asserts that the Debtors have not yet "fully" responded to VRG's discovery requests. As an initial matter, the mere filing of a motion that will not even be heard for over a month, and requests to schedule dates well into the future, while discovery, and potentially motion practice, is accomplished in the interim, is hardly a basis for "outrage." The Solicitation Procedures Motion was deliberately designed to allow adequate time to accommodate for those processes. Indeed, far more complex cases, with more parties, more issues and many more dollars at stake, routinely proceed faster.

In accordance with the Court's direction to discuss and cooperate over a voluntary information exchange, the Debtors, VRG and VarigLog met and conferred at length on August 30, 2021 for that purpose. During that meet and confer, at VRG's insistence, the parties went through each of VRG's (and VarigLog's) 32 "extraordinarily broad" and "disproportionate"² document requests, one by one, and—to the Debtors' understanding—ultimately agreed on an appropriately narrowed scope for each and every one of them. The documents responsive to those narrowed and agreed requests were then produced by the Debtors on September 3, 2021, subject to a very small number of documents for which Debtors continued to search their files. VRG has had those documents for review ever since and the Court has scheduled a hearing on September 17, 2021 to resolve remaining issues, if any. To date, VRG has not identified or raised any remaining discovery-related issues with the Debtors, despite Debtors' inquiries.

The Debtors' proposed schedule in their Solicitation Procedures Motion provides VRG along with all other parties-in-interest nearly *three months* following the forthcoming September 17, 2021 discovery conference (for a total of nearly four months) to complete any remaining discovery, file any motions VRG or others may wish to file, and prepare for a confirmation hearing. The proposed schedule specifically recognizes that VRG and/or VarigLog may want to file motions and purposely does not impose any deadline for doing so, other than to suggest that such motions be folded into a sensible case schedule for confirmation. VRG's suggestion that this is "outrageous" and "egregious" is not constructive and serves only to evidence the need for the Debtors' Solicitation Procedures Motion: it has become clear that *any* schedule that puts these Chapter 11 Cases on the path toward confirmation would be too soon for VRG.

The Debtors remain open to good-faith discussions with creditors and interest-holders regarding the proposed case schedule, and there remains one month before the hearing on the

² The Court at Aug. 26 Hrg Tr. 7:22-25.

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Solicitation Procedures Motion for such discussions to occur.³ However, it is the Debtors' view that such discussions must occur within a framework of a confirmation schedule proposed by the Debtors, and not some alternative bankruptcy universe in which a dissenting creditor gets to dictate to a debtor how to administer its case and when (if ever) to prosecute its plan. The Debtors are entirely within their rights to seek to set a schedule to move these cases along in a manner consistent with the timeframes contemplated for doing so under the Bankruptcy Code. VRG could have already made any jurisdictional motion or defense it may wish to assert, because the relevant facts are few, they are undisputed, and the issues that divide the parties are simply what legal consequences flow from them. VRG still has months to make any such motion. VRG's perceived rights and needs must be balanced with those of the Debtors and all of the Debtors' other stakeholders, including undisputed creditors and limited partners. It is not VRG's prerogative to unilaterally delay the progression of these cases indefinitely and without any sensible case schedule in place.

The Debtors have a statutory right to seek confirmation of a Plan, and in the exercise of their judgment as fiduciaries for *all* stakeholders they have determined that it is in the best interests of their estates to do so. VRG's continuing effort to thwart the ordinary and orderly administration of these cases is transparent and inappropriate. The Debtors respectfully submit that VRG's unauthorized letter request should be denied and the Solicitation Procedures Motion heard on October 14, 2021. VRG can file any objections to the proposed scheduled in accordance with the Bankruptcy Rules and be heard at that time.

Respectfully Submitted,

/s/ Elisha D. Graff

Elisha D. Graff

³ The Debtors note that prior to the hearing on the Solicitation Procedures Motion, they will have filed their Statements of Financial Affairs, and the adjourned portion of the Section 341 meeting is scheduled to be completed on October 12, 2021 – to the extent that any of these items are relevant (and they are not) to the setting of a confirmation timeline that extends at base case for nearly two months after the October 14, 2021 hearing.