

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

TEMPLAR ENERGY LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 20-11441 (BLS)

(Jointly Administered)

Docket Ref. No. 47 and 101

DECLARATION OF MORGAN SUCKOW IN SUPPORT OF DEBTORS' MOTION FOR AN ORDER (A) APPROVING THE SALE OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES, (B) APPROVING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND (C) GRANTING RELATED RELIEF

I, Morgan Suckow, hereby declare under penalty of perjury:

1. I am a Senior Managing Director at Guggenheim Securities, LLC ("Guggenheim Securities"), an investment banking firm with principal offices located at 330 Madison Avenue, New York, New York 10017. Guggenheim Securities is a full-service investment banking firm providing investment banking advisory services, including with respect to mergers and acquisitions, capital raising, and restructuring transactions, across a broad range of industries. Guggenheim Securities and its senior professionals have extensive experience with respect to the reorganization and restructuring of distressed companies, both out-of-court and in chapter 11 proceedings.

2. I personally have over 19 years of experience advising companies in connection with restructuring transactions and chapter 11 cases, including with respect to financings and mergers and acquisitions. My experience includes representing companies, boards, creditors, and

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Templar Energy LLC (4719), TE Holdcorp, LLC (6730), TE Holdings, LLC (3115), TE Holdings II, LLC (N/A), Templar Operating LLC (0810), Templar Midstream LLC (3275), and TE Holdings Management LLC (7467). The address of the Debtors' corporate headquarters is 4700 Gaillardia Parkway, Suite 200, Oklahoma City, Oklahoma 73142.



other stakeholders in a variety of situations across a broad range of industries, including with respect to the chapter 11 cases of Energy Future Holdings, Calpine Corporation, Kmart Corporation, Mirant Corporation, Carmike Cinemas, AMF Bowling, Orchard Brands, Furniture Brands, Payless Holdings, and White Star Petroleum Holdings. Prior to joining Guggenheim Securities, I was a founding member and Managing Director at Miller Buckfire & Co., a boutique investment bank where I focused on advising on restructuring matters from 2002 to 2016. Prior to the formation of Miller Buckfire & Co., I worked in the restructuring group at Dresdner Kleinwort Wasserstein (formerly known as Wasserstein Perella). I graduated from Duke University with a Bachelor of Science in Engineering in 2000.

3. I submit this declaration (the “Declaration”) in support of entry of the Debtors’ proposed *Order (A) Approving the Sale of the Debtors’ Assets Free and Clear of All Liens, Claims, Interests, and Encumbrances, (B) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (C) Granting Related Relief* (the “Proposed Sale Order”) and the *Debtors’ Motion for Entry of Orders (A) (I) Approving Bidding Procedures for the Sale of All or Substantially All of the Debtors’ Assets, (II) Approving Bid Protections, (III) Scheduling a Sale Hearing and Objection Deadlines with Respect to the Sale, (IV) Scheduling an Auction, (V) Approving the Form and Manner of Notice of the Sale Hearing and Auction, (VI) Approving Contract Assumption and Assignment Procedures, and (VII) Granting Related Relief; and (B) (I) Approving the Sale of the Debtors’ Assets Free and Clear of All Liens, Claims, Interests, and Encumbrances, (II) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* [Docket No. 47] (the “Sale Motion”).²

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Sale Motion or the Bidding Procedures (as defined below), as applicable.

4. Except as otherwise stated in this Declaration, I have personal knowledge of or have relied upon the knowledge of others employed at Guggenheim Securities with respect to the matters set forth herein. I am familiar with the Debtors and their marketing and sale process. If called to testify, I could and would testify competently to the facts set forth herein.

5. On February 3, 2020, the Debtors, with the assistance of Guggenheim Securities, formally commenced a marketing process to sell all or substantially all of their assets (the “Assets”). Prior to the Petition Date, the Debtors, with the assistance of Guggenheim Securities, reached out to 148 potential acquiring parties, and the Debtors ultimately entered into 41 confidentiality agreements with certain of those parties. A virtual data room was established to provide potential acquiring parties with access to diligence materials to assist them in formulating their indications of interest (“IOIs”). Management made confidential presentations to 13 parties who expressed an interest in acquiring all or a portion of the Debtors’ business.

6. Interested parties were advised that they initially would have until March 25, 2020 to submit IOIs for a transaction to acquire all or a portion of the Debtors’ business either through an in-court or out-of-court transaction. Fifteen parties submitted IOIs by the initial deadline, and three additional parties submitted IOIs thereafter.

7. On April 19, 2020, I understand certain members of the Debtors’ management advised the board of managers of TE Holdcorp, LLC (the “Board of Managers”) that they may submit a bid for the Assets. On April 20, 2020, I further understand that the Debtors formed a special committee of the Board of Managers (the “Transaction Committee”), composed solely of managers disinterested in participating in the sale process, which I understand was vested with sole authority over evaluating, negotiating, and approving any proposed sale transaction. Upon its

appointment (and until its dissolution as described below), the Transaction Committee oversaw the sale process, with the assistance of the Debtors' advisors.

8. Over the course of April 2020, the Debtors and the Transaction Committee, as applicable, with the assistance of Guggenheim Securities, worked closely with the parties that submitted IOIs to explore and address transaction structure, diligence questions, timing, and process considerations. As a result of this continued engagement with the bidders, nine parties submitted revised bids for the Debtors' assets, with such bids largely improving their terms from those contained in the bidders' initial IOIs. The Transaction Committee, with the assistance of the Debtors' advisors, continued to engage in advanced discussions with certain of these parties regarding the submission of a binding bid for the Assets. I understand that, due to liquidity and certain other constraints necessitating the filing of the Chapter 11 Cases, the Debtors were unable to enter into a purchase agreement with a stalking horse bidder prior to the Petition Date.

9. Following the Petition Date, the Debtors continued the marketing process pursuant to the bidding procedures (the "Bidding Procedures") approved by the *Order (A) Approving Bidding Procedures for the Sale of All or Substantially All of the Debtors' Assets, (B) Approving Bid Protections, (C) Scheduling a Sale Hearing and Objection Deadlines with Respect to the Sale, (D) Scheduling an Auction, (E) Approving the Form and Manner of Notice of the Sale Hearing and Auction, (F) Approving Contract Assumption and Assignment Procedures, and (G) Granting Related Relief* [Docket No. 101] (the "Bidding Procedures Order") and continued to actively negotiate with several parties regarding the terms of a stalking horse bid. As set forth in the Bidding Procedures Order, the Bidding Procedures set forth deadlines by which potential bidders could submit their bids and outlined the procedures for an auction process designed to encourage active participation and obtain the highest or otherwise best possible offer for the Assets.

Following the Petition Date, thirty additional potential acquiring parties reached out to the Debtors and the Debtors entered into thirty additional confidentiality agreements with those parties.

10. On June 12, 2020, I understand that the Debtors' management provided notice of its withdrawal from the bidding process and that, as a result, the Board of Managers determined that management should re-engage in assisting the Debtors in connection with the marketing process. I am advised, moreover, that the Board of Managers dissolved the Transaction Committee on June 12, 2020, at which point Guggenheim Securities and the Debtors' other advisors recommenced reporting to the Debtors' management and the Board of Managers with respect to issues related to the marketing process.

11. The Debtors ultimately decided to move forward with Tapstone Energy, LLC as the stalking horse bidder ("Tapstone" or the "Stalking Horse Bidder"). The Debtors, with the assistance of Guggenheim Securities and their other professional advisors, engaged in further discussions with Tapstone regarding the terms of an asset purchase agreement and the remaining legal and financial due diligence necessary to consummate a transaction. These negotiations resulted in the execution of a stalking horse asset purchase agreement dated June 22, 2020 (the "Stalking Horse APA"). As set forth in the *Notice of Designation of Stalking Horse Bidder* [Docket No. 102], pursuant to the Stalking Horse APA, Tapstone agreed to purchase substantially all of the Debtors' assets for a purchase price consisting of approximately \$65 million in cash, subject to certain adjustments and the assumption of the Assumed Liabilities (as defined in the Stalking Horse APA) and the Debtors agreed to provide the Stalking Horse Bidder with certain protections (the "Bid Protections"), including a termination fee of \$1.95 million (3% of the cash component of the Aggregate Purchase Price under the Stalking Horse APA) and expense reimbursement, up to an aggregate maximum amount of \$350,000, for certain third-party out-of-pocket costs, fees,

and expenses incurred in connection with the Stalking Horse APA. The Bankruptcy Court entered an order approving the Debtors' designation of Tapstone as the Stalking Horse Bidder and authorizing the Bid Protections on June 29, 2020 [Docket No. 130].

12. Following the execution of the Stalking Horse APA, the Debtors, with the assistance of Guggenheim Securities, continued marketing the Assets and working with Potential Bidders with the goal of eliciting topping bids to the floor set by the Stalking Horse Bidder. The Debtors ultimately received two additional bids from Zarvona III-A, L.P. ("Zarvona") and Presidio Investment Holdings LLC ("Presidio") by the Bid Deadline. The Debtors, in consultation with their advisors, including Guggenheim Securities, reviewed these bids and determined, in consultation with the Consultation Parties, that each of these bids satisfied the requirements of the Bidding Procedures and constituted Qualified Bids. The Debtors, in consultation with the Consultation Parties, determined that Zarvona's bid of \$75 million, which was \$7.8 million higher than the Tapstone bid after accounting for the payment of the Bid Protections under the Stalking Horse APA, would be the opening bid at the Auction.

13. On July 9, 2020, the Debtors held the Auction by video conference. I attended the Auction, which began at approximately 10:00 a.m. (prevailing Eastern Time). Throughout the Auction, separate virtual meetings were held with the Qualified Bidders in an effort to obtain the highest and best bid for the Assets. The Debtors, with the assistance of their advisors, also engaged in dialogue with and conferred with the advisors to the DIP Agent and RBL Agent, who attended the Auction in their roles as Consultation Parties.

14. Following a robust Auction that included 26 rounds of bidding, and as set forth in the *Notice of Designation of Successful Bidder* [Docket No. 195], the Debtors, in consultation with the Consultation Parties, determined that Presidio was the Successful Bidder at the Auction, that

its bid of \$91 million (less the \$2.3 million of Bid Protections) was the highest and best bid for the Assets, and that Zarvona would be designated as the Back-Up Bidder with a bid of \$88.25 million (less the \$2.3 million of Bid Protections).

15. Given the marketing process and the efforts described above, I believe that (a) Potential Bidders were afforded a reasonable opportunity to conduct due diligence, submit higher or otherwise better offers to acquire the Assets, and participate in the Auction, and (b) the Successful Bidder's bid is the best sale transaction presently available to the Debtors under the circumstances. Based on my experience, moreover, I believe that the principal economic terms of the asset purchase agreement with the Successful Bidder (the "APA") constitute customary and usual terms under the circumstances. I am also not aware of any other entities interested in consummating a transaction involving the Assets other than the 176 potential acquiring parties that were contacted in connection with the marketing process.

16. Finally, I assisted the Debtors, along with their other advisors, with the negotiation of the key economic terms of the APA. Based on my observation of those discussions, these negotiations, in my view, were conducted in good faith and on an arm's-length basis. I am not aware of any collusive conduct between the Successful Bidder and other bidders. Furthermore, throughout the marketing process, the Debtors, with the assistance of their advisors, including Guggenheim Securities, consulted, and worked, with the Consultation Parties regarding the Sale and the sale process.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: July 15, 2020
New York, New York

/s/ Morgan Suckow
Morgan Suckow

Senior Managing Director
Guggenheim Securities, LLC
*Investment Banker to the Debtors
And Debtors-in-Possession*