

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

In re:)	Chapter 11
SWIFT ENERGY COMPANY, <i>et al.</i> ,)	Case No. 15-12670 (MFW)
Debtors. ¹)	Re: Docket Nos. 17 & 57

LIMITED OBJECTION OF Y BAR RANCH, LTD. TO MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO (A) OBTAIN POST-PETITION FINANCING ON A SUPER-PRIORITY, SECURED BASIS AND (B) USE CASH COLLATERAL, (II) GRANTING (A) LIENS AND SUPER-PRIORITY CLAIMS AND (B) ADEQUATE PROTECTION TO CERTAIN PREPETITION LENDERS, (III) MODIFYING THE AUTOMATIC STAY, (IV) SCHEDULING A FINAL HEARING AND (V) GRANTING RELATED RELIEF

Y Bar Ranch, Ltd. ("Y Bar"), by and through undersigned counsel, hereby files this limited objection to the Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Post-Petition Financing on a Super-Priority, Secured Basis and (B) Use Cash Collateral, (II) Granting (A) Liens and Super-Priority Claims and (B) Adequate Protection to Certain Prepetition Lenders, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing and (V) Granting Related Relief (the "DIP Finance Motion") and respectfully states as follows:

Brief Background

1. Y-Bar owns fee simple interests in 2,520.17 acres in McMullen County, Texas (the "Leased Premises"). On October 23, 2006, Y-Bar signed an oil and gas lease (the "Lease") covering the Leased Premises to Broad Oak Energy, Inc. A memorandum of the Lease is recorded

¹ The Debtors are the following nine entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): Swift Energy Company (0661); Swift Energy International, Inc. (6721); Swift Energy Group, Inc. (8150); Swift Energy USA, Inc. (8212); Swift Energy Alaska, Inc. (6493); Swift Energy Operating, LLC (2961); GASRS LLC (4381); SWENCO-Western, LLC (0449); and Swift Energy Exploration Services, Inc. (2199). The address of each of the Debtors is 17001 Northchase Drive, Suite 100, Houston, Texas 77060.



in Volume 449, Page 79 of the Official Records of McMullen County, Texas (the “Official County Records”).

2. On July 18, 2007, Y-Bar and Broad Oak Energy executed a Limited Amendment to Oil and Gas Lease. On October 5, 2009, Y-Bar and Swift (then the assignee of the Lease) signed an Extension and Amendment of Oil and Gas Lease, recorded in Volume 473, Page 57 of the Official County Records. A Correction and Ratification of Oil and Gas Lease, effective October 23, 2006 is recorded in Volume 20, Page 679 of the Official County Records.

3. Effective July 1, 2007, Broad Oak Energy assigned its right, title, and interest in the Lease to Swift Energy Operating LLC (“Swift”). A copy of the assignment is recorded in Volume 463, Page 210 of the Official County Records.

4. The Leased Premises are located in north central McMullen County, in the area for Eagle Ford oil production. Broad Oak Energy drilled the first well on the Lease – the Y-Bar No. 1 (the “Y-Bar 1”). Subsequent to acquiring the Lease from Broad Oak Energy, Swift drilled five horizontal Eagle Ford wells on the Leased Premises.

5. In November 2015, Swift ceased making payments to Y Bar for amounts due under the Lease. Y Bar and Swift are currently in a dispute over the payments due to Y Bar under the Lease, and the Debtors have continued to withhold payments to Y Bar.

6. Additionally, prior to the Petition Date, Y Bar filed a petition in the District Court for McMullen County, Texas seeking, among other things, damages for Swift’s failure to make certain payments due under the Lease and for a judicial declaration of Y Bar’s rights under the Lease. That petition has been stayed by the filing of the Debtors’ petition for relief under the Bankruptcy Code.

7. The Lease creates a lien inuring to the benefit of Y Bar. Specifically, Section 19 of the Lease provides, in part, as follows:

Lessor hereby retains a first and preferred lien and security interest in all (i) Minerals produced and saved from the Leased premises or lands pooled herewith and (ii) all proceeds from the sale, disposition, exchange or transfer of such Minerals and all accounts arising therefrom and (iii) all equipment and fixtures of Lessee located on the Leased Premises (the "Collateral") to secure Lessor in the payment to it of all sums owed to it under this Lease and to secure Lessee's full compliance with the other terms and provisions of this Lease. In addition to any other remedies provided in this Lease, Lessor, as a secured party, may in the event of Lessee's default hereunder, enforce its rights as to such collateral under the Texas Uniform Commercial Code. In the event of default by Lessee, Lessor shall have the right to take possession of the collateral and to receive the proceeds attributable thereto and to hold same as security for Lessee's obligations or to apply such proceeds on the amounts owing to Lessor hereunder.

Section 19.2 further provides:

Lessee is prohibited from granting a lien, mortgage, pledge or security interest on Lessor's royalty share or portion of produced Minerals or revenue or value derived from the production of Minerals. Any direct or indirect attempt to impress a lien, mortgage, pledge or security interest on Lessor's royalty share of production or revenue or value derived therefrom shall be void and constitute a breach of this Lease.

8. Additionally, Texas law creates a statutory lien, automatically perfected, on proceeds from the sale of production: Texas Business and Commerce Code Section 9.343 (TEX. BUS. & COM. CODE §9.343).

Objection

9. Y Bar does not object to the Debtors obtaining post-petition financing, however Y Bar objects to the Debtors granting liens in the Lease or rights under the Lease and objects to language in the proposed final Order approving DIP Financing that does not comport with the express terms of the Lease, or otherwise alters Y Bar's rights under the Lease or to the Leased Premises, including but not limited to its lien rights. Further, while the Debtors appear to recognize

that certain “permitted liens” will not be “primed” by liens granted under the DIP Financing Order, it is not clear what liens related to “Oil and Gas Properties” will be primed.²

10. Section 364 authorizes the Debtors to obtain financing, but it does not authorize the Debtors to alter lease provisions, or pre-empt Y Bar’s rights to its property. Provisions that restrict the ability to encumber leases are critical to Y Bar’s ability to (a) control its property, (b) preserve clear title to the Leased Premises, (c) comply with its own investments requirements, and (d) effectively market the Leased Premises if the Lease is terminated.

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² The Debtor-In-Possession Security Agreement states that “Permitted Liens” shall include “Liens on assets, excluding Oil and Gas Properties and production and proceeds therefrom, in an aggregate amount not to exceed \$1,000,000.”

WHEREFORE, for the reasons set forth herein, Y Bar respectfully requests that any Order approving the DIP Financing Motion comport with, and not alter provisions of the Lease, preserve Y Bar's clear title to its Lease and all its rights under the Lease, and not prevent or otherwise prohibit Y Bar from accessing and controlling its property.

Dated: January 25, 2016
Wilmington, Delaware

CROSS & SIMON, LLC

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Counsel to Y Bar Ranch, Ltd.

CERTIFICATE OF SERVICE

I, Christopher P. Simon, hereby certify that on this 25th day of January, 2016, I caused a true and correct copy of the **Limited Objection of Y Bar Ranch, Ltd. to Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Post-Petition Financing on a Super-Priority, Secured Basis and (B) Use Cash Collateral, (II) Granting (A) Liens and Super-Priority Claims and (B) Adequate Protection to Certain Prepetition Lenders, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing and (V) Granting Related Relief** to be served upon all interested parties via CM/ECF and upon the parties listed below by first class mail.

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