

**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. <sup>1</sup>	)	Re: Docket Nos. 243 & 417
	)	
	)	Hearing Date March 30, 2016 @ 10:30 a.m.
	)	Objection Deadline March 23, 2016 @ 4:00 p.m.
	)	

**LIMITED JOINT OBJECTION OF THE BRACKEN GROUP, THE BAETZ GROUP  
AND THE PETTY GROUP TO CONFIRMATION OF THE FIRST AMENDED JOINT  
PLAN OF REORGANIZATION OF THE DEBTORS AND DEBTORS IN POSSESSION**

R. A. Bracken Children’s Partnership, Ltd., Perot Minerals, Ltd., Rocking Fork, Ltd., Sally P. Fischer and James J. Fischer, Trustees of the Samantha Fischer Skaran 2004 Trust, Sally P. Fischer and James J. Fischer, Trustees of the James J. Fischer II 2004 Trust, Sotex Partners, Ltd., Two Rivers Dogtown, LP, Lawrence Consolidated Enterprises, Ltd., Genda Bracken Williams Investments, Ltd., S. Evans, Ltd., Will B. Evans 2000 Trust, Glenn B. Evans 2000 Trust, Linda Bracken West 2000 Trust, PLC O&G Properties, L.P., Bryan 2007 Dynasty Trusts, and Price Partners, Ltd. (collectively, “The Bracken Group”) along with Marie I. Baetz Family 2012 Trust, Barbara Shelby Baetz, Bertrand O. Baetz Testamentary Trust, CSC3 Holdings, Ltd., Courtney Baetz Watson, and Bertrand O. Baetz (collectively, “The Baetz Group”) along with Ferncliff Investments LP, Joan L. Petty, Scott James Petty, Eleanor O. Petty, Petty Business Enterprises LP, Petty 2007 Grandchildren’s Trust, Scott James Petty and Susan P. Arnim, Co-Trustees, Scott and Eleanor Petty, Jr., and Susan P. and Thomas V. Arnim (collectively, “The

<sup>1</sup> 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.



Petty Group” and together with The Bracken Group and The Baetz Group, the “BBP Groups”), by and through undersigned counsel, hereby file this limited objection to confirmation of the Debtors’ First Amended Joint Plan of Reorganization of the Debtors and Debtors in Possession (the “Objection”) and respectfully states as follows:

**Background**

1. The Bracken Group entered into an Oil and Gas Lease with Swift Energy Operating, LLC on March 1, 2008 covering 11,740.895 acres in McMullen County, Texas (“Bracken Lease Premises”). A Memorandum of Lease, providing notice of the existence of the Lease to the public was recorded in Volume 849, Page 128 of the Deed Records of McMullen County, Texas. The Lease was amended by Amendment to Oil and Gas Lease dated December 9, 2011, recorded in Volume 41, Page 193 of the Official Public Records of McMullen County, Texas and by amendment dated September 12, 2012 recorded in Volume 62, Page 31 of the Official Public Records of McMullen County, Texas. The aforementioned Oil and Gas Lease and Amendments of Oil and Gas Lease are collectively referred hereto as the “Bracken Leases”.

2. On December 18, 2009, The Baetz Group (with Courtney Baetz Watson as predecessor to CSC3 Holdings, ltd.), as Lessors, granted three (3) Oil and Gas Leases to Swift Energy Operating, LLC, as Lessee, (the “Baetz Leases”), with each Baetz Lease covering a different adjacent Baetz tract of land in La Salle County, Texas and each with the same Baetz mineral ownership and same terms and provisions. A Memorandum of each of the Baetz Leases was recorded in the Official Public Records of La Salle County, Texas, providing notice of the existence of the Leases to the public. The surface of the lands covered by each of the Leases is owned by Baetz Ranch, Ltd. (the “Baetz Lease Premises”). On February 24, 2012, Bertrand O. Baetz, Jr. and Baetz Ranch, Ltd., entered into a Water Use Agreement (“Water Agreement”) with Swift under the terms of which the parties made certain agreements with respect to water

production and usage under and upon the Baetz Lease Premises, which water was for lessee's operations on the Baetz Leases.

3. On September 15, 1988, Gloria A. Reeves, as Lessor, entered into an Oil and Gas Lease with E.O. Scott, III, as Lessee, covering 1,587.40 acres in La Salle County, Texas. The Lease is now claimed by Swift Energy Operating, LLC. On May 15, 2009, Linda Reeves Troutt d/b/a General Minerals Resources, as Lessor, entered into an Oil and Gas Lease with Swift Energy Operating, LLC, as Lessee, covering 2,446.66 gross acres, more or less, in La Salle County, Texas. On May 1, 2010, Linda Reeves Troutt d/b/a General Minerals Resources, as Lessor, granted an additional Oil and Gas Lease to Swift Energy Operating, LLC, as Lessee, covering 593.22 gross acres, more or less, in La Salle County, Texas. The Leases are collectively referred to herein as the "Petty Leases". The 2009 and 2010 Petty Leases are identical except for the execution date and the legal description. The members of The Petty Group are owners of either an undivided mineral interest or royalty interests under all or a portion of the lands described in the Leases (the "Petty Lease Premises"). A Memorandum of each of the Petty Leases is recorded in the Official Public Records of La Salle County, Texas, which Memorandum puts the public on notice of each of the Petty Leases.

4. The Bracken Leases, the Baetz Leases and the Petty Leases are hereinafter collectively referred to as the "Leases". The Bracken Lease Premises, the Baetz Lease Premises, and the Petty Leases Premises are hereinafter collectively referred to as the "Lease Premises"),

5. Texas law creates a statutory lien, automatically perfected, on proceeds from the sale of production inuring to the benefit of The BBP Groups: Texas Business and Commerce Code Section 9.343 (TEX. BUS. & COM. CODE §9.343).

6. On December 31, 2015, the Debtors filed voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code (the "Bankruptcy Code").

7. On February 5, 2016, the Debtor filed its Joint Plan of Reorganization of the Debtors and Debtors in Possession, and an Amended Joint Plan of Reorganization of the Debtors and Debtors in Possession was filed on March 15, 2016 (the “Plan”).

8. On March 2, 2016, The Bracken Group filed the following proofs of claim related to various prepetition claims against the Debtors under the Bracken Leases, all of which are incorporated herein by reference: Proofs of Claim Nos. 514, 519, 525, 526, 530, 539, 568, 569, 570, 571, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 589, 590, 591, 595, 597, 598, 604, and 720 (the “Bracken Secured Claims”).

9. On March 2, 2016, The Baetz Group filed the following proofs of claim related to various prepetition claims against the Debtors under the Baetz Leases, all of which are incorporated herein by reference: Proofs of Claim Nos. 572, 587, 592, 593, 600, 601, and 602 (the “Baetz Secured Claims”).

10. On March 2, 2016, The Petty Group filed the following proofs of claim related to various prepetition claims against the Debtors under the Petty Leases, all of which are incorporated herein by reference: Proofs of Claim Nos. 655, 658, 659, 662, 666, 669, 685, and 686 (the “Petty Secured Claims”, and together with the Bracken Secured Claims and the Baetz Secured Claims, the “BBP Secured Claims”). The BBP Secured Claims, including the Termination Claims (defined below), are based on prepetition acts or omissions by the Debtors.

11. Certain of the BBP Secured Claims relate, in part, to the underpayment of prepetition royalty (collectively, the “BBP Underpayment Claims”). In the BBP Underpayment Claims, the BBP Groups note that, in the event a Court determines that the Debtors failed to pay the unpaid or underpaid royalties within the redemption period under the applicable Leases and further finds that, as a result, the Leases terminated prepetition, the applicable BBP Group would be owed one-hundred (100%) percent of the revenue on production of oil and gas from the

applicable Lease Premises after the date the Lease terminated, LESS the reasonable costs of drilling, completing, equipping and operating each of the wells on the Lease Premises, on a well-by-well basis (the “BBP Termination Claims”).

### **Objection**

12. The Plan does not adequately provide for the preservation of the BBP Termination Claims or a procedure by which the BBP Groups can pursue their Termination Claims post-confirmation. While The BBP Groups have sought to preserve their Termination Claims in the Underpayment Claims that were timely filed, language in the Plan is unclear as to how the BBP Groups would be able to pursue such Termination Claims post-confirmation, as confirmation of the Plan would arguably result in a waiver and discharge of such Termination Claims.

13. Section IV(E) of the Plan describes the effect of the Plan on Royalty Interests and Oil & Gas Leases. Specifically, Section IV(E)(2) the Plan states that each Debtor’s right, title and interest in and to the Leases shall revert in the Debtor pursuant to the Plan, but does not indicate or allow for any procedure by which the landowner or royalty interest holder under any such Lease (a “Royalty Interest Holder”) might argue that its Lease might have been terminated pre-petition and, therefore, cannot be revested in or transferred to the reorganized Debtors.

14. Additionally, Section IV(E)(2) states that, “[t]o the extent such oil & gas leases may be deemed to be, and treated as though they are, executory contracts, such leases shall be deemed assumed pursuant to the Plan and section 365 of the Bankruptcy Code.” Plan § IV(E)(2). This provision too broad and vague for a Royalty Interest Holder to understand whether or not the Debtor intends to seeks to assume its Lease in order to have it revert in the reorganized Debtor. The Debtors should clarify which Leases listed on Exhibit IV(E)(2) they intend to treat as executory contracts and, accordingly, assume pursuant to the terms of the Plan;

otherwise, counter-parties to such Leases that are not treated as executory contracts could arguably lose their ability to claim either that the Leases terminated prepetition or that, in order to reconstitute with the reorganized Debtor, such Leases must be assumed pursuant to Section 365 of the Bankruptcy Code.

15. Furthermore, even assuming the Debtor seeks to assume a Lease, the assumption procedure set forth in Section V(A) does not adequately provide for the Termination Claims. The procedures under Section V(A) and Section 365 of the Code provide for an objection process to the assumption of the Leases, but it is unclear whether a counter-party to any such assumed Lease will be deemed to have waived its Termination Claims if such Termination Claims were not pursued or adequately preserved pre-confirmation.

16. Assuming the Leases are not treated as executory contracts and are simply transferred and/or reconstituted in the reorganized Debtors pursuant to the Plan and Confirmation Order, the Plan does not sufficiently provide for the preservation of the Termination Claims and/or the procedure by which Royalty Interest Holders might pursue such Termination Claims post-confirmation.

17. Section 541(b)(2) of the Bankruptcy Code specifically provides that:

property of the estate does not include...any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease before the commencement of the case under this title, and ceases to include any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease during the case.

Bankruptcy Code §541(b)(2). If the Termination Claims are not adequately preserved in the Plan, it could be argued that, by virtue of the broad and expansive release and injunction provisions in the Plan, the BBP Groups waived their right to argue that the applicable Leases

terminated and, therefore, that the Debtors interests under such Leases are not property of the estate and cannot be transferred pursuant to the Plan.

18. Finally, while the BBP Groups believe that they adequately preserved all of their claims under the Leases, including any and all Termination Claims, in the Secured Claims that were filed, the Plan language is too vague with respect to any such Termination Claims to provide the BBP Groups with sufficient comfort that the Termination Claims will not be deemed to have been waived or discharged pursuant to the broad and expansive release and injunction provisions under Article IV and IX of the Plan. Therefore, the BBP Groups felt it necessary to file this Objection in order to clarify how Termination Claims can be preserved and how they will be treated under the Plan, including the procedure by which such Termination Claims can be resolved.

19. Ultimately, the BBP Groups' Objection is limited in nature; it seeks only to preserve the right of the BBP Groups to pursue all claims set forth in the Secured Claims including, without limitation, the Termination Claims.

WHEREFORE, for the reasons set forth herein, the BBP Groups respectfully request that the Plan and/or any Order confirming the Plan allow for the BPP Groups to preserve the rights of the BBP Groups to pursue all claims set forth in the Secured Claims including, without limitation, the right to seek a determination, post-confirmation, that the Leases were terminated pre-petition under the terms of the Leases and applicable nonbankruptcy law and/or that the Debtors' interests in such Leases are not property of the estate and therefore cannot be transferred.

Dated: March 23, 2016

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and The Petty Group*



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FOR THE DISTRICT OF DELAWARE**

In re	)	Chapter 11
Swift Energy Company, <i>et al.</i> ,	)	Case No. 15-12670 (MFW)
Debtors.	)	(Jointly Administered)
	)	
	)	
	)	

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of this **LIMITED LIMITED JOINT OBJECTION OF THE BRACKEN GROUP, THE BAETZ GROUP AND THE PETTY GROUP TO CONFIRMATION OF THE FIRST AMENDED JOINT PLAN OF REORGANIZATION OF THE DEBTORS AND DEBTORS IN POSSESSION** was served on March 23, 2016, on the electronic service list and on the following via first class mail:

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/s/ Kate Deringer Sallie

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Kate Deringer Sallie

March 23, 2016