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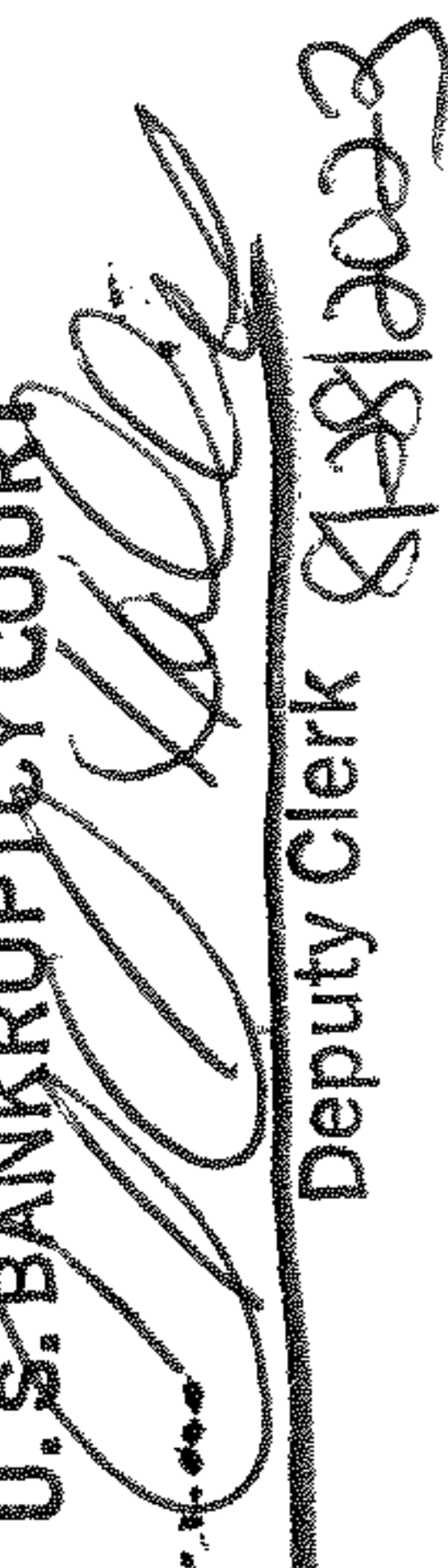
IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

_____)	Chapter 11
In re:)	
)	Case No. 18-10512 (KBO)
Zohar III, Corp., ¹)	
)	
Debtor.)	
_____)	Docket Ref. No. 3735

ORDER APPROVING CONSUMMATION OF PORTFOLIO
COMPANY TRANSACTION

Upon that certain *Order (I) Approving Certain Modifications to the Third Amended Joint Plan of Liquidation Under Chapter 11 of the Bankruptcy Code for Zohar III, Corp. and its Affiliated Debtors Pursuant to Section 1127(b) of the Bankruptcy Code; (II) Finding That (A) Such Modifications Are Not Material and Adverse or (B) the Debtors Have Satisfied the Requirements of Section 1127(b) and (c) of the Bankruptcy Code With Respect to Such Modifications; (III) Confirming the Modified Plan; and (IV) Granting Related Relief [Docket No. 3467]* (the “Confirmation Order”), confirming the *Fourth Amended Joint Plan of Liquidation Under Chapter 11 of the Bankruptcy Code for Zohar III, Corp. and its Affiliated Debtors* (the “Plan”), that certain *Order Approving and Authorizing the Settlement Agreement By and Between the Debtors. Lynn Tilton, the Patriarch Stakeholders, MBIA Insurance Corp., and the Zohar III Controlling Class* dated May 21, 2018 [Docket No. 266] (the “Settlement Order,” and Exhibit A thereto the “Settlement Agreement”), and the *Order in Aid of Implementation of the Global*

¹ The Debtor in this chapter 11 case, along with the last four digits of its federal tax identification number, is Zohar III, Corp. (9612). The Debtor’s address is c/o Province, LLC 70 Canal Street, Suite 12E, Stamford, CT 06902. In addition to Zohar III, Corp., the Debtor’s affiliates include the following debtors whose bankruptcy cases have been closed prior to the date hereof, along with the last four digits of their respective federal tax identification numbers and chapter 11 case numbers: Zohar II 2005-1, Corp. (4059) (Case No. 18-10513); Zohar CDO 2003-1, Corp. (3724) (Case No. 18-10514); Zohar III, Limited (9261) (Case No. 18-10515); Zohar II 2005-1, Limited (8297) (Case No. 18-10516); Zohar CDO 2003-1, Limited (5119) and (Case No. 18-10517). All motions, contested matters, and adversary proceedings that remained open as of the closing of such cases, or that are opened after the date thereof, with respect to such Closed-Case debtors, are administered in this remaining chapter 11 case.

CERTIFIED:
AS A TRUE COPY:
ATTEST:
UNA M. O'BOYLE
U.S. BANKRUPTCY COURT
By  Deputy Clerk 8/28/2023

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Settlement Agreement Approved in These Cases for Authority to Establish Certain Procedures for the Corporate Approval of Portfolio Company Transactions and for Related Relief [Docket No. 545] (the “Procedures Order”); and upon the notice filed with this Court on June 22, 2023 [Docket No. 3735] (the “Transaction Notice”)² and the declarations attached thereto as **Exhibit A** (the “Transaction Declarations”); and this Court having jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated as of February 29, 2012; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the sale of the Assets to Vulcan Engineering Inc., an Alabama corporation (“Buyer”), pursuant to that certain Asset Purchase Agreement (the “APA”) by and among Buyer and Vulcan Engineering Co., an Alabama corporation (“VECO”), and certain of VECO’s subsidiaries (together with VECO, the “Sellers” and each, individually, a “Seller”), dated June 22, 2023 (the “Vulcan Transaction”); and it appearing that no other or further notice need be provided; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED:

1. Pursuant to the Plan and Confirmation Order, David Dunn, in his capacity as Asset Recovery Manager of Phoenix II Recovery, LLC (as successor in interest to Zohar II 2005-1 Limited) (“Phoenix II”), is fully authorized to approve and consummate the Vulcan Transaction on behalf of Phoenix II, including, but not limited to (i) authorizing Phoenix II to consent to the Vulcan Transaction, (ii) exercising any rights with respect to the Assets to implement or

² All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Monetization Procedures Order, the Transaction Notice, or the APA, as applicable. The terms “Patriarch Stakeholders” and “Other Stakeholders” as used herein shall have the meanings ascribed thereto in that certain *Order Approving and Authorizing the Settlement Agreement By and Between the Debtors, Lynn Tilton, the Patriarch Stakeholders, MBIA Insurance Corp., and the Zohar III Controlling Class* dated May 21, 2018 [Docket No. 266] (the “Settlement Order,” and Exhibit A thereto the “Settlement Agreement”).

consummate the Vulcan Transaction, and (iii) authorizing and approving the release of Phoenix II's liens, claims, encumbrances or other interests in connection with the Vulcan Transaction, as provided herein.

2. The Asset Recovery Manager, on behalf of Phoenix II, is authorized to consent to and perform under the APA and the Assignment. The APA (and all ancillary documents), all of the terms and conditions thereof, and all of the transactions contemplated by the Vulcan Transaction are hereby approved, including but not limited to the transfer of the Assets to the Buyer. The failure specifically to include any particular provision of the APA in the Transaction Notice or this Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the APA be authorized and approved in its entirety. The transfer of the Assets to the Buyer shall be a legal, valid and effective transfer of the Assets.

3. Based upon, among other considerations, the Transaction Notice and the Transaction Declarations, the Asset Recovery Manager's authorization, approval and consummation of the Vulcan Transaction is prudent, in good faith and fully consistent with the duties imposed upon the Asset Recovery Manager under the Plan.

4. The sale of the Assets and the consideration provided by the Buyer, and the Assignment and the consideration provided by Phoenix II, are fair and reasonable and shall be deemed for all purposes to constitute a transfer for fair value, full and adequate consideration, reasonably equivalent value and fair consideration under any applicable law.

5. Effective as of the Closing, the sale of the Assets to the Buyer shall constitute a legal, valid and effective transfer of the Assets and shall vest Buyer with all rights, title and interests in and to the Assets, free and clear of all liens, claims, encumbrances and interests of any kind held by parties to the Settlement Order (including their successors under the Plan and

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Confirmation Order) (including but not limited to (i) beneficial interests and (ii) any liens recorded with the Alabama Secretary of State, and/or the Tennessee Secretary of State, and/or register of mortgages in the Cayman Islands and/or the Probate Office of Jefferson County, Alabama, and/or the Probate Office of Shelby County, Alabama) or Ankura Trust Company, LLC, as administrative agent (the “Agent”) under that certain Amended and Restated Credit Agreement, dated as of March 8, 2002 (as amended, restated, supplemented, or otherwise modified from time to time, the “Credit Agreement”), among Vulcan Engineering Co., as borrower, the institutions and other investors from time to time party thereto as Lenders (collectively, the “Encumbrances”), pursuant to the Plan, the Confirmation Order, the Monetization Procedures Order and the Settlement Order, with such Encumbrances attaching to the proceeds from the Vulcan Transaction with the same validity and priority as such released Encumbrances. For the avoidance of doubt, the Assets are being transferred to Buyer free and clear of, among any other liens, claims, encumbrances and interests of any kind held by any of the parties to the Settlement Order (including their successors under the Plan and Confirmation Order) or Agent under the Credit Agreement, (i) that certain Mortgage dated June 17, 1998 from VECO and Industrial Heating and Finishing Company, Inc. to Dresdner Bank AG, New York and Grand Cayman Branches, in the original principal amount of \$53,000,000.00, filed for record in the Probate Office of Shelby County, Alabama on July 6, 1998, recorded in Instrument 1998-25047, as subsequently transferred and assigned to AmSouth Bank pursuant to Instrument 20050804000395180, re-recorded in Instrument 20051101000568820, as further transferred and assigned to Patriarch Partners Agency Services, LLC (“PPAS”) recorded in Instrument 20090122000020070 (as transferred and assigned, the “Mortgage”); and (ii) those certain security interests in the Assets evidenced by the following UCC-1 financing statements filed with the Secretary of State of Alabama: (a) 03-0490973 (in favor of PPAS and Agent) ; (b)

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03-0490980 (in favor of PPAS and Agent); (c) 04-0577667 (in favor of PPAS and Agent); (d) 04-0577673 (in favor of PPAS and Agent); (e) 10-0256547 (in favor of PPAS); (f) 10-0256553 (in favor of PPAS and Agent); (g) 11-0272532 (in favor of ARK CLO 2000-1, Limited); (h) 11-0272549 (in favor of Zohar II 2005-1, Limited); and (i) 21-0016007 (in favor of Agent) (the “UCC Financing Statements”).³

6. The sale process was conducted at arms’ length, and in good faith. Neither Phoenix II, the Asset Recovery Manager, the Sellers, the Buyer, nor the Agent has engaged in any action or inaction that would cause or permit the APA or the transactions completed thereunder or the Assignment to be avoided or would impose any costs or damages.

7. Phoenix II, the Asset Recovery Manager, the Agent and the Patriarch Stakeholders are authorized and directed to execute and deliver all instruments and documents, and take such other action—including the exercise of any shareholder or lender approval rights—as may be necessary or appropriate to consummate, implement and effectuate the Vulcan Transaction including, without limitation, execution of any and all instruments necessary to terminate, cancel and release all Encumbrances of any kind arising under or related to all credit facilities to which the Debtors, the Patriarch Stakeholders, or Phoenix II is a party, including any mortgage, including but not limited to the Mortgage, deed of trust, security agreement, UCC financing statement, including but not limited to the UCC Financing Statements, pledge, control agreement, or other instrument related to the perfection of any Encumbrance against the Assets. Any actions taken by Phoenix II, the Asset Recovery Manager, the Agent or the Patriarch Stakeholders in furtherance of the matters authorized by this Order are hereby ratified and confirmed.

³ For the avoidance of doubt, this Order does not provide for any relief with respect to any Non-Settlement Party Liens (as defined in the Transaction Notice). All of the parties’ respective rights under the APA and applicable law *vis-à-vis* any Non-Settlement Party Liens and Non-Settlement Parties are hereby preserved.

8. Any cash payment to be made by the Sellers in connection with the Phoenix Indebtedness shall at Closing be paid directly to the Agent, and then applied by the Agent to the obligations under the Credit Agreement in accordance with its terms.

9. Nothing in this Order shall modify or waive any closing conditions or termination rights in the APA, and all such conditions and rights shall remain in full force and effect in accordance with their terms.

10. The parties, including, for the avoidance of doubt, the Buyer, may file a certified copy of this Order with the appropriate clerk and recorded with the recorder of any state, county, or local authority to act to terminate and cancel any and all Encumbrances against the Assets.

11. The Retained Claims shall be, and hereby are, transferred and assigned to Phoenix II (or its designee), and Phoenix II (or its designee) is hereby vested with all authority to prosecute the Retained Claims, without challenge by virtue of this assignment to standing or the ability of Phoenix II (or its designee) to file and prosecute any and all Retained Claims. The Retained Claims shall be subject to any defenses by any Patriarch Stakeholder and any counterclaims of any Patriarch Stakeholders, except for any claims or counterclaims of the Patriarch Stakeholders that have been released.

12. As consideration for the transfer and assignment of the Retained Claims pursuant to the preceding paragraph, the remaining principal amount of the Phoenix Indebtedness is hereby deemed to be reduced by \$5,000,000.

13. To the extent not already asserted, Phoenix II (or its designee) shall commence any causes of action based upon a Retained Claim (a "Retained Claim Action") on or before January 8, 2024 (the "Retained Claim Deadline"), or such later date as agreed to in writing by Phoenix II (or its designee), as applicable, and the subject proposed Patriarch Stakeholder defendant. If a

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Retained Claims Action or Retained Claims Actions is / are not commenced by the Retained Claims Deadline, then the Retained Claims and any counterclaims, claims and defenses relating thereto shall and shall be deemed to be released.

14. This Order shall be binding in all respects upon the Debtors' estates, Phoenix II, the Asset Recovery Manager, all creditors, all holders of equity interests in the Debtors, the Patriarch Stakeholders, the Other Stakeholders, all holders of any interests or claims (whether known or unknown) against any Debtor, the Purchaser, the Seller and all successors and assigns of the Purchaser, and any trustees, examiners, or other fiduciary under any section of the Bankruptcy Code, if any, subsequently appointed in this chapter 11 case or upon a conversion of this case to chapter 7 of the Bankruptcy Code.

15. The provisions of this Order are non-severable and mutually dependent.

16. As provided by Bankruptcy Rule 9014, the terms and conditions of this Order shall be effective immediately upon entry and shall not be subject to the stay provisions contained in Bankruptcy Rules 6004(h) and 6006(d). Time is of the essence in closing the sale and the Sellers and the Buyer intend to close the sale as soon as possible.

17. Nothing contained in the Plan, or order of any type or kind entered in this chapter 11 case, any subsequent chapter 7 or chapter 11 case of the Debtor, or any related proceeding subsequent to entry of this Order, shall conflict with or derogate from the terms of this Order.

18. This Court shall retain jurisdiction over any and all matters arising from the interpretation or implementation of this Order.



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
08/31/2023 02:52:46 PM
\$40.00 PAYGE
20230831000264510

Allen S. Boyd

Dated: August 18th, 2023
Wilmington, Delaware

Ka B. Owens
KAREN B. OWENS
UNITED STATES BANKRUPTCY JUDGE