

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:)	
)	Chapter 11
)	
LIMETREE BAY SERVICES, LLC, <i>et al.</i> , ¹)	Case No. 21-32351 (DRJ)
)	
Debtors.)	(Jointly Administered)
)	
)	(Emergency Hearing Requested)

**ST. CROIX ENERGY, LLLP’S EMERGENCY MOTION
FOR A STAY PENDING APPEAL OF THE ORDERS REOPENING
THE AUCTION AND APPROVING THE SALE OF SUBSTANTIALLY
ALL OF THE DEBTORS’ ASSETS AND OTHER RELATED RELIEF**

Emergency relief has been requested. Relief is requested not later than 5:00 p.m. on January 10, 2022.

If you object to the relief requested or you believe that emergency consideration is not warranted, you must appear at the hearing if one is set, or file a written response prior to the date that relief is requested in the preceding paragraph. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

St. Croix Energy, LLLP (“SCE”), by and through its undersigned counsel, respectfully represents as follows in support of this motion (the “Stay Motion”):

RELIEF REQUESTED

1. Pursuant to Rule 8007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and the applicable Local Rules for the Southern District of Texas (the “Bankruptcy Local Rules”), SCE seeks entry of an order, substantially in the form attached hereto

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Limetree Bay Services, LLC (1866); Limetree Bay Refining Holdings, LLC (1776); Limetree Bay Refining Holdings II, LLC (1815); Limetree Bay Refining, LLC (8671); Limetree Bay Refining Operating, LLC (9067); Limetree Bay Refining Marketing, LLC (9222). The Debtors’ mailing address is Limetree Bay Services, LLC, 11100 Brittmoore Park Drive, Houston, TX 77041.

as **Exhibit A** (the “Proposed Order”), staying pending appeal this Court’s December 10, 2021 *Order Granting Debtors’ Emergency Motion to (I) Reopen Auction Pursuant to Bidding Procedures, (II) Approve Schedule and Procedures for Continued Auction, and (III) Grant Related Relief* (“Order Reopening Auction”) [Doc. No. 913], and December 21, 2021 *Order (I) Authorizing the Sale of All or Substantially All of the Debtors’ Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (II) Authorizing the Debtors to Perform Under the Asset Purchase Agreement, (III) Approving Procedures for the Assumption and Assignment of Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief* [Doc No. 977] (the “Sale Order”).

2. SCE respectfully submits that immediate stays of the Order Reopening Auction and the Sale Order, which approved the sale of substantially all assets of Limetree Bay Services, LLC and its debtor affiliates (collectively, the “Debtors”) to West Indies Petroleum Ltd St. Lucia (“WI St. Lucia”) and Port Hamilton Refining and Transportation, LLLP (“PHRT”), are appropriate because (i) SCE is likely to succeed on the merits of the appeal in light of the Court’s error in granting the Debtors the extraordinary relief of reopening the Original Auction (defined below) based on inaccurate representations of facts to the Court; (ii) SCE will suffer substantial and irreparable harm if an immediate stay is not issued; (iii) the irreparable harm to SCE without a stay far exceeds the potential harm that the Debtors and other parties in interest would suffer if the stay is granted, and the balance of equities favors SCE; and (iv) the public interest weighs heavily in favor of granting the stay.

EMERGENCY CONSIDERATION

3. SCE requests emergency consideration of this Stay Motion. As set forth in the Stay Motion, the expedited approval of the appeal and resolution of the sale process will benefit all

parties in interest. The stay imposed by Bankruptcy Rule 6004 has already expired, and the Debtors may close on the sale transaction at any time. For these reasons, conducting a hearing on the Stay Motion on less than 21 days' notice is appropriate, and SCE requests that the Court approve the relief requested in the Motion on an emergency basis.

4. Prior to filing this Stay Motion, counsel to SCE contacted counsel to the Debtors to ask whether they would consent to the relief in this Stay Motion and was advised by Debtors' counsel that they would oppose the relief in the Stay Motion. Accordingly, SCE requests that the Stay Motion be granted on an emergency basis and the Order Reopening Auction and Sale Order be stayed pending appeal.

JURISDICTION AND VENUE

5. The United States Bankruptcy Court for the Southern District of Texas (the "Court") has jurisdiction to consider this Stay Motion pursuant to 28 U.S.C. § 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b).

BACKGROUND

6. On July 12, 2021 (the "Petition Date"), the Debtors each filed with this Court a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.

7. On July 26, 2021, the Debtors filed an *Emergency Motion for Entry of Order: (i) Establishing Bidding and Sale Procedures; (II) Approving the Sale of Assets; and (III) Granting Related Relief* [Doc. No. 191] (the "Sale Motion").² On August 11, 2021, the Court entered an order approving the bidding procedures contemplated by the Sale Motion [Doc. No. 392] (the

² Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the Sale Motion or Bidding Procedures Order, as applicable.

“Bidding Procedures Order”).

8. Pursuant to the Bidding Procedures Order and various notices given by the Debtors in accordance therewith, to be a Qualified Bidder and participate at an auction to be held on November 18, 2021 (the “Original Auction”), a bidder had to submit a Qualified Bid on or before November 12, 2021 (the “Bid Deadline”). *See Third Notice of Extension of Milestones and Bid Procedures Deadlines* [Doc. No. 761]; *see also Notice of Extension of Milestones and Bid Procedures Deadlines* [Doc. No. 696]; *Second Notice of Extension of Milestones and Bid Procedures Deadlines* [Doc. No. 749]; *Fourth Notice of Extension of Milestones and Bid Procedures Deadlines* [Doc. No. 799]; *Fifth Notice of Extension of Milestones and Bid Procedures Deadlines* [Doc. No. 819]; *Notice of (I) Designation of Winning Bid and Back-Up Bids and (II) Sixth Notice of Extension of Milestones and Bid Procedures Deadlines* [Doc. No. 829]; *Seventh Notice of Extension of Milestones and Bid Procedures Deadlines* [Doc. No. 935].

9. On November 14, 2021, after SCE submitted a Qualified Bid, the Debtors designated SCE as the Stalking Horse Bidder pursuant to the Bidding Procedures Order.

10. West Indies Petroleum Limited, a Jamaica company (“WIPL”) did not submit a bid, much less a Qualified Bid, by the Bid Deadline. Nor did WI St. Lucia or PHRT, the “actual” approved purchasers of the Debtors’ assets. *See* Tr. of Dec. 21 Hr’g at 117:5-22, 159:24-25, 160:1-7.

11. On November 18, 2021, the Debtors conducted the Original Auction in accordance with the Bidding Procedures Order. At the conclusion of the Original Auction, the Debtors declared SCE the Winning Bidder.³ On November 30, 2021, the Debtors filed a notice designating

³ On November 22, 2021, the Court entered the Bid Protections Order [Doc. No. 813] and approved the SCE Bid Protections of \$1 million in expense reimbursement for SCE as the Stalking Horse Bidder.

SCE as the Winning Bidder [Doc. No. 829] and SCE and the Debtors were preparing to seek Court approval of the SCE bid at the December 7, 2021 sale hearing.⁴

12. On December 6, 2021, the Debtors filed an emergency motion seeking to reopen the Auction pursuant to the Bidding Procedures Order (“Motion to Reopen Auction”) [Doc. No. 862] and the Motion to Reopen Auction was heard on December 7, 2021. After hearing limited evidence because of the emergency nature of the proceedings on the Motion to Reopen Auction, the Court overruled SCE’s and the other Qualified Bidders’ objections to the Motion to Reopen Auction, having determined that because of a sudden medical emergency that precluded WIPL from timely submitting a Qualified Bid, the joint bid submitted by WIPL and St. Croix Refinery and Transportation, LLLP (“SCRT”), on or about December 5, 2021 (the “WIPL/SCRT Qualified Bid”), would be deemed a Qualified Bid. The Court also ruled that the Original Auction would be reopened with the WIPL/SCRT Qualified Bid and SCE would have the right to start the overbidding. *See* Tr. of Dec. 6 Hr’g at 90:1-8, 92:18-22. On December 10, 2021, the Court entered the Order Reopening Auction.

13. Late in the evening of Wednesday, December 15, 2021, less than 36 hours before the reopened auction was to commence on Friday, December 17, 2021 (the “Reopened Auction”), the Debtors circulated a revised bid to the Qualified Bidders permitted to participate at the Reopened Auction. This bid was not the WIPL/SCRT Qualified Bid upon which the Order Reopening Auction was premised. Instead, it was a joint bid submitted in the name of WIPL, but actually a bid from two new bidding entities: (i) WI St. Lucia, the majority shareholder of WIPL, and (ii) a newly formed entity, PHRT. Neither WI St. Lucia nor PHRT was a Qualified Bidder

⁴ The notice declaring SCE as the Winning Bidder was subsequently withdrawn on December 7, 2021 [Doc. No. 888].

under the terms of the Bid Procedures Order or designated a Qualified Bidder pursuant to the terms of the Order Reopening Auction. More importantly, this new bid (the “WI St. Lucia/PHRT Bid”) changed the outside closing date from December 22, 2021 to January 21, 2022, a change that was inconsistent with the premise on which the Court entered the Order Reopening Auction and the requirements of the then applicable Bid Procedures Order. *See* Tr. of Dec. 6 Hr’g at 97:13-14; *Sixth Notice of Extension of Milestones and Bid Procedures Deadlines* [Doc. No. 829-3].

14. Over SCE’s objection and request to adjourn the Reopened Auction, on Friday, December 17 and Saturday, December 18, 2021, the Debtors conducted the Reopened Auction. On the evening of December 18, 2021, after the conclusion of the Reopened Auction, the Debtors filed a notice designating WI St. Lucia and PHRT, jointly, the winning bidders, with a bid of \$62 million, and SCE the Back-up Bidder, with a bid of \$57 million [Doc. No. 948].

15. Prior to the Reopened Auction, no party was advised that PHRT would be a joint bidder with WI St. Lucia, and the Debtors had done no diligence regarding their respective financial wherewithal to close a sale. Further, despite the Court reopening the auction based on a \$30 million unconditional bid from WIPL and SCRT, which was touted as a bid “50% more” than the SCE bid, that would close on December 22, 2021, *see* Tr. of Dec. 6, 2021 Hr’g at 31:17-25; 62:1-7; 84:1-6; 97:13-14, the WI St. Lucia/PHRT Bid proposed a changed outside closing date to January 21, 2021, which materially changed the value of the WI St. Lucia/PHRT bid from the one that was before the Court at the hearing on the Motion to Reopen the Auction.

16. On December 19, 2021, SCE filed its objection to the Sale Motion [Doc. No. 957]. The Court held a hearing on the Sale Motion on December 21, 2021 (the “Sale Hearing”). At the conclusion of the Sale Hearing, the Court overruled SCE’s and other parties’ objections to the Sale Motion, again after hearing limited evidence only available without the benefit of discovery.

Thereafter, the Court entered the Sale Order approving the WI St. Lucia/PHRT Bid. On December 30, 2021, SCE timely filed a *Notice of Appeal* [Doc. No. 998].

BASIS FOR RELIEF REQUESTED

I. Legal Standard.

17. Bankruptcy Rule 8007 requires that SCE first seek a stay of the Sale Order from this Court prior to seeking a stay from the district court that will consider the appeal. FED. R. BANKR. P. 8007(a) and (b).

18. To determine whether to grant SCE's request for a stay pending appeal, the Court should consider: (i) whether SCE has made a showing of likelihood of success on the merits; (ii) whether SCE has made a showing of irreparable injury if the stay is not granted; (iii) whether the granting of the stay would substantially harm the other parties; and (iv) whether the granting of the stay would serve the public interest. *Ruiz v. Estelle*, 666 F.2d 854, 856 (5th Cir. 1982); accord *Arnold v. Garlock, Inc.*, 278 F.3d 426, 438-39 (5th Cir. 2001); *Prudential Mortg. Cap. Co., L.L.C. v. Faidi*, 444 F. App'x 732, 736 (5th Cir. 2011).

19. The Fifth Circuit "has refused to apply these factors in a rigid mechanical fashion." *Reading & Bates Petroleum Co. v. Musslewhite*, 14 F.3d 271, 272 (5th Cir. 1994). Thus, "the absence of any one factor is not fatal to a successful motion for stay." *In re Permian Producers Drilling, Inc.*, 263 B.R. 510, 515 (W.D. Tex. 2000) (citing *In re First S. Savs. Ass'n*, 820 F.2d 700, 709 n.10 (5th Cir. 1987)). SCE respectfully submits that each of the foregoing factors is satisfied, and a stay of the Order Reopening Auction and Sale Order are necessary and appropriate pending appellate review, which appellate review SCE would seek to expedite.

II. SCE Is Likely to Succeed on Appeal.

20. A party seeking a stay does not need to show a "probability of success on the merits." *Arnold*, 278 F.3d at 438–39. Instead, the first prong is satisfied when the movant can

“present a substantial case on the merits when a serious legal question is involved and . . . the balance of the equities weighs heavily in favor of granting the stay.” *Id.* at 439. A serious legal question is one that might have far-reaching effects of public concern. *Wildmon v. Berwick Universal Pictures*, 983 F.2d 21, 23-24 (5th Cir. 1992). When an appeal deals with “questions involving the application of law, or when the law has not been definitively addressed by a higher court, the movant more easily satisfies the first element [for a motion for a stay pending appeal].” *In re Tex. Equip. Co., Inc.*, 283 B.R. 222, 227 (Bankr. N.D. Tex. 2002) (citation omitted).

A. This Appeal Involves A Serious Legal Question.

21. Given the unusual circumstances of this case and the extraordinary relief granted by the Court when it reopened the Original Auction, SCE’s appeal undoubtedly presents a serious legal question as to whether the Order Reopening Auction should have been granted and, thus, whether the Sale Order approving the WI St. Lucia/PHRT Bid should be reversed.

22. In *In re Bigler*, Judge Bohm noted that there was no Fifth Circuit precedent on reopening auctions specific to bankruptcy auctions, but followed Fifth Circuit precedent, which has “repeatedly noted that ‘[a]bsent fraud or collusion, a bid at a judicial sale should not ordinarily be rejected . . . but the court has the power to do so if the price is so grossly inadequate as to shock the conscience.’” 443 B.R. 101, 108 (S.D. Tex. Bankr. 2010) (citing *First Nat’l Bank of Jefferson Parish v. M/V Lightning Power*, 776 F.2d 1258, 1259 (5th Cir. 1985)). Here, the Court did not, and could not, make any such finding that the outcome of the original auction in which SCE was declared to have submitted the highest and best bid “shock[ed] the conscience.” Indeed, the bid submitted by SCE was a bid that all parties agreed was adequate and warranted providing SCE with an expense reimbursement of \$1 million. *See* Tr. of Dec. 6 Hr’g at 71:13-15.

23. Moreover, although Judge Bohm in *Bigler* suggested that a bankruptcy court may exercise discretion when considering a request to reopen a properly conducted auction, Judge

Bohm noted that “a bankruptcy court abuses its discretion when, after a properly conducted auction has already been held, it reopens the bidding process and approves a late bid ‘merely because a slightly higher offer has been received after the bidding is closed.’” *In re Bigler*, 443 B.R. at 108 (quoting *In re Gil–Bern Indus., Inc.*, 526 F.2d 627, 629 (1st Cir. 1975)); *see also id.* at 628 (“[I]t is important that the bidder receive what he had reason to expect, and that nothing impair public confidence in the regularity of judicial sales.”). Here, the Court reopened the auction based on a misunderstanding, if not misrepresentations, of the critical facts as to not only the purchase price being offered in the late bid, but also the identities of the purchasers, the required outside closing date and the circumstances surrounding the purported “sudden emergency” that allegedly precluded WIPL from timely submitting a Qualified Bid.

B. SCE Is Likely To Succeed On The Merits.

24. ***First***, the Debtors and the other estate professionals represented to the Court that the late and unqualified WIPL/SCRT bid was \$30 million and constituted a bid that was “50%” or \$10 million more than the SCE Winning Bid that the Debtors and the other estate professionals concluded was the highest and best bid at the conclusion of the Original Auction. Even assuming that the Court determined that this was more than a “slightly higher bid,” the evidence submitted at the sale hearing demonstrated that the WIPL/SCRT bid was actually only \$4.2 million higher, and that is without discounting it for any risk associated with closing. *See* Tr. of Dec. 21 Hr’g at 143:10-13. Therefore, even if the Court exercised its discretion at the emergency hearing to reopen the Original Auction, the discretion was based on a factual error and only a slightly higher bid. As such, it is subject to *de novo* review and this alone provides SCE with a substantial case on the merits of its appeal.

25. ***Second***, no party raised any challenge to the *bona fides* of the Original Auction. Instead, without any evidence submitted by WIPL and only hearsay from the Debtors’ advisors,

the Court concluded that WIPL should be excused from its failure to submit a timely Qualified Bid. It did so, however, without making a finding of excusable neglect, as should have been required, and in such circumstances, SCE respectfully submits it was legal error to reopen the Original Auction regardless of whether the WIPL/SCRT bid was a “slightly higher” offer received after a completed sale and auction process.⁵

26. **Third**, because the Court was concerned with the potential prejudice to SCE, the Court only reopened bidding for parties that were determined to be Qualified Bidders as of the Original Auction and the two joint bidders, WIPL and SCRT that submitted the late December 5, 2021 bid. *See* Order to Reopen Auction; Tr. of Dec. 6 Hr’g at 91:18-21. The uncontested facts, however, demonstrate that the actual successful bidders at the Reopened Auction were two entirely new bidders, WI St. Lucia and PHRT, neither of which were Qualified Bidders as of the Original Auction or permitted to bid under the Bid Procedures Order or the Order Reopening Auction. *See* Order Reopening Auction; Sale Order; Tr. of Dec. 21 Hr’g at 78:1-7, 21-25; 79:1-8; 170:8-22.

27. This change in the identity of the bidders at the Reopened Auction was not merely a technical change that did not prejudice SCE or undermine the integrity of the bidding process. Specifically, although the Debtors and others contend that PHRT was simply a change in SCRT’s name, *see* Tr. of Dec. 21 Hr’g at 62:1-17, the evidence demonstrated otherwise. Specifically, PHRT was a newly formed entity that was not simply a special purpose entity, but majority owned (approximately 70%) by WI St. Lucia, which was not a Qualified Bidder, and PHRT’s remaining interests (approximately 30%) are owned by David Roberts who was involved in the bidding process, but failed to submit a bid by the Bid Deadline and was never approved as a Qualified

⁵ Neither the Debtors nor WIPL submitted adequate evidence for the Court to find, nor did it find, that WIPL’s failure to submit a timely bid by the November 12, 2021, Bid Deadline satisfied the requirements for showing excusable neglect. *See* Fed. R. Bankr. P. 9024 (incorporating Fed. R. Civ. P. 60(b)(1), which permits the court to “relieve a party . . . from a final judgment” based on “excusable neglect”).

Bidder. As a result, SCE and the other Qualified Bidders at the Reopened Auction were forced to bid against two new bidders, that were not Qualified Bidders, a prejudice the Court acknowledged and expressed desire to avoid. *See* Tr. of Dec. 6 Hr’g at 90:17-25; 91:1-12. And at least one of those bidders, PHRT, presented no excuse for having not timely submitted a Qualified Bid by the Court ordered Bid Deadline, and its minority owner Mr. Roberts provided no evidence or excuse for having not revealed himself as a potential bidding partner at the hearing on the Motion to Reopen the Auction. Therefore, even assuming the Court properly reopened the bidding for WIPL, which SCE contends it did not, the Court did not reopen the bidding for two new entities that were never Qualified Bidders, one of which was fully aware of the sale process and the deadline and failed to submit a timely Qualified Bid. *See* Tr. of Dec. 21 Hr’g at 61:11-16; 78:1-7, 21-25; 79:1-8; 170:8-22.

28. ***Fourth***, even assuming the Court had the discretion to reopen the auction, the Court exercised that discretion based on a misunderstanding of the circumstances that originally resulted in WIPL not submitting a Qualified Bid by the final Bid Deadline. Critically, although the declarations and evidence submitted in support of the Motion to Reopen the Auction alleged that it was a “sudden medical emergency” that precluded WIPL from submitting a timely Qualified Bid, *see Declaration of Michael O’Hara in Support of the Debtors’ Emergency Motion to (I) Reopen Auction Pursuant to Bidding Procedures, (II) Approve Schedule and Procedures for Continued Auction, and (III) Grant Related Relief* [Doc. No. 862-3] at ¶ 4, the evidence demonstrates that (i) the WIPL representative’s surgery had already been scheduled before the Bid Deadline, which had moved a number of times, (ii) WIPL did not request that the Bid Deadline be moved again, (iii) the scheduled surgery occurred after the Bid Deadline, (iii) the representative was performing his normal duties on the day the Bid Deadline expired, Friday November 12, 2021,

and (iv) WIPL had not submitted any deposit and made no arrangements to submit a deposit on the Bid Deadline. *See* Tr. of Dec. 21 Hr’g at 191:20-25; 192:1-2. Thus, given the surgery was actually scheduled for November 15, 2021, and the fact that the Bid Deadline had been moved numerous times, there was simply no evidence that WIPL ever intended to submit a bid by the Bid Deadline. Indeed, had it intended to do so, it would have wired the required deposit on Friday morning, and simply not have submitted the APA. *See Third Notice of Extension of Milestones and Bid Procedures Deadlines* [Doc. No. 761-1] (stating that deadline for the good faith deposit was November 12, 2021). At the very least, WIPL should have asked the Debtors to extend the Bid Deadline and advised the Debtors that it intended to submit a \$30 million bid as soon as possible. WIPL did not, and the Debtors choose to move forward with SCE. *See* Tr. of Dec. 6 Hr’g at 35:19-25; 36:1-13 (explaining that the Debtors chose to move forward with SCE, rather than adjourn the auction, due to liquidity concerns). Therefore, neither the Debtors nor WIPL could establish that WIPL’s failure to submit a timely Qualified Bid was excusable and that circumstances warranted the Court reopening the Original Auction and authorizing WIPL to submit an untimely bid.

29. For the reasons set forth above, SCE contends that it is likely to prevail on the merits of its appeal, for at the very least, SCE has a substantial case regarding the incorrect factual predicates on which the Court granted the exceptional relief of reopening a properly conducted auction. Thus, SCE has met the threshold for likelihood of success on appeal to warrant a stay.

III. Without A Stay, SCE Will Suffer Irreparable Harm.

30. Absent a stay pending appeal, the Debtors and WI St. Lucia/PHRT may close on the sale authorized by the Sale Order, and SCE, and other parties in interest, will be irreparably injured in the absence of a stay. The issuance of a stay in this case would preserve the *status quo* pending proper judicial review of the Order Reopening Auction and the Sale Order. If a stay is

not granted, however, SCE's appeal would likely be statutorily moot (except with respect to SCE's challenge to WIPL and PHRT's good faith), preventing SCE from arguing its case to the District Court. Because "[t]he irreparability of the harm increases in proportion to its irreversibility," *Texaco Inc. v. Pennzoil Co.*, 784 F.2d 1133, 1153 (2d Cir. 1986), *rev'd on other grounds*, 481 U.S. 1 (1987), the irreversible mooted of some of SCE's appellate rights would cause irreparable harm to SCE. As such, a stay of the Sale Order is necessary for SCE to avoid irreparable harm to SCE.

IV. The Balance of Harms Heavily Favors SCE.

31. "The third factor requires this Court to balance the hardship of the parties and find whether the harms outweigh any likely irreparable injury to the movant absent a stay." *In re Dernick*, 2019 WL 236999, at *4 (Bankr. S.D. Tex. Jan. 16, 2019) (citing *Daniels Health Scis., LLC v. Vascular Health Scis., LLC*, 710 F.3d 579, 585 (5th Cir. 2013)).

32. The balance of hardships unquestionably favors a stay of the Sale Order. As set forth above, SCE faces a substantial risk that its appeal will be statutorily or possibly equitably mooted if a stay is not granted. The Debtors, however, will face little, if any, harm if the stay is issued. **First**, the stay simply maintains the *status quo*. **Second**, as reflected by the record, the Auction was reopened under false premises, including that the closing would occur on or before December 22, 2021, when in fact the new bidders changed the outside closing date to January 21, 2022. Therefore, if SCE prevails in its appeal, the Debtors would at worse close on a transaction on which they prepared to proceed at the closing of the Original Auction. While that is at a lower price, that damage is not irreparable, and in any event, if SCE succeeds on an appeal, the loss of value is not legally cognizable. **Third**, SCE has been approved as a back-up bidder at \$57 million and is prepared to keep that back-up bid open pending its appeal. Thus, at worse, the Debtors face the risk of WI St. Lucia/PHRT not extending the outside closing date beyond January 21, 2022 while the appeal is pending and having to close with SCE. There is no reason to believe that WI

St. Lucia/PHRT would not close after January 21, 2022. Indeed, SCE is appealing the Bankruptcy Code section 363(m) good faith finding in the Sale Order. As a result, even in the absence of a stay pending appeal, WI St. Lucia /PHRT faces a risk of reversal on appeal, assuming that WI St. Lucia /PHRT are actually willing and able to close the transaction on January 21, 2022 given SCE's challenge to the good faith finding made by the Court (which SCE contends is far from certain). Therefore, the risk to closing with SCE because of the stay is minimal and at most a small loss in economic value given that SCE stands ready as a back-up bidder.

33. Additionally, SCE is willing to expedite its appeal of the Sale Order and the Order Reopening Auction, and even to proceed, subject to this Court's permission, with a direct appeal of the Order Reopening Auction and the Sale Order to the Fifth Circuit. Therefore, any stay issued may be of a relatively short duration, minimizing any risk to the Debtors, their estates and creditors.

34. In sum, SCE submits that the irreparable harm factor heavily outweighs any potential economic loss to the Debtors' estates and creditors that might occur if the stay is granted. Thus, SCE contends that the balance of the harms weighs heavily in favor of granting SCE's request for a stay of the Order to Reopen the Auction and the Sale Order pending its appeal of those orders.

V. Granting A Stay is in the Public Interest.

35. The last factor is whether a stay serves the public interest. There can be no dispute that there is an overwhelming public interest in preserving the integrity of the sale process and the right of appellate review in an expeditious and efficient manner. *See In re Bigler*, 443 B.R. at 109 (quoting *In re Gil-Bern Industries, Inc.*, 526 F.2d at 629) (“[I]t is important that . . . nothing impair public confidence in the regularity of judicial sales.”); *see also ACC Bondholder Group v. Adelphia Commc'ns Corp.*, 361 B.R. 377 (S.D.N.Y. 2007) (emphasizing the importance of appellate review to the legal system as a whole). As set forth above, SCE maintains that the Order Reopening

Auction was not proper, and as the evidence at the Sale Hearing demonstrated, the representations on which the Court reopened the Auction were inaccurate and misleading, and the reopened Auction was not conducted consistent with the terms of the Order Reopening Auction. New bidders were permitted to bid at the Reopened Auction and the outside closing date was extended without proper notice to the Qualified Bidders that had participated at the Original Auction.

36. Additionally, the public interest is also served by permitting SCE to obtain timely judicial review of the extraordinary relief the Court granted the Debtors and WIPL. As SCE has made clear, it seeks a stay while it pursues an expedited appeal, is willing to proceed directly to the Court of Appeals and contends that it was error to reopen the Original Auction that was indisputably properly conducted and complied in all respects with the Court's Bid Procedures Order. *See Weingarten Realty Inv'r v. Miller*, 661 F.3d 904, 913 (5th Cir. 2011) (stating the public policy generally favors speedy resolution of disputes, as well as the efficient allocation of judicial resources). Absent a stay pending appeal, SCE's right to appellate review could be completely undermined. As set forth above, there is a significant risk that SCE's appeal would be mooted absent a stay pending appeal, if WI St. Lucia/PHRT were to close on the sale transaction approved by the Sale Order. Moreover, although SCE has challenged WI St Lucia's and PHRT's good faith, even that challenge might be mooted under Bankruptcy Code section 363(m). *See, e.g., In re Sneed Shipbuilding, Inc.*, 916 F.3d 405, 409-10 (5th Cir. 2019). Therefore, the public interest fact also weighs heavily in favor of granting a stay pending appeal.

WAIVER TO POST BOND

37. Given the analysis above, the designation of SCE as the back-up bidder, the potential irreparable harm that SCE might suffer, and SCE's willingness to stand behind its back-up bid in the event that it loses its appeal, SCE submits that this Court should not require it to post a bond or other security as described by Bankruptcy Rule 8007(c). *See Silverman v. Nat'l Union*

fire Ins. Co., 330 B.R. 93, 96 (S.D.N.Y. 2005) (posting a bond is discretionary and not a prerequisite to obtaining a stay pending appeal).

38. ***First***, SCE intends to expedite its appeal in the District Court, which will reduce any delay in sale closing and minimizing any risk that WI St. Lucia and PHRT do not ultimately close the Court-approved sale as a result of any delay caused by the appeal. ***Second***, if SCE is successful on appeal, it stands ready to close on the sale transaction with respect to which it was declared by the Debtors to be the Winning Bidder. ***Finally***, if SCE is unsuccessful on appeal, the Debtors' rights are preserved under the Sale Order and the Debtors can seek to close on the sale transaction with WI St. Lucia and PHRT and absent closing on that transaction, or if WI St. Lucia and PHRT are not willing to extend the outside closing date pending the outcome of SCE's appeal, SCE is prepared to extend the outside closing date for its backup bid until a final resolution of its appeal.

39. Based on the above, SCE request the Court to exercise its discretion and grant a stay without a bond pursuant to Bankruptcy Rule 8007(c).

NOTICE

40. Notice of this Motion will be provided to the Debtors' Master Service List, including: (a) the Debtors; (b) the U.S. Trustee; (c) all secured creditors; (d) the Offices of the Attorney General of the State of Texas and the United States Virgin Islands; (e) the thirty (30) largest consolidated unsecured creditors for the Debtors; (f) the Debtors' identified, interested taxing authorities, including the Internal Revenue Service; (g) the Debtors' identified, interested government and regulatory entities; (h) other interested parties, including West Indies Petroleum Limited and Port Hamilton Refining and Transportation, LLLP; (i) the Committee members and their counsel, if known; (j) counsel to the Committee; and (k) any party that has requested notice

pursuant to Bankruptcy Rule 2002. The method of service for each party will be described more fully in the certificate of service. SCE submit that no other or further notice is required.

[Text Continues on the Next Page]

WHEREFORE, SCE respectfully requests that the Court enter an order, substantially in the form attached hereto as **Exhibit A**, granting the Stay Motion and granting all other relief that is appropriate under the circumstances.

Dated: January 5, 2022
New York, New York

Respectfully submitted,

ROPES & GRAY LLP

/s/ Gregg M. Galardi

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Counsel to St. Croix Energy, LLLP

CERTIFICATION OF ACCURACY

I certify that the foregoing statements are true and accurate to the best of my knowledge. This statement is being made pursuant to Bankruptcy Local Rule 9013-1(i).

/s/ Gregg M. Galardi

Gregg M. Galardi

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion was served by electronic delivery on all persons and entities receiving ECF notice in this case on January 5, 2022.

/s/ Gregg M. Galardi

Gregg M. Galardi

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:)	
)	Chapter 11
)	
LIMETREE BAY SERVICES, LLC, <i>et al.</i> , ¹)	Case No. 21-32351 (DRJ)
)	
Debtors.)	(Jointly Administered)
)	

**ORDER GRANTING ST. CROIX ENERGY, LLLP'S
EMERGENCY MOTION FOR A STAY PENDING APPEAL OF THE ORDERS
REOPENING THE AUCTION AND APPROVING THE SALE OF SUBSTANTIALLY
ALL OF THE DEBTORS' ASSETS AND OTHER RELATED RELIEF**

(Relates to Docket No. ____)

This matter having come before the Court via emergency motion (“Motion”) filed by St. Croix Energy, LLLP (“SCE”), seeking a stay of the *Order Granting Debtors’ Emergency Motion to (I) Reopen Auction Pursuant to Bidding Procedures, (II) Approve Schedule and Procedures for Continued Auction, and (III) Grant Related Relief* [Doc. No. 913] and the *Order (I) Authorizing the Sale of All or Substantially All of the Debtors’ Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (II) Authorizing the Debtors to Perform Under the Asset Purchase Agreement, (III) Approving Procedures for the Assumption and Assignment of Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief* [Doc No. 977], and this Court having read and considered the Motion, as well as any opposition papers, and in consideration of oral argument, and for good cause shown;

IT IS HEREBY ORDERED that:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Limetree Bay Services, LLC (1866); Limetree Bay Refining Holdings, LLC (1776); Limetree Bay Refining Holdings II, LLC (1815); Limetree Bay Refining, LLC (8671); Limetree Bay Refining Operating, LLC (9067); Limetree Bay Refining Marketing, LLC (9222). The Debtors’ mailing address is Limetree Bay Services, LLC, 11100 Brittmoore Park Drive, Houston, TX 77041.

1. The Motion is GRANTED and that the *Order Granting Debtors' Emergency Motion to (I) Reopen Auction Pursuant to Bidding Procedures, (II) Approve Schedule and Procedures for Continued Auction, and (III) Grant Related Relief* [Doc. No. 913] and the *Order (I) Authorizing the Sale of All or Substantially All of the Debtors' Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (II) Authorizing the Debtors to Perform Under the Asset Purchase Agreement, (III) Approving Procedures for the Assumption and Assignment of Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief* [Doc. No. 977] are hereby stayed pending the SCE's appeal;

2. SCE is not required to post any bond or security.