

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

<b>In re:</b>	§	<b>Chapter 11</b>
	§	
<b>HII TECHNOLOGIES, INC., <i>et al.</i><sup>1</sup></b>	§	<b>15-60070 (DRJ)</b>
<b>Debtors</b>	§	<b>(Jointly Administered)</b>

**NOTICE OF WITHDRAWAL OF MOTION TO ENFORCE STAY**  
(Docket #46)

**To the Honorable David R. Jones, United State Bankruptcy Judge:**

HII Technologies, Inc. and its subsidiaries, as debtors and debtors in possession in these chapter 11 cases (collectively, the “Debtors”), file this notice of withdrawal of their Motion to enforce the stay (“Motion”, docket #46) and state as follows:

1. This withdrawal is made without prejudice to the Debtors (or anyone else) asserting any rights against the other. This is not a compromise—all rights are explicitly preserved.

2. The Motion sought to force assets to be returned by the Hamiltons,<sup>2</sup> Brent Mulliniks, Calen Baucom, and Billy Cox. Estate assets in the possession of these persons have, to a significant extent, been returned or accounted for (and/or the lease for the asset has been rejected). Questions remain, but those questions can be answered in litigation.

3. **Hamiltons.** The Hamiltons have been cooperative in producing equipment. Specifically, equipment was delivered to the yard as requested and equipment has been gathered from the field and turned over. As any additional equipment or records are identified, the Hamiltons will cooperate to turn them over.

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s tax identification number, are: (i) Apache Energy Services, LLC (4404); (ii) Aqua Handling of Texas, LLC (4480); (iii) HII Technologies, Inc. (3686); (iv) Sage Power Solutions, Inc. fka KMHVC, Inc. (1210); and (v) Hamilton Investment Group, Inc. (0150).

<sup>2</sup> Craig Hamilton, William Mark Hamilton, Sharon Hamilton, and S&M Assets, L.L.C.

4. While the Debtors expect to assert claims against the Hamiltons, the proper forum to pursue those claims is through litigation in an adversary proceeding. Accordingly, the parties reserve all rights against each other and ask that the Hamiltons be excused from attending the hearing Monday, October 19 at 12:30 p.m.

5. **Mulliniks, Cox, and Baucom**. After the Motion, three trucks were repossessed from Mr. Mulliniks' driveway. Several HydroFlow units and at least one evaporator currently remain at a shop or yard in Fort Worth under the control of Mr. Mulliniks, but he has promised to immediately turn them over to the Debtors.

6. Several tons of equipment and materials held in a yard in Monahans, Texas under the control of Mr. Baucom were delivered to the Debtors with the cooperation of Mr. Cox and Mr. Mulliniks. The delivery was substantial and included (according to Mr. Mulliniks) 7 hot shot drivers who made 20 round trips and 3 tractor-trailers that made 3 trips, renting forklifts and hiring extra labor of the task. The Debtors are presently inventorying the equipment that was delivered.

7. On October 5, Debtors' counsel announced an agreement on the record in the presence of Mr. Simon and Mr. Kennedy that Mr. Cox, Mr. Mulliniks, and Mr. Baucom agreed to (among other things) produce an inventory of all assets and deliver all assets in their actual or constructive possession before noon on Friday, October 9, 2015. The Debtors disagree that an "inventory" was provided. The equipment was not all delivered before noon on October 9.

8. Additionally, Mr. Kennedy and Mr. Simon disavow that they have ever represented Calen Baucom. Mr. Baucom has not contacted the undersigned or appeared in Court notwithstanding that he signed the certified mail return ticket and express mail receipt for the Court's Show Cause Order (docket #56).

9. **Reservation of Rights.** The Debtors, by this withdrawal, can still pursue the Hamiltons, and Mr. Baucom, Mr. Cox. and Mr. Mulliniks and reserve all rights against them. The Debtors ask that Mr. Cox, Mr. Mulliniks, and the Hamiltons be excused from attending the hearing on Monday, October 19 at 12:30 p.m. Mr. Baucom has not contacted the undersigned or appeared in Court.

Dated: October 15, 2015.

**McKool Smith, P.C.**

By: /s/ Hugh M. Ray, III  
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***Proposed Counsel for the Debtors and  
Debtors-in-Possession***

**CERTIFICATE OF SERVICE**

The undersigned certifies that on October 15, 2015, a true and correct copy of this document was served via the ECF system to the parties on the ECF service list, including the United States Trustee, and the pleading is being delivered to the Noticing Agent for service upon the parties on the Master Service List.

/s/ Hugh M. Ray, III  
Hugh M. Ray, III