

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

IN RE:	§	
	§	
HII TECHNOLOGIES, INC., <i>et al.</i> ,	§	CASE NO. 15-60070
	§	(Chapter 11)
DEBTOR.	§	Jointly Administered ¹

**EXPEDITED MOTION OF THE *AD HOC* COMMITTEE OF
UNSECURED CREDITORS OF APACHE ENERGY SERVICES, LLC,
TO TERMINATE EXCLUSIVITY PERIOD FOR
FILING PLAN OF REORGANIZATION**

This motion seeks an order that may adversely affect you. If you oppose the motion, you should immediately contact the moving party to resolve the dispute. If you and the moving party cannot agree, you must file a response, and send a copy to the moving party. You must file and serve your response within 21 days of the date of this motion was served on you. Your response must state why the motion should not be granted. If you do not file a timely response, the relief may be granted without further notice to you. If you oppose the motion and have not reached an agreement, you must attend the hearing. Unless the parties agree otherwise, the court may consider evidence at the hearing and may decide the motion at the hearing.

Represented parties should act through their attorney.

THE *AD HOC* COMMITTEE OF UNSECURED CREDITORS OF
APACHES ENERGY SERVICES, LLC, REQUESTS EXPEDITED
CONSIDERATION OF THIS MOTION

The Ad Hoc Committee of Unsecured Creditors² of debtor Apache Energy Services, LLC (“AES”) moves the court on an expedited basis to terminate pursuant to 11 U.S.C. §1121(d) the exclusive period in which only AES may file a plan of reorganization.

¹ The other debtors jointly administered along with HII Technologies, Inc., under this case number are Apache Energy Services, LLC (Case No. 15-60069), Aqua Handling of Texas, LLC (Case No. 15-60071), Sage Power Solutions, Inc. f/k/a KMHVC, Inc. (Case No. 15-60073) and Hamilton Investment Group, Inc. (Case No. 15-60072).

I. Summary of this Motion and the Relief Requested

1. The Ad Hoc Committee believes that any chapter 11 plan to be proposed by HII Technologies, Inc., and the other jointly administered debtors will be a liquidating plan that will in essence substantively consolidate the assets of all debtors. The Ad Hoc Committee wishes to pursue and propose an alternative to a jointly administered plan. In addition, the Ad Hoc Committee believes that a plan that preserves in some manner the on-going value of AES's assets and/or business must be expeditiously pursued.

II. Alternative Plan Options for AES constitutes Cause

2. Section 1121(d) of the Code provides that the exclusivity period may be terminated for cause. "Cause" is not specifically defined in the Bankruptcy Code, although it has been developed through a large body of case law.

3. "Cause" has been defined in more than one instance as the ability of the movant to provide alternative plan options for creditors of a debtor. *In re Situation Management Systems, Inc.*, 252 B.R. 859, 865 (Bank. D. Mass. 2000)(terminating exclusivity to give creditors option to choose between competing plans); *In re Dave's Detailing, Inc.*, 2015 LEXIS 2528 * 65 (Bank. D. Indiana 2015)("[t]he termination of exclusivity provides an open market for competition in the form of competing plans.").

4. In the instant case, the Ad Hoc Committee believes that HII and the other jointly administered debtors intend to propose a plan that will liquidate the assets for the benefit of the pre-petition lenders, particularly Heartland Bank ("Heartland"). Prior management of HII guaranteed the debt to Heartland, and as in so many cases their true goal will be to reduce as much as possible the debt to Heartland to avoid their own personal bankruptcies.

² The Ad Hoc Committee consists of the following trade creditors and former employees of Apache Energy Services, Inc. who hold unsecured claims against debtor AES: One Flow Energy Services, LLC, Black Gold Energy LLC, Fields Water Services, LLC, Brent Mulliniks, and Billy Cox.

5. The Ad Hoc Committee does not believe that the jointly administered debtors' plan will provide for continued operations for AES. In addition, the debtor's plan may seek in essence or by actual order of this court to substantively consolidate the estates of all five debtors. In the end, the unsecured creditors of AES will be likely be left to share litigation proceeds, first, with the Heartland Bank ("Heartland"), then with the estates (and, therefore, the unsecured creditors) of the other debtors. This is a bleak outcome and the Ad Hoc Committee believes AES has other alternatives that would benefit the unsecured creditors of AES more.

6. The Ad Hoc Committee believes that AES ought to be allowed to retain its separate corporate identity. Put another way, the assets of debtor AES, including litigation claims, should retained by AES and not disbursed other estates. Finally, the Ad Hoc Committee is exploring other options for AES. It has already presented one Letter of Intent to the debtors' counsel, which currently is being negotiated.

III. Need for Expedited Relief

7. The Ad Hoc Committee's ability to negotiate with other entities is presently limited by its inability to propose a plan even if one is agreed upon. Since the Ad Hoc Committee has undertaken the responsibility for providing a more robust plan to its creditors, it asks that it be given the power to do so as well.

IV. Relief Requested

8. In light of the foregoing, the Ad Hoc Committee prays that this court set this motion for an expedited hearing, and that after a hearing on the merits, this court immediately terminately pursuant to 11 U.S.C. §1121(d) the exclusive period in which AES, and only AES, may filed a plan of reorganization on behalf of AES and its estate.

9. The Ad Hoc Committee further prays that it be granted any relief, whether legal or equitable, whether general or special, to which the Ad Hoc Committee may show itself justly entitled.

/s/ Leonard H. Simon

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OF UNSECURED CREDITORS OF APACHE
ENERGY SERVICES, LLC**

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

IN RE:	§	
	§	
HII TECHNOLOGIES, INC., <i>et al.</i> ,	§	CASE NO. 15-60070
	§	(Chapter 11)
DEBTOR.	§	Jointly Administered ¹

ORDER TERMINATING EXCLUSIVITY PERIOD IN WHICH
APACHES ENERGY SERVICES, LLC, MAY FILE A
PLAN OF REORGANIZATION

Came on for hearing the Motion of the Ad Hoc Committee² of Unsecured Creditors organized in the Chapter 11 case of Apache Energy Services, LLC, Case No. 15-60069, (“AES”) seeking a termination of the exclusive period in which AES, and only AES, may file a plan of reorganization. After considering said pleading, the allegations contained therein, and after hearing testimony and evidence presented at a hearing set on this matter, this court is of the opinion that such relief should be granted. It is therefore

ORDERED that the exclusive period provided for in 11 U.S.C. §1121(c) during which AES, and only AES, may file a plan of reorganization is termination immediately upon the signing of this Order and that any creditor or party-in-interest may now file a proposed plan of

¹ The other debtors jointly administered along with HII Technologies, Inc., under this case number are Apache Energy Services, LLC (Case No. 15-60069), Aqua Handling of Texas, LLC (Case No. 15-60071), Sage Power Solutions, Inc. f/k/a KMHVC, Inc. (Case No. 15-60073) and Hamilton Investment Group, Inc. (Case No. 15-60072).

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reorganization.

SIGNED this _____ day of _____, 2015.

JUDGE PRESIDING

APPROVED FOR ENTRY:

/s/ Leonard H. Simon

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