

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	§	

**OBJECTION BY WILLIAM MARK HAMILTON, SHARON HAMILTON,
CRAIG HAMILTON AND S&M ASSETS, LLC TO DEBTOR’S
FIRST AMENDED DISCLOSURE STATEMENT AND
SECOND AMENDED DISCLOSURE STATEMENT**

Unsecured creditors and partial equity owners, William Mark Hamilton, Sharon Hamilton, Craig Hamilton and S&M Assets, LLC (hereafter collectively referred to as “the Hamiltons”), by and through their attorneys of record, Conner & Winters, LLP, hereby object to the proposed and submitted First Amended Disclosure Statement and Second Amended Disclosure Statement filed by Debtors.

Under 11 U.S.C. § 1125(b), a debtor’s disclosure statement must contain “adequate information” for the persons or entities who are designated to vote on the acceptance or rejection of a proposed Plan of Reorganization to make an informed decision on the plan. Volume of information cannot be confused with adequacy of information. Pursuant to 11 U.S.C. § 1125(a)(1), “adequate information” is defined as follows:

“adequate information” means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books and records, including a discussion of the potential material Federal tax consequences of the plan to

the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan, but adequate information need not include such information about any other possible or proposed plan and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information. 11 U.S.C. § 1125(a)(1).

The First Amended Disclosure Statement and Second Amended Disclosure Statement contain a key incorrect statement regarding the status of litigation against Debtors HII Technologies, Inc. and Hamilton Investment Group, Inc. in the respective Exhibit B document attached to each and entitled “Statement of Financial Affairs”. In that document, reference is made to a lawsuit filed in June 2014 in the District Court of Logan County, Oklahoma, by the Hamiltons against these two Debtors. The lawsuit is listed only on the Statement of Financial Affairs as to Debtor, HII Technologies, Inc., but not listed on the Statement of Financial Affairs as to Debtor, Hamilton Investment Group, Inc. More importantly, on the listing as to Debtor, HII Technologies, Inc., the status is reported as “Dismissed”. This is a false statement. The lawsuit is pending. The only parts of the lawsuit that were dismissed were the portions dealing with the Motion for Attachment and the Temporary Restraining Order. But, the lawsuit itself is pending. Debtors should be required to accurately and correctly list the litigation against them. This very issue was raised in a written communication from the Hamiltons’ undersigned counsel to Debtors’ counsel last week, a day before the First Amended Disclosure

Statement was filed. It was understood by the undersigned that this statement would be correctly stated in the documents to be filed.

More importantly, the First Amended Disclosure Statement and the Second Amended Disclosure Statement are fundamentally deficient and misleading because of the vague and undetailed statements regarding the representations by Debtors that they “assume[] that recoveries from causes of actions is \$5 million.” (See Exhibit D to Second Amended Disclosure Statement, Liquidation Analysis, p. 3 second full paragraph.) This is also referenced as a beginning foundational fact on the Hypothetical Waterfall Analysis, attached to the Second Amended Disclosure Statement as Exhibit F. This is a conclusory representation, with no detail or supporting facts or statements as to how the purported \$5 million was calculated, from which person or entity the parts of the \$5 million are targeted to come, and some semblance of factual detail supporting that claim against that person or entity. It is critical for the unsecured creditors to have this information in order to decide whether to vote for the proposed Plan of Reorganization, or to vote against it and put Debtors into liquidation. Simply listing a very large figure that appears to have been just pulled out of the air, and providing no supporting information about how that figure was derived, appears to be an effort to entice the unsecured creditors to vote in favor of the proposed Plan of Reorganization without having adequate information as is required by law.

The Hamiltons object to the proposed First Amended Disclosure Statement and the proposed Second Amended Disclosure Statement, and request the Court to order Debtors to 1) correctly represent the information on the attachments about the pending

litigation, and 2) adequately inform the recipients of the Disclosure Statement of the facts supporting the calculation of the represented \$5 million estimated gross litigation recovery, and from whom that will be made up, and the respective amounts that is targeted to come, and the basis upon which those claims are represented.

Respectfully submitted,

/s/ Victor F. Albert

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CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2016, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the parties eligible to receive service through the Clerk's Office ECF facilities by electronic mail, and mailed to those recipients who are not eligible to receive service through such means.

/s/ Victor F. Albert

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