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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>In re:</b>	§	<b>Chapter 11</b>
	§	
<b>COTTONWOOD FINANCIAL LTD., et al,</b>	§	<b>Case No. 24-80035 (SWE)</b>
	§	
<b>Debtors.</b>	§	<b>(Jointly Administered)</b>

**TEXAS TAXING AUTHORITIES' LIMITED OBJECTION TO  
NOTICE OF PROPOSED SALE ORDER**

**TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:**

Come now the Texas Taxing Authorities<sup>1</sup>, creditors and parties-in-interest, and file this, their Limited Objection to Notice of Proposed Sale Order (Relates to Document #250) and would respectfully show the Court as follows:

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<sup>1</sup> The Texas Taxing Authorities consist of the following entities: Angelina County; Aransas County; City of Atlanta; Atlanta ISD; Bexar County; Cameron County; Camp CAD; City of Commerce; Cypress-Fairbanks ISD; Dallas County; Ector CAD; City of El Paso; Ellis County; Fannin CAD; Fort Bend County; City of Frisco; Gainesville ISD; Galveston County; Grayson County; Greenville ISD; Gregg County; Harris County Emergency Services

1. The Texas Taxing Authorities, duly organized governmental units of the State of Texas, are the holders of claims for pre-petition ad valorem business property taxes for tax years 2022, 2023, and 2024, assessed against the property of the Debtors located within their jurisdictions.

2. The Texas Taxing Authorities' claims are secured by unavoidable, perfected, first priority liens on all of the Debtor's business personal property pursuant to Texas Property Tax Code Sections 32.01 and 32.05. *In re Winn's Stores, Inc.*, 177 B.R. 253 (Bankr. W. D. Tex. 1995);

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District #05; Harris County Emergency Services District #07; Harris County Emergency Services District #08; Harris County Emergency Services District #09; Harris County Emergency Services District #11; Harris County Emergency Services District #12; Harris County Emergency Services District #13; Harris County Emergency Services District #16; Harris County Emergency Services District #47; Harris County Emergency Services District #48; Harris County Emergency Services District #80; Hays CISD; Hidalgo County; Hopkins County; City of Houston; Houston Community College System; Houston ISD; Irving ISD; Jim Wells CAD; Katy ISD; Kaufman County; Lamar CAD; Lewisville ISD; Lone Star College System; McLennan County; Mesquite ISD; Montgomery County; Navarro County; Northeast Texas Community College District; Northwest ISD; Nueces County; Parker CAD; City of Pasadena; Quinlan ISD; Red River CAD; Red River County; Rusk County; Smith County; City of Stephenville; Stephenville ISD; Sulphur Springs; Sulphur Springs ISD; Tarrant County; Tom Green CAD; Upshur County; Van Zandt CAD; Victoria County; Wood County; City of Wylie; The County of Anderson, Texas; Tax Appraisal District of Bell County; Bowie Central Appraisal District; The County of Brazos, Texas; Brown County Appraisal District; Cherokee County Appraisal District; The County of Cherokee, Texas; The County of Comal, Texas; The County of Coryell, Texas; The County of Denton, Texas; Eastland County Appraisal District; County Erath; Gladewater Independent School District; Pine Tree Independent School District; Harrison Central Appraisal District; The County of Harrison, Texas; The County of Hays, Texas; The County of Henderson, Texas; City of Waco and/or Waco Independent School District; Midland Central Appraisal District; Central Appraisal District of Taylor County; The County of Williamson, Texas; Gray County Tax Office; Hale County Appraisal District; Hutchinson County Tax Office; Potter County Tax Office; Randall County Tax Office; Moore County Tax Office; Fort Bend Independent School District; West Keegans Bayou Improvement District; Kingsbridge Municipal Utility District; Galena Park Independent School District; Alief Independent School District; Clear Creek Independent School District; City of Bellaire; Spring Independent School District; La Porte Independent School District; Tomball Independent School District; Malcomson Road Utility District; Klein Independent School District; Harris County Municipal Utility District #276; Crosby Independent School District; Crosby Municipal Utility District; Bay City Independent School District; City of Bay City; Willis Independent School District; Pasadena Independent School District; City of Houston (where represented by Perdue); Spring Branch Independent School District; Interstate Municipal Utility District; Harris County Municipal Utility District #149; Harris County Municipal Utility District #230; Dickinson Independent School District; Hockley County Tax Office; Lubbock Central Appraisal District; Howard County Tax Office; Midland County; Kendall Appraisal District; Cass County, et al.; Hudson Independent School District; Hunt County, et al.; Mineola Independent School District; Nacogdoches County, et al.; Panola County, et al.; Titus County Appraisal District, et al.; Tyler Independent School District; Wichita County, et al.; Cooke County, et al.; Wilbarger County, et al.; Carrollton-Farmers Branch Independent School District; City of Garland; Garland Independent School District; Frisco Independent School District; Plano Independent School District; Wylie Independent School District; Bonham Independent School District; Forney Independent School District; City of Grapevine; Grapevine-Colleyville Independent School District; Crowley Independent School District; Eagle Mountain-Saginaw Independent School District; City of Azle; Brownsville Independent School District; Weslaco Independent School District; City of Weslaco.

*Central Appraisal District of Taylor County v. Dixie-Rose Jewels, Inc.*, 894 S.W.2d 841 (Tex. App. – Eastland 1995). These liens are *in solido* and attach on January 1 of each year to all business personal property of the property owner and to property subsequently acquired. *In re Universal Seismic Associates, Inc.*, 288 F.3d 205 (5<sup>th</sup> Cir. 2002); *City of Dallas v. Cornerstone Bank, N.A.*, 879 S.W.2d 264 (Tex. App.-Dallas 1994). Texas Property Tax Code Section 32.01 provides:

- (a) On January 1 of each year, a tax lien attaches to property to secure the payment of all taxes, penalties, and interest ultimately imposed for the year on the property, whether or not the taxes are imposed in the year the lien attaches. The lien exists in favor of each taxing unit having power to tax the property.
- (b) A tax lien on inventory, furniture, equipment, or other personal property is a lien *in solido* and attaches to all inventory, furniture, equipment, and other personal property that the property owner owns on January 1 of the year the lien attaches or that the property owner subsequently acquires.
- ...
- (d) The lien under this section is perfected on attachment and ... perfection requires no further action by the taxing unit.

Texas Property Tax Code Section 32.05(b) provides:

- (b) ... a tax lien provided by this chapter takes priority over the claim of any creditor of a person whose property is encumbered by the lien and over the claim of any holder of a lien on property encumbered by the tax lien, whether or not the debt or lien existed before attachment of the tax lien.

3. The Debtors' proposed sale includes multiple locations for which property taxes are owed or will be owed the Texas Taxing Authorities.

4. The Texas Taxing Authorities do not oppose a sale of the Purchased Assets as authorized in the proposed sale order and the APA.<sup>2</sup> However, the Texas Taxing Authorities file this limited objection to the conflict in the treatment of their ad valorem tax liens that exists in the

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<sup>2</sup> Capitalized terms not otherwise defined herein are defined in the Sale Motion, Bidding Procedures order, the APA, or the Notice of Proposed Sale Order.

proposed sale order. The proposed sale order provides for the Purchased Assets to be transferred to the Purchaser free and clear of all Liens except for Permitted Liens. [Doc. No. 250, para. 8.] The APA also provides for the Purchased Assets to be sold subject to Permitted Liens. Permitted Liens are defined in the APA to include “Liens for Taxes not yet delinquent.” [Doc. No. 246, pg. 17.] The Texas Taxing Authorities hold senior liens on the Purchased Assets to secure payment of the 2024 ad valorem property taxes. While these liens attached to the assets on January 1, 2024, by operation of law, the 2024 taxes will not be billed until approximately October 2024 and will not become delinquent until February 1, 2025, if unpaid on that date. Therefore, the Texas Taxing Authorities 2024 ad valorem property tax liens meet the definition of Permitted Liens. As a result, these liens would remain attached to the Purchased Assets pursuant to provisions in both the proposed sale order and the APA.

However, the proposed sale order further provides for the Sale of the Purchased Assets to vest those assets in the Purchaser “free and clear of ad valorem, property, and similar tax liens for *any tax years*, which ad valorem, property, and similar tax liens shall attach to the portion of the Sale proceeds ultimately attributable to the property against which they assert a lien...” (Emphasis added.) [Doc. No. 250, para. 17.] Based on these contradictory provisions in the proposed sale order, the Texas Taxing Authorities object to the proposed sale order and request clarification of the treatment of their 2024 ad valorem property tax liens.

5. The Texas Taxing Authorities further object to the proposed distribution of the sale proceeds set out in paragraph 14 of the proposed sale order. The Texas Taxing Authorities hold the senior liens on all of the Debtors’ tangible personal property located in their jurisdictions to secure their prepetition ad valorem taxes. They, therefore, object to a distribution of any sale proceeds to a junior creditor prior to payment in full of their senior, secured taxes.

6. The Texas Taxing Authorities would point out that in addition to the 2024 ad valorem taxes that will be billed later this year, several of the Texas Taxing Authorities are owed delinquent ad valorem property taxes.<sup>3</sup> The APA includes an assertion by the Sellers that “[a]l Taxes imposed on the Sellers or with respect to the Purchased Assets or the Business that are due and owing have been paid...” and that “[t]here are no Liens relating to Taxes (other than Permitted Liens) on any Purchased Assets.” [Doc. No. 246, pg. 32.] The Texas Taxing Authorities will work with counsel for the Debtors to resolve any delinquent taxes and request that those taxes be paid prior to the sale closing or from the sale proceeds.

WHEREFORE, premises considered, the Texas Tax Authorities respectfully request that the final order approving the sale of substantially all of the Debtors’ assets provide for the adequate treatment of their ad valorem tax liens; payment of all delinquent ad valorem taxes that may be owed; payment of their 2024 ad valorem taxes in an estimated amount from the sale proceeds prior to payment to any junior creditors; and grant the Texas Tax Authorities such other and further relief to which they may be justly entitled.

Dated: May 3, 2024.

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<sup>3</sup> The Texas Taxing Authorities will provide tax statements for the delinquent accounts to counsel for the Debtors.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was served via electronic mail on the parties listed below and any all parties requesting notice electronically through the Court's electronic case filing system on this 3rd day of May 2024.

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