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

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| **In re:** | ) | **Chapter 11** |
| | ) | |
| **MONTCO OFFSHORE INC., *et al.*[1]** | ) | **Case No. 17-31646 (MI)** |
| | ) | |
| **Debtors.** | ) | **(Jointly Administered)** |

**LIQUIDATING TRUSTEE'S OBJECTION TO**
**CLAIM OF NOVA TECHNICAL SERVICES, LTD (PROOF OF CLAIM NO. 27)**

**THIS IS AN OBJECTION TO YOUR CLAIM. THIS OBJECTION ASKS THE COURT TO DISALLOW THE CLAIM THAT YOU FILED IN THIS BANKRUPTCY CASE. IF YOU DO NOT FILE A RESPONSE WITHIN 30 DAYS AFTER THE OBJECTION WAS SERVED ON YOU, YOUR CLAIM MAY BE DISALLOWED WITHOUT A HEARING.**

**To the Honorable Marvin Isgur,**
**United States Bankruptcy Judge:**

Drew McManigle, as the Liquidating Trustee (the "Liquidating Trustee") of the Liquidating Trust for the estate of Montco Oilfield Contractors, LLC ("MOC"), files this *Objection to Claim of Nova Technical Services, Ltd (Proof of Claim No. 27)* (the "Objection") pursuant to sections 105(a) and 502(b) of title 11 of the United States Code §§ 101-1532 (the "Bankruptcy Code"), Rule 3007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 3007-1 of the Bankruptcy Local Rules for the Southern District of Texas (the "Bankruptcy Local Rules").

## SUMMARY OF OBJECTION

1. The Liquidating Trustee objects to Nova Technical Services, Ltd's ("Nova") claim (the "Claim") pursuant to section 502 of the Bankruptcy Code. The Liquidating Trustee

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtors' federal tax identification number, are Montco Offshore, Inc. (1448) and Montco Oilfield Contractors, LLC (9886). The mailing address for the Debtors, solely for the purposes of notices and communications, is 17751 Hwy 3235, Galliano, Louisiana 70354.

seeks entry of an order disallowing the Claim because MOC's books and records show no legal or factual basis for the Claim as there is no signed field ticket associated with the Claim.

## JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This Objection is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested in this objection are sections 105(a) and 502(b) of the Bankruptcy Code, Bankruptcy Rule 3007, and Bankruptcy Local Rule 3007-1. Pursuant to the *Amended Plan of Reorganization of Debtor Montco Offshore, Inc. and Amended Plan of Liquidation of Debtor Montco Oilfield Contractors, LLC under Chapter 11 of the Bankruptcy Code* (the "Plan") [Doc. No. 740], this Court retained jurisdiction over claim objections.

## LEGAL AUTHORITY

4. Section 502 of the Bankruptcy Code deems the allowance of a claim or interest, proof of which is filed under Section 501 of the Bankruptcy Code "unless a party in interest . . . objects." 11 U.S.C. § 502.

5. Bankruptcy Rule 3001(f) provides that "[a] proof of claim executed and filed in accordance with [the Bankruptcy Rules] shall constitute prima facie evidence of the validity and amount of the claim." *See, e.g., In re Jack Kline Co., Inc.*, 440 B.R. 712, 742 (Bankr. S.D. Tex. 2010). A proof of claim loses the presumption under Bankruptcy Rule 3001(f) when an objecting party refutes at least one allegation that is essential to the claim's legal sufficiency. *See In re Fidelity Holding Co., Ltd.*, 837 F.2d 696, 698 (5th Cir. 1988). The burden then shifts to the claimant to prove the validity of its claim by a preponderance of the evidence. *Id.* Thus, even with the burden shifting framework, "the ultimate burden of proof always lies with the

claimant." *In re Armstrong*, 347 B.R. 581, 583 (Bankr. N.D. Tex. 2006) (citing *Raleigh v. Ill. Dep't of Rev.*, 530 U.S. 15 (2000)).

**FACTUAL BACKGROUND**

6. On March 17, 2017, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "Court").

7. On February 13, 2017, the Court entered its *Findings of Fact, Conclusions of Law, and Order Approving the Disclosure Statement and Confirming the Amended Plan of Reorganization of Debtor Montco Offshore, Inc. and the Amended Plan of Liquidation of Debtor Montco Oilfield Contractors, LLC under Chapter 11 of the Bankruptcy Code* [Doc. No. 784] (the "Confirmation Order"), which confirmed the Plan. Pursuant to Article IV.O.4 of the Plan, paragraphs 62 and 63 of the Confirmation Order, and Section 3.1(e) of the Liquidating Trust Agreement, the Liquidating Trustee was vested with the authority to, among other things, review and object to claims.

8. Pursuant to the *Order Granting Extension of Deadline to File Objections to Claims* [Doc. No. 848], the Liquidating Trustee must have objected to and/or resolved no fewer than 17 claims in total by September 6, 2018.

9. As of the date hereof, 272 proofs of claim have been filed in the Debtors' chapter 11 cases. The Liquidating Trustee and his advisors have commenced a claims reconciliation process that includes identifying particular categories of claims that may be targeted for disallowance, reduction and allowance, or reclassification and allowance. In addition to the present Objection, the Liquidating Trustee will file further individual and/or omnibus objections.

## CLAIM AND OBJECTION

10. On April 17, 2017, Nova filed a general unsecured claim (Proof of Claim No. 27) against MOC in the amount of $125,353.28 related to "Services Performed."

11. The Liquidating Trustee objects to the Claim because the Debtors' books and records do not include any signed field tickets associated with the Claim. As discussed in the *Declaration of Drew McManigle in Support of the Liquidating Trustee's Objection to Claim of Nova Technical Services, Ltd (Proof of Claim No. 27)* (the "McManigle Declaration"), attached hereto as **Exhibit A**, MOC's prepetition invoice processing policy required that every contractor invoice involving a manned service in the field also include the contractor's daily field ticket signed by the designated MOC worksite representative. The daily field ticket included a description of the services provided, the price, and a stamp with the correct charge codes. This field level confirmation of services rendered was not an agreement to the accuracy of the prices listed on the field ticket. Instead, it served as field level confirmation services had been provided by the contractor in regards to work scope, and without this required supporting documentation, MOC project managers could not perform their second level evaluation before either rejecting the invoice or approving for payment. MOC did not make any invoice processing exceptions to this policy without the approval of MOC's President Carroll Price.

## RESERVATION OF RIGHTS

12. The Liquidating Trustee expressly reserves all rights related to this Objection, including, without limitation, the right to amend, modify, or supplement this Objection and/or raise any additional objections or arguments, prior to or during any hearing(s) regarding the Claim, or any hearing regarding payment of any claims. The Liquidating Trustee also reserves

the right to object to the Claim on any other grounds. All such rights are expressly reserved and preserved.

## CONCLUSION

WHEREFORE, the Liquidating Trustee respectfully requests that this Court grant the Liquidating Trustee's Objection as set forth above, and grant relief to which the Liquidating Trustee may be justly entitled.

**Dated: September 5, 2018**

**Porter Hedges LLP**
*/s/ Joshua W. Wolfshohl*
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**COUNSEL FOR DREW MCMANIGLE, LIQUIDATIG TRUSTEE FOR THE MONTCO OILFIELD CONTRACTORS, LLC LIQUIDATING TRUST**

**CERTIFICATE OF SERVICE**

I certify that on September 5, 2018, I caused a copy of the foregoing document to be served by first class mail to Nova Technical Services, Ltd., Attn: Joe Nowiczewski, 623 Buffington St., Houston, Texas 77060 and by the Electronic Case Filing System to all parties appearing in these cases.

*/s/ Joshua W. Wolfshohl*
Joshua W. Wolfshohl