

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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In re : Chapter 11
SEMCRUDE, L.P., *et al.*, : Case No. 08-11525 (BLS)
Debtors. : Jointly Administered
-----X
Official Committee Of Unsecured :
Creditors Of Semcrude, L.P., *et al.* :
for and on behalf of the :
Debtors' Bankruptcy Estates, :
Plaintiff, :
And :
Bank of America, N.A., as Administrative Agent :
For the Debtors' Pre-Petition and Post-Petition :
Lenders, :
Plaintiff/Intervenor, :
v. : Adv. Pro. No. 09-50189-BLS
Thomas L. Kivisto, Gregory C. Wallace, :
Westback Purchasing Co., LLC, Brent :
Cooper, Kevin L. Foxx, Alex G. Stallings, :
Defendants. :
-----X

**CERTIFICATION OF COUNSEL REGARDING STIPULATION CONFERRING
STANDING UPON THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF
SEMCRUDE, L.P., ET AL., PURSUANT TO SECTIONS 105(A), 1103(C)(5) AND 1109(B)
OF THE BANKRUPTCY CODE TO PROSECUTE THE KIVISTO ADVERSARY
PROCEEDING ON BEHALF OF THE DEBTORS' ESTATES**

The undersigned hereby certifies as follows:

1. On July 22, 2008, SemCrude, L.P. and certain of its affiliates (collectively, the “Debtors”) filed with this Court voluntary petitions for relief under chapter 11 of title 11 of the United States Code. The Debtors’ chapter 11 cases are being jointly administered pursuant to Rule 1005(b) of the Federal Rules of Bankruptcy Procedure. Each Debtor is continuing to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On February 17, 2009, the Official Committee of Unsecured Creditors of SemCrude, L.P., et al., (the “Creditors’ Committee”) filed its Motion for Authority to Commence and Prosecute Certain Actions on Behalf of the Estates and for Related Relief Pursuant to Sections 105(a), 1103(c)(5) and 1109(b) of the Bankruptcy Code (the “Standing Motion”).

3. On February 18, 2009, the Creditors’ Committee filed a complaint commencing the adversary proceeding captioned, *Official Committee of Unsecured Creditors of SemCrude, L.P., et al., for and on behalf of the Debtors’ Bankruptcy Estates against Thomas L. Kivisto, Gregory C. Wallace, and Westback Purchasing Co., LLC*, Case No. 09-50189-BLS (the “Kivisto Adversary Proceeding”), and on March 16, 2009, the Creditors’ Committee filed its First Amended Complaint (the “First Amended Complaint”).

4. On March 16, 2009, this Court granted the Standing Motion authorizing the Creditors’ Committee to prosecute the Kivisto Adversary Proceeding and entered its Order Pursuant to Sections 105(a), 1103(c)(5) and 1109(b) of the Bankruptcy Code Authorizing the Official Committee of Unsecured Creditors of SemCrude, L.P., et al., to Commence and Prosecute Certain Actions on Behalf of the Estates and for Related Relief (the “Standing Order”).

5. On April 15, 2009, Louis J. Freeh, examiner in these cases, filed the Final Report of Louis J. Freeh, Bankruptcy Court Examiner (the “Examiner Report”).

6. Based on the Examiner's Report, the Creditors' Committee determined that additional valid, meritorious claims and causes of action (the "Additional Claims") existed and should be brought in the Kivisto Adversary Proceeding in a timely fashion to maximize the value of the estates. The Debtors consented to the Creditors' Committee's filing of a second amended complaint prosecuting the Additional Claims. The Creditors' Committee filed its Second Amended Complaint on behalf of the Debtors' estates, adding claims against Thomas L. Kivisto and Gregory C. Wallace and adding as defendants Brent Cooper, Kevin L. Foxx, and Alex G. Stallings.

7. On August 6 and 7, 2009, Defendants Kivisto, Wallace, Westback, Cooper, Foxx, and Stallings, each filed a motion to dismiss all or some portion of the amended complaint. In addition, on August 7, 2009, Westback filed an answer to the amended complaint.

8. On August 24, 2009, the Court entered an Order Approving Stipulation Between and Among The Official Committee of Unsecured Creditors Of Semcrude, L.P., Bank of America, N.A., Thomas L. Kivisto, Westback Purchasing Co., LLC, Gregory C. Wallace, Brent Cooper, Kevin L. Foxx and Alex G. Stallings Regarding Briefing on Defendants Motions to Dismiss the Second Amended Complaint [Dkt. No. 60].

9. The Creditors' Committee has notified the Defendants that it seeks to file a Third Amended Complaint pursuant to Federal Rule of Civil Procedure 15(a)(2), in the Kivisto Adversary Proceeding to address deficiencies alleged by Defendants in their Motions to Dismiss which Plaintiffs state are primarily technical in nature (a statement with which Defendants disagree), and to incorporate new facts and developments that have arisen from the Committee's ongoing investigation.

10. On September 3, 2009, the Creditors' Committee, Bank of America, N.A., as Administrative Agent for the Debtors' Pre-Petition and Post-Petition Lenders (the "Administrative Agent") and Defendants Kivisto, Westback, Wallace, Cooper, Foxx and Stallings entered into a Stipulation regarding the filing of a Third Amended Complaint and Defendants' Time to Answer to Otherwise Respond to the Third Amended Complaint (the "September 3 Stipulation"). On September 8, 2009, this Court issued an order approving the stipulation. [Dkt. No. 63].

11. Counsel for the Creditors' Committee and the Debtors have entered into a stipulation to provide that (a) the Creditors' Committee is a proper party and shall be deemed to have standing to bring the Third Amended Complaint in the Kivisto Adversary Proceeding; (b) the conferral of standing upon the Creditors' Committee is in the best interests of the Debtors' estates and the creditors thereof, and is necessary and beneficial to the efficient resolution of these bankruptcy cases; and (c) the terms of the Standing Order shall remain in full force and effect (the "Stipulation").

12. The Debtors consent to the Creditors' Committee's filing of the Third Amended Complaint in the Kivisto Adversary Proceeding.

13. The Debtors' consent is a proper exercise of their fiduciary duties and represents a faithful attempt to coordinate litigation responsibilities with the Creditors' Committee.

14. Between September 18, 2009 and October 1, 2009, counsel for the Creditors' Committee provided counsel to Defendants Kivisto, Wallace, Westback, Cooper, Foxx, and Stallings several drafts of the proposed Third Amended Complaint. Each draft of the Third Amended Complaint makes reference in paragraphs 8 through 13 to the capacity of the parties to sue and acknowledges the Creditors' Committee's intent to seek Court approval of "a stipulation

with the Debtors conferring upon the Committee the authority to prosecute the Third Amended Complaint.” Proposed Third Amended Complaint, ¶13. In addition, on October 1, 2009, counsel for the Creditors’ Committee e-mailed counsel to Defendants Kivisto, Wallace, Westback, Cooper, Foxx, and Stallings and advised counsel that the Creditors’ Committee intended to file within twenty-four hours “[a] stipulation regarding standing for the Third Amended Complaint.”

15. At no time between September 18, 2009 and today, has counsel for Defendants Kivisto, Wallace, Westback, Cooper, Foxx, and Stallings indicated any objections to the Creditors’ Committee’s anticipated stipulation regarding standing to bring the Third Amended Complaint.

16. A copy of the Stipulation is attached hereto as Exhibit A, and a proposed order approving the Stipulation is attached hereto as Exhibit B.

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Dated: October 2, 2009

BLANK ROME LLP

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Counsel for the Official Committee of
Unsecured Creditors of SemCrude, L.P., *et al.*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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In re:	:
	:
	: Chapter 11 Case
SEMCRUDE, L.P., et al.,	: No. 08-11525 (BLS)
	: Jointly Administered
	:
Debtors	:
-----	X

**STIPULATION CONFERRING STANDING UPON THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS OF SEMCRUDE, L.P., ET AL.,
PURSUANT TO SECTIONS 105(A), 1103(C)(5) AND 1109(B)
OF THE BANKRUPTCY CODE TO PROSECUTE ADDITIONAL ACTIONS
ON BEHALF OF THE DEBTORS' ESTATES**

WHEREAS:

A. On July 22, 2008, SemCrude, L.P. and certain of its affiliates (collectively, the “Debtors”) filed with this Court voluntary petitions for relief under chapter 11 of title 11 of the United States Code. The Debtors’ chapter 11 cases are being jointly administered pursuant to Rule 1005(b) of the Federal Rules of Bankruptcy Procedure. Each Debtor is continuing to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

B. On February 17, 2009, the Official Committee of Unsecured Creditors of SemCrude, L.P., et al., (the “Creditors’ Committee”) filed its Motion for Authority to Commence and Prosecute Certain Actions on Behalf of the Estates and for Related Relief Pursuant to Sections 105(a), 1103(c)(5) and 1109(b) of the Bankruptcy Code (the “Standing Motion”).

C. On February 18, 2009, the Creditors’ Committee filed a complaint commencing the adversary proceeding captioned, *Official Committee of Unsecured Creditors of SemCrude, L.P., et al., for and on behalf of the Debtors’ Bankruptcy Estates against Thomas L. Kivisto,*

Gregory C. Wallace, and Westback Purchasing Co., LLC, Case No. 09-50189-BLS (the “Kivisto Adversary Proceeding”), and on March 16, 2009, the Creditors’ Committee filed its First Amended Complaint (the “First Amended Complaint”).

D. On March 16, 2009, this Court granted the Standing Motion authorizing the Creditors’ Committee to prosecute the Adversary Proceeding and entered its Order Pursuant to Sections 105(a), 1103(c)(5) and 1109(b) of the Bankruptcy Code Authorizing The Official Committee of Unsecured Creditors of SemCrude, L.P., et al., to Commence And Prosecute Certain Actions on Behalf of the Estates and for Related Relief (the “Standing Order”).

E. On April 15, 2009, Louis J. Freeh, examiner in these cases, filed the Final Report of Louis J. Freeh, Bankruptcy Court Examiner (the “Examiner Report”).

F. Based on the Examiner’s Report, the Creditors’ Committee determined that additional valid, meritorious claims and causes of action (the “Additional Claims”) existed and should be brought in the Kivisto Adversary Proceeding in a timely fashion to maximize the value of the estates. The Debtors consented to the Creditors’ Committee’s filing of a second amended complaint prosecuting the Additional Claims. The Creditors’ Committee filed its Second Amended Complaint on behalf of the Debtors’ estates, adding claims against Thomas L. Kivisto and Gregory C. Wallace and adding as defendants Brent Cooper, Kevin L. Foxx, and Alex G. Stallings.

G. On August 6 and 7, 2009, Defendants Kivisto, Wallace, Westback, Cooper, Foxx, and Stallings, each filed a motion to dismiss all or some portion of the amended complaint. In addition, on August 7, 2009, Westback filed an answer to the amended complaint.

H. The Creditors’ Committee has notified the Defendants that it seeks to file a Third Amended Complaint pursuant to Federal Rule of Civil Procedure 15(a)(2), in the Kivisto

Adversary Proceeding to address deficiencies alleged by Defendants in their Motions to Dismiss which Plaintiffs state are primarily technical in nature (a statement with which Defendants disagree), and to incorporate new facts and developments that have arisen from the Committee's ongoing investigation.

I. On September 3, 2009, the Creditors' Committee, Bank of America, N.A., as Administrative Agent for the Debtors' Pre-Petition and Post-Petition Lenders (the "Administrative Agent") and Defendants Kivisto, Westback, Wallace, Cooper, Foxx and Stallings entered into a Stipulation regarding the filing of a Third Amended Complaint and Defendants' Time to Answer to Otherwise Respond to the Third Amended Complaint. On September 8, 2009, this Court issued an order approving the stipulation.

J. The Debtors consent to the Creditors' Committee's filing of the Third Amended Complaint in the Kivisto Adversary Proceeding.

K. The Debtors' consent is a proper exercise of their fiduciary duties and represents a faithful attempt to coordinate litigation responsibilities with the Creditors' Committee.

NOW, THEREFORE, the parties hereto hereby stipulate and agree as follows:

1. The Creditors' Committee is a proper party and shall be deemed to have standing to bring the Third Amended Complaint in the Kivisto Adversary Proceeding.

2. The conferral of standing upon the Creditors' Committee is in the best interests of the Debtors' estates and the creditors thereof, and is necessary and beneficial to the efficient resolution of these bankruptcy cases.

3. The terms of the Standing Order shall remain in full force and effect.

4. This Stipulation may be executed in one or more counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same

instrument. Facsimile versions of signatures may be relied upon by any party and shall be binding on the respective signor with equal effect as a manually executed counterpart.

5. This Stipulation shall be effective upon the entry of an order by the Court approving the terms hereof.

Dated: October 2, 2009
Wilmington, Delaware

BY:

/s/ Bonnie Glantz Fatell

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Debtors-in-Possession*

EXHIBIT B

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

-----X	:	
In re	:	Chapter 11
	:	
SEMCRUDE, L.P., et al.,	:	Case No. 08-11525 (BLS)
	:	
Debtors.	:	Jointly Administered
	:	
-----X	:	
Official Committee Of Unsecured Creditors Of Semcrude, L.P., et al.	:	
for and on behalf of the	:	
Debtors' Bankruptcy Estates,	:	
	:	
Plaintiff,	:	
	:	
And	:	
	:	
Bank of America, N.A., as Administrative Agent	:	
For the Debtors' Pre-Petition and Post-Petition	:	
Lenders,	:	
	:	
Plaintiff/Intervenor,	:	
	:	Adv. Pro. No. 09-50189-BLS
v.	:	
	:	
Thomas L. Kivisto, Gregory C. Wallace, Westback Purchasing Co., LLC, Brent Cooper, Kevin L. Foxx, Alex G. Stallings,	:	
	:	
Defendants.	:	
	:	
-----X	:	

ORDER

Having reviewed the stipulation dated October 2, 2009 between and among the Official Committee Of Unsecured Creditors Of Semcrude, L.P. ("the Committee") and the Debtors, it is hereby ORDERED that the Stipulation is approved, and the Creditors' Committee is a proper

party and shall be deemed to have standing to bring the Third Amended Complaint in the Kivisto Adversary Proceeding; (b) the conferral of standing upon the Creditors' Committee is in the best interests of the Debtors' estates and the creditors thereof, and is necessary and beneficial to the efficient resolution of these bankruptcy cases; and (c) the terms of the Standing Order shall remain in full force and effect.

Signed this ____ day of _____, 2009.

BY THE COURT:

Brendan L. Shannon
U.S. Bankruptcy Judge