IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
AEROCISION PARENT, LLC, *et al.*,[1]	)	Case No. 23-11032 (KBO)
	)	
Debtors.	)	(Jointly Administered)
	)	
LIBERTY HALL CAPITAL PARTNERS FUND I, L.P.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Adv. Pro. No. 23-50772 (KBO)
CITIZENS BANK, N.A., ALLY BANK, SIEMENS FINANCIAL SERVICES, INC., CHANNEL FUNDING, LLC, MONROE CAPITAL MML CLO IX, LTD., MONROE CAPITAL MML CLO X, LTD., and MRCC SENIOR LOAN FUND I FINANCING SPV, LLC,	)	**Related to Docket Nos. 5 & 31**
	)	
Defendants.	)	

MEMORANDUM ORDER

Before the Court are two *Motions to Dismiss* filed by Siemens Financial Services, Inc. ("Siemens") seeking to dismiss the complaint (the "Complaint") of Liberty Hall Capital Partners Fund I, L.P. ("Liberty Hall") pursuant to Rules 12(b)(1) and (b)(6) of the Federal Rules of Civil Procedure (the "Federal Rules"), made applicable to these proceedings by Rule 7012(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). For the reasons set forth herein, the Court will dismiss Counts I, II, and IV.

I. SUMMARY OF RELEVANT FACTS

AeroCision Parent, LLC, and its debtor affiliates (collectively, the "Debtors") filed for chapter 11 bankruptcy protection on July 31, 2023 (the "Petition Date"). One day prior, the

[1] The Debtors in these chapter 11 cases, along with the last four digits of their respective federal tax identification numbers, are: AeroCision Parent LLC (8828); AeroCision, LLC (0509); and Numet Machining Techniques, LLC (3162). The Debtors' service address is 12-A Inspiration Lane, Chester, CT 06412.

Debtors entered into a restructuring support agreement (the "RSA") with its various secured lenders (the "Lenders").[2] The RSA contemplated that the Debtors, Liberty Hall, and the Lenders would take certain actions to restructure and recapitalize the Debtors' capital structure through a pre-packaged chapter 11 plan (the "RSA Plan").[3] Among other things, they agreed that the Debtors' current debt facilities and future debtor-in-possession financing to be provided by the Lenders would be converted into exit facilities that would also provide new funding to the Debtors upon emergence from bankruptcy.[4] In particular, pursuant to the RSA, the parties agreed to convert Liberty Hall's approximate $2.5 million claim for bridge loan financing (the "Bridge Financing") advanced to the Debtors shortly before the Petition Date into a New Super Senior Lien Facility.[5] The Lenders' claims would be converted into loans under the New Super Senior Lien Facility, a New First Lien Facility, and a New Holdco Term Loan Facility.[6] All other claims of the Debtors would be paid in the ordinary course of business, reinstated, or remain unimpaired.[7] A substantial majority of the equity in the reorganized Debtors would be held by Liberty Hall and certain others in exchange for additional funding.[8]

The Debtors promptly moved to assume the RSA, which the Court approved.[9] They filed the RSA Plan and accompanying disclosure statement and, with the Court's approval, proceeded to confirmation.[10] About one month later, the RSA and RSA Plan began to fall apart. The Debtors announced that challenges had arisen under the existing RSA Plan.[11] They appointed two independent directors to a special committee of the Board of Directors with sole and exclusive authority to administer the bankruptcy cases.[12] Shortly thereafter, the Debtors pivoted to a sale process. The Court approved the sale approximately one month later and, in early March 2024, confirmed the Debtors' plan of liquidation (the "Liquidation Plan").[13]

Meanwhile, the RSA terminated. Liberty Hall and the Lenders blamed each other, alleging that the other breached. Liberty Hall commenced this adversary proceeding in December 2023 against the Lenders.[14] An action against Liberty Hall was already pending.[15]

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[2] Case. No. 23-11032 (the "Bankruptcy Case"), D.I. 13, Ex. C (the "RSA"). The Lenders are Citizens Bank, N.A., Ally Bank, Siemens Financial Services, Inc, Channel funding LLC, Monroe Capital MML CLO IX, Ltd., Monroe Capital MML CO X, Ltd., and MRCC Senior Loan Fund I Financing SPV, LLC.

[3] RSA, Ex. A.

[4] *See generally id.*

[5] *Id.*, Art. III § B.7.

[6] *Id.*, Art. II § C, Art. III § B.3-5.

[7] *Id.*, Art. II-III.

[8] *Id.*, Art. V.B.

[9] Bankruptcy Case, D.I. 73.

[10] *Id.*, D.I. 14, 15, & 50.

[11] *Id.*, D.I. 107 (Sept. 6, 2023 Hr'g Tr. at 3:22-23, 25).

[12] *Id.* at 3:20-4:6.

[13] *Id.*, D.I. 357. The Liquidation Plan went effective on March 7, 2024. *Id.*, D.I. 363.

[14] Adv. No. 23-50772 ("Liberty Hall Adversary"), D.I. 1.

Liberty Hall's Complaint contains four counts. Counts I and II assert claims for promissory estoppel and unjust enrichment, respectively, arising from an alleged promise made to Liberty Hall by the Lenders regarding the treatment of Liberty Hall's Bridge Financing claim. Liberty Hall contends that the Lenders promised during the prepetition restructuring negotiations that it would either be treated as the equivalent of senior, postpetition financing in any restructuring of the Debtors or otherwise repaid to Liberty Hall by the Lenders. The RSA contemplated the senior treatment, but that agreement terminated. So Counts I and II seek direct repayment of the Bridge Financing.

In Counts III and IV, Liberty Hall asserts that the Lenders' behavior during the bankruptcy case breached the RSA's express and implied good faith requirements, resulting in the failure of the RSA Plan. Liberty Hall contends that the Debtors revised their financial projections shortly after the bankruptcy filing. These projections were allegedly materially different from those upon which the RSA and RSA Plan were predicated and rendered the RSA Plan no longer feasible. Liberty Hall claims that when it suggested that the Debtors attempt to improve their forecasts by seeking price increases from their significant customers, the Lenders accused it of refusing to proceed with, and breaching, the RSA. Liberty Hall alleges that the Lenders then terminated the RSA and demanded that the Debtors pursue the sale. The Debtors did so while also negotiating the price increases desired by Liberty Hall.

Following consummation of the sale, the Debtors paid the proceeds to the Lenders to fully satisfy their postpetition financing claims and partially satisfy their prepetition secured claims. Liberty Hall was left with an unsecured claim against the Debtors in an approximate amount of $5.2 million, which includes the Bridge Financing.[16] Under the Plan of Liquidation, this claim along with approximately $30 million other unsecured claims will receive an undetermined pro rata recovery not exceeding $500,000 in the aggregate.[17] Through Counts III and IV, Liberty Hall seeks to be compensated for its losses from the failed RSA.

The Lenders moved to dismiss the Complaint (the "First Dismissal Motion") for failure to state a claim under Federal Rule 12(b)(6).[18] Thereafter, the parties engaged in mediation.[19] The mediation resulted in a settlement of all pending claims between Liberty Hall and the Lenders except for Siemens.[20] Siemens then filed a second motion to dismiss for lack of subject-matter jurisdiction under Federal Rule 12(b)(1) (the "Second Dismissal Motion" and together with the First Dismissal Motion, the "Motions to Dismiss").[21] Following completion of briefing, the Court heard oral argument on the Motions to Dismiss.[22] This matter is ripe for adjudication.

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[15] *See* Adv. No. 23-50755.

[16] Proof of Claim Nos. 10025-27.

[17] Bankruptcy Case, D.I. 357, Ex. A at 18-19.

[18] Liberty Hall Adversary, D.I. 5, 6.

[19] *Id.*, D.I. 22.

[20] *Id.*, D.I. 28.

[21] *Id.*, D.I. 31.

[22] The Court has procedurally joined the Motions to Dismiss pursuant to Federal Rule 12(g)(1).

II. DISCUSSION

A. Subject-Matter Jurisdiction

Siemens asserts that the Court lacks subject-matter jurisdiction over the claims of this proceeding.[23] Pursuant to 28 U.S.C. § 1334(a)-(b), 28 U.S.C. § 157(a), and the February 29, 2012 *Amended Standing Order of Reference* of the United States District Court for the District of Delaware, this Court has adjudicatory authority over cases under title 11, proceedings arising under title 11, proceedings arising in a case under title 11, and proceedings related to a case under title 11. In determining the extent of the Court's jurisdiction, each claim of Liberty Hall must be separately analyzed,[24] and the burden falls on Liberty Hall as the party invoking the federal court's jurisdiction.[25]

It is undisputed that this proceeding fails to qualify as a case under title 11 or a proceeding arising under title 11. A "case under title 11" refers to the bankruptcy case itself, *i.e.* "the entirety of the process a bankruptcy petition triggers[.]" [26] A "proceeding arising under title 11" advances a claim "based on a right or remedy expressly provided by the Bankruptcy Code."[27] The focus for the parties is "arising in" and "related to" jurisdiction. Because the Court finds that "arising in" jurisdiction exists, it need not address its "related to" jurisdiction.

Liberty Hall contends that "arising in" jurisdiction exists because its claims are inextricably intertwined with the bankruptcy process. It describes the RSA as "central to the entire bankruptcy case," "paramount to the bankruptcy process," and "prominent . . . in the administration of the estates."[28] It provided a framework for an expeditious and value-enhancing restructuring by mandating, among other things, the timing of the case and material obligations related to debtor-in-possession financing and exit financing.

A proceeding "arising in" a bankruptcy case does not "invoke a substantive right provided by [the Bankruptcy Code.]"[29] Rather, it is "one that by its nature, could arise only in

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[23] Siemens considers each claim of Liberty Hall "on its face and asserts that it is insufficient to invoke the subject matter jurisdiction of the court[.]" *Const. Party of Pa. v. Aichele*, 757 F.3d 347, 358 (3d Cir. 2014). This is a facial attack on the Court's subject matter jurisdiction requiring the "court to apply the same standard of review it would use in considering a motion to dismiss under Rule 12(b)(6) . . . ." *Id.*

[24] *Halper v. Halper*, 164 F. 3d 830, 839 (3d. Cir. 1999) ("We adopt the claim-by-claim approach as the only one consistent with the teachings of *Marathon*.").

[25] *United States v. Tyler*, 528 Fed. Appx. 193, 197 (3d Cir. 2013) (citing *Nuveen Mun. Trust ex. rel. Nuveen High Yield Mun. Bond Fund v. WithumSmith Brown, P.C.*, 692 F.3d 283, 293 (3d Cir. 2012)).

[26] *Mesabi Metallics Co., LLC v. B. Riley FBR, Inc. (In re Essar Steel Minn., LLC)*, 47 F.4th 193, 197 (3d Cir. 2022).

[27] *Id.* (quoting *In re Weiand Auto. Indus.*, 612 B.R. 824, 854 (Bankr. D. Del. 2020)).

[28] Liberty Hall Adversary, D.I. 33 ¶¶ 28-30.

[29] *Resorts Int'l Fin., Inc. v. Price Waterhouse & Co., LLP (In re Resorts Int'l, Inc.)*, 372 F.3d 154, 163 (3d Cir. 2004); *Stoe v. Flaherty*, 436 F.3d 209, 218 (3d Cir. 2006).

the context of a bankruptcy case."[30] "Proceedings 'arise in' a bankruptcy case, 'if they have no existence outside of the bankruptcy.'"[31] Examples include "allowance and disallowance of claims, orders in respect to obtaining credit, determining the dischargeability of debts, discharges, confirmation of plans, [and] orders permitting the assumption or rejection of contracts[.]"[32]

Courts in the Third Circuit routinely find state law claims do not fall within a bankruptcy court's "arising in" jurisdiction even if the claims may be affected by the Bankruptcy Code or even if they would not exist "but for" the bankruptcy.[33] For example, in *Halper v. Halper*, the United States Court of Appeals for the Third Circuit held that an action between two non-debtors to enforce a personal guarantee of an obligation owed by a bankrupt debtor was not sufficient to create "arising in" jurisdiction for the bankruptcy court.[34] The court explained that the claims arose between two non-debtor parties over their prepetition contract.[35] The resolution of the action relied upon state law and could have been brought in state court.[36] While the plaintiff argued that the enforceability of the guarantee depended upon whether the debtor's obligation was void under bankruptcy law, the court rejected the notion that this contingency brought the claim under "arising in" jurisdiction.[37]

Years later in *Stoe v. Flaherty*, the Third Circuit found "arising in" jurisdiction absent in a proceeding brought by a former employee of a debtor against current and former debtor-officers for unpaid severance benefits.[38] Noting its similarity with the claim in *Halper*, the court

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[30] *Resorts*, 372 F.3d 163; *accord Stoe*, 436 F.3d at 218.

[31] *Stoe*, 436 F.3d at 216 (quoting *U.S. Trustee v. Gryphon at the Stone Mansion, Inc.*, 166 F.3d 552, 556 (3d Cir. 1999)); *see also Halper*, 164 F.3d at 836 n.7 (citing cases for such proposition).

[32] *Stoe*, 436 F.3d at 218 (quoting 1 COLLIER ON BANKRUPTCY § 3.01[4][c][iv] at 3-31) (internal quotations omitted).

[33] *See e.g.*, *Kennedy Lewis Partners Master Fund LP v. Arby Partners, LLC (In re Town Sports Int'l, LLC)*, No. 20-12168, 2023 WL 124860, at *7-8 (Bankr. D. Del. Jan. 6, 2023) (rejecting the argument that the court had "arising in" jurisdiction over breach of contract claims because they were a consequence of the bankruptcy case); *ACandS Asbestos Settlement Trust v. Hartford Accident Indem. Co. (In re ACandS, Inc.)*, No. 02-12687, 2011 WL 744913, at *2 (Bankr. D. Del. Feb. 22, 2011) (rejecting "but for" standard and determining a lack of "arising in" jurisdiction over a discovery dispute concerning a post-confirmation trust, its distribution procedures, and the plan); *In re G-I Holdings, Inc.*, 564 B.R. 217, 251 (Bankr. D.N.J. 2016) (holding the court did not have "arising in" jurisdiction over breach of contract claims even when the dispute required interpretation of the Bankruptcy Code); *Sklar v. Munyon (In re Family Theatre, LLC)*, No. 03-438946, 2006 WL 3327317, at *7 (Bankr. D.N.J. Nov. 14, 2006) (determining that, while breach of contract claims would augment the estate, they were not within the court's "arising in" jurisdiction).

[34] *Halper*, 164 F.3d at 838.

[35] *Id.*

[36] *Id.*

[37] *Id.*

[38] 436 F.3d at 211-19.

described the claim as one under state law where liability could be affected by the Bankruptcy Code.[39] It rejected the district court's "but for" analysis that it conducted to find "arising in" jurisdiction.[40] The lower court found that the debtor stopped making payments to the plaintiff as a consequence of its bankruptcy, and therefore, the claim would not exist but for the bankruptcy filing.[41] This was not the correct focus according to the Third Circuit because "arising in" claims are those "that by their nature, *not their particular factual circumstance*, could only arise in the context of a bankruptcy case."[42] The severance claim could "clearly exist outside the context of the bankruptcy cases" and thus it did not "arise in" the bankruptcy case.[43]

Siemens argues that "arising in" jurisdiction is lacking because this proceeding is a state law action between two non-debtors and may exist outside of bankruptcy in state court. This argument is at first blush persuasive when viewed in the context of *Halper* and *Stoe*. However, the Third Circuit's subsequent decision in *Geruschat v. Ernst Young LLP (In re Seven Fields Development Corp.)* requires the Court to take a more nuanced view.

In *Seven Fields*, the Third Circuit found "arising in" jurisdiction over state law malpractice, negligence, and fraud claims pursued by creditors against a debtors' accountant.[44] The claims were rooted in the accountant's alleged misrepresentations of the debtors' insolvency.[45] The bankruptcy court appointed the accountant and approved its fees.[46] It relied upon the misrepresentations, found the debtors insolvent, and approved a swift sale of estate assets for the satisfaction of claims.[47] While the creditors' third-party claims could have been pursued in state court, the Third Circuit found that they "arose in" the bankruptcy case.[48]

In doing so, the Third Circuit determined the claims were inseparable from the bankruptcy context because "'[a] *sine qua non* in restructuring the debtor-creditor relationship is the court's ability . . . to assure itself and the creditors who rely on the process that court-approved managers of the debtor's estate are performing their work, conscientiously and cost-effectively.'"[49] The court further found that the "[s]upervision of court-appointed professionals bears directly on the distribution of the debtor's estate" because "[i]f the estate is not marshaled and liquidated or reorganized expeditiously, there will be far less money available to pay

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[39] *Id.*

[40] *Id.* at 217-18.

[41] *Id.* at 218.

[42] *Id.* (emphasis added).

[43] *Id.* at 218-19.

[44] 505 F.3d 237, 262 (3d Cir. 2007).

[45] *Id.* at 240-42.

[46] *Id.* at 261.

[47] *Id.* at 240-42.

[48] *Id.* at 260.

[49] *Id.* at 261 (citing *Southmark Corp. v. Coopers & Lybrand (In re Southmark Corp.)*, 163 F.3d 925, 931 (5th Cir. 1999)).

creditor's claims."[50] Finally, the court highlighted how the claims implicated the integrity of the bankruptcy process and the debtors' plan:

> [n]othing is more important than the integrity of the bankruptcy process . . . . [T]he integrity of the process goes to the heart of the administration of a bankruptcy case. Furthermore, few issues are as important in the bankruptcy process as the bankruptcy court's conclusion as to the solvency of a debtor. The solvency analysis is the cornerstone of the distribution plan. Here, both the integrity of the bankruptcy process and the solvency of the Debtors have been drawn into question.[51]

While the facts in *Seven Fields* are not on all fours with those presented in the Complaint, the Court finds its appropriate to extend its principles to this proceeding and find "arising in" jurisdiction over Liberty Hall's claims.

Restructuring support agreements go directly to the heart of a bankruptcy case – the restructuring of the debtor-creditor relationship through the confirmation process. When a debtor and its major stakeholders enter into a restructuring support agreement, they agree upon the material terms of a chapter 11 restructuring. Obligations are imposed on all parties, including the requirement that the non-debtor counterparties vote in favor of the agreed upon plan and support the process. The agreement benefits the bankruptcy process by creating a stable pathway for reorganization that makes the process efficient, speedier, and less costly.

The Court permitted the Debtors to bind themselves to the terms of the RSA through assumption because it determined that it was in the best interest of the estates and parties in interest for the reasons just explained. While not all restructuring support agreements result in a confirmed plan, it is alleged here in Counts III and IV that Siemens caused its termination through bad faith behavior, which strikes at the integrity of the Debtors' bankruptcy process. Moreover, its alleged actions resulted in the Debtors' liquidation and a significant decrease in recoveries to creditors, including Liberty Hall. While the alleged promises in Counts I and II regarding the Bridge Financing were made prior to the execution of the RSA, they were a component of the parties' multi-step process to reorganize the company on a consensual basis through confirmation of the RSA Plan. For these reasons, the Court determines that Liberty Hall's claims are inseparable from the bankruptcy context and that it has "arising in" jurisdiction.[52]

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[50] *Id.* at 262 (quoting *Southmark*, 163 F.3d at 931).

[51] *Id.*

[52] *See Del. Trust Co. v. Wilmington Trust, N.A.*, 534 B.R. 500, 517 (S.D.N.Y. 2015) (finding "arising in" jurisdiction when "the context . . . reveal[ed] that the resolution of th[e] dispute arises from and is bound up with the broader bankruptcy and plan confirmation process."); *Waleski v. Montgomery, McCracken, Walker & Rhoads, LLP (In re Tronox)*, 603 B.R. 712, 724 (Bankr. S.D.N.Y. 2019) ("Just as a bankruptcy court has 'arising in' jurisdiction where claims implicate the integrity of sales processes . . . so too does it have 'arising in' jurisdiction where claims implicate the integrity of the confirmation process and of the fairness and propriety of the allocations of available assets among similarly situated creditors.").

B. Sufficiency of Allegations

Siemens next asserts that this Court should dismiss all counts of the Complaint pursuant to Federal Rule 12(b)(6) for Liberty Hall's "failure to state a claim upon which relief can be granted."[53] When reviewing a motion to dismiss under Federal Rule 12(b)(6), a court must "accept all factual allegations as true, construe the complaint in the light most favorable to the plaintiff, and determine whether, under any reasonable reading of the complaint, the plaintiff may be entitled to relief."[54] In deciding, a court may rely upon the complaint, the public record, and any documents that are "integral or explicitly relied upon" by the plaintiff, such as any indisputably authentic documents upon which the claims are based.[55]

1. The Final DIP Order Does Not Bar Liberty Hall's Claims

Siemens argues that the claims of Liberty Hall should be dismissed as precluded by the Court's final order approving debtor-in-possession financing and use of cash collateral (the "Final DIP Order").[56] The Court does not agree.

With respect to the claims of Counts I and II, Siemens argues that the stipulations and holdings of the Final DIP Order preclude Liberty Hall from claiming that the Bridge Financing is senior in priority to its claims.[57] This argument misses the mark. The provisions of the Final DIP Order relied upon by Siemens address the priority of the Lenders' claims against the Debtors. Liberty Hall has filed an unsecured claim against the Debtors for the Bridge Financing and is not seeking secured (let alone, senior secured) status in this proceeding. Rather, it seeks damages directly from Siemens for its failure to repay the Bridge Financing in the wake of the Debtors' failed restructuring. The Final DIP Order does not affect these claims.

Siemens also argues that Liberty Hall's claims of Counts III and IV were released by the Final DIP Order. This argument is of no merit. Third party claims such as those alleged by Liberty Hall against Siemens are unaffected by the Final DIP Order, which only addresses estate claims and causes of action in its release provision.[58]

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[53] FED. R. CIV. P. 12(b)(6).

[54] *FBI Wind Down, Inc. Liquidating Trust v. Heritage Home Grp., LLC (In re FBI Wind Down Inc.)*, 741 Fed. Appx. 104, 107 (3d Cir. 2018) (citing *Guidotti v. Legal Helpers Debt Resolution, L.L.C.*, 716 F. 3d 764, 776 (3d. Cir. 2013)).

[55] *Tanksley v. Daniels*, 902 F.3d 165, 172 (3d Cir. 2018).

[56] Bankruptcy Case, D.I. 81.

[57] *See, e.g.*, *id.* ¶ E(viii)(b) ("[T]he Prepetition Senior Liens granted to the Prepetition Agents . . . have priority over any and all other liens, if any, on the Prepetition Collateral . . . ."); *id.* ¶ 7(a) ("The DIP Liens shall be junior only to the (i) DIP Carve-Out, and (ii) the Prepetition Permitted Liens, and shall otherwise (subject to the terms hereof) be senior in priority and superior to the Prepetition Senior Liens and the Adequate Protection Liens . . . and the Adequate Protection Superpriority Claims . . . and any other security, mortgage, collateral interest, lien or claim on or to any of the DIP Collateral.").

[58] *See id.* ¶ E(xii) ("The Debtors forever, unconditionally and irrevocably release, discharge and acquit each of the Prepetition Agents, . . . the Prepetition Secured Creditors . . . ."); *id.* ¶ 33(a)-(c) (holding that the Debtors' releases in the Final DIP Order with respect to the Prepetition Secured Creditors and the

2. Counts I and II – Promissory Estoppel and Unjust Enrichment

Counts I and II seek damages for promissory estoppel and unjust enrichment, respectively, on account of Siemens's alleged unfulfilled promise to repay Liberty Hall for the Bridge Financing. Promissory estoppel is an equitable doctrine that may be invoked to enforce a promise that one party makes to another even in the absence of an enforceable agreement between the parties.[59] "Unjust enrichment is defined as the unjust retention of a benefit to the loss of another, or the retention of money or property of another against the fundamental principles of justice or equity and good conscience."[60] Both claims are precluded if there is a valid, enforceable contract that governs the same subject matter.[61]

Siemens argues that the RSA addresses the subject matter of the alleged oral promise. The Court agrees. The RSA addresses the parties' agreed upon restructuring of the Debtors' capital structure, including the Bridge Financing.[62] The parties contemplated a termination of the RSA (including because of a sale) and the consequences thereof.[63] Absent is the Lenders' alleged obligation to repay the Bridge Financing obligations if the RSA terminated. In such a circumstance, the Debtors' obligations to both Liberty Hall and the Lenders would be altered, bringing the alleged oral promise firmly within the scope of the RSA.

While Liberty Hall argues that the RSA's termination permits it to advance quasi-contract claims, termination does not render the contract unenforceable:

> Upon the occurrence of a Termination Event, unless waived under Section 11, this Agreement shall terminate, each Party shall be

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Prepetition Secured Obligations shall be binding upon parties-in-interest who fail to challenge them within the established challenge period).

[59] *J.C. Trading Ltd. v. Wal-Mart Stores, Inc.*, 947 F. Supp. 2d 449, 457 (D. Del. 2013).

[60] *Black Horse Cap., LP v. Xstelos Holdings, LLC*, No. 8642, 2014 WL 5025926, at *26 (Del. Ch. Sept. 30, 2014).

[61] *J.C. Trading*, 947 F. Supp. 2d at 459 ("The Supplier Agreements cover the same subject matter as Walmart's alleged oral promise (*i.e.,* the sale of merchandise) and, thus, bar any claim of promissory estoppel."); *Weiss v. Northwest Broad., Inc.*, 140 F. Supp. 2d 336, 344 (D. Del. 2001) (explaining that a party cannot assert a promissory estoppel claim based on promises that contradict the terms of a valid, enforceable contract); *Golden v. Cmty. Health Sys. (In re Quorum Health Corp.)*, No. 21-51190, 2023 Bankr. LEXIS 1471, at *15 (Bankr. D. Del. April 18, 2023) ("[T]he existence of an express, enforceable contract that controls the parties' relationship will defeat an unjust enrichment claim."); *City of Tacoma v. Worldgate Commc'ns, Inc.*, No. 05-62, 2005 WL 8171766, at *1 (D. Del. Sept. 30, 2005 (citing *Matter of Penn Center Transp. Co.,* 831 F.2d 1221, 1230 (3d Cir. 1987) (explaining that a plaintiff cannot maintain an unjust enrichment claim when an express contract exists on the same subject)).

[62] *See e.g.*, RSA at 2 ("WHEREAS, the Parties have agreed to enter into certain restructuring and recapitalization transactions that will have the effect of modifying the Debtors' capital structure, including the Debtors' respective obligations and the Supporting Parties' respective claims and interests related to each of the following: (a) the Superpriority Lien Credit Agreement; (b) the First Lien Credit Agreement; and (c) the Second Lien Credit Agreement; and (d) Equity Interests[.]").

[63] *Id.* at 12 § 8; *id.* at 16 § 18.

> released from its commitments, undertakings and agreements under or related to this Agreement and any of the Approved Transaction Documents, and there shall be no liability or obligation on the party of any Party hereto; *provided that in no event shall such termination relieve a Party hereto from (a) liability for its breach or non-performance of its obligations under this Agreement before the date of such termination . . . and (c) obligations under this Agreement which expressly survive any such termination pursuant to Section 18 hereunder.*[64]

Furthermore, the RSA contains a merger clause that expressly "supersedes all prior agreements (oral and written) and all other prior negotiations" of the parties "with respect to the subject matter" of the RSA.[65] Liberty Hall submits that this clause applies only to prior agreements between all parties to the RSA and not to agreements solely between Liberty Hall and the Lenders, but its plain language does not support such a narrow interpretation.

Because Liberty Hall's claims arising from the alleged prior oral agreement are precluded by the RSA, they will be dismissed.

3. Count IV – Implied Covenant of Good Faith and Fair Dealing

Count IV seeks damages for Siemens's allege breach of the implied covenant of good faith and fair dealing when it abandoned the RSA and forced the Debtors to pursue a sale process. Siemens urges the Court to dismiss this claim as duplicative of Liberty Hall's breach of contract claim.

The implied covenant of good faith and fair dealing is "inherent in all contracts and is used to infer contract terms to handle developments or contractual gaps that . . . neither party anticipated."[66] It is a "limited and extraordinary legal remedy[,]"[67] "rarely invoked successfully."[68] Importantly, it cannot be utilized in circumstances such as the ones found here where a contract – the RSA – expressly covers the subject at issue.[69]

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[64] *Id.* at 11-12 § 8 (emphasis added); *see also id.* at 16 § 18 ("Notwithstanding . . . the termination of this Agreement in accordance with its terms, the agreements and obligations of the Parties shall survive such . . . termination and shall continue in full force and effect . . . in accordance with the terms hereof.").

[65] *Id.* at 16 § 22 ("This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements (oral and written) and all other prior negotiations . . . .").

[66] *Trifecta Multimedia Holdings, Inc. v. WCG Clinical Servs. LLC*, 318 A.3d 450, 467 (Del. Ch. 2024); *accord Dolan v. Altice USA, Inc.*, No. CV 2018-0651, 2019 WL 2711280, at *2 (Del. Ch. June 27, 2019) ("In other words, if there is an enforceable contract upon which Plaintiffs may rest their claims, then there is no gap to fill with the implied covenant . . . .").

[67] *Nemec v. Shrader*, 991 A.2d 1120, 1128 (Del. 2010).

[68] *Kuroda v. SPJS Holdings, L.L.C.*, 871 A.2d 872, 888 (Del. Ch. 2009).

[69] *Trifecta*, 318 A.3d at 468.

While the impactful downward adjustments to the Debtors' projections may have been unanticipated, the parties' obligations to support the RSA Plan were not. More specifically, section 3(a) of the RSA provides that:

> (ii) each Supporting Party agrees not to (A) object to, delay, impede, or take any other action to interfere with approval of the Disclosure Statement or acceptance or implementation of the Plan or the Restructuring, . . . or (D) otherwise take an action that would in any material respect interfere with, delay or postpone the consummation of the Restructuring;
>
> (iii) each Supporting Party and each Debtor agrees to (A) support, and take all reasonable actions necessary to facilitate the implementation and consummation of, the Restructuring . . . and (B) not take any action that is inconsistent with the implementation or consummation of the Restructuring.[70]

Furthermore, section 4(b) provides that "[n]o Supporting Party shall be obligated to fund or otherwise be committed to provide funding in connection with the Restructuring except pursuant to separate definitive documentation relating specifically to such funding . . . ."[71] And section 9 provides:

> The Parties shall cooperate with each other in good faith and shall coordinate their activities (to the extent practicable) in respect of all matters concerning the implementation and consummation of the Restructuring. Furthermore, each of the Parties shall take such action . . . as may be reasonably necessary . . . to carry out the purposes and intent of this Agreement. Each of the Debtors and the Supporting Parties, as applicable, hereby covenants and agrees (a) to negotiate in good faith the Restructuring Documents and Approved Transaction Documents . . . .[72]

Because the express terms of the RSA govern the issues raised in Count IV and there is no gap to fill with an implied covenant claim, the Court will dismiss the claim. Notwithstanding, the breach of contract claim in Count III that rests upon the same allegations will remain.

III. CONCLUSION

For the foregoing reasons, the Court hereby **ORDERS** the following:

1. Counts I, II, and IV of the Complaint are **DISMISSED**.

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[70] RSA at 6-7.

[71] *Id.* at 8.

[72] *Id.* at 13.

2. The remainder of the relief requested by the Motions to Dismiss is **DENIED**.

Dated: January 29, 2025
Wilmington, Delaware

Karen B. Owens
United States Bankruptcy Judge