

**Audax Credit Opportunities Offshore Ltd. v TMK
Hawk Parent, Corp.**

2021 NY Slip Op 31195(U)

April 12, 2021

Supreme Court, New York County

Docket Number: 565123/2020

Judge: Joel M. Cohen

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK: COMMERCIAL DIVISION PART IAS MOTION 3EFM

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AUDAX CREDIT OPPORTUNITIES OFFSHORE LTD.,
 AUDAX CREDIT OPPORTUNITIES (SBA), LLC, AUDAX
 CREDIT BDC INC., AUDAX SENIOR LOAN INSURANCE
 FUND SPV, LLC, AUDAX SENIOR LOAN FUND III SPV,
 LLC, AUDAX SENIOR LOAN FUND III (OFFSHORE) SPV,
 LTD., KOCAA/AUDAX PRIVATE DEBT FUND, LP,
 AUDAX SENIOR DEBT (AZ) SPV, LLC, AUDAX SENIOR
 DEBT (MP) SPV, LLC, AUDAX SENIOR LOAN FUND I
 (OFFSHORE) SPV, LTD., AUDAX SENIOR LOAN FUND
 (ST) SPV, LLC, AUDAX SENIOR LOAN FUND I
 (OFFSHORE) SPV II, LTD., BLUEMOUNTAIN CLO 2012-
 2 LTD, BLUEMOUNTAIN CLO 2013-1 LTD,
 BLUEMOUNTAIN 2013-2 LTD, BLUEMOUNTAIN CLO
 2015-2 LTD, BLUEMOUNTAIN CLO 2015-4 LTD,
 BLUEMOUNTAIN CLO 2016-1 LTD, BLUEMOUNTAIN
 CLO 2016-2 LTD, BLUEMOUNTAIN CLO 2018-2 LTD,
 BLUEMOUNTAIN CLO 2018-3 LTD, BLUEMOUNTAIN
 CLO XXII LTD, BLUEMOUNTAIN FUJI US CLO II LTD,
 BLUEMOUNTAIN FUJI US CLO III LTD, GOLUB CAPITAL
 PARTNERS CLO 19(B)-R, LTD., GOLUB CAPITAL
 PARTNERS CLO 22(B)-R, LTD., GOLUB CAPITAL
 PARTNERS CLO 23(B)-R, LTD., GOLUB CAPITAL
 PARTNERS CLO 26(B)-R, LTD., GOLUB CAPITAL
 PARTNERS CLO 35(B), LTD., GOLUB CAPITAL
 PARTNERS CLO 37(B), LTD., GOLUB CAPITAL
 PARTNERS CLO 39(B), LTD., GOLUB CAPITAL
 PARTNERS CLO 40(B), LTD., ICG US CLO 2014-1, LTD.,
 ICG US CLO 2014-2, LTD., ICG US CLO 2014-3, LTD.,
 ICG US CLO 2015-2R, LTD., ICG US CLO 2016-1, LTD.,
 ICG US CLO 2017-1, LTD., ICG US CLO 2017-2, LTD.,
 ICG US CLO 2018-1, LTD., ICG US CLO 2018-2, LTD.,
 ICG US CLO 2013-3, LTD., NEW MOUNTAIN FINANCE
 DB, L.L.C., NEW MOUNTAIN FINANCE HOLDINGS,
 L.L.C., NEW MOUNTAIN GUARDIAN III SPV, L.L.C.,
 ROMARK CLO-I LTD., ROMARK CLO-II LTD., ROMARK
 WM-R LTD., BROOKSIDE MILL CLO LTD., JEFFERSON
 MILL CLO LTD., JACKSON MILL CLO LTD., ADAMS MILL
 CLO LTD., SUDBURY MILL CLO LTD., YORK CLO-1
 LTD., YORK CLO-2 LTD., YORK CLO-3 LTD., YORK
 CLO-4 LTD., YORK CLO-5 LTD., YORK CLO-6 LTD., Z
 CAPITAL CREDIT PARTNERS CLO 2018-1 LTD., Z
 CAPITAL CREDIT PARTNERS CLO 2019-1 LTD.,

INDEX NO. 565123/2020

MOTION DATE N/A

MOTION SEQ. NO. 007

**DECISION + ORDER ON
 MOTION**

Plaintiffs,

- v -

TMK HAWK PARENT, CORP., CENTERBRIDGE PARTNERS, L.P., BLACKSTONE TACTICAL OPPORTUNITIES FUND L.P., OAKTREE STAR INVESTMENT FUND II, L.P., SEVENTH STREET HOLDINGS 1, L.P., SEVENTH STREET HOLDINGS 2, L.P., SEVENTH STREET HOLDINGS 3, L.P., SEVENTH STREET HOLDINGS 4, L.P., SEVENTH STREET HOLDINGS 5, L.P., SEVENTH STREET HOLDINGS 6, L.P., SEVENTH STREET HOLDINGS 7, L.P., SEVENTH STREET HOLDINGS 8, L.P., SEVENTH STREET HOLDINGS 9, L.P., SEVENTH STREET HOLDINGS 10, L.P., SEVENTH STREET HOLDINGS 11, L.P., SEVENTH STREET HOLDINGS 12, L.P., SEVENTH STREET HOLDINGS 13, L.P., SEVENTH STREET HOLDINGS 14, L.P., OAKTREE HUNTINGTON INVESTMENT FUND II, L.P., ASOF HOLDINGS I L.P., ARES INSTITUTIONAL LOAN FUND, L.P., ARES XXVII CLO LTD., ARES XXVIII CLO LTD., ARES XXIX CLO LTD., ARES XXXI CLO LTD., ARES XXXII CLO LTD., ARES XXIV CLO LTD., ARES XXXV CLO LTD., ARES XXXVII CLO LTD., ARES XXXVIII CLO LTD., ARES XXXIX CLO LTD., ARES XL CLO LTD., ARES XLI CLO LTD., ARES XLII CLO LTD., ARES XLIII CLO LTD., ARES XLIV CLO LTD., ARES XLV CLO LTD., ARES XLVI CLO LTD., ARES XLVII CLO LTD., ARES XLVIII CLO LTD., ARES XLIX CLO LTD., ARES L CLO LTD., ARES LI CLO LTD., ARES LII CLO LTD., ARES LIII CLO LTD., ARES LIV CLO LTD., DENALI CAPITAL CLO X LTD., ARES SENIOR LOAN TRUST, FUTURE FUND BOARD OF GUARDIANS ON BEHALF OF FUTURE FUND AND MEDICAL RESEARCH FUTURE FUND, TRANSATLANTIC REINSURANCE COMPANY, RSUI INDEMNITY COMPANY, INC., CIBC ASSET MANAGEMENT INC. AS TRUSTEE OF RENAISSANCE FLOATING RATE INCOME FUND, STICHTING PENSIOENFONDS HOOGOEVENS, ARES INSTITUTIONAL CREDIT FUND LP, SEI INVESTMENTS MANAGEMENT CORPORATION ON BEHALF OF SEI INSTITUTIONAL INVESTMENTS TRUST, BOWMAN PARK CLO, LTD., BRISTOL PARK CLO, LTD., BURNHAM PARK CLO, LTD., BUTTERMILK PARK CLO, LTD., CATSKILL PARK CLO, LTD., CHENANGO PARK CLO, LTD., COLE PARK CLO LIMITED, CUMBERLAND PARK CLO, LTD., DEWOLF PARK CLO, LTD., DORCHESTER PARK CLO DESIGNATED ACTIVITY COMPANY, GILBERT PARK CLO, LTD., GRIPPEN PARK CLO, LTD., JAY PARK CLO, LTD., LONG POINT PARK CLO, LTD., SENECA PARK CLO, LTD., STEWART PARK CLO, LTD., TACONIC PARK CLO, LTD., THACHER PARK CLO, LTD., THAYER PARK CLO, LTD., TREMAN PARK CLO, LTD., WEBSTER PARK CLO, LTD., WESTCOTT PARK CLO, LTD., SCOTTISH WIDOWS PENSION TRUSTEES LIMITED AS TRUSTEE OF SCOTTISH WIDOWS RETIREMENT BENEFITS SCHEME, OZLM XVII, LTD., OZLM FUNDING, LTD., OZLM FUNDING IV, LTD., OZLM XIX, LTD., OZLM XI, LTD., OZLM XXI, LTD., OZLM XXII,

LTD., OZLM XVI, LTD., OZLM FUNDING II, LTD., OZLM FUNDING III, LTD., OZLM VI, LTD., OZLM VII, LTD., OZLM VIII, LTD., OZLM IX, LTD., OZLM XII, LTD., OZLM XIII, LTD., OZLM XV, LTD., OZLM XVIII, LTD., OZLM XX, LTD., OZLM XIV, LTD., ABR REINSURANCE LTD., CHUBB EUROPEAN GROUP SE, ACE PROPERTY & CASUALTY INSURANCE COMPANY, J.P. MORGAN BANK (IRELAND) PUBLIC LIMITED COMPANY ON BEHALF OF BLACKROCK BANK LOAN FUND, BLACKROCK ADVISORS, LLC ON BEHALF OF BLACKROCK FLOATING RATE INCOME TRUST, BLACKROCK LIMITED DURATION INCOME TRUST, BLACKROCK CREDIT STRATEGIES FUND, BLACKROCK FUNDS II, AND BLACKROCK FUNDS V, BLACKROCK MULTI-STRATEGY CREDIT FUND LTD., COMMISSION DE LA CONSTRUCTION DU QUEBEC, CORPORATION DES MAITRES ELECTRICIENS DU QUEBEC ON BEHALF OF FONDS DE FORMATION DES SALARIES DE L'INDUSTRIE DE LA CONSTRUCTION DU QUEBEC, BLACKROCK DEBT STRATEGIES FUND, INC.,BLACKROCK FLOATING RATE INCOME STRATEGIES FUND, INC.,BLACKROCK FUND MANAGEMENT COMPANY S.A. ON BEHALF OF BLACKROCK GLOBAL INVESTMENT SERIES, LOAN FUNDING II, LLC,MAGNETITE XII, LTD., MAGNETITE XIV-R, LIMITED, MAGNETITE XV, LIMITED, MAGNETITE XVI, LIMITED, MAGNETITE XVII, LIMITED, MAGNETITE XVIII, LIMITED, MAGNETITE XIX, LIMITED, MAGNETITE XX, LIMITED, MAGNETITE XXI, LIMITED, MAGNETITE XXII, LIMITED, MAGNETITE VII, LIMITED, MAGNETITE VIII, LIMITED, BLACKROCK MULTI-STRATEGY CREDIT MASTER FUND LTD., CAAPS TRUSTEE LIMITED AS TRUSTEE OF CIVIL AVIATION AUTHORITY PENSION SCHEME, NC GARNET FUND, L.P., FIXED INCOME OPPORTUNITIES NERO, LLC,BLACKROCK SENIOR FLOATING RATE PORTFOLIO

Defendants.

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 007) 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154 were read on this motion to STAY DISCOVERY.

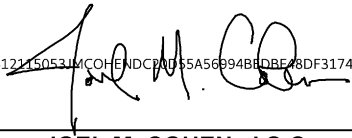
Upon the foregoing documents, and for the reasons stated on the record after oral argument on April 9, 2021 (transcript to be uploaded to NYSCEF by the parties upon receipt), it is hereby

ORDERED that Motion Sequence Number 007 (motion to stay discovery pending resolution of Defendants’ motions to dismiss) is **denied**; it is further

ORDERED that the parties appear for a preliminary conference with the Court via Microsoft Teams on **Friday, April 30, 2021 at 12:00 p.m.**, and it is further

ORDERED that the parties appear for oral argument via Microsoft Teams on the pending motions to dismiss on **Friday, April 30, 2021 at 10:00 a.m.**, immediately preceding the Preliminary Conference.

This constitutes the decision and order of the Court.

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JOEL M. COHEN, J.S.C.

4/12/2021
DATE

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE