

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

In re

WESCO AIRCRAFT HOLDINGS, INC., *et al.*,  
Debtors.<sup>1</sup>

Case No. 23-90611 (MI)

Chapter 11

(Jointly Administered)

**STATEMENT IN SUPPORT AND RESERVATION OF RIGHTS OF ABL AGENT  
WITH RESPECT TO CONFIRMATION OF DEBTORS' *FIRST AMENDED  
JOINT CHAPTER 11 PLAN OF WESCO AIRCRAFT HOLDINGS, INC. ET AL.*  
RELATES TO ECF No. 1223**

The ABL Agent, by and through its undersigned attorneys, hereby submits this statement in support and reservation of rights (the “Reservation of Rights”) with respect to confirmation of the Debtors’ *Modified First Amended Joint Chapter 11 Plan of Wesco Aircraft Holdings, Inc. et al.*, dated January 12, 2024 [ECF No. 1223] (the “Plan”),<sup>2</sup> and respectfully states as follows:

1. The ABL Agent supports confirmation of an acceptable plan of reorganization for the Debtors and the prompt emergence of the Debtors from bankruptcy. The ABL Agent files this Reservation of Rights to ensure that certain changes to the Plan necessary to resolve a potential objection of the ABL Agent and the ABL Lenders are made by the Debtors prior to the Confirmation Hearing.

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<sup>1</sup> The Debtors operate under the trade name Incora and have previously used the trade names Wesco, Pattonair, Haas, and Adams Aviation. A complete list of the Debtors in these chapter 11 cases, with each one’s federal tax identification number and the address of its principal office, is available on the website of the Debtors’ noticing agent at <http://www.kccllc.net/incora/>. The service address for each of the Debtors in these cases is 2601 Meacham Blvd., Ste. 400, Fort Worth, TX 76137.

<sup>2</sup> Capitalized terms set forth in this Reservation of Rights, but not defined herein, have the meanings ascribed to them in the Plan.



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2. During these Chapter 11 Cases, the ABL Lenders consented to the Debtors' use of their Cash Collateral (as defined in the Final DIP Order) in accordance with, and subject to the terms of, the DIP Orders. The DIP Orders were presented to this Court as consensual, but the ABL Lenders had previously filed an objection thereto, *see ECF No. 299*, and there were significant negotiations over various aspects of the DIP Orders. Among other concessions made by the ABL Lenders to ensure the prompt entry of the DIP Orders and uninterrupted funding for the Debtors' business, paragraph 13(i) of the Final DIP Order provided that the "rights of the Prepetition ABL Secured Parties to seek default interest at the rate provided for under the Prepetition ABL Credit Agreement are fully preserved, as are the rights of other parties in interest to object to such allowance."

3. Since entry of the Final DIP Order, the ABL Agent, the Debtors, and other key parties-in-interest have continued to work in good faith, under the overhang of significant actual and threatened litigation, to ensure the Debtors' continued operations and to facilitate the successful resolution of these Chapter 11 Cases. Despite these efforts and the support of the ABL Lenders of the Debtors' reorganization efforts, the Debtors have not paid contractual default interest owed to the ABL Lenders. In fact, the Plan expressly excludes default interest from the proposed treatment of the ABL Lenders' claims, contrary to applicable agreements and law. *See Plan*, Section III.B.3.b.<sup>3</sup> Notwithstanding this public position, the Debtors informed the ABL Agent in early February that they are prepared to agree to pay default interest to the ABL Lenders and confirmed the same as part of multiple drafts of an amended Plan that has not yet been filed

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<sup>3</sup> Rather than filing an objection to the Disclosure Statement that would have likely been viewed as a premature confirmation objection, the ABL Agent negotiated language for the Disclosure Statement to address the ABL Agent's potential objections to the Plan. *See Disclosure Statement*, p. 46, n. 16 (stating that the ABL Agent and the ABL Lenders' position that their claims are impaired absent the payment of default interest and reserving the Debtors' rights to pay such default interest in the event required to render such claims unimpaired).

and in reporting provided to the ABL Agent that shows default interest being paid to the ABL Lenders upon consummation of the Plan.

4. In the event that the Debtors fail to file such amended Plan, or other parties subsequently oppose such modified treatment of the ABL Lenders' claims, the ABL Agent, on behalf of the ABL Lenders, would object to the Plan. Specifically, the ABL Agent would assert that the ABL Lenders' claims would be impaired without the payment of default interest. Under applicable precedent, there is a presumption that oversecured creditors, like the ABL Lenders, are entitled to default interest at the contract rate, and the burden to disallow default interest would fall on the Debtors. Under relevant standards, the ABL Debtors would need to pay default interest to the ABL Lenders to confirm the Plan, as currently drafted.

5. Accordingly, the ABL Agent, on behalf of itself and the ABL Lenders, hereby reserves all rights to object to the Plan in the event that an amended version of the Plan memorializing the agreement of the Debtors to pay the ABL Lenders default interest at the contract rate on their Allowed Claims is not filed prior to the Confirmation Hearing. As part of this Reservation of Rights, the ABL Agent reserves rights, among other things, to file an amended reservation of rights and/or formal objection to the Plan; seek discovery, oral and written; to request an adjournment of the Confirmation Hearing to complete any such discovery; to request that an evidentiary hearing be held as part of any Confirmation Hearing; to request full briefing of all issues related to this dispute; to request that the full amount of default interest due to the ABL Lenders be escrowed to ensure that the Debtors are able to pay such amounts; and/or any other rights or remedies that would be necessary and appropriate to preserve the rights of the ABL Agent and the ABL Lenders.

Dated: May 3, 2024

Respectfully submitted,

**NORTON ROSE FULBRIGHT US LLP**

/s/ Bob B. Bruner

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*Counsel to Bank of America, N.A., as ABL Agent*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on May 3, 2024 through the Court's CM/ECF System on all parties registered to receive service through the Court's CM/ECF system.

/s/ Bob B. Bruner

Bob B. Bruner