

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

In re:

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

Debtors.

Chapter 11

Case No. 23-90611 (MI)

(Jointly Administered)

**STATEMENT AND RESERVATION OF RIGHTS  
OF THE OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS REGARDING THE MODIFIED FIRST AMENDED  
JOINT CHAPTER 11 PLAN OF WESCO AIRCRAFT HOLDINGS, INC., ET AL.**

**(Related to Docket Nos. 1025, 1191, 1223 and 1564)**

**MCDERMOTT WILL & EMERY LLP**

Charles R. Gibbs  
Texas State Bar No. 7846300  
Jack G. Haake  
Texas State Bar No. 24127704  
2501 North Harwood Street, Suite 1900  
Dallas, TX 75201-1664

- and -

Kristin K. Going (admitted *pro hac vice*)  
Darren Azman (admitted *pro hac vice*)  
Deanna Boll (admitted *pro hac vice*)  
One Vanderbilt Avenue  
New York, NY 10017-5404

**MORRISON & FOERSTER LLP**

Lorenzo Marinuzzi (admitted *pro hac vice*)  
Theresa A. Foudy (admitted *pro hac vice*)  
Michael Birnbaum (admitted *pro hac vice*)  
Benjamin Butterfield (admitted *pro hac vice*)  
Raff Ferraioli (admitted *pro hac vice*)  
250 West 55th Street  
New York, NY 10019-9601

*Counsel to the Official Committee of Unsecured Creditors of Wesco Aircraft Holdings, Inc., et al.*

<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 each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' proposed claims and 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.



The Official Committee of Unsecured Creditors (the “Committee”) of Wesco Aircraft Holdings, Inc. and its debtor affiliates, as debtors and debtors in possession (collectively, the “Debtors”), believes that further extending the voting and plan objection deadline until the conclusion of the trial regarding the 2022 Financing Adversary Proceeding would be the most cost-efficient manner to proceed. However, in light of the Debtors’ determination that they will not further extend the deadlines, the Committee respectfully submits this statement and reservation of rights (this “Statement”) regarding the *Modified First Amended Joint Chapter 11 Plan of Wesco Aircraft Holdings, Inc., et al.* [Docket No. 1223] (as amended, the “Plan”).<sup>2</sup> In support of this Statement, the Committee respectfully represents as follows:

### **STATEMENT**

1. Central to these chapter 11 cases is litigation concerning the series of note exchanges and other transactions that occurred on or about March 28, 2022 (collectively, the “2022 Uptier Transaction”) brought by the so-called “2024/2026 Holders” and Langur Maize. A trial regarding certain challenges to the 2022 Uptier Transaction, namely whether it was permitted under the governing contracts, is pending before this Court in the 2022 Financing Adversary Proceeding.

2. Aside from the 2022 Uptier Transaction and the issues before the Court in the 2022 Financing Adversary Proceeding, the Committee—a fiduciary and representative of the interests of all unsecured creditors—conducted its own independent investigation into the Debtors’ prepetition affairs. The scope of the Committee’s investigation included the 2022 Uptier Transaction, as well as the leveraged buyout that closed in January 2020 (the “LBO”). Notably, and unlike the parties to the 2022 Financing Adversary Proceeding, the Committee’s investigation

---

<sup>2</sup> Capitalized terms used but not defined herein have the meanings ascribed to them in the Plan.

was not centered on whether the 2022 Uptier Transaction was permitted under the governing contracts. Instead, the Committee’s investigation focused on identifying colorable claims worthy of pursuit that the 2022 Uptier Transaction or the LBO gave rise to avoidable transfers, whether the Debtors’ board of directors breached their fiduciary duties in approving the 2022 Uptier Transaction or the LBO, and whether the parties involved in those transactions engaged in conduct that could justify equitable subordination of their claims or secondary liability in connection with any fraudulent transfer or breach of fiduciary duty claim.

3. This investigation culminated in the Committee Standing Motion,<sup>3</sup> which was ultimately resolved. The terms of this settlement are set forth in the Committee Plan Support Stipulation,<sup>4</sup> and are incorporated in the Plan. The resolution includes the following terms:

- The pro rata distribution of 3.5% of the New Common Equity (the “Settlement Equity Pool”) to holders of general unsecured claims.
- The establishment of a “convenience class” consisting of unsecured claims up to \$1.5 million that will receive up to 10% recovery from a \$7.5 million cash pool (the “Settlement Cash Pool,” and together with the Settlement Equity Pool, the “Settlement Distributions”), instead of sharing pro rata in the Settlement Equity Pool. General unsecured creditors have the opportunity to opt into the convenience class by making a ballot election to waive any amount of their claims above the \$1.5 million threshold.
- The holders of 1L Notes Claims shall not receive any distributions from the Settlement Distributions on account of any deficiency claim in respect of such 1L Notes Claims.
- The holders of 1.25L Notes Claims shall not, without consent of the Committee, receive any distributions on account of such 1.25L Notes Claims, and each 1.25L Notes Claim shall be released and cancelled on the Effective Date.

---

<sup>3</sup> The “Committee Standing Motion” means the *Corrected Omnibus (I) Motion of the Official Committee of Unsecured Creditors for Exclusive Leave, Standing, and Authority to Prosecute and Settle Certain Claims, Causes of Action, and Claim Objections on Behalf of the Debtors’ Estates and (II) Claim Objection* [Docket No. 1025].

<sup>4</sup> The “Committee Plan Support Stipulation” means the *Stipulation Regarding (A) Corrected Omnibus (I) Motion of the Official Committee of Unsecured Creditors for Exclusive Leave, Standing, and Authority to Prosecute and Settle Certain Claims, Causes of Action, and Claim Objections on Behalf of the Debtors’ Estates and (II) Claim Objection and (B) First Amended Joint Chapter 11 Plan of Wesco Aircraft Holdings, Inc. et al.* [Docket No. 1191].

- The Debtors shall waive all “preference claims” arising under section 547 of the Bankruptcy Code, section 548 of the Bankruptcy Code to the extent arising under the same facts as section 547 of the Bankruptcy Code, or any state law equivalent thereof, in each case, whether asserted offensively or defensively (including in response to any Claim filed against the Debtors’ Estates) against any party that does business with the Debtors or has been identified as an eligible critical vendor, in each case, as of the date of the Committee Plan Support Stipulation.
- The appointment of a general unsecured claims observer to monitor the post-effective date claims reconciliation process.
- The Committee Plan Support Stipulation includes a “fiduciary out” for the Committee. In other words, the Committee’s agreement to support the Plan cannot force the Committee to take any action, or to refrain from taking any action, that the Committee determines would constitute a breach of its fiduciary obligations to maximize value for, and take action in the best interests of unsecured creditors.

4. Initially, the Debtors believed that the Committee Plan Support Stipulation would help streamline ongoing litigation. Now, in the fourth month of trial, it is hard to imagine how the Plan can be confirmed absent resolution of the 2022 Financing Adversary Proceeding. The issues in the 2022 Financing Adversary Proceeding directly implicate the Debtors’ prepetition capital structure, and therefore may ultimately dictate the allowance and priority of claims, as well as distributions under the Plan. Notwithstanding this major, unresolved contingency, the Debtors and the First Lien Noteholder Group have created a dual-track process that includes pursuing confirmation of the Plan while trial in the 2022 Financing Adversary Proceeding remains ongoing.

5. The Committee agreed to hold the Committee Standing Motion in abeyance in connection with the Committee’s agreement to support a “Committee Acceptable Plan.”<sup>5</sup> Notwithstanding the fact that the trial remains ongoing, the settlement is alive and well from the Committee’s perspective, and the Committee will continue to support the Plan pursuant to the

---

<sup>5</sup> On January 17, 2024, the Court entered the *Order Regarding Abatement of Corrected Omnibus (I) Motion of the Official Committee of Unsecured Creditors for Exclusive Leave, Standing, and Authority to Prosecute and Settle Certain Claims, Causes of Action, and Claim Objections on Behalf of the Debtors’ Estates and (II) Claim Objection* [Main Case Docket No. 1266].

terms of the Committee Plan Support Stipulation. However, the Plan and the Committee Settlement are premised on the Debtors' prepetition capital structure. It is possible that a ruling in the 2022 Financing Adversary Proceeding will alter the Debtors' prepetition capital structure in a manner that disrupts the framework upon which the Plan and Committee Plan Support Stipulation are based. This capital structure, in an unsettled context, would in turn be subject to further adjustments should the Committee gain standing to pursue, and ultimately prevail on, certain LBO-related claims the Committee sought standing to pursue.

6. The Committee is prepared to continue to support the Plan pursuant to the terms of the Committee Plan Support Stipulation. However, in the event the Debtors modify the Plan so that it no longer comports with the terms of the Committee Plan Support Stipulation, or otherwise prosecute a plan that is not a "Committee Acceptable Plan," the Committee will be forced to seek expedited relief on the Committee Standing Motion and prosecute its claims. Thus, the Committee is compelled to submit this Statement and reserve all rights with respect to confirmation of the Plan, pending the outcome of the 2022 Financing Adversary Proceeding.

7. Furthermore, on March 20, 2024, the Debtors filed the *Notice of Amended Plan Supplement* [Docket No. 1564], which included the material terms of the New Exit Notes and the New Takeback Notes. As set forth in the notice, the New Takeback Notes are convertible to New Common Equity. This conversion feature was not disclosed at the time the Committee entered into the Committee Settlement, and its potential dilutive effect on general unsecured creditor recoveries was not contemplated by the Committee when analyzing potential settlement constructs. The Committee has been working constructively with the advisors for the Debtors and the First Lien Noteholder Group, and continues to analyze the impact of the convertible feature on

creditor recoveries. The Committee reserves all rights, including to address the impact of the New Takeback Notes on the Committee settlement consideration.

**RESERVATION OF RIGHTS**

8. This Statement is submitted without prejudice to, and with a full reservation of, the Committee's rights, including to raise additional arguments and supplement this Statement as necessary to appropriately address any further issues presented by parties in interest. The Committee reserves all rights to object to confirmation of any chapter 11 plan that is not a Committee Acceptable Plan, or in furtherance of the Committee's fiduciary duties.

*[Remainder of this page intentionally left blank]*

Dated: May 3, 2024

Respectfully submitted,

**MCDERMOTT WILL & EMERY LLP**

**MORRISON & FOERSTER LLP**

/s/ Charles R. Gibbs

/s/ Lorenzo Marinuzzi

Charles R. Gibbs  
Texas State Bar No. 7846300  
Jack G. Haake  
Texas State Bar No. 24127704  
2501 North Harwood Street, Suite 1900  
Dallas, TX 75201-1664  
Telephone: (214) 295-8000  
Facsimile: (972) 232-3098  
Email: crgibbs@mwe.com  
jhaake@mwe.com

Lorenzo Marinuzzi (admitted *pro hac vice*)  
Theresa A. Foudy (admitted *pro hac vice*)  
Michael Birnbaum (admitted *pro hac vice*)  
Benjamin Butterfield (admitted *pro hac vice*)  
Raff Ferraioli (admitted *pro hac vice*)  
250 West 55th Street  
New York, NY 10019-9601  
Telephone: (212) 468-8000  
Facsimile: (212) 468-7900  
Email: lmarinuzzi@mofocom

tfoudy@mofocom  
mbirnbaum@mofocom  
bbutterfield@mofocom  
rferraioli@mofocom

- and -

Kristin K. Going (admitted *pro hac vice*)  
Darren Azman (admitted *pro hac vice*)  
Deanna Boll (admitted *pro hac vice*)  
One Vanderbilt Avenue  
New York, NY 10017-5404  
Telephone: (212) 547-5400  
Facsimile: (212) 547-5444  
Email: kgoing@mwe.com  
dazman@mwe.com  
dboll@mwe.com

*Counsel to the Official Committee of Unsecured Creditors of Wesco Aircraft Holdings, Inc., et al.*

**CERTIFICATE OF SERVICE**

I certify that, on May 3, 2024, a true and correct copy of the foregoing document was served through the Electronic Case Filing system of the United States Bankruptcy Court for the Southern District of Texas, and will be served as set forth in the Certificate of Service to be filed by the Committee.

*/s/ Charles R. Gibbs* \_\_\_\_\_

Charles R. Gibbs