

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

IN RE: Chapter 11  
Case No. 21-10670 (KBO)  
TECT AEROSPACE GROUP  
HOLDINGS, INC., *et al.*,  
(Jointly Administered)  
824 Market Street  
Debtors. Wilmington, Delaware 19801  
Wednesday, April 7, 2021  
2:04 p.m.

TRANSCRIPT OF ZOOM HEARING  
BEFORE THE HONORABLE KAREN B. OWENS  
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

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22  
23  
24  
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1 (Proceedings commenced at 2:04 p.m.)

2 THE COURT: Good afternoon, Counsel. This is  
3 Judge Owens. Nice to see you all. I welcome you to the  
4 first day hearing in TECT Aerospace. I apologize for being a  
5 little tardy, but I just signed off of another evidentiary  
6 hearing. So glad I could squeeze you in today and, again,  
7 it's good to see everybody.

8 Why don't I turn the podium over to counsel for  
9 the debtors and you can walk me through the first day hearing  
10 agenda.

11 MR. HEATH: Sure. Good afternoon, Judge Owens.  
12 Can you hear me?

13 THE COURT: I can. Can you hear me?

14 MR. HEATH: I can. I just want to make sure. So,  
15 for the record, Paul Heath of Richards Layton & Finger on  
16 behalf of the debtors. It's nice to see you again and I hope  
17 you are well. Thank you for making time for us today for our  
18 first day hearing.

19 I'm pleased to report that we've spent a fair  
20 amount of time with Ms. Casey from the Office of the United  
21 States Trustee over the last couple of days and we have  
22 resolved all of her concerns and comments to the first day  
23 orders. So, other than questions that Your Honor may have,  
24 we hope that we're here on a fully-consensual basis today.

25 I'd like to start by making some brief

1 introductions. Joining us for the hearing today is Shaun  
2 Martin of Winter Harbor. Mr. Martin is the debtors' chief  
3 restructuring officer and the first day declarant. I can see  
4 him on the video, Your Honor, I hope that you can.

5 THE COURT: I can see him as well.

6 MR. HEATH: Good. Additionally, David Burns of  
7 Imperial Capital, the debtors' investment banker, is also in  
8 attendance. We have submitted the declaration of Mr. Burns  
9 in support of the DIP. And I can see Mr. Burns too. Thank  
10 you.

11 THE COURT: I can see you. Welcome, Mr. Burns.

12 MR. BURNS: Thank you, Your Honor.

13 MR. HEATH: Additionally, joining us from Richards  
14 Layton & Finger is Amanda Steele, Zach Shapiro, Chris De  
15 Lillo, Travis Cuomo, and Garrett Eggen.

16 And then, finally, we have Al Smith of Perkins  
17 Coie and Ken Enos of Young Conaway, who are here on behalf of  
18 the Boeing Corporation, who importantly for today's hearing  
19 is the debtors' DIP lender.

20 And of course, Your Honor, Ms. Casey needs no  
21 introduction.

22 I trust that Your Honor has had the opportunity to  
23 review the first day declaration and, specifically, the  
24 detailed background information set forth therein. And I  
25 don't want to belabor the record by reciting that

1 information, but there are a few details that I'd like to  
2 highlight.

3           First, the debtors make parts for airplanes. I  
4 think that's clear from our declaration. And, as you would  
5 expect, manufacturing an airplane is a complicated process  
6 and, like many of the suppliers to airplane manufacturers,  
7 the debtors play a critical role. Delay in receipt of the  
8 parts that we supply to a manufacturer can significantly  
9 disrupt the entire manufacturing process. And, as you would  
10 expect, this is a highly regulated industry and, given the  
11 high standards and exacting needs of the manufacturers,  
12 suppliers are not easily replaced.

13           Second, as the first day affidavit sets forth,  
14 Boeing is a significant customer of the debtors, and that  
15 part was probably not a surprise. Boeing is also our DIP  
16 lender and, at first blush, that may seem unusual, but I'm  
17 hopeful that some background can help the Court understand  
18 how that came to be.

19           The debtors' capital structure is fairly  
20 straightforward, highlighted by a secured revolving and term  
21 loan credit agreement. Until February of 2021, the credit  
22 agreement was with PNC. In February, the loan agreement --  
23 the loan under the credit agreement was acquired by Boeing.  
24 Importantly, Boeing's acquisition of the loan allowed for  
25 critical additional borrowings under the credit agreement



1 that would not have been available otherwise. In short,  
2 Boeing was willing to support the business and they continue  
3 to demonstrate that willingness by providing the DIP.

4 And last, Your Honor, the past few years have  
5 presented some significant challenges for the debtors. They  
6 manufacture goods in a space that has been severely impacted  
7 by the pandemic and reduced production for certain of the  
8 planes that they make parts for. Notwithstanding those  
9 challenges, the debtors are hopeful that these cases will  
10 allow them the opportunity to maximize the value of their  
11 assets through a going-concern sale or sales.

12 The debtors had hoped to secure a stalking horse  
13 agreement prior to the bankruptcy filing, but we were unable  
14 to finalize the agreements before commencing these cases.  
15 The debtors' professionals, however, are continuing their  
16 efforts and hope to finalize agreements in the short term.

17 Your Honor, we filed the declaration of Shaun  
18 Martin in support of the first day motions. I would like to  
19 move the declaration into evidence and offer it in support of  
20 the relief requested. Mr. Martin is in attendance and  
21 available for cross-examination.

22 THE COURT: Okay. Does anyone object to the  
23 admission of Mr. Martin's declaration today?

24 (No verbal response)

25 THE COURT: Okay. And, for housekeeping purposes,

1 is there anyone that wishes to cross-examine Mr. Martin on  
2 the substance of his declaration today?

3 (No verbal response)

4 THE COURT: Okay. All right, the declaration is  
5 admitted.

6 (Declaration of Shaun Martin received in evidence)

7 MR. HEATH: Thank you, Your Honor.

8 Additionally, we have filed the declaration of  
9 David Burns of Imperial Capital, the debtors' investment  
10 banker, in support of the DIP motion. Mr. Burns is in  
11 attendance and available for cross-examination.

12 THE COURT: Does anyone object to the admission of  
13 Mr. Burns declaration in support of the DIP motion today?

14 (No verbal response)

15 THE COURT: Okay, I'm hearing no objections.

16 Does anyone, for housekeeping matters, wish to  
17 cross-examine Mr. Burns on the substance of his declaration  
18 today?

19 (No verbal response)

20 THE COURT: Okay, all right. Well, the  
21 declaration is admitted.

22 (Declaration of David Burns received in evidence)

23 THE COURT: And, both Mr. Martin and Mr. Burns,  
24 you served your duties, so we won't expect to call you to the  
25 witness stand.

1 MR. HEATH: Thank you, Your Honor. That concludes  
2 my remarks, Your Honor. I'm happy to address any questions  
3 that you have, but if you're ready to proceed to the motions,  
4 I'll turn the Zoom podium over to my colleagues Garrett Eggen  
5 and Travis Cuomo, who are both very eager to present to the  
6 Court, and I thank Your Honor for giving them that  
7 opportunity.

8 THE COURT: Okay. I have no questions. I read  
9 all the pleadings in anticipation of today's hearing -- I  
10 should say, I have no significant questions. My only  
11 question to you is that I noticed in the description of the  
12 collateral package for the prepetition credit agreement with  
13 PNC, now held with Boeing, it mentioned that there was a lien  
14 on certain collateral of the debtors, you know, and listed  
15 off the receivables, inventory, certain equipment, fixtures.  
16 Is there any significant unencumbered assets of the debtors?

17 MR. HEATH: Your Honor, I think the only category  
18 of what would be unencumbered assets would include causes of  
19 action, including Chapter 5 causes of action. I think that  
20 the DIP order does provide for a lien on the proceeds of  
21 those causes of action upon entry of a final order.

22 And then there is -- there are other -- I won't  
23 call them garden variety, but other causes of action that  
24 could exist, including commercial tort claims, and I believe  
25 that the lien under the DIP, as collateral under the DIP

1 loan, includes those causes of action immediately.

2 THE COURT: Okay. Well, I really just wanted to  
3 know whether there's any substantial -- it sounds to me that  
4 the prepetition credit agreement was secured by a lien on  
5 substantially all of the debtors' assets, but it sounds like  
6 what you just confirmed.

7 MR. HEATH: That is true, Your Honor, with this  
8 note. The debtor leases its real property and leases much of  
9 its manufacturing equipment. We described that as the  
10 affiliated creditor agreements. So, yes, Judge, I think it's  
11 fair to say, understanding that those interests were not  
12 available to be lienied up, that substantially all of the  
13 debtors' assets were subject to the lien under the  
14 prepetition credit agreement.

15 THE COURT: Okay.

16 MR. SMITH: And, Your Honor, excuse me, Al Smith  
17 for Boeing. Yes, we certainly would reaffirm that we think  
18 it is an all-assets secured loan with the exception of those  
19 Mr. Heath just mentioned.

20 THE COURT: Okay, great. Well, thank you for  
21 confirming that. I didn't glean it from the first day  
22 declaration, so I appreciate that confirmation.

23 And, with that, I'll let you turn over the podium  
24 to those at Richards Layton & Finger that want to present the  
25 first day pleadings. Who's up first?

1 MR. EGGEN: Good morning -- or good afternoon,  
2 Your Honor, Garrett Eggen with Richards Layton & Finger,  
3 proposed counsel to the debtors. Your Honor, I'll be  
4 handling items number 9, 10, 11, and 12 on the agenda. The  
5 first being item number 9, which is Docket Number 2, the  
6 debtors' joint administration motion, which Your Honor  
7 entered the order earlier today. We thank you for that, Your  
8 Honor.

9 So, with that, I will move to item number 10,  
10 which is also Docket Number 6, the debtors' application to  
11 retain Kurtzman Carson Consultants, LLC as their claims and  
12 noticing agent.

13 The debtors filed a creditor matrix with over 200  
14 creditors and, accordingly, the retention of a claims and  
15 noticing agent is required. The debtors solicited and  
16 received proposals from three approved firms and selected KCC  
17 based on its experience, its reputation, and its competitive  
18 pricing.

19 The debtors believe that the retention of KCC as a  
20 claims and noticing agent will help alleviate the  
21 administrative burden on both the Court and all parties in  
22 interest.

23 We'd like to thank Ms. Casey from the Office of  
24 the United States Trustee for her comments, which we have  
25 incorporated into the proposed form of order. Pursuant to

1 Ms. Casey's comments, we added a sentence stating that the  
2 limitation of liability section of the engagement agreement  
3 is deemed to be of no effect pursuant to the order.

4 And, unless Your Honor has any questions, we would  
5 respectfully request that you enter the order.

6 THE COURT: Okay. Does anyone wish to be heard in  
7 connection with the application to retain KCC as claims  
8 agent?

9 (No verbal response)

10 THE COURT: Okay. I'm hearing nothing.

11 I had the opportunity to review the application,  
12 as well as the redline of the proposed order that you sent  
13 over to chambers prior to today's hearing that incorporates  
14 that comment from Ms. Casey. I have no questions or concerns  
15 of the relief requested, it's appropriate and warranted in  
16 this jurisdiction given the facts and circumstances, and I'll  
17 go ahead and enter that order shortly after the conclusion of  
18 today's hearing.

19 MR. EGGEN: Thank you, Your Honor.

20 Turning to the next item, which is item number 11,  
21 Docket Number 9, the debtors' taxes motion.

22 By the taxes motion, the debtors are seeking  
23 authority to pay \$31,500 in taxing obligations on an interim  
24 basis, and up to \$225,500 in taxing obligations on a final  
25 basis.

1           In the ordinary course of business, the debtors  
2 typically incur franchise and income taxes, sales and use  
3 taxes, property taxes, and certain fees. I wanted to  
4 highlight the fees paid to BSI Group America to maintain  
5 certification under the AS-9100 standard, given that this is  
6 sort of a unique thing.

7           The AS-9100 quality management standard is used in  
8 the aerospace industry to ensure compliance with certain  
9 regulations and, indeed, many aerospace manufacturing  
10 suppliers refuse to work with entities that are not certified  
11 under the standard. Your Honor, the debtors believe that  
12 paying the taxing obligations is necessary because failure to  
13 do so may result in penalties, liens imposed on the debtors'  
14 property, and an increase in the scope of secured and  
15 priority claims held by the taxing authorities.

16           Your Honor, we are unaware of any comments to the  
17 proposed order, which we uploaded in advance of today's  
18 hearing, and, unless Your Honor has any questions, we would  
19 respectfully request that you enter the order.

20           THE COURT: Okay. Does anyone wish to be heard in  
21 connection with the relief requested with respect to the  
22 taxes motion?

23           (No verbal response)

24           THE COURT: Okay, I'm not hearing anyone.

25           Similar to the KCC retention application, I had an

1 opportunity to review the motion, as well the relief  
2 requested. I see that there was a redline of the proposed  
3 order sent over to chambers that just makes non-substantive  
4 changes reflecting the second day hearing, which it seems as  
5 if you were able to obtain a date for that from my chambers  
6 of May 6th at 10:00 a.m., with an objection deadline of April  
7 29th.

8 MR. EGGEN: That's correct.

9 THE COURT: That's acceptable to me and I have no  
10 questions or concerns with respect to the relief requested,  
11 it's customary and standard in this jurisdiction; and also,  
12 based on the facts and circumstances described in the first  
13 day declaration, I'm satisfied the debtors have met their  
14 burden to carry that which is required of Rule 6003; so I  
15 will go ahead and approve it, and enter the order after the  
16 conclusion of today's hearing.

17 MR. EGGEN: Thank you, Your Honor.

18 Turning to the final item that I'll be handling,  
19 that would be item number 12 on the agenda, which is Docket  
20 Number 10, the debtors' insurance motion.

21 Pursuant to the debtors' insurance motion, the  
22 debtors are seeking authority to maintain, continue, and  
23 renew their insurance policies and programs, including their  
24 premium financing agreement, and to pay their insurance  
25 obligations. Specifically, the debtors are seeking authority



1 to pay insurance obligations in an amount not to exceed  
2 \$75,000 in the interim period and not to exceed \$150,000 on a  
3 final basis.

4           The debtors have coverage under a standard set of  
5 insurance policies, including general liability, property,  
6 directors and officers' liability, and so on. These policies  
7 fall under two categories, the first being the insurance  
8 policies directly obtained by the debtors under which the  
9 debtors are the sole named insured, and second being the  
10 shared insurance policies and programs wherein the debtors  
11 and certain non-debtor affiliates are jointly covered.

12           With respect to those policies directly obtained  
13 by the debtors, the debtors either pay a premium based on a  
14 fixed rate directly to the insurer or the policies are  
15 financed by the premium financing agreement whereby the  
16 debtors directly pay the lenders thereunder.

17           With respect to the shared policies -- and this is  
18 touched upon a little bit more fully in the motion -- the  
19 debtors are part of the TECT family business and, as part of  
20 the structure, Glass Holdings LLC or certain non-debtor  
21 affiliates provide critical support to the debtors. This  
22 support includes Glass Holdings and certain non-debtor  
23 affiliates maintaining shared insurance policies and programs  
24 for the benefit of the debtors.

25           Sorry, Your Honor.

1 THE COURT: Take your time.

2 MR. EGGEN: Sorry. Each shared policy either  
3 jointly names the debtors and non-debtor affiliates covered  
4 thereunder as the insured or names the non-debtor affiliate  
5 as an insured, but the policy still provides necessary  
6 coverage for the debtors.

7 As alluded to earlier, the debtors and certain  
8 non-debtor affiliates finance a majority of their insurance  
9 policies, including both those directly obtained by the  
10 debtors and the shared insurance policies and programs.

11 With respect to the shared policies and programs,  
12 the debtors only pay an allocated portion of the payments due  
13 thereunder and such payments do not satisfy the insurance  
14 obligations of any non-debtor affiliate. This allocation is  
15 mostly based on the sales generated by the applicable  
16 insured; however, with respect to the property insurance  
17 policy, such allocation is based on the total insurable value  
18 of the applicable insured's property.

19 As of the petition date, approximately \$150,000  
20 remains outstanding with respect to the premium financing  
21 agreement.

22 Your Honor, the debtors believe that the relief  
23 requested in the insurance motion is necessary for multiple  
24 reasons. As an initial matter, the debtors manufacture  
25 highly-specialized products in a highly-regulated industry,

1 which exposes them to potentially significant liabilities.  
2 Accordingly, failure to maintain such insurance coverage  
3 could result in substantial personal liability to the  
4 detriment of the debtors and their estates. In addition,  
5 maintaining such insurance policies is required under the  
6 operating guidelines of the Office of the United States  
7 Trustee, and certain applicable non-bankruptcy law mandates  
8 such coverage as well.

9 Your Honor, we're unaware of any comments to the  
10 proposed order that was uploaded prior to today's hearing  
11 and, unless Your Honor has any questions, we would  
12 respectfully request that you enter the order.

13 THE COURT: Okay. Does anyone wish to be heard in  
14 connection with the insurance motion?

15 (No verbal response)

16 THE COURT: Okay, I'm not hearing anyone.

17 Thank you for that recitation of the facts. I had  
18 the opportunity to review the insurance motion, but that was  
19 very helpful, and I have no questions or concerns.

20 I see that there's -- like you said, there's no  
21 substantive changes to the proposed form of order that was  
22 filed on the docket except for the insertion of the second  
23 day hearing and the associated objection deadline.

24 So, based on that, I will go ahead and enter the  
25 order following the conclusion of the hearing and find that

1 you've met your burden, including that of Rule 6003, today.

2 MR. EGGEN: Thank you, Your Honor. That's it for  
3 me. I will now cede the virtual podium over to my colleague  
4 Mr. Cuomo.

5 THE COURT: Excellent. All right, thank you, Mr.  
6 Eggen.

7 MR. CUOMO: Thank you, Mr. Eggen.

8 Good afternoon, Your Honor. It's good to see you  
9 again.

10 THE COURT: Good to see you too.

11 MR. CUOMO: For the record, Travis Cuomo from  
12 Richards Layton & Finger on behalf of the debtors.

13 And I'll just keep moving down the agenda, and  
14 I'll be handling the utilities motion, as well as the  
15 employee wages motion. So we'll start with the utilities  
16 motion, which is Docket Number 4 and 13 on the agenda.

17 Your Honor, the debtors have approximately utility  
18 companies that provide various services, including  
19 telecommunications, water, gas, and electric services. What  
20 we propose for purposes of the interim order is funding a  
21 newly created, segregated account with an adequate assurance  
22 deposit of just over \$110,000. We also have standard  
23 procedures which would permit the utility companies to submit  
24 a request for additional assurance, and also procedures that  
25 would allow for the debtors to remove, supplement, or

1 otherwise amend the list of utility companies.

2 And we did receive a few comments from the Trustee  
3 that have been incorporated in the form of order and I  
4 believe you have a blackline reflecting these changes, which  
5 I can walk through briefly.

6 In paragraph 5(e), we removed some language with  
7 respect to the additional assurance requests in order to  
8 track with the bankruptcy code.

9 And moving down to page 5 and paragraph 8, we  
10 added language which clarifies that this order must be served  
11 on any utility company that's added to the list for the order  
12 to apply to that company.

13 And a little lower in paragraph 11, there's  
14 similar clarifying language, which requires service to a  
15 utility company in order for the relief to apply.

16 And, lastly, you'll see we added a new paragraph  
17 12, and this paragraph clarifies that the lender only has a  
18 lien on any reversionary interests in the utility deposit  
19 account that we've set up.

20 And, Your Honor, we believe this relief is  
21 necessary to avoid immediate and irreparable harm, and ask  
22 that this order be entered, but I'm happy to answer any  
23 questions if you have them.

24 THE COURT: I have no questions or concerns. It's  
25 all very standard and customary in this jurisdiction, and the

1 order conforms to the standard and customary relief that is  
2 commonly sought, especially with Ms. Casey's added comments.

3 So let me ask for the record, is there anyone else  
4 that wishes to be heard in connection with the utilities  
5 motion?

6 (No verbal response)

7 THE COURT: Okay. Well, with that, I will approve  
8 the order as proposed -- excuse me, as revised, not proposed,  
9 and find that the debtor has carried its burden necessary in  
10 connection with the motion, including that of Rule 6003.

11 MR. CUOMO: All right. Thank you, Your Honor.

12 So we'll move on to the employee wages motion,  
13 which is Docket Number 5 and number 14 on the agenda. And,  
14 pursuant to this motion, the debtors are requesting authority  
15 to continue paying employee wages and benefit obligations in  
16 the ordinary course, including the debtors' self-funded  
17 health benefit plans, which are all subject to an interim cap  
18 of \$2,049,500. And, Your Honor, the debtors have almost 400  
19 employees who are critical to the debtors' operations, and to  
20 the debtors' ability to preserve and maximize the company's  
21 value.

22 The debtors don't believe any employees are above  
23 the statutory cap with respect to wages and benefits. I  
24 should note that there are some employees that would be above  
25 on account of paid time off, but that is not a current cash

1 obligation and we will not be paying that unless we're  
2 required to do so by law.

3           Additionally, there is one employee who recently  
4 left the company last Friday on April 2nd, who is above the  
5 cap with respect to paid time off and is required to be paid  
6 by Kansas law.

7           The debtors also utilize two independent  
8 contractors who provide LEED programming expertise for the  
9 debtors' machine shops and, as with the employees, the  
10 debtors do not seek authority to pay above the statutory cap.

11           In relation to the debtors' worker compensation  
12 programs, the debtors are requesting authority to lift the  
13 automatic stay of Section 362, which will allow workers'  
14 compensation claimants to proceed with their claims.  
15 Additionally, the debtors have a severance plan in place, but  
16 currently no one -- none of their employees are owed any  
17 money, and we are not seeking authority to make any payments  
18 pursuant to this plan in the interim order.

19           The debtors do owe severance obligations to  
20 certain former employees pursuant to a retention program,  
21 which was related to the closing of their former facility in  
22 Kent, Washington. The debtors do not seek authority to pay  
23 such former employees in excess of the statutory cap. And,  
24 additionally, the debtors were not seeking relief to make any  
25 payments on an interim basis.

1           However, just this morning we were informed that  
2 the process for the debtors' next payroll has been initiated  
3 and that it inadvertently included payments for severance  
4 obligations to the former employees under the Kent facility  
5 retention program. These are all hourly employees and it  
6 totaled approximately \$34,000. Though the funds have not yet  
7 left the debtors' account, we've been told that the process  
8 cannot be reversed at this time. And so you'll see when we  
9 go through the blackline that we've revised the order to  
10 reflect this change that we will be seeking authority to pay  
11 these employees.

12           And if you have the blackline in front of you,  
13 I'll run through the revisions we made, including comments  
14 that we received from the UST.

15           THE COURT: Okay.

16           MR. CUOMO: In paragraph 2, you'll see first we  
17 just made a NIT, and then we had to adjust the amount due to  
18 the Kent facility payroll issue that we just discussed.

19           And moving down to page 4 and paragraph 7 and new  
20 paragraph 8, we've made the revision and added language to  
21 account for the Kent facility issue.

22           And then, lastly, in paragraph -- or new paragraph  
23 9, we revised the language to clarify that no unpaid leave  
24 benefits will be paid unless required by applicable law.

25           And so, Your Honor, we believe the relief is



1 necessary to avoid immediate and irreparable harm, and ask  
2 that the order be entered, but are happy to answer any  
3 questions should you have them.

4 THE COURT: Okay. Does anyone wish to be heard in  
5 connection with the employee wage motion?

6 (No verbal response)

7 THE COURT: Okay. Well, I'm glad you were able to  
8 resolve the small severance issue with Ms. Casey and I'm glad  
9 that the U.S. Trustee's Office was able to accommodate you on  
10 that issue. I know that it's our normal course procedure  
11 that we don't allow severance payments to be made in the  
12 interim order, but the amounts are de minimis and, with Ms.  
13 Casey's approval, I am fine with them as well.

14 I think you met your burden with respect to the  
15 remainder of the relief requested in the motion, including  
16 that of Rule 6003, and I'm happy to enter this revised  
17 proposed form of order and will do so following the  
18 conclusion of today's first day hearing.

19 MR. CUOMO: Thank you, Your Honor. So that  
20 concludes my portion and I'll now cede the podium, the  
21 virtual podium over to Mr. Chris De Lillo.

22 THE COURT: All right. Mr. De Lillo, how are you?

23 MR. DE LILLO: Good afternoon, Your Honor. Good.  
24 How are you doing?

25 THE COURT: I'm doing well, thank you.

1 MR. DE LILLO: Can you hear me okay?

2 THE COURT: I can, yes.

3 MR. DE LILLO: Great. So I'm presenting critical  
4 vendors, shippers, shared services, and the cash management  
5 motions. If it's okay with Your Honor, I propose to just  
6 take those in agenda order.

7 THE COURT: Sure.

8 MR. DE LILLO: Turning first to critical vendors,  
9 which is filed at Docket Number 7. Your Honor, by this  
10 motion the debtors are seeking approval to pay three types of  
11 claims. First, prepetition claims of a limited set of  
12 vendors that are mission-critical to the debtors' operations;  
13 second, foreign vendors who may have limited familiarity and  
14 understanding of the bankruptcy code and its rights and  
15 protections; and, third, in the final order only, claims  
16 under Section 503(b)(9) of the bankruptcy code for goods  
17 received by the debtors within 20 days of the petition date.

18 The motion also seeks confirmation of  
19 administrative expense status for goods delivered after the  
20 petition date related to prepetition orders.

21 As discussed in Mr. Martin's declaration, the  
22 debtors operate in a specialized industry with a limited  
23 number of suppliers that are highly customized both to the  
24 debtors and to the debtors' paying customers' needs. Given  
25 the nature of the industry and the supply chain, to replace

1 some of these vendors could take up to a year or more in some  
2 instances.

3           The debtors and their advisers, in consultation  
4 with their DIP lender, worked very hard to narrow the list of  
5 critical vendors only to those that are truly essential, and  
6 we think we've done that.

7           Mr. Martin's declaration notes that the debtors  
8 have approximately \$35 million of unsecured trade debt as of  
9 the petition date; of that, the debtors are only seeking to  
10 pay \$1.8 million in the interim period to critical vendors  
11 and \$10,000 in the interim period to foreign vendors. On a  
12 final basis, the debtors seek to pay \$4.7 million to critical  
13 vendors, \$103,000 to foreign vendors, and \$1.3 million to  
14 503(b)(9) claimants.

15           Your Honor, I'll note that from the version of the  
16 order filed with the motion we did reduce the interim cap  
17 from about \$2.35 million to \$1.8 million. That was in part  
18 due to comments from the United States Trustee. We did  
19 receive some other comments that are reflected in the redline  
20 sent to chambers prior to the hearing, and we believe we are  
21 resolving Ms. Casey on those.

22           I'm happy to answer any other questions Your Honor  
23 has. Otherwise, we would respectfully request entry of the  
24 proposed order granting the motion on an interim basis to  
25 avoid irreparable harm to the estates at this time.

1 THE COURT: Okay. Give me one opportunity to look  
2 at the redline.

3 (Pause)

4 THE COURT: Okay. I see that you omitted the  
5 ability of the debtors to make payments to affiliates or  
6 insiders pursuant to the interim order, as well as inserted  
7 the sort of standard language that the U.S. Trustee requests  
8 with respect to vendors who have executory contracts and that  
9 may be deemed critical vendors.

10 And, with that, I am prepared -- well, let me ask  
11 for the record, is there anyone that wishes to be heard in  
12 connection with the critical vendor motion?

13 (No verbal response)

14 THE COURT: Okay, I'm not hearing anyone.

15 This motion, as well as the next one, the shippers  
16 and lienholders, shares one thing, which is it is necessary  
17 to avoid disruption to the supply chain. This company is  
18 very similar in circumstance to many of the automotive  
19 companies that we often see and the supply chain here is  
20 extremely critical to the debtors' operations, but also, more  
21 importantly, the operations of the debtors' customers,  
22 including that of Boeing. So it's essential that this type  
23 of relief is entered and entered promptly.

24 So, with that, I am prepared to enter the interim  
25 order, and I will go ahead and do so following the conclusion

1 of today's hearing.

2 MR. DE LILLO: Thank you, Your Honor.

3 Turning next, as you noted, to shippers and  
4 lienholders, which is filed at Docket Number 8. The debtors  
5 utilize certain third party shipping companies to move their  
6 products in the ordinary course of business from their  
7 manufacturing facilities to their customers or from their own  
8 suppliers to the debtors' manufacturing facilities. Under  
9 state law, if the debtors were to fail to pay amounts owed to  
10 these shippers, they may assert statutory liens against their  
11 goods, hold them in transit, which would disrupt not only the  
12 debtors' operations, but also the operations of their  
13 customers.

14 The debtors also utilize certain technicians,  
15 material men, and other service providers that may similarly  
16 be able to assert liens under state law if they were not to  
17 be paid.

18 Accordingly, the debtors seek to pay the claims of  
19 these parties to prevent them from asserting liens on their  
20 products and their goods. In the interim period, we're only  
21 seeking to pay approximately \$55,000 to shippers and  
22 lienholders and, upon entry of a final order, to pay all  
23 claims in the ordinary course of business.

24 We did receive comments from the United States  
25 Trustee, which mirrored those that were reflected in the

1 interim order for critical vendors, that is confirming that  
2 the debtors will not make payments to an affiliate or insider  
3 pursuant to the relief granted in the interim orders for  
4 shipping, and likewise changing certain language around  
5 seeking repayment or seeking relief to determine something is  
6 an improper post-petition transfer.

7 Unless Your Honor has any questions on this order,  
8 we would respectfully request entry of the order granting the  
9 motion on an interim basis to prevent irreparable harm to the  
10 estates.

11 THE COURT: Okay. Does anyone wish to be heard in  
12 connection with the shippers and lienholders motion?

13 (No verbal response)

14 THE COURT: Okay, I'm not hearing anyone.

15 For the reasons similarly stated with respect to  
16 the critical vendor motion, I am prepared to approve the  
17 relief requested here. I find it's necessary and important  
18 to achieve the outset of these cases, that Rule 6003 is  
19 implicated and that the findings -- excuse me, the bases --  
20 the relief satisfies the requirements of Rule 6003. And,  
21 accordingly, I will go ahead and approve the order and have  
22 it entered as soon as possible.

23 MR. DE LILLO: Thank you, Your Honor.

24 Next up is the debtors' shared services motion,  
25 which was filed at Docket Number 11.

1           The debtors utilize certain other non-debtor  
2 affiliates to provide necessary administrative and back  
3 office support services, for which the debtors do not have  
4 their own personnel to provide those services. And the  
5 entity that does that is Office Support Services LLC. You  
6 may have heard some of my colleagues mention hold Glass  
7 Holdings LLC, they both share -- both the debtors and Office  
8 Support Services share common and direct ownership with Glass  
9 Holdings.

10           The services that OSS provides the debtors  
11 primarily relate to information technology, human resources,  
12 and treasury management. I believe Mr. Eggen also referenced  
13 that OSS arranges for premium financing for their insurance  
14 policies. All those services are captured by two agreements  
15 the debtors have with OSS, one is with debtor TECT Aerospace  
16 Holdings, LLC, which relates primarily to the debtors'  
17 Washington operations, and then the other is with TECT  
18 Aerospace Kansas Holdings, LLC, which, aptly named, relates  
19 to the debtors Kansas operations.

20           Debtors pay monthly fees to OSS for these  
21 services, which are based on annualized costs for the  
22 services that OSS provides. And I think it's important to  
23 note a few things with respect to this motion.

24           The debtors view this primarily as providing  
25 disclosure both to the Court and to parties in interest that

1 they intend to continue operating on a post-petition basis  
2 only with respect to these contracts. The debtors are not  
3 seeking to pay any prepetition claims of OSS pursuant to this  
4 motion, the debtors are not seeking at this time to assume  
5 the OSS agreements, and the debtors are not seeking to modify  
6 the status quo in any way or to have the Court bless these  
7 agreements. The proposed order contains no findings  
8 regarding the shared services or their value, and the  
9 proposed order does not bind any party in interest with  
10 respect to the OSS agreements, which the debtors understand  
11 are likely the subject of further discussions with interested  
12 parties.

13 We received no comments from the Office of the  
14 United States Trustee to the proposed form of order we did  
15 discuss with Ms. Casey.

16 Unless Your Honor has any questions, we would  
17 respectfully request entry of the proposed interim order at  
18 this time.

19 THE COURT: Okay. I'm just looking at the revised  
20 proposed form of order. It looks like it's just non-  
21 substantive changes with respect to the hearing date.

22 Let me ask, is there anyone who wishes to be heard  
23 in connection with the shared services motion?

24 (No verbal response)

25 THE COURT: Mr. Shapiro, I see you coming online,



1 but you're with RLF, so I know you don't have any comments.

2           Okay. Well, I have reviewed the motion and, I  
3 agree with you, it's relatively benign. And it's, in my  
4 view, an ordinary course transaction, but I appreciate the  
5 debtors filing the motion for -- I think you said out of an  
6 abundance of caution, but also as a matter of disclosure.  
7 And I will note you're not seeking to assume the agreement or  
8 make any payments to OSS on account of prepetition debt.

9           I have no questions or concerns. The scope of the  
10 relief is limited, as I just described, and I'm prepared to  
11 enter the order and will do so at the conclusion of today's  
12 hearing.

13           MR. DE LILLO: Thank you, Your Honor.

14           Last up on my plate is the cash management motion,  
15 which is filed at Docket Number 3. By this motion, as is  
16 customary in other cash management motions, the debtors seek  
17 to continue using their prepetition cash management system;  
18 maintain their bank accounts; honor prepetition bank fees  
19 that may have accrued between the beginning of the month and  
20 the petition date related to the use of that system; and then  
21 also authority to continue certain intercompany transactions  
22 on a post-petition basis only in the ordinary course.

23           Regarding the cash management system, the debtors  
24 has utilized a pooled cash management system. All of their  
25 accounts are with PNC Bank. They were organized under their

1 prepetition revolving credit facility to maximize efficiency  
2 under that. There are collection accounts that draw in  
3 customer collections and that are swept daily to pay down the  
4 revolver. There is one master operating account that makes  
5 all wire and ACH disbursements, and then there are eight sub-  
6 disbursement accounts that honor checks related to the  
7 debtors' various facilities or organizational units.

8 I'm happy to go into more depth, but at a high  
9 level the debtors seek to maintain the same structure with  
10 respect to their DIP facility on a post-petition basis -- or  
11 rather because the DIP lender is the same lender as was the  
12 prepetition lender, maintain the same control and operate on  
13 a post-petition basis in the same way.

14 Consistent with PNC's holding of the bank  
15 accounts, the debtors seek authority to honor fees owed to --  
16 the de minimis fees owed to PNC in the ordinary course. The  
17 debtors estimate as of the petition date there's  
18 approximately \$2500 in fees owed to PNC, which because PNC  
19 holds the bank accounts, it could assert setoff rights  
20 against those if unpaid.

21 Regarding the intercompany transactions sought by  
22 this motion, they are limited in scope. We are not seeking  
23 to generally continue all intercompany transactions, but as  
24 Your Honor probably noted from the diagram and from the  
25 description in the motion, all of the actual operating

1 accounts and disbursement accounts are held by Aerospace  
2 Holdings, LLC. Necessarily, according to that, each of the  
3 debtors transacts with each other by doing intercompany loans  
4 on a daily basis based on Aerospace Holdings bank accounts  
5 making all the disbursements through all the other debtors.  
6 Those are recorded as non-cash transfers that are recorded as  
7 intercompany loans and they reconcile -- the debtors  
8 reconcile those monthly.

9           The second type of intercompany transaction  
10 covered under the motion are parts orders in the ordinary  
11 course. From time to time, for example, the debtors' Park  
12 City, Kansas facility might need a part that the Washington  
13 facility has in stock, and the debtors would record that as  
14 an ordinary course purchase order. If it's between both  
15 Kansas facilities, the debtors would record that as a normal  
16 intercompany loan or intercompany transaction on a non-cash  
17 basis.

18           As between the debtors' non-debtor affiliates, the  
19 debtors would issue an ordinary course purchase order and  
20 transact on a cash basis with those.

21           The debtors do not seek to pay prepetition claims  
22 related to parts orders and only continue those on a post-  
23 petition basis.

24           The third category of intercompany transactions  
25 under the cash management motion is with the non-debtor

1 subsidiaries. The debtors have two wholly-owned foreign  
2 subsidiaries, one in the United Kingdom and one in Mexico.  
3 The Mexican subsidiary has been wound down and is simply  
4 waiting for final authority from the Mexican government to  
5 dissolve under Mexican law, and so there are certain de  
6 minimis consulting fees owed to a Mexican consulting firm,  
7 and those are the only transfers that occur to or on behalf  
8 of the Mexican subsidiary.

9           With respect to the United Kingdom, the debtors  
10 make monthly payroll payments to a United Kingdom consulting  
11 firm on behalf of the U.K. entity, and then quarterly and  
12 semi-annually the debtors make regulatory filings necessary  
13 to exist in the United Kingdom. And in consultation with the  
14 DIP lender, the debtors have included a cap in the order of  
15 \$30,000 per month for those payments.

16           We did receive a few comments from Ms. Casey  
17 regarding the proposed form of interim order, which we've  
18 incorporated and believe resolve her comments. And if Your  
19 Honor has that in front of you, I can walk through I think  
20 just one substantive change. It's in paragraph 6 at the top  
21 of page 4. And this is with respect to checks the debtors  
22 may seek to honor, it's only as authorized by an order of the  
23 Court. So if Your Honor authorizes the (indiscernible)  
24 seeking to honor and pay amounts as authorized.

25           Unless Your Honor has other questions, we would

1 respectfully request entry of the proposed interim order  
2 granting the motion to allow the debtors to continue using  
3 their cash management system.

4 THE COURT: Looking at that language, it seems to  
5 cover any payment that you want to make out of an account,  
6 even post-petition. It's pretty broad in scope. Is it  
7 limited to just the prepetition, payments made on account of  
8 prepetition obligations?

9 MR. DE LILLO: I'm sorry, Your Honor, I'm just  
10 reading it again.

11 THE COURT: I just don't want you to run into  
12 difficulties (indiscernible) --

13 MR. DE LILLO: If I'm understanding Your Honor  
14 correctly -- and perhaps we didn't consider this -- so -- and  
15 I think to the addition and with respect to prepetition  
16 claims, the concern is that it might apply to every post-  
17 petition amount which may not be pursuant to an order of the  
18 Court? Okay.

19 THE COURT: If you're fine with the language, I'm  
20 fine with the language. I just -- if you need further  
21 modifications in the final order, that's fine, and you can  
22 seek amendment if you think it will cause you any  
23 difficulties.

24 MR. DE LILLO: No, and I'll let Ms. Casey chime in  
25 if she disagrees, but I think we would propose to edit that

1 slightly to clarify that it's solely with respect to  
2 prepetition, any payments done prepetition obligations, that  
3 it's solely to the extent authorized by an order of the  
4 Court.

5 THE COURT: Okay. Ms. Casey, are you with us  
6 today? Oh, there she is.

7 MS. CASEY: Yes, I am. Your Honor, the concern I  
8 had was that the original language was too broad the other  
9 direction, allowing any prepetition amounts to be paid even  
10 if it wasn't approved by the Court. So I think that  
11 appropriate language can be crafted to address both issues.

12 THE COURT: Okay, okay. Well, is there anyone  
13 else that wishes to be heard in connection with the debtors'  
14 cash management motion and the interim order?

15 (No verbal response)

16 THE COURT: Okay, I'm not hearing anything.

17 The relief that you request is customary. I  
18 appreciate the disclosures with respect to the various  
19 intercompany transfers or loans, as well as the limitation  
20 that you've placed upon yourself with respect to the U.K.  
21 affiliate that's been represented in the cash management  
22 motion. I'm prepared to enter the relief as requested,  
23 however I do agree that you should tweak that language so you  
24 don't run into some technical difficulties post-petition.  
25 And if you're able to do that -- or when you're able to do

1 that, go ahead and submit it under certification of counsel,  
2 and I will review it and enter it as soon as possible,  
3 hopefully.

4 MR. DE LILLO: Will do. Thank you very much, Your  
5 Honor.

6 With that, I will cede the floor to Mr. Shapiro,  
7 who will handle the DIP motion.

8 THE COURT: Okay. Mr. Shapiro, how are you?

9 MR. SHAPIRO: Good. How are you? I apologize for  
10 the false alarm. Much like everything I do, it was poorly  
11 timed.

12 So I will just very quickly go through the DIP  
13 financing motion. I'm last, so I don't want to keep people  
14 here longer than necessary, but of course I'll answer your  
15 questions.

16 I'll start with the evidence. Exhibit C to the  
17 motion is the declaration of David E. Burns of Imperial  
18 Capital. We submitted that declaration in support of the  
19 DIP; Mr. Heath moved it into evidence at the start of the  
20 hearing.

21 In Mr. Burns' declaration, he evidences the need  
22 for financing, the efforts to obtain alternative financing,  
23 that the terms of the DIP are market and appropriate under  
24 the circumstances, and that this DIP facility is the best and  
25 only option available under the circumstances.

1           So, with that, unless Your Honor has any  
2 questions, I will turn to the DIP itself.

3           THE COURT: That's fine. I have no questions.

4           MR. SHAPIRO: Thank you. The DIP facility  
5 consists of a \$60.2 million senior secured super-priority  
6 credit facility; of that top line amount, 22 million will be  
7 made available by entry of the interim order. The DIP agent  
8 is Boeing, the DIP lender is Boeing. As Your Honor also  
9 knows, the prepetition agent and the prepetition lender are  
10 also Boeing.

11           And I did want to make one point of clarification  
12 about the scope of the DIP collateral. Your Honor probably  
13 missed it in the 70-page chart, but we did mention this. The  
14 TopCo entity, that's TECT Aerospace Group Holdings, Inc., was  
15 not a party to the prepetition credit agreement. It is a  
16 party now as a guarantor to the DIP credit agreement.

17           As Your Honor might imagine, this entity is just a  
18 holding company that holds equity interest in two debtors  
19 that are in turn intermediate holding companies. It has no  
20 operations or assets other than its equity interest in two  
21 debtor subsidiaries, but because it is a guarantor those  
22 equity interests will become part of the DIP collateral upon  
23 entry of Your Honor's order.

24           THE COURT: Okay. Thank you for that  
25 clarification.



1 MR. SHAPIRO: Certainly. All right, so going back  
2 to the terms of the DIP.

3 The way the DIP works is that all cash receipts  
4 that come in from the operations of the debtors' business are  
5 in turn applied to pay down the prepetition secured  
6 obligations. It's really no different from what we were  
7 doing prior to the petition date, and these are essentially  
8 and were disclosed as adequate protection payments.

9 The debtors then go-forward operations, including  
10 all the administrative expenses that we would incur related  
11 to the case are then funded on an as-needed basis by, you  
12 know, daily or periodic draws on the DIP.

13 The budget and, really more concisely, the motion  
14 show that the amounts needed to fund the case exceed receipts  
15 by about \$13 million in the interim period and by another  
16 incremental 16.6 million after entry of the final order  
17 through the date when the DIP will be fully drawn. And so,  
18 by my math, that's about \$30 million of incremental  
19 liquidity. And I think what that says to Your Honor is that  
20 if we were seeking to run these cases just on cash  
21 collateral, we'd be about \$30 million short, at least during  
22 the budget period.

23 All right, so now I'll just turn to the economics.  
24 There are two fees, there's a 1.5 percent commitment fee and  
25 a one percent funding fee. The commitment fee is earned and

1 payable upon entry of the interim order and it's calculated  
2 based on the total commitment. The funding fee is paid  
3 following the funding of each advance or, if the lender  
4 desires, netted out of the proceeds of the advance. As I  
5 mentioned, that's a one percent. So, in the aggregate,  
6 that's roughly 2.5 percent of the total commitment will be  
7 equal to the aggregate commitment fee and funding fee.

8 As to the interest rate, the non-default rate is  
9 LIBOR plus ten and the default rate is five percent above  
10 that.

11 On the other terms, the non-economic terms, based  
12 on the local rule changes, we -- as I mentioned, we include a  
13 very lengthy chart in the motion highlighting key terms. I  
14 certainly won't go through all of them, I don't think we have  
15 time for that, but at a very high level, as part of the  
16 lending package, we did agree to several provisions and  
17 protections to both Boeing as DIP lender and prepetition  
18 lender.

19 For instance, our use of cash is subject to a  
20 budget with permitted variances. Boeing is getting a  
21 consensual priming lien on all DIP collateral. Boeing, as  
22 prepetition agent and lender, is getting adequate protection;  
23 that includes adequate protection liens, super-priority  
24 claims, the payments that I mentioned earlier, and certain  
25 other fees such as professional fees.

1           There are, as you would expect, customary  
2 stipulations and releases, which are all subject to the  
3 challenge period and in certain instances subject to entry of  
4 the final order. There are liens on the proceeds of  
5 avoidance actions, marshaling, equity of the case, and 506(c)  
6 waivers, all of which are subject to entry of a final order.  
7 And there are also several sale and plan-related milestones.

8           Now, on the sale, the outside date -- I'll just  
9 hit the very highlights on those -- on the sale, the outside  
10 date for consummation of the sale of the debtors' Everett,  
11 Washington assets is a little less than 50 calendar days from  
12 today -- I think I did that right, but that's basically what  
13 we're looking at -- and the outside date for the consummation  
14 of the sale of the debtors' Kansas assets is about 110  
15 calendar days from today. Again, I think I did my math  
16 right, but I could be a day or two off there.

17           There's also, as I mentioned, some plan-related  
18 milestones. Those dates are a long way out, as I'm sure Your  
19 Honor saw. The deadline to obtain entry of a confirmation  
20 order is about 200 days from today.

21           With that, unless Your Honor has any questions for  
22 me, I can turn to the order.

23           THE COURT: Okay, let's walk through  
24 (indiscernible) --

25           MR. SHAPIRO: All right. As noted at the outset,

1 we were able to resolve all issues with Ms. Casey for  
2 purposes of today, and I thank Ms. Casey for that.

3 For purposes of the record, I can walk you through  
4 all the changes. We did send you a blackline; I can focus on  
5 the substantive changes. I'll let Your Honor choose what  
6 makes the most sense for you and for the record.

7 THE COURT: Why don't we just scroll through and  
8 focus on the substantive changes. I haven't had the  
9 opportunity to look at that.

10 MR. SHAPIRO: Certainly. All right, so this is on  
11 the border of being substantive, but I'll mention it. On  
12 page 4, we removed the last sentence of finding C regarding  
13 the sufficiency of notice. I know Your Honor is well aware  
14 of that comment that the Office of the United States Trustee  
15 often makes.

16 On page 6 -- I'm sorry, I apologize, I'm  
17 referencing the page numbers of the redline.

18 THE COURT: Okay.

19 MR. SHAPIRO: On page 6, that's just an update to  
20 the claim amount.

21 On pages 7 and 8, these are -- these were in the  
22 stipulation section, but they really aren't stipulations, at  
23 least we didn't really think they were. But they're in the  
24 form that we inherited, so we didn't have much leverage  
25 there, but Ms. Casey pointed it out, so we did strike them.

1 We moved little x and little xi to the events of default, and  
2 you'll see that in paragraph 5. On little xii, that is  
3 really a finding, it's not so much a stip, and it's  
4 duplicative of finding F. So we just struck it entirely.

5 THE COURT: I can remove two of my (indiscernible)  
6 and take those out. So, thank you.

7 MR. SHAPIRO: All right, great. You can thank Ms.  
8 Casey for that.

9 THE COURT: I will.

10 MR. SHAPIRO: Okay, moving ahead to page 9. This  
11 is just a conforming change because we struck one of the  
12 earlier findings that define diminution, so we had to define  
13 it somewhere. That probably wasn't substantive, so sorry.

14 All right, moving on to page 16 of the redline.  
15 These are the additional events of default that I mentioned  
16 earlier, these were just moved from stipulations to paragraph  
17 5(e). We had paragraph 5 reserved for some reason, I'm not  
18 sure, so that seemed like the natural place to put it.

19 Okay. Page 17 of the redline, this was a comment  
20 from Ms. Casey again. So the intent of this paragraph was  
21 really just to say that the DIP obligations were valid and  
22 binding. That's what we would expect, right? That the  
23 lender is lending, so the amounts that are lent shouldn't be  
24 subject to challenge. We were not trying to say that the  
25 prepetition obligations, including adequate protection claims

1 and liens, are also valid and binding, those are obviously  
2 subject to challenge. And so what we did was we just struck  
3 any reference to any obligations under this order and we kept  
4 just the reference to the DIP documents. So that was the  
5 reason for those changes there.

6 THE COURT: Okay.

7 MR. SHAPIRO: All right. Pages 20 through 22,  
8 these are changes to the fee provisions. It starts on page  
9 20 and it goes all the way into page 22. In short, we  
10 removed any reference to the lender seeking payment of its  
11 internal counsel fees, they won't be doing that. We removed  
12 any reference to the lender submitting invoices in summary  
13 format. And then, finally, we removed any reference that  
14 objections need to only be limited to reasonableness.

15 THE COURT: Let me ask you a question  
16 (indiscernible) the way I had read this paragraph is that the  
17 lender (indiscernible) documentation of the fees, costs or  
18 expenses until prior to a conversion of the Chapter 11 case  
19 and, at that point in time, the parties will receive the  
20 invoices and have the opportunity to respond, is that -- is  
21 that a correct understanding or did I misread this provision  
22 in the wee hours of the morning?

23 MR. SHAPIRO: I don't want to say you misread it,  
24 I had the same thought, but Mr. Smith can correct me if I'm  
25 wrong, but the intent is certainly -- at least the way I read

1 it, is that all invoices will be submitted and go through the  
2 ten-day objection period.

3 THE COURT: Okay, I don't think that's very clear.

4 Mr. Smith, is that what is happening here?

5 MR. SMITH: Yeah, Your Honor, I now see it. I  
6 apologize to the extent that I'm the source of some of this  
7 language. The intent was certainly no later than conversion  
8 we will have to submit any of these expenses and they should  
9 be paid, the intent was not to require us to wait until that  
10 date. But, yes, it is intended that it be subject to the  
11 notice period whenever we submit it and, frankly, having been  
12 through this in other cases, this may or may not be something  
13 we do on a regular basis. We may just hold it and see where  
14 things are going and all of that. The idea was to leave some  
15 flexibility in terms of when we actually make the request,  
16 but when we do it will be subject to the notice period.

17 We can clean that up in a subsequent -- in a post-  
18 hearing clarification of that.

19 THE COURT: Okay. Well, I mean, I'm fine with  
20 that language on an interim basis and if you feel like  
21 further tweaks need to be made to make it more clear for you,  
22 you can do so in connection with the submission of a final  
23 order, but based on --

24 MR. SMITH: Okay. I appreciate that, Your Honor,  
25 and certainly in the interest of time we would prefer not to

1 mess with the order now, I think it's clear enough and,  
2 again, it's very unlikely that this topic will be relevant  
3 before a final hearing.

4 THE COURT: I agree, I agree. Okay. Well, thank  
5 you for that. Let's move on then.

6 Actually, let's move on to paragraph 12, because I  
7 see there's no changes in that paragraph. I did have one  
8 question, which is there's a discussion there about that --  
9 for amendments, they can just be entered into in the ordinary  
10 course if they're non-material or not adverse to the debtors'  
11 estates or their creditors, but I guess my question to you  
12 is, who's going to be making the determination that it's not  
13 adverse? Because basically where I'm going with this is, if  
14 it's a material modification, I think we should contemplate  
15 putting that on notice. Perhaps you may not think it's  
16 adverse, but other parties in interest may think it's  
17 adverse. So that's why we give the parties an opportunity to  
18 review a modification that's material and have an opportunity  
19 to bring it up with the Court.

20 So perhaps we could just strike "or not" -- so I'm  
21 in paragraph 12 -- five lines down, starting with the clause  
22 "or not adverse to the debtors' estates or their creditors,"  
23 parentheses, "(other than the required DIP lenders)."

24 Would anyone be opposed to that modification? Mr.  
25 Smith?



1 MR. SMITH: No, Your Honor, we can certainly live  
2 with that.

3 THE COURT: Okay, okay. So let's plan on making  
4 that change. Normally I would say I would interlineate it,  
5 but I'm not able to do that anymore. So if you could all  
6 make that change, that would be great.

7 (Pause)

8 MR. SHAPIRO: Okay. I was going to skip ahead to  
9 page 24, unless Your Honor had any questions before then.

10 THE COURT: I do not.

11 MR. SHAPIRO: Okay. This was a change at the  
12 request of the United States Trustee. The language that was  
13 stricken is now rather than a prohibition is in the event of  
14 default. That's in paragraph 5.

15 THE COURT: Okay.

16 MR. SHAPIRO: All right. So page 26, there's two  
17 changes here. The first change was to make clear that the  
18 priority of a DIP super-priority claim has the priority that  
19 it has under Section 364(c)(1) rather than listing all those  
20 various sections. That was at Ms. Casey's request. And then  
21 the second change was there, there was a provision that said  
22 that the priority of the super -- sorry, the DIP super-  
23 priority claim shall be senior to and shall be not made  
24 subordinate to, you know, X, Y, Z, you know, that's now an  
25 event of default rather than a prohibition.

1 THE COURT: Okay.

2 MR. SHAPIRO: Okay, paragraph -- I'm sorry, I'm on  
3 page 28, it starts on page 27, this is the adequate  
4 protection package. Just a clarification that the adequate  
5 protection liens are likewise subordinate to senior third  
6 party liens.

7 And the same page, just a clarification that the  
8 adequate protection super-priority claim has the priority  
9 afforded to it under 507(b) rather than listing out what it  
10 has priority over.

11 THE COURT: Okay.

12 MR. SHAPIRO: The same page, 28, scrolling into  
13 page 30. Those are just conforming changes to the fee  
14 provision, the same ones that I had mentioned earlier.

15 THE COURT: Okay. This has the same or similar  
16 language, so to the extent that you make tweaks to the first  
17 paragraph regarding (indiscernible) you can make some tweaks  
18 to this one as well.

19 MR. SHAPIRO: Okay. Thank you.

20 THE COURT: It's up to you.

21 MR. SHAPIRO: Up to Mr. Smith, but we're -- yes,  
22 understood.

23 Page 35, so this isn't a change, but I was asked  
24 to flag something for you -- you may have flagged it already  
25 -- at the request of Ms. Casey. As you'll see here, we

1 negotiated for a wind-down budget to be paid for the proceeds  
2 of the sales of both properties and that's -- it's one  
3 million in the aggregate, 500,000 per sale. We came up with  
4 that amount in consultation with Boeing. We certainly think  
5 it's appropriate, but that said, I do want to be clear, in  
6 case it was not already clear, that amount is not and should  
7 not be construed as a finding that it is sufficient and all  
8 parties' rights are preserved on that point. At Ms. Casey's  
9 request, I did agree to make that statement.

10 THE COURT: Okay. Well, I had a note that  
11 (indiscernible) appropriate for an interim (indiscernible)  
12 but I'm happy to entertain it --

13 MR. SHAPIRO: I'm sorry, you broke up. Your  
14 question is why is it appropriate?

15 THE COURT: No, I don't think it's appropriate for  
16 an interim order --

17 MR. SHAPIRO: Oh.

18 THE COURT: -- but I'm happy to entertain it for  
19 the final.

20 MR. SHAPIRO: Okay. Just would Your Honor -- can  
21 I make one point on that or is Your Honor's mind made up?

22 THE COURT: No, I'm happy to hear you, it's just  
23 an unusual decision.

24 MR. SHAPIRO: No, we agree. I'll tell you just a  
25 little bit of background. So this form of order was -- there

1 are two prior cases with Judge Silverstein and so there was  
2 like a blank for the wind-down amount. And so that's where  
3 the concept came from, but I guess we thought it made sense  
4 to see if we could get an agreement now on a floor, right?  
5 That's the way we really look at this, it's something that we  
6 were able to negotiate for. There is at least some certainty  
7 that when these assets are sold we will have some amount of  
8 money left behind to wind down. It's certainly not a  
9 ceiling. And so, in our view, it's something good that we  
10 were able to get now, but if somebody doesn't like it, if the  
11 committee doesn't like it, if Ms. Casey doesn't like it, of  
12 course they can say we want more, this amount isn't enough,  
13 but that's really the way we're looking at it.

14 Of course, if Your Honor doesn't feel comfortable  
15 approving it now, we totally understand that and that's fine,  
16 but we did view this as a good thing that we were able to get  
17 and wanted to make sure Your Honor understood that before  
18 ruling on the point.

19 MR. SMITH: Yes, Your Honor, if I may. On that  
20 subject, I will say we, Boeing, do not have any objection to  
21 putting in a clause about subject to the final order here.  
22 This is not something that will be relevant until after the  
23 final order. So, I mean, on that front, I think it's fine  
24 taking care of that, the timing point, from our perspective.

25 Second, just in response to what Mr. Shapiro said,

1 we appreciate what he said and we appreciate the fact that  
2 everything is open for anybody coming back and asking for  
3 more later, subject to some limitations here that stop that.  
4 But it's also subject to Boeing looking at it and saying, no,  
5 no, no, that's the right number, it shouldn't be any higher.

6           So just to make sure that it's clear, we do think  
7 this is a reasonable number reached after discussions with  
8 the debtor, based on everything that we know about the  
9 operations today. And so we do think it's the right number  
10 here, but we certainly don't have a problem with pushing it  
11 back to the final order now.

12           THE COURT: Well, really my comments went to the  
13 appropriateness of any provision like this being included in  
14 a DIP order, period, whether it's at a final or an interim.  
15 I certainly didn't mean my comments to open up negotiations  
16 because of the appointment of a committee or another third  
17 party getting notice and, you know, trying to increase the  
18 numbers, but I understand that all rights are reserved for  
19 all parties to discuss that.

20           So, again, my comments really went to why is this  
21 in an order, in a final DIP order, but I think it's fine to  
22 include it then based on Mr. Shapiro's representation of the  
23 benefits to the estate. So I will allow it to stay in the  
24 order and I appreciate the comments of the parties regarding  
25 their positions with respect to the wind-down, as well as the

1 clear reservation of rights that Mr. Shapiro put on the  
2 record. So, with that, let's just keep it in there.

3 But can we go back with regard to page -- well, it  
4 was 30 on my copy, let me see if it's -- it's 31 now. It's  
5 little i, it's paragraph 16 that talks about the credit  
6 bidding rights. I just want to make sure I understand what  
7 I'm approving in the context of this interim order.

8 MR. SHAPIRO: Certainly. So --

9 THE COURT: With respect to the prepetition  
10 (indiscernible) so am I approving today that the prepetition  
11 lenders are permitted to credit bid subject to 363(k)?

12 MR. SHAPIRO: No, you're not. So, I mean, they of  
13 course could credit bid subject to 363(k), I mean, there's  
14 nothing that you -- sorry, that you could -- there's nothing  
15 I could do to stop them, but you're not making any finding as  
16 to whether or not that's appropriate or not, and that's the  
17 last sentence that's subject to entry of a final order.

18 If you look at the first two sentences, those are  
19 just agreements between us and them, the last section is the  
20 one I think that matters to you and that's subject to entry  
21 of a final order. So at least that's the way we read it. We  
22 did -- I will admit that perhaps my thoughts are cogent than  
23 you would expect, but that's because I did discuss this with  
24 Ms. Casey beforehand and I explained the same thing to her.

25 THE COURT: Okay. I agree. Thank you very much.

1 MR. SHAPIRO: Thank you, Your Honor.

2 All right. So moving on, unless Your Honor has  
3 any other questions, to page 36. That's the release  
4 paragraph, which is paragraph number 18.

5 THE COURT: Actually, I do, but let me look at  
6 paragraph --

7 MR. SHAPIRO: Okay.

8 THE COURT: -- 21.

9 MR. SHAPIRO: Oh, 21, paragraph 21?

10 THE COURT: Okay. We're not there yet, so go  
11 ahead.

12 MR. SHAPIRO: Okay. All right. Paragraph 18,  
13 here, at Ms. Casey's request, we have made certainly of the  
14 releases subject to entry of a final order. There's three  
15 categories of releases here: There's releases of the DIP  
16 lender, releases of the pre-petition lender, and releases of  
17 Boeing as trade creditor. So, with respect to the release of  
18 Boeing as DIP lender, that's effective immediately, and  
19 that's just binding on us, of course, it's just the debtor.  
20 We did clarify, though, that the releases of Boeing as  
21 lender, agent, and its affiliated and related parties, et  
22 cetera, only in their capacity as such; you'll see that in  
23 18(a). And then, in 18(b) and (c), you'll see we added  
24 "subject to entry of the final order."

25 All right. Moving on. We're not yet to 21, but I

1 know, when we get there, you'll stop me.

2 THE COURT: And it's a minor change.

3 MR. SHAPIRO: Okay. Moving on to the next page,  
4 this is just the challenge paragraph. The first set of  
5 changes, at the very beginning -- we're on Page 37 -- but  
6 are just conforming changes as a result of the  
7 (indiscernible) releases in the earlier paragraph.

8 And then, on the next page, into -- Page 38 into  
9 Page 39, we made several changes at Ms. Casey's request:

10 First, I mean, the typical provision that, if a  
11 trustee is appointed prior to the expiration of a challenge  
12 period, then they get the greater of the balance or ten  
13 calendar days to commence a challenge.

14 And then there are a bunch of additional sentences  
15 that we added. The first one is -- I think you may have  
16 called it the "Judge Dorsey rule." But if someone files a  
17 motion seeking standing to commence a challenge prior to the  
18 expiration of the challenge period, then the period is tolled  
19 until the Court hears that motion. It avoids an emergency  
20 hearing on one day notice that could be of great  
21 inconvenience to Your Honor, and certainly to us, as well.

22 The next change is -- I don't think you can take  
23 credit for this one. It's the idea that the -- an LLC --  
24 only the -- a member of an LLC can seek and obtain  
25 derivative standing. And it's the position of the UST that



1 that makes the challenge rights in certain -- at least with  
2 respect to the LLC debtors, illusory. So we added an  
3 agreement that the lenders won't raise that as a defense in  
4 connection with any creditors -- any creditor seeking to  
5 commence a challenge on behalf of LLCs.

6 And then the last sentence was really just a  
7 clarification. I -- Your Honor could do this anyway, but  
8 making it very clear that, if there is a successful  
9 challenge, you may fashion any appropriate remedy.

10 THE COURT: Okay.

11 MR. SHAPIRO: So, unless Your Honor had any  
12 questions on that -- I know there are a lot of questions  
13 there.

14 THE COURT: No, I have no questions. Thank you.

15 MR. SHAPIRO: Okay. All right. We are now on 21.

16 THE COURT: Okay. I only have a minor question.  
17 The reference to Paragraph 21(d) in Subsection (b). Is that  
18 actually -- should that be (f)? Should that reference be to  
19 Paragraph 21(f), or am I -- I may be completely off, but ...

20 MR. SHAPIRO: I think you're right in -- because  
21 of the reference to the remedies notice period. Is that why  
22 you think it should be (f)?

23 THE COURT: You know, I can't even really remember  
24 at this point in time, I'll be honest with you. I've had a  
25 lot between the time I looked at this order and today, so --

1 MR. SHAPIRO: I think so. I think you're right  
2 because --

3 THE COURT: For some reason, I put "(f)," question  
4 mark, so I'm hoping you can direct me.

5 MR. SHAPIRO: Yes, I -- looking at it -- we'll  
6 certainly discuss it with Mr. Smith. I think you're right,  
7 that's a bust in the cross-reference, and it should be a  
8 reference to (f), which contains the remedies notice, the  
9 five-day remedy notice, so that's right. We'll fix that.

10 THE COURT: Okay. Well, if I'm wrong and it needs  
11 to remain (d), then that's fine, too.

12 MR. SHAPIRO: Okay. Okay. So the next change is  
13 on Page -- unless Your Honor has anything earlier --

14 THE COURT: I do --

15 MR. SHAPIRO: -- page forty -- okay. You do?  
16 Okay.

17 THE COURT: I do, in (g). I was a little  
18 confused, actually, because I thought perhaps there's -- it  
19 says, upon the occurrence and during the continuance of an  
20 event of default under the DIP docs, a violation of the terms  
21 of the interim order or any termination event, the DIP  
22 secured parties may -- and then, basically, sweep the cash,  
23 continue to sweep the cash.

24 My thought here is are you sweeping the cash in  
25 the ordinary course, anyway. I guess that's my first

1 question. Is that -- I just want to make sure I understand  
2 the arrangement. So the cash is just going to be swept  
3 continually, but I thought the cash was being swept  
4 continually to pay the pre-petition lenders, not the DIP  
5 lenders.

6 MR. SHAPIRO: That's right, it is being swept  
7 continually -- continuously --

8 THE COURT: Okay.

9 MR. SHAPIRO: -- to pay the pre-petition lenders.

10 THE COURT: Pre-petition lenders. Okay. So this  
11 paragraph goes to what the DIP lenders can do if there's a  
12 DIP default. And my position is, is that, until the  
13 expiration of the remedies period, there really shouldn't be  
14 an automatic sweeping of the debtors' cash to repay down the  
15 DIP. Once the remedies period expires and there's a  
16 determination that -- or there's a -- either an order from  
17 me, because there was an objection, that there was an event  
18 of default, and that it's actually true they're in default;  
19 or the debtors concede and they don't object during the five-  
20 day remedies period, you know, at that point, fine, they can  
21 -- you can sweep to pay down the DIP.

22 But during this five-day period, I feel as if it's  
23 not necessarily appropriate for the DIP parties to be  
24 sweeping the debtors' cash because, essentially, what happens  
25 if the debtors contest it. And in the unlikely event that

1 the debtors contest and then I find that there was an event  
2 of -- it was not an event of default, what then happens?  
3 Does the DIP lender return all the cash that it swept?

4 And this is more just, Mr. Smith, if you can tell  
5 me why this would be appropriate, or maybe you're thinking  
6 along the same lines as I would, but the document doesn't  
7 reflect that; or perhaps you say you'll give back the money  
8 that you sweep to pay down the DIP if there's an ultimate  
9 conclusion at the end of the five-day remedies period that  
10 you shouldn't -- or there wasn't an event of default. So  
11 I'm happy to discuss this with you. I just don't like to see  
12 something about sweeping all of the debtors' cash until I've  
13 made a determination that there, in fact, was a default.

14 MR. SMITH: Well, I think the critical language in  
15 (g), Your Honor, is that the -- is the last clause. It  
16 doesn't directly address what you just said about sweeping  
17 cash, except that the understanding here is that the remedies  
18 notice period, we are agreeing that we will fund budgeted  
19 amounts during the remedies notice period.

20 So that I think the issue is simply one of -- my  
21 guess -- and I actually don't know what people think about,  
22 and I haven't thought about this precisely. But I think what  
23 is likely to happen during the remedies notice period is the  
24 banking arrangements are going to continue as they are today,  
25 which is, nightly, the -- well, as they will upon entry of

1 the order here. Nightly, the collection accounts, lockbox  
2 accounts -- whatever we want to call them -- will be swept.  
3 The money will be paid into the -- into Boeing and will be  
4 applied to the pre-petition loans. And then the DIP lender  
5 will continue to abide by the budget for the remedies budget  
6 period. That's what this says.

7           And I didn't -- I do believe that's appropriate,  
8 Your Honor, that we are -- while I understand the Court's  
9 concern, if we did not have that last phrase in there, we'd  
10 be taking money, not loaning anything new, and leaving the  
11 debtor somewhat at sea, if there were a successful challenge  
12 to the remedies notice -- during the remedies notice period.  
13 I get that. But I don't think we're doing that, I think we  
14 are agreeing to allow for operations during that period. And  
15 there are provisions later on about specific provisions about  
16 payments of employee costs for that period.

17           And so I think this is written correctly, Your  
18 Honor. I -- obviously, if we've made a mistake, we'll look  
19 at that, but I thought this was correctly phrased.

20           THE COURT: I think it might just be -- or my  
21 hangup might be that I think it's okay to continue to sweep  
22 in the ordinary course to pay down the pre-petition credit  
23 agreement obligations because that is the agreement the  
24 debtor has made. To the extent that -- although, looking at  
25 the budget, it doesn't seem as if the credit agreement

1 obligations will be paid down in full during the operations  
2 of this case. But if it -- if there were, then you're  
3 sweeping cash to pay the DIP down without a determination  
4 that there's been an event of default under the DIP. So  
5 that's where I was getting hung up. It seems as if --

6 MR. SMITH: Okay.

7 THE COURT: -- to be a bunch of contingencies, and  
8 I acknowledge that. But I get hung up on things like that  
9 because these orders are so lengthy and they try to address  
10 every possible contingency, which leads me down the road of  
11 trying to think of every possible contingency. So, as I  
12 said, I'm okay for you to continue to pay the pre-petition  
13 credit agreement obligations because that's appropriate. But  
14 if there hasn't been an actual event of default under the  
15 DIP, then I don't think you're able to sweep cash to repay  
16 the DIP until the remedies period has expired.

17 MR. SMITH: Okay. I -- Your Honor, I get that,  
18 and I -- it's a good point. And I think -- number one, as a  
19 drafting point, I think it's safe to add the words "in the  
20 ordinary course" after "free cash" there, and I think we can  
21 do that. I -- that is the -- that's my understanding of  
22 the intent of all the parties, and that will be used to pay  
23 down the pre-petition lenders, as we've discussed before.

24 The other thing, Your Honor, is, frankly, one of  
25 the reasons I think we haven't focused on this as much as we

1 might have is precisely the economic reason that you  
2 identified, which is: According to our understanding of the  
3 likely budget and operations and so forth, we will not be in  
4 a position of paying down the DIP during this case, absent  
5 some sales that turn out to be quite favorable. So I don't -  
6 - again, I don't have a problem with throwing in the  
7 "ordinary course" language because that was the intent of  
8 this language.

9 THE COURT: And/or perhaps you could also add --  
10 after the "DIP secured parties," you might be able to add,  
11 parenthesis, "on behalf of the pre-petition lenders."

12 MR. SMITH: That is certainly fine.

13 I would note one other thing, Your Honor, just in  
14 terms of sweeping cash. That -- it's not as if there are  
15 other accounts out there that, all of a sudden, we will try  
16 to glom onto. I mean, this is it. The collection accounts  
17 is pretty much everything the debtors will have, in terms of  
18 cash, other than amounts that are funded into the special,  
19 you know -- we're behind somebody else, whether it's  
20 utilities or professionals and things like that.

21 THE COURT: Well, and let me just say I appreciate  
22 all of your positions. I also appreciate the accommodation  
23 Boeing is making in working with the debtors in this case.  
24 So I'm not raising this issue because of the facts and  
25 circumstances of this particular case.

1 But I see this paragraph in many orders and I'm  
2 sensitive to it because, in other cases, there's no -- the  
3 sweep would not be to pay a pre-petition, it would be to  
4 sweep all the cash and pay themselves down before there's an  
5 actual determination of a default, and it would leave the  
6 debtors with no case. So, unfortunately, you are the bearer  
7 of something that has been brought to my attention in other  
8 cases.

9 So I think, with those tweaks, I'm fine with it.  
10 And again, it's a contingency on a contingency on a  
11 contingency, but that's what we're doing for. Half the  
12 paragraphs of this order and every other DIP order are to  
13 address those unlikely contingencies. So, if you could just  
14 add that, that would make me feel a lot better.

15 MR. SMITH: Understood. Thank you, Your Honor.

16 THE COURT: Thank you.

17 MR. SHAPIRO: The next change, Your Honor, at  
18 least that I have, was on Page 47 into 48. This is the  
19 "responsible person/control person" language that Your Honor  
20 has seen many times.

21 THE COURT: Okay. Hold on --

22 MR. SHAPIRO: The --

23 THE COURT: -- (indiscernible) had.

24 (Pause in proceedings)

25 THE COURT: So this goes to the same issue that I



1 raised, Mr. Smith, in connection with the last paragraph,  
2 which is: This is, essentially, the paragraph, I believe,  
3 that allows you to sweep the cash to pay down the DIP if  
4 there is an event of default and you give the debtors notice.  
5 To me, wouldn't this all be more appropriate at the  
6 conclusion of the remedies period? And it's a long  
7 paragraph, so I could have missed a lot. But this is,  
8 essentially, the same issue that I had with the previous  
9 paragraph. And I'm not saying I have an issue with you  
10 sweeping the cash. It's just the timing of the sweeping of  
11 the cash that I have a problem with.

12 And I apologize, Mr. Smith. You may be on mute.

13 MR. SMITH: I'm sorry, yes, I was.

14 Yeah, again, I think, Your Honor, that we are --  
15 we're talking about simply application to the DIP loan, as  
16 opposed to the pre-petition loan, because the sweep will be  
17 in the ordinary course. And as it's currently contemplated,  
18 that would go down to pay the pre-petition secured loan.

19 I do think, Your Honor, we have, in the -- and  
20 I'm scrolling down to 46, the bottom of Page 46, (b), the --  
21 this is effectively a deposit account control agreement type  
22 provision that is contingent on expiration of the remedies  
23 notice period.

24 So, again, I guess, we can -- following up with  
25 what we've run through on the previous section, I have no

1 problem with 25 saying something about the sweep, ordinary  
2 course, and on behalf of the pre-petition lenders. I  
3 certainly have no issue with that here, as well, as in the  
4 previous section.

5 THE COURT: Okay. I think that would be -- I  
6 mean, I'm looking at that first sentence, and I think it's a  
7 marked -- changing it to the pre-petition credit agreement  
8 is a marked difference because I think, if I'm reading it  
9 correctly, it says, when there's an event of default and we  
10 give you notice that we're not going to fund, the debtors are  
11 authorized but also directed to essentially pay all of their  
12 collections and proceeds of the DIP collateral over to the  
13 DIP agent and to pay down the DIP obligations in full.

14 And I have -- I guess what I would suggest to you  
15 is this paragraph seems to go directly to pay-down of the  
16 DIP, and I am fine with this language remaining as is, so  
17 long as it says after the expiration of the remedies period.  
18 So I don't want you to truncate some of the rights that you  
19 were given in this order. I just want to effect --  
20 essentially change the timing by which you're going to get  
21 all of the debtors' cash.

22 MR. SMITH: I appreciate that, Your Honor, and I  
23 think you're right about that. And again, I think the issue  
24 is, after the remedies period, we do certainly want the right  
25 to apply, frankly, wherever we want. But prior to that time,

1 it will be swept in the ordinary course in paying down the  
2 pre-petition loan. But I think we can come up with some  
3 language here that clarifies that first sentence being  
4 subject to after the remedies period, and I appreciate that,  
5 Your Honor.

6 THE COURT: Okay. Great. Yeah, the previous  
7 paragraph was fine because, if we tweak it, it talks about  
8 sweeping the cash to pay the pre-petition credit agreement  
9 off, fine.

10 MR. SMITH: Uh-huh.

11 THE COURT: This one clearly wants the ability to  
12 do so for the DIP, and I'm fine with that, too, at the  
13 expiration of the remedies period.

14 So I know, in the interest of time, I'll leave you  
15 guys to work on that because I know we need to get the  
16 ordered entered as soon as possible. So we can move on and  
17 I'll allow you to work on that.

18 MR. SHAPIRO: Thank you, Your Honor.

19 Paragraph Number 26, which starts on 47. This is  
20 the lenders are not responsible persons, the control person  
21 paragraph. Just a couple of minor changes there. We added  
22 that letter (c) is subject to entry of the final order, at  
23 Ms. Casey's request. And we also struck (cy), which has to  
24 do with operating the business, just given Boeing's unique  
25 relationship with the debtors and their operational

1 continuity provisions in the credit agreement.

2 THE COURT: Okay.

3 MR. SHAPIRO: I think we're almost done.

4 Paragraph 32 on Page 50, we just struck that  
5 because it's now an event of default.

6 THE COURT: Okay. Great.

7 MR. SHAPIRO: On Pages 54 and 55, which is  
8 Paragraph 38. Ms. Casey had a concern that she wasn't sure  
9 how, in particular, a superpriority claim could survive  
10 dismissal, and so we -- rather than getting into that  
11 debate, we just added language to make it clear that, if the  
12 law provides it survives, it survives, and we added that  
13 (indiscernible) dismissal.

14 And then, later on in that same page, in Paragraph  
15 39, we just deleted a sentence, the second sentence that  
16 speaks to the sufficiency of notice given at the  
17 (indiscernible) hearing.

18 THE COURT: Okay. Great. Just one other -- I  
19 apologize I (indiscernible) comments and get this  
20 (indiscernible) eight, binding nature of the agreement. The  
21 second paragraph talks about my ability, essentially, to  
22 enter a subsequent order that modifies my own order, and it  
23 limits my ability to do so.

24 Generally, I ask that this be removed and be made  
25 as an event of default. But I'm not going to tie my hands to

1 entering a subsequent form of order. So it may already be an  
2 event of default; and, if that's the case, great, and you can  
3 just remove this language. But I think you can also just  
4 tweak it by saying, you know, that this is an event of  
5 default.

6 MR. SMITH: Your Honor, I apologize, but I -- you  
7 broke up for just a second and I missed which pages you were  
8 talking about.

9 THE COURT: I --

10 MR. SMITH: I'm sorry about that.

11 THE COURT: That's okay. I apologize. I've been  
12 having technical difficulties all day.

13 I am on Page 48, going into Page 49 of the  
14 redline, and I'm talking about the second sentence in  
15 Paragraph 28. And it starts with, "Unless otherwise  
16 consented to" --

17 MR. SMITH: Okay.

18 THE COURT: -- (indiscernible) "by the required  
19 DIP lenders." Again, this just goes to my ability to enter  
20 what orders I think are appropriate. I don't bind myself to  
21 that. That's what this provision does. And so I am happy  
22 with the debtors agreeing to it, and you can make it an event  
23 of default.

24 MR. SMITH: Okay. All right. That, Your Honor, I  
25 think we just simply have to flip through and make sure that

1 we've covered all of those as events of default elsewhere. I  
2 suspect we have, but we will confirm that.

3 THE COURT: Okay. And if not, in the interest of  
4 time, you could enter something -- you could put language in  
5 before that just says the debtors agree that it's an event of  
6 default if -- something to that extent. But I don't think  
7 we need to rework the whole document.

8 MR. SMITH: Okay.

9 THE COURT: Okay.

10 MR. SHAPIRO: Unless -- I don't -- unless Your  
11 Honor has any questions, I think that's it. I'd ask that --  
12 based on the record before you, that you approve the DIP  
13 financing package on an interim basis and enter the order,  
14 once we submit it to you this afternoon.

15 THE COURT: Okay. Great.

16 Let me ask for the record. Does anyone else wish  
17 to be heard in connection with the interim DIP order?

18 (No verbal response)

19 THE COURT: Okay. I'm not hearing anyone.

20 I appreciate very much the colloquy that we all  
21 had on the record today, including your answering my  
22 questions, as well as agreeing to make the changes that you  
23 agreed on.

24 I am, based on the facts and circumstances and the  
25 first-day declaration, as well as the declaration of Mr.

1 Burns, prepared to approve the interim relief that has been  
2 requested, or that is requested as modified and discussed on  
3 the record today. I'm satisfied the debtors have met their  
4 burden necessary to carry the motion, including that of Rule  
5 6003. And I will consider the entry of the order under  
6 certification of counsel.

7 It's probably imperative that you get the order  
8 entered tonight. Is that correct?

9 MR. SMITH: I believe that's certainly the  
10 debtors' desire, and that's our desire, as well, on behalf of  
11 Boeing, yes, Your Honor.

12 THE COURT: Okay.

13 MR. SMITH: If I might, Your Honor, I actually --  
14 since we've been talking, just in the last few minutes, I  
15 actually got an email --

16 THE COURT: Hold on, I'm going to lose you. I  
17 have to plug in my iPad.

18 MR. SMITH: Oh, okay.

19 THE COURT: So this is awkward and uncomfortable,  
20 and you're getting a good view of my office.

21 MR. SMITH: Okay.

22 THE COURT: Okay. Why don't (indiscernible) okay.  
23 I apologize. Go ahead.

24 MR. SMITH: I got an email that indicates -- as  
25 Mr. Shapiro -- actually, I think it was Mr. DeLillo described

1 earlier, the cash management process. The funds are swept  
2 from a PNC -- a series of PNC collections accounts into a  
3 JPMorgan Chase account that -- of Boeing's. That's what  
4 happens overnight.

5 I got an email indicating that Chase was -- that  
6 they had not done the sweep yesterday, or PNC had not done  
7 the sweep, I guess this morning, technically, and as a result  
8 -- as a result of the bankruptcy filing, which, of course,  
9 we understand. I just want to flag, and we will take care of  
10 this offline with the debtors' counsel and their operating  
11 folks.

12 I believe that, with entry of the cash management  
13 motion, as you have already approved it, we shouldn't have an  
14 issue, and that should be just completely resolved, and we  
15 don't have an issue. But apparently, there was some  
16 confusion on the Chase end about whether your orders would  
17 sufficiently cover this. And we may come back with a tweak  
18 or two on the cash management motion -- well, I don't think  
19 it affects the DIP motion -- but the cash management, that  
20 more precisely gives them whatever comfort they think they  
21 need.

22 So I just flag that for everyone, and I apologize  
23 to everybody, including certainly all the Richards Layton  
24 folks to whom this is a surprise, I'm sure. So, anyway, I  
25 don't think it's a substantive issue, by any means. I just



1 want to make sure everyone is aware of it.

2 THE COURT: Okay. So we'll hold -- should I hold  
3 off then having my office enter the cash management order,  
4 and when you submit -- you can submit a revised order under  
5 certification of counsel or just let me know by email that we  
6 can go ahead and enter the order that's proposed? Is that  
7 (indiscernible)

8 MR. SMITH: I thought the cash management was one  
9 that we were going to make a couple of tweaks in anyway and  
10 submit.

11 MR. HEATH: It is.

12 MR. SMITH: So I'm just -- we're flagging it,  
13 maybe two tweaks, instead of one. So that's all I wanted to  
14 notify everyone of.

15 THE COURT: Okay. So just -- so, for housekeeping  
16 purposes, I received a bunch of redlines of all the orders.  
17 So have all of the orders been uploaded in the revised  
18 proposed form, other than the cash management and the DIP  
19 orders?

20 MR. HEATH: I believe yes, Your Honor. I believe  
21 so.

22 THE COURT: Okay.

23 MR. HEATH: I think it's just -- sorry.

24 THE COURT: No, that's okay. So I will go ahead  
25 and direct that all the orders, save for the cash management

1 order and the DIP order, be entered as soon as possible. And  
2 then I'll go ahead and wait for direction from you all on the  
3 DIP and the cash management order, and you can file whatever  
4 you need to file with redlines and send them over to Ms.  
5 Lopez as soon as possible, so we can go ahead and get those  
6 entered for you.

7 MR. HEATH: We'll --

8 THE COURT: I know there are a few changes to the  
9 DIP order, but I'm hopeful that you'll be able to quickly  
10 make those and perhaps file it by no later than 5:30 tonight,  
11 perhaps even earlier. So I don't want a situation where  
12 we're waiting until ten o'clock at night tonight.

13 MR. HEATH: We will do that.

14 THE COURT: Okay. You say that, Mr. Heath, but I  
15 can't tell you how many times we're waiting until ten o'clock  
16 on something that's really just simple tweaks. But there's a  
17 lot of cooks in the kitchen, so I understand why it takes a  
18 long time.

19 MR. HEATH: Mr. Shapiro won't let that happen.

20 (Laughter)

21 THE COURT: All right. Well, I look forward to  
22 testing that timing.

23 So, with that, let me ask. Is there anything else  
24 that we should discuss before we part ways? I think my iPad  
25 is on its very last leg.

1 MR. HEATH: No, that's all we have, Your Honor.

2 Thank you for your time today. We appreciate and we'll do

3 our best to get you those orders as quickly as possible.

4 THE COURT: Okay. Good. Well, it's wonderful  
5 seeing you all and meeting those who I have not met before.

6 I look forward to seeing you all at the second-day hearing,

7 and good luck with everything between now and then. So, with  
8 that, consider the hearing adjourned.

9 MR. HEATH: Thank you.

10 THE COURT: Take care, everyone.

11 MR. SMITH: Thank you, Your Honor.

12 COUNSEL: Thank you, Your Honor. Thank you.

13 (Proceedings concluded at 3:39 p.m.)

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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of my knowledge and ability.

/s/ Tracey Williams

April 9, 2021

Tracey Williams, CET-914  
Certified Court Transcriptionist  
For Reliable