

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:

WESCO AIRCRAFT HOLDINGS, INC.,
et al.,

Debtors.

Chapter 11

Case No. 23-90611 (MI)

(Jointly Administered)

**ORACLE AMERICA, INC.'S CURE OBJECTION AND RESERVATION OF RIGHTS
REGARDING (1) NOTICE OF (A) EXECUTORY CONTRACTS AND/OR UNEXPIRED
LEASES TO BE ASSUMED BY THE DEBTORS PURSUANT TO THE PLAN AND (B)
CURE AMOUNTS, IF ANY; AND (2) MODIFIED FIRST AMENDED JOINT CHAPTER
11 PLAN OF WESCO AIRCRAFT HOLDINGS, INC. *ET AL.* (“RIGHTS
RESERVATION”)**

Oracle Credit Corporation and Oracle America, Inc., successor in interest to Dyn, Inc. (jointly, “Oracle”), a creditor and contract counter-party in the above-captioned Chapter 11 cases, submits this Rights Reservation in response to the *Notice of (A) Executory Contracts and/or Unexpired Leases to be Assumed by the Debtors Pursuant to the Plan and (B) Cure Amounts, if Any* (“Assumption Notice”) filed in connection with the *Modified First Amended Joint Chapter 11 Plan of Wesco Aircraft Holdings, Inc. et al.* [Dkt. No. 1223] (“Plan”) filed by Wesco Aircraft Holdings, Inc., et. al. (“Debtors”). In support of the Rights Reservation, Oracle states:

I. INTRODUCTION

The Debtors seek Bankruptcy Court authority through the Plan to, among other things, assume executory contracts between the Debtors and Oracle at a \$0 cure amount. Oracle objects to the proposed assumption because the asserted cure amount does not accurately reflect the amount owed under its contracts, and Oracle does not have adequate assurance that the amounts actually owed will be paid. Oracle has communicated with the Debtors, through counsel,



regarding the cure amount and hopes to come to an agreement regarding the proposed assumption prior to the Plan confirmation hearing.

II. FACTUAL BACKGROUND

The above captioned case was filed on June 1, 2023 (“Petition Date”), and an order directing joint administration was entered shortly thereafter. The Debtors continue to operate as debtors in possession.

Oracle is a licensor of computer software and provides software-related products, technical support, maintenance, educational materials, and programs, as well as cloud-based and point of sale services, which Oracle often customizes for the customer’s specific needs. Prior to the Petition Date, the Debtors and Oracle were parties to several such agreements (the “Oracle Agreements”), including Payment Schedule 143229.

On October 2, 2023, Oracle timely filed its proof of claim in the amount of \$1,090,137.44 in the case commenced by Wesco Aircraft Hardware Corporation [Claim No. 1212] (“Claim”).

On January 12, 2024, the Debtors filed the Plan, which provides for assumption of all executory contracts and unexpired leases unless specifically rejected. Plan, Art. V, § A.

On February 1, 2024, the Debtors served the Assumption Notice on Oracle (and other contract counterparties) indicating that Oracle’s executory contracts may be assumed through the Plan. The Assumption Notice states that the Debtors believe no cure amount is owed.

On March 20, 2024, the Debtors filed the *Notice of Filing of Amended Plan Supplement* [Dkt. No. 1564] (“Plan Supplement”), which identifies those contracts to be rejected through the Plan. No Oracle contracts are identified for rejection by the Plan Supplement. Therefore, based upon the default assumption provision in Article V, Section A of the Plan, Oracle understands that the Debtors intend to assume the entire contractual relationship with Oracle. However, to do so, the Debtors must pay all sums owed in cure, including any post-petition amounts which may have come due. The indicated cure amount of \$0.00 in the Assumption Notice is inconsistent with Oracle’s records; as of the date of this Rights Reservation, Oracle is owed not less than \$904,981.20.¹

¹ Oracle has received payment on certain invoices that were attached to the Claim.
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III. ARGUMENT

A. To Assume the Oracle Agreements, the Debtors Must Cure All Arrearages.

Before assuming an unexpired executory contract, a debtor must (1) cure (or provide adequate assurance of a prompt cure of) any defaults under the subject contracts, and (2) provide adequate assurance of future performance under the contract. 11 U.S.C. § 365(b)(1). Absent the foregoing, a debtor may not assume an executory contract.

The Debtors believe the cure amount for the Oracle Agreements is \$0.00, which is significantly less than the \$904,981.20 Oracle's records indicate that it is owed. Absent Debtors' cure of all outstanding amounts due Oracle, the Debtors may not assume the Oracle agreements.

Oracle has communicated, through counsel, with the Debtors in an effort to resolve the discrepancy in the cure amount. However, as of the date of filing this Rights Reservation, no agreement has been reached.

B. To Assume the Oracle Agreements, the Debtors Must Provide Adequate Assurance of Future Performance.

In addition to requiring that all defaults be cured, the Bankruptcy Code also obligates a debtor to provide adequate assurance of future performance under the contract before the executory contract may be assumed. 11 U.S.C. § 365(b)(2). By asserting a \$0.00 cure, the Debtors have failed to provide either adequate assurance of prompt payment of the cure amount that is actually owed, or future performance under the Oracle contracts, Oracle is therefore unable to determine whether Debtors have complied, or will comply, with all of the requirements of section 365(b) of the Bankruptcy Code. Accordingly, Oracle reserves its rights to be heard regarding all assumption and cure issues.

IV. CONCLUSION

For the reasons set forth above, Oracle respectfully requests that the Court deny the Debtors' request for authority to assume any Oracle contract absent cure of all outstanding amounts due and owing to Oracle and provision of adequate assurance regarding the proposed assumptions.

Dated: March 27, 2024

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