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

In re: **WESCO AIRCRAFT HOLDINGS, INC.**, *et al.*,[1] Debtors.	Chapter 11 Case No. 23-90611 (MI) (Jointly Administered)

LIMITED OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO THE FURTHER MODIFIED SECOND AMENDED JOINT CHAPTER 11 PLAN OF WESCO AIRCRAFT HOLDINGS, INC., *ET AL.*

(Related to Docket Nos. 1025, 1191, 2408)

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[1] The Debtors operate under the trade name Incora and have previously used the trade names Wesco, Pattonair, Haas, and Adams Aviation. A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' proposed claims and noticing agent at http://www.kccllc.net/incora/. The service address for each of the Debtors in these cases is 2601 Meacham Blvd., Ste. 400, Fort Worth, TX 76137.

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The Official Committee of Unsecured Creditors (the "Committee") of Wesco Aircraft Holdings, Inc. and its debtor affiliates, as debtors and debtors in possession (collectively, the "Debtors"), respectfully submits this limited objection (the "Limited Objection") to the *Further Modified Second Amended Joint Chapter 11 Plan of Wesco Aircraft Holdings, Inc.,* et al. [Docket No. 2408] (as amended, the "Plan").[2] In support of this Limited Objection, the Committee respectfully represents as follows:

LIMITED OBJECTION

1. The Plan specifically preserves the ability of the First Lien Noteholder Group and the 2024/2026 Noteholder Group, to appeal from the Adversary Proceeding Decisions, contemplating that this "Appellate Litigation" could result in material alterations to the distributions under the Plan and future prosecution by the 2024/2026 Noteholder Group of claims subsequently found to be property of the Debtors' Estates. Nonetheless, the Plan causes the Committee to dissolve upon the Effective Date subject solely to having standing to participate and be heard for the limited purpose of preparing applications for payment of Retained Professional Fees with respect to the Retained Professionals of the Committee. *See* Plan, Art. XII.A.7. In fact, the latest version of the Plan filed on December 5, 2024 struck that the Committee would continue to exist for any appeal of the Confirmation Order, which is a standard feature in Plans and exists in every prior version of the Plan.[3] The Committee—the only fiduciary for unsecured creditors—is particularly interested in the outcome of any appeal of the Confirmation Order, the Adversary Proceeding Decisions, the resulting impact on claims and distributions, and potential future prosecution of estate claims.

[2] Capitalized terms used but not defined herein have the meanings ascribed to them in the Plan, unless noted otherwise.

[3] *See* Docket Nos. 962, 1134, 1223, 1980, 2068, and 2408.

2. The Committee must continue to exist after the Effective Date to participate in any appeals of the Confirmation Order or the Adversary Proceeding Decisions, and to ensure that the interests of unsecured creditors are protected. *See* Disclosure Statement, § O(1)(g). At a minimum, the scope of the General Unsecured Claims Observer's duties should be expanded to include monitoring any Appellate Litigation, and the General Unsecured Claims Observer should have the right to be heard with respect to matters concerning whether the Appellate Litigation, any litigation involving the Subject Standing Motion Claims pursuant to IV.A.2 of the Plan, or any Potential Remedies Order violates the terms of the Committee Settlement Stipulation[4] or otherwise has the effect of reducing, diluting, or adjusting the Class 7a Settlement Equity Pool. The Bankruptcy Court must also retain jurisdiction to adjudicate these matters after the Effective Date. The Committee provided Plan comments to the Debtors on December 7, 2024 that included language addressing these issues, but has not received a response from the Debtors.

3. Following its comprehensive investigation into the leveraged buyout that closed in January 2020 and the 2022 Financing Transactions, the Committee filed the Committee Standing Motion.[5] Ultimately, in January 2024, the Committee Standing Motion was resolved, and the terms of the settlement were set forth in the Committee Settlement Stipulation. The Committee agreed to support a "Committee Acceptable Plan," namely, a chapter 11 plan that incorporated the terms of the Committee Settlement Stipulation, including the *pro rata* distribution of a pool of

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

[5] The "Committee Standing Motion" means the *Corrected Omnibus (I) Motion of the Official Committee of Unsecured Creditors for Exclusive Leave, Standing, and Authority to Prosecute and Settle Certain Claims, Causes of Action, and Claim Objections on Behalf of the Debtors' Estates and (II) Claim Objection* [Docket No. 1025].

New Common Equity to general unsecured creditors, the establishment of a convenience class, and the release of any preference claims against general unsecured creditors.

4. The Committee stands by its settlement and the terms of the Committee Settlement Stipulation. The Committee is nonetheless compelled to file this Limited Objection following the Debtors' attempt to reflect the import of the Bankruptcy Court's Adversary Proceeding Decisions in the Plan and exit chapter 11 without consensus and notwithstanding a major unresolved contingency: The outcome of any appeal of the Adversary Proceeding Decisions and resulting impact on the Debtors' capital structure and Plan distributions.[6]

5. The Debtors have accepted certain of the Committee's comments to the Plan, aimed at ensuring that the New Common Equity distributed to general unsecured creditors is preserved regardless of any outcome on appeal. Therefore, as far as the Debtors are concerned, there is no need for the Committee to exist to participate in any post-Effective Date Appellate Litigation. This ignores that the Confirmation Order itself and all of its provisions could be reversed on appeal. It also ignores the potential for gamesmanship after the Effective Date, notwithstanding the intention that recoveries to general unsecured creditors will not be diluted. Setting dilution aside, the Committee, on behalf of all unsecured creditors, has an interest in ensuring that any post-Effective Date resolution comports with the Plan, the Committee Settlement Stipulation, the Bankruptcy Code, and does not otherwise prejudice general unsecured creditors.

6. It is easy to imagine a scenario where the parties agree to a resolution that alters the priorities, allowed claims, and distributions currently contemplated under the Plan. For example, one of the effects of the Adversary Proceeding Decisions was to render the $250 million "new money notes" unsecured. Under the revised Plan, the New Money Claims are allowed in the

[6] Other contingencies remain, including a hearing on the appropriate remedy. The Committee reserves all rights.

amount of over $275 million. This seemingly reflects $250 million plus accrued interest (notwithstanding the fact that there has been no showing of entitlement to interest). Although the New Money Claims will receive no distributions under the Plan, after the Effective Date, nothing prevents the parties from agreeing on an even further augmented allowed New Money Claim (based on interest or otherwise) as part of a settlement, resulting in what would be disparate treatment of general unsecured claims. This would run afoul of the Bankruptcy Code and the Plan. But, under the current Plan, unsecured creditors lose the ability to ensure that any post-Effective Date settlement will not be offensive to the Committee Settlement Stipulation, the Plan, or the Bankruptcy Code. This is unacceptable, and the Committee must continue to exist to prevent this result.

7. Courts recognize that no explicit temporal limitation on the existence of an official committee is provided for in the Bankruptcy Code. *See* 11 U.S.C. § 1102; *see also In re Parks Jaggers Aerospace Co.*, 129 B.R. 265, 267 (M.D. Fla. 1991) (noting "even though a creditors' committee usually dissolves after confirmation, that does not mean that it has to dissolve after confirmation."); *In re Diversified Capital Corp.*, 89 B.R. 826, 830 (Bankr. C.D. Cal. 1988) ("There is no provision in Chapter 11 specifically requiring that the duties of a creditors' committee cease with the confirmation of a plan.").[7] "In the absence of such a prohibition, courts analyze whether the post confirmation activity" in question "is consistent with the committee's statutory powers." *Off. Comm. of Equity Sec. Holders v. Integrated Nano-Techs., Inc.*, 2024 U.S. Dist. LEXIS 38504, at *11-12 (W.D.N.Y. Mar. 5, 2024). Courts have recognized that "[t]here may be services in the interest of creditors that are necessary or appropriate after confirmation of the plan. A typical

[7] Courts have observed that "Congress clearly considered the issue of appointment termination in some detail, and Congress expressly regulated it when it chose to do so. The fact that it omitted a rigid rule of automatic termination of committee appointments upon dismissal suggests that it did not intend to impose such a rule." *Off. Comm. of Equity Sec. Holders v. Integrated Nano-Techs., Inc.*, 2024 U.S. Dist. LEXIS 38504, at *9 (W.D.N.Y. Mar. 5, 2024).

example is the litigation of claims, in which a creditor's committee may participate, that are not yet resolved at the time of confirmation." *In re Diversified Capital Corp.*, 89 B.R. 826, 830 (Bankr. C.D. Cal. 1988); *see also In re Drs. Hosp. of Tampa, Ltd.*, 183 B.R. 312, 314 (Bankr. M.D. Fla. 1995) ("[T]here appears to be duties and responsibilities of a committee under 11 U.S.C. § 1103(c)(2) and (5) [that] suggest post confirmation activities of a committee appointed under 11 U.S.C. § 1102."). This is precisely the situation the Committee is faced with here.

8. Requiring the Plan to provide for the Committee's continued existence to participate in any appeals after the Effective Date is appropriate under the circumstances and is squarely in line with an official committee's statutory duties. Section 1103 of the Bankruptcy Code provides that a committee may "investigate the acts, conduct, assets, liabilities, and financial condition of the debtor, the operation of the debtor's business and the desirability of the continuance of such business, and any other matter relevant to the case or to the formulation of a plan" and "perform such other services as are in the interest of those represented." 11 U.S.C. § 1103(c)(2), (5).

9. The Committee's interest in any post-Effective Date appeals is to act defensively and protect the rights of unsecured creditors—certainly a service in the interest of those represented. Although the Committee is hopeful that no post-Effective Date settlements or rulings will negatively impact the unsecured creditors' rights and recoveries, the shifting nature of the Financing Litigation Proceedings highlights that the Committee's continued existence is in fact necessary to ensure that the unsecured creditors are not disenfranchised.

10. As discussed above, although prior drafts of the Plan included standard language providing that the Committee shall continue to exist after the Effective Date and have standing and a right to be heard for the limited purposes of (a) retention applications and (b) any appeals of the

Confirmation Order, the Debtors have removed the reference to appeals of the Confirmation Order, depriving the Committee of the right and ability to participate in any such appeals on behalf of unsecured creditors. This is inappropriate. Creditors' Committees are expressly empowered to "participate in the formulation of a plan, advise those represented by such committee of such committee's determinations as to any plan formulated, and collect and file with the court acceptances or rejections of a plan." 11 U.S.C. § 1103(c)(3). The Committee must continue to exist to participate in any appeals of the Confirmation Order, which is well within the Committee's statutory purpose. *See* Plan, Art. XII.A.7.

11. In addition to the foregoing, the Committee finds the following substantive issues in the Plan objectionable:

- The definition of "Excluded Parties" under the Plan (*i.e.*, those parties that are not "Released Parties" or "Releasing Parties" under the Plan) includes parties that file an objection to confirmation that is not consensually resolved. The Committee should not be an "Excluded Party" because it filed this Limited Objection. Doing so is an act of fulfilling its statutory duties to its constituency, which the Debtors should not be permitted to curtail or penalize. *See* Plan, Art. I.A.108.

- The Plan no longer includes the Committee as a notice party. The Committee should be added back as a notice party under the Plan. *See* Plan, Art. XII.C.

RESERVATION OF RIGHTS

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

Dated: December 12, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on December 12, 2024, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Charles R. Gibbs
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