

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS - HOUSTON DIVISION**

<i>In re</i> <b>WESCO AIRCRAFT HOLDINGS, INC., et al.,</b> <sup>1</sup> Debtors.	Case No. 23-90611 (MI) Chapter 11 (Jointly Administered)
<b>WESCO AIRCRAFT HOLDINGS, INC., et al.,</b> Plaintiffs, v. <b>SSD INVESTMENTS LTD., et al.,</b> Defendants.	Adv. Pro. No. 23-03091 (MI)
<b>SSD INVESTMENTS LTD., et al.,</b> Counterclaim Plaintiffs, v. <b>WESCO AIRCRAFT HOLDINGS, INC., et al.,</b> Counterclaim Defendants.	
<b>LANGUR MAIZE, L.L.C.,</b> Crossclaim Plaintiff, v. <b>PLATINUM EQUITY ADVISORS, LLC, et al.,</b> Crossclaim Defendants.	
<b>LANGUR MAIZE, L.L.C.,</b> Third-Party Plaintiff, v. <b>UNNAMED PLATINUM FUNDS c/o PLATINUM EQUITY ADVISORS, LLC, et al.,</b> Third-Party Defendants.	
<b>LANGUR MAIZE, L.L.C.,</b> Counterclaim Plaintiff, v. <b>WESCO AIRCRAFT HOLDINGS, INC., et al.,</b> Counterclaim Defendants.	

**STATEMENT OF PIMCO AND SILVER POINT NOTEHOLDERS  
IN RESPONSE TO COURT'S QUESTIONS AT THE JUNE 26, 2024 HEARING**

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



1. The PIMCO and Silver Point Noteholders respectfully submit this statement in response to the Court’s questions regarding the scope of its equitable powers.

2. The Court stated that, should it find liability, it is considering a remedy in which it will issue a declaration or other order having the purpose or effect of invalidating the 2022 Transaction and / or reinstating the liens of the 2024/2026 Holders. ECF 1447 (Closing Arguments) at Tr. 7:10-13. The Court asked whether it could “interpose equitable relief on top of what otherwise might be [the] legal relief” of a declaration regarding the contracts or liens, *id.* at 69:16-18, and also asked “whether [the Court has] the authority to temper legal relief with equitable relief” under *Pepper v. Litton*, 308 U.S. 295 (1939), or otherwise. ECF 1447 (Closing Arguments) at Tr. 63:20-25.

3. Because the PIMCO and Silver Point Noteholders believe the declaratory remedy described by the Court is equitable in nature (in that it would void a set of contracts, *see, e.g., Reg’l Props., Inc. v. Fin. & Real Est. Consulting Co.*, 678 F.2d 552, 562 (5th Cir. 1982)),<sup>2</sup> they believe the answer to the question of whether the remedy proposed by the Court (if proper to be imposed) *may* be “temper[ed]” to accomplish a fair result is yes—and indeed that it should be so tempered.

4. Under any circumstance in which a bankruptcy court is exercising its equitable powers, case law states that the “bankruptcy courts are capable of determining what is the most equitable under the specific circumstances of each case.” *Matter of South Coast Supply Co.*, 91

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<sup>2</sup> *See Reg’l Props., Inc.*, 678 F.2d at 562 (“The starting points for our discussion are the propositions, too elementary to require citation, that, historically, a suit to void a contract sounded in equity, and that, in suits in equity, equitable defenses, such as laches, estoppel, etc., may be raised. While actions to void a securities broker’s contract obviously stem from statute rather than a traditional equitable right, they are equitable in nature.”); *Anesthesia Assocs. of Mount Kisco, LLP v. N. Westchester Hosp. Ctr.*, 59 A.D.3d 481, 482 (N.Y. App. Div. 2d Dep’t 2009) (“[W]here the declaratory judgment cause of action seeks to have a contract between two of the defendants declared null and void, the traditional action most likely to have been used to present the instant claim had the declaratory judgment action not been created would have been a claim for rescission,” which “sounds in equity,” and so “the cause of action for declaratory relief in this case is equitable in nature.” (internal quotation marks and alterations omitted)).

F.4th 376, 384 (5th Cir. 2024); *accord S.E.C. v. Forex Asset Mgmt. LLC*, 242 F.3d 325, 331-32 (5th Cir. 2001) (“district court, acting as a court of equity, [is] afforded the discretion to determine the most equitable remedy”).

5. Accordingly, the PIMCO and Silver Point Noteholders believe that if the Court applies such a remedy here, *i.e.*, any remedy other than money damages, the Court should do so in an equitable manner, fashioning the remedy to temper the harm in order to prevent inequities to any party. *See, e.g., Eccles v. Peoples Bank of Lakewood Vill., Cal.*, 333 U.S. 426, 431 (1948) (“It is always the duty of a court of equity to strike a proper balance between the needs of the plaintiff and the consequences of giving the desired relief.”). This could include, for example, limiting the scope of the voidance to the specific provisions that the Court determined to be improper—such as the provisions releasing the liens of the 2026 Noteholders.<sup>3</sup> *See, e.g.,* ECF 604-41 (2026 Secured Fourth Supplemental Indenture) at 6 ¶ 11 (Severability).)

6. We note that the Court also asked whether it may “overcome legal relief and grant, *instead*, equitable relief,” under *Pepper v. Litton* or otherwise. ECF 1447 (Closing Arguments) at Tr. 36:5-9 (emphasis added). The PIMCO and Silver Point Noteholders respectfully believe the answer to that question is no, other than as permitted by state law or the Bankruptcy Code. *See Law v. Siegel*, 571 U.S. 415, 421 (2014); *Norwest Bank Worthington v. Ahlers*, 485 U.S. 197, 206 (1988). As the Court knows, moreover, the position of the PIMCO and Silver Point Noteholders in this case is that no equitable remedy, including the voiding of any contracts, is permitted on the

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<sup>3</sup> In this example, this limitation would be available even if the Court determines that the voiding remedy is legal relief because, in that case, limiting the scope of the voidance to specific provisions would be tailoring legal relief, as opposed to using equity to overcome legal relief. *See, e.g.,* ECF 604-41 (2026 Secured Fourth Supplemental Indenture) at 6 ¶ 11 (Severability).)

claims of the 2024/2026 Holders in light of, among other things,<sup>4</sup> the availability of the legal remedy of money damages, a position they respectfully maintain.<sup>5</sup>

7. We appreciate that the Court has not authorized further briefing on the appropriateness of equitable relief (outside of the narrow question of its authority) or on “what the equitable relief might be.” ECF 1447 (Closing Arguments) at Tr. 69:24-70:3. As stated on the record, should the Court find liability, we would request the ability to brief the question of appropriate remedies more fully before they are finally imposed by any judgment, order, or proposed findings of fact and conclusions of law; however, we are mindful of the Court’s direction to limit this briefing to the specific question posed by the Court.

8. For the avoidance of doubt, the PIMCO and Silver Point Noteholders are constrained to note that in making this response, they do not waive any of their appellate rights, nor do they believe a waiver of such rights is required to respond to the Court’s questions.

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<sup>4</sup> See, e.g., Main Case ECF 396 (Final DIP Order ¶ 19) (stipulating with respect to all parties in interest to the validity of the Prepetition 1L Notes and Prepetition 1L Notes Liens unless they are challenged through “pleadings filed in connection with any Challenge [that] set forth with specificity the basis for such challenge or claim” prior to the end of the Challenge Period, which was August 15, 2023).

<sup>5</sup> ECF 1398 (Counterclaim Defendants’ Post-Trial Brief) at 84-88; see also *Robertshaw US Holding Corp. v. Invesco Senior Secured Mgmt. Inc. (In re Robertshaw US Holding Corp.)*, 2024 WL 3200467, at \*10-11 (Bankr. S.D. Tex. June 20, 2024).

Dated: July 3, 2024  
New York, New York

/s/ Benjamin F. Heidlage

PORTER HEDGES LLP

John F. Higgins (TX Bar No. 09597500)  
Eric D. Wade (TX Bar No. 00794802)  
Heather K. Hatfield (TX Bar No. 24050730)  
M. Shane Johnson (TX Bar No. 24083263)  
Megan Young-John (TX Bar No. 24088700)  
1000 Main Street, 36th Floor  
Houston, TX 77002  
Tel: (713) 226-6000  
Email: [jhiggins@porterhedges.com](mailto:jhiggins@porterhedges.com)

- and -

HOLWELL SHUSTER & GOLDBERG LLP

Neil R. Lieberman (*pro hac vice*)  
Benjamin F. Heidlage (*pro hac vice*)  
Spence Colburn (*pro hac vice*)  
Thomas A. Ritz (*pro hac vice*)  
425 Lexington Avenue  
New York, New York 10017  
Tel: (646) 837-5151  
Email: [bheidlage@hsgllp.com](mailto:bheidlage@hsgllp.com)

*Counsel to the PIMCO and Silver Point Noteholders*

**CERTIFICATE OF SERVICE**

I certify that, on July 3, 2024, a true and correct copy of the foregoing document was served through the Electronic Case Filing system of the United States Bankruptcy Court for the Southern District of Texas.

*/s/ John F. Higgins* \_\_\_\_\_

John F. Higgins