Docket #0007 Date Filed: 4/9/2026

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

In re:	)	Chapter 11
ASCEND ELEMENTS, INC. *et al.*,[1]	)	Case No. 26-90440 (ARP)
Debtors.	)	(Joint Administration Requested)

DEBTORS' EMERGENCY MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE TO OPERATE THEIR EXISTING CASH MANAGEMENT SYSTEM; (B) MAINTAIN THEIR EXISTING BANK ACCOUNTS; (C) PAY RELATED PREPETITION OBLIGATIONS; AND (D) CONTINUE TO PERFORM INTERCOMPANY TRANSACTIONS; AND (II) GRANTING RELATED RELIEF

Emergency relief has been requested. Relief is requested not later than 4:00 P.M. (prevailing Central Time) on April 10, 2026.

If you object to the relief requested or you believe that emergency consideration is not warranted, you must appear at the hearing if one is set, or file a written response prior to the date that relief is requested in the preceding paragraph. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

A hearing will be conducted on this matter on April 10, 2026, at 4:00 P.M. (prevailing Central Time) in Courtroom 400, 515 Rusk St., Houston, Texas 77002. Participation at the hearing will only be permitted by an audio and video connection.

Audio communication will be by use of the Court's dial-in facility. You may access the facility at 832-917-1510. Once connected, you will be asked to enter the conference room number. Judge Pérez's conference room number is 282694. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Pérez's homepage. The meeting code is "JudgePerez". Click the settings icon in the upper right corner and enter your name under the personal information setting.

Hearing appearances must be made electronically in advance of both electronic and in-

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Ascend Elements, Inc. (2893) and Ascend Elements US, LLC (8309). The location of the Debtors' service address is: 133 Flanders Road, Westborough, MA 01581.

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person hearings. To make your appearance, click the "Electronic Appearance" link on Judge Pérez's homepage. Select the case name, complete the required fields and click "Submit" to complete your appearance.

The above-captioned debtors and debtors in possession (collectively, the "Debtors") state the following in support of this emergency motion (this "Motion"):

Relief Requested

1. The Debtors seek entry of an interim order and a final order, substantially in the forms attached hereto (respectively, the "Interim Order" and the "Final Order", and together, the "Orders"): (i) authorizing the Debtors to (a) continue operating their cash management system, (b) maintain their existing bank accounts, (c) pay related prepetition obligations, and (d) continue to perform intercompany transactions, and (ii) granting related relief.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Southern District of Texas (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105(a), 345, 363, 364, and 503 of title 11 of the United States Code (the "Bankruptcy Code"), Bankruptcy Rules 6003 and 6004, rules 4002-1 and 9013-1 of the Bankruptcy Local Rules for the Southern District of Texas (the "Bankruptcy Local Rules"), and the Procedures for Complex Cases in the Southern District of

Texas (the "Complex Case Procedures").

Background

5. A detailed description of the Debtors and their businesses, including the facts and circumstances giving rise to the Debtors' chapter 11 cases, is set forth in the *Declaration of Linh Austin in Support of the Debtors' Chapter 11 Petitions and First Day Motions* (the "First Day Declaration"), filed contemporaneously herewith on April 9, 2026 (the "Petition Date"). Capitalized terms that are not defined in the Motion shall have the meanings ascribed to them in the First Day Declaration.

6. On the Petition Date, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. Concurrently with the filing of this Motion, the Debtors have filed a motion requesting procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases and no official committees have been appointed or designated as of the date hereof.

The Debtors' Cash Management System

I. Overview

7. In the ordinary course of business, the Debtors utilize a centralized and integrated cash management system (the "Cash Management System") to efficiently collect, transfer, and disburse funds generated through their ongoing business activities. The Cash Management System plays a critical role in facilitating daily cash flow operations, enabling the Debtors to monitor and manage liquidity, prepare cash forecasts, maintain accurate internal reporting, and ensure operational control over their various Bank Accounts (as defined below). A schematic of the structure of the Cash Management System is attached hereto as **Exhibit A**. The Debtors' Treasury

Department is primarily responsible for overseeing and administering the Cash Management System and enforces internal controls governing the acceptance, processing, and release of funds for both intercompany transfers and transfers to third parties.

8. The Cash Management System has been carefully designed to align with the Debtors' operational requirements and enables the Debtors to control and monitor the collection and disbursement of funds, ensure cash availability and liquidity, and comply with the requirements of the Debtors' financing agreements and federal grant obligations. Any disruption to the Cash Management System would have a significant adverse effect on the Debtors' ability to maintain their business operations, manage day-to-day liquidity, and satisfy ongoing financial obligations. Such a disruption would result in immediate and material harm to the Debtors' estates and stakeholders. Accordingly, the Debtors request authority to continue using their existing Cash Management System in the ordinary course of business as set forth herein during the pendency of these chapter 11 cases, subject to any applicable orders entered by this Court.

II. Bank Accounts

9. As of the Petition Date, the Company's Cash Management System consists of a total of twenty (20) bank accounts. Of these bank accounts, seven (7) are owned and controlled by the Debtors (collectively, the "Bank Accounts"), which reside at Bank of America, N.A. ("BofA") and Silicon Valley Bank, a Division of First Citizens Bank ("SVB" and together with BofA, the "Banks") and which are identified on **Exhibit B** attached hereto. The Bank Accounts are described in the following table:

Account	Account Description
Main Operating Account Silicon Valley Bank, a Division of First Citizens Bank *x0463*	Debtor Ascend Elements Inc. maintains this main operating account (the "Main Operating Account") for the Debtors' operational activities. The Main Operating Account is utilized to fund a wide range of obligations, including payroll and employee benefits, payments to vendors and service providers, servicing the Debtors' secured debt obligations, and other routine disbursements necessary for the Debtors' continued operations.

	Historically, the Main Operating Account is funded from revenues derived from business operations and periodically through draws made under the Debtors' loan facilities,[2] which provide liquidity to support the Debtors' ongoing business efforts.
SVB Adequate Assurance Account Silicon Valley Bank, a Division of First Citizens Bank *x9290*	In connection with the Debtors' motion for an order approving proposed adequate assurance of payment for future utility services and granting related relief filed concurrently herewith (the "Utilities Motion"), the Debtors will designate the SVB account owned by Ascend Elements, Inc. as the Adequate Assurance Account. The Adequate Assurance Account is intended solely to fund the Adequate Assurance Deposit (as defined in the Utilities Motion) and has no balance as of the Petition Date.
BofA Depository Account Bank of America, N.A. *x2811*	Debtor Ascend Elements Inc. maintains this interest bearing depository account (the "BofA Depository Account"), for the purpose of pooling cash, and funding letter of credit fees and BofA bank fees. The BofA Depository Account funds the Main Operating Account as needed to ensure sufficient cash to satisfy near-term payroll and disbursements obligations.
Collateral Account Bank of America, N.A. *x6440*	Debtor Ascend Elements Inc. maintains this restricted collateral account (the "BofA Collateral Account") in connection with holding letters of credit to secure the Debtors' payment or performance of certain obligations, including obligations related to municipalities, contractual or permit obligations, and customers' requirements.[3]
ZBA Account Bank of America, N.A. *x0207*	The Debtor maintains a zero-balance account (the "ZBA Account"), linked to the BofA Depository Account, for the primary purpose of servicing bank fees and fees for the letters of credit in the Collateral Account.
Ascend Elements US, LLC Depository Account Silicon Valley Bank, a Division of First Citizens Bank *x8789*	Debtor Ascend Elements US, LLC maintains this depository account to hold and manage its cash in the ordinary course of business, and pay its ordinary course expenses on an as needed basis.
Professional Fee Escrow Account Bank of America, N.A.	In connection with the Debtors' use of cash collateral and/or entry into postpetition debtor-in-possession financing, the Debtors have established a segregated, non-operating account to hold the professional fees escrow

[2] Debtor Ascend Elements, Inc., as borrower, was previously a party to that certain Loan and Security Agreement, dated as of December 29, 2022 (as amended, restated, amended and restated supplemented or otherwise modified from time to time) with Avenue Capital Management II, L.P., as administrative agent and collateral agent, and certain Lenders party thereto. Pursuant to the Loan Agreement, the Lenders party thereto made available a loan facility in the aggregate original principal amount of $45 million. As of the Petition Date, all obligations owed in connection with the Avenue Capital Loan Agreement have been satisfied and none are outstanding.

[3] The Debtors' letters of credit are more fully described in the Debtors' motion for an order approving the continuation of the Debtors' insurance, letter of credit, and surety programs, and related relief filed concurrently herewith.

x5330	amounts that will accrue during the pendency of the chapter 11 cases. The Debtors will fund, and payments will be remitted to professionals from, the Professional Fee Escrow Account during the chapter 11 cases in accordance with orders of the Bankruptcy Court.

10. As of April 9, 2026, the Debtors held approximately $18.4 million in aggregate cash across the Bank Accounts, of which $12.5 million is unrestricted and available for general corporate purposes and approximately $5.9 million is subject to restrictions. The uninterrupted operation of the Debtors' business is critically dependent on the timely and efficient collection, transfer, and disbursement of funds, all of which are facilitated through the Bank Accounts in the Cash Management System.

III. Corporate Credit Cards

11. As part of the Cash Management System, and in the ordinary course of business, the Debtors maintain approximately fifty three (53) corporate credit cards (collectively, the "Corporate Cards") for use by the Debtors' employees to pay business expenses and to cover other verified corporate charges incurred in carrying out their employment responsibilities (the "Corporate Card Program"). The Corporate Cards are issued by American Express ("AMEX") and hold a $250,000 aggregate credit limit. The Debtors make payments on their Corporate Cards as needed, at minimum monthly, from the Main Operating Account to ensure that outstanding balances remain within the credit limits.

12. The Debtors' ability to continue using the Corporate Cards in the ordinary course is essential to ongoing operations and assures the Debtors' employees that they will be able to incur business expenses without having to seek reimbursement from their own account or otherwise seek formal remittance. If the Corporate Card Program is discontinued, AMEX could attempt to collect funds from the Debtors' employees, potentially resulting in injury to their personal credit and finances and claims against the Debtors' estates. In other words, AMEX may

seek to collect outstanding prepetition balances directly from employee cardholders if the Corporate Card Program is frozen. Consequently, the continued functionality of the Corporate Cards is critical to avoid disruptions to the Debtors' ordinary business operations.

13. The average monthly balance on the Corporate Cards is approximately $109,000. As of the Petition Date, the Corporate Cards have a balance of approximately $160,000. The Debtors request authority to pay all prepetition charges on account of the Corporate Cards and to continue, in their discretion, honoring obligations related to the Corporate Cards on a post-petition basis in the ordinary course of business consistent with historical practices subject to provisions of any order authorizing the Debtors to use cash collateral.

IV. Intercompany Transactions

14. In the ordinary course of business, the Debtors routinely engage in intercompany financial transactions (the "Intercompany Transactions") with one another and their non-Debtor affiliates through the Cash Management System. The Debtors track and account for all Intercompany Transactions and the resulting intercompany receivables and payables (the "Intercompany Claims").[4]

15. At any given time, as a result of the Intercompany Transactions, there may be Intercompany Claims owing by one Debtor to another Debtor or to/from a non-Debtor affiliate in connection with the receipt and disbursement of funds. For example, in the ordinary course of business the Debtors manage the working capital needs of their foreign non-Debtor affiliates that

[4] Because the Debtors engage in Intercompany Transactions on a regular basis and such transactions are common among enterprises similar to the Debtors, the Debtors believe the Intercompany Transactions are ordinary course transactions within the meaning of section 363(c)(1) of the Bankruptcy Code and, thus, do not require the Court's approval. Nonetheless, out of an abundance of caution, the Debtors are seeking express authority to engage in such transactions on a post-petition basis. The continued performance of Intercompany Transactions in the ordinary course of business is integral to ensuring the Debtors' ability to operate their businesses without unnecessary disruption during these chapter 11 cases.

are critical to the Debtors' European operations. As these foreign non-Debtor affiliates generate limited revenue and have limited funds in their bank accounts, they rely on the Debtors for their operational needs. The Debtors have historically satisfied ordinary course obligations on behalf of their non-Debtor affiliates by making payments directly to their vendors and service providers upon receipt of invoices, or by making payments to their non-Debtor affiliates upon request therefrom in connection with various intercompany loan agreements. On a monthly basis, the Debtors have historically made payments of approximately $55,000, directly to, or on behalf of, their foreign non-Debtor affiliates for such expenses.

16. The Debtors expect to continue to engage in the Intercompany Transactions on a post-petition basis, which are critical to ensuring that the Debtors are able to maintain their operations and preserve the value of their businesses as the Debtors pursue a value maximizing transaction for the benefit of all stakeholders. With respect to Intercompany Transactions with their foreign non-Debtor affiliates, the Debtors are seeking authority to undertake such Intercompany Transactions in a manner consistent with historic prepetition business practices, subject to the Non-Debtor Affiliate Funding Cap (defined below), or to the extent necessary to fund such affiliates' expenses that are essential to minimizing disruptions to the Debtors' operations and preserving the value of the Debtors' estates.

17. Furthermore, the Debtors maintain records of all transfers and can ascertain, trace and account for the intercompany transfers and will continue to do so during these chapter 11 cases. The Intercompany Transactions have been, and will continue to be, an essential component of the Debtors' operations and Cash Management System and are necessary due to the corporate structure of the Company. This system not only maximizes efficiency but also simplifies third-party interactions with the Debtors as an enterprise. Any interruption thereof would disrupt the

Debtors' operations and harm the Debtors' estates and, by extension, their stakeholders, at a time when stability is critical to essential employees and vendors. Accordingly, the Debtors seek authority to engage in Intercompany Transactions in the ordinary course of business on a post-petition basis, in a manner substantially consistent with the Debtors' past practices and with respect to Intercompany Transactions with any non-Debtor affiliates, authority to make postpetition payments up to a cap of $100,000 on an aggregate basis ("Non-Debtor Affiliate Funding Cap") without further approval of the Court.

V. Bank Fees

18. In the ordinary course of business, the Debtors incur periodic service charges and other fees in connection with maintaining the Cash Management System (collectively, the "Bank Fees"). The Debtors incur approximately $3,000 per month on account of the Bank Fees in the aggregate. Historically, the Bank Fees have been debited directly out of the Debtors' Bank Accounts. The Debtors estimate that approximately $1,200 in prepetition Bank Fees have accrued and are unpaid as of the Petition Date. Accordingly, the Debtors seek authority to pay all prepetition Bank Fees and continue paying the Bank Fees in the ordinary course on a post-petition basis, consistent with historical practices.

VI. Business Forms

19. As part of the Cash Management System, the Debtors use a variety of preprinted business forms (including checks, letterhead, correspondence forms, invoices, and other business forms) in the ordinary course of business (collectively, the "Business Forms"). The Debtors also maintain books and records to document their financial results and a wide array of operating information (collectively, the "Books and Records"). To avoid a significant disruption to their business operations and to minimize administrative expense to their estates, the Debtors request authority to continue using all of the Business Forms and Books and Records in a manner

consistent with prepetition practice, without reference to the Debtors' status as chapter 11 debtors in possession. Once the Debtors have exhausted their existing stock of Business Forms, they will ensure that any new Business Forms are clearly labeled "Debtor in Possession" and, with respect to any Business Forms that exist or are generated electronically, the Debtors shall ensure that such electronic Business Forms are clearly labeled "Debtor in Possession."

Basis for Relief

I. The Court Should Authorize the Debtors to Continue to Use the Cash Management System.

20. The Debtors seek authority, pursuant to sections 363(c) and 105(a) of the Bankruptcy Code, to continue using their existing Cash Management System in the ordinary course of business, consistent with their prepetition practices. Such relief is warranted to preserve the Debtors' operational stability and avoid unnecessary disruption during these chapter 11 cases.

21. Section 363(c)(1) of the Bankruptcy Code authorizes the debtor in possession to "use property of the estate in the ordinary course of business without notice or a hearing." 11 U.S.C. § 363(c)(1). Bankruptcy courts routinely treat requests for authority to continue utilizing existing cash management systems as a relatively "simple matter." *In re Baldwin-United Corp.*, 79 B.R. 321, 327 (Bankr. S.D. Ohio 1987). The purpose of section 363(c)(1) is to provide a debtor in possession with the flexibility to engage in the ordinary transactions required to operate its business without unneeded oversight by its creditors or the court. *See In re HLC Props., Inc.*, 55 B.R. 685, 686 (Bankr. N.D. Tex. 1985) (finding "no need to further burden the docket or the staff of the Court with a superfluous order" when a transaction is in the ordinary course of business). In granting such relief, courts recognize that an integrated cash management system allows a debtor "to administer more efficiently and effectively its financial operations and assets." *In re Southmark Corp.*, 49 F.3d 1111, 1114 (5th Cir. 1995). Additionally, under section 105(a) of the

Bankruptcy Code, a court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

22. The Cash Management System provides significant benefits to the Debtors by allowing them to efficiently pay expenses, control corporate funds, reduce costs and administrative expenses by facilitating the movement of funds, and ensuring the availability of timely and accurate account balance information. Requiring the Debtors to adopt a new cash management system would be expensive and disruptive to the Debtors' operations as they stabilize their business in chapter 11, which in turn would be detrimental to the Debtors' estates and creditors. Importantly, such a disruption is unnecessary because the Debtors have and will continue to track and report the location and transfer of funds.

23. Maintaining the current Cash Management System will facilitate the Debtors' smooth transition into chapter 11 by minimizing delays in paying post-petition debts and eliminating administrative inefficiencies. Moreover, maintaining the current Cash Management System will allow the Debtors' employees to attend to their daily responsibilities rather than organizing and administering a new system.

24. Parties in interest will not be harmed by the Debtors' maintenance of the Cash Management System. The Debtors have implemented appropriate mechanisms to ensure that unauthorized payments will not be made on account of obligations incurred before the Petition Date. In light of such protective measures, maintaining the Cash Management System is in the best interests of the Debtors' estates and creditors.

25. Accordingly, the Debtors respectfully submit that cause exists to allow the Debtors to continue utilizing the Cash Management System consistent with historical practices and to continue to maintain, service and administer the Bank Accounts as accounts of the Debtors as

debtors in possession without interruption and in the ordinary course of business.

II. The Court Should Authorize the Debtors' Banks to Continue to Administer the Bank Accounts and the Debtors to Pay the Bank Fees and Continue to Maintain the Corporate Card Program.

26. The Debtors believe that they have authority to continue paying the Bank Fees and continue their Corporate Card Program because such transactions are in the ordinary course of business. *See* 11 U.S.C. § 363(c). However, out of an abundance of caution, the Debtors seek authorization from the Court to continue these practices, including to pay related prepetition claims, if applicable, and to authorize the Debtors' Banks to continue to administer the Bank Accounts in the ordinary course.

27. For the Cash Management System to operate, the Debtors' Banks must be authorized to continue to administer such accounts without interruption in the ordinary course of business. Therefore, the Debtors' Bank should also be authorized to receive, process, honor, and pay any and all wire transfers, credit cards, ACH payments, checks, drafts and other instructions payable through, drawn, or directed on such Bank Accounts after the Petition Date by holders, makers, or other parties entitled to issue instructions with respect thereto. Notwithstanding the foregoing, any draft, or other notification that the Debtors advised the Debtors' Bank to have drawn, issued, or otherwise presented before the Petition Date may be honored by the Bank only to the extent authorized by order of the Court.

28. The Debtors request authority to pay, directly or indirectly, any Bank Fees that may accrue and become obligations of the Debtors. Section 105(a) of the Bankruptcy Code states that a court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of" the Bankruptcy Code, pursuant to the "doctrine of necessity." 11 U.S.C. § 105(a). The "doctrine of necessity" provides a mechanism by which the bankruptcy court can exercise its equitable power to allow payment of critical claims not explicitly authorized by the Bankruptcy

Code and further supports the relief requested herein. *See In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) (recognizing the "doctrine of necessity" and holding that sections 105 and 1107 of Bankruptcy Code provide authority for a debtor in possession to pay certain prepetition claims that are necessary to the operation of the debtors' business).

29. Payment of the Bank Fees is in the best interests of the Debtors, their estates, and all parties in interest as it will prevent any disruption to the Cash Management System. Similarly, failure to pay amounts outstanding under the Corporate Card Program would significantly disrupt the ability of the applicable employees to perform their ordinary course business functions and expose them to personal liability. In either case, the Debtors believe that such a result would be unduly burdensome and harmful to the Debtors' estates. Accordingly, the Debtors submit that the payment of such fees and continuation of the Corporate Card Program pursuant to section 105(a) of the Bankruptcy Code and the doctrine of necessity is warranted.

III. The Court Should Authorize the Debtors to Continue Conducting Intercompany Transactions in the Ordinary Course and Grant Administrative Priority Status to Post-petition Intercompany Claims Between Debtors.

30. As described above, the Debtors engage in Intercompany Transactions with other Debtors and their non-Debtor affiliates in the ordinary course. If the Debtors' ability to make Intercompany Transactions were to be discontinued, services currently provided to Debtor entities on an intercompany basis would be interrupted. Moreover, if any of the non-Debtor affiliates were to be severed from the Cash Management System, they might not be able to meet their obligations as they come due, which might in turn have adverse, value-destructive consequences across the Company's entire corporate structure, including vendor attrition. At bottom, if the Intercompany Transactions were to be discontinued, the Cash Management System would be disrupted to the detriment of the Debtors and their estates.

31. As noted above, pursuant to section 363(c)(1) of the Bankruptcy Code, a debtor in

possession "may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business … and may use property of the estate in the ordinary course of business without notice or a hearing." 11 U.S.C. § 363(c)(1). The Debtors enter into and perform under the Intercompany Transactions "in the ordinary course of business" within the meaning of section 363(c)(1) of the Bankruptcy Code. The Debtors, thus, believe that they do not require the Court's approval to continue entering into and performing under the Intercompany Transactions. Nevertheless, out of an abundance of caution, the Debtors request express authority to continue doing so on a post-petition basis.

32. To ensure that the Debtors' creditors are protected, the Debtors additionally request, pursuant to sections 503(b)(1) and 364(b) of the Bankruptcy Code, that Intercompany Claims between and among the Debtors arising from an Intercompany Transaction after the Petition Date be accorded administrative expense status,[5] subject and junior to the claims, including adequate protection claims and fee and expense claims under any "carve-out," granted in connection with any post-petition use of cash collateral in accordance with any interim and final orders, as applicable, approving such post-petition use of cash collateral. This relief will ensure that each entity receiving payment from a Debtor will continue to bear ultimate repayment responsibility for such ordinary course transactions, thereby reducing the risk that these transactions would jeopardize the recoveries available to each Debtor's respective creditors.

IV. Continued Use of Existing Business Forms and Books and Records Will Avoid Unnecessary Administrative and Financial Burdens on the Debtors and their Estates.

[5] Notwithstanding the administrative expense status requested for the Intercompany Transactions between and among Debtors, each Debtor reserves the right to dispute any Intercompany Transaction (or payment made on account of an Intercompany Transaction) on any ground, including the methodology for calculation of such transaction or payment, and to claw back or avoid such transactions or payments.

33. To avoid disruption of the Cash Management System and the incurrence of unnecessary expenses, the Debtors request that they be authorized to continue to use their Business Forms and Books and Records, substantially in the form existing immediately before the Petition Date, without reference to their status as debtors in possession. Parties doing business with the Debtors undoubtedly will be aware of their status as debtors in possession and, thus, changing forms such as letterhead would be an unnecessary additional expense.

34. The Debtors should be permitted to maintain their existing Books and Records rather than open a new set as required under the U.S. Trustee Guidelines. The Debtors use a recordkeeping system that enables them to consolidate their Books and Records for financial reporting purposes while maintaining separate records on an entity-by-entity basis to track the operations and results of individual entities across their corporate structure. Continued use of the Debtors' current Books and Records, therefore, will maximize efficiency and decrease administrative burden while maintaining the precise entity-by-entity reporting contemplated by the U.S. Trustee.

V. Cause Exists for Waiving the Investment and Deposit Guidelines of Bankruptcy Code Section 345 and Certain Requirements of the U.S. Trustee Guidelines.

35. To the extent the Cash Management System does not strictly comply with section 345 of the Bankruptcy Code and/or the U.S. Trustee's Operating Guidelines and Financial Reporting Requirements for Debtors-in-Possession and Trustees (the "U.S. Trustee Guidelines"), the Debtors submit that cause exists to temporarily suspend the requirements of section 345(b) and the U.S. Trustee Guidelines for an interim period of forty-five days from the Petition Date, without prejudice to the Debtors' ability to seek further extensions to the extent necessary.

36. Section 345(a) of the Bankruptcy Code authorizes a debtor in possession to make deposits or investments of estate money in a manner "as will yield the maximum reasonable net

return on such money, taking into account the safety of such deposit or investment." 11 U.S.C. § 345(a). For deposits or investments that are not "insured or guaranteed by the United States or by a department, agency, or instrumentality of the United States or backed by the full faith and credit of the United States," section 345(b) of the Bankruptcy Code provides that the estate must require from the entity with which the money is deposited or invested a bond in favor of the United States secured by the undertaking of an adequate corporate surety, "unless the court for cause orders otherwise." *Id.* § 345(b). Alternatively, the debtor may require the entity to deposit governmental securities pursuant to 31 U.S.C. § 9303.

37. Accordingly, it is within the Court's discretion to waive or modify the investment guidelines of Bankruptcy Code section 345(b) for "cause." *See Id*. § 345(b)(2); *In re Serv. Merch. Co.*, 240 B.R. 894, 896-97 (Bankr. M.D. Tenn. 1999) (concluding that "cause" existed to waive requirements of section 345 because the benefit of waiving the requirements of section 345(b) "far outweighed any potential harm to the estate"); *see also* H.R. Rep. 103-835, 103rd Cong., 2d Sess. 47 (Oct. 4, 1994), *reprinted in* 1994 U.S.C.C.A.N. 3340, 3354 (noting that section 345(b) investment guidelines may be "wise in the case of a smaller debtor with limited funds that cannot afford a risky investment to be lost, [but] can work to needlessly handcuff larger, more sophisticated debtors").

38. In determining whether the "for cause" standard has been satisfied, the Court should consider the "totality of the circumstances," utilizing the following factors:

a. the sophistication of the debtor's business;

b. the size of the debtor's business operations;

c. the amount of the investments involved;

d. the bank ratings (Moody's and S&P) of the financial institutions where the debtor in possession funds are held;

e. the complexity of the case;

f. the safeguards in place within the debtor's own business of insuring the safety of the funds;

g. the debtor's ability to reorganize in the face of a failure of one or more of the financial institutions;

h. the benefit to the debtor;

i. the harm, if any, to the estate; and

j. the reasonableness of the debtor's request for relief from section 345(b) requirements in light of the overall circumstances of the case.

In re Serv. Merch. Co., 240 B.R. at 896.

39. Moreover, the U.S. Trustee Guidelines require debtors in possession to (a) close all existing bank accounts and open new debtor in possession bank accounts at an authorized depository; (b) establish one debtor in possession account for all estate monies required for payment of taxes, including payroll taxes; (c) physically set aside all monies required by law to be withheld from employees or collected from others for taxes; (d) open a new set of books and records as of the commencement date of the case; (e) use new business forms in possession status of the chapter 11 debtor, including checks that bear the designation "debtor in possession" and reference the bankruptcy case number and type of account on such checks; and (f) make all disbursements of estate funds by check with a notation representing the reason for the Disbursement. These guidelines are designed to create a clear demarcation between prepetition and post-petition operations and to prevent the inadvertent payment of prepetition obligations.

40. The Debtors' Bank Accounts are maintained at BofA, and SVB, which are well-capitalized and financially stable institutions that are federally insured by the Federal Deposit Insurance Corporation (the "FDIC"). Consequently, the Debtors believe that the Banks are well-positioned to perform depository and cash management functions during these chapter 11 cases.

Thus, the Debtors believe that any funds that are deposited in these Bank Accounts are and will remain secure during the pendency of these chapter 11 cases. Additionally, BofA and, upon information and belief, First Citizens Bank (of which SVB is a division) are designated as authorized depositories according to the U.S. Trustee Guidelines.

41. The Debtors submit that cause exists to suspend the requirements of section 345 of the Bankruptcy Code and the U.S. Trustee Guidelines for a period of forty-five days, without prejudice to the Debtors' ability to seek further extensions to the extent necessary. This relief will avoid the additional and unnecessary administrative burdens and disruption to the Debtors' operations that would ensue if the Debtors were required to, for example, close the Debtors' Bank Accounts at SVB and re-open them at other authorized depositories at this juncture in these Chapter 11 Cases, and make all disbursements by check. Requiring the Debtors to change their Bank Accounts at this time, when they are focusing on making a smooth transition into chapter 11, would impose significant administrative burdens on the Debtors and their employees with no corresponding benefit to the estates, which would, in turn, impede the Debtors' smooth transition into chapter and ability to stabilize their ordinary course operations.

42. In addition, the Debtors utilize checks only on an infrequent basis and have processed the majority of payments through other forms of transfers. If the Debtors' ability to conduct transactions by debit, wire transfer, credit card, ACH, or other similar methods is impaired, the Debtors' day-to-day activities may be unnecessarily disrupted, and their estates will incur additional costs.

Emergency Consideration

43. Pursuant to Bankruptcy Local Rule 9013-1, the Debtors request emergency consideration of this Motion. Bankruptcy Rule 6003 empowers a court to grant relief within the first twenty-one days after the commencement of a chapter 11 case if "relief is needed to avoid immediate and irreparable harm." Fed. R. Bankr. P. 6003. An immediate and orderly transition into chapter 11 is critical to the viability of the Debtors' operations. Failure to receive the requested relief during the first twenty one days of these chapter 11 cases would cause irreparable harm. As such, the relief requested is necessary in order for the Debtors to operate their businesses in the ordinary course and preserve the ongoing value of the Debtors' operations while maximizing the value of their estates for the benefit of all stakeholders. The Debtors have satisfied the "immediate and irreparable harm" standard and request that the Court approve the Motion on an emergency basis.

Waiver of Bankruptcy Rules 6004(a) and 6004(h)

44. The Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the fourteen-day stay period under Bankruptcy Rule 6004(h), to the extent applicable.

Reservation of Rights

45. Nothing contained herein or any actions taken pursuant to such relief requested is intended or shall be construed as: (a) an admission as to the amount of, basis for, or validity of any claim against any Debtor under the Bankruptcy Code or other applicable law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a

type specified or defined in this Motion or any order granting the relief requested by this Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates (and the rights of all parties in interest are expressly reserved with respect to such liens); or (g) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law. If the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim.

Notice

46. The Debtors have provided notice of this Motion to the following parties or their respective counsel: (a) the U.S. Trustee; (b) the holders of the thirty largest unsecured claims against the Debtors (on a consolidated basis); (c) the Banks; (d) counsel to certain Senior Secured Noteholders; (e) the United States Attorney's Office for the Southern District of Texas; (f) the state attorneys general for states in which the Debtors conduct business; (g) other governmental or regulatory agencies having a regulatory or statutory interest in these cases; (h) American Express; and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002 and Bankruptcy Local Rule 9013-1(d). In light of the nature of the relief requested, the Debtors submit that no other or further notice is required.

WHEREFORE, The Debtors request that the Court enter the Interim Order and the Final Order granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Dated: April 9, 2026

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

By: */s/ Ryan Manns*

Ryan Manns (SBT 24041391)
Maria Mokrzycka (SBT 24119994)
1550 Lamar, Suite 2000
Houston, TX 77010
Tel: (713) 651-5151
Email: ryan.manns@nortonrosefulbright.com
Email: maria.mokrzycka@nortonrosefulbright.com

Jason I. Blanchard (SBT 24130197)
Michael Berthiaume (SBT 24066039)
2200 Ross Avenue, Suite 3600
Dallas, TX 75201
Tel: (214) 855-8210
Email: jason.blanchard@nortonrosefulbright.com
Email: michael.berthiaume@nortonrosefulbright.com

Proposed Counsel to the Debtors and Debtors in Possession

Certificate of Accuracy

I certify that the foregoing statements are true and accurate to the best of my knowledge. This statement is being made pursuant to Bankruptcy Local Rule 9013-1(i).

/s/ Ryan Manns
Ryan Manns

Certificate of Service

I certify that on April 9, 2026 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. Additionally, the foregoing document will be served as set forth in a forthcoming affidavit filed by the Debtors' proposed claims agent.

/s/ Ryan Manns
Ryan Manns

Exhibit A

Cash Management System Schematic

Ascend Elements

Cash Schematic

As of 4/8/2026

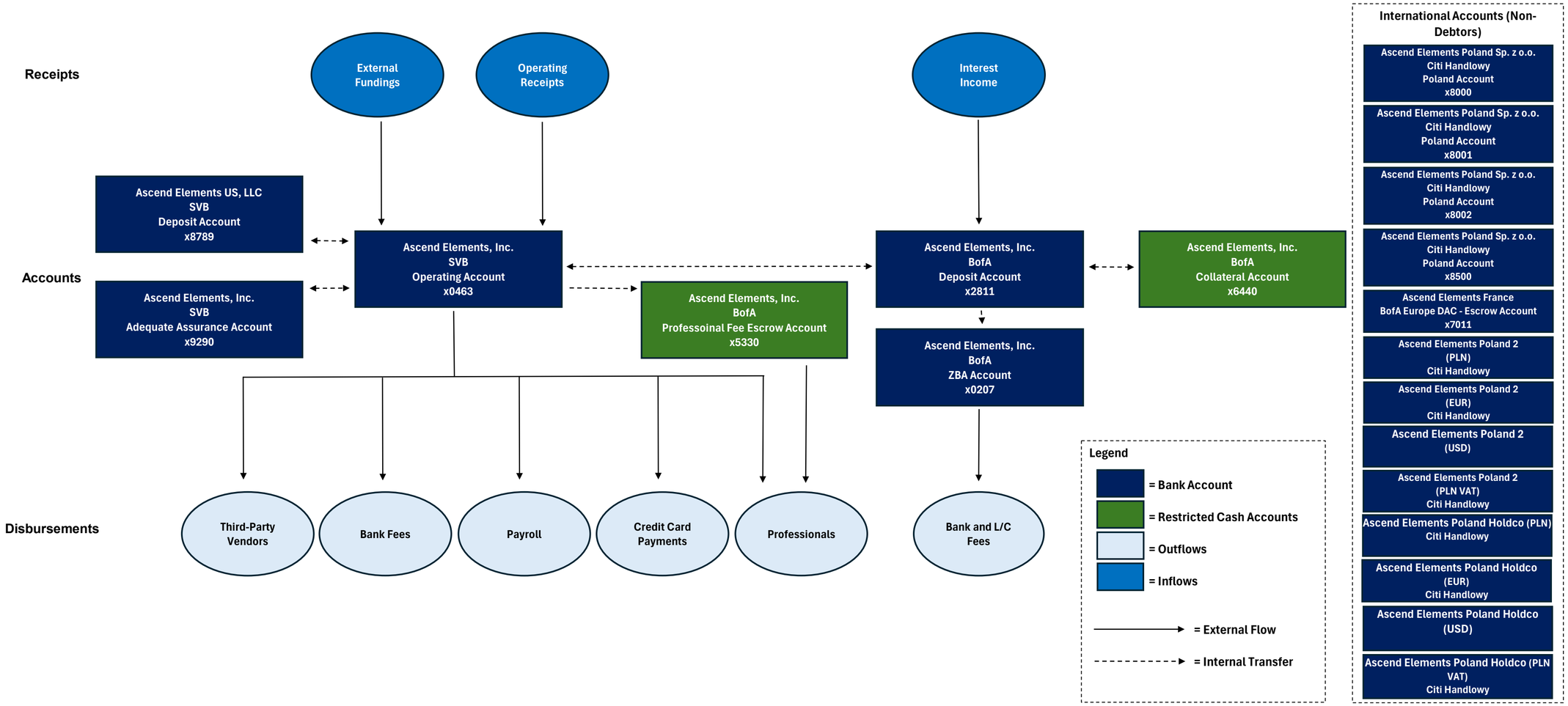


Exhibit B

Bank Accounts

Bank	Account No. Ending	Debtor Entity	Description	Balance as of April 9, 2026
Silicon Valley Bank, a Division of First Citizens Bank	*x0463*	Ascend Elements, Inc.	Main Operating Account of the Debtors	$1,836,353
Silicon Valley Bank, a Division of First Citizens Bank	*x9290*	Ascend Elements, Inc.	Adequate Assurance Account	$0
Bank of America, N.A.	*x2811*	Ascend Elements, Inc.	Depository Account	$10,525,925
Bank of America, N.A.	*x6440*	Ascend Elements, Inc.	Collateral Account	$5,946,287
Bank of America, N.A.	*x0207*	Ascend Elements, Inc.	ZBA Account	$0
Silicon Valley Bank, a Division of First Citizens Bank	*x8789*	Ascend Elements US, LLC	Depository Account	$100,000
Bank of America, N.A.	*X5330*	Ascend Elements, Inc.	Professional Fee Escrow Account	$0

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

In re:	)	Chapter 11
ASCEND ELEMENTS, INC. *et al.*,[1]	)	Case No. 26-90440 (ARP)
Debtors.	)	(Joint Administration Requested)

INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE TO OPERATE THEIR EXISTING CASH MANAGEMENT SYSTEM; (B) MAINTAIN THEIR EXISTING BANK ACCOUNTS; (C) PAY RELATED PREPETITION OBLIGATIONS; AND (D) CONTINUE TO PERFORM INTERCOMPANY TRANSACTIONS; AND (II) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for the entry of an interim order (this "Interim Order"), (i) authorizing the Debtors to (a) continue operating their Cash Management System, (b) maintain their existing Bank Accounts, (c) pay related prepetition obligations, and (d) continue to perform Intercompany Transactions, and (ii) granting certain related relief, all as more fully set forth in the Motion and the First Day Declaration; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the *Order of Reference to Bankruptcy Judges* from the United States District Court for the Southern District of Texas, entered May 24, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Ascend Elements, Inc. (2893) and Ascend Elements US, LLC (8309). The location of the Debtors' service address is: 133 Flanders Road, Westborough, MA 01581.

[2] Capitalized terms used but not defined herein have the meanings ascribed to them in the Motion.

pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates, as contemplated by Bankruptcy Rule 6003; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court, if any; and this Court having determined that the legal and factual bases set forth in the Motion and at the hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT**:

1. The final hearing (the "Final Hearing") on the Motion shall be held on ___, 2026, at_:__.m., prevailing Central Time. Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m., prevailing Central Time, on _, 2026. In the event no objections to entry of a final order on the Motion are timely received, the Court may enter such final order without need for the final hearing.

2. Subject to the limitations of this Interim Order, the Debtors are authorized, on an interim basis and in the ordinary course of business and consistent with prepetition practices to (a) maintain and continue using the Cash Management System as described in the Motion and honor any prepetition or postpetition obligations related to the use thereof, including the payment of Bank Fees; (b) maintain and continue to use the Bank Accounts identified on **Exhibit B** to the Motion; (c) deposit funds in and withdraw funds from the Bank Accounts by all usual means, including electronic fund transfers, wire transfers, ACH transfers, credit card transactions, checks,

and other debits or electronic means; (d) maintain their Books and Records and their existing Business Forms (including letterhead) without reference to the Debtors' status as debtors in possession; *provided* that once the Debtors have exhausted their existing stock of checks, the Debtors shall ensure that any new Business Forms are clearly labeled "Debtor In Possession" as soon as it is reasonably practicable to do so; and (e) treat their prepetition Bank Accounts for all purposes as debtor-in-possession accounts; *provided*, that the Debtors shall provide 3 business days' prior written notice to the U.S. Trustee, any statutory committee appointed in these chapter 11 cases, and counsel to the Senior Secured Holders of any material changes to their Cash Management System (the "Notice Parties").

3. The Debtors are authorized, but not directed, to continue the Corporate Card Program and to pay any prepetition or post-petition amounts related thereto.

4. Nothing contained herein shall prevent the Debtors from closing any Bank Accounts as they may deem necessary and appropriate, subject to providing reasonable prior written notice to the Notice Parties, to the extent consistent with any orders of this Court and the terms of any prepetition financing agreements. The Banks are authorized to honor the Debtors' requests to close such Bank Accounts.

5. The Debtors are authorized to open new bank accounts so long as (a) any such new account is designated as a "Debtor-in-Possession" account with the Debtors' existing bank or with a bank that (i) is insured with the FDIC or the Federal Savings and Loan Insurance Corporation, (ii) is designated as an authorized depository by the U.S. Trustee, and (iii) agrees to be bound by the terms of this Interim Order, and (b) the Debtors provide 3 business days' prior written notice to the Notice Parties; *provided*, that all accounts opened by any of the Debtors on or after the Petition Date at any bank shall, for purposes of this Interim Order, be deemed a Bank Account

subject to this Interim Order as if it had been listed on **Exhibit B** to the Motion, *provided further*, that such opening shall be timely indicated on the Debtors' monthly operating reports.

6. The Banks are authorized and directed to continue to maintain, service and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption on an interim basis and in the ordinary course of business. The Banks are authorized to receive, process, honor, and pay any and all electronic fund transfers, wire transfers, ACH transfers, checks and drafts issued by the Debtors within thirty days prior to the Petition Date, solely if such electronic fund transfers, wire transfers, ACH transfers, checks and drafts are on account of payments that have been authorized pursuant to an order of the Court and sufficient funds are on deposit in the applicable Bank Accounts to cover such payments.

7. The Banks are authorized to charge, and the Debtors are authorized to pay, honor, or allow any undisputed Bank Fees associated with the Bank Accounts, and charge back returned checks or other items to the Bank Accounts in the ordinary course, including any prepetition amounts.

8. Within twenty-one days of the entry of this Interim Order, the Debtors shall serve a copy of this Interim Order on the Banks and identify each of their Bank Accounts as being held by a debtor in possession.

9. The Debtors are authorized, but not directed, to continue to enter into and engage in Intercompany Transactions and to take any actions related thereto on the same terms as, and consistent with, the Debtors' operation of the business in the ordinary course during the prepetition period. For the avoidance of doubt, the Debtors shall not make any investments, loans, or other non-ordinary course transfers to any non-Debtor affiliates without providing prior written notice to counsel to the Senior Secured Holders. The Debtors shall continue to record and reconcile

intercompany receivables and payables through the Cash Management System consistent with prepetition practices; *provided*, *however,* that such records shall be made available upon request by the Notice Parties.

10. All postpetition payments owed by a Debtor to a non-Debtor foreign affiliate in connection with any Intercompany Transaction shall be subject to the Non-Debtor Affiliate Funding Cap.

11. Pursuant to sections 503(b)(1) and 364(b) of the Bankruptcy Code, all postpetition payments on account of any Intercompany Transactions between and among the Debtors, including any interest and fees related thereto, shall in each case be accorded administrative expense status; *provided, that* any such administrative expense status shall be junior and subordinate to any carve-out and any superpriority administrative expense claims granted pursuant to any interim and final orders approving the Debtors' use of cash collateral or postpetition secured debtor-in-possession financing of the Debtors.

12. Notwithstanding anything to the contrary contained in the Motion or this Interim Order, any payment to be made and any relief or authorization granted hereunder shall be limited by, and shall be subject to, the requirements imposed on the Debtors in any orders entered by this Court authorizing the Debtors' use of cash collateral (any such order, a "CC Order"), including, for the avoidance of doubt, any budget and the terms of any definitive documentation in connection therewith (the "CC Documents"). To the extent of any conflict (but solely to the extent of such conflict) between the terms of the Motion or this Interim Order and the terms of any CC Order or any CC Documents, the terms of the CC Order or such CC Document, as applicable, will govern.

13. The Debtors shall continue to maintain current, detailed, and accurate records with respect to all transfers so that all transactions, including Intercompany Transactions, may be

readily ascertained, traced, and recorded properly on applicable intercompany accounts, and distinguished between prepetition and post-petition transactions; *provided* that, such records shall be provided to counsel to the Senior Secured Holders upon request. To the extent that the transfers within the Cash Management System are disbursements, they will be noted and reflected on the monthly operating reports and post confirmation reports filed by the Debtors.

14. The Banks are authorized to process, honor and pay all electronic fund transfers or checks drawn on the Debtors' Bank Accounts after the Petition Date by holders, makers, or other parties entitled to issue instructions with respect thereto, *provided*, that sufficient funds are available in the applicable Bank Account to make the payments.

15. The Banks are authorized to process, honor and pay all checks issued by the Debtors within ninety days prior to the Petition Date, solely if such checks are on account of payments that have been authorized pursuant to an order of the Court and sufficient funds are on deposit in the applicable Bank Accounts to make such payments.

16. The Banks may rely upon the representations of the Debtors with respect to whether any check, draft, wire, payment order, or other transfer drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to any order of this Court, and no bank that honors such a prepetition check, draft, wire, payment order, or other transfer drawn on any Bank Account (a) at the direction of the Debtors or (b) in a good-faith belief that this Court has authorized such prepetition check, draft, wire, payment, or other transfer to be honored shall be deemed to be, nor shall be, liable to the Debtors or their estates or any other party on account thereof or otherwise be deemed to be in violation of this Interim Order.

17. To the extent any of the Debtors' Bank Accounts are not in compliance with Bankruptcy Code section 345(b) or any of the U.S. Trustee's requirements or guidelines, the

Debtors shall have forty-five (45) days from the Petition Date, without prejudice to seeking an additional extension, to either come into compliance with Bankruptcy Code section 345(b) and any of the U.S. Trustee's requirements or guidelines; *provided* that nothing herein shall prevent the Debtors or the U. S. Trustee from seeking further relief from the Court to the extent that an agreement cannot be reached. The Debtors may obtain a further extension of the time period set forth in this paragraph by written stipulation with the U.S. Trustee and filing such stipulation on the Court's docket without the need for further Court order.

18. All time periods set forth in this Interim Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

19. Notwithstanding the relief granted herein and any actions taken pursuant to such relief, and subject to the administrative status afforded pursuant to this Interim Order, nothing in this Interim Order shall be deemed: (a) an admission by the Debtors as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors', or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or any order granting the relief requested by the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission by the Debtors as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; (g) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common

law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

20. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003.

21. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

22. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

23. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order.

24. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

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

In re:	)	Chapter 11
ASCEND ELEMENTS, INC. *et al.*,[1]	)	Case No. 26-90440 (ARP)
Debtors.	)	(Joint Administration Requested)

FINAL ORDER (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE TO OPERATE THEIR EXISTING CASH MANAGEMENT SYSTEM; (B) MAINTAIN THEIR EXISTING BANK ACCOUNTS; (C) PAY RELATED PREPETITION OBLIGATIONS; AND (D) CONTINUE TO PERFORM INTERCOMPANY TRANSACTIONS; AND (II) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for the entry of a final order (this "Final Order"), (i) authorizing the Debtors to (a) continue operating their Cash Management System, (b) maintain their existing Bank Accounts, (c) pay related prepetition obligations, and (d) continue to perform Intercompany Transactions, and (ii) granting certain related relief, all as more fully set forth in the Motion and the First Day Declaration; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and the *Order of Reference to Bankruptcy Judges* from the United States District Court for the Southern District of Texas, entered May 24, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Ascend Elements, Inc. (2893) and Ascend Elements US, LLC (8309). The location of the Debtors' service address is: 133 Flanders Road, Westborough, MA 01581.

[2] Capitalized terms used but not defined herein have the meanings ascribed to them in the Motion.

pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates, as contemplated by Bankruptcy Rule 6003; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court, if any; and this Court having determined that the legal and factual bases set forth in the Motion and at the hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT**:

1. The Debtors are authorized, in the ordinary course of business and consistent with prepetition practices to (a) maintain and continue using the Cash Management System as described in the Motion and honor any prepetition or postpetition obligations related to the use thereof, including the payment of Bank Fees; (b) maintain and continue to use the Bank Accounts identified on **Exhibit B** to the Motion; (c) deposit funds in and withdraw funds from the Bank Accounts by all usual means, including electronic fund transfers, wire transfers, ACH transfers, credit card transactions, checks, and other debits or electronic means; (d) maintain their Books and Records and their existing Business Forms (including letterhead) without reference to the Debtors' status as debtors in possession; *provided* that once the Debtors have exhausted their existing stock of checks, the Debtors shall ensure that any new Business Forms are clearly labeled "Debtor In Possession" as soon as it is reasonably practicable to do so; and (e) treat their prepetition Bank Accounts for all purposes as debtor-in-possession accounts; *provided*, that the Debtors shall

provide 3 business days' prior written notice to the U.S. Trustee, any statutory committee appointed in these chapter 11 cases, and counsel to the CLN Secured Parties of any material changes to their Cash Management System (the "Notice Parties").

2. The Debtors are authorized, but not directed, to continue the Corporate Card Program and to pay any prepetition or postpetition amounts related thereto.

3. Nothing contained herein shall prevent the Debtors from closing any Bank Accounts as they may deem necessary and appropriate, subject to providing reasonable prior written notice to the Notice Parties, to the extent consistent with any orders of this Court and the terms of any prepetition financing agreements. The Banks are authorized to honor the Debtors' requests to close such Bank Accounts.

4. The Debtors are authorized to open new bank accounts so long as (a) any such new account is designated as a "Debtor-in-Possession" account with the Debtors' existing bank or with a bank that (i) is insured with the FDIC or the Federal Savings and Loan Insurance Corporation, (ii) is designated as an authorized depository by the U.S. Trustee, and (iii) agrees to be bound by the terms of this Final Order, and (b) the Debtors provide 3 business days' prior written notice to the Notice Parties; *provided,* that all accounts opened by any of the Debtors on or after the Petition Date at any bank shall, for purposes of this Final Order, be deemed a Bank Account subject to this Final Order as if it had been listed on **Exhibit B** to the Motion, *provided further*, that such opening shall be timely indicated on the Debtors' monthly operating reports.

5. The Banks are authorized and directed to continue to maintain, service and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course of business. The Banks are authorized to receive, process, honor, and pay any and all electronic fund transfers, wire transfers, ACH transfers, checks and

drafts issued by the Debtors within thirty days prior to the Petition Date, solely if such electronic fund transfers, wire transfers, ACH transfers, checks and drafts are on account of payments that have been authorized pursuant to an order of the Court and sufficient funds are on deposit in the applicable Bank Accounts to cover such payments.

6. The Banks are authorized to charge, and the Debtors are authorized to pay, honor, or allow any undisputed Bank Fees associated with the Bank Accounts, and charge back returned checks or other items to the Bank Accounts in the ordinary course, including any prepetition amounts.

7. Within twenty-one days of the entry of this Final Order, the Debtors shall serve a copy of this Final Order on the Banks and identify each of their Bank Accounts as being held by a debtor in possession.

8. The Debtors are authorized, but not directed, to continue to enter into and engage in Intercompany Transactions and to take any actions related thereto on the same terms as, and consistent with, the Debtors' operation of the business in the ordinary course during the prepetition period. For the avoidance of doubt, the Debtors shall not make any investments, loans, or other non-ordinary course transfers to any non-Debtor affiliates without the prior written notice to counsel to the Senior Secured Holders. The Debtors shall continue to record and reconcile intercompany receivables and payables through the Cash Management System consistent with prepetition practices; *provided*, however, that such records shall be made available upon request by the Notice Parties.

9. All postpetition payments owed by a Debtor to a non-Debtor foreign affiliate in connection with any Intercompany Transaction shall be subject to the Non-Debtor Affiliate Funding Cap.

10. Pursuant to sections 503(b)(1) and 364(b) of the Bankruptcy Code, all postpetition payments on account of any Intercompany Transactions between and among the Debtors, including any interest and fees related thereto, shall in each case be accorded administrative expense status; *provided, that* any such administrative expense status shall be junior and subordinate to any carve-out and any superpriority administrative expense claims granted pursuant to any interim and final orders, as applicable, approving the Debtors' use of cash collateral or postpetition secured debtor-in-possession financing of the Debtors.

11. Notwithstanding anything to the contrary contained in the Motion or this Final Order, any payment to be made and any relief or authorization granted hereunder shall be limited by, and shall be subject to, the requirements imposed on the Debtors in any orders entered by this Court authorizing the Debtors' use of cash collateral (any such order, a "CC Order"), including, for the avoidance of doubt, any budget and the terms of any definitive documentation in connection therewith (the "CC Documents"). To the extent of any conflict (but solely to the extent of such conflict) between the terms of the Motion or this Final Order and the terms of any CC Order or any CC Documents, the terms of the CC Order or such CC Document, as applicable, will govern.

12. The Debtors shall continue to maintain current, detailed, and accurate records with respect to all transfers so that all transactions, including Intercompany Transactions, may be readily ascertained, traced, and recorded properly on applicable intercompany accounts, and distinguished between prepetition and postpetition transactions; *provided* that, such records shall be provided to counsel to the Senior Secured Holders upon request. To the extent that the transfers within the Cash Management System are disbursements, they will be noted and reflected on the monthly operating reports and post confirmation reports filed by the Debtors.

13. The Banks are authorized to process, honor and pay all electronic fund transfers or

checks drawn on the Debtors' Bank Accounts after the Petition Date by holders, makers, or other parties entitled to issue instructions with respect thereto, *provided*, that sufficient funds are available in the applicable Bank Account to make the payments.

14. The Banks are authorized to process, honor and pay all checks issued by the Debtors within ninety days prior to the Petition Date, solely if such checks are on account of payments that have been authorized pursuant to an order of the Court and sufficient funds are on deposit in the applicable Bank Accounts to make such payments.

15. The Banks may rely upon the representations of the Debtors with respect to whether any check, draft, wire, payment order, or other transfer drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to any order of this Court, and no bank that honors such a prepetition check, draft, wire, payment order, or other transfer drawn on any Bank Account (a) at the direction of the Debtors or (b) in a good-faith belief that this Court has authorized such prepetition check, draft, wire, payment, or other transfer to be honored shall be deemed to be, nor shall be, liable to the Debtors or their estates or any other party on account thereof or otherwise be deemed to be in violation of this Final Order.

16. To the extent any of the Debtors' Bank Accounts are not in compliance with Bankruptcy Code section 345(b) or any of the U.S. Trustee's requirements or guidelines, the Debtors shall have 45 days from the Petition Date, without prejudice to seeking an additional extension, to either come into compliance with Bankruptcy Code section 345(b) and any of the U.S. Trustee's requirements or guidelines; *provided* that nothing herein shall prevent the Debtors or the U. S. Trustee from seeking further relief from the Court to the extent that an agreement cannot be reached. The Debtors may obtain a further extension of the time period set forth in this paragraph by written stipulation with the U.S. Trustee and filing such stipulation on the Court's

docket without the need for further Court order.

17. All time periods set forth in this Final Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

18. Notwithstanding the relief granted herein and any actions taken pursuant to such relief, and subject to the administrative status afforded pursuant to this Final Order, nothing in this Final Order shall be deemed: (a) an admission by the Debtors as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors', or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or any order granting the relief requested by the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission by the Debtors as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; (g) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

19. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003.

20. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules

are satisfied by such notice.

21. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

22. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order.

23. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.