Docket #0483 Date Filed: 06/17/2026

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 (CML)
Debtors.	)	(Jointly Administered)

DECLARATION OF ADAM TITUS IN SUPPORT OF ENTRY OF AN ORDER (I) APPROVING THE SETTLEMENT AGREEMENT BETWEEN THE DEBTORS AND THE UNITED STATES OF AMERICA, (II) AUTHORIZING IMPLEMENTATION OF THE SETTLEMENT AGREEMENT, AND (III) GRANTING RELATED RELIEF

I, Adam Titus, pursuant to section 1746 of title 28 of the United States Code, hereby declare that the following is true and correct to the best of my knowledge, information, and belief:

1. I am Chief Restructuring Officer of both Ascend Elements, Inc. ("Ascend Elements") and Ascend Elements, US, LLC ("AEL" and, collectively with Ascend Elements, the "Debtors" and, together with their non-Debtor affiliates, the "Company") and a Senior Director at Alvarez & Marsal North America, LLC ("A&M"). I am also the former interim Chief Financial Officer of the Company.

2. Before joining A&M in February 2009, I worked as an investment banker at Wachovia Securities in the leveraged finance group, where I underwrote and executed leveraged loans and high-yield debt offerings. I was previously an associate at Liberty Lane Partners, a middle-market private equity firm where I focused on evaluating, executing, and managing control investments in middle-market companies, including financial diligence,

[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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transaction structuring, and portfolio company oversight. I earned a bachelor's degree in finance from Bentley University in Waltham, Massachusetts.

3. I am authorized to submit this declaration (the "Declaration")[2] on behalf of the Debtors in the above-captioned cases and in support of entry of the order approving the settlement of certain claims (the "Settlement Agreement") held by the United States of America (the "USA") as described in the *Debtors' Motion for Entry of an Order (I) Approving Settlement Agreement Between the Debtors and the United States of America, (II) Authorizing Implementation of the Settlement Agreement, and (III) Granting Related Relief* [Docket No. 482] (the "Settlement Motion").

4. The views and opinions expressed in this Declaration are based on my professional experience generally and my experience working with the Debtors specifically.

5. Since A&M's engagement in September 2025, and in my roles as interim Chief Financial Officer and now Chief Restructuring Officer, I have worked closely with the Debtors' management and other advisors on the Debtors' liquidity, operations, restructuring efforts, and sale process.

6. In reaching my conclusions, I have relied, in part, on (a) my personal knowledge; (b) information provided by the Debtors' management, employees, and other professional advisors; and (c) the Debtors' books and records. With respect to statements made based on documents or information prepared or supplied by the Debtors or their advisors, I have relied upon the accuracy of such documents and information.

7. As CRO, I have been directly involved in the matters leading up to the Debtors' chapter 11 cases, the Debtors' postpetition operations, and the evaluation and pursuit of settlements with certain counterparties. I am familiar with the settlement process, the

[2] Capitalized terms used but not defined in this Declaration shall have the meanings ascribed to them in the Settlement Motion.

negotiations related to the Settlement Agreement, and the Debtors' decision to accept the terms of the Settlement Agreement

I. The Terms of the Settlement Agreement

8. As described in the Settlement Motion, the U.S. Department of Energy (the "DOE") provided the Debtors with funding for the construction and commissioning of the Apex 1 Facility in Hopkinsville, Kentucky pursuant to Assistance Agreement DE-MS0000002 (the "Grant Agreement"), under which the Debtors submitted reimbursement requests to the DOE for eligible project costs. It is my understanding that after receiving information from the former employer of a subcontractor, the Debtors discovered information indicating that the contractor and subcontractor charges paid by the Debtors and reimbursed by the DOE were excessive or otherwise improper.

9. It is my understanding that on February 18, 2025, the Debtors voluntarily disclosed these issues to the USA and thereafter cooperated extensively with the DOE and the Department of Justice with their review of the matter. The Debtors faced a potential liability of nearly $16 million.

10. However, due to the Debtors' cooperation with the USA and subsequent good-faith negotiations, the Debtors and the USA were able to ultimately reach the Settlement Agreement. The Settlement Agreement obligates the Debtors to pay to the USA $7,497,555.65 (the "Settlement Amount"), of which $5,316,145.00 is payment in restitution. In exchange, the USA will agree to release the Debtors from any civil claim the USA has under the False Claims Act, the Program Fraud Civil Remedies Act, and the Contract Disputes Act, as well as for common law theories sounding in breach of contract, payment by mistake, unjust enrichment, and fraud. The Debtors, however, will not be required to pay any cash over to the USA to satisfy the Settlement Amount. The Settlement Amount will instead be paid through the USA's

setoff or recoupment of DOE funds owed to Ascend in connection with the closeout audit of the Grant Agreement.

II. The Settlement Agreement Represents the Best Possible Resolution of the Claims Held by the USA.

11. Resolving the issues underlying the dispute with the USA would involve a complicated review of years of contractor and subcontractor charges relating to the construction of the Apex 1 facility and the subsequent reimbursement claims submitted to the DOE. The internal review already conducted by the Debtors and voluntarily disclosed to the USA revealed approximately $16 million in overbilling by a single subcontractor, and further review would be required to determine whether there were other billing inconsistencies.

12. In my view, litigation with the USA over the reimbursement charges is a daunting prospect. Full litigation of the dispute would likely require extensive document discovery, expert analysis, forensic accounting, and potentially lengthy litigation concerning liability, damages, and the parties' respective rights under the Grant Agreement. Such litigation could continue for months, if not longer, and would consume resources that would otherwise be available to administer these estates and maximize value for creditors. As I have described in previous declarations, the Debtors remain in a severe liquidity crunch, and it is difficult to see how litigating with the USA would do anything but drain the Debtors of their finite resources with little or no benefit in return. Even if the Debtors ultimately prevailed on certain issues in litigation with the USA, the cost, delay, and uncertainty of litigating these claims would materially diminish recoveries available to creditors.

13. In addition, the Settlement Agreement resolves all asserted civil claims without requiring the Debtors to fund an additional cash payment from limited assets of the estates, because the Settlement Amount will be satisfied through setoff. This would be a boon both to the Debtors and to all stakeholders to these cases, as it removes the uncertainty around the USA's claims and provides the estates with immediate and tangible benefits. In addition,

because the Settlement Amount will be paid via setoff of amounts owed by the USA instead of with limited estate resources, the Settlement Agreement helps to preserve assets for creditor distribution.

III. Entry into the Settlement Agreement is a Sound Exercise of the Debtors' Business Judgment.

14. In my judgment, the proposed Settlement Agreement represents the best currently available and executable path to resolving the disputes between the USA and the Debtors.

15. Postpetition, the Debtors engaged in arms'-length, good faith negotiations with the USA to resolve the claims asserted by the USA, which resulted in the Settlement Agreement. As stated above, the Settlement Agreement is the product of a process that began with the Debtors' good-faith, cooperative disclosures to the USA of inconsistencies in their billing records and culminated with arms'-length negotiations between the USA (as represented by the Department of Justice) and the Debtors.

16. More importantly, the Settlement Agreement preserves estate assets and serves the paramount interests of creditors of the estates. Due to the Debtors' limited remaining liquidity and finite resources, it would not be prudent to engage in protracted and costly litigation with the USA, and therefore I believe the Debtors' entry into the Settlement Agreement to be a reasonable and wise choice supported by sound business judgment.

17. Moreover, based on my experience in restructuring, the certainty provided by the Settlement Agreement itself has inherent value. Resolving the USA's claims now (instead of after a litigation process) eliminates a significant contingent liability, avoids the incurrence of further administrative expenses, and allows the Debtors to focus their limited resources on completing these chapter 11 cases and maximizing value for creditors of the Debtors' estates.

18. Based on my involvement in the Debtors' restructuring efforts, I believe the proposed Settlement Agreement is reasonable, appropriate under the circumstances, and in the

best interests of the Debtors' estates and stakeholders. Failure to obtain prompt approval of the Settlement Agreement would harm the Debtors' ability to continue these chapter 11 cases and would reduce value available to creditors.

19. Based on the process conducted and the circumstances facing the Debtors, I believe approval of the proposed Settlement Agreement is appropriate and will benefit the Debtors' estates.

[*Signature on following page*]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

June 17, 2026

/s/ Adam Titus
Adam Titus