Docket #0626 Date Filed: 08/10/2026
United States Bankruptcy Court
Southern District of Texas
ENTERED
August 10, 2026
Nathan Ochsner, Clerk

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)

STIPULATION AND AGREED ORDER BETWEEN THE DEBTORS AND AMCON INDUSTRIAL RESOLVING THE AMCON LIEN DISPUTE

This Stipulation and Agreed Order (this "Stipulation and Agreed Order") is entered into by and among: (i) the above-captioned debtors and debtors in possession (the "Debtors"); and (ii) AM Construction Inc. d/b/a AMCON Industrial ("AMCON" and together with the Debtors, the "Parties"). The Parties, by and through their respective undersigned counsel, hereby stipulate and agree as follows:

WHEREAS, on April 9, 2026 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") with the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "Court");

WHEREAS, on June 30, 2026, the Court entered the *Order (I) Approving the Sale of Certain of the Debtors' Assets Free and Clear of Claims, Liens, and Encumbrances, (II) Approving the Assumption and Assignment of Designated Executory Contracts and Unexpired Leases and (III) Granting Related Relief* [Docket No. 534] (the "Covington Sale Order"), by which the Court approved the sale (the "Covington Sale") of the Acquired Assets (as defined in that certain Asset

[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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Purchase Agreement, dated as of June 19, 2026 (together with all other agreements and other instruments deliverable thereunder or attached thereto or referenced therein, and as may be amended, modified, or supplemented)), consisting of certain assets located or otherwise related to the Debtors' business operations in Covington, Georgia (collectively, the "Covington Assets");

WHEREAS, AMCON asserts a mechanics' and materialmen's lien against the Covington Assets, excluding any off-site feedstock or other off-site inventory, and the proceeds thereof from the Covington Sale (the "M&M Lien"); the Debtors and Committee dispute the validity, extent, priority, enforceability and amount of the M&M Lien;

WHEREAS, on June 23, 2026, AMCON filed proof of claim no. 12 (the "AMCON Claim") in the amount of $9,881,478.48 on account of certain Indebtedness (as defined therein) AMCON asserts is secured by the M&M Lien;

WHEREAS, pursuant to paragraph 40 of the Covington Sale Order, the Debtors and AMCON agreed to expedited litigation of the validity, priority, extent, enforceability, and amount of AMCON's asserted M&M Lien, and the allocation of sale proceeds, if any, attributable to AMCON's asserted M&M Lien (the "AMCON Lien Dispute");

WHEREAS, pursuant to paragraph 39 of the Covington Sale Order, the Debtors segregated $1.9 million of the proceeds from the Covington Sale in a separate, interest-bearing escrow account maintained by the Debtors (the "Covington Proceeds Escrow") pending the Court's determination of the AMCON Lien Dispute;

WHEREAS, pursuant to the *Stipulation and Agreed Scheduling Order by and Among the Debtors, Amcon Industrial, and the Official Committee of Unsecured Creditors* [Docket No. 565] the Parties agreed to litigation of certain Issues (as defined therein) with respect to the AMCON

Lien Dispute by way of a contested matter under Rule 9014 of the Federal Rules of Bankruptcy Procedure, on the schedule and terms set forth therein;

WHEREAS, on July 24, 2026, the Debtors and AMCON each filed briefs in support of their respective positions on the Issues [Docket Nos. 592, 593, 594], and on August 5, 2026, the Debtors and AMCON each filed responsive briefs [Docket Nos. 611, 612]; and

WHEREAS, the Parties have engaged in extensive, arms'-length negotiations and hereby enter into this Stipulation and Agreed Order to resolve the AMCON Lien Dispute, the AMCON Claim, and all other disputes between them pursuant to the terms and conditions stated herein.

NOW, THEREFORE, IT IS HEREBY STIPULATED, AGREED, AND ORDERED THAT:

1. The foregoing recitals are hereby incorporated by reference into this Stipulation and Agreed Order with the same force and effect as if fully set forth hereinafter.

2. Upon execution by the Parties and the Court's approval of this Stipulation and Agreed Order, AMCON shall have the following: (i) an allowed secured claim in the amount of $1,175,000.00 (the "AMCON Allowed Secured Claim") and (ii) a general unsecured claim in the amount of $8,706,478.48 (the "AMCON General Unsecured Claim"), allowed solely for purposes of voting on the Debtors' *Amended Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al.* [Docket No. 570] (as may be amended, modified, and supplemented from time to time) (the "Plan").

3. Within three (3) business days of the Court's approval of this Stipulation and Agreed Order, the Debtors shall pay AMCON the full amount of the AMCON Allowed Secured Claim from the Covington Proceeds Escrow, following which the balance of the funds in the Covington Proceeds Escrow shall be released to the Debtors.

4. On the Effective Date of the Plan (as defined therein), the AMCON General Unsecured Claim shall be deemed waived in its entirety.

5. Upon the receipt of payment by AMCON of the full amount of the AMCON Allowed Secured Claim, each Party, on behalf of itself and its respective predecessors, successors, affiliated companies (including parent companies, sister companies, and subsidiaries), representatives, agents, employees, officers, directors, and attorneys, if any (collectively, the "Releasing Parties"), jointly and severally, shall be deemed to have fully, finally, generally, completely, and forever waived, released, acquitted, discharged, and covenanted not to in any manner to pursue, each Party, and each of their respective predecessors, successors, affiliated companies (including parent companies, sister companies, and subsidiaries), representatives, agents, employees, officers, directors, investors, and attorneys, if any (collectively, the "Released Parties"), jointly and severally, from any and all claims, demands, actions, complaints, liabilities, obligations, remedies, and/or causes of action of whatever kind or character, whether known or unknown, liquidated or unliquidated, for any and all injuries, harm, damages (actual and punitive), penalties, costs, losses, expenses, attorneys' fees, and/or liability or other detriment, whether incurred or suffered now or which may in the future be incurred or suffered by the Releasing Parties (such release, the "Release"); provided that nothing herein shall constitute a release of any rights created under this Stipulation and Agreed Order.

6. This Stipulation and Agreed Order shall have no force or effect unless and until approved by the Bankruptcy Court.

7. This Stipulation and Agreed Order shall be effective and enforceable immediately upon entry, in accordance with its terms.

8. This Stipulation and Agreed Order constitutes the entire agreement between the Parties and supersedes all prior discussions, agreements, and understandings, both written and oral, among the Parties with respect to the subject matter hereof.

9. The Parties recognize and agree that this Stipulation and Agreed Order represents a settlement and compromise reached between the Parties based on, among other things, the circumstances of the Debtors' chapter 11 cases, and is being entered for the purpose of avoiding the burden, inconvenience, and expense of further litigation and disputes between the Parties. Nothing in this Stipulation and Agreed Order shall constitute or be construed as an admission by any Party of the validity or invalidity of any claim, lien, defense, or position asserted by any other Party.

10. This Stipulation and Agreed Order may be executed in separate counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument. This Stipulation and Order may be executed by exchange of facsimile or electronic signatures (in PDF or comparable format), which shall be deemed original signatures.

11. Each person who executes this Stipulation and Agreed Order on behalf of a Party hereto represents that he or she is duly authorized to execute this Stipulation and Order and agrees to the terms set forth herein.

12. The Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Stipulation and Agreed Order.

Signed: August 10, 2026

Christopher Lopez
United States Bankruptcy Judge

STIPULATED AND AGREED TO BY:

Dated: August 9, 2026

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