

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

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In re:

ASCEND PERFORMANCE MATERIALS  
HOLDINGS INC., *et al.*,<sup>1</sup>

Debtors.

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)  
) Chapter 11  
)  
) Case No. 25-90127 (CML)  
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)  
) (Jointly Administered)  
)

**OMNIBUS STATEMENT AND RESERVATION OF RIGHTS OF THE  
AD HOC GROUP REGARDING THE APPLICATIONS OF THE OFFICIAL  
COMMITTEE OF UNSECURED CREDITORS FOR ORDERS AUTHORIZING THE  
RETENTION OF ALIXPARTNERS, BROWN RUDNICK, AND PARKINS & RUBIO**

The ad hoc group of lenders (collectively, the “Ad Hoc Group”), by and through its undersigned counsel, hereby submits this omnibus statement and reservation of rights (this “Statement”) regarding the applications of the Official Committee of Unsecured Creditors (the “Committee”) for orders authorizing the retention of (i) AlixPartners, LLP (“AlixPartners”), as financial advisor [Docket No. 424] (the “AlixPartners Application”), (ii) Brown Rudnick LLP (“Brown Rudnick”), as co-counsel [Docket No. 425] (the “Brown Rudnick Application”), and (iii) Parkins & Rubio LLP (“P&R,” together with AlixPartners and Brown Rudnick, the “Committee Professionals”), as co-counsel [Docket No. 427] (the “P&R Application,” together with the AlixPartners Application and the Brown Rudnick Application, the “Applications”). In support of this Statement, the Ad Hoc Group respectfully states as follows:<sup>2</sup>

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<sup>1</sup> A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <https://dm.epiq11.com/Ascend>. The location of Debtor Ascend Performance Materials Holdings Inc.’s principal place of business is 1010 Travis St., Suite 900, Houston, Texas 77002.

<sup>2</sup> Terms used but not otherwise defined shall have the meanings ascribed to them in either the corresponding Applications or the *Final Order (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Authorizing the Use of Cash Collateral, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief* [Docket No. 389] (the “Final DIP Order”), as applicable.

## STATEMENT

1. The Ad Hoc Group seriously questions whether, and how, the employment of both AlixPartners and Ducera Partners LLC (“Ducera”) confers a benefit on the Committee, its out-of-the-money constituency, or the estate in the particular circumstances of these chapter 11 cases. For that reason, the Ad Hoc Group filed an objection to the retention of Ducera simultaneously herewith and maintains that the ever-expanding administrative costs related to Committee Professionals alone, to the tune of an estimated ***\$19 million in fees***, strain credibility. Fee estimates at this level benefit only the professionals employed and do nothing to further the recovery to their constituency.

2. Upon notification of the above-mentioned fee estimates, the Ad Hoc Group attempted to discuss and implement procedural safeguards related to costs of the Committee Professionals and Ducera in connection with negotiating the Final DIP Order with the Committee, to no avail. The Committee was unwilling to entertain any alteration to its employment of duplicative financial advisors or any associated fees.

3. As a result of the Committee Professionals’ and Ducera’s apparent belief that they have an entitlement to the unlimited use of encumbered collateral, the Ad Hoc Group counters the Committee’s threat of rising administrative costs by putting the Court and other parties in interest on notice of their request for expansive fees and expenses against these insolvent Debtors, withholding the Ad Hoc Group’s consent to use its collateral to pay unreasonable costs, and enforcing a strict review of all future fee applications.

### **RESERVATION OF RIGHTS**

4. Pursuant to the Applications, the Committee is requesting entry of orders pursuant to section 330 of the Bankruptcy Code that would require the filing of monthly, interim, and final requests by the Committee Professionals for the allowance of compensation and reimbursement of expenses,<sup>3</sup> pursuant to and in accordance with the applicable procedures set forth in the Bankruptcy Code, the Bankruptcy Rules, the Bankruptcy Local Rules, and any other applicable orders and procedures of the Court, including, without limitation, *Order (I) Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and (II) Granting Related Relief* [Docket No. 387] (the “Interim Compensation Order”). See AlixPartners Application, Exhibit A, at ¶ 4; Brown Rudnick Application, Exhibit A, at ¶ 3; P&R Application, at ¶ 27.

5. As further set forth in the Applications and attendant proposed orders, the Committee Professionals (i) would be required to maintain detailed records of fees and expenses incurred in connection with services rendered for the Committee, including, without limitation, (a) as to AlixPartners, reasonably detailed descriptions of those services, arranged by category and nature, the approximate time expended (in 1/10th of an hour increments), and the identity of the professionals who provided those services, and (b) as to Brown Rudnick and P&R, descriptions of the services, time expended, and the identity and hourly rates of the professionals who provided those services, and (ii) shall present such records together with their fee statements and applications. See AlixPartners Application, at ¶ 24; Brown Rudnick Application, at ¶ 17; P&R Application, at ¶ 24; Interim Compensation Order, at ¶¶ 1(b), (f).

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<sup>3</sup> While both the Brown Rudnick Application and the P&R Application specify that such compensation shall exclude expenses arising from the defense of any of their fee applications, the AlixPartners Application does not contain the same language. See Brown Rudnick Application, Exhibit A, at ¶ 8(a); P&R Application, at ¶ 27.

6. In light of the requested relief noted above, including, in particular, the approval of the applicable fee and expense structures of the Committee Professionals pursuant to section 330 of the Bankruptcy Code, the Ad Hoc Group does not object to the Applications at this time. The Ad Hoc Group, however, reserves the right to object to any modified orders sought by the Committee, should the terms of their proposed engagement be amended.

7. The Ad Hoc Group does not waive any right that they have or may have under the Bankruptcy Code, any other order of the Court, or any other legal or equitable remedy available, and hereby expressly reserve all rights and remedies in relation to, without limitation, (i) any monthly fee statement, interim and/or final fee application of the Committee Professionals, and (ii) any objection to any compensation, fees, and expenses sought by any Committee Professional, including, without limitation, that:

- (a) the amount requested in relation to any investigation under the DIP Orders that exceeds the Investigation Budget, and/or is otherwise unreasonable or excessive;
- (b) the services provided by any Committee Professional are duplicative of those provided by the other Committee Professionals;
- (c) the services provided by any Committee Professional are not reasonable, necessary, and/or beneficial to the Committee or the estate at the time performed;
- (d) the time spent on services is unjustified and disproportionate to the issues in these chapter 11 cases or the anticipated value to the Committee or its constituents;
- (e) the time is spent defending any Committee Professional's own retention and/or fee applications;
- (f) the time is spent unjustifiably by any Committee Professional at a higher cost than the other Committee Professionals and should have been performed in a more cost-efficient manner;
- (g) individual time entries are concentrated on duplicative or administrative tasks that do not demonstrate an acute awareness for the scarcity of estate resources (taking into account such details as the quantum of personnel of any Committee Professional attending internal conferences and hearings, and the level of seniority of personnel of any Committee Professional in executing the tasks); and

- (h) the time detail provided by any Committee Professional lacks sufficient description of the services rendered, time expended, and/or fees and expenses incurred.

8. Further, the Ad Hoc Group does not consent to the use of its collateral to finance fees incurred by the Committee Professionals related to the Challenge Period in excess of the Investigation Budget, as expressly negotiated with the Committee in the DIP Orders, or to pay the Committee Professionals and Ducera in excess of the DIP Budget.

9. In addition, the Ad Hoc Group asserts that no Committee Professional should be allowed to charge the estate for defense costs and expenses related to either their retention application or any fee application. *See Baker Botts L.L.P. v. ASARCO LLC*, 576 U.S. 121, 122 (2015) (holding that “[t]ime spent litigating a fee application . . . cannot be fairly described as ‘labor performed for’—let alone ‘disinterested service to’—[the estate]” that falls under reasonable compensation for services rendered); *In re Boomerang Tube, Inc.*, 548 B.R. 69, 75 (Bankr. D. Del. 2016) (“The fee defense provisions are not reasonable terms for the employment of Committee Counsel because they do not involve any services for the Committee. Rather, they are for services performed by Committee Counsel only for their own interests.”). The Ad Hoc Groups reserves all rights to object to fee applications containing inappropriate defense costs and expenses related the Committee Professional’s retention and/or fee applications.

10. The Ad Hoc Group reserves all rights to amend or supplement this Statement, to be heard before the Court and raise additional arguments or issues in connection therewith, and to take any additional or further action with respect to the subject matter hereof. Nothing herein is intended nor shall be construed as a waiver or limitation of any of the rights or remedies of the Ad Hoc Group, all of which are fully preserved.

Dated: June 27, 2025  
Houston, Texas

Respectfully submitted,

/s/ Tom A. Howley

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**Certificate of Service**

I certify that on June 27, 2025, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Tom A. Howley

Tom A. Howley