

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

In re:	)	Chapter 11
	)	
J.C. PENNEY DIRECT MARKETING	)	Case No. 20-20184 (CML)
SERVICES, LLC, <i>et al.</i> , ¹	)	
	)	(Jointly Administered)
Debtors.	)	
	)	
	)	
	)	

**COPPER PROPERTY CTL PASS THROUGH TRUST’S *EMERGENCY* MOTION TO
ENFORCE THE COURT’S ORDERS AND FOR CIVIL CONTEMPT**

Emergency relief has been requested. Relief is requested not later than 4:00 p.m. (prevailing central time) on August 29, 2025.

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.

Copper Property CTL Pass Through Trust (“PropCo”) respectfully states the following in support of this motion (the “Motion”):

PRELIMINARY STATEMENT

1. Nearly five years ago, this Court issued the Confirmation Order² that approved the Debtors’ Plan³ and unequivocally “**enjoined [all Holders of Claims and Interests] from taking**

¹ A complete list of each of the Wind-Down Debtors in these chapter 11 cases may be obtained on the website of the Wind-Down Debtors’ claims and noticing agent at <https://cases.ra.kroll.com/jcpenney/Home-Index>.

² *Amended Order Approving the Disclosure Statement For, and Confirming, the Amended Joint Chapter 11 Plan of Reorganization of J.C. Penney Company, Inc. and Its Debtor Affiliates*, Case No. 20-bk-20182, Dkt. No. 2190 (the “Confirmation Order”).

³ *Amended Joint Chapter 11 Plan of Reorganization of J.C. Penney Company, Inc. and Its Debtor Affiliates*, Case No. 20-bk-20182, Dkt. No. 2162 (the “Plan”).

any actions to interfere with the implementation or Consummation of the Plan.”⁴ Yet, since purchasing discounted first lien debt in October 2023, Eric Moore (“Moore”) has pursued a sustained campaign of collaterally attacking the Debtors’ confirmed Plan in plain violation of the Plan injunction.

2. Now, in what is Moore’s most egregious attempt to date, he seeks to obstruct the pending sale of the remaining PropCo Acquired Assets to Onyx Partners, LLC (“Onyx”)—a sale which is absolutely critical to effectuating the Plan and liquidating Propco by its contemplated termination date of January 2026. Moore, like all of the Debtors’ creditors is bound by both the Confirmation Order and the Sale Order⁵ (collectively, the “Orders”) and must be enjoined from continuing his various litigations designed to abrogate this Court’s final and valid Orders and now, to disrupt the potential sale to Onyx.

3. As noted, Moore’s recent filing is simply the latest in his serial attacks. *First*, in 2024, years after the well-publicized Plan was confirmed and became effective, Moore filed a purported motion to “enforce” (the “Enforcement Motion”) the Sale Order but really sought to fundamentally change the terms of the Plan.⁶ This Court resoundingly denied the Enforcement Motion noting, “[t]here’s no evidence that wind-down professionals are not making distributions based on the actual terms of the Plan. So, here’s nothing for the Court to enforce under the Plan or the Confirmation Order.”⁷ *Second*, Moore filed and withdrew a motion for reconsideration of

⁴ Confirmation Order ¶ 115.

⁵ *Order (I) Authorizing (A) Entry Into and Performance Under the Asset Purchase Agreement and (B) the Sale of the OPCO Acquired Assets and the PropCo Acquired Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, and (C) Assumption and Assignment of Executory Contracts and Unexpired Leases and (II) Granting Related Relief*, Case No. 20-bk-20182, Dkt. No. 1814 (the “Sale Order”).

⁶ *Eric L. Moore's Motion to Enforce the Sale Order, Settlement Agreement, Asset Purchase Agreement, and Motion for Turnover and Distribution of Funds and/or Property Exceeding the \$1 Billion Credit Bid Amount; and Equitable Subordination of the Dip Holders' 1st and 2nd Lien Debt and Unsecured Notes*, Case No. 20-bk-20184, Dkt. No. 1533 (the “Enforcement Motion”).

⁷ Case No. 20-20184, Dkt. No. 1591 (“Bench Ruling”) at 18:18-23.

this Court’s order on the Enforcement Motion. *Third*, Moore commenced an adversary proceeding (the “Adversary Proceeding”) against PropCo (which holds the PropCo Acquired Assets) and Penney Intermediate Holdings LLC (“OpCo”) (which holds the OpCo Acquired Assets),⁸ seeking declarations in plain contravention of this Court’s Orders. The defendants moved to dismiss that Adversary Proceeding, which motion was fully briefed as of March 25, 2025, and remains pending with this Court. *Fourth*, on June 12, 2025, Moore took a *third bite* at the apple and filed a new complaint (the “District Court Action”) in the United States District Court in the Southern District of Texas (the “District Court”) against PropCo, OpCo, the JCP Investors,⁹ and Jackson Walker LLP (“Jackson Waker”).¹⁰ In the District Court Action, Moore continues to seek declaratory judgments that would effectively abrogate this Court’s final Orders that have been *effective for more than four-and-a-half years*. On July 18, 2025, Moore filed a First Amended Complaint in the District Court Action, adding a count against Jackson Walker.¹¹ *Finally*, on August 11, 2025, Moore improperly attempted to file a Second Amended Complaint in the District Court Action—in violation of Federal Rule of Civil Procedure 15 (“FRCP 15”)—where he seeks to name Onyx as a defendant and audaciously claims that he has liens attaching to the PropCo Acquired Assets.¹² Moore asserts no claims against Onyx and does not allege any facts giving rise to any claims. Instead, Moore only seeks to add Onyx as a defendant after PropCo announced a sale of the remaining PropCo Acquired Assets to Onyx, for approximately \$947 million, in a deal set to close

⁸ “OpCo Acquired Assets” has the meaning ascribed to it in the Plan.

⁹ The JCP Investors include: H/2 Capital Partners LLC, Owl Creek Asset Management, L.P., and Silver Point Capital, L.P.

¹⁰ *Plaintiff’s Original Complaint for Declaratory Judgment*, Case No: 4:25-cv-02752, Dkt. No. 1 (“Original District Court Complaint” or “Original District Court Compl.”).

¹¹ *Plaintiff’s First Amended Complaint for Declaratory Judgment*, Case No: 4:25-cv-02752, Dkt. No. 23 (“First Amended Complaint” or “First Amended Compl.”).

¹² *Plaintiff’s Second Amended Complaint for Declaratory Judgment*, Case No. 4:25-cv-02752, Dkt. No. 30 (“Second Amended Complaint” or “Second Amended Compl.”).

on September 8, 2025.¹³ Moore's efforts are nothing more than an attempt to intimidate the purchaser and devastate PropCo's efforts to sell the remaining assets, as contemplated under the Plan.

4. To be clear, in addition to the instant Motion, PropCo is taking additional steps in an effort to bring an end to Moore's frivolous litigation, prevent further harm and, if needed, obtain damages for harms Moore has caused. Accordingly, PropCo and the JCP Investors have filed in the District Court Action a Motion to Strike the Second Amended Complaint because it was filed in violation of the Federal Rules of Civil Procedure and is futile in any event. They also intend to file a forthcoming motion to dismiss the First Amended Complaint. In addition, PropCo and the JCP Investors are serving Moore with a safe harbor letter notifying him of PropCo's and the JCP Investors' intent to seek Rule 11 sanctions from the District Court to halt Moore's pattern of filing frivolous lawsuits aimed at abrogating final orders of this Court.

5. If ever there were a more spot-on example of the reason for a Plan injunction, it is hard to find. Moore's conduct flies in the face of this Court's Orders and stands to wreak havoc on a years-long effort to liquidate the real property assets transferred in the Debtors' bankruptcy cases. Moore's actions, based on flatly refuted allegations and a litigious bend, are not a mere nuisance; instead, they threaten to upend a nearly \$1 billion transaction, specifically contemplated by the Plan. Such conduct is prejudicial and warrants this Court's intervention. Accordingly, PropCo respectfully requests that this Court grant the Motion and issue the Proposed Order (i) requiring Moore's compliance with the Court's Orders, specifically the injunction enshrined in the

¹³ Second Amended Compl. ¶¶ 48-50; see also *Cooper Prop. CTL Pass Through Tr. Announces Binding Purchase and Sale Agreement for Sale of Portfolio*, COOPER PROP. CTL PASS THROUGH TRUST (July 25, 2025), <https://www.cctltrust.net/press-releases/detail/149/copper-property-ctl-pass-through-trust-announces-binding>.

Confirmation Order (ii) enjoining any further attempts to relitigate issues already resolved by this Court, and (iii) finding Moore in contempt of the Confirmation Order.

RELIEF REQUESTED

6. The Debtors seek entry of an order, substantially in the form attached hereto (the “Proposed Order”), enforcing this Court’s Orders against Moore, and precluding him from attempting to relitigate the issues considered and determined by this Court. Despite the legal enjoinder of any action to interfere with the implementation or consummation of the Plan, Moore persists in his disruption of the implementation of the confirmed Plan. Thus, PropCo also seeks to hold Moore in contempt for continuing to pursue litigation against PropCo and others in violation of the Plan and Confirmation Order.

JURISDICTION AND VENUE

7. This 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) and the *Amended Standing Order of Reference from the United States District Court for the Southern District of Texas*, dated May 24, 2012. Venue in this Court is proper pursuant to 28 U.S.C. § 1408.

8. The statutory bases for the relief requested herein are sections 105(a), 1141, and 1142 of title 11 of the United States Code (the “Bankruptcy Code”), Bankruptcy Rule 9014, and Rule 9013-1 of the Bankruptcy Local Rules for the Southern District of Texas.

BACKGROUND

I. J.C. Penney’s Bankruptcy Filing

9. On May 15, 2020, the Debtors filed for Chapter 11 relief to, among other things, address a liquidity crisis resulting from the closure of all of its retail stores during COVID-19, raise much-needed liquidity, and seek to reorganize and stabilize the enterprise (including for the benefit

of Debtors' more than 60,000 employees).¹⁴ Debtors and certain of its secured creditors executed a restructuring framework agreement (the "Framework Agreement") and, pursuant to that agreement, Debtors were required to implement a comprehensive reorganization and/or sale of its business by establishing both a financially sustainable operating company (OpCo) and a holding entity for certain of the Debtors' real property assets (PropCo) to maximize value for the benefit of the estate and its creditors.

II. The Bankruptcy Court Orders

10. As contemplated under the Framework Agreement, the Debtors eventually sought approval to sell substantially all of their assets pursuant to an asset purchase agreement (the "APA", and the transaction referred to generally as the "Sale"). The consideration provided pursuant to the APA, included (1) \$634 million that consisted of cash and revolver proceeds to facilitate repayment of a \$1.3 billion asset-backed loan, (2) a credit bid of \$1 billion (the "Credit Bid"), which was the aggregate of the \$900 million of outstanding DIP financing obligations and \$100 million of the outstanding first lien term loans and first lien notes obligations and (3) the assumption of certain liabilities.¹⁵ This Credit Bid was the highest, best, and only viable option produced through a well-publicized and visible marketing process. It was also the result of extensive arms' length negotiations among the Debtors, the Secured Creditors,¹⁶ and Simon and Brookfield, which process was overseen and mediated by Bankruptcy Judge Marvin Isgur.¹⁷

¹⁴ Declaration of Bill Wafford, Executive Vice President, Chief Financial Officer of J.C. Penney Company, Inc., in Support of Debtors' Chapter 11 Petitions and First Day Motions, Case No. 20-bk-20182, Dkt. No. 25 (the "First Day Declaration").

¹⁵ See Sale Order ¶ M; Bench Ruling at 5:20–6:1; Case No. 20-bk-20182, Dkt. No. 1822, Nov. 9, 2020 Hearing Tr., at 208:15–209:11.

¹⁶ "Secured Creditors" include the Debtors' first lien term lenders, first lien noteholders, and debtor-in-possession facility lenders.

¹⁷ See Bench Ruling at 4:14–16.

11. Before the Sale was consummated, a minority group of first lien lenders (the “Minority Group”) filed an objection to the Sale transaction.¹⁸ Following extensive negotiations, including in mediation, the Debtors, the majority of Secured Creditors, and the Minority Group entered into the Settlement Agreement,¹⁹ pursuant to which the Minority Group agreed to withdraw its objection and support the Sale. The Settlement Agreement was approved by the Bankruptcy Court pursuant to the same order approving the Sale.²⁰

12. Under the Settlement Agreement, the majority of Secured Creditors provided to the Minority Group \$40 million in exchange for resolution of all disputes, along with an additional \$6 million for the Minority Group’s fees. Importantly, under the Settlement Agreement, the Minority Group “on behalf of themselves, their affiliates and *their respective successors and assigns*” agreed to “irrevocably and unconditionally waive, release, and forever discharge” the Debtors and the Secured Creditors from any claims in connection with the Sale and the Plan.²¹

¹⁸ Case No. 20-bk-20182, Dkt. No. 1621.

¹⁹ “Settlement Agreement” means the Settlement Agreement dated as of November 5, 2020, executed by the Secured Creditors on behalf of itself and each of its members, by and through its counsel Milbank LLP, the Minority Group, and the Debtors, approved by the Court as Exhibit B to the Sale Order, Case No. 20-bk-20182, Dkt. No. 1814, ¶¶ 4-7.

²⁰ See Case No. 20-bk-20182, Dkt. No. 1814; Case No. 20-bk-20182, Dkt. No. 1822, Nov. 12, 2020 Hearing Tr. (30:5–9) (“We have negotiated at an arm’s length basis, to say the least, a complicated and interwoven transaction that now enjoys widespread support from all first-lien lenders, our second lien lenders, and the Unsecured Creditors’ Committee. It is embodied in a revised order reflecting the sale”). The indenture trustee for the second lien notes was on the Official Committee of Unsecured Creditors appointed by the Court. Case No. 20-bk-20182, Dkt. No. 931-1.

²¹ Settlement Agreement ¶ 9 (“Upon, and subject to the occurrence of, the Settlement Effective Date, the Minority Group and each member thereof, on behalf of themselves, their affiliates and *their respective successor and assigns*, shall be deemed to irrevocably and unconditionally waive, release, and forever discharge any claims they may have arising under or in connection with the Transaction, the Plan, the APA, the Credit Bid, the Sale Order, the DIP Loan, the 1L Debt, the Debtors, or the Cases against the Majority Group, its members, the Agents, the Debtors, the Debtors’ estates, and their respective predecessors, successors, and assigns, and each of their respective parents, subsidiaries, affiliates, managers, present and future partners, officers, directors, employees, professionals, and agents, including any and all demands, obligations, actions, causes of action, suits, damages, accounts, judgments, liens, bonds, bills, covenants, contracts, controversies, agreements, promises, variances, costs, losses, debts, expenses and liabilities of any kind, whether known or unknown, suspected or unsuspected, asserted or unasserted, fixed or contingent, apparent or concealed, from the beginning of time through the Settlement Effective Date”) (emphasis added).

13. The Court held an evidentiary hearing and ultimately entered the Sale Order approving both the Sale and the Settlement Agreement.²² “The Sale Order expressly found [] the purchase price to be the highest and best offer.”²³ Additionally, the Sale Order provided that the consideration for the assets, as contemplated in the APA, was reasonably equivalent value and fair consideration.²⁴ Neither the Minority Group nor any of its members appealed or otherwise challenged the Sale Order after its entry.

14. Just a month after the Sale Order was entered, on December 12, 2020, the Debtors filed the Plan. On December 16, 2020, the Court approved the Plan and issued the Confirmation Order. The Confirmation Order states:

Upon entry of this Confirmation Order, all Holders of Claims and Interests and their respective current and former employees, agents, officers, directors, principals, and direct and indirect Affiliates shall be enjoined from taking any actions to interfere with the implementation or Consummation of the Plan. Each Holder of an Allowed Claim or Allowed Interest, as applicable, by accepting, or being eligible to accept, distributions under or Reinstatement of such Claim or Interest, as applicable, pursuant to the Plan, shall be deemed to have consented to the injunction provisions set forth in Article X.F of the Plan.²⁵

15. The deadline to notice an appeal of the Confirmation Order passed on December 30, 2020, without any appeal. The Plan effective date was in January 2021, rendering the Plan enforceable against all claim holders.²⁶

²² Case No. 20-bk-20182, Dkt. No. 1812; *see also* Bench Ruling at 9:6–10.

²³ Bench Ruling at 17:6–7; *see also* Sale Order ¶¶ H, BB.

²⁴ Bench Ruling at 17:9–11; *see* Sale Order ¶ 38.

²⁵ Confirmation Order ¶ 115 (emphasis in original).

²⁶ *See* Confirmation Order ¶ 73 (providing that “upon the occurrence of the Effective Date, the terms of the Plan . . . shall be immediately effective and enforceable and deemed binding upon the Debtors, the Wind-Down Debtors, any and all holders of Claims or Interests (irrespective of whether holders of such Claims or Interests have, or are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in the Plan, each Entity acquiring property under the Plan, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors.”).

III. This Court Denied Moore’s Purported Enforcement Motion

16. “In October of 2023, years after the Sale Order and the Confirmation Order became a final, non-appealable order,” Moore acquired an interest in first lien debt from Cetus Capital (“Cetus”), a member of the Minority Group and thus, party to the Settlement Agreement.²⁷ Pursuant to the express terms of the publicly filed—and approved—Settlement Agreement, Cetus and all of its successors and assigns—including *Moore*—forever and unequivocally *released* any claims against the Secured Creditors related to the Sale and Plan.²⁸

17. Nearly another year later and more than three-and-a-half-years after the Plan was confirmed, on August 8, 2024, Moore filed his Enforcement Motion seeking: one, “full disclosure, and fair and equitable distribution of what he believes are the sale, of the surplus sale settlement funds according to applicable laws, including the Absolute Priority Rule; two, enforcement of the Court’s fair market value requirement; three, equitable subordination of the DIP lending parties’ first and second lien bonds and unsecured notes; and four, turnover and distribution of cash or property beyond the one billion Credit Bid amount.”²⁹ The Debtors objected (Case No. 20-bk-20184, Dkt. No. 1554), and PropCo joined in the Debtors’ objection (Case No. 20-bk-20184, Dkt. No. 1555). On September 9, 2024, the Court issued a bench ruling, denying the Enforcement Motion in its entirety (the “Bench Ruling”).³⁰ The Court made several findings, summarized here in part, when dismissing the Enforcement Motion.

²⁷ See Bench Ruling at 8:15–9:5 (“Cetus is member of the minority group, the Minority Lender group.”); Bench Ruling at 13:13–17; *see also* Wind-Down Debtors’ Objection to Enforcement Motion, Case No. 20-bk-20184, Dkt. No. 1554 Ex. A at 4–5.

²⁸ Settlement Agreement ¶ 9.

²⁹ Bench Ruling at 14:23–15:6; *see also* Enforcement Motion; *see also* Case No. 20-bk-20184, Dkt. No. 1565 (reply submitted in support).

³⁰ Bench Ruling at 20:24.

18. **First**, the Court found that the Enforcement Motion relied on a faulty presumption that the purchase price for the assets was fair market value; in reality, the purchase price was the Credit Bid, cash component, and the assumption of certain liabilities, as described above.³¹ The Court explained that “the Credit Bid and the proposed purchase price was fair value and the highest and best offer.”³² **Second**, the Court found, contrary to the claims in the Enforcement Motion, “[t]here’s not billions [] to distribute . . . [t]here never was” and “[t]here’s no evidence that wind-down professionals are not making distributions based on the actual terms of the Plan.”³³ Accordingly, there is “nothing to enforce under the Plan or the Confirmation Order.”³⁴ **Third**, the Court found that the absolute priority rule and *Jevic* were not violated and “resolved in connection with Plan confirmation years before Moore became a debt holder.”³⁵ **Fourth**, the Court determined that there was an absence of “facts that even warrant []consideration [of the equitable subordination claim]. There are no bad facts.”³⁶ **Fifth**, the Court found that, should the Enforcement Motion seek additional direct claims against other first lien debtholders, then such claims would have been waived under the Settlement Agreement given that “Moore acquired Cetus’s debt years after it settled and agreed to the releases under the Settlement Agreement and the Plan was confirmed.”³⁷ **Sixth**, the Court found that there were no viable claims for turnover or distribution of additional cash or property as a holder of a 1L debt claim.³⁸

³¹ *Id.* at 16:16–23.

³² *Id.* at 17:16–19.

³³ *Id.* at 18:8–21.

³⁴ *Id.*

³⁵ *Id.* at 18:22–19:18.

³⁶ *Id.* at 19:19–20:7.

³⁷ *Id.* at 20:8–18.

³⁸ *Id.* at 20:19–23.

19. On September 20, 2024, Moore filed a motion for reconsideration of the Bankruptcy Court’s Bench Ruling, which he voluntarily withdrew on October 31, 2024.³⁹ That same day, he filed an adversary complaint in the Bankruptcy Court.⁴⁰

IV. Moore’s Adversary Proceeding

20. Notwithstanding the Bankruptcy Court’s rulings, Moore initiated an Adversary Proceeding on October 31, 2024, against PropCo and OpCo. The Adversary Complaint alleges, much like the Enforcement Motion and the present District Court Action, that the bondholders’ collateral should be valued at fair market value.⁴¹ According to Moore, the first lien debtholders “are owed roughly \$1.47 Billion more than they received,” because allegedly the distributions to date were not authorized by the Orders.⁴² Moore made such assertion notwithstanding the Bankruptcy Court’s express prior rulings that the bid pursuant to the APA was fair value and the highest and best offer, that there were not billions to distribute, and that distributions were proceeding according to the approved Plan.

21. The Adversary Complaint seeks: a declaration that the fair market value of the PropCo Acquired Assets was no less than \$1.93 billion, not the \$1 billion Credit Bid Amount;⁴³ a declaration that the absolute priority rule and *In re AWECO*, 725 F.2d 293 (5th Cir. 1984) are applicable to the distribution of Debtors’ assets;⁴⁴ and a declaration that the distributions to Secured Creditors and other creditors violates 11 U.S.C. § 1129(b)(2).⁴⁵

³⁹ Reconsideration Motion; *Motion to Withdraw the Reconsideration Motion*, Case No. 20-bk-20184, Dkt. No. 1628.

⁴⁰ See Case No. 20-bk-20184, Dkt. No. 1627 (“Adv. Compl.” or the “Adversary Complaint”).

⁴¹ Adv. Compl. ¶ 28.

⁴² *Id.* ¶ 37.

⁴³ See Adv. Compl., Count I, ¶ 92; First Amended Compl., Counts I, II, ¶¶ 51, 57.

⁴⁴ Adv. Compl., Prayer for Relief, ¶ b; First Amended Compl., Count V, ¶¶ 84-85.

⁴⁵ Adv. Compl., Count III, ¶ 106; First Amended Compl., Count III, ¶ 71.

22. On February 20, 2025, PropCo filed a motion to dismiss the Adversary Complaint asserting, among other things, that the Adversary Complaint seeks to relitigate claims settled by this Court’s final, non-appealable Orders and based on allegations made in direct contradiction of prior Court findings. The Motion to Dismiss is fully briefed before the Court.⁴⁶

V. The First Amended Complaint

23. While the motion to dismiss the Adversary Proceeding remains pending before the Court, on June 12, 2025, Moore filed another complaint, this time in the District Court, seeking similar declarations as those in the Adversary Complaint and alleging the Sale was an undisclosed and improper uptier transaction. Moore filed a First Amended Complaint on July 18, 2025, in the District Court, which added a claim against Jackson Walker. Moore then improperly attempted to file a Second Amended Complaint on August 11, 2025, without seeking leave from the court as required by Federal Rule of Civil Procedure 15, in what appears to be an effort to block a pending sale of assets held by PropCo—a sale that is contemplated under the Plan.

VI. Proposed 2025 Sale of Trust Assets

24. The Plan and the PropCo formation documents provide that PropCo is required to liquidate the PropCo Acquired Assets and that the trust terminate no later than January 30, 2026.⁴⁷ As of the filing of this Motion, the primary remaining PropCo Acquired Assets that have not been liquidated are 119 real properties housing JCP stores (the “Remaining Trust Assets”).

⁴⁶ On or about August 18, 2025, Moore purported to file a Notice of Withdrawal of Adversary Proceeding (“Notice”). The Notice does not comply with the Federal Rules and seemingly reflects further disregard for the judicial processes and rules.

⁴⁷ See Plan Supplement, Ex. A(i) at 62 (“in no event shall the Trust be terminated later than five (5) years from the date hereof [January 30, 2021]”).

25. In or about December 2024, Newmark Group, Inc., a commercial real estate advisor, began marketing the Remaining Trust Assets on behalf of PropCo.⁴⁸ The marketing and negotiation process for the sale of the Remaining Trust Assets has called for an intensive operation over the last eight months.⁴⁹

26. On July 23, 2025, PropCo announced that Onyx had entered into an amended agreement to purchase the Remaining Trust Assets for \$947 million and made a non-refundable deposit towards the sale.⁵⁰ The transaction is expected to close on or before September 8, 2025.⁵¹

27. Moore's efforts to add Onyx as a named defendant in his baseless litigation threatens to derail the final steps necessary to carry out the Debtors' Plan. In his improperly filed Second Amended Complaint, Moore notes the sale announcement and makes the outrageous and false allegation that the sale to Onyx cannot move forward because he has liens attaching to the PropCo Acquired Assets, presumably on account of the claims he purchased from Cetus. Specifically, Moore's Second Amended Complaint asserts, while implicitly conceding a lack of a valid claim against Onyx, that:

Plaintiffs have named Onyx Partners as a Defendant to ensure it is on formal notice that the assets it has agreed to acquire are subject to Plaintiffs' and proposed intervening parties' valid and perfected liens, and are the subject of ongoing claims for wrongful transfer and overpayment.

⁴⁸ See News | Newmark preps J.C. Penney sale of stores estimated to raise more than \$1 billion (available at <https://www.costar.com/article/1928918760/newmark-preps-jc-penney-sale-of-stores-estimated-to-raise-more-than-1-billion>).

⁴⁹ See JCPenney Retail Portfolio Landing Page | Real Capital Markets (available at https://my.rcm1.com/handler/modern.aspx?pv=m-WsN4-CGxP6OcGrwLGDmPYLJocCC-q0bGrFihwmrag#_section_4).

⁵⁰ See Press Release, Copper Property CTL Pass Through Trust, Copper Property CTL Pass Through Trust Announces Binding Purchase and Sale Agreement for Sale of Portfolio (July 25, 2025) (available at <https://www.cctltrust.net/press-releases/detail/149/copper-property-ctl-pass-through-trust-announces-binding>).

⁵¹ *Id.*

Second Amended Compl. ¶ 52. Moore makes this assertion notwithstanding that the assets at issue were transferred to PropCo free and clear, pursuant to this Court's Orders, which provide:

Except as otherwise specifically provided in the Plan, . . . on the Effective Date, concurrently with the Consummation of the PropCo Sale and except as otherwise set forth in the Asset Purchase Agreement, the PropCo Acquired Assets shall be transferred to and vest in PropCo free and clear of all Liens, Claims, charges, interests, or other encumbrances pursuant to sections 363(f) and 1141(c) of the Bankruptcy Code and in accordance with the terms of this Confirmation Order, the Plan, and the Asset Purchase Agreement, each as applicable.⁵²

Moore's efforts smack of intimidation and should not be countenanced.⁵³

ARGUMENT

I. Moore's Serial Filings are Improper Collateral Attacks on the Court's Final, Non-Appealable Orders and Violate the Plan Injunction.

28. The Court has the authority to preclude Moore from collaterally attacking final, non-appeal orders and re-litigating legal and factual findings that were already litigated before this Court. The Court has authority pursuant to section 105 of the Bankruptcy Code to "enter any order . . . that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Final orders from this Court, such as the Sale Order and Confirmation Order, cannot be collaterally attacked by parties, including after-confirmation entrants, in the case. *In re Davis Offshore, L.P.*, 644 F.2d 259, 265 (5th Cir. 2011); *see Eubanks v. F.D.I.C.*, 977 F.2d 166, 170 (5th Cir. 1992) ("It has long been recognized that a bankruptcy court's order confirming a plan of reorganization is given the same effect as a district court's judgment on the merits for claim preclusion purposes."); *In re Blast Energy Servs., Inc.*, 396 B.R. 676, 694 (Bankr. S.D. Tex. 2008) ("[A] claimant is precluded from bringing a collateral attack on an issue already litigated in, and decided by a

⁵² Confirmation Order ¶108 (emphasis in original)

⁵³ Indeed, the Second Amended Complaint goes on to assert that [pull from next para of the SAC where he says they are not entitled to protections and may be liable].

confirmation order of, the bankruptcy court.”); *In re Allison*, 2006 WL 2620480 at *10 (Bankr. S.D. Tex. Sept. 12, 2006) (“The confirmation order is a final judgment that is protected from collateral attack.”); *Celotex Corp. v. Edwards*, 514 U.S. 300, 313 (1995) (“[I]t is for the court of first instance to determine the question of the validity of the law, and until its decision is reversed for error by orderly review, either by itself or by a higher court, its orders based on its decisions are to be respected.”) (citation and quotation omitted).⁵⁴

29. By the Complaints, Moore seeks declarations that challenge the explicit findings in the Orders entered by the Court years ago. The Complaints effectively seek declarations stating that the Sale Order improperly valued PropCo’s assets by the value of the Credit Bid (*see* First Amended Compl., Counts I, II; Adv. Compl., Count I), and that the Confirmation Order violates the absolute priority rule and requirements for equal treatment of classes of creditors under the Bankruptcy Code (*see* First Amended Compl., Counts III, V; Adv. Compl., II, III).⁵⁵ Yet, the

⁵⁴ Further, it is “well settled that a plan is binding upon all parties once it is confirmed and all questions that could have been raised *pertaining to such plan are res judicata*.” *Howe v. Vaughan (In re Howe)*, 913 F.2d 1138, 1143 (5th Cir. 1990) (emphasis in original); *Miller v. Meinhard-Com. Corp.*, 462 F.2d 358, 360 (5th Cir. 1972) (“An arrangement confirmed by a bankruptcy court has the effect of a judgment rendered by a district court, any attempt by the parties or those in privity with them to relitigate any of the matters that were raised or could have been raised therein is barred under the doctrine *res judicata*.”) (internal citations omitted); *In re United Refining Co.*, 2021 WL 160433, at *6 (Bankr. S.D. Tex. Jan. 16, 2021) *aff’d and remanded sub nom.*, 688 F. Supp. 3d 558 (S.D. Tex. 2023) (remand on unrelated grounds) (citations omitted) (“a bankruptcy court confirmation order is binding and final and has the weight of a final judgment for *res judicata* purposes.”). Any secondary purchaser or assignee of claims in the bankruptcy, takes those claims subject to the terms of the plan of reorganization – in other words, assignees are not assigned rights greater than those afforded to the original claim holder. *In Matter of Galaz*, 841 F.3d 316, 320 (5th Cir. 2016) (applying *res judicata* to the purchaser of claims); *In re Arctic Glacier Int’l, Inc.*, 901 F.3d 162, 168 (3d Cir. 2018) (holding that post-confirmation transferees of claims were bound to the broad releases in the plan because they “took the shares with all their associated benefits and burdens, including the releases.”).

⁵⁵ Sale Order ¶ 38 (“The consideration provided by the Purchasers (including the Credit Bid Amount) for the Acquired Assets under the Asset Purchase Agreement shall be deemed for all purposes to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and any other applicable law”); Confirmation Order ¶ 6 (“The Debtors, as proponents of the Plan, have met their burden of proving the applicable elements of sections 1129(a) and 1129(b) of the Bankruptcy Code by a preponderance of the evidence, which is the applicable evidentiary standard for confirmation of the Plan. In addition, and to the extent applicable, the Plan is confirmable under the clear and convincing evidentiary standard.”).

Orders, and the findings therein, are final and non-appealable.⁵⁶ Accordingly, Moore is bound by those findings and forever barred from attempting to collaterally attack those issues.

30. To make matters worse, the Court already has rejected Moore's incorrect allegations when it ruled on the Enforcement Motion. To be clear, Moore seeks to relitigate issues that were already resolved by this Court. **First**, as it relates to Moore's request for a declaration that the PropCo Acquired Assets be valued differently than provided for under the Confirmation and Sale Orders (First Amended Compl., Counts I, II, IV; Adv. Compl., Count I), the Bankruptcy Court has already ruled "[t]he purchase price for the assets was the Credit Bid and additional consideration described in the sale motion, the sale hearing, the Settlement Agreement, the Sale Order, the Disclosure Statement, and the Plan."⁵⁷ In fact, the Bankruptcy Court explained that: "Moore's motion presumes that the actual purchase price for the assets was the, quote/unquote, 'fair market value,' which he says is about three billion, but . . . is not accurate."⁵⁸ **Second**, despite Moore's allegations (*see* First Amended Compl. ¶¶ 29, 80),⁵⁹ the Bankruptcy Court determined that the "Sale Order expressly found that the purchase price to be the highest and best offer . . .

⁵⁶ Appeals of final bankruptcy court orders are governed by Federal Rule of Bankruptcy Procedure 8002 ("Bankruptcy Rule 8002"), which provides appellants 14 days to file a notice of appeal following entry of the order. Fed. R. Bankr. P. 8002(a)(1) (" . . . a notice of appeal must be filed with the bankruptcy clerk within 14 days after the judgment, order, or decree to be appealed is entered."). Section 1144 of the Bankruptcy Code requires a movant to demonstrate (1) no later than 180 days after the entry of the challenged confirmation order that (2) the order "was procured by fraud." 11 U.S.C. § 1144.

There is no question that Moore fails to meet Bankruptcy Rule 8002's 14-day requirement. The Sale Order was entered on November 9, 2020, and the Confirmation Order was entered on December 16, 2020. Neither Moore, nor his predecessor-in-interest, sought to timely appeal those orders. As a result, Plaintiff is forever precluded from challenging these orders. Moore is similarly precluded from challenging the Confirmation Order under section 1144 of the Bankruptcy Code. The Complaint comes nowhere near satisfying the requirements of section 1144 of the Bankruptcy Code—the Complaint was filed **1,639 days** after the Bankruptcy Court's entry of the Confirmation Order.

⁵⁷ Bench Ruling at 16:16–23.

⁵⁸ *Id.* at 16:16-19.

⁵⁹ *See e.g.*, First Amended Compl. ¶ 29 "Nevertheless, Defendant Jackson Walker, acting in collusion with the DIP Lenders, accepted a \$1 Billion offer from Defendant Copper Property Trust—an offer worth less than the cash the Debtors already had on hand. This offer plainly failed to meet the standard of being the "highest and best.""; *Id.* at ¶ 80 ("The Settlement Agreement references only the \$1 Billion Credit Bid Amount and fails to disclose the fair market value of substantially all of the Debtors' assets.")

Thus, the purchase price is the consideration detailed in the APA, and the Bankruptcy Court found that it was fair value and for a consideration.”⁶⁰ **Third**, as it relates to the request for declarations that the Debtors’ distributions made pursuant to the Plan are improper and violate the absolute priority rule (First Amended Compl., Counts II, VI), the Bankruptcy Court ruled that “[t]here’s no evidence that wind-down professionals are not making distributions based on the actual terms of the Plan” and “[t]here’s no violation of the absolute priority rule or *Jevic* either.”⁶¹ To that end, the Bankruptcy Court noted:

the absolute priority and *Jevic* issues were resolved in connection with Plan confirmation years before Moore became a debt holder, and a Motion to Enforce the Plan cannot be used as a back-door effort to make Plan confirmation objections. The confirmation has been a Final Order for years.⁶²

Fourth, Moore’s claims against Secured Holders were “waived under the Settlement Agreement approved by the Sale Order” and Moore “is entitled to no greater rights than Cetus.”⁶³ **Fifth**, the Bankruptcy Court ruled that “there are no viable claims for turnover or distributions of additional cash or property as holder of 1L debt claim.”⁶⁴ And **finally**, when evaluating Moore’s equitable subordination claim the Court determined that there was an absence of “facts that even warrant []consideration [of the equitable subordination claim]. There are no bad facts.”⁶⁵ Allowing Moore to proceed with complete disregard for the rulings of this Court would undermine the finality of this Court’s factual findings and legal conclusions, contravening well-established precedent protecting orders from collateral attacks. *See In re Davis Offshore, L.P.*, 644 F.2d at 265; *Eubanks*, 977 F.2d at 170; *In re Blast Energy Servs., Inc.*, 396 B.R. at 694.

⁶⁰ Bench Ruling at 17:6-14.

⁶¹ *Id.* at 18:18-23.

⁶² *Id.* at 18:22-19:3.

⁶³ *Id.* at 20:8-18.

⁶⁴ *Id.* at 20:19-20.

⁶⁵ *Id.* at 19:19-20:7.

31. What is more, the Confirmation Order explicitly enjoins action that interferes with the Plan’s implementation.⁶⁶ Moore’s recent actions are seemingly a diabolical effort to upend the sale of the final remaining assets held by PropCo. Pursuant to the Propco formation documents, PropCo exists only to liquidate the PropCo Acquired Assets for the benefit of the Secured Creditors and is set to terminate in January 2026. The pending sale to Onyx is the culmination of a successful months-long marketing and sale process to sell the Remaining Trust Assets on the timeline required by the Plan. Moore’s baseless accusation that he has liens on the Remaining Trust Assets—that were transferred to PropCo “free and clear”—is a direct attack on finalizing the sale to Onyx, dissolving the trust, and implementing the final stages of the Plan.

32. Accordingly, Moore must be enjoined from interfering with the continued successful implementation of the Plan and must be precluded from re-litigating the issues considered and determined by this Court.

II. Moore’s Conduct Warrants a Finding of Civil Contempt.

33. Furthermore, this Court may hold Moore in civil contempt. “Civil contempt can serve two purposes, either coercing compliance with an order or compensating a party who has suffered unnecessary injuries or costs because of contemptuous conduct.” *Ingalls v. Thompson (In re Bradley)*, 588 F.3d 254, 263 (5th Cir. 2009) (quotation and citation omitted). The elements to establish civil contempt are “(1) that a court order was in effect, and (2) that the order required certain conduct by the respondent, and (3) that the respondent failed to comply with the court’s order.” *Id.* (quoting *Fed. Deposit Ins. Corp. v. LeGrand*, 43 F.3d 163, 170 (5th Cir. 1995)).

34. It is well-established that bankruptcy courts possess civil contempt power. *In re White-Robinson*, 777 F.3d 792, 795 (5th Cir. 2015). “Bankruptcy Code provisions, Bankruptcy

⁶⁶ See Plan, Art. X.F.

Rules and court orders may not be violated without recourse.” *In re Rodriguez*, 517 B.R. 724, 729 (Bankr. S.D. Tex. 2014). Section 105(a) of the Bankruptcy Code provides bankruptcy courts broad authority to “take any action that is necessary or appropriate to prevent an abuse of process.” *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 375 (2007) (internal quotations omitted).

35. Moore’s actions meet all the elements for civil contempt. Before filing the Complaints, the Debtors’ Plan was confirmed, and Moore is bound by the Confirmation Order. The Confirmation Order unquestionably requires that Moore not interfere with the Plan’s implementation. Yet, Moore is willfully violating the Court’s instruction through his serial litigation efforts and jeopardizing the Plan’s success.

36. Moore’s persistence in rehashing factual allegations already considered and rejected by this Court borders on harassment. His vexatious filings have forced numerous parties (including PropCo) to incur unnecessary attorneys’ fees to defend against repeated, baseless litigation. Such actions are prejudicial to the Debtors, other creditors, and stakeholders who rely on the orderly and efficient reorganization process established by the Confirmation Order. And his latest maneuver puts a nearly \$1 billion transaction at risk, despite the fact that his claims utterly lack merit and are in blatant disregard of this Court’s Orders. Moore clearly has no concern for the truth or the orderly resolution of these estates. The Plan is in the winddown stages, and a successful restructuring should not be derailed in the final inning by a vexatious litigant. The Court should not lend credence to this behavior.

37. Accordingly, Moore should be found to be in contempt of the Orders and forbidden from further re-litigation of the same factual issues before this Court.

EMERGENCY CONSIDERATION

38. Pursuant to rule 8013(d) of the Federal Rules of Bankruptcy Procedure and paragraph G(17) of this Court's *Procedures for Complex Cases in the Southern District of Texas*, PropCo requests emergency consideration of this Motion. The restructuring process is nearly completed and is expected to conclude expeditiously. For the reasons discussed above, entry of the Proposed Order granting this Motion will prevent the negative consequences that may result if Debtors are unable to effectuate the Plan, including the sale of the Remaining Trust Assets. Accordingly, PropCo requests that the Court approve the relief requested in this Motion on an emergency basis.

[Remainder of page intentionally left blank]

CONCLUSION

Accordingly, PropCo requests that the Court enter the Proposed Order, substantially in the form attached hereto, granting the relief requested herein and such other relief as the Court deems just and appropriate under the circumstances.

Dated: August 18, 2025
Washington, D.C.,

MILBANK LLP

By: /s/ Andrew M. Leblanc

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Counsel to Copper Property CTL Pass Through Trust

CERTIFICATE OF SERVICE

I certify that on August 18, 2025, I caused a copy of the foregoing document to be sent by first-class mail to the last known address of Plaintiff Eric L. Moore at 202 Island Avenue, San Diego, CA 92101.

/s/ Andrew M. Leblanc

Andrew M. Leblanc

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

In re:	)	Chapter 11
	)	
J.C. PENNEY DIRECT MARKETING	)	Case No. 20-20184 (CML)
SERVICES, LLC, <i>et al.</i> , ¹	)	
	)	(Jointly Administered)
Debtors.	)	
	)	
	)	
	)	

ORDER TO ENFORCE THE COURT’S ORDERS AND FOR CIVIL CONTEMPT

The Court, having considered *Copper Property CTL Pass Through Trust’s Emergency Motion to Enforce the Court’s Orders and for Civil Contempt* against Eric Moore (the “Motion”), any responses thereto, and the arguments of counsel, finds that the Motion should be GRANTED.

It is therefore

ORDERED that the Motion is GRANTED.

Dated this _____ day of _____, 2025

Signed:

Honorable Christopher M. Lopez
United States Bankruptcy Judge

¹ A complete list of each of the Wind-Down Debtors in these chapter 11 cases may be obtained on the website of the Wind-Down Debtors’ claims and noticing agent at <https://cases.ra.kroll.com/jcpenney/Home-Index>.