United States Courts
Southern District of Texas
FILED
OCT 31 2024
Nathan Ochsner, Clerk of Court

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

In re:	
J. C. PENNEY DIRECT MARKETING SERVICES, LLC, *et al.*,[1]	Chapter 11
Debtors.	Case No. 20-20184 (CML)
	(Jointly Administered)
ERIC LYNDELL MOORE,	(Formerly jointly Administered under J.C. Penney Company, Inc., 20-20182)
Plaintiff,	
v.	Adversary Proceeding
COPPER PROPERTY CTL PASS THROUGH TRUST,	No. 20- _____
Defendant,	
PENNEY INTERMEDIATE HOLDINGS LLC,	
Defendant.	

COMPLAINT FOR DECLARATORY JUDGMENT

Eric L. Moore, a 1st and 2nd Lien Secured J.C. Penney Bondholder, and Joinders[2] file this Complaint for Declaratory Judgment (hereinafter, "Complaint") against Copper Property Trust and Penney Intermediate Holdings LLC. As the basis for this Complaint, Mr. Moore states the following:

NATURE OF THE ACTION

1. In connection with the Debtor's chapter 11 cases, this adversary proceeding seeks a declaratory judgment that:

[1] 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 http://cases.primeclerk.com/JCPenney. The location of debtor J.C. Penney Company, Inc.'s principal place of business and the debtors' service address in these chapter 11 cases is 6501 Legacy Drive, Plano, Texas 75024.
[2] Michael Wachs, Barnett Capital and the ad-hoc Equity Committee have joined this Complaint.

a. The Fair Market Value of the PropCo real estate collateral that secured the DIP and 1st Lien claims was–per the Court's prior order–determined by GLAS (the Copper Property Trust Trustee) to be no less than $1.93 Billion as of the Effective Date, January 30, 2021. (See Exhibit B)

b. Per the Sale Order, no public auction of the J.C. Penney operating company ("OpCo") or its real estate assets ("PropCo") occurred. A private sale and/or a liquidation occurred and is ongoing.[3]

c. The Honorable Judge Marvin Isgur ("Judge Isgur") did not approve a settlement agreement that authorized the DIP Lenders to receive 90% of the Debtor's assets, regardless of value.

d. The Bondholders' liens are still attached to the assets that were transferred to Copper Property Trust (PropCo) and Penney Intermediate Holdings LLC (OpCo), as they are/were secured creditors up to the remaining amount of unpaid 1st and 2nd lien debt.

JURISDICTION AND VENUE

2. The United States Bankruptcy Court for the Southern District of Texas has jurisdiction over this matter pursuant to 28 U.S.C. § 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2).

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

4. This adversary proceeding is commenced pursuant to Rule 7001(2) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and section 105(a) of title 11 of the United States Code (the "Bankruptcy Code"), 11 U.S.C. § 105(a). Declaratory relief is appropriate pursuant to Bankruptcy Rule 7001 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

[3] See Dkt. 1814, Pages 7-8, Section K, "Private Sale is Appropriate"

5. Pursuant to Rule 7008-1 of the Bankruptcy Local Rules, Plaintiff Eric L. Moore consents to entry of a final order or judgment with respect to this Complaint if it is determined that this Court, absent consent of the parties, cannot enter final orders or judgment consistent with Article III of the United States Constitution.

PARTIES

6. Plaintiff Eric L. Moore is an individual residing at 202 Island Avenue, San Diego, California 92101.

7. Defendant Copper Property Trust is located at 3 Second Street, Suite 206, Jersey City, NJ 07311.[4]

8. Defendant Penney Intermediate Holdings LLC/Simon Property Group/Brookfield Properties is located at 225 W. Washington Street, Indianapolis, IN 46204 and/or 250 Vesey Street, 15th Floor, New York, NY 10281.[5]

FACTUAL ALLEGATIONS

9. On May 15, 2020, the Debtors and their various subsidiaries filed bankruptcy, listing roughly $8.4 Billion in assets and showing roughly $5 Billion in funded debt. J.C. Penney was a solvent company with no near-term debt due, that was holding $475 Million in cash[6] and $1.4 Billion in unencumbered real estate.

10. J.C. Penney management used the pandemic as an excuse for a Chapter 11 filing in order to put insiders Spence Haber of H/2 Capital and his friend David Simon of Simon Growth Properties, in position to steal over $7 Billion in assets.[7]

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[4] Upon information and belief, Copper Property Trust is a pass through trust formed by J.C. Penney's DIP Lending Parties and 1st Lien Noteholders to receive rental payments from the operating company ("OpCo") and to liquidate company assets/Creditors' collateral.

[5] Upon information and belief, Penney Intermediate Holdings LLC is a subsidiary joint venture between Simon Growth/Brookfield formed to purchase the operating assets of J.C. Penney.

[6] See Dkt. 1268, Page 1, Paragraph 1

[7] J.C. Penney management sold most, or all, of their stock less than 14 days prior to the bankruptcy filing.

11. Because the Debtors had so much cash and no debt due until July of 2023, they did not need a DIP loan. However, at the insistence of 1st Lien debt majority owner H/2 Capital, they rolled up $450 Million of their 1st Lien debt and put another $450 Million in escrow, for a total DIP loan of $900 Million.

12. Prior to the commencement of the J.C. Penney bankruptcy, the Debtor's attorneys (Jackson Walker and Kirkland & Ellis) selected the Honorable Judge David R. Jones ("Judge Jones") to oversee the case. Text messages have been uncovered between Jackson Walker attorneys indicating that Judge Jones was their preferred judge and that they maneuvered to land the bankruptcy in his court.

13. This was done so that the law firm Milbank LLP could facilitate a multi-billion dollar heist in which insiders/majority 1st Lien Bondholders (such as Spencer Haber of H/2 Capital and his friend David Simon of Simon Growth Properties) would receive all of the Debtor's more than $8 Billion in assets for no more than $1 Billion, which was offered in the form of a credit bid of the (unnecessary) DIP debt.

14. <u>This $7 Billion theft could not have been accomplished</u>:

(a) If Judge Isgur had been on the bench instead of Judge Jones. Text messages between attorneys at Jackson Walker (a Houston-based firm that served as Debtor's co-counsel) have been uncovered, stating that J.C. Penney couldn't afford to go in front of a "process hawk" like Judge Isgur and indicating that attorneys at the firm were trying behind the scenes to keep the case away from Judge Isgur and to get it before Judge Jones. Judge Jones had a special relationship with Jackson Walker partner Elizabeth Freeman, who was his secret live-in girlfriend of many years and was

living with him at the time.[8] In texts to a colleague regarding the J.C. Penney case, Freeman stated that Judge Jones had been "softening up for this for a month." She also affirmed, "Talked to Jones. He's got us," and, "We are keeping this down looooooooow."[9]

(b) If the Debtor had disclosed to Creditors and to the U.S. Trustee the real valuation of its assets, including its cash position and the value of its real estate and operating company.[10]

(c) If the lawyers representing in-the-money Secured and Unsecured Creditors were not threatened with disfavorable rulings, and/or promised favorable rulings in front of Judge Jones in other cases in the future based on their cooperation.[11] In this case, they were expected to stand down and offer no more than the $1 Billion that the "insiders" wanted to pay, and to file no meaningful objections concerning the true value of the Debtor's assets.[12]

(d) If the Debtor's highly profitable and solvent business had been put up for sale in a public auction, as this would have garnered offers much higher than $1 Billion.[13]

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[8] The fact that Judge Jones was the preferred judge to handle the J.C. Penney case came out in texts in the legal matter concerning the clawback of legal fees. (Case No. 23-00645, *In re Professional Fee Matters Concerning the Jackson Walker Law Firm*.)

[9] See 10/17/24 Bloomberg article by James Nani, "Judge's Girlfriend Texts Indicate JCPenney Bankruptcy Maneuver"

[10] Lazard's David Kurtz testified that they did no formal valuation of any of the Debtor's assets, despite receiving $23 Million to market and promote those assets.

[11] Lawyers for Akin Gump informed Plaintiff on a call that PropCo had been given a "shit valuation." They implied they had no choice but to go along, referring to articles in the Wall Street Journal that exposed the relationship between Judge Jones and Elizabth Freeman.

[12] Threatening potential bidders with repercussions if they made a bid and/or outbid others is what caused the indictment and conviction of bankruptcy lawyer Daniel Kaminsky in the Neiman Marcus case. See *In re US v Kaminsky*. The Fact that other constituencies would not join the equity committee motion is covered in this podcast by the financial advisors for the Debtors:
https://podcasts.apple.com/us/podcast/the-jcpenney-bankruptcy-an-inside-view-from/id1559079315?i=1000513581651

[13] No public auction occurred in this case. See Dkt. 1814, Page 7 "Private Sale is Appropriate'

(e) If the Debtor's own lawyers had not argued that the Debtor's liquidation value was much less than $8.4 Billion.[14]

(f) If the Debtor had filed a liquidating analysis as is required by Section 1129(a)(8) of the Bankruptcy Code, showing that Creditors would recover more in a liquidation than in the alleged private sale.

15. The Debtors hired the financial advisory Lazard to allegedly market and promote the company for sale. Although they were contracted to receive up to $23 Million for selling J.C. Penney whole or in part, Lazard's David Kurtz admitted at the sale hearing on November 9, 2020, that they had no valuation for J.C. Penney's extensive real estate portfolio and no valuation for the company's robust operating business, and that he was unaware of anyone else having put a dollar value on the sale. (See Exhibit C)

16. The only formal valuation of the J.C. Penney assets was conducted by the Equity Committee's financial advisors, William Synder and Dawn Ragan (both of CR3 Partners). They found that the Debtor's assets were worth at least $8 Billion, and potentially as much as $10 Billion. This valuation, exceeding $8 Billion, is in line with what the Purchasers of the assets (the DIP Lenders) received and eventually reported in their own audited financials. (See Exhibits A and B)

17. Legal counsel for the Unsecured Creditors Committee as well as the Trustees for the 1st and 2nd Lien Bondholders either refused to agree with, or were prevented from agreeing with, the Equity Committee's valuation; and/or they were prevented from making a bid and/or suing the DIP Lenders for stealing their clients' collateral.

[14] The Debtors made this argument at a hearing on 8/19/2020. See the recently unsealed transcript Page 18, Lines 18-22.

18. Those involved, including the Trustees for the 1st and 2nd Lien bonds, the DIP Lenders and their attorneys, the Debtors and their attorneys, as well as the attorneys hired to represent the Unsecured Creditors' Committee[15] and those hired to represent the Equity Committee, were all aware that the Debtor's assets were worth at least $8 Billion in liquidation and even more as a going concern.

19. Despite this knowledge, they stood down when they were asked to agree that $1 Billion was the combined value of the Debtor's $1 Billion in cash, plus its more than $4.7 Billion in real estate, plus its highly profitable operating business.

A. All Bankruptcy Documents Show Only $1 Billion in Collateral Being Distributed

20. By refusing to value the assets and avoiding a public auction scenario where there would be actual competition, the insiders and their counsel were able to present a $1 Billion credit bid as the alleged highest and best so-called "offer" or "bid" for substantially all the Debtor's assets. Technically, the key documents in the case only govern collateral up to $1 Billion. They simply ignore (and conceal) the other $7 Billion in collateral that was eventually transferred to the DIP Lenders.[16]

21. The Asset Purchase Agreement provides that only $1 Billion in assets is being sold. It purports to show that roughly $697 Million is being paid to J.C. Penney by the Purchasers of OpCo.[17] However, these funds were already at J.C. Penney and did not come from Simon Growth/Brookfield or any outside source. This cash was already property of the Debtor's Estate. (Dkt. 1668, Page 7)

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[15] The Unsecured Creditors' Committee was controlled and dominated by David Simon of Simon Growth Properties, who had signed an RSA prior to the Bankruptcy to purchase the operating company for little or no cost, He made sure, along with his friend Spencer Haber, that no other parties would purchase these assets at, or near, their actual value, or argue that the assets were sufficient to pay unsecured creditors 100% of their claims.

[16] The entity that the DIP Lenders operated under, and that was established to purchase the J.C. Penney Operating Company is Penny Intermediate Holdings LLC.

[17] This was the target amount of cash to be left at the Estate. The actual number ended up being $634 Million.

22. The Sale Order provides that only $1 Billion of collateral was available for distribution to Creditors ($900 Million of DIP debt and $100 Million of 1st Lien debt). (See Dkt. 1814, Pages 8-9 "Credit Bid") **Plaintiff is not seeking to overturn the Sale Order or any other key documents, as none of them authorized the distribution of any more than $1 Billion in assets. Plaintiff's collateral was transferred illegally, without consent and without a court order**.[18]

23. The Settlement Agreement mediated by Judge Isgur provides that only $1 Billion of collateral is available for distribution (Dkt. 1814, Pages 75–86)

24. The Disclosure Statement provides that the collateral available for distribution to 1st Lien/Term Loan Noteholders was only $1 Billion ($900 Million of DIP debt and $100 Million of 1st Lien debt). (Dkt. 1647, Page 16, "Summary of Recoveries")

25. The Plan of Reorganization confirmed in the Company's Chapter 11 cases (the "Plan") provides that Class 4 First Lien Notes claims would be deemed impaired, as the collateral available for distribution to 1st Lien/Term Loan Noteholders was only $100 Million out of the $1 Billion credit bid. (Dkt. 2190)

26. The November 1, 2023 Status Update filed by the Wind-Down Debtors, provides that only $1 Billion in collateral was actually distributed to Creditors.[19] It says, "Based on the assets available for recovery, Class 4 Claims cannot be paid in full."[20] (Dkt. 1245, Page 5)

27. Lazard's David Kurtz, the Debtor's Investment Banker, testified at the Sale Hearing on November 9, 2020, that Lazard did not do a valuation of the Debtor's operating

[18] This is why Count III of this Complaint seeks the imposition of a Constructive Trust.
[19] The audited financials attached at Exhibits A and B prove that the amount distributed was actually over $8 Billion
[20] This report reflects that the Debtors paid off just $1 billion and are still billions in debt. However, the Purchasers' audited financials attached at Exhibits A and B demonstrate that the Debtors transferred $8 billion in collateral.

business (OpCo) or its real estate holdings (PropCo). This is highly unusual and improper. (See Exhibit C)

B. In a Private Sale, Fair Market Value is Governing for Secured Creditors

28. The primary issue in this case is straight-forward: The 1st Lien and 2nd Lien Bondholders' collateral is to be valued at Fair Market Value, not Foreclosure Value.[21] [22] The Supreme Court,[23] The Fifth Circuit, the Sale Order, the Asset Purchase Agreement, the Disclosure Statement and Section 506(a) of the Bankruptcy Code all contain this requirement.

29. All of the key documents in this case allege that only $1 Billion in collateral is available to distribute to Creditors. However, provisions in the Disclosure Statement, Sale Order, and Settlement Agreement clearly establish that the Fair Market Value of the assets is the appropriate method for valuing the liens held by the Secured Parties.[24] [25] [26]

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[21] See the Sale Order, Dkt. 1814, Page 47; See also the Asset Purchase Agreement, Dkt. 1668-1, Page 97, Section 9.2 "Allocation Of Purchase Price"

[22] "'The discrepancy between the two valuation standards arises because an asset's fair market value reflects "a price as would be fixed by negotiation and mutual agreement, after ample time to find a purchaser, as between a vendor who is willing (but not compelled) to sell and a purchaser who desires to buy but is not compelled to take the particular . . . piece of property.'" *BFP v. Resolution Trust Corp.*, 511 U.S. 531, 538 (1994) (quoting BLACK'S LAW DICTIONARY 971 (6th ed. 1990)). By contrast, foreclosure value—the "very antithesis" of fair market value—involves a forced sale for "'*the price which might be obtained on a sale at public auction or a sale forced by the necessities of the owner.*'" Id. at 537-38 (same). There is a "glaring discrepancy between the factors relevant to an appraisal of a property's market value, on the one hand, and the strictures of the foreclosure process on the other." Id. at 538

[23] The Supreme Court held that the "foreclosure value" of an asset does not fairly measure a secured creditor's interest in its collateral. *Assocs. Commercial Corp. v. Rash,* 520 U.S. 953, 955-56, 960-65 (1997); *In re Stembridge*, 394 F.3d at 386-88. The bankruptcy court's error was significant. An asset's foreclosure value usually will be substantially lower than its fair market value (alternatively referred to as its "going concern" or "replacement" value) at the same moment. See Rash, 520 U.S. at 957-58.

[24] The Disclosure Statement reads in part, "The beneficiaries of PropCo shall report consistently with the valuation of the PropCo Acquired Assets transferred to PropCo as determined by the PropCo Trustee." (Dkt. 1647, Page 71) (Underline added)

[25] The Sale Order reads at Paragraph 49, "PropCo Trust will, for tax reporting purposes, report PropCo as owning the assets it acquires at their fair market value at the time of the PropCo Closing (and the face amount underlying the Credit Bid Amount shall not be determinative of fair market value) and such fair market value shall be used by PropCo Trust and the Debtors for purposes of determining the aggregate value used for the PropCo Allocation as such term is used in Section 9.2 of the Asset Purchase Agreement" (Dkt 1814, Page 47) (Underline added)

[26] The Settlement Agreement reads in part, "…the DIP Administration Agent, and the DIP Collateral Agent have authorized and directed that PropCo Purchaser credit bid the Credit Bid Amount, on account of $900 million of DIP Obligations and an aggregate $100 million of Term Loan Obligations and First Lien Obligations, allocated ratably based on outstanding Term Loan Obligations and First Lien Obligations, which obligations are not subject to avoidance, reduction, disallowance, impairment, or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law." (Dkt. 1814, Page 9) (Underline added)

30. The Fair Market Value provision is established Fifth Circuit precedent[27] and is codified in Section 506(a)[28] of the Bankruptcy Code.

31. Further, it is also made clear in all of the key documents in this case that the Credit Bid Amount of $1 Billion does not control the value of the assets for tax purposes, and/or that the Debtors and the Beneficiaries of the PropCo assets must report *consistently* with the Fair Market Value of the PropCo assets as determined by the PropCo Trustee (See Dkts. 1814, 1668, 1647)

32. The Fair Market Value of the PropCo real estate ($1.93 Billion) is a judicially-determined valuation for the 1st Lien/Term Loan Secured Creditors. Copper Property Trust has referenced this judicially-determined valuation amount in every report it has filed with the SEC since the Effective Date. However, this number has intentionally been concealed from the U.S. Trustee and the Creditors by Brian Kinney of Milbank LLP.

C. The DIP Lenders' Audited Financials Reveal Distributions of Over $8 Billion

33. Audited financials filed by the DIP Lenders/Purchasers, reveal that the Debtors transferred no less than $8 Billion in businesses, brands, real estate and inventory–including $1 Billion in cash–to the DIP Lending Parties on the days of the sales.[29] This is despite alleging in all of the key bankruptcy documents, that on the very same day, there was only $1 Billion available to distribute to Creditors.

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[27] See *In re T-H New Orleans Ltd. Partnership*, 116 F.3d 790 (5th Cir. 1997): In this Fifth Circuit case, the court addressed the valuation of collateral in a bankruptcy context, noting that Section 506(a) requires that the creditor's secured interest be valued according to the FMV of the collateral at the time of bankruptcy. This applies regardless of the sale price in a private sale, emphasizing that the creditor's lien attaches to the value of the collateral, not merely the price it fetches at sale.

[28] Section 506(a)(1) States: An Allowed claim of a creditor secured by a lien on property in which the estate has an interest... is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property...and is an unsecured claim to the extent that the value of such creditors interest or the amount so subject to setoff is less than the amount of such allowed claim.

[29] The sale closed in two parts, OpCo on December 7, 2020, and PropCo on January 30, 2021.

34. Penney Intermediate Holdings LLC's audited financials confirm that as of the OpCo closing date, the J.C. Penney Operating Company Business Inventory and Real Estate was valued at no less than $5.193 Billion. (See OpCo audited financials attached at Exhibit A)

35. Audited Financials and/or sworn testimony confirm that as of the PropCo closing date, January 30, 2021, the PropCo Real Estate and PropCo Closing Cash were $1.93 Billion and $360 Million, respectively. This means that roughly $2.36 Billion in PropCo cash and real estate was available to be distributed to the DIP Lenders and 1st Lien Holders at that time. (See PropCo Audited Financials at Exhibit B and Lazard's David Kurtz's sworn testimony at Exhibit C)

36. The Debtors knowingly and willingly transferred more than $8 Billion in cash, inventory and real estate, operating businesses and brands, to the DIP Lenders for a credit bid of merely $1 Billion. J.C. Penney's Total Funded Debt was $5 Billion,[30] meaning that even Shareholders are due a recovery of over $2 Billion. J.C. Penney was a solvent company masquerading as an insolvent one.

The Debtors' Prepetition Capital Structure[31]

Facility	Maturity	Amount Outstanding
J. C. Penney – First Lien Debt Obligations		
ABL Credit Facility	06/20/2022	$1,179 million
2016 Term Loan	06/23/2023	$1,521 million
First Lien Notes	07/01/2023	$500 million
J. C. Penney – Second Lien Debt Obligations		
Second Lien Notes	03/15/2025	$400 million
J. C. Penney - Total Secured Obligations		**$3,600 million**
J. C. Penney – Unsecured Obligations		
Unsecured Notes	Varying (2023 – 2097)	$1,318 million
J. C. Penney – Total Funded Debt		**$4,918 million**

[30] Dkt. 25, Page 36; See also "The Debtor's Prepetition Capital Structure" excerpt from Dkt. 25 above
[31] Dkt. 25 , Page 36

37. The underpaid 1st Lien/Term Loan Noteholders are owed roughly $1.47 Billion more than they have received. Plaintiff Eric L. Moore, a member of this class of Creditors, is not seeking to overturn the Sale Order or the Confirmation Order, as has been repeatedly alleged by the overpaid DIP Lenders and the Wind-Down. These orders did not authorize the improper distribution of his collateral to the DIP Lenders.

D. The Auction That Never Occurred and the Liquidation of the Debtor's Assets

38. The Debtors assert that $1 Billion was the "*highest and best offer*" for their assets, implying that an auction took place. Their financial advisor testified to bids and "bidders," for similar effect. By pretending that the transaction was an auction, they hope to convey the idea that other interested parties–not just the insiders who ended up with substantially all of J.C. Penney's assets–participated in a fair competition to win the "bid." However, this was not the case. Lazard did not market and promote the assets and the proposed transaction by the insiders to outside parties.

39. Other benefits of pretending there was a competitive auction include the presumption that a fair price was paid for the assets. Even if the price was lower than what might be fetched under ideal circumstances, a fair value is established as a result of a competitive auction process.

40. The Debtors and the officers of the court in this case were all aware that there was a lowball price that the insiders (H/2 Capital, Brigade Capital and other DIP Lenders) were willing to offer–in the form of a credit bid–and that was going to be the "highest and best" bid, because others were not allowed to participate in the process without repercussions in other cases with Jackson Walker and Judge David Jones and/or Kirkland & Ellis.

41. However, a credit bid in a private sale cannot be exchanged for more than the amount of the credit bid, which in this case was $1 Billion. Therefore, of the $8 Billion in assets, $1 Billion was transferred to the DIP Lenders in exchange for their credit bid, and $7 Billion was transferred without consideration.

42. Not only was there no auction, there was technically no sale of $7 Billion of the Debtor's assets, because no funds came in from any outside source to purchase anything above $1 Billion. Therefore, although the Sale Order names a Private Sale, this only applies to the $1 Billion in collateral that were exchanged for the $1 Billion credit bid.

43. The Debtor's remaining assets were transferred without consideration. This is similar to a person paying for a suitcase, but not paying for the furs and jewels they shoplifted and stuffed inside the suitcase before the purchase at the register. The suitcase was paid for, but this was only done to cover up a much bigger heist.

44. **No outside funds came in from the Purchasers to the Debtors.** This was simply a liquidation of the Debtor's cash and assets and a loan against the Debtor's ABL facility, orchestrated by insiders and distributed to the DIP Lenders in violation of absolute priority.

45. In a liquidation scenario, absolute priority still governs, and the DIP Lenders are still in possession of other Creditors' property that was never paid for. Therefore, as a remedy, Plaintiff is seeking the imposition of a constructive trust.

46. Of the Debtor's $8 Billion in assets, $100 Million went to 1st Lien Holders and $7.9 Billion went to the DIP Lenders.[32] This is a violation of the absolute priority rule, among other violations.

[32] See the audited financials included in this Complaint at Exhibits A and B and the November 1st, 2023 Status Update Report

47. The distribution of more than $7 Billion in collateral above the credit bid amount was not a part of the $1 Billion credit bid. These distributions were not voted on by Creditors, as no Chapter 11 plan or disclosure statement was ever presented to disclose that this additional $7 Billion in collateral was available for distribution.

48. Distributions to the DIP parties were legally limited to the amount of their claims as Creditors. U.S. Bankruptcy Court 11 U.S.C. § 363(k) reads:

> At a sale under subsection (b) of this section of property that is subject to a lien that secures an allowed claim, unless the court for cause orders otherwise the holder of such claim may bid at such sale, and, if the holder of such claim purchases such property, such holder may offset such claim against the purchase price of such property. (Underline added)

49. The Confirmation Order,[33] Disclosure Statement,[34] and Settlement Agreement[35] erroneously show that the DIP and 1st Lien debts were secured by only $1 Billion in collateral. Years later, on November 1, 2023, the Status Update Report still alleged that only this $1 Billion in value was available.[36] This is not a mistake. Over $7 Billion in collateral was intentionally valued at Zero and transferred to the DIP Lenders at no cost, with the cooperation of teams of attorneys and under the supervision of a compromised court.

50. Furthermore, according to the Purchasers' audited financials, which reveal the actual value of the Debtor's concealed assets, none of the parties who were listed in the Disclosure Statement as "impaired" were actually impaired. Therefore, none of them should have been allowed to vote on the Plan. Beyond that, J.C. Penney was a solvent company that was liquidated and essentially gifted to H/2 Capital and Spencer Haber's insider friend David Simon of Simon Growth Properties.

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[33] See Doc 2190
[34] See Dkt 1647
[35] See Dkt 1814
[36] See Dkt. 1245

E. The DIP Lenders' $900 Million Credit Bid Did Not Buy $8 Billion of Assets

51. The DIP Lenders, led by Spencer Haber of H/2 Capital, offered a joint Credit Bid of $1 Billion ($900 Million of DIP debt and $100 Million of 1st Lien debt) to allegedly purchase substantially all of the Debtor's assets.

52. The DIP Lenders and 1st Lien/Term Loan Noteholders had liens on substantially all of the Debtors assets up to the amount of their combined claims, which totaled roughly $2.5 Billion ($900 Million in DIP debt and $1.6 Billion in 1st Lien debt).

53. Because the DIP Lenders and the 1st Lien Holders controlled up to $2.5 Billion in combined debt, they had the right to credit bid some or all of this amount –but not more–as their liens did not extend to collateral exceeding their collective $2.5 Billion debt amount.

54. Section 363(k) only allows a credit bid up to the amount of the debt. In this case, due to Judge Jones's girlfriend's firm, Jackson Walker, selecting him to oversee the case, the DIP parties were gifted $7 Billion in assets, including $1 Billion in cash without objection from parties who were compromised and/or afraid of repercussions in other cases adjudicated by Judge Jones.

F. Debtors Valued J.C. Penney Operating Company's Assets at Zero

55. Lazard's David Kurtz, the Debtor's Investment Banker, testified at the Sale Hearing on November 9, 2020, that Lazard did not do a valuation of the Debtor's operating Business (OpCo) or its real estate holdings (PropCo). This is highly unusual and improper. (See Exhibit C)

56. The Disclosure Statement suggests that a $1 Billion credit bid could be used to bid for **all**, or some, of OpCo. The Disclosure Statement reads in part:

> The range of recoveries set forth herein for Holders of Allowed First Lien Secured Claims (a) assumes illustratively, that (x) on the one hand, all of the Credit Bid Amount is assigned to the OpCo Purchaser at the OpCo Closing (thus establishing the low end of the range of recovery for Holders of Allowed First Lien Secured Claims on account of

> distributions contemplated to be received under the Plan) and (y) on the other hand, all of the Credit Bid Amount is credit bid at the PropCo Closing (thus establishing the high end of the range of recovery for Holders of Allowed First Lien Secured Claims on account of distributions contemplated to be received under the Plan); (b) does not take into account the reduction in the Allowed Claim amount following the assignment and application of the OpCo Credit Bid Amount; and (c) only takes into account distributions to Holders of Allowed First Lien Secured Claims to be made under this Plan. (Dkt. 1647 page 16)

57. The DIP Lenders allege to have assigned all, or a portion, of the $1 Billion Credit Bid Amount to Simon Growth/Brookfield to purchase the Operating Company.[37] However, the amount of the credit bid assignment was not disclosed, because in reality, no portion of the credit bid was used to purchase OpCo.

58. The PropCo Purchasers state in court filings that they used the full $1 Billion credit bid to buy PropCo.[38] Therefore, Zero consideration was paid for the $5.193 Billion in J.C. Penney operating company assets that were allegedly purchased by Simon Growth/Brookfield.[39] In actuality, the Debtors gifted over $5.193 Billion in assets to the DIP Lenders, including $634 Million in cash.

59. Penny Intermediate Holdings' audited financials show that on the OpCo sale closing date, December 7, 2020, the OpCo Purchasers received $5.193 Billion in assets (See Exhibit A, Page 5)

60. Copper Property Trust filed audited financials reflecting that it had received at least $1.93 Billion in real estate and $360 Million in cash as of the PropCo closing on January 30, 2021.[40] [41]

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[37] See Dkt. 1647, Page 16, Paragraph 32.
[38] Dkt. 1555, Pages 2-3
[39] The consideration alleged to be paid by Simon Growth/Brookfield was all derived from property of the Debtor's estate: (1) $634M in cash (Debtors Surplus Cash after the $1.3 Billion was used to pay of the ABL); (2) $520M that was borrowed against the Debtor's now paid-off ABL, with the proceeds going to the DIP Lenders/1st Lien Holders along with a percentage of merchandise sales (Earn-Out)
[40] See Exhibit B, showing that $1.93 Billion in real estate was distributed
[41] The $360M to the DIP Lenders included the $225M borrowed under the DIP Loan plus $5M in earned interest; See David Kurtz's testimony from the November 9, 2020 Sales Hearing transcript, Page 207, Lines 9-12.

61. No matter how much, if any, of the Credit Bid was used in these purchases, the Credit Bid consideration did not exceed $1 Billion, and the asset value received by the alleged Purchasers was many times this amount according to their own audited financials. Hence, most of what was transferred in this liquidation was not paid for.

62. There were two purchasing entities for substantially all the Debtor's assets, Copper Property Trust (PropCo) and Simon Growth/Brookfield (OpCo).

63. When we add Copper Property Trust's roughly $2.3 Billion to the roughly $5.8 Billion received by Simon Growth/Brookfield, we get roughly $8 Billion in cash, real estate and businesses received by the DIP Lenders collectively, allegedly for a credit bid of only $900 Million.

Collateral Received by the DIP Lenders for $900 Million Credit Bid				
Date	Payee	Amount	Note	Total Paid Out to Date
12/7/20	Penney Intermediate Holdings LLC	$5,193,000,000	Operating Company	$5,193,000,000
12/5/20	Penney Intermediate Holdings LLC	$634,000,000	OpCo Closing Payment	$5,827,000,000
1/30/21	Copper Property Trust	$1,930,000,000	PropCo Real Estate	$7,757,000,000
1/30/21	Copper Property Trust	$360,000,000	PropCo Closing Cash	$8,117,000,000

64. The DIP Lenders' $900 Million Credit Bid allegedly paid for the following collateral:

a. $5.193 Billion (Operating Company)

b. $634 Million in Cash (OpCo closing Payment)

c. $1.93 Billion in Real Estate (PropCo Real Estate)

d. $360 Million (PropCo Closing Cash)

65. The DIP Lenders alleged that of this roughly $8 Billion in collateral that they received, the 1st Lien Holders are only due $100 Million.[42]

66. They also allege that a Settlement Agreement between the Majority DIP Lending Group (the "Milbank Group," owning $845 Million of DIP debt) and the Minority DIP Lending Group (the "Akin Group," owning $55 Million of DIP debt)[43] entitles the DIP Lenders to 90% of all of the Debtor's assets, regardless of value, and regardless of the amount of the DIP debt and/or liens owned by other Creditors. This agreement was mediated by Judge Isgur.

67. The DIP Lenders' argument has been to assert that it is too late for them to be caught for their heist and made to return the money they stole. They have no court orders authorizing their unjust enrichment, no justification in the Bankruptcy Code and no legal argument that would entitle them to keep the collateral and/or proceeds that clearly belong to other Creditors, according to absolute priority.

G. Ongoing Concealment of the Value of the PropCo Real Estate

68. It is not in dispute that the DIP Lenders and the (Class 4) 1st Lien claims were the beneficiaries of the PropCo Acquired Assets. The Disclosure Statement reads in part:

> Pursuant to the Plan, on the Effective Date, the Debtors will transfer all of the Debtors' right, title and interest in the PropCo Acquired Assets and PropCo Assumed Liabilities to PropCo on behalf of the Holders of DIP Loans and Class 4 First Lien Claims. (Dkt. 1647, Page 67; Underline added)

69. The Fair Market Value of the PropCo real estate (which was judicially determined to be $1.93 Billion) has never been disclosed to Creditors nor to the U.S. Trustee or the Bankruptcy Court. This concealment has been ongoing since this scheme was conjured up by H/2 Capital with the assistance of Jackson Walker who made sure that *their* judge would oversee the

[42] See Dkts. 1245, 1814, 1668, 1647 and the November 1, 2023, Status Update Report
[43] These two DIP Lending groups also controlled the 1st Lien debt.

case and that the other lawyers would assist and/or stand down according to the plan concocted by Spencer Haber of H/2 Capital.

70. The value of PropCo was filed with the SEC on the closing date (January 30, 2021) as $1.93 Billion. However, to this day, it has never been filed with the Bankruptcy Court. The value of this property has intentionally been concealed from the Bankruptcy Court, as $1.93 Billion in collateral is already nearly double the $1 Billion credit bid that was allegedly exchanged for both PropCo and OpCo combined.

71. The following actions have been taken to conceal the value of the PropCo real estate from Creditors, the I.R.S. and the U.S. Trustee:

a. There was no published valuation of the real estate (PropCo) or of the operating company (OpCo) as part of the sales process.[44] The Debtor's investment banker admitted this at the Sale Hearing.

b. Attorneys for the Wind-Down and Copper Property Trust objected to a motion for judicial notice of the value of PropCo to be noticed by the Court, and the Court subsequently denied notice.[45]

c. Attorneys for the Wind-Down objected to the disclosure of the judicially-determined valuation of the PropCo collateral by Richard Robbins on cross examination. The Court sustained the objection and did not permit PropCo's value to be confirmed by Mr. Robbins.[46]

d. The Wind-Down alleged in a pleading that Fair Market Value is "fictional" and not part of Section 506(a) of the Bankruptcy Code, and denied that

[44] See Dkt. 1565, Exhibit C, Page 26
[45] See Dkts. 1525 and 1552
[46] See September 4, 2024 Hearing Transcript, Page 89, Lines 6-12

references to Fair Market Value appear in no less than three court orders in this case.[47]

72. The most egregious of the above-listed actions occurred at the hearing on Eric L. Moore's Motion to Enforce on September 4, 2024. The value of PropCo was suppressed by agents of the court. Counsel for the Wind-Down objected to the Debtor's financial advisor disclosing the *court ordered valuation* of the PropCo real estate and the objection was sustained.[48] This is similar to the results of a paternity test being disallowed at a hearing to establish paternity.

H. First Lien Bondholders are Secured Parties Per 11 U.S.C. § 506(a)

73. **The Asset Purchase Agreement** is clear that the 1st Lien/Term Loan Note obligations were secured by a perfected lien on the OpCo and PropCo assets. It reads in part:

> …the DIP Collateral Agent, on behalf of the DIP Secured Parties, holds a perfected first priority priming Encumbrance securing the DIP Obligations and Term Loan/First Lien Notes Collateral Agent, on behalf of the Term Loan/First Lien Notes Secured Parties, holds a perfected Encumbrance securing the Term Loan Obligations and First Lien Notes Obligations on substantially all assets of Sellers, including the OpCo Acquired Assets and PropCo Acquired Assets (collectively, the "Encumbered Assets" and such Encumbrances, the "Credit Bid Encumbrances") (Dkt. 1668-1, Page 7) (underline added)

74. The prepetition parties' liens attach at the Fair Market Value of the assets, not at a discretionary credit bid amount or an ambiguous purchase price. This is obvious, as liens as instruments would have no effect if the value of the underlying assets were arbitrarily assigned. In this case, prior court orders also specifically require that Fair Market Value, not Credit Bid Amount, be used.

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[47] See Dkt. 1618, Page 5, Paragraph 8
[48] See the September 4, 2024 Hearing Transcript, Page 89, Lines 6-12

I. Judge Isgur Did Not Give the DIP Lenders 90% of the Debtor's Assets

75. The DIP Lender defendants have alleged that the Settlement Agreement mediated by Judge Isgur entitles them to 90% of all of the Debtor's assets, regardless of value and regardless of existing liens owned by other Creditors. This is incorrect.

76. In reality, the DIP Lenders credit bid $900 Million of their debt and the 1st Lien Holders credit bid $100 Million of their debt. As stated above, there is no reference to the other $7 billion of collateral.

77. The Settlement Agreement between the Majority and Minority DIP/1st Lien Groups states that the Akin Minority Group would receive $40 Million plus $6 Million for legal fees to drop their objection to the sale. The two DIP-Holding Parties further agreed to credit bid $900 Million of their collective DIP Debt, (the full amount of that debt) and only $100 Million of their collective 1st Lien Debt (which was $1.6 Billion in total), in exchange for all of the Opco and PropCo assets.

78. **The Settlement Agreement reads in part:**

> …the DIP Administration Agent, and the DIP Collateral Agent have authorized and directed that PropCo Purchaser credit bid the Credit Bid Amount, on account of $900 million of DIP Obligations and an aggregate $100 million of Term Loan Obligations and First Lien Obligations, allocated ratably based on outstanding Term Loan Obligations and First Lien Obligations, which obligations are not subject to avoidance, reduction, disallowance, impairment, or subordination pursuant to the Bankruptcy Code or applicable nonbankruptcy law. (Dkt. 1814, Page 9) (underline added)

79. In this case, there was a total of $2.9 Billion in DIP, 1st Lien and 2nd Lien debt against assets valued at more than $8 Billion.[49]

[49] The $2.9B debt breaks down to roughly $900M in DIP debt, $1.6B in 1st Lien debt and $400M of 2nd Lien debt. See "Debtor's Prepetition Capital Structure" table in Paragraph 36 of this Complaint

80. Nothing in the Bankruptcy Code or the Settlement Agreement authorizes the DIP Lenders to receive $8 Billion in cash, cash equivalents, inventory, businesses and real estate for a credit bid of $900 Million.

81. In fact, if 100% of the Debtor's assets were actually subject to the Settlement Agreement, this pre-plan settlement would still be required to comply with the ruling in *In re AWECO Inc.*, where the Court noted that settlements outside of a plan must comply with the absolute priority rule. (*In re: AWECO, Inc.*, 725 F.2d 293, 298 (5th Cir. 1984))

82. Furthermore, if the Court were to find that the alleged "90/10 Split" of the Debtor's assets were governing, the 1st Lien Noteholders would be due at least another $700 Million according to the audited financials filed by the Purchasers.

J. Plaintiff's Secured Liens Survive Despite Transfers

83. The OpCo and PropCo assets were transferred to different entities. The PropCo assets transferred to Copper Property Trust, and the Operating Company Assets were transferred to Penney Intermediate Holdings LLC.

84. Neither Plaintiff Eric L. Moore, nor the Joinder Parties are seeking to overturn the Sale. Even though assets belonging to the 1st and 2nd Lien Secured Parties were transferred to other entities, the liens still attach to the property and/or to the proceeds of the Sale because these transfers were made subject to the existing liens.

85. Per the Disclosure Statement, the PropCo Acquired Assets were transferred to the DIP/1st Lien Parties "subject to any obligations relating to such assets," [50] and pursuant to U.S. Code § 1129(b)(2)(i)(II)(ii). (Underline added)

[50] Dkt. 1647-1, Page 67 (Underline added)

CLAIMS FOR RELIEF

COUNT I

(Copper Property Trust – Declaratory Judgment Under 28 U.S.C. § 2201(a))

86. The allegations set forth above are incorporated herein by reference.

87. An actual legal and substantial controversy exists between the parties regarding the Fair Market Value of the PropCo real estate. This value, as determined by the PropCo Trustee, was $1.93 Billion. This amount, plus the PropCo Closing Cash of $360 Million equal the value PropCo Acquired Assets.

88. This controversy is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201-2.

89. The Court entered an order requiring that the Fair Market Value of the PropCo real estate be determined by the PropCo Trustee. The Trustee's valuation was never disclosed to the Bankruptcy Court until it was filed by Plaintiff Eric L. Moore.

90. Copper Property Trust filed with the SEC, but not with the Bankruptcy Court that the fair market value of the PropCo real estate was $1.93 Billion as of the Effective Date.

91. The liens on PropCo collateral attach at the Fair Market Value of these assets, not at the Credit Bid Amount of $1 Billion. The beneficiaries of PropCo are the DIP Lenders and 1st Lien Parties.

92. Accordingly, Plaintiff, and all others similarly situated, are entitled to a declaratory judgment that the Fair Market Value of the PropCo real estate was $1.93 Billion as of the Effective Date, and not $1 Billion as the DIP Lending Parties allege.

93. Such a declaration will serve the twin interests of judicial efficiency and cost effectiveness by terminating the substantial and actual controversy between the parties, or resolving some part of it.

COUNT II

(Copper Property Trust and Penney Intermediate Holdings LLC – Declaratory Judgment Under 28 U.S.C. § 2201(a))

94. The allegations set forth above are incorporated herein by reference.

95. An actual legal and substantial controversy exists between the parties regarding the nature of the transaction–namely, if an auction, private sale or liquidation occurred.

96. The Sale Order is clear that the transfer of substantially all of the Debtor's assets was not the result of an auction. No auction occurred. This was a private sale and/or a liquidation. The Sale Order reads in part:

> **Private Sale is Appropriate.** The sale of the Acquired Assets to the Purchasers pursuant to a private sale is authorized pursuant to section 363(b)(1) of the Bankruptcy Code and Bankruptcy Rule 6004(f). A private sale of the Acquired Assets to the Purchasers represents the sound business judgment of the Debtors and is appropriate in light of the facts and circumstances surrounding the Transaction and the Debtors' chapter 11 cases because (i) it provides fair and reasonable value for the Acquired Assets for the benefit of the Debtors' estates, (ii) it avoids the cost and delay associated with conducting a public auction, and (iii) the Debtors reasonably determined that a higher and better bid could not be obtained by an auction in light of the robust pre- and post petition marketing processes and the other facts and circumstances of these chapter 11 cases. Notwithstanding that the Transaction provides fair and reasonable value for the Acquired Assets, the face amount underlying the Credit Bid Amount does not control the value of the Acquired Assets for tax reporting purposes, which shall be determined pursuant to paragraph 49 of this Order. (Dkt. 1814, Page 7-8, Section K.)

97. At the September 4, 2024, hearing, attorney for the Wind-Down, Ian Peck of Haynes and Boone LLP also stated that a private sale occurred.[51]

98. Despite these admissions, Copper Property Trust continues to use auction-like references to cloak the transaction as fair and competitive. They suggest that an auction occurred,

[51] See the September 4, 2024 Hearing Transcript, Page 62, Line 12

with the $1 Billion credit bid emerging as the "highest and best offer" for substantially all the Debtor's assets. They assert that as a result, the 1st Lien Secured Bonds are due only 10% recovery because only 10% of the credit bid was 1st Lien secured collateral.

99. However, because there was no auction and because a credit bid in a private sale cannot garner more in value than the amount of the lien being credit bid, the 10% recovery alleged for 1st Lien Holders would only apply up to $1 Billion in collateral. The remaining $7 Billion would be distributed in order of absolute priority, unencumbered by the DIP Loan.

100. Accordingly, Plaintiff, and all other similarly situated, are entitled to a declaratory judgment that no public auction of the Debtor's assets occurred. Rather, a liquidation and/or private sale occurred.

101. Such a declaration will serve the twin interests of judicial efficiency and cost effectiveness by terminating the substantial and actual controversy between the parties, or resolving some part of it.

COUNT III

(Copper Property Trust and Penney Intermediate Holdings LLC – Declaratory Judgment Under 28 U.S.C. § 2201(a))

102. The allegations set forth above are incorporated herein by reference.

103. An actual legal and substantial controversy exists between the parties regarding whether the Honorable Judge Marvin Isgur approved a settlement agreement in which 90% of the Debtor's assets were assigned to the DIP Lenders, regardless of the value of those assets, and regardless of the amount of the DIP debt/liens.[52]

104. The Wind-Down Debtors and Brian Kinney, attorney for the overpaid DIP Lenders, allege that the purchase price of the PropCo real estate was $1 Billion because the $1

[52] And in violation of *In re: AWECO, Inc.*, 725 F.2d 293, 298 (5th Cir. 1984)),which says that all pre-plan settlements must comply with absolute priority.

Billion Credit Bid was used to buy just that asset. They simultaneously attempt to justify the transfer of other assets that were not paid for, as being subject to a Settlement Agreement in which a 90/10 split of ALL of the Debtor's assets applies, regardless of value, and regardless of the liens belonging to Secured 1st and 2nd Lien Parties. This is simply not true.

105. Accordingly, Plaintiff Eric L. Moore, and all others similarly situated, are entitled to a declaratory judgment that: The Honorable Judge Marvin Isgur did not approve a Settlement Agreement between the two DIP Lending Parties that divides and distributes of all of the Debtor's assets on a 90/10 basis, regardless of value, and irrespective of the liens held by 1st and 2nd Lien Secured Parties that are still attached to the the Opco and PropCo Acquired Assets, up to the amount of these Creditors' remaining unpaid claims.

106. In part, U.S. Code § 1129(b)(2)(i)(II)(ii) provides:

> ...that holders of such claims retain liens securing such claims, whether the property is subject to liens is retained by the Debtors or transferred to another entity, to the extent of the allowed amount of such claims; (II) that each holder of a claim of such class receive on account of his claim deferred cash payments totalling at least the allowed amount of such claim, of of a value as of the effective date of the plan, of at least the value of such claim, for the sale, subject to section 363(k) of this title, of any property that is subject to liens securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under clause (i) of (iii) of this subparagraph; or (iii) for the realization by such holders of the indubitable equivalent of such claims.

107. Such a declaration will serve the twin interests of judicial efficiency and cost effectiveness by terminating the substantial and actual controversy between the parties, or resolving some part of it.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Eric Lyndell Moore and Joinder Parties respectfully request that the Court enter judgment in favor of Mr. Moore and Joinder Parties as follows:

(a) **On Count I**, declaring that (i) the Fair Market Value of the PropCo real estate was determined by the PropCo Trustee, GLAS, to be no less than $1.93 Billion, and (ii) per the Sale Order, Disclosure Statement and Settlement Agreement, the PropCo Securities and PropCo Closing Cash must be distributed based on Fair Market Value, not the underlying $1 Billion credit bid amount, and (iii) that the 1st and 2nd Lien Parties were/are secured by the remaining PropCo assets at Copper Property Trust up to the amount of their respective unpaid claims.

(b) **On Count II,** declaring that (i) no public auction of the Debtor's assets occurred and (ii) a private sale and/or liquidation occurred, and that (iii) absolute priority and *in re AWECO* are applicable to all distributions of the Debtor's assets, including those that are subject to the Settlement Agreement.

(c) **On Count III,** declaring that (i) the Honorable Judge Marvin Isgur did not approve a Settlement Agreement purporting to give 90% of the Debtor's assets, regardless of value, to the DIP Lenders, and (ii) that liens belonging to the 1st Lien and 2nd Lien Parties were, and still are, valid and attached to the assets and/or proceeds currently in the possession of Copper Property Trust and Penney Intermediate Holdings LLC, up to the amount of their remaining unpaid claims plus interest, and/or (iii) imposing a constructive trust for the benefit of the unpaid/underpaid secured and unsecured Creditors.

(d) Granting Plaintiff, Eric L. Moore, Joinder Parties and similarly situated creditors such other relief as the Court deems appropriate under the circumstances.

Dated: October 30th, 2024

Respectfully submitted,

ERIC L. MOORE
/s/ *Eric L. Moore*
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Pro se

CERTIFICATE OF ACCURACY

I hereby certify that the facts and circumstances described in the above pleading giving rise to the emergency request for relief are true and correct to the best of my knowledge, information, and belief.

/s/ *Eric L. Moore*
Eric L. Moore

CERTIFICATE OF SERVICE

I hereby certify that on October 30th, 2024, 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/ *Eric L. Moore*

Eric L. Moore

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B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)	ADVERSARY PROCEEDING NUMBER (Court Use Only)

PLAINTIFFS	DEFENDANTS
Eric L. Moore	Copper Property CTL Pass Through Trust and Penney Intermediate Holdings LLC
ATTORNEYS (Firm Name, Address, and Telephone No.) Pro se	**ATTORNEYS** (If Known) Brian Kinney 55 Hudson Yards New York, New York 10001 Simon Property Group Legal Department 225 West Washington Street Indianapolis, IN 46204 Brookfield Properties Legal Department Brookfield Place New York 250 Vesey Street, 15th Floor New York, NY 10281
PARTY (Check One Box Only) □ Debtor □ U.S. Trustee/Bankruptcy Admin ☑ Creditor □ Other □ Trustee	**PARTY** (Check One Box Only) □ Debtor □ U.S. Trustee/Bankruptcy Admin □ Creditor ☑ Other □ Trustee

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

Complaint for declaratory judgment concerning contracts, agreements and orders of the Bankruptcy Court and complaint to determine secured status of bondholders.

NATURE OF SUIT

(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 7001(1) – Recovery of Money/Property
- ☐ 11-Recovery of money/property - §542 turnover of property
- ☐ 12-Recovery of money/property - §547 preference
- ☐ 13-Recovery of money/property - §548 fraudulent transfer
- ☐ 14-Recovery of money/property - other

FRBP 7001(2) – Validity, Priority or Extent of Lien
- ☑ 21-Validity, priority or extent of lien or other interest in property

FRBP 7001(3) – Approval of Sale of Property
- ☐ 31-Approval of sale of property of estate and of a co-owner - §363(h)

FRBP 7001(4) – Objection/Revocation of Discharge
- ☐ 41-Objection / revocation of discharge - §727(c),(d),(e)

FRBP 7001(5) – Revocation of Confirmation
- ☐ 51-Revocation of confirmation

FRBP 7001(6) – Dischargeability
- ☐ 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims
- ☐ 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud
- ☐ 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny

(continued next column)

FRBP 7001(6) – Dischargeability (continued)
- ☐ 61-Dischargeability - §523(a)(5), domestic support
- ☐ 68-Dischargeability - §523(a)(6), willful and malicious injury
- ☐ 63-Dischargeability - §523(a)(8), student loan
- ☐ 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)
- ☐ 65-Dischargeability - other

FRBP 7001(7) – Injunctive Relief
- ☐ 71-Injunctive relief – imposition of stay
- ☐ 72-Injunctive relief – other

FRBP 7001(8) Subordination of Claim or Interest
- ☐ 81-Subordination of claim or interest

FRBP 7001(9) Declaratory Judgment
- ☑ 91-Declaratory judgment

FRBP 7001(10) Determination of Removed Action
- ☐ 01-Determination of removed claim or cause

Other
- ☐ SS-SIPA Case – 15 U.S.C. §§78aaa *et.seq.*
- ☐ 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

□ Check if this case involves a substantive issue of state law	□ Check if this is asserted to be a class action under FRCP 23
□ Check if a jury trial is demanded in complaint	Demand $

Other Relief Sought

B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR J. C. PENNEY DIRECT MARKETING SERVICES, LLC, et a	BANKRUPTCY CASE NO. 20-20184	
DISTRICT IN WHICH CASE IS PENDING SOUTHERN DISTRICT OF TEXAS	DIVISION OFFICE CORPUS CHRISTI DIVISION	NAME OF JUDGE LOPEZ
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) Eric L. Moore		
DATE 10/30/24	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Eric L. Moore	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and **Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

EXHIBIT A

PENNEY INTERMEDIATE HOLDINGS LLC

Consolidated Financial Statements
January 30, 2021
(With Independent Auditors' Report Thereon)

PENNEY INTERMEDIATE HOLDINGS LLC
Consolidated Financial Statements
January 30, 2021

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KPMG LLP
Suite 1400
2323 Ross Avenue
Dallas, TX 75201-2721

Independent Auditors' Report

The Board of Directors
Penney Intermediate Holdings LLC:

We have audited the accompanying consolidated financial statements of Penney Intermediate Holdings LLC and its subsidiaries, which comprise the consolidated balance sheet as of January 30, 2021, and the related consolidated statement of operations, changes in member's equity, and cash flows for period from October 22, 2020 (inception) to January 30, 2021, and the related notes to the consolidated financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these consolidated financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Penney Intermediate Holdings LLC and its subsidiaries as of January 30, 2021, and the results of their operations and their cash flows for the period from October 22, 2020 (inception) to January 30, 2021 in accordance with U.S. generally accepted accounting principles.

KPMG LLP

Dallas, Texas
June 1, 2021

KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee.

PENNEY INTERMEDIATE HOLDINGS LLC
Consolidated Statement of Operations
For the period from October 22, 2020 (inception) to January 30, 2021

(In millions)	
Total net sales	$ 1,211
Credit income and other	59
Total revenues	1,270
Costs and expenses/(income):	
Cost of goods sold (exclusive of depreciation and amortization shown separately below)	853
Selling, general and administrative	331
Depreciation and amortization	31
Real estate and other, net	(1)
Restructuring	5
Acquisition and transition related costs	29
Total costs and expenses	1,248
Operating income	22
Bargain purchase gain	1,294
Net interest expense	(15)
Income before income taxes	1,301
Income tax expense	2
Net income	$ 1,299

See the accompanying notes to the Consolidated Financial Statements.

PENNEY INTERMEDIATE HOLDINGS LLC
Consolidated Balance Sheet

(In millions)		January 30, 2021
Assets		
Current assets:		
Cash and cash equivalents	$	275
Merchandise inventory		1,520
Prepaid expenses and other		365
Total current assets		2,160
Property and equipment, net		951
Operating lease assets		1,667
Financing lease assets		39
Other assets		376
Total assets	$	**5,193**
Liabilities and member's equity		
Current liabilities:		
Merchandise accounts payable		151
Other accounts payable and accrued expenses		566
Current operating lease liabilities		56
Current portion of long-term debt, net		20
Total current liabilities		793
Noncurrent operating lease liabilities		1,803
Noncurrent financing lease liabilities		40
Long-term debt		785
Other liabilities		173
Total liabilities		**3,594**
Member's equity		
Member's Contributions		300
Reinvested earnings		1,299
Total member's equity		**1,599**
Total liabilities and member's equity	$	**5,193**

See the accompanying notes to the Consolidated Financial Statements.

PENNEY INTERMEDIATE HOLDINGS LLC
Consolidated Statement of Member's Equity
For the period from October 22, 2020 (inception) to January 30, 2021

(In millions)	Member's Contributions	Reinvested Earnings	Total Member's Equity
October 22, 2020 (inception)	$ -	$ -	$ -
Member contributions	300	-	300
Net income	-	1,299	1,299
January 30, 2021	$ 300	$ 1,299	$ 1,599

See the accompanying notes to the Consolidated Financial Statements.

PENNEY INTERMEDIATE HOLDINGS LLC
Consolidated Statement of Cash Flows
For the period from October 22, 2020 (inception) to January 30, 2021

(In millions)

Cash flows from operating activities:		
Net income	$	1,299
Adjustments to reconcile net income to net cash provided by operating activities:		
Gain on asset disposition		(1)
Gain on bargain purchase		(1,294)
Depreciation and amortization		31
Change in cash from operating assets and liabilities:		
Inventory		232
Prepaid expenses and other assets		84
Merchandise accounts payable		17
Accrued expenses and other		4
Net cash provided by operating activities		**372**
Cash flows from investing activities:		
Capital expenditures		(9)
Acquisition of JCPenney net assets, net of cash acquired		(634)
Proceeds from sale of operating assets		3
Net cash used by investing activities		**(640)**
Cash flows from financing activities:		
Proceeds from borrowings under the revolving credit facility		445
Proceeds from issuance of long-term debt		291
Debt issuance costs		(48)
Payments of borrowings under the revolving credit facility		(445)
Proceeds from equity contributions		300
Net cash provided by financing activities		**543**
Net increase in cash and cash equivalents		275
Cash and cash equivalents at beginning of period		-
Cash and cash equivalents at end of period	$	275
Supplemental non-cash investing and financing activity:		
Debt issued in satisfaction of debts of seller in net asset acquisition	$	520
Contingent consideration liability for net asset acquisition	$	105

See the accompanying notes to the Consolidated Financial Statements.

PENNEY INTERMEDIATE HOLDINGS LLC
Notes to Consolidated Financial Statements

1. Basis of Presentation and Consolidation

Formation and structure
Penney Intermediate Holdings LLC (the Company), formed on October 22, 2020, is the direct subsidiary of Penney Holdings LLC ("Holdings"), a direct subsidiary of Copper Retail JV LLC ("Copper"), a Delaware limited liability company. The assets of Copper and Holdings consist solely of the 100% ownership in each direct subsidiary. Copper and its related legal entity structure were formed to acquire certain operating assets and related liabilities of J.C. Penney Company, Inc. (JCPenney) on December 7, 2020 (the acquisition date). All acquired assets and liabilities of JCPenney are owned and operated by the Company and its subsidiaries.

Copper is a joint venture also formed on October 22, 2020 and initially owned 50% each by Simon Property Group, L.P.("Simon") and Brookfield Asset Management Inc. ("Brookfield"). Through the date of acquisition, Simon and Brookfield each contributed $150 million in member capital contributions that were contributed through Holdings to the Company. Subsequent to the acquisition date, Simon and Brookfield sold 16.67% of the outstanding membership interest in Copper to Authentic Brands Group, LLC ("ABG").

Nature of Operations
The JCPenney brand was founded by James Cash Penney in 1902. We operate the JCPenney brand through the operation of 690 department stores in 49 states and Puerto Rico, as well as through our eCommerce website at jcp.com and our mobile application. We sell family apparel and footwear, accessories, fine and fashion jewelry, beauty products through Sephora inside JCPenney, and home furnishings. In addition, our department stores provide services, such as styling salon, optical, and portrait photography.

Basis of Presentation and Consolidation
The Consolidated Financial Statements present the results of the Company and our subsidiaries. All significant inter-company transactions and balances have been eliminated in consolidation.

Fiscal Year
The Company's fiscal year consists of the 52-week period ending on the Saturday closest to January 31. Every sixth year the Company's fiscal year consists of 53 weeks ending closest to January 31. Unless otherwise stated, references to 2020 in this report relates to the period from October 22, 2020 (inception) to January 30, 2021, which includes operations beginning on the acquisition date. Please refer to Note 5 ("Acquisition") for further details. Fiscal 2021 will consist of the 52-week period ending on January 29, 2022.

Use of Estimates and Assumptions
The preparation of financial statements, in conformity with generally accepted accounting principles in the United States of America, requires us to make assumptions and use estimates that affect the reported amounts of assets and liabilities and disclosure of contingent liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Such estimates and assumptions are subject to inherent uncertainties, which may result in actual amounts differing from reported amounts.

2. Significant Accounting Policies

Revenue
Our contracts with customers primarily consist of sales of merchandise and services at the point of sale, sales of gift cards to a customer for a future purchase, customer loyalty rewards that provide discount rewards to customers based on purchase activity, and certain licensing and profit sharing arrangements involving the use of our intellectual property by others. Revenue includes Total net sales and Credit income and other. Net sales are categorized by merchandise and service sale groupings as we believe it best depicts the nature, amount, timing and uncertainty of revenue and cash flow.
Credit income and other encompasses the revenue earned from the agreement with Synchrony Financial (Synchrony) associated with our private label credit card and co-branded MasterCard programs.

Merchandise and Service Sales
Total net sales, which exclude sales taxes, are generally recorded when payment is received and the customer takes control of the merchandise. Service revenue is recorded at the time the customer receives the benefit of the service, such as salon, portrait and optical. Shipping and handling fees charged to customers are also included in total net sales with corresponding costs

recorded as cost of goods sold. Net sales are not recognized for estimated future returns which are estimated based primarily on historical return rates and sales levels.

Gift Card Revenue
At the time gift cards are sold a performance obligation is created and no revenue is recognized; rather, a contract liability is established for our obligation to provide a merchandise or service sale to the customer for the face value of the card. The contract liability is relieved, and a net sale is recognized when gift cards are redeemed for merchandise or services. We recognize gift card breakage, net of required escheatment, over the redemption pattern of gift cards. Breakage is estimated based on historical redemption patterns and the estimates can vary based on changes in the usage patterns of our customers.

Customer Loyalty Rewards
Customers who spend a certain amount with us using our private label card or registered loyalty card receive points that can accumulate towards earning JCPenney Rewards certificates, which are redeemable for a discount on future purchases. Points earned by a loyalty customer do not expire as long as another purchase is made within the next 12 months, however, any certificates earned expire two months from the date of issuance. We account for our customer loyalty rewards by deferring a portion of our sales to loyalty points expected to be earned towards a reward certificate, and then recognize the reward certificate as a net sale when used by the customer in connection with a merchandise or service sale. The points earned toward a future reward are valued at their relative standalone selling price based on historical redemption patterns.

Licensing Agreements
Our private label credit card and co-branded MasterCard programs are owned and serviced by Synchrony. Under our agreement, we receive periodic cash payments from Synchrony based upon the consumer's usage of the co-branded card and the performance of the credit card portfolio. We participate in the programs by providing marketing promotions designed to increase the use of each card, including enhanced marketing offers for cardholders. Additionally, we accept payments in our stores from cardholders who prefer to pay in person when they are shopping in our locations. Revenue related to this agreement is recognized over the time we have fulfilled our deliverables and is reflected in Credit income and other.

Principal Versus Agent
We assess principal versus agent considerations depending on our control of the good or service before it is transferred to the customer. When we are the principal and have control of the specified good or service, we include as a net sale the gross amount of consideration to which we expect to be entitled for that specified good or service in revenue. In contrast, when we are the agent and do not have control of the specified good or service, we include as a net sale the fee or commission to which we expect to be entitled for the agency service. In certain instances, the fee or commission might be the net amount retained after paying the supplier.

Cost of Goods Sold (Exclusive of Depreciation and Amortization)
Cost of goods sold includes costs directly related to bringing merchandise to its final selling destination. These costs include the cost of the merchandise (net of discounts or allowances earned), sourcing and procurement costs, buying and brand development costs, including buyers' salaries and related expenses, royalties and design fees, freight costs, warehouse operating expenses, merchandise examination, inspection and testing, store merchandise distribution center expenses, including rent, and shipping and handling costs incurred on eCommerce sales.

Vendor Allowances
We receive vendor support in the form of cash payments or allowances for a variety of reimbursements such as cooperative advertising, markdowns, vendor shipping and packaging compliance, defective merchandise, the purchase of vendor specific fixtures and other vendor contributions. We have agreements in place with each vendor setting forth the specific conditions for each allowance or payment. Depending on the arrangement, we either recognize the allowance as a reduction of current costs or defer the payment over the period the related merchandise is sold. If the payment is a reimbursement for costs incurred, it is generally offset against those related costs; otherwise, it is treated as a reduction to the cost of merchandise.

Vendor compliance credits reimburse us for incremental merchandise handling expenses incurred due to a vendor's failure to comply with our established shipping or merchandise preparation requirements. Vendor compliance credits are recorded as a reduction of merchandise handling costs.

Selling, General and Administrative Expenses (SG&A)
SG&A expenses include the following costs, except as related to merchandise buying, sourcing, warehousing or distribution activities: salaries, marketing costs, occupancy and rent expense, utilities and maintenance, pre-opening expenses, costs related to information technology, administrative costs related to our home office and district and regional operations, real and personal property and other taxes (excluding income taxes) and credit/debit card fees.

Advertising
Advertising costs, which include newspaper, television, Internet search marketing, radio and other media advertising, are expensed either as incurred or the first time the advertisement occurs. For cooperative advertising programs offered by national brands that require proof of advertising to be provided to the vendor to support the reimbursement of the incurred cost, we offset the allowances against the related advertising expense. Programs that do not require proof of advertising are monitored to ensure that the allowance provided by each vendor is a reimbursement of costs incurred to advertise for that vendor's label. Total advertising costs, net of cooperative advertising vendor reimbursements, for 2020 was $42.9 million.

Income Taxes
The Company is a single member LLC and, therefore, a disregarded entity for U.S. federal and state income tax purposes. However, some states impose income type taxes on LLC's. Accordingly, no federal income tax provision, a limited state income tax provision and a foreign income tax provision have been made in the Company's financial statements.

The Company's subsidiaries account for their respective legal entity-level state and foreign income tax provision, which is comprised primarily of the entity-level Texas Gross Margin tax and foreign income taxes incurred by its foreign and Puerto Rico subsidiaries. Such income taxes are accounted for using the asset and liability method and the related expense (benefit) is recorded in Income tax expense (benefit) in the consolidated statement of operations.

Certain states impose franchise and gross receipts taxes at the entity level. These non-income taxes are accounted for within SG&A in the consolidated statement of operations.

Cash and Cash Equivalents
Cash and cash equivalents represent cash in banks and in transit, which include credit card sales transactions that are settled early in the following period.

Merchandise Inventory
Inventories are valued at the lower of cost (using the first-in, first-out or "FIFO" method) or market using the retail method (RIM). Under RIM, retail values of merchandise groups are converted to a cost basis by applying the specific average cost-to-retail ratio related to each merchandise grouping.

Shrinkage accruals have been estimated as a percent of sales for Fiscal 2020 based on historical JCPenney shrinkage experience. Physical inventory counts for stores will be taken at least annually beginning in Fiscal 2021. Cycle count activities for distribution centers and regional warehouses are executed on a daily basis. Inventory records and shrinkage accruals are adjusted based on the actual results from physical inventories and cycle counts.

Property and Equipment, Net

($ in millions)	**Estimated Useful Lives (Years)**	**January 30, 2021**
Land	N/A	$ 192
Buildings	25	341
Furniture and equipment	5	238
Leasehold improvements (1)	8	197
Finance leases (equipment)	1	2
Accumulated depreciation		(19)
Property and equipment, net		$ 951

(1) *Leasehold improvements are depreciated over the shorter of the estimated useful lives of the improvements or the term of the lease, including renewals determined to be reasonably certain.*

Property and equipment are stated at cost less accumulated depreciation. Depreciation is computed primarily by using the straight-line method over the estimated useful lives of the related assets.

We expense routine maintenance and repairs when incurred. We capitalize major replacements and improvements. We remove the cost of assets sold or retired and the related accumulated depreciation or amortization from the accounts and include any resulting gain, loss, or impairment in net income/(loss).

We recognize a liability for the fair value of our conditional asset retirement obligations, which are primarily related to asbestos removal, when probable and if the liability's fair value can be reasonably estimated.

Capitalized Software Costs

We capitalize costs associated with the acquisition or development of major software for internal use in other assets in our Consolidated Balance Sheet and amortize the asset over the expected useful life of the software, generally between three and seven years. We only capitalize subsequent additions, modifications, or upgrades to internal-use software to the extent that such changes allow the software to perform a task it previously did not perform. We expense software maintenance and training costs as incurred.

Cloud computing arrangements are evaluated to determine whether the arrangement includes a software license or is a service contract. If determined to be a software license, then the arrangement is capitalized as another asset and amortized over the expected life of software, generally between three to seven years. If determined to be a service contract, then the cost of the arrangement is expensed as the services are provided.

Impairment of Long-Lived and Indefinite-Lived Assets

We evaluate long-lived assets such as store property and equipment and other corporate assets for impairment whenever events or changes in circumstances indicate that the carrying amount of those assets may not be recoverable. Factors considered important that could trigger an impairment review include, but are not limited to, significant underperformance relative to historical or projected future operating results and significant changes in the manner of use of the assets or our overall business strategies. Assets or asset groups that trigger an impairment review are tested for recoverability by comparing the estimated undiscounted cash flows expected to result from the use of the asset plus any net proceeds expected from disposition of the asset to the carrying value of the asset. If the asset or asset group is not recoverable on an undiscounted cash flow basis, the amount of the impairment loss is measured by comparing the carrying value of the asset or asset group to its fair value and depending on the transaction any loss is included in Restructuring or Real estate and other, net in the Consolidated Statements of Operations. We estimate fair value based on either a projected discounted cash flow method using a discount rate that is considered commensurate with the risk inherent in our current business model or appraised value, as appropriate. We also take other factors into consideration in estimating the fair value of our stores, such as local market conditions, operating environment, mall performance and other trends.

We assess the recoverability of indefinite-lived intangible assets at least annually during the fourth quarter of our fiscal year or whenever events or changes in circumstances indicate that the carrying amount of the indefinite-lived intangible asset may not be fully recoverable. Examples of a change in events or circumstances include, but are not limited to, a decrease in the market price of the asset, a history of cash flow losses related to the use of the asset or a significant adverse change in the extent or manner in which an asset is being used. We test our indefinite-lived intangible assets utilizing the relief from royalty method to determine the estimated fair value for each indefinite-lived intangible asset. The relief from royalty method estimates our theoretical royalty savings from ownership of the intangible asset. Key assumptions used in this model include discount rates, royalty rates, growth rates, sales projections, and terminal value rates.

Assets acquired (including Property and equipment, software, and intangible assets) in connection with the acquisition of J.C. Penney's retail and operating assets have been recorded at their fair values as of December 7, 2020, the acquisition date. Please refer to Note 5 "Acquisition" for details. No impairments have been recorded for the period ended January 30, 2021.

Leases

At the lease commencement date, based on certain criteria, we determine if a lease is classified as an operating lease or finance lease and then recognize a right-of-use lease asset and lease liability on the Consolidated Balance Sheet for all leases (with the exception of leases that have a term of twelve months or less). The lease liability is measured as the present value of unpaid lease payments measured based on the reasonably certain lease term and corresponding discount rate. The initial right-of-use lease asset is measured as the lease liability plus certain other costs and is reduced by any tenant allowances collected from the lessor.

The Company assumed certain leases as part of the acquisition of J.C. Penney's retail and operating assets. Assumed leases were measured on the acquisition date as if they were new leases using our incremental borrowing rate as of the acquisition date, including re-assessing the remaining lease term considering options to extend or terminate the lease. Leases that were modified during the period were re-assessed for lease classification using the modified terms and conditions.

The right-of-use asset was initially measured at an amount equal to the lease liability, adjusted for favorable or unfavorable terms of the lease when compared with market terms. Therefore, the right-of-use asset was adjusted downward for any net unfavorable adjustment and will be amortized over the lease term.

Lease payments include fixed and in-substance fixed payments, variable payments based on an index or rate and termination penalties. Lease payments do not include variable lease components other than those that depend on an index or rate or any payments not considered part of the lease (i.e. payment of the lessor's real estate taxes and insurance). Payments not considered lease payments are expensed as incurred. Some leases require additional payments based on sales and the related contingent rent is recorded as rent expense when the payment is probable. As a policy election, we consider fixed lease payments and all related other fixed payments (i.e., common area maintenance) as one component of a lease.

The reasonably certain lease term includes the non-cancelable lease term and any renewal or termination option periods where we have economically compelling reasons for future exercise.

The discount rate used in our present value calculations is the rate implicit in the lease, when known, or our estimated incremental borrowing rate. Our incremental borrowing rate is estimated based on our secured borrowings and our credit risk relative to the time horizons of other publicly available data points that are consistent with the respective lease term. Whether an operating lease or a finance lease, the lease liability is amortized over the lease term at a constant periodic interest rate. The right-of-use assets related to operating leases are amortized over the lease term on a basis that renders a straight-line amount of rent expense which encompasses the amortization and interest component of the lease. With the occurrence of certain events, the amortization pattern for an operating asset is adjusted to a straight-line basis over the remaining lease term. The right-of-use asset related to a finance lease is amortized on a straight-line basis over the lease term. Rent on short-term leases is expensed on a straight-line basis over the lease term. When a lease is modified or there is a change in lease term, we assess for any change in lease classification and remeasure the lease liability with a corresponding increase or decrease to the right-of-use asset.

Exit or Disposal Activity Costs

Costs associated with exit or disposal activities are recorded at their fair values when a liability has been incurred. Severance is recorded over the service period required to be rendered in order to receive the termination benefits or, if employees will not be retained to render future service, a reserve is established when communication has occurred to the affected employees. Other exit costs are accrued when incurred.

3. Global COVID-19 Pandemic

On March 11, 2020, the World Health Organization declared a global pandemic related to the rapidly growing outbreak of a novel strain of coronavirus (COVID-19). Subsequently, the COVID-19 pandemic has significantly impacted the economic conditions in the U.S. and globally. While all of our stores have been open from December 7, 2020 to January 30, 2021, the COVID-19 pandemic has, and continues to have, an impact on the Company's business operations, financial position, liquidity, capital resources and results of operations. While economic conditions in the U.S. are improving and restrictions imposed during the pandemic are easing, it is impossible to predict the effect and ultimate impact of the COVID-19 pandemic. Current financial information may not be indicative of future operating results.

4. Effect of New Accounting Standards

In March 2021, the FASB issues ASU No. 2021-03, "Intangibles—Goodwill and Other (Topic350): Accounting Alternative for Evaluating Triggering Events", which will allow an entity within scope of this guidance to elect not to monitor for goodwill impairment triggering events during the reporting period and, instead, to evaluate the facts and circumstances as of the end of the reporting period to determine whether it is more likely than not that goodwill is impaired. The amendments in this Update are effective on a prospective basis for fiscal years beginning after December 15, 2019. Early adoption is permitted for both interim and annual financial statements that have not yet been issued or made available for issuance as of March 30, 2021. We do not anticipate a material impact from adoption of this new standard.

In March 2020, the FASB issued ASU No. 2020-04, "Reference Rate Reform (Topic 848): Facilitation of Effects of Reference Rate Reform on Financial Reporting," which provides practical expedients and exceptions for applying GAAP to contracts, hedging relationships, and other transactions affected by reference rate reform if certain criteria are met. The expedients and exceptions provided by the amendments in this update apply only to contracts, hedging relationships, and other transactions that reference the London interbank offered rate ("LIBOR") or another reference rate expected to be discontinued as a result of reference rate reform. These amendments are not applicable to contract modifications made and hedging relationships entered into or evaluated after December 31, 2022. ASU No. 2020-04 is effective as of March 12, 2020, through December 31, 2022, and may be applied to contract modifications and hedging relationships from the beginning of an interim period that includes or is subsequent to March 12, 2020. We do not anticipate a material impact from the adoption of this new standard.

5. Acquisition

On October 28, 2020, Copper entered into an Asset Purchase Agreement (the "Asset Purchase Agreement") with JCPenney and certain of its subsidiaries to acquire substantially all of JCPenney's retail and operating assets, and assume certain of JCPenney's obligations associated with such purchased assets, pursuant to Section 363 of the U.S. Bankruptcy Code in connection with JCPenney's voluntary chapter 11 cases pending in the United States Bankruptcy Court for the Southern District of Texas (the "Bankruptcy Court"). The Asset Purchase Agreement and the transactions contemplated thereby were approved by the Bankruptcy Court on November 9, 2020. Copper subsequently designated the Company and its subsidiaries as purchasers under the Asset Purchase Agreement. The acquisition of substantially all of the retail and operating assets of JCPenney by the Company and its subsidiaries was completed on December 7, 2020. Pursuant to the Asset Purchase Agreement, the Company and its subsidiaries also assumed certain liabilities related to such assets.

The company accounted for the acquisition as a business combination in accordance with ASC 805. The consideration transferred for the acquisition is as follows:

(in millions)	December 7, 2020
Cash paid, net of cash acquired of $266	$ 634
Term loan	520
Estimated contingent consideration	105
Total consideration transferred, net of cash acquired	**$ 1,259**

The estimated contingent consideration consists of both (i) an earn-out liability with fair value of $74.1 million and (ii) a liability related to any future receipts of credit card company holdback deposits with a fair value of $31.2 million as of the acquisition date. The value of the earn-out liability depends on the twelve-month average of the net merchandise accounts payable applicable for FY 2021 and FY 2022 and was estimated using a Monte Carlo simulation approach. The credit card holdback liability is equal to 50% of any cash proceeds received in connection with the release of the bankruptcy related credit card company holdbacks.

Assets acquired and liabilities assumed in connection with the acquisition have been recorded at their fair values. The following table provides the preliminary estimated fair values of the identifiable assets acquired and liabilities assumed as of the acquisition date:

(in millions)	December 7, 2020
Merchandise inventory	$ 1,752
Prepaid expenses and other assets	449
Property and equipment	968
Capitalized software	141
Indefinite-lived intangible assets	113
Assumed financing lease right-of-use assets	40
Assumed operating lease right-of-use assets	647
Master lease right-of-use assets	1,032
Other assets	87
Merchandise accounts payable	(134)
Other accounts payable and accrued liabilities	(496)
Assumed financing lease liabilities	(40)
Assumed operating lease liabilities	(650)
Master lease liabilities	(1,215)
Other liabilities	(141)
Total net assets excluding cash acquired	**$ 2,553**

We measured PP&E assets using a combination of the cost, sales comparison and income approach, which were primarily based on significant Level 2 and Level 3 inputs, such as market participant assumptions, the highest and best use assumptions, estimates of reproduction/replacement costs, normal useful lives, long-term growth rates, market values and discount rates.

The fair value assigned to intangible assets acquired were primarily derived from Level 2 and Level 3 inputs, such as estimates, assumptions, and other information compiled by management, including independent valuation that utilized established valuation

techniques. The brand names are valued using the relief from royalty method and the internally developed software is valued using the cost approach. The relief from royalty method estimates our theoretical royalty savings from ownership of the intangible assets. Key assumptions in determining relief from royalty include, among other things, discount rates, royalty rates, growth rates, sales projections, and terminal value rates.

The right-of-use assets were adjusted for unfavorable terms of acquired leases when compared with market terms based on Level 3 inputs such as discount rate.

The Company has determined the fair value of the identifiable net assets acquired exceeds the fair value of the consideration transferred. Therefore, the Company reviewed the procedures it used to identify and measure the assets acquired and liabilities assumed and to measure the fair value of the consideration transferred and concluded that the procedures and resulting measures were appropriate. Accordingly, we recognized a bargain purchase gain of $1,294 million, which represents the excess of the fair value of net assets acquired over the consideration transferred, which was recorded in Bargain Purchase Gain in the Consolidated Statement of Operations. The bargain purchase gain is primarily attributable the distressed nature of the transaction as a result of the JCPenney bankruptcy.

The values reflected in the table above may change as we finalize our assessment of the acquired assets and liabilities. The following table summarizes the fair value of the acquired identifiable intangible assets and weighted-average useful life:

Asset class	Fair value (in millions)	Weighted average useful life
Indefinite-lived intangible assets	$ 113	N/A
Capitalized software	141	3.3
Total fair value of intangible assets	**$ 254**	**3.3**

In connection with the acquisition, Copper incurred $57.1 million of debt issuance costs associated with the Term Loan (see Note 13 "Long-Term Debt"), the Revolving Credit Facility (see Note 12 "Revolving Credit Facility"), and the FILO Facility (see Note 12 "Long-Term Debt"). We recorded the $42.4 million of debt issuance costs related to the Revolving Credit Facility on the balance sheet as an "Other asset", and the $5.2 million and $9.5 million of debt issuance costs related to the Term Loan and the FILO Facility, respectively, was recorded on the balance sheet as a reduction to the face value of the debt incurred. In addition, we recorded $29 million in acquisition and transition related costs, $3 million of which are associated with tax and earnout fees, $19 million of which are related to the planning and execution of the acquisition, primarily for financial advisory, legal, and other professional service fees, and $7 million in pre-acquisition retention programs. These costs were included in acquisition and transition related costs in our consolidated statement of operations.

6. Revenue

Our contracts with customers primarily consist of sales of merchandise and services at the point of sale, sales of gift cards to a customer for a future purchase, customer loyalty rewards that provide discount rewards to customers based on purchase activity, and certain licensing and profit sharing arrangements involving the use of our intellectual property by others. Revenue includes Total net sales and Credit income and other. Net sales are categorized by merchandise and service sale groupings as we believe it best depicts the nature, amount, timing and uncertainty of revenue and cash flow.

The components of Net sales for 2020 were as follows:

($ in millions)	2020	
Men's apparel and accessories	$ 265	21%
Women's apparel	201	17%
Women's accessories, including Sephora	169	14%
Home	142	12%
Footwear and handbags	118	10%
Kids', including toys	115	9%
Jewelry	146	12%
Services and other	55	5%
Total net sales	$ 1,211	100%

Credit income and other encompasses the revenue earned from the agreement with Synchrony associated with our private label credit card and co-branded MasterCard programs. The Company has contract liabilities associated with the sales of gift cards and our customer loyalty program.

The liabilities are included in Other accounts payable and accrued expenses in the Consolidated Balance Sheet and were as follows:

(in millions)	January 30, 2021
Customer gift cards	$ 110
Customer loyalty program	33
Total contract liability	$ 143

Contract liability includes consideration received for gift card and loyalty related performance obligations which have not been satisfied as of a given date.

A rollforward of the amounts included in contract liability for 2020 are as follows:

(in millions)	January 30, 2021
October 22, 2020	$ -
Liability assumed at the acquisition date December 7, 2020	136
Current period gift cards sold and loyalty reward points earned	55
Net sales from amounts included in contract liability opening balances	(4)
Net sales from current period usage	(44)
Ending balance	$ 143

7. Related Party Agreements and Transactions

Lease Agreements

The Company is party to lease agreements with Simon and Brookfield for 77 of its retail stores. The following table summarizes the lease payments paid to Simon and Brookfield.

(in millions)	2020
Simon	$ 3
Brookfield	3
Total	$ 6

Licensing and Sourcing Agreements

We are party to a licensing and sourcing agreements with ABG. Under the licensing agreement, the Company appointed ABG as exclusive licensing agent to represent the Company for the purpose of identifying, sourcing, negotiating, drafting and managing certain intellectual property. Under the sourcing agreement, the Company has a good faith efforts agreement to purchase ABG licensed product. As of January 30, 2021, no transactions had yet occurred under the licensing or sourcing agreements.

Interim CEO

The Company's interim CEO, who assumed that role on January 1, 2021, is a current executive of Simon. For the period ended January 30, 2021, no payments were made related to these services. Subsequent to year-end, the Company has entered into an employment agreement with the interim CEO.

8. Other Assets

(in millions)	January 30, 2021
Capitalized software, net	$ 135
Indefinite-lived intangible assets, net	113
Revolving credit facility unamortized costs, net	41
Other	87
Total	$ 376

Our indefinite-lived intangible assets primarily consist of our worldwide rights for the Liz Claiborne® family of trademarks as well as other private label brands developed by JCPenney.

9. Other Accounts Payable and Accrued Expenses

(in millions)	January 30, 2021
Taxes other than income taxes	$ 151
Customer gift cards	110
Accrued salaries, vacation and bonus	58
Customer loyalty program	33
Advertising	21
Occupancy and rent related	16
Current portion of workers' compensation and general liability self-insurance	10
Restructuring	7
Other	160
Total	$ 566

10. Other Liabilities

(in millions)	January 30, 2021
Long-term portion of workers' compensation and general liability insurance	$ 59
Environmental reserves	8
Non-current Synchrony signing bonus	32
Contingent consideration liability for net asset acquisition	74
Total	$ 173

11. Fair Value Disclosures

In determining fair value, the accounting standards establish a three-level hierarchy for inputs used in measuring fair value, as follows:

- Level 1 — Quoted prices in active markets for identical assets or liabilities.
- Level 2 — Significant observable inputs other than quoted prices in active markets for similar assets and liabilities, such as quoted prices for identical or similar assets or liabilities in markets that are not active; or other inputs that are observable or can be corroborated by observable market data.
- Level 3 — Significant unobservable inputs reflecting our own assumptions, consistent with reasonably available assumptions made by other market participants.

Other Non-Financial Assets Measured on a non-Recurring Basis

In connection with the acquisition of JCPenney's retail and operating businesses, assets acquired and liabilities assumed have been recorded at their fair values. Please refer to Note 5 "Acquisition" for fair value measurement information as part of the acquisition.

Other Financial Instruments

Carrying values and fair values of financial instruments that are not carried at fair value in the Consolidated Balance Sheet are as follows:

	As of January 30, 2021	
($ in millions)	Carrying Amount	Fair Value
Total debt, excluding unamortized debt issuance costs	$ 820	$ 752

The fair value of long-term debt is estimated by obtaining quotes from brokers or is based on current rates offered for similar debt. As of January 30, 2021, the fair values of cash and cash equivalents, accounts payable and short-term borrowings approximate their carrying values due to the short-term nature of these instruments.

Concentrations of Credit Risk
We have no significant concentrations of credit risk.

12. Revolving Credit Facility

The Company has a $2,000 million senior secured asset-based revolving credit facility (Revolving Credit Facility) due December 7, 2025. The Revolving Credit Facility is secured by a perfected first-priority security interest in substantially all of our eligible credit card receivables and inventory. The Revolving Facility is available for general corporate purposes, including the issuance of letters of credit.

The borrowing base under the Revolving Credit Facility is limited to a maximum of 90% of eligible credit card receivables, plus 85% of the liquidation value of our inventory, net of certain reserves. Letters of credit reduce the amount available to borrow by their face value. In addition, the maximum availability is limited by a minimum excess availability threshold which is the lesser of 10% of the borrowing base or $200 million, subject to a minimum threshold requirement of $150 million.

As of the end of Fiscal 2020, the Company had no borrowings outstanding under the Revolving Credit Facility and had $1,096.5 million available for borrowing, of which $117.3 million was reserved for outstanding standby letters of credit, none of which have been drawn on, leaving $979.2 million available for future borrowings.

Pricing under the Revolving Credit Facility is tiered based on our utilization under the line of credit. As of the end of the fiscal period, the applicable interest rates were LIBOR (subject to a 0.75% floor) plus 2.0% or Prime Rate plus 3.0%. The applicable rate for standby letters of credit was 2.0%, while the required unused commitment fee was 0.375% for the unused portion of the Revolving Credit Facility.

13. Long-Term Debt

($ in millions)	**January 30, 2021**
Issue:	
2020 Term Loan Facility (Matures in 2026)	$ 520
FILO Loan Due 2025	300
Total debt	820
Unamortized debt issuance costs	(15)
Less: current maturities	(20)
Total long-term debt	$ 785
Weighted-average interest rate at year end	9.8 %
Weighted-average maturity (in years)	5.6 years

FILO Facility
The Company has a $300 million FILO facility. The FILO Facility is secured by a perfected second-priority security interest in substantially all of our eligible credit card receivables and inventory. The FILO Facility is subject to a borrowing base calculation that is limited to a maximum of 10% of eligible credit card receivables, plus 20% of the liquidation value of our inventory, net of applicable reserves as determined by the Revolving Credit Facility Agent.

The FILO Facility bears interest at a rate of LIBOR (subject to a 0.75% floor) plus 8.50% or Prime Rate plus 7.50%. The FILO facility matures on December 7, 2025. The Company is required to make quarterly repayments in a principal amount equal to $3.75 million until the maturity date of the facility.

Term Loan
The Company has a $520 million term loan (Term Loan) that is secured by a first lien on all real property, intellectual property and other assets. The loan is also secured by a second lien on the Company's inventory and accounts receivable. The Term Loan bears interest at a rate of Libor (subject to a 1.0% floor) plus 8.5% or Prime Rate plus 7.5%. The Company has required amortization payments of 1% per year, paid quarterly. Additional prepayments may be required from sale of property, insurance or condemnation proceeds and calculated excess cash flow for the fiscal year periods ending in 2022 and later. The term loan will mature on December 7, 2026.

Commencing in January 2023, the Term Loan will be subject to the satisfaction of a financial covenant measuring Net Debt to EBITDA. The required ratio decreases annually over the term of the loan from an initial requirement of less than 4.25 times to 3.25 times in the final year of the loan.

Scheduled Annual Principal Payments on Long-Term Debt:

($ in millions)

2021	$ 20
2022	20
2023	20
2024	20
2025	245
Thereafter	495
Total	$ 820

14. Member's Equity

Member's Contributions

The Company is wholly owned by Penney Holdings LLC, a direct subsidiary of Copper. The initial capital contribution from Penney Holdings LLC to the Company consisted of a $300 million cash contribution.

15. Leases

We conduct a major part of our operations from leased premises (building or land) that include retail stores, store distribution centers, warehouses, offices and other facilities. Almost all leases include renewal options where we can extend the lease term from one to 50 years or more. We also lease equipment under finance leases for terms of primarily three to five years, and we rent or sublease certain real estate to third parties. Our lease contracts do not contain any purchase options or residual value guarantees.

As contemplated by the Asset Purchase Agreement, Copper entered into Master Lease Agreements for 160 retail stores (RMLA) and 6 distribution centers (DCMLA). Landlords under the Master Lease Agreements were formed by a group of JCPenney first lien lenders for the purposes of acquiring the 160 retail stores and 6 distribution centers from JCPenney as part of its chapter 11 plan for reorganization.

Under the Master Lease Agreements, the Company leases the retail locations and distribution centers for a base term of 20 years beginning December 7, 2020. A net unfavorable adjustment of $183 million was recorded as of the acquisition date for off-market terms, primarily as a result of the duration of the lease term, which reduced the right-of-use assets related to leases under the Master Lease Agreements.

Leases

($ in millions)	**Classification**	**January 30, 2021**
Assets		
Operating	Operating lease assets	$ 1,667
Financing	Financing lease assets	39
Total lease assets		$ 1,706
Liabilities		
Current:		
Operating	Current operating lease liabilities	$ 56
Finance	Current portion of finance leases and note payable	—
Noncurrent:		
Operating	Noncurrent operating lease liabilities	1,803
Finance	Noncurrent financing lease liabilities	40
Total lease liabilities		$ 1,899

Lease Cost

($ in millions)	**Classification**	**2020**
Operating lease cost	Selling, general and administrative expense	$ 47
Variable lease cost	Selling, general and administrative expense	10
Finance lease cost:		
Amortization of lease assets	Depreciation and amortization	1
Interest on lease liabilities	Net interest expense	1
Rental income	Real estate and other, net	—
Net lease cost		$ 59

As of January 30, 2021, future lease payments were as follows:

($ in millions)	**Operating Leases**	**Finance Leases**	**Total**
2021	$ 223	$ 4	$ 227
2022	271	5	276
2023	276	6	282
2024	252	6	258
2025	252	6	258
Thereafter	3,326	94	3,420
Total lease payments	4,600	121	4,721
Less: amounts representing interest	(2,745)	(81)	(2,826)
Present value of lease liabilities	$ 1,859	$ 40	$ 1,899

Lease term and discount rate are as follows:

	January 30, 2021
Weighted-average remaining lease term (years)	
Operating leases	18
Finance leases	20
Weighted-average discount rate	
Operating leases	11%
Finance leases	11%

Other information:

($ in millions)	**2020**
Cash paid for amounts included in the measurement of these liabilities	
Operating cash flows from operating leases	41
Operating cash flows from finance leases	1
Financing cash flows from finance leases	1

16. Defined Contribution Plans

The Company offers two defined contribution plans: Savings, Profit-Sharing and Stock Ownership Plan (Savings Plan) and Safe Harbor 401(k) Plan (Safe Harbor Plan). The plans were assumed from JCPenney and employees continue to participate in the plans based on their eligibility as of December 31, 2020 under the prior JCPenney plans. Employees hired or rehired by the Company or a participating employer on or after January 1, 2021 will be eligible to participate in the Safe Harbor Plan. The Company is evaluating the opportunity to combine the plans in the future.

Savings Plan participants are eligible to receive a fixed matching contribution each pay period equal to 50% of up to 6% of pay contributed by the employee. Matching contributions are credited to employees' accounts in accordance with their investment elections.

In the Safe Harbor Plan, participants age 21 or older become eligible for the Company matching contributions after completing 1,000 hours of service in an eligibility period. The Company matching contributions under the Safe Harbor Plan are equal to 100% of up to 5% of pay contributed by the employee. Matching contributions are credited to employees' accounts in accordance with their investment elections and fully vest immediately.

The expense for these plans, included in SG&A expenses in the Consolidated Statements of Operations, was $5 million in 2020.

17. Supplemental Cash Flow Information

($ in millions)

Supplemental cash flow information		**2020**
Interest received/(paid), net	$	(5)

18. Litigation and Other Contingencies

We are subject to various legal and governmental proceedings involving routine litigation incidental to our business. While no assurance can be given as to the ultimate outcome of these matters, we currently believe that the final resolution of these actions, individually or in the aggregate, will not have a material adverse effect on our results of operations, financial position, liquidity or capital resources.

19. Subsequent Events

The Company has evaluated subsequent events through June 1, 2021, the date the financial statements were issued.

NARRATIVE REPORT

(follows this page)

Penney Intermediate Holdings LLC
Narrative Report
For the Period of December 7, 2020 to January 30, 2021

Summary Results of Operations

($ in millions)	Actual	Plan	B/(W)
Total net sales	$ 1,211	$ 1,383	$ (172)
Credit income and other	59	35	24
Total revenues	1,270	1,418	(148)
Costs and expenses/(income):			
Cost of goods sold	853	985	132
Selling, general and administrative	331	404	73
Depreciation and amortization	31	54	23
Real estate and other, net	(1)	(12)	(11)
Restructuring, acquisition and transition	34	4	(30)
Total costs and expenses	1,248	1,435	187
Operating income/(loss)	22	(17)	39
Net interest expense	(15)	(9)	(6)
Other components of net periodic pension income	—	16	(16)
Bargain purchase gain	1,294	—	1,294
Income/(loss) before income taxes	1,301	(10)	1,311
Income tax expense	2	—	2
Net income/(loss)	$ 1,299	$ (10)	$ 1,309

Sales were $1.21 billion or $172 million unfavorable to plan due to the pandemic continuing to impact store traffic. Credit revenue exceeded plan due to higher gain share.

COGS as a percent of total net sales were 70% or slightly better than plan. Selling, general and administrative expense was $331 million or 27% as a rate of net sales vs plan of 29% due to lower store expenses and lower admin expenses due to unfilled open positions. Depreciation and amortization was lower due to impact of purchase price accounting vs historical net book values.

Real estate and other, net consisted of sub-lease income and was unfavorable to plan due to planned gains from asset sales that did not occur. Restructuring, acquisition and transition consisted of various costs specifically related to the acquisition of the JCPenney operating net assets, severance costs, and other related expenses. Acquisition and transition costs were not included in the plan resulting in the unfavorable variance to plan. Net interest expense was unfavorable to plan due to additional debt not initially contemplated in the final capital structure. There were no Other components of net periodic pension income because the Company decided to terminate the pension. Bargain purchase gain is the result of the net assets acquired less total consideration paid as explained in more detail in the Notes to the consolidated financials. Income tax expense consisted of accrued taxes for the Puerto Rico entity.

Financial Condition and Liquidity

As of January 30, 2021, the borrowing base under the ABL was $1.1 billion with $1.0 billion net availability due to $0.1 billion in letters of credit. There were no cash advances outstanding. Including cash and cash equivalents of $0.3 billion, the Company had $1.3 billion in total liquidity.

STATEMENT OF CONSOLIDATED ADJUSTED EBITDA

(follows this page)

PENNEY INTERMEDIATE HOLDINGS LLC
Statement of Consolidated Adjusted EBITDA
For the period from October 22, 2020 (inception) to January 30, 2021

(In millions)	
Net Income	$ 1,299
Plus:	
Interest expense	15
Income tax expense	2
Depreciation and amortization	31
Restructuring expenses	5
Acquisition and transition costs	29
Minus:	
Bargain purchase gain	(1,294)
Consolidated adjusted EBITDA	$ 87

Prepared in accordance with the definition of Consolidated Adjusted EBITDA per Section 1.1 of the Credit and Guaranty Agreement dated December 7, 2020. All amounts are taken from the Consolidated Statement of Operations included in the audited Annual Financial Statements of Penney Intermediate Holdings LLC for the period from October 22, 2020 (inception) through January 30, 2021.

EXHIBIT B

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended March 31, 2021

or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission File Number: 000-56236

Copper Property CTL Pass Through Trust

(Exact name of registrant as specified in its charter)

New York	**85-6822811**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

3 Second Street, Suite 206 Jersey City, NJ 07311-4056

(Address of principal executive offices and zip code)

(201) 839-2200

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(g) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
N/A	N/A	N/A

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☐ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☐ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☒	Smaller reporting company	☐
		Emerging growth company	☒

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☐

COPPER PROPERTY CTL PASS THROUGH TRUST

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PART I — FINANCIAL INFORMATION
ITEM 1. FINANCIAL STATEMENTS
COPPER PROPERTY CTL PASS THROUGH TRUST
Consolidated Balance Sheets
(Unaudited)
(in thousands)

	January 30, 2021 (Effective Date - see Note 1)	As of March 31, 2021
Assets		
Investment properties:		
Land and improvements	$ 716,504	$ 716,504
Building and other improvements	999,983	999,983
	1,716,487	1,716,487
Less: accumulated depreciation	—	(5,542)
Net investment properties	1,716,487	1,710,945
Cash and cash equivalents	25,563	32,994
Accounts receivable	—	10,774
Lease intangible assets, net	314,264	311,635
Right-of-use lease assets	110,691	110,255
Other assets, net	—	4,371
Total assets	**$ 2,167,005**	**$ 2,180,974**
Liabilities and Equity		
Liabilities:		
Accounts payable and accrued expenses	$ 8,651	$ 1,094
Lease intangible liabilities, net	168,159	166,752
Lease liabilities	38,075	38,093
Other liabilities	—	7,999
Total liabilities	**214,885**	**213,938**
Commitments and contingencies (Note 5)		
Equity:		
Trust certificates, no par value, 75,000,000 certificates authorized, 75,000,000 certificates issued and outstanding, as of Effective Date and March 31, 2021	—	—
Additional paid-in capital	1,952,120	1,952,120
Retained earnings (accumulated deficit)	—	14,916
Total equity	**1,952,120**	**1,967,036**
Total liabilities and equity	**$ 2,167,005**	**$ 2,180,974**

See accompanying notes to consolidated financial statements

COPPER PROPERTY CTL PASS THROUGH TRUST
Consolidated Statement of Operations
Period from January 30, 2021 through March 31, 2021
(Unaudited)
(in thousands, except per certificate amounts)

Revenues:		
Lease income	$	27,453
Expenses:		
Operating expenses		2,651
Depreciation and amortization		6,764
General and administrative expenses		1,192
Total expenses		10,607
Other expenses:		
Formation expenses		364
Net income	$	16,482
Earnings per certificate – basic and diluted:		
Net income per certificate - basic and diluted	$	0.22
Weighted average number of certificates outstanding – basic		75,000
Weighted average number of certificates outstanding – diluted		75,000

See accompanying notes to consolidated financial statements

COPPER PROPERTY CTL PASS THROUGH TRUST
Consolidated Statement of Equity
Period from January 30, 2021 through March 31, 2021
(Unaudited)
(in thousands)

	Trust Certificates	Additional Paid-in Capital	Retained Earnings	Total Equity
Balance as of January 30, 2021 (see Note 1)	75,000	$ 1,952,120	$ —	$ 1,952,120
Net income	—	—	16,482	16,482
Distributions paid to Certificateholders ($0.02 per certificate)	—	—	(1,566)	(1,566)
Balance as of March 31, 2021	75,000	$ 1,952,120	$ 14,916	$ 1,967,036

See accompanying notes to consolidated financial statements

COPPER PROPERTY CTL PASS THROUGH TRUST
Consolidated Statement of Cash Flows
Period from January 30, 2021 through March 31, 2021
(Unaudited)
(in thousands)

Cash flows from operating activities:		
Net income	$	16,482
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization		6,764
Amortization of above/below market leases, net		1
Changes in assets and liabilities:		
Changes in accounts receivable		(10,774)
Changes in other assets		(4,371)
Changes in right-of-use lease assets		436
Changes in accounts payable and accrued expenses		1,094
Changes in lease liabilities		17
Changes in other liabilities		7,999
Net cash provided by operating activities		17,648
Cash flows from financing activities:		
Payment of assumed liability for transaction costs		(8,651)
Distributions paid to Certificateholders		(1,566)
Net cash used in financing activities		(10,217)
Net increase (decrease) in cash and cash equivalents		7,431
Cash and cash equivalents, at beginning of period		25,563
Cash and cash equivalents, at end of period	$	32,994

See accompanying notes to consolidated financial statements

(1) ORGANIZATION

On May 15, 2020, Old Copper Company, Inc. (f/k/a J. C. Penney Company, Inc.) ("Old Copper") and certain of its subsidiaries (collectively, the "Debtors") commenced voluntary cases under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of Texas (the "Bankruptcy Court").

On October 28, 2020, the Debtors entered into an Asset Purchase Agreement (the "Asset Purchase Agreement") with Copper Retail JV LLC, an entity formed by and under the joint control of Simon Property Group, L.P. and Brookfield Asset Management Inc. ("OpCo Purchaser"), and Copper Bidco LLC ("PropCo Purchaser" and, together with OpCo Purchaser, the "Purchasers"), an entity formed on behalf of lenders under Old Copper's (i) senior secured superpriority, priming debtor-in-possession credit facility (the "DIP Facility"), (ii) 5.875% senior secured notes due 2023 (the "First Lien Notes") and (iii) Amended and Restated Credit and Guaranty Agreement, dated as of June 23, 2016 (the "Term Loan Facility" and together with the First Lien Notes, the "First Lien Debt"), pursuant to which the Purchasers agreed to acquire substantially all of the Debtors' assets and assume certain of the Debtors' obligations in connection with the purchased assets.

On December 12, 2020, the Debtors filed the Amended Joint Chapter 11 Plan of Reorganization of J. C. Penney Company, Inc. and its Debtor Affiliates (the "Plan of Reorganization") which was confirmed by the Bankruptcy Court on December 16, 2020.

On December 21, 2020, Copper Property CTL Pass Through Trust, a New York common law trust (the "Trust," "we," "our" or "us") was formed in connection with the reorganization of Old Copper.

On January 30, 2021 (the "Effective Date"), the Plan of Reorganization became effective pursuant to its terms, at which point PropCo Purchaser (replacing Old Copper) and GLAS Trust Company LLC, continuing as trustee, entered into an Amended and Restated Trust Agreement (as amended, the "Trust Agreement"). In connection with the consummation of the transactions set forth in the Asset Purchase Agreement and in exchange for a $1 billion aggregate credit bid by PropCo Purchaser, comprising $900 million of claims under the DIP Facility and $100 million of claims, on a pro rata basis, under the First Lien Debt, and simultaneous release of obligations under the DIP Facility and First Lien Debt, Old Copper transferred (or caused its subsidiaries to transfer) its fee simple or ground leasehold title (as applicable) in certain properties to the PropCos (as defined below) and assigned (or caused such subsidiaries to assign) the Master Leases (as defined below) relating to the properties to the Trust. As a result, the Trust indirectly owns, through separate wholly-owned property holding companies (the "PropCo"), 160 Retail Properties and six Warehouses (each as defined below), all of which are leased to one or more subsidiaries of OpCo Purchaser (collectively with its subsidiaries, "New JCP") under two Master Leases. In connection with the foregoing, certain of the Debtors' lenders received, their pro-rata portion of the equity interest in the Trust, as evidenced by the Trust Certificates (as defined below). The aggregate credit bid was not an indicator of the fair value of the assets and liabilities of the Trust as of the Effective Date, and it does not represent the full extent of debt that was owed to the creditor group.

The Trust accounted for the reorganization using fresh start reporting under Financial Accounting Standards Board ("FASB") Accounting Standard Codification ("ASC") Topic 852, which resulted in the Trust becoming a new entity for financial reporting purposes on the Effective Date. Accordingly, all assets and liabilities are recorded at fair value in accordance with accounting requirements for business combinations under ASC 805-20.

As of the Effective Date, Old Copper has no ability to exercise any control over the Properties or the Trust and has no affiliation with the Trust. The Trust owns directly or indirectly 100% of the equity or partnership interests (as applicable) in the PropCos. Specifically, the PropCos include (i) CTL Propco I LLC, a Delaware limited liability company, and CTL Propco I L.P., a Delaware limited partnership, which collectively own the fee simple or ground leasehold title (as applicable) to the Retail Properties and (ii) CTL Propco II LLC, a Delaware limited liability company, and CTL Propco II L.P., a Delaware limited partnership, which collectively own the fee simple title to the Warehouses.

The Trust's operations consist solely of (i) owning the Properties, (ii) leasing the Properties under the terms of the Master Leases (as discussed in Note 4), to New JCP as the sole tenants and (iii) subject to market conditions and the conditions set forth in the Trust Agreement, selling the Properties to third-party purchasers in each case through the PropCos.

The real estate portfolio consists of160 retail properties (the "Retail Properties") and six distribution centers (the "Warehouses" and, together with the Retail Properties, the "Properties") across 37 U.S. states and Puerto Rico. In the aggregate, the Warehouses and Retail Properties comprise 10.1 million square feet and 21.7 million square feet, respectively, of leasable space, all of which is leased to the tenants under the Master Leases (as discussed in Note 4).

The Trust is governed by the Trust Agreement between PropCo Purchaser and the Trustee. The Trust Agreement created a series of equity trust certificates designated as "Copper Property CTL Pass Through Certificates" (the "Trust Certificates"), 75 million of which were issued on the Effective Date. Each Trust Certificate represents a fractional undivided beneficial interest in the Trust and represents the interests of the holders of the Trust Certificates ("Certificateholders") in the Trust. All Trust Certificates shall vote as a single class and shall be in all respects equally and ratably entitled to the benefits of the Trust Agreement without preference, priority or distinction on account of the actual time or times of authentication and delivery, all in accordance with the terms and provisions of the Trust Agreement.

The Trust has retained Hilco JCP LLC, an affiliate of Hilco Real Estate LLC as its independent third-party manager to perform asset management duties with respect to the Properties (together with any of its affiliates, replacement or successor, the "Manager"). The Trust incurred $1,500 of asset management fees which are included in "Operating expenses" on the accompanying consolidated statement of operations of which $750 was included in "Accounts payable and accrued expenses" on the accompanying consolidated balance sheets as of March 31, 2021.

(2) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States (GAAP) for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. Readers of this Quarterly Report should refer to the Financial Statements included in our amended Registration Statement on Form 10 filed on March 18, 2021, as certain footnote disclosures which would substantially duplicate those contained in the Registration Statement have been omitted from this Quarterly Report. In the opinion of management, all adjustments necessary, all of which were of normal recurring nature, for a fair statement have been included in this Quarterly Report.

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting periods. For example, significant estimates, judgments and assumptions were required in a number of areas, including, but not limited to, determining the useful lives of real estate properties, determination of discount rates in ground leases, reasonably certain lease terms for ground and master leases, and evaluating the impairment of long-lived assets. Actual results could differ from these estimates.
All certificate amounts and dollar amounts in this Quarterly Report on Form 10-Q, including the consolidated financial statements and notes thereto, are stated in thousands with the exception of per certificate amounts.

The accompanying consolidated financial statements include the accounts of the Trust, as well as all wholly owned subsidiaries of the Trust. All intercompany balances and transactions have been eliminated in consolidation. Wholly owned subsidiaries consist of limited liability companies and limited partnerships. The Trust has evaluated the fee arrangements with the Trustee and Manager to determine if they represent a variable interest, and concluded that the fee arrangements are commensurate with market and therefore the Trustee and Manager are not variable interest entities.

The accompanying consolidated financial statements include the period from the Effective Date to March 31, 2021 (the "Reporting Period"), and do not include a comparative consolidated statement of financial position as of December 31, 2020 as the Trust had no assets, liabilities or equity until the Effective Date.

Fresh Start Accounting and Investment Properties

The Trust determined the fresh start accounting fair value of the investment properties based upon the fair value of the individual assets and liabilities assumed as of the Effective Date, which generally included (i) land and land improvements, (ii) building and other improvements, (iii) in-place lease intangibles, (iv) above and below market lease intangibles and (v) leasehold right-of-use assets and related operating lease liabilities.

In estimating the fair value of tangible assets, including land and improvements, building and other improvements for fresh start accounting, the Trust considered available comparable market and industry information in estimating the Effective Date fair value. The Trust allocated a portion of the fair value to the estimated in-place lease intangibles based on estimated lease execution costs for similar leases as well as lost rental payments during an assumed lease-up period. The Trust also evaluated each lease as compared to current market rates. If a lease was determined to be above or below market, the Trust allocated a portion of the fair value to such above or below market leases based upon the present value of the difference between the contractual lease payments and estimated market rent payments over the remaining lease term. Renewal periods were included within the lease term in the calculation of above and below market lease values if, based upon factors known at the Effective Date, market participants would consider it reasonably certain that the lessee would exercise such options. Fair value estimates used in fresh start accounting, including the capitalization rates and discount rate used, required the Trust to consider various factors, including, but not limited to, market knowledge, demographics, age and physical condition of the property, geographic location, size and location of tenant spaces within the investment properties, and tenant profile.

The portion of the fair value allocated to in-place lease intangibles is amortized on a straight-line basis over the life of the related lease as a component of depreciation and amortization expense.

With respect to leases in which the Trust is the lessor, the portion of fair value allocated to above and below market lease intangibles is amortized on a straight-line basis over the life of the related lease as an adjustment to lease income.

With respect to ground leases (in which the Trust is the lessee), a lease liability is measured at the present value of the remaining lease payments and the right-of-use lease (ROU) asset is initially measured as the same amount as the lease liability and adjusted for any above or below market ground lease intangibles.

On the Effective Date, the Trust assumed a liability of $8,651 related to transaction costs. Such costs were required to be incurred in order for the emergence from bankruptcy to take place, and are therefore considered pre-emergence costs (costs incurred prior to the change in-control). This assumed liability decreased the net assets of the Trust by $8,651 as of the Effective Date.

Ordinary repairs and maintenance will be expensed as incurred. Expenditures for significant improvements will be capitalized.

Depreciation expense is computed using the straight-line method. Building and other improvements are depreciated based upon estimated useful lives which range from27 to 43 years for building and other improvements and6 to 10 years for land improvements. Tenant improvements not considered a component of the building are amortized on a straight-line basis over the lesser of the estimated remaining useful life of the asset or the term of the lease.

Impairment of Investment Properties

The Trust's investment properties are reviewed for potential impairment at the end of each reporting period or whenever events or changes in circumstances indicate that the carrying value may not be recoverable. At the end of

each reporting period, the Trust separately determines whether impairment indicators exist for each property. Examples of situations considered to be impairment indicators include, but are not limited to:

- a substantial decline in occupancy rate or cash flow;
- expected significant declines in occupancy in the near future;
- continued difficulty in leasing space;
- a significant change in the credit quality of tenant;
- a reduction in anticipated holding period;
- a significant decrease in market price not in line with general market trends; and
- any other quantitative or qualitative events or factors deemed significant by the Trust's management.

If the presence of one or more impairment indicators as described above is identified at the end of a reporting period or at any point throughout the year with respect to a property, the asset is tested for recoverability by comparing its carrying value to the estimated future undiscounted cash flows. An investment property is considered impaired when the estimated future undiscounted cash flows are less than its current carrying value. When performing a test for recoverability or estimating the fair value of an impaired investment property, the Trust makes certain complex or subjective assumptions that include, but are not limited to:

- projected operating cash flows considering factors such as vacancy rates, rental rates, lease terms, tenant financial strength, competitive positioning and property location;
- estimated holding period or various potential holding periods when considering probability-weighted scenarios;
- projected capital expenditures and lease origination costs;
- estimated interest and internal costs expected to be capitalized;
- projected cash flows from the eventual disposition of an operating property;
- comparable selling prices; and
- property-specific capitalization rates and discount rates.

To the extent impairment has occurred, the Trust will record an impairment charge calculated as the excess of the carrying value of the asset over its estimated fair value.

For the Reporting Period, no impairment charges were recorded.

Investment Properties Held for Sale

In determining whether to classify an investment property as held for sale, the Trust considers whether (i) management has committed to a plan to sell the investment property, (ii) the investment property is available for immediate sale in its present condition, subject only to terms that are usual and customary, (iii) the Trust has a legally enforceable contract that has been executed and the buyer's due diligence period, if any, has expired, and (iv) actions required for the Trust to complete the plan indicate that it is unlikely that any significant changes will be made.

If all of the above criteria are met, the Trust classifies the investment property as held for sale. When these criteria are met, the Trust suspends depreciation (including depreciation for tenant improvements and building improvements) and amortization of in-place lease intangibles and any above or below market lease intangibles and the Trust records the investment property held for sale at the lower of cost or net realizable value. The assets and liabilities associated with those investment properties that are classified as held for sale are presented separately on the consolidated balance sheets for the most recent reporting period. No properties qualified for held for sale accounting treatment as of March 31, 2021.

Cash and Cash Equivalents

The Trust maintains its cash and cash equivalents at major financial institutions. The cash and cash equivalents balance at one or more of these financial institutions exceeds the Federal Depository Insurance Corporation (FDIC) insurance coverage. The Trust periodically assesses the credit risk associated with these financial institutions and believes that the risk of loss is remote.

Lease Income and Accounts Receivable

The Trust accounts for leases under the provisions of ASC 842. The Trust commenced recognition of lease income on its Master Leases (as discussed in Note 4) as of the Effective Date. In most cases, revenue recognition under a lease begins when the lessee takes possession or controls the physical use of the leased asset. Generally, this occurs on the lease commencement date. Lease income, for leases that have fixed and measurable rent escalations, is recognized on a straight-line basis over the term of each lease. The difference between such lease income earned and the cash rent due under the provisions of a lease is recorded as straight-line rent receivable and is included as a component of "Accounts receivable" in the accompanying consolidated balance sheets.

At lease commencement, the Trust expected that collectibility was probable for the Master Leases due to the creditworthiness analysis performed. Throughout the lease term, individual leases are assessed for collectibility and upon the determination that the collection of rents over the remaining lease life is not probable, lease income is adjusted such that it is recognized on the cash basis of accounting. The Trust will remove the cash basis designation and resume recording lease income from such tenants on an accrual basis when the Trust believes that the collection of rent over the remaining lease term is probable and, generally, based upon a demonstrated payment history. As of March 31, 2021, none of the Trust's tenants are being accounted for on the cash basis of accounting.

The Trust records all changes in uncollectible lease income as an adjustment to "Lease income" in the accompanying consolidated statement of operations. During the Reporting Period, there was no uncollectible lease income.

Right-of-use Lease Assets and Lease Liabilities

The Trust was assigned an interest as lessee of land under23 non-cancellable ground leases with third party landlords which were classified as operating leases on the Effective Date. Rental expense associated with land that the Trust leases under non-cancellable operating leases is recorded on a straight-line basis over the term of each lease. In accordance with the Master Leases, rental expense associated within land is paid directly by New JCP and is included in "Lease income" in the accompanying consolidated statement of operations (see Note 4).

On the Effective Date, the Trust recognized ROU lease assets and lease liabilities for long-term ground leases. The lease liability is calculated by discounting future lease payments by the Trust's incremental borrowing rate, which is determined through consideration of (i) the Trust's entity-specific risk premium, (ii) observable market interest rates and (iii) lease term. The ROU asset is initially measured as the same amount as the lease liability and presented net of the Trust's existing straight-line ground rent liabilities and ground lease intangible liability. The lease liability is amortized based on changes in the value of discounted future lease payments and the ROU asset is amortized by the difference in the straight-line lease expense for the period and the change in value of the lease liability.

The Trust does not include option terms in its future lease payments where they are not reasonably certain to be exercised. The Trust also does not recognize ROU assets for leases with a term of 12 months or less and has elected not to separate lease and non-lease components for operating leases.

Income Taxes

The Trust is intended to qualify as a liquidating trust within the meaning of United States Treasury Regulation Section 301.7701-4(d) or, in the event it is not so treated, a partnership other than a partnership taxable as a corporation under Section 7704 of the Internal Revenue Code of 1986, as amended.

The Trust records a benefit, based on the GAAP measurement criteria, for uncertain income tax positions if the result of a tax position meets a "more likely than not" recognition threshold. All tax returns since January 30, 2021 remain subject to examination by federal and various state tax jurisdictions.

Segment Reporting

The Trust's chief operating decision makers, which are comprised of its Principal Executive Officer and Principal Financial Officer, assess and measure the operating results of the Trust's portfolio of properties based on net

operating income and do not differentiate properties by geography, market, size or type. Each of the Trust's investment properties is considered a separate operating segment, as each property earns revenue and incurs expenses, operating results are individually reviewed and discrete financial information is available. However, the Trust's properties are aggregated into one reportable segment because (i) the properties have similar economic characteristics, (ii) the Trust provides similar services to its tenants and (iii) the Trust's chief operating decision makers evaluate the collective performance of its properties.

(3) INVESTMENT PROPERTIES

As of the Effective Date, the Trust obtained control of a real estate portfolio that consists of160 Retail Properties and six Warehouses located across 37 U.S. states and Puerto Rico. The January 30, 2021 balance sheet reflects the allocation of fair value to the assets and liabilities that existed on the Effective Date and emergence from bankruptcy and is all non-cash.

The following table summarizes the allocated fair value by property type as of the Effective Date[1]:

Property Type	Ownership	Square Footage	Fair Value
Retail	Fee Simple	18,326	$ 1,234,100
	Ground Leasehold	3,386	$ 203,208
Warehouse	Fee Simple	10,109	$ 497,900
		31,821	$ 1,935,208

As of the Effective Date, the weighted average amortization period for lease intangible assets and lease intangible liabilities was19.9 years.

The following table presents the amortization during the next five years and thereafter related to the lease intangible assets and liabilities for properties owned as of March 31, 2021:

	Period from April 1 to December 31, 2021	2022	2023	2024	2025	Thereafter	Total
Amortization of:							
Above market lease intangibles (a)	$ 6,335	$ 8,447	$ 8,447	$ 8,447	$ 8,447	$ 126,699	$ 166,822
In-place lease intangibles (a)	$ 5,499	$ 7,332	$ 7,332	$ 7,332	$ 7,332	$ 109,986	$ 144,813
Lease intangible assets, net (b)	$ 11,834	$ 15,779	$ 15,779	$ 15,779	$ 15,779	$ 236,685	$ 311,635
Below market lease intangibles (a)	$ 6,332	$ 8,443	$ 8,443	$ 8,443	$ 8,443	$ 126,648	$ 166,752
Lease intangible liabilities, net (b)	$ 6,332	$ 8,443	$ 8,443	$ 8,443	$ 8,443	$ 126,648	$ 166,752

(a) Represents the portion of the leases in which the Trust is the lessor. The amortization of above and below market lease intangibles is recorded as an adjustment to lease income and the amortization of in-place lease intangibles is recorded to depreciation and amortization expense.

(b) Lease intangible assets, net and lease intangible liabilities, net are presented net of $2,630 and $1,407 of accumulated amortization, respectively, as of March 31, 2021.

[1] The Trust continues to review the detailed valuation analysis to derive the fair value of assets and liabilities as a result of fresh start accounting. Therefore, the current allocation is based on provisional estimates and subject to continuing management analysis.

Amortization expense pertaining to in-place lease intangibles was $1,222 for the Reporting Period.

Amortization pertaining to above market lease intangibles of $1,408 for the Reporting Period was recorded as a reduction to lease income. Amortization pertaining to below market lease intangibles of $1,407 for the Reporting Period was recorded as an increase to lease income.

(4) LEASES

Leases as Lessor

The 160 Retail Properties are leased pursuant to a single retail master lease (as amended, modified or supplemented from time to time, the "Retail Master Lease") and thesix Warehouses are leased pursuant to a single distribution center master lease (as amended, modified or supplemented from time to time, the "DC Master Lease"; together with the Retail Master Lease, the "Master Leases" and individually, each a "Master Lease"). On the Effective Date, New JCP assigned all of its right, title and interest as lessor under the Master Leases to the applicable PropCo. Each of the Master Leases has an initial term of 20 years that commenced on December 7, 2020 and is classified as an operating lease. The Trust receives monthly base rent pursuant to the Master Leases, which is 50% abated during the first lease year for each of the Retail Properties. At the beginning of the third lease year, base rent under the DC Master Lease increases by 2% per year and the increase is included in fixed lease payments and the future undiscounted lease payments schedule. At the beginning of the third lease year, base rent under the Retail Master Lease increases based on changes in the consumer price index (subject to a maximum 2% increase per year) and the increase is not included in fixed lease payments or the future undiscounted lease payments schedule.

The Master Leases require direct payment of all operating expenses, real estate taxes, ground lease payments (where applicable), and common area maintenance costs by New JCP and allow for lessor reimbursement if amounts are not directly paid. Expenses paid directly by New JCP are not included in the accompanying consolidated statement of operations, except for ground lease payments made by New JCP, since recording cash payments made by New JCP is necessary to relieve amounts due to the ground lessor included in the ground lease liabilities. For the Reporting Period, ground lease payments made by New JCP of $681 were included in "Lease income" in the accompanying consolidated statement of operations and ground lease rent expense of $1,134 was included in "Operating expenses" in the accompanying consolidated statement of operations.

In certain municipalities, the Trust may be required to remit sales taxes to governmental authorities based upon the rental income received from Properties in those regions. These taxes are required to be reimbursed by the tenant to the Trust in accordance with the terms of the applicable Master Lease.

From time to time the Trust may have leasing activity with replacement tenants other than New JCP.

Lease income related to the Trust's operating leases is comprised of the following for the Reporting Period:

Lease income related to fixed lease payments		
Base rent (a)	$	15,999
Straight-line rental income, net (b)	$	10,774
Lease income related to variable lease payments		
Ground lease reimbursement income (c)	$	681
Other		
Amortization of above and below market lease intangibles (d)	$	(1)
Lease income	$	27,453

(a) Base rent consists of fixed lease payments, subject to a50% rent abatement during the first lease year for each of the Retail Properties.
(b) Represents lease income related to the excess of straight-line rental income over fixed lease payments.

(c) Ground lease reimbursement income consists of variable lease payments due from the tenant for land leased under non-cancellable operating leases.
(d) Represents above and below market lease amortization recognized over straight line over the lease term.

As of March 31, 2021, undiscounted lease payments to be received under operating leases for the next five years and thereafter are as follows:

	Lease Payments
Period from April 1 to December 31, 2021	$ 71,995
2022	156,607
2023	157,315
2024	158,037
2025	158,773
Thereafter	2,480,687
Total	$ 3,183,414

The weighted average remaining lease terms range was approximately 19.8 years as of March 31, 2021.

Leases as Lessee

The Trust leases land under operating ground leases at certain of its Properties, which expire in various years from 2038 to 2096, including any available option periods that are reasonably certain to be exercised.

On the Effective Date, the Trust recorded lease liabilities and ROU assets of $38,075 for long-term ground leases, calculated by discounting future lease payments by the Trust's incremental borrowing rate as of January 30, 2021. The incremental borrowing rate was determined through consideration of (i) the Trust's entity-specific risk premium, (ii) observable market interest rates and (iii) lease term. The weighted average incremental borrowing rate used to discount the future payments was 11.0% and the Trust's operating leases had a weighted average remaining lease term of 46.5 years as of January 30, 2021. The Trust's ground lease intangible assets of $37,925 and ground lease intangible liability of $15,309 are presented net of the ROU assets.

During the Reporting Period, ground lease rent expense was $1,134, which is included within "Operating expenses" in the accompanying consolidated statement of operations. Ground rent lease expense includes amortization pertaining to above market ground lease intangibles of $(42) for the Reporting Period and amortization pertaining to below market ground lease intangibles of $304. There were no cash payments for ground rent lease expense for the Reporting Period since these amounts are paid directly to the ground lessor by New JCP. These payments are included in "Lease income" in the accompanying consolidated statement of operations.

As of March 31, 2021, undiscounted future rental obligations to be paid under the long-term ground leases by New JCP under the terms of the Master lease on behalf of the Trust, including fixed rental increases, for the next five years and thereafter are as follows:

	Lease Obligations
Period from April 1 to December 31, 2021	$ 3,070
2022	4,083
2023	4,130
2024	4,192
2025	4,184
Thereafter	232,213
Less imputed interest	(213,779)
Lease liabilities as of March 31, 2021	$ 38,093

The Trust's long-term ground leases had a weighted average remaining lease term of 46.3 years and a weighted average discount rate of 11.0% as of March 31, 2021.

(5) COMMITMENTS AND CONTINGENCIES

Master Leases

Landlord Option Properties: The Retail Master Lease provides the Trust an option on23 of the Retail Properties, allowing current or future landlords to terminate the Retail Master Lease as to that property upon 24 months' prior written notice but such option is (for the Trust, but not for future landlords) limited toeight Retail Properties in any lease year. The DC Master Lease provides the Trust an option on all six of the distribution centers, allowing current or future landlords to terminate the DC Master Lease upon24 months' prior written notice if the tenant has ceased operations within the premises.

Tenant Option Properties: The Retail Master Lease provides New JCP an option to terminate the Retail Master Lease upon24 months' prior written notice as to all or a portion of any one or more of six specified properties upon replacement of such sub-performing property with a qualified replacement property in accordance with the terms and conditions of the Retail Master Lease but such option is limited to no more than five Properties in any lease year.

Substitution Options and Go Dark Rights: The Retail Master Lease provides New JCP an option to terminate the Retail Master Lease with respect to selected sub-performing properties upon replacement of such sub-performing properties with a qualified replacement property in accordance with the terms and conditions of the Retail Master Lease. Notwithstanding the foregoing, New JCP shall only be entitled to exercise a substitution option (i) between the third and 15th anniversary of the commencement date of the Retail Master Lease and (ii) if the aggregate allocated base rent amounts for all Go Dark/Substitution Properties (as defined in the Retail Master Lease) during the applicable period (as described in the Retail Master Lease) is less than or equal to 15% of the aggregate first year's base rent. The Retail Master Lease also provides New JCP with the limited right to "go dark" (i.e., cease operations) at one or more Retail Properties in certain limited circumstances as set forth in the Retail Master Lease; provided that such right does not relieve New JCP of its obligation to make any rent payments that are due and owing.

Tenant Purchase Rights: The Master Leases contain preferential offer rights in favor of the Tenant with respect to70 of the Retail Properties, and each of the Warehouses, which enable the Tenant, in connection with a potential sale of such Properties, to acquire such Properties for a price determined in accordance with the procedures set forth in the Master Leases.

Lockout Periods: The Trust has agreed not to deliver notice to New JCP formally commencing the sales process at those Properties subject to the "Tenant Purchase Rights" described above prior to the dates specified in the applicable Master Lease for such Properties, the latest of which is in the second quarter of 2021. 70 of the Retail Properties, and each of the Warehouses, are subject to a lockout period.

Environmental Matters

Federal law (and the laws of some states in which we own or may acquire properties) imposes liability on a landowner for the presence on the premises of hazardous substances or wastes (as defined by present and future federal and state laws and regulations). This liability is without regard to fault or knowledge of the presence of such substances and may be imposed jointly and severally upon all succeeding landowners. If such hazardous substance is discovered on a property owned by us, we could incur liability for the removal of the substances and the cleanup of the property.

There can be no assurance that we would have effective remedies against prior owners of the property. In addition, we may be liable to tenants and may find it difficult or impossible to sell the property either prior to or following such a cleanup. There are no environmental matters that are expected to have a material effect on the Trust's consolidated financial statements.

Risk of Uninsured Property Losses

The Trust maintains property damage, fire loss, environmental, and liability insurance. However, there are certain types of losses (generally of a catastrophic nature) which may be either uninsurable or not economically insurable. Such excluded risks may include war, earthquakes, tornados, certain environmental hazards, and floods. Should such events occur, (i) we might suffer a loss of capital invested, (ii) tenants may suffer losses and may be unable to pay rent for the spaces and (iii) we may suffer a loss of profits which might be anticipated from one or more properties.

Significant Risks and Uncertainties

In March 2020, the World Health Organization declared the outbreak of the novel coronavirus (COVID-19) a global pandemic. COVID-19 has caused significant disruptions to the U.S. and global economy and has contributed to significant volatility and negative pressure in the financial markets. The global impact of the COVID-19 outbreak has been rapidly evolving and many U.S. states and cities, including where the Trust owns properties, have in place or had previously imposed measures intended to control its spread, such as instituting "shelter-in-place" rules and restrictions on the types of businesses that may continue to operate. While the Trust did not incur significant disruptions to its lease income and occupancy during the Reporting Period as a result of the COVID-19 pandemic, the Trust continues to closely monitor the impact of the COVID-19 pandemic on all aspects of its business. Due to numerous uncertainties, it is not possible to accurately predict the impact the pandemic will have on the Trust's financial condition, results of operations and cash flows.

Concentration of Credit Risk

As of March 31, 2021, all of the Properties were leased to New JCP, and all of Trust's lease income was derived from the Master Leases (see Note 4). The Properties' tenants constitute a significant asset concentration, as all tenants are subsidiaries of New JCP and New JCP provides financial guarantees with respect to the Master Leases. Until the Trust materially diversifies the tenancy of its portfolio, an event that has a material adverse effect on New JCP's business, financial condition or results of operations could have a material adverse effect on the Trust's business, financial condition or results of operations.

The Trust's real estate portfolio was reasonably diversified by geographical location and did not contain any other significant concentrations of credit risk. As of March 31, 2021, the Trust's properties are located across 37 U.S. states and Puerto Rico.

Litigation

From time to time, the Trust may be subject, from time to time, to various legal proceedings and claims that arise in the ordinary course of business. There are no current matters that are expected to have a material effect on the Trust's consolidated financial statements.

(6) SUBSEQUENT EVENTS

Subsequent to March 31, 2021, we paid a monthly distributions to Certificateholders of $6,900 or $0.09 per certificate in April 2021 and $6,915 or $0.09 per certificate in May 2021.

On May 12, 2021, the Trust filed a preliminary proxy statement with the Securities and Exchange Commission pursuant to Section 14(a) of the Securities Exchange Act of 1934.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Certain statements in this "Management's Discussion and Analysis of Financial Condition and Results of Operations" and elsewhere in this Quarterly Report on Form 10-Q may constitute "forward-looking statements" within the meaning of the safe harbor from civil liability provided for such statements by the Private Securities Litigation Reform Act of 1995 (set forth in Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act). Forward-looking statements involve numerous risks and uncertainties and you should not rely on them as predictions of future events. Forward-looking statements depend on assumptions, data or methods which may be incorrect or imprecise and we may not be able to realize them. We do not guarantee that the transactions and events described will happen as described or that they will happen at all. You can identify forward-looking statements by the use of forward-looking terminology such as "believes," "expects," "may," "should," "intends," "plans," "estimates" or "anticipates" and variations of such words or similar expressions or the negative of such words. You can also identify forward-looking statements by discussions of strategies, plans or intentions. Risks, uncertainties and changes in the following factors, among others, could cause actual results and future events to differ materially from those set forth or contemplated in the forward-looking statements:

- economic, business and financial conditions, and changes in our industry and changes in the real estate markets in particular;
- economic and other developments in markets where we have a high concentration of properties;
- our business strategy;
- our projected operating results;
- rental rates and/or vacancy rates;
- material deterioration in operating performance or credit of New JCP
- frequency and magnitude of defaults on, early terminations of or non-renewal of leases by tenants;
- bankruptcy, insolvency or general downturn in the business of New JCP;
- adverse impact of e-commerce developments and shifting consumer retail behavior on our tenants;
- interest rates or operating costs;
- the discontinuation of LIBOR;
- real estate and zoning laws and changes in real property tax rates;
- real estate valuations;
- our ability to generate sufficient cash flows to make distributions to our Certificateholders;
- our ability to obtain necessary outside financing;
- the availability, terms and deployment of capital;
- general volatility of the capital and credit markets and the market price of our certificates;
- risks generally associated with real estate dispositions, including our ability to identify and pursue disposition opportunities;
- composition of members of our senior management team;
- our ability to attract and retain qualified personnel;
- governmental regulations, tax laws and rates and similar matters;
- our compliance with laws, rules and regulations;
- environmental uncertainties and exposure to natural disasters;
- pandemics or other public health crises, such as the coronavirus (COVID-19) outbreak, and the related impact on (i) our ability to manage our properties, finance our operations and perform necessary administrative and reporting functions and (ii) our tenant's ability to operate their businesses, generate sales

and meet their financial obligations, including the obligation to pay rent and other charges as specified in their leases;
- insurance coverage; and
- the likelihood or actual occurrence of terrorist attacks in the U.S.

For a further discussion of these and other factors that could impact our future results, performance or transactions, see "Item 1A. Risk Factors" in our registration statement on Form 10 that was filed by the Trust in order to voluntarily register the Trust Certificates under Section 12(g) of the Securities Exchange Act of 1934, as amended. Readers should not place undue reliance on any forward-looking statements, which are based only on information currently available to us (or to third parties making the forward-looking statements). We undertake no obligation to publicly release any revisions to such forward-looking statements to reflect events or circumstances after the date of this Quarterly Report on Form 10-Q, except as required by applicable law.

The following discussion and analysis should be read in conjunction with our consolidated financial statements and the related notes included in this report.

Impact of the COVID-19 Pandemic

In March 2020, the World Health Organization declared the outbreak of COVID-19 a global pandemic. COVID-19 has caused significant disruptions to the U.S. and global economy and has contributed to significant volatility and negative pressure in the financial markets. The global impact of the COVID-19 outbreak has been rapidly evolving and many U.S. states and cities, including where we own properties, have imposed measures intended to control its spread, such as instituting "shelter-in-place" rules and restrictions on the types of businesses that may continue to operate and/or the types of construction projects that may continue. While we did not incur any disruptions to our lease income and occupancy during the Reporting Period as a result of the COVID-19 pandemic, we continue to closely monitor the impact of the pandemic on all aspects of our business. Due to numerous uncertainties, it is not possible to accurately predict the impact the pandemic will have on our financial condition, results of operations and cash flows.

Executive Summary

Copper Property CTL Pass Through Trust exists for the sole purpose of collecting, holding, administering, distributing and monetizing the Properties for the benefit of Certificateholders. As of March 31, 2021, we owned 160 retail operating properties across 37 U.S. states and Puerto Rico representing 21,712 square feet of leasable space and six distribution centers in the United States representing 10,109 square feet of leasable space.

The following tables summarizes our portfolio as of March 31, 2021:

Warehouses

Locations	Square Feet (Buildings)	Owned Acreage	Lease income from January 30, 2021 to March 31, 2021		Lease income as % of total
Reno,NV	1,839	141.4	$ 1,736		24.7 %
Forest Park (Atlanta), GA	2,234	103.6	$ 1,554		22.1 %
Columbus, OH	2,000	120.0	$ 1,292		18.4 %
Lenexa, KS	2,308	150.9	$ 1,251		17.8 %
Haslet, TX	1,133	67.3	$ 845		12.0 %
Statesville, NC	595	31.9	$ 355		5.0 %
Total Warehouses	10,109	615.1	$ 7,033	(a)	100 %

(a) Lease income consists of base rent of $5,897 and straight-line rental income of $1,136.

Retail Properties

	# of Properties						
State	Fee Owned	Ground Lease	Total	Square Feet (Buildings)	Lease income from January 30, 2021 to March 31, 2021		Lease income as % of total
CA	22	6	28	4,434	$ 3,865		18.9 %
TX	26	4	30	3,270	$ 4,052		19.8 %
FL	8	1	9	1,292	$ 1,797		8.8 %
WA	3	1	4	666	$ 751		3.7 %
IL	5	0	5	845	$ 759		3.7 %
NV	2	1	3	438	$ 714		3.5 %
AZ	5	0	5	651	$ 602		2.9 %
MI	6	0	6	863	$ 639		3.1 %
NJ	5	0	5	883	$ 301		1.5 %
OH	5	0	5	645	$ 632		3.1 %
VA	5	0	5	737	$ 484		2.4 %
PA	4	0	4	555	$ 484		2.4 %
NY	2	2	4	674	$ 358		1.8 %
MD	4	0	4	559	$ 328		1.6 %
NM	2	0	2	266	$ 351		1.7 %
Other	33	8	41	4,934	$ 4,303		21.1 %
Total Retail	137	23	160	21,712	$ 20,420	(b)	100 %

(b) Lease income consists of base rent of $10,102, straight-line rental income of $9,638, ground lease reimbursement income of $681, and amortization of above and below market lease amortization of $(1).

Company Highlights — From January 30, 2021 to March 31, 2021

Acquisitions

The following table summarizes the allocated fair value by property type as of the Effective Date:

Property Type	Ownership	Square Footage (Buildings)	Fair Value
Retail	Fee Simple	18,326	$1,234,100
	Ground Leasehold	3,386	$203,208
Warehouse	Fee Simple	10,109	$497,900
		31,821	$1,935,208

Dispositions

During the Reporting Period, we had no disposition activity.

Leasing Activity

During the Reporting Period, there was no leasing activity in our retail or distribution center operating portfolio.

Capital Markets

During the Reporting Period, there was no capital markets activity.

Distributions

During the Reporting Period, we paid one monthly distribution of $1,566 or $0.02 per certificate.

Results of Operations

Net income attributable to Certificateholders was $16,482 for the Reporting Period. This amount was primarily due to the following:

Revenues. The Trust's earnings primarily consisted of rental payments by New JCP under the Master Leases. During the Reporting Period, total lease income was $27,453 which was comprised of $15,999 of base rent, $10,774 of straight-line rental income, $(1) of amortization of above and below market lease intangibles, and $681 of ground lease reimbursement income from Retail Properties.

Expenses. The Trust's expenses consisted of operating expenses, depreciation and amortization, and general and administrative expenses. During the Reporting Period, expenses were $10,607, which is comprised of $2,651 of operating expenses, $6,764 of depreciation and amortization and $1,192 of general and administrative expenses.

Other expense. The Trust's other expense consisted solely of formation expenses of $364.

Net operating income (NOI)

We define NOI as all revenues other than (i) straight-line rental income (non-cash), (ii) amortization of above and below market lease intangibles, (iii) non-cash ground lease reimbursement income , and all operating expenses other than non-cash ground rent expense, which is comprised of amortization of right-of-use lease assets and amortization of lease liabilities, depreciation and amortization, and formation expenses. We believe that NOI, which is a supplemental non-GAAP financial measures, provides an additional and useful operating perspective not immediately apparent from "Net income" in accordance with accounting principles generally accepted in the United States (GAAP). Comparison of our presentation of NOI to similarly titled measures for other entities may not

necessarily be meaningful due to possible differences in definition and application by such entities. For reference and as an aid in understanding our computation of NOI, a reconciliation of net income as computed in accordance with GAAP to NOI for the Reporting Period is as follows:

Net income	$	16,482
Adjustments to reconcile to NOI:		
Depreciation and amortization		6,764
Straight-line rental income, net		(10,774)
Amortization of above and below market lease intangibles, net		1
Formation expenses		364
Non-cash ground rent expense, net		1,134
Non-cash ground lease reimbursement income		(681)
NOI		13,290

NOI was $13,290 which is primarily comprised of base rent payments from New JCP under the Master Leases of $15,999 less operating expenses of $2,651 (excluding non-cash ground rent expense of $1,134) and general and administrative expenses of $1,192

Funds from Operations

The National Association of Real Estate Investment Trusts, or NAREIT, an industry trade group, has promulgated a financial measure known as funds from operations (FFO). As defined by NAREIT, FFO means net income computed in accordance with GAAP, excluding (i) depreciation and amortization related to real estate, (ii) gains from sales of real estate assets, (iii) gains and losses from change in control and (iv) impairment write-downs of real estate assets and investments in entities directly attributable to decreases in the value of real estate held by the entity. We have adopted the NAREIT definition in our computation of FFO attributable to Certificateholders. Management believes that, subject to the following limitations, FFO attributable to Certificateholders provides a basis for comparing our performance and operations to REITs.

We define Operating FFO attributable to Certificateholders as FFO attributable to Certificateholders excluding the impact of discrete non-operating transactions and other events which we do not consider representative of the comparable operating results of our real estate operating portfolio, which is our core business platform. Specific examples of discrete non-operating transactions and other events include, but are not limited to, the impact on earnings, which are not otherwise adjusted in our calculation of FFO attributable to Certificateholders.

We believe that FFO and Operating FFO, which are supplemental non-GAAP financial measures, provide an additional and useful means to assess our operating performance compared to REITs. FFO and Operating FFO do not represent alternatives to (i) "Net Income" or "Net income attributable to Certificateholders" as indicators of our financial performance, or (ii) "Cash flows from operating activities" in accordance with GAAP as measures of our capacity to fund cash needs, including the payment of dividends. Comparison of our presentation of Operating FFO to similarly titled measures for REITs may not necessarily be meaningful due to possible differences in definition and application by such REITs.

The following table presents a reconciliation of net income to FFO and Operating FFO from January 30, 2021 to March 31, 2021:

Net income	$	16,482
Depreciation and amortization of real estate	$	5,542
FFO	$	22,024
FFO per certificate outstanding – basic and diluted	$	0.29
FFO	$	22,024
Formation expenses	$	364
Operating FFO	$	22,388
Operating FFO per certificate outstanding – basic and diluted	$	0.30

FFO was $22,024 which is primarily comprised of lease income from New JCP under the Master Leases of $27,453 less operating expenses of $2,651, non-real estate amortization of lease intangible assets and liabilities of $1,222, general and administrative expenses of $1,192 and $364 of formation expenses.

Operating FFO was $22,388 which is primarily comprised of lease income from New JCP under the Master Leases of $27,453 less operating expenses of $2,651, non-real estate amortization of lease intangible assets and liabilities of $1,222, and general and administrative expenses of $1,192.

Liquidity and Capital Resources

We anticipate that cash flows from the below-listed sources will provide adequate capital for the next 12 months and beyond for all Certificateholder distributions.

Our primary expected sources and uses of liquidity are as follows:

SOURCES

- Operating cash flow
- Cash and cash equivalents
- Net proceeds from the sale of real estate

USES

- Distribution payments
- Operating expenses and general and administrative expenses

We had no indebtedness as of March 31, 2021.

Debt Maturities

We have no scheduled maturities and principal amortization of our indebtedness, since we had no indebtedness as of March 31, 2021.

Distributions

The Trust will distribute on a monthly basis the proceeds from lease payments under the Master Leases (until such time as all of the Properties have been sold) and all sales proceeds from the disposition of Properties, in each case pro rata, to Certificateholders as of the record date immediately preceding the applicable distribution date. Such distributions shall be net of (i) tax payments to be made by the Trust, (ii) fees and expenses of the Trust, the Trustee, the Manager and any other professional advisors, and (iii) funds to be set aside for the Trustee's and Manager's reserve accounts.

Capital Expenditures

We anticipate that obligations related to capital improvements will be insignificant as these are generally the responsibility of the Tenant under the Master Leases and should otherwise be met with cash flows from operations.

Dispositions

During the Reporting Period, we had no disposition activity.

Summary of Cash Flows

The following table highlights our cash flows during the Reporting Period:

Net cash provided by operating activities	$	17,648
Net cash provided (used) in financing activities		(10,217)
Increase (decrease) in cash, cash equivalents and restricted cash		7,431
Cash, cash equivalents and restricted cash, at beginning of period		25,563
Cash, cash equivalents and restricted cash, at end of period	$	32,994

Cash Flows from Operating Activities

Net cash provided by operating activities during the Reporting Period was $17,648 which primarily included net income of $16,482 plus depreciation and amortization of $6,764, rent received in advance of $7,999 and the increase in accounts payable and accrued expenses of $1,094, less increases in straight-line rent accounts receivable of $10,774 and increases in other assets, net of $4,371.

During the Reporting Period, we distributed $1,566 to Certificateholders, which is $16,082 less than net cash provided by operating activities during the period.

Management believes that cash flows from operations and existing cash and cash equivalents will provide sufficient liquidity to sustain future operations; however, we cannot provide any such assurances.

Cash Flows from Financing Activities

Cash flows from financing activities consist of payments of assumed liability for transaction costs of $8,651 and distributions paid to Certificateholders of $1,566. Net cash used in financing activities during the Reporting Period was $(10,217).

Contractual Obligations

During the Reporting Period, there were no material changes outside the normal course of business to the contractual obligations identified in our amended Registration Statement on Form 10 filed on March 18, 2021.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements.

Critical Accounting Policies and Estimates

The preparation of financial statements in conformity with GAAP requires management to use judgment in the application of accounting policies, including making estimates and assumptions. We base estimates on the best information available to us at the time, our experience and various other assumptions deemed reasonable under the circumstances. From time to time, we re-evaluate our estimates and assumptions. In the event estimates or assumptions prove to be different from actual results, adjustments are made in subsequent periods to reflect more current estimates and assumptions about matters that are inherently uncertain. A summary of our critical accounting policies is included under the caption "Management's Discussion and Analysis of Financial Condition and Results of Operations" in our amended Registration Statement on Form 10 filed on March 18, 2021, including those relating to the acquisition of investment properties and impairment of long-lived assets. We have not made any material changes to these policies during the periods covered by this quarterly report.

See also Note 2 - Summary of Significant Accounting Policies in the accompanying consolidated financial statements.

Impact of Recently Issued Accounting Pronouncements

None

Subsequent Events

Subsequent to March 31, 2021, we paid a monthly distributions to Certificateholders of $6,900 or $0.09 per certificate in April 2021 and $6,915 or $0.09 per certificate in May 2021.

On May 12, 2021, the Trust filed a preliminary proxy statement with the Securities and Exchange Commission pursuant to Section 14(a) of the Securities Exchange Act of 1934.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are not exposed to interest rate risk because we currently do not hold any long-term debt or derivatives. If we were to enter into long-term debt arrangements, our interest rate risk management objectives would be to limit the impact of interest rate changes on earnings and cash flows and to lower our overall borrowing costs.

As of March 31, 2021, we did not hold any fixed or variable rate debt, and did not hold any derivative financial instruments to hedge exposures to changes in interest rates.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Disclosure controls and procedures are controls and other procedures that are designed to ensure that information required to be disclosed in our reports filed or submitted under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed in company reports filed or submitted under the Exchange Act is accumulated and communicated to management, including our Chief Executive Officer, to allow timely decisions regarding required disclosure.

As required by Rules 13a-15 and 15d-15 under the Exchange Act, our Chief Executive Officer carried out an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures as of March 31,

2021. Based upon his evaluation, our Chief Executive Officer concluded that our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) were effective.

Changes in Internal Control over Financial Reporting

During the most recently completed fiscal quarter, there has been no change in our internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II — OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

We are subject, from time to time, to various legal proceedings and claims that arise in the ordinary course of business. Neither the Trust nor any of its subsidiaries are currently a party as plaintiff or defendant to and none of our properties are the subject of any pending legal proceedings that we believe to be material or that individually or in the aggregate would be expected to have a material effect on our business, financial condition or results of operations if determined adversely to us. We are not aware of any similar proceedings that are contemplated by governmental authorities.

ITEM 1A. RISK FACTORS

For a discussion of the Trust's risk factors, refer to "Item 1A. Risk Factors" included in the Trust's amended Registration Statement on Form 10 filed on March 18, 2021. There have been no material changes in the Trust's risk factors during the period from March 18, 2021 to March 31, 2021.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

Not applicable.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

Not applicable.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

Not applicable.

ITEM 6. EXHIBITS

Exhibit No.	Description
2.1+	Amended Joint Chapter 11 Plan of Reorganization of J. C. Penney Company, Inc. and its Debtor Affiliates, Case No. 20-20182 (DRJ), dated December 12, 2020. (Incorporated herein by reference to Exhibit 2.1 of the Company's Registration Statement on Form 10 filed with the Commission on December 29, 2020 (File No. 000-56236)).
3.1*+	Amended and Restated Pass-Through Trust Agreement, dated as of January 30, 2021, between Copper BidCo LLC, as beneficiary, and GLAS Trust Company LLC, as trustee. (Incorporated herein by reference to Exhibit 3.1 of the Company's Registration Statement on Form 10 filed with the Commission on February 5, 2021 (File No. 000-56236)).
4.1+	Form of Registration Rights and Resale Cooperation Agreement between the Trust and the Certificateholders named therein. (Incorporated herein by reference to Exhibit 4.1 of the Company's Registration Statement on Form 10 filed with the Commission on February 5, 2021 (File No. 000-56236)).
10.1*+	Retail Master Lease, dated as of December 7, 2020, by and among J. C. Penney Corporation, Inc., J. C. Penney Properties, LLC and J. C. Penney Puerto Rico, Inc., as Landlord, and Penney Tenant I LLC, as Tenant. (Incorporated herein by reference to Exhibit 10.1 of the Company's Registration Statement on Form 10 filed with the Commission on December 29, 2020 (File No. 000-56236)).
10.2*+	Distribution Center Master Lease, dated as of December 7, 2020, by and between J. C. Penney Properties, LLC, as Landlord, and Penney Tenant II LLC, as Tenant. (Incorporated herein by reference to Exhibit 10.2 of the Company's Registration Statement on Form 10 filed with the Commission on December 29, 2020 (File No. 000-56236)).
10.4+	Management Agreement, dated as of January 30, 2021, by and between GLAS Trust Company LLC, as trustee, and Hilco Real Estate LLC. (Incorporated herein by reference to Exhibit 10.4 of the Company's Registration Statement on Form 10 filed with the Commission on February 5, 2021 (File No. 000-56236)).
31.1	Certification of Principal Executive Officer pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934 (filed herewith).
31.2	Certification of Principal Financial Officer pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934 (filed herewith).
32.1	Certification of Principal Executive Officer pursuant to Rule 13a-14(b) of the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350 (furnished herewith).
32.2	Certification of Principal Financial Officer pursuant to Rule 13a-14(b) of the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350 (furnished herewith).
101.SCH	Inline XBRL Taxonomy Extension Schema Document (filed herewith).
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document (filed herewith).
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document (filed herewith).
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document (filed herewith).
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document (filed herewith).
104	Cover Page Interactive Data File (formatted as inline XBRL with applicable taxonomy extension information contained in Exhibits 101. *) (filed herewith).

* Incorporated herein by reference as indicated
+ Certain schedules and similar attachments have been omitted. The Trust agrees to furnish a supplemental copy of any omitted schedule or attachment to the SEC upon request.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

COPPER PROPERTY CTL PASS THROUGH TRUST

By: /s/ NEIL AARONSON

Neil Aaronson
Principal Executive Officer
Date: May 12, 2021

By: /s/ LARRY FINGER

Larry Finger
Principal Financial Officer
Date: May 12, 2021

Exhibit 31.1

CERTIFICATION PURSUANT TO RULE 13a-14(a) AND 15d-14(a)
OF THE SECURITIES EXCHANGE ACT OF 1934

I, Neil Aaronson, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Copper Property CTL Pass Through Trust;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:

    a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b. [Omitted];

    c. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by this report based on such evaluation; and

    d. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

    a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 12, 2021

/s/ Neil Aaronson
Neil Aaronson
Principal Executive Officer

Exhibit 31.2

CERTIFICATION PURSUANT TO RULE 13a-14(a) AND 15d-14(a)
OF THE SECURITIES EXCHANGE ACT OF 1934

I, Larry Finger, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Copper Property CTL Pass Through Trust;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:

    a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b. [Omitted];

    c. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by this report based on such evaluation; and

    d. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

    a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 12, 2021

/s/ Larry Finger
Larry Finger
Principal Financial Officer

Exhibit 32.1

CERTIFICATION
of
Neil Aaronson
Principal Executive Officer

I, Neil Aaronson, Principal Executive Officer of Copper Property CTL Pass Through Trust (the "Trust"), do hereby certify in accordance with 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

1. The Quarterly Report on Form 10-Q of the Trust for the period ended March 31, 2021 (the "Periodic Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and

2. The information contained in the Periodic Report fairly represents, in all material respects, the financial condition and results of operations of the Trust.

Date: May 12, 2021

/s/ Neil Aaronson
Neil Aaronson
Principal Executive Officer

Exhibit 32.2

CERTIFICATION
of
Larry Finger
Principal Financial Officer

I, Larry Finger, Principal Financial Officer of Copper Property CTL Pass Through Trust (the "Trust"), do hereby certify in accordance with 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

1. The Quarterly Report on Form 10-Q of the Trust for the period ended March 31, 2021 (the "Periodic Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and

2. The information contained in the Periodic Report fairly represents, in all material respects, the financial condition and results of operations of the Trust.

Date: May 12, 2021

/s/ Larry Finger
Larry Finger
Principal Financial Officer

EXHIBIT C

Q Well, and I'm trying to get to the same issue that we talked about in your deposition and you couldn't answer it then. So I'm wondering, since it's getting approved in this order, have you now figured out what the sale value is, so you can calculate your fee?

MR. SLADE: Your Honor, I would object to the premise of the question, which again relays an assumption that's not true.

THE WITNESS: No. And as I said a moment ago, for us it doesn't work that way, because we're capped at $23 million. So the issue isn't how much would we earn as sale fee based upon different assumptions as to what the value of the transaction is. The question for us is do we hit the cap or do we not hit the cap? At that point, it's irrelevant to me whether it's more than that. So that's all I'm focused on, is whether we're entitled to the full capped amount or not.

BY MR. OKIN:

Q But wouldn't that require you to know the amount of the value of the sale, to figure out if you're capped?

A It would require us to know whether the value would exceed -- would allow us to be paid a fee that took us up to the cap --

Q Based upon --

A -- (audio interference) it's possible that the sale fee without the cap would have taken us into, you know, a higher

number, but that's irrelevant to me now.

Q So what is the value of this sale?

A The OpCo sale?

Q No (audio interference) --

A I don't understand what's being asked of me.

Q Well, my understanding is this is one integrated transaction. So the sale that the Court is being asked to approve today, what is the value of that sale, the dollar value?

A Don't know. We have not established a value for the entire package.

Q So when you advised the board to accept this deal in their business judgment, you didn't even have the ability to tell them what the deal was worth.

A Well, we told them that nobody had bid more than the first lien, that these were the only bidders. And we told them that we, Lazard, because we're not real estate appraisers, had not done an analysis of the value of the real estate in the hands of the institutions that will control the PropCo. They understood.

Q Right.

A They were not looking to Lazard to do that, because that is not within our area of expertise.

Q And are you aware of anybody having put a dollar value on this overall sale?

A I am not.
Q Now, the value of just the PropCo piece, in your opinion, is what?
A Well, value to the estate, value to the lenders, and I think you need -- and I'm not trying to be difficult, but you need to be more specific. So, for example -- and we won't know what the exact OpCo purchase price will be until we close the books as of the sale date, because the sale price will be trued up that date. But based upon the estimates that I have seen, after all the dust settles, and so the ABL is paid off, administrative expenses are paid, from the standpoint of the first lien lenders, they will get around $360 million.
Q Well, maybe -- let me clarify a little bit more, because I don't think you're answering what I'm trying to figure out. That's probably my fault.

The total consideration being paid by the purchasers -- and there's two purchasers, right? There's an entity that was formed to purchase PropCo and an entity that was formed to purchase PropCo, correct? Or did I say it -- sorry. OpCo and PropCo, correct?
A Right.
Q And the total consideration that those two entities are giving to anybody, let's say for now -- well, to the estate, are -- they are credit bidding $1 million worth of DIP and senior secured debt and writing a check for a bit more than

$600 million in cash, correct?

A That's not correct. They're writing a check for --

Q Well, okay. So let's start. Were those numbers wrong or is there more?

A Let me try it this way, because I --

Q Just could you answer my question first? Were my numbers wrong?

A I don't (audio interference) I can't because I don't understand.

Q So they're not credit bidding $1 billion?

A Oh, if that was your question, the answer is yes.

Q Okay. And they are writing an equity check for -- I don't have the number in front of me, 600-something million dollars?

A Who is "they"? Sorry. This is confusing.

Q The entity that's buying the OpCo.

A Okay. The entity that is buying OpCo is doing a number of different things. Number one, Simon and Brookfield are writing a check for $300 million.

Q Okay.

A Number two, and this is what I think you're getting at, there is a target cash amount that has been agreed to under the transaction. $692 million. I hope that's what you were referring to, because that actually ties out -- that is the number that will -- left in the estate after giving effect to the paydown of the ABL and all of the ABL expenses.

And so when the dust settles, $300 million check is written, new FILO has been implemented, and new ABL is on the books. The old ABL is paid off. The deal -- the agreement under the deal is that there will be $692 million in cash left in the estate as a result of this transaction.

And then, from that $692 million, the estate has to pay administrative expenses, and that 692 walks down to the $360 million number that I mentioned a moment ago.

Q Okay. So let's break that down. So the only cash that Simon and Brookfield are putting into the estate is $300 million.

A Out of their pockets, but OpCo -- the new OpCo is borrowing under a new ABL and a new FILO, the proceeds of which will go to the estate, approximately -- it's about $850 million. Again, this number will fluctuate depending upon how the closing adjustments come in. But it's around $850 million. And so then --

Q You're trying to answer my next question --

A And --

Q Okay.

A If I can finish please. Then let's not forget there's a $520 million note that is being provided to the OpCo. So if you want to look at the -- sorry, $500 million note that's being provided back to the estate that will be distributed to the first lien creditors.

So if you want to look -- let's look at what's happening on OpCo. I think that's what you're asking me. So let's look at what's happening at --

Q Mr. Kurtz, what I'd prefer to do is just re-ask some questions, because you've gone way beyond what I actually asked. So let me -- let's break it down again. So the money coming in from Simon and Brookfield is $300 million, correct?

A Out of their pockets.

Q Out of their pocket, right.

A Out of their pocket.

Q And then through the ABL, which will be owed now by OpCo or the entity that owns OpCo, will be used to fund additional cash that needs to be left behind in the estate, and that number -- depending on working capital adjustments -- should be total about $690 million, correct?

A No. I don't think that's right. Let me try it again. So maybe we could just take the -- let me try it -- I'm trying to be as responsive to your question as I'm capable of being. Maybe I'm not doing a very good job of understanding, but I'm going to try to walk you through it maybe a different way.

So, subject to adjustments, our view -- so what is being paid for OpCo? It's $1,622,000,000. And how do we build up to that number? $300 million equity (audio interference) $500 million of take-back debt, $300 million of FILO, and approximately $550 million of ABL drawn. And if I'm

remembering it correctly, all adds up to about $1,622,000,000.

Of that, the ABL has to be paid in full and the amount necessary to retire the ABL in full -- the existing ABL is -- it's a little over $1.3 billion. And so when you take all of that, the cash component -- I mean, the note is the note. That's a $520 million note that stands on its own. But when you try to work through the sources and uses, based upon forecasted closing numbers, there will be $692 million of cash in the estate after paying off the ABL; and from that 692 priority admin expenses will have to be paid, yielding recovery to first lien creditors -- again, based upon the closing estimates, of around $360 million. That's the best way I can explain it.

Q I think buried in there was the answer I was looking for, so we'll move on.

A I hope so.

Q Thank you.

A I'm just trying to be helpful. I'm not trying to be difficult.

Q So that is -- I'll call it the purchase price for an OpCo. What are the first lien lenders actually paying the estate for PropCo?

A Well, they're getting -- so -- well, let's be technical about it. They're credit bidding for the assets. And the credit bid is set at $1 billion. And what will they end up

with when the dust settles? It will end up with --
Q Well, before you do that -- before you do that, I want to just -- you keep getting down the road ahead of me. The billion dollars credit bid, that's part of what they're paying for PropCo, that's the same billion dollars that we already talked about with making up part of that $1.6 billion for OpCo?
A No.
Q There's another billion dollars?
A No. The $1 billion credit bid is for the assets of the estate after giving effect to the payments that I've just tried to walk you through.
Q Okay.
A And so what they will get is cash estimated to be around $360 million. They will get take-back debt of $520 million. And they will get the PropCo assets.
Q Okay. So -- and the problem we have with valuing the PropCo sale in part is -- well, Lazard obviously didn't do a valuation of the PropCo assets, because you don't do that, right?
A That's right. We're not real estate appraisers.
Q And the last appraisal that the debtor has ever had of its real estate was back in September of 2019?
A I don't remember if it was -- it was definitely 2019. I'm not sure if it was September. You might be right, but -- I can't vouch for the month.

Q Whatever -- but that was the Cushman & Wakefield appraisal.
A Yes.
Q Okay. And so since --
A It may have been done in -- yeah, it may have been done in two pieces. There may have been an appraisal of the unencumbered assets and a separate appraisal for the encumbered assets that -- but you are right in that this work was done in 2019.
Q Okay. And since then, there has been no new valuation done on those assets.
A Not that I am aware of.
Q Okay. And similarly, really, you didn't do a traditional valuation of OpCo in this case either, did you?
A What do you mean by "traditional valuation"?
Q You didn't do a DCF or a comparable company valuation or a comparable transaction valuation.
A No. The way we established value was by running a full process and assessing the output of that process.
Q All right. So your view of whether or not this sale is fair value for the estate is based on the fact that this is the price you got in this sale, correct?
A Yes, it is. It is absolutely a function of results of the process.
Q Okay. Now, are you familiar with the debtors' business

plan?
A Yes.
Q Did you have any participation in the creation of that plan?
A No.
Q That was done by the company and AlixPartners?
A Yeah, and there might have been -- I think McKinsey also participated in the creation of that plan. But we did not.
Q Okay. Did you review it?
A I read it.
Q It was well done and thorough?
A Yes.
Q Okay. And it was provided to buyers and potential investors and other parties in interest?
A Yes. I think it's a public document at this point.
Q And you think it's the kind of document parties can rely on for a projection of what J.C. Penney would do after emerging from bankruptcy?
A Not necessarily. What parties can rely on is that that business plan represented the best view of the management of the company assisted by Alix and McKinsey as to its future prospects at that point in time. And if I'm remembering this correctly, I think the business plan was completed in the first few days of July. So that is management's best vision as of July.