IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: PRIME CORE TECHNOLOGIES, INC.,[1] Debtors.	Chapter 11 Case No. 23-11161 (JKS) (Jointly Administered)
PCT Litigation Trust, Plaintiff, v. Zap Solutions, Inc. d/b/a Strike, Defendant.	Adv. Proc. No. 26-50200 (JKS)

MOTION OF AMICI CURIAE FOR LEAVE TO FILE
A BRIEF IN SUPPORT OF THE MOTION TO DISMISS THE COMPLAINT

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[1] The debtors in the Chapter 11 Cases, along with the last four digits of each debtor's federal tax identification number, are: Prime Core Technologies Inc. (5317); Prime Trust, LLC (6823); Prime IRA LLC (8436); and Prime Digital, LLC (4528) (collectively, the "Debtors" or "Prime"). The Debtors' service address is 10845 Griffith Peak Dr., #03-153, Las Vegas, Nevada 89135.

The Blockchain Association ("BA"), the Securities Industry and Financial Markets Association ("SIFMA") and the Futures Industry Association ("FIA," and together with BA and SIFMA, the "Amici"), as *amici curiae*, by and through their undersigned counsel, submit this motion (this "Motion") pursuant to Rule 9013(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 9006-1(c)(ii) of the Local Rules for the United States Bankruptcy Court for the District of Delaware (the "Local Rules") for entry of an order under section 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code"), substantially in the form of **Exhibit A** hereto, permitting the Amici to file a brief of *amici curiae*, substantially in the form of **Exhibit B** hereto (the "Amicus Brief"), in support of the *Motion to Dismiss Complaint Pursuant to Fed. R. Civ. P. 12(B)(6) and Fed. R. Bankr. P. 7012(B)* [D.I. 22] (the "Motion to Dismiss") and the accompanying *Memorandum of Law* [D.I. 23] (the "Zap MOL") submitted by Defendant Zap Solutions, Inc. d/b/a Strike ("Defendant" or "Zap") in response to the *Complaint* [D.I. 29] (the "Complaint") filed by the PCT Litigation Trust ("Plaintiff" or "PCT") in the above-captioned adversary proceeding.[2] In support of this Motion, the Amici state as follows:

PRELIMINARY STATEMENT

1. As detailed more completely in the Amicus Brief and in the Zap MOL, the Complaint and the arguments PCT advances in the Opposition threaten to complicate the straightforward application of Article 8 of the Uniform Commercial Code ("Article 8," and the Uniform Commercial Code as implemented in Nevada, the "UCC") to custody arrangements and the protections Article 8 confers on the parties to such arrangements. Article 8, and the legal certainty it provides regarding the rights and obligations of a securities intermediary and its

[2] Capitalized terms used but not defined herein have the meaning ascribed to them in the Zap MOL or the Complaint, as applicable.

customers, constitute a fundamental pillar not only of the multi-trillion-dollar, global digital assets market, but also of the wider U.S. financial markets.

2. The Amici's collective of hundreds of members, representing a broad cross-section of digital asset custodians, exchanges, investors and financiers, as well as broker-dealers, investment banks and asset managers, among others, rely on the durability of Article 8 and its clear and functional protections to ensure the bankruptcy remoteness of the assets they own or hold for customers, provide their customers with certainty as to their property interests in such assets, satisfy their regulatory obligations, perfect security interests, determine the priority of rights in assets in their custody, and engage in trading activity. As a result, although the Amici are not creditors or customers of the Debtors, or parties to PCT's suit against Zap, the Amici have deep interest in the Court's treatment of Article 8 as it considers the disposition of the Complaint. A failure to apply the plain text and import of Article 8 would complicate an otherwise straightforward statutory framework on which their businesses—and the broader U.S. financial markets—routinely rely. In light of the critical importance of Article 8 to their members' businesses, the Amici are well-positioned to assist the Court in its consideration of these issues.

3. As detailed in the Zap MOL, the Custodial Agreement that forms the basis of PCT's claims contains what is commonly referred to as an Article 8 "financial asset election." Pursuant to this provision, Prime Trust and Zap agreed that property held for Zap constituted "financial assets" credited to a "securities account" and that Zap was an "entitlement holder," each within the meaning of Article 8.[3] Article 8 contains unambiguous statutory text that parties may agree to

[3] Custodial Agreement § 3.1(a), Compl. Ex. B [D.I. 29-2] ("Customer is an 'Entitlement Holder' in a 'Financial Asset,' as defined by, and for purposes of, the Uniform Commercial Code, including Article 8 thereto, as adopted and implemented in accordance with Nevada law []. Applicable Custodial Property are 'Financial Assets' for purposes of the UCC and are not assets of Prime Trust."); *id.* § 6 ("[T]he Parties agree the relationship between Prime Trust and Customer is governed by Article 8 of the UCC and that for the purposes of this Service Schedule: Customer is an 'entitlement holder' and any Custodial Property will be treated as a 'Financial Asset' within the meaning of Nevada Revised Statutes [] 104.8102(h) and (j).").

treat a host of assets, including cash or digital assets, as financial assets credited to a securities account, and that assets subject to such agreement are not property of the custodian's estate.[4] It also contains practical rules addressing the rights of purchasers for value of such assets relative to those of adverse claimants and, in conjunction with Article 9 of the UCC, the ability of a secured party to perfect a security interest in financial assets.[5]

4. Given the clear and practical rules that Article 8 provides, financial asset elections of the sort contained in the Custodial Agreement are ubiquitous in U.S. financial markets and form a core part of the foundation upon which custodial arrangements are built. They appear in traditional prime brokerage agreements and securities custody agreements, commodity brokerage agreements, the rules of clearing agencies and derivatives clearing organizations, cash sweep arrangements, digital asset custody and user agreements, and a host of other documents covering hundreds of trillions of dollars.[6] They also form the basis of regulatory regimes, guidance, and administrative orders.[7]

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[4] NRS § 104.8102(j)(3) (defining financial asset as "any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this Article"); NRS § 104.8503(1) ("To the extent necessary for a securities intermediary to satisfy all security entitlements with respect to a particular financial asset, all interests in that financial asset held by the securities intermediary are held by the securities intermediary for the entitlement holders, *are not the property of the securities intermediary, and are not subject to claims of creditors of the securities intermediary* . . . .") (emphasis added).

[5] *See* UCC §§ 8-510 (providing that a purchaser of a security entitlement for value and without notice takes free and clear of adverse claims); UCC §§ 9-106(c), 9-314(a) (providing that a secured party may perfect a security interest in investment property, the definition of which includes security entitlements, through control as set forth in Article 8); UCC § 8-106(d) (describing how a purchaser or other secured party may obtain control).

[6] *See, e.g.*, *U.S. Prime Brokerage Agreement* (Dec. 11, 2013), Ex. A § 2(c), https://www.sec.gov/Archives/edgar/data/889284/000119312514026486/d647213dex99h8.htm (containing a financial asset election under Article 8); *Custodial Undertaking in Connection with Master Repurchase Agreement* (Nov. 21, 2003), § 5(A)(v), https://www.sec.gov/Archives/edgar/data/877233/000119312508203393/dex99h8.htm; *Futures and Options on Futures Account Agreement*, (Nov. 8, 2018), § 6, https://www.sec.gov/Archives/edgar/data/916490/000119312522105588/d349045dex9928h5.htm (same); *Coinbase User Agreement*, Coinbase (June 8, 2026) § 2.7.2, https://www.coinbase.com/legal/user_agreement/united_states (same).

[7] *See* Commodities Futures Trading Commission, Order Providing Exemptive Relief To Facilitate Cross-Margining of Customer Positions Cleared at Chicago Mercantile Exchange, Inc. and Fixed Income Clearing Corporation, 91 Fed. Reg. 20880 (Apr. 20, 2026) (providing certain exemptions from customer protection requirements on the basis that an Article 8 financial asset election would exclude certain assets from a clearing organization's bankruptcy estate).

5. The reason market participants enter into financial asset elections, and regulators rely upon them, is because they provide certainty that financial assets held by custodians under such arrangements remain property of their clients. By leveraging Article 8's rules, market actors gain confidence that their financial assets will be secure from custodial insolvency and can be traded efficiently without the need for onerous diligence. This confidence is essential for smooth and liquid markets in financial assets to function. Absent Article 8's structures, market participants would face substantial constraints in connection with holding, transferring, and financing their financial assets. Accordingly, a decision denying the Motion to Dismiss which, given the Zap MOL, would necessarily pass judgment on the applicability and import of Article 8, could unintentionally confuse this well-established certainty.

6. For these reasons, and the reasons set forth below, the Amici submit this motion to respectfully request that the Court grant leave to file the Amicus Brief.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334, the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated as of February 29, 2012, and Article 12 of the *Amended Joint Chapter 11 Plan of Reorganization for Prime Core, Inc. and its Affiliated Debtors*, dated December 14, 2023 [D.I. 592], as amended (the "Plan"). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicate for the relief requested herein is section 105(a) of the Bankruptcy Code.

8. This is a core proceeding under 28 U.S.C. § 157(b). Pursuant to Local Rule 9013-1(f), the Amici consent to the entry of a final judgment or order with respect to this Motion if it is

determined that the Court would lack Article III jurisdiction to enter such final order or judgment absent consent of the parties.

BACKGROUND

9. BA is the leading nonprofit membership organization dedicated to promoting a pro-innovation policy environment for the digital asset industry. BA endeavors to achieve regulatory clarity and to educate policymakers, regulators, courts, and the public about how blockchain technology can pave the way for a more secure, competitive, and consumer-friendly digital marketplace. BA represents more than 100 member companies reflecting the wide range of the dynamic blockchain industry, including software developers, infrastructure providers, exchanges, custodians, investors, and others supporting the public blockchain ecosystem. BA's members rely on the protections afforded by Article 8 of the UCC to facilitate various custody, trading, and financing services.

10. SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of its industry's one million employees, SIFMA advocates on legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets, and related products and services. SIFMA serves as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. SIFMA also provides a forum for industry policy and professional development.[8]

11. FIA is the leading trade organization for the futures, options and cleared derivatives markets globally. FIA's membership includes clearing firms, exchanges, clearinghouses, principal traders, asset managers, execution firms, commodity firms, end users and those legal, technology

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[8] SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association. For more information, visit http://www.sifma.org.

and other firms who serve this community. FIA's mission is to support open, transparent, and competitive markets, protect and enhance the integrity of the financial system and promote high standards of professional conduct.

12. On December 14, 2023, the Debtors filed the Plan, which was confirmed on December 21, 2023, by the entry of the *Findings of Fact, Conclusions of Law, and Order (I) Approving the Disclosure Statement on a Final Basis and (II) Confirming the Amended Chapter 11 Plan of Reorganization of Prime Core Technologies Inc. and its Affiliated Debtors Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. 644] (the "Confirmation Order"). The Plan effective date was January 5, 2024, [D.I. 694].

13. Pursuant to the Plan, the Plan Administrator (as defined in the Plan) filed the *Motion for Entry of an Order (I) Approving the Plan Administrator's Determination that the Debtors' Assets are Property of the Bankruptcy Estates; (II) Approving Distributions of Estate Property; (III) Establishing Procedures for Setting a Disputed Claims Reserve; and (IV) Granting Related Relief* [D.I. 919] (the "Determination Motion") on January 15, 2025, requesting a final determination concerning the treatment of the funds subject to Customer Agreements (as defined in the Determination Motion) contemplated by the Plan and Confirmation Order (chiefly, whether such funds could be considered property of the Debtors' estates for purposes of distributions under the Plan).[9]

[9] On February 5, 2025, Coinbase filed a *Motion for Leave to File an Amicus Response to the Plan Administrator's Motion for Entry of an Order Approving the Plan Administrator's Determination that the Debtors' Assets are Property of the Bankruptcy Estates* [D.I. 948] (the "Coinbase Amicus Motion"), through which Coinbase sought to raise to the Court's attention the Article 8 issues potentially implicated by the Determination Motion. Although the Court declined to consider Coinbase's proposed submission while evaluating the Determination Motion, the Amici submit that the Court's decision on the Coinbase Amicus Motion should have no bearing on this Motion given that (1) unlike the Determination Motion, the Motion to Dismiss expressly requests this Court's adjudication of Article 8 issues, and (2) the broad coalition of industry actors represented by the Amici and their members demonstrates the Amici's strong interest in the outcome of this case.

14. The Court subsequently granted the Determination Motion on July 18, 2025, in the Distribution Order and Distribution Opinion, without reaching any Article 8 questions.[10]

15. PCT filed the Complaint on March 2, 2026, seeking the avoidance of alleged preferential transfers under section 547 of the Bankruptcy Code and the recovery from Zap of not less than $13,877,147.36 and 1,758.18 Bitcoin under section 550 of the Bankruptcy Code. Complaint ¶ 256–69. Zap filed the Motion to Dismiss and the Zap MOL on May 18, 2026. PCT filed its Opposition to the Motion to Dismiss [D.I. 36] (the "Opposition") to the Motion to Dismiss on July 10, 2026. Zap's reply to PCT's Opposition is due July 31, 2026. A hearing on the Motion to Dismiss has not yet been scheduled.

RELIEF REQUESTED

16. The Amici seek entry of an order, substantially in the form of the proposed order attached hereto as **Exhibit A** (the "Proposed Order") authorizing the Amici to file the Amicus Brief attached as **Exhibit B**.

BASIS FOR RELIEF

17. Although there is no express Bankruptcy Rule governing the submission of amicus briefs at the court of first impression, this Court is authorized to accept amicus briefs through the exercise of its powers under section 105(a) of the Bankruptcy Code (providing that the Court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions" of the Bankruptcy Code) and through its inherent powers as a tribunal, which are exercisable at this Court's discretion. *Cf. In re Nazi Era Cases Against German Defendants Litig.*, 153 F. App'x 819, 827 (3d Cir. 2005) ("Although appellate rules regulate the submission of amicus briefs on appeal . . . a district court's decision to accept or reject an amicus filing is entirely within the court's

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[10] Zap was also specifically carved out from the Distribution Opinion. *See* Distribution Opinion, at 2, n.5.

discretion.") (citation omitted); *In re Bayshore Ford Truck Sales, Inc.*, 471 F.3d 1233, 1249 n.34 (11th Cir. 2006) ("[D]istrict courts possess the inherent authority to appoint 'friends of the court' to assist in their proceedings."); *League of Women Voters of Ohio v. LaRose*, 741 F. Supp. 3d 694, 725 (N.D. Ohio 2024) ("[A] district court may grant leave [to file an amicus brief] under their inherent authority where the filing may provide a unique perspective that assists the district court in resolving the pending dispute.") (collecting cases); *Glen v. Trip Advisor LLC*, 529 F. Supp. 3d 316 (D. Del. 2021) (exercising discretion to grant motion for leave to file an amicus brief), *aff'd*, 2022 WL 3538221 (3d Cir. Aug. 18, 2022).

18. "[A]s recognized by other courts, nothing precludes a party from seeking leave to file an amicus brief." *In re Fam. Christian, LLC*, 530 B.R. 417, 425 (Bankr. W.D. Mich. 2015). In the absence of any applicable statute or rule, Bankruptcy Rule 8017, which is derived from Rule 29 of the Federal Rules of Appellate Procedure, and which governs the filing of amicus submissions in appeals from the Bankruptcy Court to the District Court or Bankruptcy Appellate Panel, is instructive. Under Bankruptcy Rule 8017, non-governmental parties may file an amicus brief by leave of court or with consent. Fed. R. Bankr. P. 8017(a)(2). "[P]ermission to file a brief as amicus is within the sound discretion of the court. However, permission to file an amicus brief is freely granted, so it rarely makes sense for a party not to agree to its filing." Richard Levin & Henry J. Sommer, 10 *Collier on Bankruptcy* ¶ 8017.03 (16th ed. 2018).

19. Bankruptcy Courts in this district have previously exercised their discretion to grant leave to file an amicus brief where the party seeking the relief demonstrates (i) an adequate interest in the matter under consideration, (ii) that the amici's participation would be desirable, and (iii) that the amicus brief would be relevant to the matter. *See In re W.R. Grace & Co.*, 2016 WL 6068092, at *4 n.37 (Bankr. D. Del. Oct. 17, 2016), *aff'd in part, vacated in part, remanded*, 900

F.3d 126 (3d Cir. 2018). A party's adequate interest may be established where the outcome of the proceeding may affect such party's ability to carry out its purpose. *See id*. Importantly, a party is not required to have (and indeed, typically does not) have a direct stake in the outcome of the dispute in which it seeks to serve as amicus. *See In re Start Man Furniture, LLC*, 647 B.R. 116, 126 (D. Del. 2022) (noting that the court granted leave to file amicus brief to various non-party unions in connection with the court's interpretation of the WARN Act); *Neonatology Assocs., P.A. v. Comm'r*, 293 F.3d 128, 132 (3d Cir. 2002) (rejecting the contention that an amici's interest must take a particular form and noting that "[p]arties with pecuniary, as well as policy, interests also appear as amici in our court.").[11]

20. It is readily apparent that the Amici have an adequate interest in this Court's consideration and disposition of the Motion to Dismiss, given the centrality of Article 8 to the legal analysis necessary to resolve the Motion to Dismiss and the importance of Article 8 to the businesses of the Amici's members and the broader industries in which they operate.[12] As explained further in the Amicus Brief, a decision denying the Motion to Dismiss could introduce legal uncertainty that would complicate the ability of the Amici's members to act as custodians, lenders, investors and exchanges in the financial markets. The Amici's participation is also desirable because it will assist the Court in understanding the potentially broad implications of the

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[11] In their motion seeking leave to file the amicus brief in the *Start Man Furniture* case, the unions argued that their interests arose primarily out of the impact that an unfavorable decision would have on their members as a matter of public policy, noting that they had a "keen interest in ensuring that the statutory right to advance notice of mass layoffs and plant closings is not unduly limited through an inappropriate interpretation of the WARN Act." *See* Motion of Communications Workers of America, Service Employees International Union, American Federation of Teachers, American Federation of State, County and Municipal Employees, and National Employment Law Project for Leave to File as Amici Curiae in Support of Appellants' Opening Brief at 4, *In re Start Man Furniture, LLC*, No. 22-00450 (GBW) (D. Del. July 8, 2022), [ECF No. 16]. In this case, the Amici's interest arises out of the deleterious impact upon its members that would arise out of a failure to uphold the protections enshrined in Article 8.

[12] *See* Zap MOL at 3 ("The modern financial system is built on the foundation of Article 8 and the premise that an intermediary custodian can hold financial assets on behalf of many customers simultaneously, without requiring customers to relinquish their ownership interests. . . .Without it, no rational person could entrust their assets to an intermediary, and the modern financial system would not function.").

outcome of this case upon the financial industry. Lastly, the Amicus Brief is plainly relevant to the consideration of the Motion to Dismiss because, as outlined in the Amicus Brief and the Motion to Dismiss, a straightforward application of Article 8 is central to the relief sought by the Motion to Dismiss.

21. Other Bankruptcy Courts have seen fit to grant leave to file an amicus brief upon a determination, in their sound discretion, that the contribution of the amici would be beneficial to the Court's adjudication of a disputed issue. *See, e.g.*, *In re Gawker Media LLC*, 581 B.R. 754, 757 n.7 (Bankr. S.D.N.Y. 2017) (granting a request to file an amicus brief by a broad range of various media organizations who sought to raise the interests of journalists potentially impacted by a motion for enforcement of a sale order and plan injunction, where the court's decision regarding the relevant release and injunction provisions would more broadly affect how the risk of legal liability was allocated between media companies, individual journalists and unknown plaintiffs in bankruptcy proceedings);[13] *In re FirstEnergy Sols. Corp.*, 2018 WL 2315916, at *6 (Bankr. N.D. Ohio May 18, 2018) (granting a request to file an amicus brief by non-parties with an interest in the effect of an injunction on the application of federal energy regulations), *aff'd in part, rev'd in part and remanded*, 945 F.3d 431 (6th Cir. 2019); *In re Karlinger-Smith*, 544 B.R. 126, 131 n.31 (Bankr. W.D. Tex. 2016) (granting a request to file an amicus by an attorney who frequently represented debtors in the district, in connection with a motion to convert a case from chapter 7 to chapter 11); *In re Stringer*, 508 B.R. 668, 670 (Bankr. N.D. Miss. 2014) (granting requests to file two amicus briefs, one by a consumer finance association in support of a creditor

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[13] The amici in the *Gawker* case also sought to explain to the court the "important practical considerations involved in the preservation of journalists' indemnification rights." *See* Motion of Proposed Amici Curiae Society of Professional Journalists, Reporters Committee for Freedom of the Press and 19 Other Media Organizations for Leave to File Memorandum of Law as Amici Curiae ¶ 7, *In re Gawker Media LLC*, No. 16-11700 (SMB) (Bankr. S.D.N.Y. Sept. 22, 2017), [ECF No. 1010]. Here too, the Amici submit that their participation would be helpful to present and explain the practical considerations relevant to the financial markets that could flow from the Court's decision on the Motion to Dismiss.

and another by an attorney in support of the debtor, in connection with the confirmation of a chapter 13 plan).[14]

22. Here, and as set forth in the Amicus Brief, the relief sought by PCT's Complaint threatens to complicate the well-established application of Article 8 of the UCC, upon which the Amici's members and many other industry participants rely to support and safeguard their customers' assets and to satisfy regulatory requirements. As a result, this Court's decision on the Motion to Dismiss is of great public interest to market participants and related parties, in addition to litigants in the instant proceedings, and the Amici should be permitted to file the Amicus Brief to ensure that the Court is provided with an opportunity to assess the broad-ranging implications of a decision contrary to Article 8.

NOTICE

23. Notice of this Motion has been provided to (i) counsel to the Plaintiff and Defendant, (ii) the Office of the United States Trustee, and (iii) all parties that have requested notice of pleadings in these cases pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Amici submit that no other or further notice is required.

CONCLUSION

For the foregoing reasons, the Amici respectfully request that the Court grant this Motion, enter the Proposed Order and permit the Amici to file the Amicus Brief.

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[14] For the avoidance of doubt, although amici are definitionally not parties to the dispute before the court, they are not precluded from advocating a position or from taking positions in support of or adverse to a particular party. *See, e.g.*, *United States v. Michigan*, 940 F.2d 143, 166 (6th Cir. 1991); Collier ¶ 8017.03 ("most amicus briefs support one side or the other"); *Funbus Sys., Inc. v Cal. Pub. Utils. Comm'n*, 801 F.2d 1120, 1125 (9th Cir. 1986) (*amici curiae* may "take a legal position and present legal arguments").

Dated: July 28, 2026
Wilmington, Delaware

Respectfully submitted,

/s/ Brett M. Haywood

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EXHIBIT A

PROPOSED ORDER

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: PRIME CORE TECHNOLOGIES, INC.,[1] Debtors.	Chapter 11 Case No. 23-11161 (JKS) (Jointly Administered)
PCT Litigation Trust, Plaintiff, v. Zap Solutions, Inc. d/b/a Strike, Defendant.	Adv. Proc. No. 26-50200 (JKS)

[PROPOSED] ORDER GRANTING MOTION
OF THE AMICI CURIAE FOR LEAVE TO FILE
A BRIEF IN SUPPORT OF THE MOTION TO DISMISS THE COMPLAINT

Upon consideration of the *Motion of Amici Curiae for Leave to File a Brief in Support of the Motion to Dismiss the Complaint* (the "Motion");[2] the Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that good cause exists to approve the relief sought in the Motion, **IT IS HEREBY ORDERED THAT:**

1. The Motion is granted as set forth herein.

2. The Amici are authorized to file the Amicus Brief in conformance with Local Rule 9006-1(c)(ii).

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[1] The debtors in the Chapter 11 Cases, along with the last four digits of each debtor's federal tax identification number, are: Prime Core Technologies Inc. (5317); Prime Trust, LLC (6823); Prime IRA LLC (8436); and Prime Digital, LLC (4528) (collectively, the "Debtors" or "Prime"). The Debtors' service address is 10845 Griffith Peak Dr., #03-153, Las Vegas, Nevada 89135.

[2] Capitalized terms used but not defined herein have the meaning ascribed to them in the Motion.

3. The Court shall retain jurisdiction over any and all matters arising from or related to the interpretation or implementation of this Order.

EXHIBIT B

AMICUS BRIEF IN SUPPORT OF THE MOTION TO DISMISS

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: PRIME CORE TECHNOLOGIES, INC.,[1] Debtors.	Chapter 11 Case No. 23-11161 (JKS) (Jointly Administered)
PCT Litigation Trust, Plaintiff, v. Zap Solutions, Inc. d/b/a Strike, Defendant.	Adv. Proc. No. 26-50200 (JKS)

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TABLE OF CONTENTS

Page

INTEREST AND IDENTITY OF AMICI CURIAE.. 1

PRELIMINARY STATEMENT 2

ARGUMENT.. 5

I. Permitting the Complaint to Proceed Would Introduce Confusion Into a Well-Established and Intentionally Simple Statutory Regime. 5

A. The Nation's Financial Markets Benefit From the Certainty that Article 8 Provides Regarding the Exclusion of Custodied Assets from the Custodian's Bankruptcy Estate. 7

B. Beyond Bankruptcy Remoteness, Market Participants Depend on the Effectiveness of Financial Asset Elections to Trade and Finance a Wide Array of Assets. 9

C. Policymakers and Regulated Parties Rely on an Established Consensus Regarding Article 8's Clear Text and a Decision in Favor of PCT Would be Inconsistent with Regulatory Practice and Industry Expectation. 12

II. Article 8 of the UCC Governs the Relationship Between Prime Trust and Zap and Unambiguously Provides that the Custodial Property is not Property of the Estate.. 15

A. Article 8's Exclusion of the Custodial Property from Prime Trust's Estate is Not Conditioned on Prime Trust's Good Behavior, the Use of Talismanic Terms, or Individual Segregation. 16

B. Because Prime Trust and Zap Expressly Agreed for the Custodial Property to be Financial Assets Credited to a Securities Account, Article 8 Clearly Applies to Such Custodial Property.. 20

C. Article 8's Clear Statutory Language Provides That Financial Assets Held by a Securities Intermediary are not Property of the Securities Intermediary. 24

CONCLUSION.. 29

TABLE OF AUTHORITIES

Page(s)

Cases

Butner v. United States,
440 U.S. 48 (1979) 15

In re Delta Petroleum Corp.,
2015 WL 1577990 (Bankr. D. Del. Apr. 2, 2015) 15

In re Estate of Rider,
407 S.C. 386 (2014) 6

In re Lehman Brothers Holdings Inc.,
2018 WL 1441407 (S.D.N.Y. Mar. 22, 2018) 6

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The Blockchain Association ("BA"), the Securities Industry and Financial Markets Association ("SIFMA") and the Futures Industry Association ("FIA," and together with BA and SIFMA, the "Amici"), as *amici curiae*, by and through their undersigned counsel, submit this brief (this "Amicus Brief") in support of the *Motion to Dismiss Complaint Pursuant to Fed. R. Civ. P. 12(B)(6) and Fed. R. Bankr. P. 7012(B)* [D.I. 22] (the "Motion to Dismiss") and the accompanying *Memorandum of Law* [D.I. 23] (the "Zap MOL") submitted by Defendant Zap Solutions, Inc. d/b/a Strike ("Defendant" or "Zap") in response to the *Complaint* [D.I. 29] (the "Complaint") filed by the PCT Litigation Trust ("Plaintiff" or "PCT") in the above-captioned adversary proceeding and state as follows:[1]

INTEREST AND IDENTITY OF AMICI CURIAE

1. BA is the leading nonprofit membership organization dedicated to promoting a pro-innovation policy environment for the digital asset industry. BA represents more than 100 member companies reflecting the wide range of the dynamic blockchain industry, including software developers, infrastructure providers, exchanges, custodians, investors, and others supporting the public blockchain ecosystem.

2. SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of its industry's one million employees, SIFMA advocates on legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets and related products and services.

3. FIA is the leading trade organization for the futures, options and cleared derivatives markets globally. FIA's membership includes clearing firms, exchanges, clearinghouses, principal traders, asset managers, execution firms, commodity firms, end users and those legal, technology

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[1] Capitalized terms used but not defined herein have the meaning ascribed to them in the Zap MOL or the Complaint, as applicable.

and other firms who serve this community. FIA's mission is to support open, transparent, and competitive markets, protect and enhance the integrity of the financial system and promote high standards of professional conduct.

4. The Amici's members, representing a broad cross-section of digital asset custodians, exchanges, investors and financiers, as well as broker-dealers, investment banks and asset managers, among others, rely on the durability of Article 8 of the Uniform Commercial Code ("Article 8," and the Uniform Commercial Code as implemented in Nevada, the "UCC") and its clear and functional protections to ensure the bankruptcy remoteness of the assets they own or hold for customers, provide their customers with certainty as to their property interests in such assets, satisfy their regulatory obligations, perfect security interests, determine the priority of rights in assets in their custody, and engage in trading activity. As a result, the Amici have a deep interest in the Court's treatment of Article 8 as it considers the disposition of the Complaint. A failure to apply the plain text and import of Article 8 would muddle the statutory framework on which the Amici's members—and the broader U.S. financial markets—depend by introducing needless complexity regarding the ability of the Amici's members to act as custodians, lenders, investors, and exchanges in the financial markets. The Amici are therefore well-situated to explain the potentially broad implications of the outcome of this case.

PRELIMINARY STATEMENT

5. Article 8 states in plain and unambiguous terms that a custodian and its customer may elect to treat custodied assets as "financial assets" subject to provisions of Article 8 and that such financial assets "are not the property of the" custodian.[2] These long-standing, clear and

[2] NRS § 104.8503(1) (providing that "all interests in that financial asset held by the securities intermediary are held by the securities intermediary for the entitlement holders, are not the property of the securities intermediary and *are not subject to claims of creditors of the securities intermediary*") (emphasis added).

simple rules are critical to the functioning of the U.S. financial markets. They give customers ranging from consumers to large hedge funds confidence that they can entrust their securities, commodities, digital assets, cash, and a variety of other assets to custodians without forfeiting beneficial ownership or exposing themselves to the custodian's creditors. They make it possible for an array of financial intermediaries to satisfy their regulatory obligations. And they allow market participants to provide and receive financing and access trading venues without conducting onerous diligence or burdensome filings that are inconsistent with a modern economy.

6. The framers of Article 8 aimed to displace arcane and amorphous common law concepts (like tracing and talismanic status references) that are not fit for a modern economy with predictable and practical rules that can support efficient financial markets.[3] They succeeded. It is not an exaggeration to say that Article 8 currently underpins custodial arrangements involving hundreds of trillions of dollars' worth of cash, securities, commodities, derivatives and digital assets across the U.S. financial services industry.[4] These arrangements depend on Article 8's simple and straightforward rules that a party holding assets at a custodian, whether organized as a trust company or a Delaware corporation, can agree to treat such assets as "financial assets" subject

[3] *See* UCC § 8-503, cmt. 2 ("Although this section recognizes that the entitlement holders of a securities intermediary have a property interest in the financial assets held by the intermediary, the incidents of this property interest are established by the rules of Article 8, not by common law property concepts. . . . Those concepts do not work for the indirect holding system. A security entitlement is not a claim to a specific identifiable thing; it is a package of rights and interests that a person has against the person's securities intermediary and the property held by the intermediary. The idea that discrete objects might be traced through the hands of different persons has no place in the Revised Article 8 rules for the indirect holding system.").

[4] *U.S. Prime Brokerage Agreement*, (Dec. 11, 2013), Ex. A § 2(c), https://www.sec.gov/Archives/edgar/data/889284/000119312514026486/d647213dex99h8.htm (containing a financial asset election under Article 8); *Custodial Undertaking in Connection with Master Repurchase Agreement*, (Nov. 21, 2003), § 5(A)(v), https://www.sec.gov/Archives/edgar/data/877233/000119312508203393/dex99h8.htm; *Futures and Options on Futures Account Agreement*, (Nov. 8, 2018), § 6, https://www.sec.gov/Archives/edgar/data/916490/000119312522105588/d349045dex9928h5.htm (same); *Coinbase User Agreement*, Coinbase (June 8, 2026) § 2.7.2, https://www.coinbase.com/legal/user_agreement/united_states (same).

to Article 8's protections and that such protections include bankruptcy remoteness from the custodian.

7. The enforceability of Article 8 financial asset elections is also central to the ability of a wide variety of market participants to finance and intermediate trillions of dollars of assets and derivatives. This is because Article 8, in conjunction with Article 9 of the UCC, sets out practical and efficient rules for perfecting security interests without the need for operationally onerous UCC financing statements. Article 8 also enables anonymous and efficient exchange trading of a wide array of assets by giving parties confidence they can buy assets in good faith free from the fear of adverse claims or the costs and limitations of exhaustive counterparty diligence.[5] Altogether, Article 8 facilitates the growth, stability and vitality of markets governed by simple and universally accepted rules upon which all parties can rely.

8. PCT's request that this Court disregard Article 8's clear text threatens, at a minimum, to trigger a reexamination of the legal frameworks on which U.S. financial markets rely. Akin to many similarly situated custody agreements adopted across digital asset and traditional financial markets, Prime Trust and Zap expressly elected in the Custodial Agreement for Article 8's statutory framework to govern their relationship by agreeing that Prime Trust held Custodial Property received from Zap as "financial assets" credited to a "securities account," with Zap as an "entitlement holder" with respect to such financial assets, in each case within the meaning of Article 8.[6] Article 8 is clear that such a financial asset election is enforceable, including in an

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5 *See infra* ¶¶ 17–21.

6 Custodial Agreement § 3.1(a), Compl. Ex. B [D.I. 29-2] ("Customer is an 'Entitlement Holder' in a 'Financial Asset,' as defined by, and for purposes of, the Uniform Commercial Code, including Article 8 thereto, as adopted and implemented in accordance with Nevada law. . . . Applicable Custodial Property are 'Financial Assets' for purposes of the UCC and are not assets of Prime Trust."); *id.* § 6 ("[T]he Parties agree the relationship between Prime Trust and Customer is governed by Article 8 of the UCC and that for the purposes of this Service Schedule: Customer is an 'entitlement holder' and any Custodial Property will be treated as a 'Financial Asset' within the meaning of Nevada Revised Statutes . . . 104.8102(h) and (j).").

insolvency proceeding. As a result, the Custodial Property constitutes "financial assets" subject to Article 8 and <u>not</u> property of Prime Trust's estate.

9. None of the mischaracterizations set forth in PCT's Opposition to the Motion to Dismiss [D.I. 36] (the "<u>Opposition</u>") support a different result. In particular, the Opposition's arguments that a securities intermediary's failure to abide by its "perfect match" duty renders that duty (and Article 8) inapplicable and that Article 8's bankruptcy remoteness protections are only available outside of bankruptcy contravene the plain language of Nevada law, the parties' prepetition agreement, the realities of the modern financial economy and simple common sense. Indeed, the outcome requested by the Complaint and the Opposition is the exact kind of ill that Article 8 was designed to prevent. As a result, a failure to dismiss the Complaint would raise questions among custodians and their customers as to the enforceability of these key provisions upon which they have organized their market relationships.

10. The Amici therefore respectfully encourage the Court to uphold the protections of Article 8 and grant the Motion to Dismiss.

ARGUMENT

I. Permitting the Complaint to Proceed Would Introduce Confusion Into a Well-Established and Intentionally Simple Statutory Regime.

11. Article 8 clearly provides that a custodian and its customer may agree to treat custodied assets as "financial assets" credited to a "securities account" and that such financial assets are not the property of the custodian's estate. The statute's simplicity and application to modern financial markets, which rely on omnibus custody rather than individualized tracing, means that courts and parties have rarely (if ever) felt the need to develop additional common law rules addressing the questions that Article 8 conclusively answers. This is no accident. As courts and scholars have recognized, the drafters of Article 8 specifically sought to "supplant a pastiche

of common law rules" so as to "provide a uniform method of resolving issues in order to promote liquidity and finality."[7] Indeed, Article 8's clarity, especially as compared to the common law, has been cited as among the reasons why its provisions have so rarely been subject to dispute.[8] For this reason, a decision by this Court holding against the plain application of Article 8 would be highly unusual and potentially disruptive to both digital asset and traditional financial markets.

12. Because of Article 8's clarity, ease of application and benefits to custodians and customers, financial asset elections of the sort implemented in the Custodial Agreement are widespread across the digital assets and financial services industries.[9] Intermediaries and their customers in a wide variety of markets, including digital assets, securities, derivatives, physical commodities, insurance and other sectors, regularly leverage the flexibility of Article 8 to provide certainty and legal clarity regarding the nature of their relationships and to satisfy their regulatory obligations.[10] Such elections also appear in agreements providing liquidity to the insurance business and clearinghouse rules.[11] These parties all rely on Article 8 because it mitigates key

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[7] *See In re Estate of Rider*, 407 S.C. 386, 398 (2014); *see also SEC v. Credit Bancorp, Ltd.*, 2000 WL 1752979, at *24 (S.D.N.Y. Nov. 29, 2000) ("Where, as here, the U.C.C. states specifically that an entitlement holder's property rights over assets held by its securities intermediary are defined by the U.C.C. and not by the common law, and specific U.C.C. provisions are identified as the 'only' mechanism for enforcing those rights, then the common law has been supplanted."); *In re Lehman Brothers Holdings Inc.*, 2018 WL 1441407, at *4 (S.D.N.Y. Mar. 22, 2018) ("[W]hile 'entitlement holders of a securities intermediary . . . have a property interest in the financial assets held by the intermediary' . . . 'incidents of this property are established by the rules of Article 8, not by common law property concepts.'").

[8] *In re Estate of Rider*, 407 S.C. at 397 ("[A] significant body of case law has not developed for the indirect holding system, and the reported cases generally have applied whatever principles were necessary to protect an innocent investor . . . .")

[9] *See supra* n.4.

[10] *See, e.g., id.*; *Custodial Services Agreement*, (May 20, 2024), § 2(B), https://www.sec.gov/Archives/edgar/data/2000046/000119312524151982/d759655dex103.htm (containing a financial asset election for digital assets and cash custodied at custodian); *Securities Account Control Agreement*, (Nov. 14, 2023), § 4(e)(ii), https://www.sec.gov/Archives/edgar/data/1131131/000092963823003105/exhibit4-6.htm (treating all credit balances and property held in an account as "financial assets").

[11] *See Remarks of Sandra M. Rocks Cleary Gottlieb Steen & Hamilton LLP on the U.S. Commercial Law Response to the Development of Intermediated Securities Holding Systems*, IMF (Oct. 27, 2006), at 4, https://www.imf.org/external/np/seminars/eng/2006/mfl/sr.pdf ("One current example of a non-traditional asset being treated as a financial asset is a life insurance policy. This approach has begun to appear in the 'life settlement' business, as investors seek to acquire and transfer interests in life insurance policies without the need to involve the insurer when changing 'ownership.'"); *By-Laws*, Options Clearing Corp., art. IX § 10(c),

risks and thereby unlocks the ability to freely hold, trade and lend in a modern global financial system. In addition, federal regulators act in reliance on Article 8 to provide guidance and inform key decisions regarding the administration of the nation's financial markets. Prime Trust's use of a financial asset election in the Custodial Agreement is thus by no means rare or unprecedented. By sharp contrast, PCT's attempt to misconstrue the clear text of Article 8 and its own agreements very much is. A decision giving credence to PCT's contorted assertions and raising doubt about either parties' ability to make Article 8 financial asset elections or Article 8's provisions concerning the treatment of custodied assets would introduce confusion to a well-established, and presently clear, regime—to the detriment of the U.S. financial markets and innocent customers that relied on the clear language of their agreements.

A. ***The Nation's Financial Markets Benefit From the Certainty that Article 8 Provides Regarding the Exclusion of Custodied Assets from the Custodian's Bankruptcy Estate.***

13. Historical experience has demonstrated time and again that robust and stable markets require that market participants have confidence that assets held with a custodian will not be exposed to a custodian's creditors, even if the custodian experiences insolvency or violates its duties. Legal certainty provides market participants with the confidence necessary to hold assets in large quantities at intermediaries, which facilitates the trading, financing and investment activities that fuel the nation's economic activity. The absence of such certainty can lead parties to limit their participation in the financial system.

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https://www.theocc.com/getcontentasset/3309eceb-56cf-48fc-b3b3-498669a24572/dfc3d011-8f63-43f6-9ed8-4b444333a1d0/occ_bylaws.pdf (last modified Apr. 10, 2026).

14. Furthermore, applicable regulatory regimes require that market participants—either through a specific mandate or punitive regulatory treatment—ensure that the assets they hold or own will not form part of their or their custodian's estate.[12] If a party is unable to demonstrate with a degree of legal certainty that it satisfies these requirements, it may be subject to significant sanctions or higher costs that are passed onto customers, or it may need to withdraw from the market entirely.

15. To address certain particularly complex arrangements (*e.g.*, where the relevant regulatory regime permits the rehypothecation of customer assets), Congress has prescribed bespoke distributional rules to provide customers and their custodians with the requisite legal certainty that the custodied assets (or a segregated pool of assets in relation thereto) will be reserved for customers upon the custodian's failure.[13] However, in most cases, including those concerning straight-forward custodial arrangements, Congress has—consistent with the general principle that state law governs property—deferred to the states to provide the requisite clarity.

16. As a mechanism of uniform state law, Article 8's simple and straightforward provisions have effectively provided market participants in a variety of sectors with certainty that custodied assets will not form part of the custodian's bankruptcy estate. For this reason, market participants utilize Article 8 financial asset elections in a wide array of relationships, including

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[12] *See, e.g.*, *Letter to Entities Licensed Under 23 NYCRR Part 200 or Chartered as Limited Purpose Trust Companies Under the New York Banking Law That Custody Virtual Currency Assets*, New York Dep't of Fin. Servs. (Sept. 30, 2025) https://www.dfs.ny.gov/industry-guidance/industry-letters/il20250930-updated-guidance-custodial-structures (providing guidance that an entity licensed in New York as a "virtual currency entity" under 23 NYCRR 200 takes "possession [of customer property] only for the limited purpose of carrying out custody and safekeeping services, and that it will not thereby establish a debtor-creditor relationship with the customer."); 12 C.F.R. 3.35(a)(4)(i) (providing that certain regulatory capital requirements are not applicable to collateral held in a manner that is bankruptcy remote); 12 C.F.R. 45.7(c)(2) (providing that a custodian for a covered swap entity must hold collateral pursuant to a custody agreement that is enforceable in the event of the custodian's bankruptcy or insolvency).

[13] *See* 15 U.S.C § 78fff-2(c) (establishing a bespoke distribution scheme and priority for customer property in a SIPA proceeding); 11 U.S.C. § 751 (providing rules for distributions of customer name securities in a stockbroker liquidation); 11 U.S.C. § 766 (describing the manner of return or transfer of customer property in a commodity broker liquidation).

securities held with banks, trust companies and central securities depositories, cash held with clearing organizations, and, most recently, digital assets held at a custodian.[14] Should Prime Trust's position stand, it could disrupt these markets by raising questions about the safety of custodied assets and generating regulatory uncertainty.

B. *Beyond Bankruptcy Remoteness, Market Participants Depend on the Effectiveness of Financial Asset Elections to Trade and Finance a Wide Array of Assets.*

17. Financial market participants depend on the effectiveness of Article 8 financial asset elections not only to ensure that the assets they entrust to custodians will be properly recognized as outside of the custodian's estate, but also to leverage Article 8's other practical rules. These include rules allowing a purchaser for value to take free of adverse claims (enabling efficient exchange trading across a broad market of diverse participants without the need for costly and restrictive diligence) and rules allowing secured parties to perfect security interests through control.[15] Taken together, these rules allow market participants to transfer and finance assets readily and quickly in ways that are vital in an active financial economy.

18. Under UCC Section 8-510, a purchaser of a "security entitlement" or "financial asset" from an "entitlement holder" purchases the security entitlement (*i.e.*, the rights of the entitlement holder to the particular financial assets) or the financial asset free and clear of any adverse claims so long as the purchaser gave value, lacked notice of such adverse claims and obtained control over the purchased asset.[16] In other words, Article 8 allows ordinary course, good-faith buyers of financial assets held with an intermediary to take free and clear of potential claims to the assets held by potentially unknown or unknowable upstream sellers.

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[14] *See supra* n.4.
[15] NRS §§ 104.8510, 104.8106, 104.9106.
[16] NRS § 104.8510(1).

19. This clarity is critical to enabling the free flow of exchange trading because exchanges operate anonymously: buyers and sellers place orders and execute purchases based on price, not on the identity of the counterparty. UCC Section 8-510 facilitates this quick and anonymous exchange trading because it gives buyers confidence that they do not need to diligence a seller's title or worry that someone may challenge that title. They can trade simply based on price. Exchange trading would be much riskier without this certainty; innocent parties trading on exchanges would be at risk that some unknown third party subsequently challenges the validity of the seller's title or the sale itself. Such risks could push parties to limit their activity to bilaterally negotiated transactions with closely evaluated counterparties. The result could be a retraction in liquidity, because buyers would be inclined to trade within a limited pool of market participants they have carefully onboarded, rather than from the broadest possible market where price is the sole factor. Such hurdles and limitations would increase the costs of simple transactions, because comprehensive diligence would be required for even the simplest and smallest trades. Consequently, a decision denying the Motion to Dismiss on the grounds that the Custodial Property was not a "financial asset" to which Zap held a security entitlement could trigger a retraction of liquidity by introducing unnecessary complexity into digital asset and traditional exchanges.[17]

20. Article 8 financial asset elections also allow parties to leverage the same practical rules applicable to securities to perfect their security interests in a much broader range of assets that would otherwise constitute general intangibles under the UCC. Article 8, in conjunction with Article 9 of the UCC, provides that a secured party may perfect its security interest in a financial asset through "control" of that asset, either by having the asset credited to the secured party's

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[17] Additionally, a decision denying the Motion to Dismiss on the basis that the Custodial Property was property of Prime Trust's estate could more collaterally weaken these "take free" rules by potentially introducing a new universe of adverse claims that should not otherwise be available with respect to financial assets held with a securities intermediary pursuant to an Article 8 financial asset election (in the form of avoidance and recovery actions).

account, by entering into a typical account control agreement in relation to the assets, or by serving as the custodian of the assets.[18] These perfection mechanisms facilitate broad-based financing because they help parties avoid the cost, time and expense of filing a UCC financing statement. Although it may be viable or practical to file such statements for large lending transactions, a requirement that secured parties file UCC financing statements in respect of every transaction they participate in would impose operational burdens that likely would limit the scope and frequency of credit that financial institutions offer to their customers. For this reason, parties rely upon financial asset elections to perfect their security interests in assets ranging from cash held at broker-dealers, cleared swaps carried by futures commission merchants and cryptocurrencies held at an intermediary. Therefore, if this Court finds that Zap and Prime Trust did not make an effective financial asset election, it would complicate the analysis of many financing arrangements, requiring secured parties across multiple financial markets to scramble to perfect their securities.

21. That financial asset elections have been widely adopted throughout the digital asset and traditional financial markets is clear evidence that there is a common understanding of the statute's meaning and import. In light of the prevalence of Article 8 financial asset elections and the market's general dependence on Article 8's simple and clear rules for a number of purposes, failing to grant the Motion to Dismiss would risk substantially complicating the analysis of all of these agreements, with adverse impact to businesses and customers.

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[18] NRS § 104.8106 (establishing that a purchaser has "control" of a security entitlement if the purchaser becomes the entitlement holder); NRS § 104.9106 (providing that a secured party having "control" over the security entitlements in a securities account has control over the securities account); NRS § 104.9314 (providing that a secured party's interest in a security entitlement is perfected by control until the debtor becomes the entitlement holder).

C. ***Policymakers and Regulated Parties Rely on an Established Consensus Regarding Article 8's Clear Text and a Decision in Favor of PCT Would be Inconsistent with Regulatory Practice and Industry Expectation.***

22. Market participants are not the only parties who rely on the bedrock certainty afforded by Article 8. Regulators and administrative actors lean on Article 8 when crafting rules governing financial transactions and providing informal guidance to market participants regarding best practices.[19]

23. Informally, the Securities and Exchange Commission's (the "SEC") Division of Trading and Markets recently addressed questions regarding the means by which broker-dealers holding cryptocurrency in custody could protect the custodial claims of customers and ensure that custodied assets are returned to customers in the event that the broker-dealer becomes insolvent.[20] The SEC staff responded that, although non-security cryptocurrency assets are not addressed under the Securities Investor Protection Act ("SIPA"), "a broker-dealer may agree with its customers that non-security crypto assets custodied by the broker-dealer for the customers for purposes of Article 8 of the Uniform Commercial Code be treated as 'financial assets' and carried in a 'securities account,' as those terms are defined in Article 8."[21] In offering this solution, the SEC expressed the view that (consistent with well-established understandings of Article 8 and its plain text), such a financial asset election "could help ensure that customer non-security crypto assets

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[19] The effectiveness of Article 8 in providing legal certainty has not been limited to U.S. markets. Other jurisdictions, such as the United Kingdom and Canada, have looked to Article 8's flexible and practical rules to identify what changes they can make to their own laws. *See, e.g.*, *Financial Markets Law Committee Issue 3 – Property Interests in Investment Securities*, Fin. Mkts. L. Comm., https://fmlc.org/wp-content/uploads/2018/02/Issue-3-Background-paper-on-Article-8-of-the-Uniform-Commercial-Code.pdf (accessed June 25, 2026); *Modernizing Securities Transfer Rules in Federal Statutes*, Canadian Bar Ass'n (Nov. 2007), at 7, https://cba.org/getmedia/464b05e4-bc73-4ca1-8315-678439a9e3b8/07-53-eng-051b0b36-ee9d-4907-a98d-ff894477211c.pdf (accessed June 25, 2026) (noting that the adoption of the Canadian Securities Transfer Act was "closely modelled on Article 8").

[20] *See Division of Trading and Markets: Frequently Asked Questions Relating to Crypto Asset Activities and Distributed Ledger Technology*, SEC (updated Feb. 19, 2026) https://www.sec.gov/rules-regulations/staff-guidance/trading-markets-frequently-asked-questions/frequently-asked-questions-relating-crypto-asset-activities-distributed-ledger-technology (accessed July 1, 2026).

[21] *Id.*

do not become part of the broker-dealer's estate if the broker-dealer is placed in a liquidation under SIPA or the Bankruptcy Code."[22]

24. More formally, the SEC and the Commodity Futures Trading Commission (the "CFTC") recently relied upon Article 8 to grant an exemption from its customer protection requirements to facilitate the cross-margining of Treasury futures positions and Treasury securities positions.[23] This relief, which the SEC and CFTC have hailed as significant to the long-term liquidity and robustness of the U.S. Treasury securities market, was contingent on the use by a clearing organization of an Article 8 financial asset election.[24] Adopting language equivalent to that used in the Custodial Agreement, the clearing organization agreed to treat assets credited to applicable margin accounts as "financial assets" credited to "securities accounts".[25]

25. As the CFTC stated, the purpose of this financial asset election was to shield assets in these margin accounts from insolvency risk such that customers' margin held at the clearing organization would be "protected and not be available to creditors in the unlikely event of a . . . bankruptcy."[26] Indeed, the CFTC expressed "the view that, under the [UCC], the assets credited to the [margin accounts] would not form part of [the clearing organization's] estate but would instead be reserved for [broker-dealer/future commissions merchants] for the benefit of their futures customers."[27] The CFTC also expressly rejected the notion that the rights of entitlement

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22 *Id.*

23 Order Under Section 36 of the Securities Exchange Act of 1934 Granting Conditional Exemptive Relief from Section 15(c)(3) of and Rule 15c3-3 Under the Exchange Act for Cross-Margining of Cleared U.S. Treasury Securities and Related Futures, 91 Fed. Reg. 21035 (Apr. 20, 2026) (the "SEC Exemptive Order"); Order Providing Exemptive Relief To Facilitate Cross-Margining of Customer Positions Cleared at Chicago Mercantile Exchange, Inc. and Fixed Income Clearing Corporation, 91 Fed. Reg. 20880 (Apr. 20, 2026) (the "CFTC Exemptive Order").

24 *See CFTC Approves Order to Further Strengthen U.S. Treasury Market Liquidity*, CTFC (Apr. 15, 2026), https://www.cftc.gov/PressRoom/PressReleases/9214-26; *SEC Approves Exemptive Order and Proposed Rule Change to Permit Customer Cross-Margining in the U.S. Treasury Market*, SEC (April 15, 2026), https://www.sec.gov/newsroom/press-releases/2026-36-sec-approves-exemptive-order-proposed-rule-change-permit-customer-cross-margining-us-treasury-market.

25 CFTC Exemptive Order at 20884.

26 *See id.* at 20887.

27 *See id.* at 20888.

holders to the return of their financial assets was conditioned on any segregation or tracing of assets:

> Because the rights of entitlement holders are tied to particular issues of securities . . . or financial assets (here, pursuant to [the clearing organization's] rules, including cash) rather than particular accounts, if there were a shortfall with respect to a particular security or cash in either the [clearing organization margin accounts] or the account(s) holding [Treasury securities margin], the rights of customers who posted [cross-margined securities] or [treasury securities] would apply to any of those particular securities (or cash) held by [the clearing organization]. This would include the specific securities (or cash) which might otherwise be traceable to [the clearing organization's] members that are not entitlement holders. This further reduces the likelihood of any deficit.[28]

26. As this case is pending, the CFTC and SEC are continuing to consider potential applications of Article 8 for purposes of enabling additional cross-margining. *See Joint Request for Comment on Further Implementation of Portfolio Margining and Cross-Margining of Securities and Derivatives*, 91 Fed. Reg. 39579, 39582 (June 30, 2026) (requesting public comment on whether there are potential regulatory frameworks "built on a foundation of Article 8 of the [UCC], that could be considered in connection with the potential further expansion of portfolio margining to address differences in bankruptcy treatment of [derivatives clearing organizations] and securities clearing agencies").

27. Given the readily apparent, widespread and ongoing reliance placed on Article 8 by regulators,, the Amici urge the Court to carefully consider the consequential nature of its decision in this matter. A holding in favor of PCT risks injecting uncertainty and substantial complication into carefully crafted public policy regimes that support the flourishing of multiple markets (including digital assets, traditional finance, custody and beyond). The Court should therefore consider the significant reliance by policymakers and market participants on

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[28] *Id.*

commonplace understandings of Article 8 when evaluating PCT's novel and extraordinary arguments that seek to challenge this broad consensus.

II. Article 8 of the UCC Governs the Relationship Between Prime Trust and Zap and Unambiguously Provides that the Custodial Property is not Property of the Estate.

28. It is axiomatic that the scope of the Debtors' estate and property is determined by reference to applicable state law.[29] It is similarly clear that Nevada law, including Article 8, governs the PT-Zap Agreements, which in turn governs the treatment of the Custodial Property held by Prime Trust on Zap's behalf, including the U.S. Dollars and Bitcoin allegedly transferred to Zap that PCT unjustifiably seeks to recover.[30] Article 8 provides that a custodian and its customer may agree to treat assets held with the custodian as "financial assets" held in a "securities account" and that such a "financial asset election" (as it is commonly known) serves to categorically exclude the financial assets from the custodian's bankruptcy estate.[31] The Custodial Agreement contained a clear financial asset election, and as a result the Custodial Property is not property of Prime Trust's estate. Such property is therefore beyond the reach of PCT's potential avoidance and recovery powers.[32] Given the importance of Article 8 within the nation's financial system, it is shocking that PCT seeks a contrary result.

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[29] *Butner v. United States*, 440 U.S. 48, 54 (1979) ("Congress has generally left the determination of property rights in the assets of a bankrupt's estate to state law."); *Miller v. Mott*, 2023 WL 6467368, at *3 (Bankr. D. Del. Oct. 4, 2023) ("The substance of the rights held by a trustee (whether a chapter 7 trustee, a chapter 11 trustee, or a debtor in possession) are defined by non-bankruptcy law, typically state law."); *In re Delta Petroleum Corp.*, 2015 WL 1577990, at *7 (Bankr. D. Del. Apr. 2, 2015) ("It is well settled that property interests in bankruptcy, absent some compelling federal interest, are determined by reference to state law.") (quoting *D'Angelo v. Blue Chip Fed. Credit Union (In re D'Angelo)*, 524 B.R. 624, 630 (Bankr. M.D. Pa. 2015)).

[30] Master Services Agreement § 13.1, Compl. Ex. B [D.I. 29-2] (subjecting the MSA, and accordingly any associated Custodial Agreement, to Nevada law); NRS § 104.

[31] NRS § 104.8503(1) (providing that "[t]o the extent necessary for a securities intermediary to satisfy all security entitlements with respect to a particular financial asset , all interests in that financial asset held by the securities intermediary are held by the securities intermediary for the entitlement holders , are not the property of the securities intermediary and are not subject to claims of creditors of the securities intermediary. . . .").

[32] *See* Zap MOL at 20 ("Consistent with Article 8, the PT-Zap Agreements confirm that Prime Trust did not own the Custodial Property."); *supra* n.2.

A. *Article 8's Exclusion of the Custodial Property from Prime Trust's Estate is Not Conditioned on Prime Trust's Good Behavior, the Use of Talismanic Terms, or Individual Segregation.*

29. Despite the clear outcome dictated by Article 8 and the Custodial Agreement, PCT contends this result does not apply because it failed to fulfill its responsibilities to its customers. Although Article 8 imposes certain duties on securities intermediaries (for example, a requirement to maintain sufficient financial assets to satisfy all customer security entitlements thereto), neither the text of Article 8, the Official Commentary thereto, nor common sense suggests that the fulfillment of those duties is somehow a prerequisite for the effectiveness of Article 8's provisions.[33] To the contrary, Article 8's clear language applies if a party that has undertaken to custody assets for a customer, and agreed with the customer to both treat those assets within the structure of Article 8 and that such treatment serves to exclude the relevant assets from the custodian's estate. Were it otherwise—were Article 8 only to apply when a custodian had acted consistently with its obligations—there would be little purpose to Article 8's protections, because those protections are most relevant *exactly when the custodian or custody arrangement has failed* in some capacity and the customer is seeking to enforce its rights against the securities intermediary. Indeed, the fact that Article 8 grants entitlement holders a *pro rata* share of the relevant financial assets and specifically addresses a situation where there is a deficiency in the

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[33] *See* NRS § 104.8503 (not conditioning entitlement holder's property interest in security entitlements on the securities' intermediary's fulfillment of duties); NRS § 104.8504 (not describing any impact on the exclusion of the financial assets from the securities intermediary's property arising out of the securities intermediary's failure to satisfy its duties); NRS § 104.8505 (same); NRS § 104.8506 (same); NRS § 104.8507 (same); NRS § 104.8508 (same); NRS § 104.8509 (same). In relation to the perfect match duty in particular, the Official Commentary specifically notes that "whether a person has acquired a security entitlement does not depend on whether the intermediary has complied with [the perfect match] duty." UCC § 8-501, cmt. 3. Article 8 also provides that the "perfect match" duty can be disclaimed or modified by contract, further demonstrating that this activity is hardly a requirement for a party to be considered a securities intermediary. *See* NRS § 104.85043(3)(a) (providing that a securities intermediary can fulfill this duty it "acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary"); UCC § 8-504, cmt. 3 ("This section is not intended as a detailed specification of precisely how the intermediary is to perform this duty, nor whether there may be special circumstances in which an intermediary's general duty is excused."); UCC § 8-504, cmt. 4 ("[C]ompliance with the agreement constitutes satisfaction of the . . . duty . . . .").

perfect match leaves no doubt that UCC Section 8-503 was intended to apply in a situation where, as here, a custodian's failure to adhere to its duties led to a shortfall in financial assets necessary to satisfy all security entitlements.[34] If PCT's interpretation were adopted, custodians subject to Article 8 would be incentivized to shirk their responsibilities because, by doing so in PCT's telling, they could circumvent the protections accorded to entitlement holders and convert custodied assets of innocent customers into their own property. Such a perverse result cannot be the implication of Article 8's clear text.

30. For these reasons, PCT's assertions regarding its apparent breach of its duties have no sway on the nature of the property interest established by the Article 8 relationship. As PCT notes, the Official Commentary to Article 8 suggests that the relevant inquiry is whether it "makes sense" to apply the duties set forth in Part 5 of Article 8.[35] But this analysis is not concerned with whether the intermediary ultimately complied with its duties; it is concerned with the relevance of those duties to the relationship. The duties very much have relevance in the context of custody relationships involving digital assets and cash because they provide avenues by which customers can exercise rights in relation to such assets and seek their return.

31. PCT readily admits that the duties set forth in UCC Sections 8-507 and 8-508 have relevance.[36] With regard to the duties in UCC Sections 8-505 and 8-506, concerning payments and distributions as well as exercise of rights, a number of digital assets and certain kinds of cash

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34 *See* NRS § 104.8503(2); UCC § 8-503, cmt. 1 ("Nor does it matter whether the intermediary had sufficient assets to satisfy all entitlement holders' claims at one point, but no longer does. Rather, all entitlement holders have a pro rata interest in whatever positions in that financial asset the intermediary holds."); NRS § 104.8511(1) ("Except as otherwise provided in subsections 2 and 3, if a securities intermediary does not have sufficient interests in a particular financial asset to satisfy both its obligations to entitlement holders who have security entitlements to that financial asset and its obligation to a creditor of the securities intermediary who has a security interest in that financial asset, the claims of entitlement holders, other than the creditor, have priority over the claim of the creditor.").

35 UCC § 8-102, cmt. 9.

36 *See* Opposition at ¶ 37 (stating that "PCT does not dispute that Prime was required to comply with Zap's entitlement orders and change orders").

investments can result in distributions or provide the holder with rights (like staking rights) that make these duties relevant. In any event, Article 8 does not require that all of the duties be relevant for each asset—indeed, U.S. Treasury Securities, among the most ubiquitous financial assets held under Article 8, have no voting or other rights for holders to exercise.[37] Rather, the inquiry is whether the duties as a whole have relevance to the parties' relationship. Considering that not only PCT and its customers, but numerous digital assets and other custodians have made financial asset elections in relation to the assets at issue here, they clearly do.[38]

32. Article 8 also contains no requirement that parties use talismanic "fiduciary" or "trust" language or that a customer or securities intermediary trace any particular asset. Such requirements would be out of step with the contemporary financial markets in which fungible assets of multiple customers are regularly held on an omnibus basis. Indeed, the plain language of Section 8-503 contemplates that customer assets may be commingled, not only with the assets of other customers, but also with the assets of the intermediary itself.[39] As the Official Commentary notes:

> [Section 8-503] expresses the ordinary understanding that securities that a firm holds for its customers are not general assets of the firm subject to the claims of creditors. Since securities intermediaries generally do not segregate securities in such fashion that one could identify particular securities as the ones held for customers, it would not be realistic for this section to state that "customers' securities" are not subject to creditors' claims. Rather subsection (a) provides that to the extent necessary to satisfy

[37] *See infra* n.46.

[38] *See supra* n.6 (stating the terms of the Custodial Agreement); *supra* n.4 (describing various agreements containing financial asset elections in respect of similar assets); *infra* n.46 (same). PCT characterizes the Article 8 terms of the Custodial Agreement as "buried." *See* Opposition at ¶ 2. PCT should not be permitted to now pretend that the plain terms of its agreement do not reflect the parties' plain intentions regarding the relevance of Article 8 to the relationship, or that they were somehow buried or obscured in Prime's own contracts.

[39] NRS § 104.8503(1) (providing that "[t]o the extent necessary for a securities intermediary to satisfy all security entitlements with respect to a particular financial asset, *all interests in that financial asset held by the securities intermediary are held by the securities intermediary for the entitlement holders*) (emphasis added); NRS § 104.8503(2) (providing that "[a]n entitlement holder's property interest with respect to a particular financial asset under subsection 1 is a pro rata property interest in *all interests in that financial asset held by the securities intermediary*") (emphasis added) .

> all customer claims, all units of that security held by the firm are held for the entitlement holders, are not property of the securities intermediary, and are not subject to creditors' claims, except as otherwise provided in Section 8-511. An entitlement holder's property interest under this section is an interest with respect to a specific issue of securities or financial assets. . . . Subsection (b) makes clear that the property interest described in subsection (a) is an interest held in common by all entitlement holders who have entitlements to a particular security or other financial asset.[40]

33. Article 8 therefore provides that *all financial assets held by the institution* are reserved for entitlement holders to the extent needed to satisfy their claims to that type of financial assets (*i.e.*, if an entitlement holder has agreed for its custodian to hold bitcoin as a financial asset, that entitlement holder has a claim against *all* bitcoin held by that custodian, regardless of whether such bitcoin is held on behalf of that entitlement holder, a different customer or the custodian itself, up to the amount they custodied with the intermediary).[41]

34. Finally, PCT's argument regarding breach of duties fails on its own terms. The Complaint seeks the avoidance and recovery of certain prepetition transfers. Such Alleged Transfers were made *in compliance with Prime Trust's duties as securities intermediary* because they represent fulfillment of Zap's instructions to transfer financial assets. Therefore, even in a circumstance where Zap's property interest (or Prime Trust's lack of such an interest) was contingent on its ability to enforce compliance with Prime Trust's duties, those conditions were fulfilled at the time that the Alleged Transfers were made, meaning that in no circumstance did Prime Trust have a property interest in any amounts or assets transferred. Therefore, these transfers cannot be clawed back because PCT's avoidance powers are limited by the scope of Prime Trust's property.[42]

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[40] UCC § 8-503, cmt. 1. Although this comment uses securities as an example for explanatory purposes, it is clear that the discussion is applicable to all financial assets.

[41] *See id.*

[42] *See* 11 U.S.C. § 541(b)(1) (providing that property of the estate does not include "any power that the debtor may exercise solely for the benefit of an entity other than the debtor"); 11 U.S.C. § 726(a) (providing that the debtor's

B. *Because Prime Trust and Zap Expressly Agreed for the Custodial Property to be Financial Assets Credited to a Securities Account, Article 8 Clearly Applies to Such Custodial Property.*

35. Article 8 defines "financial asset" to include "[a]ny property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this Article."[43] The Official Commentary and preamble to the 2022 revisions to the UCC adopted by the Nevada Legislature in 2023 leave no doubt that this broad language includes various forms of digital assets (including cryptocurrency) if a securities intermediary and its customer agree to treat such assets as financial assets credited to a securities account.[44] For example, Comment 9 to UCC Section 8-102 notes that parties may "agree to treat a digital asset as a financial asset."[45] Contrary to PCT's insinuations, it is also extremely common for market actors to agree to treat cash as a financial asset under UCC Section 8-102(a)(9).[46] Both the Custodial Agreement's financial asset election and PCT's holding of cash and digital assets on behalf of its customer are therefore widespread and basic features of companies operating in the same line of business as Prime Trust.

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distributions in respect of allowed creditor claims are made from "property of the estate"); 11 U.S.C. § 547(b) (limiting the trustee's power to avoid preferences to "transfer[s] of an interest of the debtor in property").

[43] NRS § 104.8102(1)(j)(3).

[44] Unif. Com. Code Amendments (2022), Off. Text with Comments 3 (Am. L. Inst. & Unif. L. Comm'n 2022).

[45] *See* UCC § 8-102, cmt. 9.

[46] *See, e.g.*, *U.S. Prime Brokerage Agreement*, *supra* n.4; *Futures and Options on Futures Account Agreement*, *supra* n.4 (financial asset election "include[s] cash Collateral"); *Coinbase Prime Broker Agreement*, (Jan. 24, 2025), § 7, https://www.sec.gov/Archives/edgar/data/2031069/000121390025008408/ea020956707ex10-8_hashdex.htm ("Client Assets" subject to financial asset election include a Client's cash); *Module I to the 2026 SIFMA Master Treasury Securities Clearing Agreement*, Sec. Indus. and Fin. Mkts. Ass'n (2026), § 2(a)(ii), https://www.sifma.org/wp-content/uploads/2026/05/2026-SIFMA-Master-Treasury-Securities-Clearing-Agreement-Done-With-Modules.pdf (accessed July 14, 2026) (containing a financial asset election for U.S. Treasury Securities); *Government Securities Division Rulebook*, Fixed Income Clearing Corp., §§ 4(1)(a), 4(1)(b), https://www.dtcc.com/~/media/Files/Downloads/legal/rules/ficc_gov_rules.pdf (last modified June 1, 2026) (providing that assets credited to customer margin accounts shall be "financial assets" under Article 8). *See also* Carl S. Bjerre, *Investment Securities*, 72 Bus. Law. 1133, 1136 (2017) (noting that Article 8's financial assets framework "clearly applies to 'cash' (*i.e.*, credit balances) if considered part of the securities account itself or the intermediary and customer have agreed to treat it as a financial asset").

36. A "securities intermediary" under Article 8 is any "person . . . that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity."[47] A "securities account," in turn, is "an account to which a financial asset is or may be credited in accordance with an agreement under which the person maintaining the account undertakes to treat the person for whom the account is maintained as entitled to exercise the rights that comprise the financial asset."[48] Therefore, a "securities intermediary" includes any person that, in the ordinary course of its business and in the relevant situation, credits an asset to an account for a customer in connection with an agreement to treat the customer as the beneficial owner of the asset.

37. It is clear that Prime Trust's prepetition business consisted of maintaining securities accounts for others—Prime Trust maintained book entry accounts for customers, including Zap, to which it credited digital assets and cash.[49] It is also undisputed that Prime Trust maintained these accounts under agreements like the Custodial Agreement, pursuant to which it undertook to treat the customer as the beneficial owner of the custodied assets.[50] Indeed, PCT admits that Article 8 financial asset elections were common in Prime Trust's prepetition agreements.[51] An actor like Prime Trust, which held itself out in business and in contract as acting in the capacity of maintaining securities accounts for its customers, and in fact accepted such assets in that capacity, is a securities intermediary. Because Prime Trust, as a securities intermediary, agreed with Zap in the Custodial Agreement to treat the Custodial Property as financial assets credited to a securities

[47] NRS § 104.8102(1)(m)(2).

[48] NRS § 104.8501(1).

[49] *See e.g.*, Compl. at ¶ 126 (describing that Prime Trust recorded Zap's holdings in book entry accounts on Prime Trust's Internal Ledger).

[50] *See* Custodial Agreement § 3.1(a), Compl. Ex. B [D.I. 29-2] ("Applicable Custodial Property . . . are not assets of Prime Trust.").

[51] *See* Opposition at ¶ 51 (stating that "the same or similar Article 8 provision is in other customers' agreements with Prime").

account, such property constitutes "financial assets" credited to a "securities account" within the meaning of Article 8.

38. PCT asks this Court to disregard the clear language of Article 8 and upend the market's reliance on its provisions on the basis of assertions that contravene not only the plain statutory text of Article 8, but also the intent of its drafters. First, PCT mischaracterizes Article 8 as a "regulatory system" intended to "operate as part of a universe of regulated financial institutions."[52] This is wrong. Article 8 is a framework of uniform state law, not regulation, the same as any other component of the UCC, and it applies across the spectrum of custodial relationships, not just to regulated entities. NRS § 104.8102(1)(m)(2) contains no requirement that a securities intermediary be regulated, and the Official Commentary makes clear that a securities intermediary is "a person maintaining securities accounts for others."[53] Even if there were a requirement that a securities intermediary be a regulated entity, PCT's contentions fail for the simple reason that Prime Trust was a regulated trust company (which is among the types of entity that would ordinarily act as a securities intermediary).[54]

39. Next, although PCT acknowledges that cash and digital assets may be designated as "financial assets," it contends such designation is inapplicable here because either Prime Trust was not a securities intermediary (which is incorrect as established above) or that Prime Trust's practice of omnibus holdings meant these assets were not held in "securities accounts."[55] This latter argument conflates how securities intermediaries hold financial assets with how they reflect customer accounts on their books. As a general matter, modern financial services providers do not—and in fact cannot—hold the assets of each individual customer in a separate location. Not

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52 *See id.* at ¶ 25.
53 UCC § 8-102, cmt. 14.
54 *See* Compl. at ¶ 9 (stating that "Prime was a Nevada state-chartered trust company").
55 *See* Opposition at ¶ 37 n.6.

only do such providers have thousands, if not millions, of customers such that individualized holding would be prohibitive operationally and financially, but also many central securities depositories at which intermediaries hold customer property simply do not allow the use of individually segregated accounts. Instead, assets are generally—as standard practice—held by securities intermediaries in operational accounts on a commingled, omnibus basis and allocated to customers through book entry systems.

40. Prime Trust's controls and financial management are a separate issue, but there is nothing unusual, let alone nefarious, about financial intermediaries holding omnibus internal accounts allocated according to customer accounts recorded by book entry, as Prime Trust did. Article 8 was specifically designed in contemplation of an omnibus holding system.[56] In any event, Article 8 is clear that a person's acquisition of a security entitlement is not dependent on whether or how a securities intermediary holds customer assets. *See* UCC § 8-501, cmt. 3 ("The duty of a securities intermediary to maintain sufficient assets is governed by Section 8-504 and regulatory law. [This subsection] is included only to make it clear the question whether a person has acquired a security entitlement does not depend on whether the intermediary has complied with that duty.") Such an entitlement arises when a securities intermediary undertakes to treat the customer as having a security entitlement, regardless of whether or when the securities intermediary acquires the assets at issue.[57] *See* NRS 104.8501(3) ("If a condition of subsection 2 has been met, a person

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[56] *See* UCC § 8-504, cmt. 1 ("This section recognizes the reality that as the securities business is conducted today, it is not possible to identify particular securities as belonging to customers as distinguished from other particular securities that are the firm's own property. Securities firms typically keep all securities in fungible form, and may maintain their inventory of a particular security in various locations and forms, including . . . book entry positions at one or more clearing corporations.").

[57] *See* UCC § 8-501, cmt. 3 ("It is, for example, entirely possible that a securities intermediary might make entries in a customer's account reflecting that customer's acquisition of a certain security at a time when the securities intermediary did not itself happen to hold any units of that security. The person from whom the securities intermediary bought the security might have failed to deliver and it might have taken some time to clear up the problem, or there may have been an operational gap in time between the crediting of a customer's account and the receipt of securities

has a security entitlement even though the securities intermediary does not itself hold the financial asset.”).

C. *Article 8’s Clear Statutory Language Provides That Financial Assets Held by a Securities Intermediary are not Property of the Securities Intermediary.*

41. By virtue of the financial asset election in the Custodial Agreement, Zap became an “entitlement holder” with “security entitlements” to the financial assets held by Prime Trust. NRS § 104.8102(f) (defining “entitlement holder” as “a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary” and defining “security entitlement” as “the rights and property interest of an entitlement holder with respect to a financial asset specified in part 5 of this Article”).

42. UCC Section 8-503 describes the nature of the rights of an entitlement holder to financial assets held with a securities intermediary. It states that “[t]o the extent necessary for a securities intermediary to satisfy all security entitlements with respect to a particular financial asset, all interests in that financial asset held by the securities intermediary are held by the securities intermediary for the entitlement holders, *are not the property of the securities intermediary and are not subject to claims of creditors of the securities intermediary*, except as otherwise provided in [UCC Section 8-511].”[58] As a result, Nevada law is unequivocal that any digital assets or cash held by Prime Trust, including any such assets that were transferred to Zap, were not property of Prime Trust, at least to the extent necessary to satisfy Zap’s claim to such assets.

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from another securities intermediary. The entitlement holder’s rights against the securities intermediary do not depend on whether or when the securities intermediary acquired its interests.”).

[58] NRS § 104.8503 (emphasis added). UCC § 8-511 contains two narrow exceptions to this rule, either of which would apply only in the event Prime Trust pledged the Custodial Property to a creditor who obtained control of such Custodial Property within the meaning of Article 8. *See* NRS § 104.8511. PCT has not asserted that there was any such pledge.

43. PCT asserts that the division of property established by Article 8 does not apply during insolvency proceedings.[59] Essentially, PCT argues that what are understood to be Article 8's "bankruptcy remoteness" provisions are inoperable during bankruptcy.[60] UCC Section 8-503 "describes the property interest of entitlement holders in the assets held by the intermediary."[61] As PCT notes, the Official Commentary clarifies that such description "does not necessarily determine how property held by a failed intermediary will be distributed in insolvency purposes," but, as the further elaboration from the commentary makes clear—and a plain language interpretation of the word "necessarily" requires—that is not because Section 8-503 is inapplicable in insolvency.[62] It is because certain insolvency regimes, such as SIPA and subchapters III and IV of Chapter 7, establish special distributional rules that apply without regard to whether the assets at issue are property of the debtor.[63] That is not the case under Chapter 11. To the contrary, the consequence of property falling outside the estate of a Chapter 11 debtor (as defined by state law) is that parties without rights to that property are not entitled to distributions and the debtor-in-possession cannot claw back transfers of such property using the trustee's avoidance powers.[64]

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59 *See* Opposition at ¶ 47.

60 *See*, *Letter Re: The SEC Proposed Safeguarding Rule (File No. S7-04-23)*, JP Morgan Chase & Co. (May 8, 2023), at 7, https://www.sec.gov/comments/s7-04-23/s70423-186140-340145.pdf ("[U]nder the Uniform Commercial Code, a financial institution (such as a bank or a broker dealer) that acts as a 'securities intermediary' is required to record the ownership of securities on behalf of its clients on its books and securities held in this manner are bankruptcy remote."); *see also* James Steven Rogers, *Policy Perspectives on Revised U.C.C. Article 8*, 43 UCLA L. Rev. 1431, 1517–18 (1996) ("If [Article 8] had the effect of imposing on entitlement holders the credit risk of their intermediaries, there would indeed be cause for alarm. A legal regime under which the claims of customers in respect of the securities positions held through a broker or other custodian were treated in the same fashion as the obligations of the broker or custodian to its general creditors would be entirely inconsistent with the expectations and ordinary understanding of the custodial relationship. [Article 8] has no such effect. To the contrary, [Article 8] . . . ensures that entitlement holders do not take the credit risk of their intermediary. . . . This subsection is the specific expression of a fundamental point that underlies the entire structure of Part 5—that a security entitlement is not merely a contractual claim against the intermediary; it is a sui generis form of property interest in the assets held by the intermediary.").

61 UCC § 8-503, cmt. 1.

62 *See id*.

63 *See supra* n.13.

64 *See supra* n.42.

44. Yet PCT expands the commentary well beyond its plain meaning in an attempt to argue that the *entirety* of Article 8 is universally inapplicable in insolvency, rhetorically transforming a narrow concept (Article 8's default distributional rules are not necessarily applicable if supplanted by other law) into a broad exclusionary principal (that an entitlement holder's property interest is destroyed by insolvency).[65] The Court should reject PCT's reading and adhere to the view espoused by the commentary: that UCC Section 8-503 establishes a clear property interest but leaves the distributional implications of that property interest to the applicable insolvency regime.

45. In advancing this argument, PCT places undue reliance on both *SEC v. Credit Bancorp, Ltd.*, and this Court's Opinion dated June 18, 2026, in *PCT Litigation Trust v. Oval Labs, Inc.*, *et al.*, Adv. Pro. No. 25-50438 (Bankr. D. Del. 2025) (the "Oval Opinion").[66] Contrary to PCT's assertions, the *Credit Bancorp* court reaffirmed that relative property interests are governed by applicable state law and that Article 8 supplants the common law in its domain. *See SEC v. Credit Bancorp, Ltd.*, 2000 WL 1752979, at *24 (S.D.N.Y. Nov. 29, 2000) (finding that the parties' relationship was governed by Article 8, not by common law bailment or trust principles). Its holding merely affirmed that such property interests did not dictate distributions where, as in an equity receivership, there are overriding distributional rules—it did not find that Article 8 was wholly inapplicable in insolvency or that Article 8's distributional rules were universally superseded in insolvency. *Id.* at *22 (finding that UCC Section 8-503 sets forth "a general distributional rule regarding an entitlement holder's property interest as against a securities intermediary" but that this default rule had been superseded by applicable distributional rules under

[65] *See* Opposition at ¶ 42.
[66] *See* Oval Opinion, *PCT Litigation Trust v. Oval Labs, Inc., et al.*, Adv. Pro. No. 25-50438 (Bankr. D. Del. 2025), [Oval Adv. Pro. D.I. 46].

the law of equitable receiverships). Meanwhile, PCT's use of the Oval Opinion as somehow dispositive or even remotely precedential based on its lack of an express holding regarding Article 8 should not be afforded any credence, given that Oval's arguments on the subject were cursory at best, and the Oval Opinion did not discuss or directly consider Article 8.[67]

46. PCT also contends that UCC Section 8-503(c), which provides that an entitlement holder's property interest in a security entitlement is enforced through exercising rights under UCC Sections 8-505 through 8-508, means that Zap cannot raise Article 8 as a defense to the Complaint.[68] This argument misreads and misapplies the statute. UCC Section 8-503(c) does not carve up an entitlement holder's property interest or make that interest conditional on its ability to enforce other rights. Instead, it delineates the means by which an entitlement holder can direct a securities intermediary to take actions with respect to the entitlement holder's property—in other words, the entitlement holder has the right to give directions to the securities intermediary to make transfers, and though it is not permitted to storm the securities intermediary's offices and seize the assets, it plainly retains the ability to assert its underlying property rights in such assets through action or otherwise.[69]

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[67] *See* Memorandum of Law in Supp. of Mot. to Dismiss Compl. at 13, *PCT Litigation Trust v. Oval Labs, Inc., et al.*, Adv. Pro. No. 25-50438 (Bankr. D. Del. Apr. 17, 2025), [*Oval* Adv. Pro. D.I. No. 8]; Def.'s Reply Br. In Supp. of Mot. to Dismiss Compl. at 4, *PCT Litigation Trust v. Oval Labs, Inc., et al.*, Adv. Pro. No. 25-50438 (Bankr. D. Del. May 8, 2025), [*Oval* Adv. Pro. D.I. No. 16].

[68] *See* Opposition at ¶ 47.

[69] In addition to its fundamental property rights, an entitlement holder has a general right of action under the UCC for enforcement of its property interest and in response to a securities intermediary's breach of duties. NRS § 104.1305(2) ("Any right or obligation declared by the Uniform Commercial Code is enforceable by action unless the provision declaring it specifies a different and limited effect."). *See PEB Commentary No. 25 Role of Section 1-305(b) in Supporting Enforcement of Rights and Obligations*, The Permanent Ed. Bd. for the Unif. Com. Code (Aug. 12, 2022), 79 Bus. Law. 473, 475–76 (2024) ("[I]f Broker had failed to take action to obtain payment for Customer of a dividend declared by Issuer, failed to vote or exercise warrants as directed by Customer, or failed to liquidate holdings of the stock when directed by Customer, then Section 1-305(b) would enable Customer to enforce her rights for these violations by action despite the silence about such enforcement in the respective texts of Sections 8-504, 8-505, 8-506, or 8-507 themselves. A contrary understanding, in addition to neglecting the express provision of Section 1-305(b), would be inconsistent with the purposes and policies of Article 8's and many of the Code's other substantive provisions.") (citations omitted).

47. This result is clear from the text of UCC Sections 8-505 through 8-508, which deal with a securities intermediary's duties to an entitlement holder, including the duty to comply with instructions issued to the securities intermediary by the entitlement holder.[70] These sections do not supplant the overriding principle that financial assets entrusted to a securities intermediary are not property of the securities intermediary—they only define the scope of certain actions that the entitlement holder may take with respect to the financial assets while those assets are held by the securities intermediary. In other words, that Zap cannot presently issue entitlement orders to Prime Trust does not transform applicable financial assets into property of Prime Trust's bankruptcy estate. Nor is Zap's correct identification of the applicable property interest akin to "enforcing" that interest against the estate, as PCT asserts; it is simply a reiteration of the nature of the parties' arrangement under Article 8.

48. PCT's argument that the only benefit that UCC Section 8-503 provides to entitlement holders is the ability to enforce the securities intermediary's duties would reduce this vital property interest to a mere right to enforce the duties, effectively reading out of existence statutory provisions on which market participants across this country depend. Were it the case that the entirety of an entitlement holder's property interest was the right to enforce specific duties, then the plain statement that financial assets held under Article 8 "are not property of the securities intermediary and are not subject to claims of creditors of the securities intermediary" would have no meaning or effect. An entitlement holder can already enforce the duties under Article 8 by

[70] NRS § 104.8505(1) ("A securities intermediary shall take action to obtain a payment or distribution made by the issuer of a financial asset."); NRS § 104.8506 ("A securities intermediary shall exercise rights with respect to a financial asset if directed to do so by an entitlement holder."); NRS § 104.8507(1) ("A securities intermediary shall comply with an entitlement order if the entitlement order is originated by the appropriate person, the securities intermediary has had reasonable opportunity to assure itself that the entitlement order is genuine and authorized and the securities intermediary has had a reasonable opportunity to comply with the entitlement order."); NRS § 104.8508 ("A securities intermediary shall act at the direction of an entitlement holder to change a security entitlement into another available form of holding for which the entitlement holder is eligible or to cause the financial asset to be transferred to a securities account of the entitlement holder with another securities intermediary.").

contract or pursuant to the relevant statutory provisions in which such terms are contained. And if the sole purpose of Section 8-503 were to facilitate enforcement of duties, presumably the drafters would have said so directly, rather than confer a property interest on entitlement holders. To the contrary, the drafters of Article 8 wrote in no uncertain terms that an entitlement holder has a property interest in the financial assets held by a securities intermediary and the securities intermediary has no such property interest.[71] PCT's interpretation therefore contravenes both the statute's language and applicable canons of the construction, and should be rejected.[72]

CONCLUSION

For the foregoing reasons, the Amici respectfully encourage the Court to grant the Motion to Dismiss and affirm the clear and unambiguous vitality of Article 8.

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[71] NRS § 104.8503(1) ("[A]ll interests in that financial asset held by the securities intermediary are held by the securities intermediary for the entitlement holders, are not the property of the securities intermediary . . . ."); NRS § 104.8503(2) ("An entitlement holder's property interest with respect to a particular financial asset under subsection 1 is a pro rata property interest in all interests in that financial asset held by the securities intermediary . . . .").

[72] *See Riccio v. Sentry Credit, Inc.*, 954 F.3d 582, 588 (3d Cir. 2020) (noting that the rule against surplusage is "one of the most venerable of our interpretive canons").

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CERTIFICATE OF SERVICE

I, Brett M. Haywood, do hereby certify that on July 28, 2026, I caused a copy of the foregoing **Motion of Amici Curiae for Leave to File a Brief in Support of the Motion to Dismiss the Complaint** to be served on the parties listed on the attached service list in the manner indicated.

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