

Ambase Corp Mispriced Penthouses

Why invest in Ambase now?

- **Legal Payout:** If the court finds a verdict in Ambase's favour, the company could rake in up to \$160 million (before tax and litigation funding agreements) relative to Ambase's market cap today at only \$9m.
- **Low collection-related risks:** Collection-related risks may be mitigated by the sale of US assets and the relative ease of collecting legal payouts from US entities vs foreign entities. All parties involved are well-established NY real estate players.
- **High insider ownership:** Litigation has been funded by personal capital from Ambase CEO Richard Bianco, who supported the early rounds of litigation with over \$7m of his private capital. He owns 40% of shares and has gifted AmBase shares to his grandchildren, demonstrating his unwavering belief in Ambase's litigation potential.
- **Timeline:** A discovery order was filed on November 3, 2023. This order laid out the roadmap for information gathering. The timeline covers the period from December 2023 to the expected judgment in September 2024.

ORDERED that the discovery schedule shall be as follows:

Event and Deadline	
Parties to substantially complete document productions on or before:	December 31, 2023

All parties' affirmative expert designations with the information detailed in Commercial Division Rule 13 on or before:	February 14, 2024
All parties' rebuttal expert designations with the information detailed in Commercial Division Rule 13 on or before:	March 6, 2024
Fact depositions to be completed on or before:	April 15, 2024
End of fact discovery:	May 15, 2024
Affirmative expert reports to be served on or before:	May 31, 2024
Rebuttal expert reports to be served on or before:	June 26, 2024
End date for all disclosure:	August 7, 2024
Note of Issue on or before:	August 21, 2024
Summary Judgment Motions:	September 27, 2024

Background to the Litigation

The lawsuit is centred on claims of contract violations by the developers that resulted in significant financial damages to Ambase's shareholders.

In 2013, AmBase joined JDS Development Group and Property Markets Group to purchase the former Steinway Hall building and its ground lease for \$132 million. AmBase provided \$65 million equity – or 50 per cent – of the acquisition price.

The developer secured a \$725 million construction loan from Apollo Global Management and AIG, but amid delays and cost overruns, the group ultimately defaulted on loan repayments. As loan payments approached in March 2017, Apollo sold a junior mezzanine stake to Spruce Capital Partners, who swiftly foreclosed on the project. Ambase equity value was whipped out to near zero.

Ever since, AmBase has sought to reclaim its stake in the building, while the developers JDS and PMG were brought back into the project to complete the tower.

Ambase argues that there are undisputed breaches of contract law by the developers. Violations include **1) Failing to provide timely and accurate budgets, 2) Inflating the 2015 construction costs to invalidate the equity put right, and 3) Withholding information from Ambase, which allowed Spruce Capital to foreclose on the project.**

However, a crucial provision secured by Ambase CEO Bianco during initial negotiations could offer a lifeline to Ambase shareholders. Bianco secured an "equity put right" clause in the contract. This clause allows Ambase to sell its initial \$65 million investment back to the developers, plus a 20% annual rate of return if the project's development costs rose by 10% or more. The true value of this equity put right is the centrepiece of this investment.

In short, Ambase presents a compelling opportunity with strong support from its CEO, Richard Bianco. You can learn more about the legal case on my Substack, "[Under the Radars](#)", or connect with me on ([X/Twitter](#)) for further discussion.

Valuation and Expected value.

The trigger for Ambase to exercise the Put right depends on “hard costs” increasing by 10% or more from the 2015 budget to the proposed budget in 2016. Ambase and the developers disagree on the budget-to-budget hard cost growth in 2016.

Ambase claims the developers inflated the contingencies for the budget in 2015 to avoid triggering the equity put right. The developers believe the contingency amount agreed in 2015 was \$33,887,860.

However, public information from a payment notice issued by Apollo in 2017 indicates that the construction contingency agreed in 2015 was \$28,219,120. See Below:

Apollo’s 2017 Borrower’s Shortfall Demand Notice:

FILED: NEW YORK COUNTY CLERK 08/28/2018 09:09
 NYSCEF DOC. NO. 34

Schedule A

111 West 57th Street
 Total Direct & Soft Costs

Budget Item	Borrower	
	06/30/2015	12/2016 Update
Total Hard Costs	\$258,349,730	\$312,104,409
Construction Contingency	\$28,219,120	\$8,000,000
Total Hard Costs	\$286,568,850	\$320,104,409

Using the construction contingency amount implied from the project’s primary lender, Apollo’s 2017 notice above would trigger the exercise of the equity Put right. In the table below, “Hard Costs” increased by 11.7%, according to information from Apollo - the JV's largest lender!

% Implied Change in Hard Cost from 2015 to 2016

	Developers Proposed Trade Cost	Ambase and Apollo Trade Cost	
Total Hard Cost - Agreed	258,349,730	258,349,730	
Construction Contingency - Disagreed	33,887,860	28,219,120	Using Apollo's Construction Contingency from Shortfall Notice in 2017
Implied project Hard Costs in 2015	292,237,590	286,568,850	
2016 Budget Update			
Developer Proposed Total Hard Cost	312,104,409	312,104,409	
Construction Contingency	8,000,000	8,000,000	
Implied project Hard Costs in Dec 2016	320,104,409	320,104,409	
% Change in Hard Cost	9.54%	11.7%	

The value of the Equity Put Right, if exercised and upheld in court, is straightforward to calculate. If Ambase can put its \$65mm investment in the project back to the developer for an amount equal to a 20% annual return from 2013 through 2017, then the payout is roughly \$161,740,800. $=65*(1+0.2)^5$.

Ambase's market cap today is \$8.5m (06/03/24). Assuming a 25% probability of an +\$89m payout (assuming a 45% payout for litigation financing payouts, equity offerings and tax), which are very conservative estimates, and a 75% probability of losing -\$8.9m, the expected value of the equity is still positive, at \$16m. 1.8x the current market cap.

Payout (\$ million)	\$161.7
Assuming a 45% payout for financing and tax	\$89.0
Expected Value	\$15.6
Market Cap	8.9
Value Per Share	\$1.05
Current Share Price	\$0.22
Upside %	381%
Downside %	-100%

Assigning probabilities to events is difficult, but the point is that the market is currently pricing in less than a 30% probability (using conservative assumptions) that AmBase can prove "hard costs" increased by 10%. Despite public information from related court cases showing construction contingencies that trigger the equity put right, and undeniable evidence that the developers failed to provide timely and accurate budget cost. I think Ambase has a higher probability of proving its claim than the market is currently pricing in.

Risk

- Bianco's loan and litigation agreement dilute shareholders' interest in the final litigation payout. Ambase launched an \$8.8 million equity offering on 28th February 2024 at \$0.2/share, with ABCP's CEO guaranteeing to buy any unsold shares. The CEO acting as the backstop investor could be seen as a sign of the CEO's optimism about the litigation outcome, as it further aligns his interests with those of the minority shareholders.

Under the terms of the equity offering AmBase will issue 44m shares and also mentioned it will continue to consider litigation funding agreements with third party litigation funders for up to \$5 million of funding. In general, litigation funding agreements are structured so that the litigation funder would receive back their initial funding amount first (i.e. before any recovery is received by the company), plus an additional multiple of 1.0 times to 3.5 times the amount funded. This would equal ~14% of the total \$160m payout and has been factored into the value per share above.

- Collection-related risks. The ability to collect legal payouts from JDS and Property Markets Group is unknown.
- Ambase has no additional asset or business model other than the equity put right. If the claim is dismissed, Ambase equity would be worth zero.

Summary

If the courts uphold Ambase's Equity Put Right and the counterparties pay the debt, the total proceeds could be \$160 million relative to Ambase's market cap of \$9 million at the time of writing. The net payment to Ambase could exceed \$89 million (or \$1.05 per share v \$0.21 share price today), tax-sheltered at least in part by NOLs, and following a split of proceeds with the CEO's earlier litigation funding agreement.

Ambase shareholders may receive additional proceeds if the other claims against the foreclosing lender and the Senior Mezzanine lender are successful in court. There is also the possibility for pre-judgment interest. The statutory rate in NY state is 9% and is mandatory in breach of contract cases. Despite the additional upside, the asymmetry is attractive at today's prices.

Simply put, Ambase represents a unique opportunity with a timeline-passionately backed by its CEO, Richard Bianco. Visit my previous blog post, "[Ambase Corp: Mispriced Penthouses](#)," for further background on the legal case or feel free to connect on [LinkedIn](#) or ([X/Twitter](#)).

Estimated next steps: Document productions - On December 1, 2023, the Developers submitted incomplete payroll records. Ambase responded by

requesting additional documentation or clarification for missing information. Developers, however, refused to address these deficiencies. Due to the lack of cooperation, Ambase requested the Court enforce a subpoena to obtain the complete payroll records for the project.

Link to Docket:

<https://iapps.courts.state.ny.us/nyscef/DocumentList?docketId=C1VqL2r3XonZwfaR14IMYg==&display=all&courtType=Appellate%20Division%20-%201st%20Dept&resultsPageNum=1>

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