Docket #0280 Date Filed: 6/4/2021

**UNITED STATES BANKRUPTCY COURT**
**WESTERN DISTRICT OF NORTH CAROLINA**
**CHARLOTTE DIVISION**

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| In re<br><br>ALDRICH PUMP LLC, *et al.*,<br><br>Debtors, | Chapter 11<br><br>No. 20-30608 (JCW)<br><br>(Jointly Administered) |
| ALDRICH PUMP LLC and MURRAY BOILER LLC,<br><br>Plaintiffs,<br><br>v.<br><br>THOSE PARTIES TO ACTIONS LISTED ON APPENDIX A TO COMPLAINT and JOHN AND JANE DOES 1-1000.<br><br>Defendants. | Adversary Proceeding<br><br>No. 20-03041 (JCW) |

**NOTICE OF FILING OF DEBTORS' REPLY IN SUPPORT OF MOTION OF THE DEBTORS FOR AN ORDER (I) PRELIMINARILY ENJOINING CERTAIN ACTIONS AGAINST NON-DEBTORS, OR (II) DECLARING THAT THE AUTOMATIC STAY APPLIES TO SUCH ACTIONS, AND (III) GRANTING A TEMPORARY RESTRAINING ORDER PENDING A FINAL HEARING WITH LIMITED REDACTIONS AND PARTIALLY REDACTED EXHIBITS THERETO**

**PLEASE TAKE NOTICE OF THE FOLLOWING:**

1. On April 23, 2021, the Debtors filed their *Reply in Support of Motion of the Debtors for an Order (I) Preliminarily Enjoining Certain Actions Against Non-Debtors, or (II) Declaring that the Automatic Stay Applies to such Actions, and (III) Granting a Temporary Restraining Order Pending a Final Hearing* ("Debtors' Reply") [Adv. Dkt. 188]. The Debtors contemporaneously filed the *Declaration of Brad B. Erens* ("Erens Decl.") [Adv. Dkt. 194], which contained materials cited in the Debtors' Reply as Exhibits 1 through 37. Portions of the

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Debtors' Reply and the Erens Decl. were redacted and some of the Exhibits to the Erens Decl. were filed under seal, pursuant to the Agreed Protective Order Governing Confidential Information (the "Protective Order") [Dkt. 345]. On April 23, 2021, the Debtors filed a *Motion to File Confidential Documents Under Seal* (the "Motion to Seal") [Adv. Dkt. 195] related to the redacted portions of the Debtors' Reply and the Erens Decl. and the sealed Exhibits.

2. Exhibit 10 to the Erens Decl., consisting of the Debtors' Joint Board Meeting Minutes for May 15, May 22, May 29, and June 5 meetings (the "Board Materials"), was initially filed under seal. Since the filing of the Debtors' Reply and the Erens Decl., however, the Debtors waived confidentiality related to the Board Materials, with limited redactions for privilege. The Board Materials can therefore be unsealed, with limited redactions for privilege.

3. Portions of Exhibit 1 to the Erens Decl., consisting of excerpts from the April 1, 2021 Deposition of Sara Brown (the "Brown Deposition"), the April 5, 2021 Deposition of Evan Turtz (the "Turtz Deposition"), and the March 23, 2021 Deposition of Matthew Diaz (the "Diaz Deposition") were filed under seal because the thirty-day time period following the receipt of the transcript by the Designating Party (as defined in the Protective Order) had not expired at the time that the Debtors' Reply and the Erens Decl. were filed. Since the filing of the Debtors' Reply and the Erens Decl., the Debtors received designations of confidential information for the Brown Deposition and the Turtz Deposition. Based upon such designations, the excerpts from the Brown Deposition and the Turtz Deposition can be unsealed, with limited redactions. Because the time period to make confidentiality designations following the receipt of the transcript of the Diaz Deposition has expired, the excerpts from the Diaz Deposition can be unsealed.

4. The portions of the Debtors' Reply that redacted the information contained in the now-unsealed exhibits can be removed.

5. As a result, the confidential documents to be sealed and/or redacted pursuant to the Motion to Seal are as follows:

- Exhibits 9, 24, 27, and 28 to the Erens Decl., consisting of the Expert Reports of Debtors' Expert Charles Mullin, Non-Debtor Affiliate's Expert Laureen Ryan, and the Committee's Expert Matthew Diaz, and the Rebuttal Expert Report of Non-Debtor Affiliate's Expert Laureen Ryan; and
- Exhibit 25 to the Erens Decl., consisting of *Responses And Objections* of Certain Members of the Committee.
- Portions of Exhibit 1 to the Erens Decl., consisting of excerpts from the following deposition transcripts, select portions of which have been designated as "Confidential" under Section C.2 of the Protective Order:
    - Excerpted Transcript of the March 22, 2021 Deposition of Allan Tananbaum, at 301:9-25, 302:2-25;
    - Excerpted Transcript of the April 5, 2021 Deposition of Evan Turtz, at 241:2-10;
- References to the confidential documents and deposition excerpts contained in the body of the Erens Decl. and the Debtors' Reply, and which have been redacted.

6. Accordingly, attached hereto is a revised version of the Debtors' Reply, unsealed Exhibit 10 to the Erens Decl., and updated Exhibit 1 to the Erens Decl.

Dated: June 4, 2021
Charlotte, North Carolina

Respectfully submitted,

*/s/ Morgan R. Hirst*

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ATTORNEYS FOR DEBTORS
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**UNITED STATES BANKRUPTCY COURT**
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Plaintiffs Aldrich Pump LLC and Murray Boiler LLC, debtors and debtors in possession in these chapter 11 cases (together, the "Debtors"), file this Reply in further support of the *Motion of the Debtors for an Order (I) Preliminarily Enjoining Certain Actions Against Non-Debtors, or (II) Declaring That the Automatic Stay Applies to Such Actions, and (III) Granting a Temporary Restraining Order Pending a Final Hearing* [Adv. Pro. Dkt. 2] ("PI Motion") and in response to the *Opposition* [Adv. Pro. Dkt. 151] ("Objection") and the *Supplemental Opposition* [Adv. Pro. Dkt. 179] ("Supplemental Objection") to that motion filed by the Official Committee of Asbestos Personal Injury Claimants (the "ACC").[1]

## PRELIMINARY STATEMENT

While filed as an objection to the PI Motion, the ACC's objection seeks an effective dismissal of these chapter 11 cases. The ACC has "made it clear from the beginning" that they "don't want to be in this case and in this Court." Mar. 25, 2021 Hr'g Tr. at 12; see also id. at 51 (FCR counsel: "They have been very clear that they want to exit to the tort system."). The ACC has *not*, however, filed motions to dismiss the Debtors' chapter 11 cases.[2]

This may be because the ACC cannot credibly dispute the legitimate purpose of these

[1] Defined terms not otherwise defined herein have the meanings given to them in the PI Motion. With respect to the Debtors' request for a declaration that the automatic stay applies to any Aldrich/Murray Asbestos Claims asserted against non-debtors, the Debtors incorporate herein the arguments and authorities set forth in the *Debtors' Motion for Partial Summary Judgment That All Actions Against the Protected Parties to Recover Aldrich/Murray Asbestos Claims Are Automatically Stayed by Section 362 of the Bankruptcy Code* [Adv. Pro. Dkt. 90] (the "Summary Judgment Motion") and the reply in support of that motion, filed contemporaneously herewith. Materials cited in support of this reply, including pleadings in matters filed outside this Court, expert reports, interrogatory responses, and excerpts of deposition testimony are included as Exhibits to the *Declaration of Brad B. Erens*, filed contemporaneously herewith (the "Erens Declaration"). Deposition excerpts are provided in Exhibit 1 to the Erens Declaration, organized alphabetically by surname.

[2] In the Fourth Circuit, the party moving to dismiss a chapter 11 case as a bad faith filing "must prove: (i) that the Chapter 11 case is objectively futile, *and* (ii) that the debtor filed the Chapter 11 case in subjective bad faith." In re Dunes Hotel Assocs., 188 B.R. 162, 168 (Bankr. D.S.C. 1995) (citing Carolin Corp. v. Miller, 886 F.2d 693, 700 (4th Cir. 1989)). "[T]he Fourth Circuit standard for dismissal of a Chapter 11 case as a bad faith filing is one of the *most stringent articulated by the federal courts*." In re Jade Invs., LLC, No. 2:18-bk-50025, 2018 WL 2074459, at *1 (Bankr. S.D.W. Va. May 1, 2018) (quoting Dunes Hotel Assocs., 188 B.R. at 168) (emphasis added).

cases—seeking a fair, final, and global resolution of thousands upon thousands of current and future Aldrich/Murray Asbestos Claims. The same counsel representing the ACC here have acknowledged that "section 524(g) may provide a sufficient business purpose for an otherwise solvent debtor to seek chapter 11 relief …." In re Bestwall LLC, No. 17-31795 [Dkt. 653] at 11; In re Bestwall LLC, 605 B.R. 43, 49 (Bankr. W.D.N.C. 2019) ("Attempting to resolve asbestos claims through 11 U.S.C. § 524(g) is a valid reorganizational purpose, and filing for Chapter 11, especially in the context of an asbestos or mass tort case, need not be due to insolvency. The Committee agrees.").

Nor does the ACC dispute that the Debtors meet the threshold statutory requirements for seeking section 524(g) relief—they face and will continue to face thousands of uncertain asbestos-related personal injury claims (11 U.S.C. § 524(g)(2)(B)(i)(I)-(III)). The Debtors and their predecessors never mined or used asbestos to manufacture a product. Nonetheless, they have been besieged by asbestos claims for more than four decades, trapped in the plaintiffs' "endless search for a solvent bystander."[3] They are named in some 2,500 mesothelioma claims per year—the vast majority of such cases filed—amounting to a new claim every working hour of every weekday, every week of the year. *Declaration of Allan Tananbaum in Support of Debtors' Complaint for Injunctive and Declaratory Relief, Related Motions, and the Chapter 11 Cases* ("Tananbaum Decl.") [Dkt. 29] ¶¶ 18, 20. This volume is utterly implausible given the encapsulated, lower-potency chrysotile nature of the asbestos products embedded within the Debtors' equipment that is generally at issue. Id. ¶ 12. Today, the Debtors face pending asbestos claims numbering in the tens of thousands, each of which can cost more than $1 million to

[3] 'Medical Monitoring and Asbestos Litigation'–A Discussion with Richard Scruggs and Victor Schwartz, Mealey's Litigation Report: Asbestos, at 5 (Mar. 1, 2002) (quoting Mr. Scruggs) (Erens Decl., Ex. 2).

defend through trial. Id. ¶¶ 20, 22; *Informational Brief of Aldrich Pump LLC and Murray Boiler LLC* [Dkt. 5] ("Information Brief"), at 30-31. It is simply not possible to defend this unending volume of claims.

The ACC's 77-page Objection fails to dispute the central reason why a preliminary injunction is critical to the Debtors' reorganization: Without it, asbestos claimants would seek to prosecute the exact same asbestos-related personal injury claims pending against the Debtors against their affiliates (the "Non-Debtor Affiliates"), other indemnitees, and insurers in literally tens of thousands of individual actions across the country. Such efforts would "defeat the very purpose of section 524(g) and the Debtor[s'] Chapter 11 case[s]." In re Bestwall LLC, 606 B.R. 243, 249 (Bankr. W.D.N.C. 2019). That, of course, is why every court asked to enjoin such piecemeal litigation to permit a debtor to pursue a global, section 524(g) resolution has done so. See PI Mot. at 22-23.[4]

To allow these tens of thousands of pending tort claims to proceed outside of chapter 11 would—given the Debtors' indemnification obligations to Protected Parties—effectively lift the section 362 automatic stay of litigation against the Debtors, the real parties in interest. At the same time, it would usurp this Court's ability to preside over these section 524(g) cases and the treatment and resolution of the claims herein.[5] This unprecedented result would amount to a constructive dismissal of these cases, the very result the ACC seeks. The Fourth Circuit has rejected this result and affirmed extension of the automatic stay to such third-party tort actions. See A.H. Robins Co., Inc. v. Piccinin, 788 F.2d 994, 999 (4th Cir. 1986) ("To refuse application

[4] The ACC's Objection does not oppose the Debtors' request for a preliminary injunction over prosecution of the Aldrich/Murray Asbestos Claims against the Indemnified Parties or the Insurers. See PI Mot. at 14-18.

[5] See In re Brier Creek Corp. Ctr. Assocs. Ltd., 486 B.R. 681, 697 (Bankr. E.D.N.C. 2013) ("Many courts have also stayed non-debtor litigation when such litigation would impair the court's jurisdiction over the bankruptcy case or an adversary proceeding pending before the court.") (citing cases).

of the statutory stay in that case would defeat the very purpose and intent of the statute."); see also Brier Creek, 486 B.R. at 689-92.

The Motion satisfies each of four factors that bankruptcy courts typically consider in reviewing a request to enjoin litigation against non-debtors. See PI Mot. at 5-8, 24-35. Courts do not require a prepackaged plan or an "agreement in principle" on a plan at the beginning of a bankruptcy to demonstrate the likelihood of a successful reorganization, as the ACC suggests. The injunction provides an "opportunity to formulate a plan of reorganization." Robins, 788 F.2d at 998. The ACC's unpled, unsupported suggestion that the 2020 Corporate Restructuring "bears the hallmark of a fraudulent transfer" is irrelevant to the likelihood of a successful reorganization; numerous cases that resulted in confirmed plans under section 524(g) have involved such allegations. See Section II, *infra*.

The Debtors have shown that their reorganizations would be irreparably harmed without the requested injunction. The ACC does not seriously dispute that the preliminary injunction is critical to the fundamental purpose of the cases—to reach a fair, final, and global resolution of their asbestos liabilities. That, alone, is sufficient to demonstrate the irreparable harm that would result absent an injunction. The ACC's responses to other harms identified by the Debtors are internally inconsistent, mischaracterize the 2020 Corporate Restructuring, and ignore directly applicable precedent. See Section III, *infra*.

The balance of harms weighs decidedly in favor of maintaining the preliminary injunction and giving the Debtors' reorganization effort an opportunity to succeed. As a result of the 2020 Corporate Restructuring, liability for the Aldrich/Murray Asbestos Claims lies with the Debtors, who have the resources necessary to satisfy those claims. Any asbestos claims against the Non-Debtor Affiliates would be in the nature of successor liability, alter ego, or the like,

which, as explained in the Debtors' Summary Judgment Motion, are estate causes of actions.

Halting the pursuit of these groundless claims imposes no material harm. Claimant recoveries from Old IRNJ and Old Trane historically accounted for an estimated 3% of all tort system and trust recoveries for claimants who sued those entities. Rarely, if ever, did recoveries from Old IRNJ and Old Trane constitute a material percentage of any claimant's total recovery. "Nothing about maintaining the injunction in this case prohibits the plaintiffs from continuing to proceed against any remaining defendants in state court." Bestwall, 606 B.R. at 257.

The balance of harms must also take into account the *benefits* to current and future asbestos claimants of a section 524(g) resolution of these cases—benefits that cannot be achieved without the preliminary injunction. A section 524(g) trust will provide those claimants "with an efficient means through which to equitably resolve their claims." Id. (citing In re Federal-Mogul Global, Inc., 684 F.3d 355, 357-62 (3d Cir. 2012)). The Future Claimants' Representative's initial submission in support of the PI Motion further describes the advantages of section 524(g) resolution here. See Adv. Pro. Dkt. 129 at 3 (noting the tort system "is a decidedly inferior result for the classes of both current and future asbestos claims when compared to the benefits provided by an asbestos trust"); Section IV.A, *infra*.

The public interest also supports granting the Motion. The ACC argues that the public interest cannot support a section 524(g) case following the corporate restructuring that took place here. The ACC, however, cannot show that the 2020 Corporate Restructuring placed assets "beyond the reach" of asbestos claimants or otherwise "shield[ed] assets from creditors." Obj. at 2, 7, 35, 66. The Funding Agreements ensure the exact opposite. And there is no adequately pled action or expert opinion to support the ACC's baseless charge that the 2020 Corporate Restructuring "bears the hallmarks" of a fraudulent transfer.

The ACC's familiar refrain that the Payors under the Funding Agreements, Trane Technologies Company LLC ("New Trane Technologies") and Trane U.S. Inc. ("New Trane"), cannot be permitted the "benefits of bankruptcy" without "ever being subject to its burdens," (Obj. at 62), falls flat for several reasons. It ignores that section 524(g) expressly authorizes providing injunctive relief to non-debtor funders. And the assertion that New Trane Technologies and New Trane have not "subject[ed] the[ir] assets … to the jurisdiction of this Court," (Obj. at 3), ignores the Debtors' ability (and, if necessary, the Court's ability) to enforce the Funding Agreements against New Trane Technologies and New Trane.

From the outset, the Debtors transparently have maintained that the 2020 Corporate Restructuring was designed to permit the option of seeking a global, full, and fair resolution of the Aldrich/Murray Asbestos Claims under section 524(g) without unnecessarily subjecting the entire Old IRNJ and Old Trane businesses and their numerous stakeholders (vendors, employees, customers, business partners, public shareholders, and others) to value-destructive and complex chapter 11 proceedings. This approach is hardly unprecedented in asbestos cases. In addition to Coltec, there are numerous other examples of solvent, non-debtor entities receiving the benefits of a § 524(g) channeling injunction by making substantial contributions to a debtor-affiliate's § 524(g) trust. Moreover, the approach taken here—preserving the full paying power of assets owned by the former Old IRNJ and Old Trane through the Funding Agreements—was designed to ensure the solvency of the Debtors to pay claims and avoid the collateral disputes seen in multiple prior asbestos bankruptcies. See Section V, *infra*.

The ACC acknowledges that the broader bankruptcy it claims is necessary to afford Old IRNJ and Old Trane the "benefits of bankruptcy," (id. at 3), would have negatively impacted multiple stakeholders. But it suggests that the companies and those stakeholders should have

suffered these business disruptions *so that the ACC could exert increased leverage in plan negotiations*. Id. at 62-63. This is the precise type of detrimental "pressure" that the Fourth Circuit has held *warrants* an injunction of non-debtor litigation. Robins, 788 F.2d at 1003.

And the asbestos claimants themselves would not have been any better off with a broader bankruptcy. Their claims would still be stayed, no additional assets would be available to fund a section 524(g) trust, and the underlying merit and value of their claims would be the same.

The ACC's claim that granting the preliminary injunction will lead to a "trend" of improper non-asbestos mass tort bankruptcies following divisional mergers fares no better. The ACC's own expert admits that no such trend exists. And the ACC's charge shows little faith in the legal system's ability to protect against any such "abuse[s]" of the bankruptcy system." Obj. at 67. Asbestos is a unique tort given, among other reasons, the multitude of plaintiffs and defendants, the difficulty determining which defendant (if any) is responsible, the long latency period for the injuries alleged, and the number of defendants to have already filed for bankruptcy. As Congress recognized when it implemented section 524(g), bankruptcy is uniquely situated to fairly and efficiently address asbestos liability. Not only will the requested injunction help foster a successful chapter 11 reorganization here, which is always in the public interest (PI Mot., 34-35), it will do so by fostering a rational resolution of the Debtors' asbestos liability for all parties in interest. See Section V, *infra*.

The ACC's final ground for opposing entry of a preliminary injunction—that the 2020 Corporate Restructuring is "preempted" by Section 524(g)—rehashes an argument rejected by Judge Beyer in Bestwall and abandoned on appeal by the Bestwall asbestos committee. There is no basis for either "conflict" or "field" preemption here. The 2020 Corporate Restructuring did not permit anyone to "shed" or "escape" the Aldrich/Murray Asbestos Claims without the

procedural and due process protections under § 524(g). Nor has anyone attempted to resolve those claims outside of the chapter 11 process. All of the procedural and substantive protections afforded under section 524(g) remain in place. See Section VI, *infra.*

## ARGUMENT

### I. LEGAL STANDARD

Courts consider various factors in evaluating a request for a preliminary injunction under section 105 to stay litigation against a non-debtor, including the traditional four-pronged test applicable to preliminary injunctions generally. But "the Fourth Circuit has made very clear that the *critical*, *if not decisive*, issue over whether injunctive relief should be granted is whether and to what extent the non-debtor litigation interferes with the debtors' reorganization efforts." Brier Creek, 486 B.R. at 694 (emphasis added); Chicora Life Ctr., LC v. UCF 1 Trust 1 (In re Chicora Life Ctr., LC), 553 B.R. 61, 64-65 (Bankr. D.S.C. 2016) ("[T]he bankruptcy court 'may enjoin a variety of proceedings … which will have an adverse impact on the Debtor's ability to formulate a Chapter 11 plan.'") (quoting Willis v. Celotex Corp., 978 F.2d 146, 149 (4th Cir. 1992)).[6]

"[W]here the facts are sufficient to demonstrate that the non-debtor litigation adversely impacts the debtors' reorganization efforts, injunctive relief is warranted."[7] The Debtors have

[6] The Debtors do not "brush aside Supreme Court precedent" or seek to "escape their burden" to show a preliminary injunction is warranted under the traditional four-prong test. Obj. at 27. The PI Motion contains a separate section devoted to each prong. PI Mot. at 24-35. The Debtors noted that Brier Creek, citing numerous authorities, observed that bankruptcy courts need not necessarily apply the traditional four-pronged test for preliminary injunctions. See id. at 24 n.13; see also In re Springfield Hosp., Inc., 618 B.R. 70, 100 (Bankr. D. Vt. 2020), *motion to certify appeal granted*, 618 B.R. 109 (Bankr. D. Vt. 2020) ("Additionally, the Second Circuit—and the bankruptcy courts within this Circuit—have held that bankruptcy courts have the authority to issue injunctions under § 105 when necessary to enjoin conduct that 'might impede the reorganization process,' and may do so even if the plaintiff has not established the four usual required elements for an injunction described above.") (citing cases).

[7] Brier Creek, 486 B.R. at 695; accord Caesars Ent. Operating Co. Inc. v. BOKF, N.A. (In re Caesars Ent. Operating Co., Inc.), 808 F.3d 1186, 1188-89 (7th Cir. 2015) (if denying a third-party preliminary injunction will "endanger the success of the bankruptcy proceedings, the grant of the injunction would … be 'appropriate to carry out the provisions' of the Bankruptcy Code") (quoting § 105(a)); see McKillen v. Wallace (In re Irish Bank Resol. Corp. Ltd.), No. 13-12159, Civ. No. 18-1797, 2019 WL 4740249, at *5 (D. Del. Sept. 27, 2019) (in considering extension of the automatic stay to third parties, explaining that "[t]he standard for the grant of a stay is generally

shown, under the traditional preliminary injunction factors as adapted in bankruptcy, why a preliminary injunction is warranted. See PI Mot. at 24-35. Notwithstanding the ACC's general assertion that injunctions are a "drastic and extraordinary remedy," (Obj. at 25), injunctions of the type requested in the PI Motion have "previously and uniformly been issued in numerous other asbestos-related cases, including in this jurisdiction." Bestwall, 606 B.R. at 254 (citing cases).

## II. THE DEBTORS HAVE SATISFIED THE "LIKELIHOOD OF SUCCESS" PRONG.

### A. Satisfying the Likelihood of Success Prong Does Not Require a "Prepackaged or Prearranged Bankruptcy" or an "Agreement in "Principle."

The ACC does not dispute that in bankruptcy proceedings, "success on the merits is to be evaluated in terms of the likelihood of a successful reorganization." Id. (quoting Sudbury, Inc. v. Escott, 140 B.R. 461, 466 (Bankr. N.D. Ohio 1992)); Obj. at 28. Nor does it dispute that "[e]stablishing that a reorganization is likely to be successful is not intended to be a particularly high standard." Bestwall, 606 B.R. at 254; Solidus Networks, Inc. v. Excel Innovations, Inc. (In re Excel Innovations, Inc.), 502 F.3d 1086, 1097 (9th Cir. 2007) ("it is not a high burden to show a reasonable likelihood of success in reorganization"). There is no dispute that the Debtors have the financial wherewithal to carry out a reorganization.[8]

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whether the litigation could interfere with the reorganization of the debtor") (quoting Gerard v. W.R. Grace & Co. (In re W.R. Grace & Co.), 115 F. App'x. 565, 570 (3d Cir. 2004)).

[8] See Chicora Life Ctr., 553 B.R. at 66 (looking primarily to debtor's financial ability to reorganize, as well as debtor's efforts to negotiate with a tenant, in assessing likelihood of success prong); Litchfield Co. of S.C. Ltd. P'ship v. Anchor Bank (In re Litchfield Co. of S.C. Ltd. P'ship), 135 B.R. 797, 807 (W.D.N.C. 1992) (finding likelihood of success on the merits based on showing of "probability of successfully effectuating a plan of reorganization"). The ACC argues financial wherewithal cannot be the standard because "virtually every chapter 11 debtor" would meet it. Obj. at 31. That is no answer to the case law and, in any event, it is incorrect. See, e.g., Cello Energy, LLC v. Parsons & Whittemore Enters. Corp. (In re Cello Energy, LLC), No. 10-04877, Adv. No. 11-00031, 2011 WL 1332292, at *2-3 (Bankr. S.D. Ala. Apr. 7, 2011) (debtors failed to satisfy the success on the merits prong because they did not show they were able to "secure financing that would ensure a successful reorganization").

The ACC instead suggests the Debtors have not met their burden because "[t]here is no § 524(g) plan on file that asbestos claimants will support, or even an agreement in principle for one." Obj. at 28. It cites no authority and provides no justification for applying such a high standard at the beginning of a chapter 11 proceeding or before the parties have even attempted to negotiate a resolution. The ACC cites a single case, In re Duro Dyne Nat'l Corp., No. 18-27963 (Bankr. D.N.J. Sept. 7, 2018), for the notion that "[o]ther asbestos reorganizations have involved prepacked or prearranged plans of reorganization." Obj. at 28. But none of the numerous prior asbestos bankruptcies uniformly granting the injunctive relief sought here, (see PI Mot. at 22-23; Bestwall, 606 B.R. at 254), have required an "agreement in principle" on a plan.

The ACC maintains the Debtors "have not and cannot" obtain the supermajority vote required to confirm a section 524(g) plan. Obj. at 30. It is far too early to reach such a conclusion, particularly when the ACC has been unwilling to negotiate. See Tananbaum Dep. 261:9-263:2. Even the most contested asbestos bankruptcies, such as Garlock and Specialty Products, have resulted in confirmed plans. The Debtors have already been negotiating productively with the FCR, who represents the interests of some 80 to 90% of the claimants who would recover from a section 524(g) trust. He has expressed optimism that a consensual plan can be reached. See Adv. Pro. Dkt. 129 at 17.[9] A section 105 injunction is designed to provide "an opportunity to formulate a plan of reorganization." Robins, 788 F.2d at 998 (emphasis added).

[9] See also Tananbaum 30(b)(6) Dep. 185:5-19 ("Well, I think the communication of the draft term sheet is one tangible step. The discussions that have been proceeding between our counsel, myself, Mr. Grier's counsel and Mr. Grier are all moving in the direction of reaching a consensual plan and the continued discussions that the debtors have with their insurance representatives are also moving in that same direction. We're basically talking to everybody except the ACC, which again we would love to begin doing as well, and those are all movements that get us closer.").

Despite the ACC's litigation posturing and refusal to engage in negotiations on the terms of a section 524(g) plan thus far in these proceedings, it is the claimants—not the ACC—who will vote on a plan. In any event, courts have rejected the same kind of futility argument the ACC advances here. See, e.g., In re Purdue Pharm. L.P., 619 B.R. 38, 58 (S.D.N.Y. 2020) (affirming section 105 injunction enjoining mass tort claims against non-debtors, noting "Appellants cannot say that a reorganization is unlikely simply because they intend to object to the plan as presently constituted"); In re Caesars Entertainment Operating Co., Inc., 561 B.R. 441, 452 (Bankr. N.D. Ill. 2016) (granting preliminary injunction notwithstanding creditors' argument that proposed restructuring support agreement "cannot serve as the basis for a successful reorganization," noting "[w]hatever merit the guaranty creditors' criticisms of the [restructuring support agreement] may have, they do not suggest a successful reorganization is less than likely. . .Objections to the specifics of the [restructuring support agreement]. . .prove that the parties have disagreements about the [restructuring support agreement], not that a resolution of those disagreements is out of the question"); cf. Carolin, 886 F.2d at 701 (stringent bad-faith dismissal standard supported by policy of not "prejudging" the likelihood of a successful rehabilitation).[10]

The ACC's suggestion that to obtain a section 105 preliminary injunction the Debtors must now show that all Protected Parties must have made a "commitment to contribute funds to a § 524(g) trust" and are "eligible" to receive permanent injunctive relief under section 524(g),

[10] The ACC's suggestion that the Debtors' " various behaviors"—such as "threaten[ing] oppressive and unwarranted discovery"—"only serve to make a consensual resolution less likely," (Obj. at 29), is frivolous. Courts in numerous asbestos bankruptcies—Bestwall, Garlock, Specialty Products, USG, G-I Holdings, and W.R. Grace to name a few—have approved the exact type of discovery sought by the Debtors here to properly evaluate the number, merit, and value of pending claims. See *Debtors' Motion for an Order Directing Submission of Personal Injury Questionnaires by Pending Mesothelioma and Lung Cancer Patients* [Dkt. 297]. Each of these cases ultimately resulted in approval of a consensual section 524(g) plan of reorganization.

(Obj. at 29-30), is equally bereft of authority. Whether Protected Parties are entitled to a section 524(g) channeling injunction will be decided at confirmation.[11]

Moreover, both New Trane Technologies and New Trane have already committed through the Funding Agreements to provide funds, as necessary, to confirm a section 524(g) plan, see, e.g., Aldrich Funding Agreement[12] at 5-6 (section (d) "Permitted Funding Use" definition), and all of the Protected Parties are plainly "eligible" for permanent relief under a section 524(g) channeling injunction. The Non-Debtor Affiliates would be eligible for section 524(g) relief based on the text of the statute and the undisputed facts of the 2020 Corporate Restructuring. Section 524(g)(4)(A)(ii) entitles a non-debtor to protection if it is "alleged to be directly or indirectly liable for the conduct of, claims against, or demands on the debtor" and such alleged liability arises from one of the specified circumstances, which includes the non-debtor's "involvement in a transaction changing the corporate structure … of the debtor or a related party." 11 U.S.C. § 524(g)(4)(A)(ii). If the Non-Debtor Affiliates are sued for Aldrich/Murray Asbestos Claims, they would be based on one or more of the theories directly addressed by this provision of section 524(g). See In re Quigley Co., Inc., 676 F.3d 45, 60 (2d Cir. 2012) (noting section 524(g)(4)(A)(ii)(IV) covers allegations under, inter alia, "successor liability" and "mere continuation" theories).[13]

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[11] See In re Bestwall LLC, Adv. No. 17-03105, slip op. at 5-6 [Adv. Pro. Dkt. 190] (Bankr. W.D.N.C. Jan. 31, 2020) (at claimants' request, clarifying that the order granting a section 105(a) preliminary injunction covering the debtor's affiliates "did not address whether New GP [a non-debtor affiliate] is entitled to 11 U.S.C. § 524(g) relief…The [C]ourt will address whether any of the parties qualify for a § 524(g) channeling injunction in connection with confirmation."); In re W.R. Grace & Co., 386 B.R. 17, 33 (Bankr. D. Del. 2008) ("The ACC asserts that Debtors cannot prevail on the merits because [non-debtor third party] BNSF will never be entitled to a § 524(g) injunction on the basis of derivative liability. That, however, is not the test in a bankruptcy reorganization case.") (internal citation omitted).

[12] Copies of the Aldrich and Murray Funding Agreements are attached to the *Declaration of Ray Pittard in Support of First Day Pleadings* [Dkt. 27] at Annex 2.

[13] As noted, the ACC makes no argument that the preliminary injunction should not be maintained as to the Indemnified Parties and Insurers. Insurers are plainly eligible for relief under section 524(g)(4)(A)(ii)(III) (noting a "third party's provision of insurance to the debtor or a related party" is grounds for a permanent injunction), while

Finally, the ACC argues that the "Court should not be swayed by the Debtors' self-serving claims of making a "good-faith filing" and a "good-faith effort to reorganize." Obj. at 31. The ACC has never suggested—nor has any court ever held—that filing bankruptcy to globally resolve mass asbestos claims lacks a valid reorganizational purpose. See Bestwall, 605 B.R. at 49. Nor does the ACC cite any evidence or basis to suggest the Debtors lack a good-faith desire to reach a fair and consensual resolution. The evidence is all to the contrary.[14]

### B. The ACC's Unsupported Allegation that the 2020 Corporate Restructuring "Bears the Hallmarks of a Fraudulent Transfer" Provides No Basis to Deny the Preliminary Injunction.

The ACC next argues that "[t]he Debtors also cannot demonstrate a substantial likelihood of confirmation given that the 2020 Corporate Restructuring bears the hallmarks of a fraudulent transfer." Obj. at 32. This suggestion is entirely unsupported, as many successful asbestos bankruptcies have involved the same or similar allegations. Claimant representatives investigated, sought standing, and/or litigated fraudulent transfer and similar claims in, among others, the Keene, Babcock & Wilcox, G-I Holdings, W.R. Grace, Combustion Engineering, Specialty Products, Garlock, and Kaiser Gypsum asbestos bankruptcies.[15] Each of these cases

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the Indemnified Parties are clearly covered by section 524(g)(A)(ii)(IV), as their liability relates to corporate transactions under which the Debtors and their corporate predecessors agreed to indemnify the Indemnified Parties. See, e.g., W.R. Grace, 386 B.R. at 28, 34-37 (expanding preliminary injunction to non-debtor third-party, BNSF, which had express "contractual indemnification rights" against the debtors).

[14] See, e.g., Tananbaum 30(b)(6) Dep. 211:19-25 ("We either have to slog it out in the tort system one case at a time for the next 20, 30, 40 years, who knows? Or we can all put our heads together, we can all come to the table productively and with open minds to try to resolve something efficiently and fairly."); Tananbaum Dep. 262:11-263:2 ("I know the ACC likes to complain that we're all about delay but it's actually just the opposite. We would love to sit down tomorrow and negotiate a plan. This is not some vacation from the tort system where we're rubbing our hands saying how wonderful to be out of the tort system another year. It's -- that's not it at all. This bankruptcy filing was driven for the desire for finality, not for a desire to save a buck. And we stand ready, willing and able to sit down immediately to commence and deepen those discussions."); Pittard Dep. 137:25-138:8 ("[I]t's been my understanding that our team has made every effort to move forward as fast as possible, both with yourselves on the ACC side, as well as the future claimants, and that the -- we stand ready today to open negotiations on an estimation and ready today to try to set this in motion and finalize this.").

[15] See Lippe v. Bairnco Corp., 225 B.R. 846, 849-50 (S.D.N.Y. 1998), *on reargument in part*, 229 B.R. 598 (S.D.N.Y. 1999), *aff'd*, 99 F. App'x 274 (2d Cir. 2004) (Keene); In re Babcock & Wilcox Co., 274 B.R. 230, 234 (Bankr. E.D. La. 2002); *First Am. Discl. Stmt. for Second Am. Joint Plan of G-I Holdings Inc. and ACI Inc.*

ended in confirmed section 524(g) plans. And each granted the same type of section 105 injunction sought here.[16]

In any event, the ACC has neither filed nor credibly pled or supported any actual or constructive fraudulent transfer action. See In re Caremerica, Inc., 409 B.R. 759, 766 (Bankr. E.D.N.C. 2009) ("A claim alleging an actual fraudulent transfer under § 548 must satisfy the particularity requirement of Rule 9(b)."); COLLIER ON BANKRUPTCY ¶ 548.05[3][a] (16th ed. 2021) ("The calculation of insolvency is often technical and will require expert testimony as to the value of the assets and the exposure on the liabilities."); In re Dullea Land Co., 269 B.R. 33, 35 (B.A.P. 8th Cir. 2001) (parties presented expert testimony regarding whether debtor received reasonably equivalent value for transfer). Despite retaining a financial expert (FTI Consulting) at the beginning of these cases—whose charge included "[e]valuating, analyzing, and performing a forensic review of avoidance actions, including fraudulent conveyances and preferential transfers," (e.g., [Dkt. 277] at 4)—the ACC's testifying expert confirmed at his deposition that "I do not have an opinion in my expert report on whether this [the 2020 Corporate Restructuring] was a fraudulent conveyance." Diaz Dep. 45:9-17.[17]

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*Pursuant to Ch. 11 of the U.S. Bankr. Code* at 35 (Erens Decl., Ex. 3); Sealed Air Corp. 2011 Form 10-K at 16-17 (Erens Decl., Ex. 4) (W.R. Grace); In re Combustion Eng'g, Inc., 295 B.R. 459, 470-71 (Bankr. D. Del. 2003), *subsequently vacated sub nom,* In re Combustion Eng'g, Inc., 391 F.3d 190 (3d Cir. 2004), as amended (Feb. 23, 2005); In re Specialty Prods. Holding Corp., No. 10-11780 [Dkt. 1799] (Bankr. D. Del. Nov. 14, 2011) (Erens Decl., Ex. 5); In re Garlock Sealing Techs, LLC, No. 10-31607 [Dkt. 2150] (Bankr. W.D.N.C. Apr. 30, 2012) (Erens Decl., Ex. 6); In re Kaiser Gypsum Co., Inc., No. 16-31602 [Dkt. 1009] (Bankr. W.D.N.C. June 8, 2018). The claimant representatives are also investigating fraudulent transfer allegations in Paddock—involving a similar restructuring to that in these cases—which ACC counsel suggested at the DBMP hearing was proceeding toward a consensual plan. See Mar. 1, 2021 DBMP Hr'g Tr. at 48; Mar. 3, 2021 DBMP Hr'g Tr. at 597; In re Paddock Enters., LLC, No. 20-10028 [Dkts. 160, 164] (Bankr. D. Del. Mar. 11, 2020) (noting ACC and FCR in Paddock have commenced investigation into restructuring, which allegedly "bears the hallmarks of a textbook fraudulent transfer") (Erens Decl., Exs. 7,8).

[16] See PI Mot. at 23 (citations to preliminary injunctions issued in Babcock & Wilcox, G-I Holdings, W.R. Grace, Combustion Engineering, Specialty Products, Garlock, and Kaiser Gypsum); In re Keene Corp., 164 B.R. 844, 846-48 (Bankr. S.D.N.Y. 1994) (staying successor liability, alter ego, and fraudulent conveyance claims against non-debtor Corporate Defendant affiliates and directors and officers concerning prepetition spinoff transactions).

[17] The purported "badges of fraud," (see Obj. at 33-35), are meritless. The 2020 Corporate Restructuring was not undertaken shortly after the Debtors have "been sued or threatened with suit," as is contemplated by N.C.

A fraudulent transfer is "an act which has the effect of improperly placing assets beyond the reach of creditors." Henry v. Lehman Commercial Paper, Inc. (In re First All. Mortg. Co.), 471 F.3d 977, 1008 (9th Cir. 2006). Nothing of that sort happened in the 2020 Corporate Restructuring, and no claimant was harmed by the 2020 Corporate Restructuring. Rather, the Funding Agreements with New Trane Technologies and New Trane, detailed in the PI Motion (at 11-12), ensure that all the assets of New Trane Technologies and New Trane remain available to pay asbestos claims to the exact same extent those assets were available before the 2020 Corporate Restructuring. As ACC counsel acknowledged in Bestwall —which involved a corporate restructuring using the same Texas divisional merger and funding agreement structure—the restructuring did not "technically run[] afoul of fraudulent transfer laws." In re Bestwall LLC, No. 17-31795 [Dkt. 495] at 4 (Bankr. W.D.N.C. Aug. 15, 2018).[18]

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GEN. STAT. ANN. § 39-23.4(b)(4) and other state statutes. The Debtors have been sued in the tort system for decades. While New Trane Technologies and New Trane received substantial assets, they also received 96% of Old IRNJ and Old Trane's *liabilities*, respectively. See Rebuttal Report of Laureen M. Ryan at 5 (Erens Decl., Ex. 9). Nor was the 2020 Corporate Restructuring "concealed." All of the filings necessary to effectuate the 2020 Corporate Restructuring were filed with the applicable Secretary of State offices and became known to the plaintiffs' bar within days by voluntarily disclosure by the Debtors in various tort cases around the country. The fact that various corporate projects that could lead to the potential transactions effectuated here were subject to confidentiality agreements—as are many corporate projects (see Roeder Dep. 63:24-64:13; Kuehn Dep. 123:14-124:5)—does not qualify as a badge of fraud. Nor is it hardly surprising that New Trane Technologies and New Trane did not "disclose" the 2020 Corporate Restructuring "to asbestos claimants or their attorneys" in advance. Suppl. Obj. at 3, 10. The ACC cites no basis to suggest that would be the norm, advisable, or in any way legally required. Finally, the ACC advances no argument or supporting expert opinion that the Debtors were insolvent or did not receive reasonably equivalent value in connection with the 2020 Corporate Restructuring, central inquires to any fraudulent transfer analysis.

The ACC's suggestion that the Reverse Morris Trust transaction with Gardner Denver (the "RMT") was in any way designed to "shield assets from asbestos claimants," (Obj. at 7), is completely baseless. As many witnesses have confirmed, the RMT was in the works well before Project Omega and was designed to separate Ingersoll-Rand's and Trane's industrial and climate businesses for entirely legitimate business reasons. It was not at all driven by asbestos liabilities. See, e.g., Brown Dep. 180:16-181:6; Turtz Dep. 71:4-12; 72:23-24, 75:20-23, 86:12-25. The ACC cites nothing—there is nothing to cite—to support their groundless allegation.

[18] The ACC's fixation with the notion that bankruptcy was the "one and only 'option'" after the 2020 Corporate Restructuring, (Obj. at 2-3; see also Suppl. Obj. at 3-6), is irrelevant and inconsistent with the evidence. The minutes of the Aldrich and Murray Board meetings reflect that the Boards carefully considered a number of alternatives over multiple meetings. See Minutes of Joint Meeting of Boards of Managers of Aldrich Pump LLC and Murray Boiler LLC for the meetings held on May 15, 2020, May 22, 2020, May 29, 2020, and June 5, 2020 (Erens Decl. Ex. 10); Pittard Dep. 256:12-22; 282:18-283:22; Tananbaum 30(b)(6) Dep. 260:18-262:13; Tananbaum Dep. 290:25-292:11; Roeder Dep. 139:8-19; Zafari Dep. 40:25-41:20, 111:3-11, 113:20-114:13. Of course the

## III. THE DEBTORS AND THEIR REORGANIZATIONAL EFFORTS WILL BE IRREPARABLY HARMED WITHOUT A PRELIMINARY INJUNCTION.

### A. The Requested Injunction is Necessary to Achieve the Reorganizational Goals of These Cases.

As stated above, "the critical, if not decisive, issue" in determining whether to enjoin litigation against non-debtors is whether the litigation would, absent an injunction, "interfere[] with the debtors' reorganization efforts." Brier Creek, 486 B.R. at 694; Kreisler v. Goldberg, 478 F.3d 209, 215 (4th Cir. 2007) (section 105(a) injunction is appropriate if third-party action would "put detrimental pressure on [the debtors'] reorganization effort"); Robins, 788 F.2d at 1003 (injunction is appropriate when third-party litigation "would adversely or detrimentally influence and pressure the debtor through the third party") (internal citation omitted). The ACC misreads Robins. The Fourth Circuit did not issue a preliminary injunction solely due to shared insurance assets or diminishment of estate assets. Obj. at 42-43. Instead, various sources of harm, including (a) the debtor's indemnification and discovery obligations in thousands of pending suits and (b) potentially inconsistent judgments for defendants with indemnification claims, informed the ruling. See Robins, 788 F.2d at 1008-09.

The entire purpose of these cases—an equitable, final, and global resolution of tens to hundreds of thousands of current and future Aldrich/Murray Asbestos Claims—would be thwarted without a preliminary injunction. There is no dispute that the ACC seeks to lift the

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Board minutes "creat[ed] a record" of the Board's deliberations of those options, (Suppl. Obj. at 4); that is the purpose of Board minutes. The fact that pursuing a section 524(g) resolution emerged as the "leading" and a "very viable" option (Suppl. Obj. at 5)—and the unremarkable existence of documents detailing that option prior to the bankruptcy—does not change that. Nor is it surprising that Mr. Turtz provided the Debtors' Board members with information pertinent to the section 524(g) option early in the process. Id. at 4. The evidence demonstrates the independence of the Boards' decision-making process, (see Tananbaum Dep. 250:2-7; 300:9-304:10; Turtz Dep. 238:12-20, 241:11-242:3, 257:24-258:3; Brown Dep. 72:13-73:10; 141:20-142:10), and that those signing the documents that effectuated the 2020 Corporate Restructuring were sufficiently familiar with the documents they executed. See Valdes Dep. 128:14-129:15; Kuehn Dep. 62:22-67:11, 206:24-207:21; Daudelin Dep. 264:8-266:14; Turtz Dep. 172:19-173:9; 176:9-16; 269:6-17; Brown Dep. 155:2-156:2; Roeder Dep. 166:10-167:12; 174:8-19; 238:19-239:5.

injunction so that asbestos claimants can pursue in the tort system the exact same claims pending against the Debtors—involving the same plaintiffs, the same products, the same time periods, and the same liability and damage allegations—against the Non-Debtor Affiliates. That is precisely what occurred before the filing of these cases and the entry of the TRO. New Trane Technologies and New Trane had been named in or added (or sought to be added) as a defendant more than 100 times during the 48 days between the 2020 Corporate Restructuring and the chapter 11 filings. See PI Mot. at 4; Tananbaum Decl. ¶ 34.

An injunction protects a debtor from "uncontrollable" and "uncoordinated proceedings in different courts," allowing that debtor an "opportunity to formulate a plan of reorganization." Robins, 788 F.2d at 998. Putting "pressure" on the Debtors and seeking an effective dismissal of these cases through what is tantamount to lifting the stay against the Debtors to permit uncoordinated, piecemeal tort litigation in hundreds of different courts across the country in literally tens of thousands of cases is exactly what the ACC hopes to achieve in objecting to the PI Motion. Tellingly, the 21 pages that the ACC devotes to the issue of irreparable harm includes no response to the Debtors' central assertion that lifting the preliminary injunction would lead to the unprecedented result of effectively lifting the automatic stay for all tort claims, thereby, in all but name, divesting this Court of jurisdiction over these cases—an effective dismissal. See Obj. at 36-57.[19] That is because the ACC cannot deny that these *are* the very goals of their Objection.

[19] The closest the ACC comes is a snippet from the deposition of the Debtors' Chief Restructuring Officer, Ray Pittard, who testified that it would be more costly and difficult—but "not impossible"—for the Debtors to reorganize without a preliminary injunction. Obj. at 38. Because Mr. Pittard is not an attorney and had no involvement in managing the Debtors or their corporate predecessors' asbestos litigation, there is little if any foundation for this testimony. In any event, the standard is not that a reorganization would be "impossible" without a preliminary injunction. It is whether third-party litigation, if not enjoined, "would adversely or detrimentally influence and pressure the debtor through the third party." Robins, 788 F.2d at 1003; see also Kreisler, 478 F.3d at 215.

In the recent DBMP hearing, the claimant representatives argued that a preliminary injunction was not necessary to successfully confirm a section 524(g) plan. They provided the Court a slide purporting to list "Numerous cases [to] have confirmed a plan without a preliminary injunction." Mar. 1, 2021 DBMP Hr'g Tr. at 48, 64; Mar. 3, 2021 DBMP Hr'g Tr. at 515-16; FCR Slide 2 (Erens Decl., Ex. 11). The cases listed are readily distinguishable.

The claimant representatives made no showing that there were non-debtor affiliates in those cases actively being pursued in the tort system, as plainly would be the case here. About half of the cases were prepackaged, pre-negotiated, or included "standstill" agreements by plaintiffs not to pursue lawsuits against various non-debtors, so no preliminary injunction was necessary.[20] Many of the cases included as debtors, in those cases or independent bankruptcy cases, the entities that had been sued for asbestos liabilities pre-bankruptcy; so, again, no preliminary injunction was needed.[21] Many were small and/or are not properly characterized as asbestos bankruptcies.[22] Finally, in Paddock, the debtor and its corporate predecessor had

[20] Prepackaged, pre-negotiated, or prearranged bankruptcies listed in the slide include In re Maremont Corp., No. 19-10118 (Bankr. D. Del. 2019); In re Duro Dyne Nat'l Corp., No. 18-27963 (Bankr. D.N.J. 2018); In re Metex Mfg. Corp., No. 12-14554 (Bankr. S.D.N.Y. 2012); In re API, Inc., No. 05-30073 (Bankr. D. Minn. 2005); In re Congoleum Corp., No. 03-51524 (Bankr. D.N.J. 2003); In re Swan Transportation, No. 01-11690 (Bankr. D. Del. 2001). Those with "standstill" agreements include In re Plant Insulation Co., No. 09-31347 (Bankr. N.D. Cal. 2009) and In re Thorpe Insulation Co., No. 07-19271 (Bankr. C.D. Cal. 2007).

[21] See In re Federal-Mogul, 300 F.3d 368, 372-73 (3d Cir. 2002); In re Swan Transportation Co., 596 B.R. 127, 130 (Bankr. D. Del. 2018); In re The Muralo Co., 301 B.R. 690, 692-95 (Bankr. D.N.J. 2003); In re USG Corp., No. 01-2094, 2012 WL 1463988, at *4-5 (Bankr. D. Del. Apr. 23, 2012); In re Owens Corning Corp./Fibreboard, *Disclosure Statement with Respect to Sixth Amended Joint Plan of Reorganization for Owens Corning and its Affiliated Debtors and Debtors-in-Possession,* No. 00-03837 (Bankr. D. Del. July 10, 2006) (Erens Decl., Ex. 12); In re Artra Grp., Inc., No. 02-21522 (Bankr. N.D. Ill. 2002) (entity who had been sued under successor liability theories, Muralo, filed its own bankruptcy petition).

[22] See In re Duro Dyne Nat'l Corp., No. 18-27963 [Dkt. 20] at 13 (Bankr. D.N.J. Sept. 7, 2018) (956 pending claims) (Erens Decl., Ex. 13); In re The Budd Co., Inc., No. 14-11873 [Dkt. 14] ¶ 5 (Bankr. N.D. Ill. Apr. 1, 2014) (356 product liability/asbestos claims) (Erens Decl., Ex. 14); In re Reichhold Holdings, U.S. Inc., No. 14-12237 [Dkt. 1246] at 33 (Bankr. D. Del. Nov. 19, 2015) (125 pending claims as of the petition date; case was a chapter 11 liquidation and no section 524(g) trust was created) (Erens Decl., Ex. 15); In re Thorpe Insulation Co., No. 07-19271 [Dkt. 1221] at 10 (Bankr. C.D. Cal. July 30, 2008) (approximately 2,000 asbestos cases pending as of the petition date) (Erens Decl., Ex. 16); In re API, Inc., 331 B.R. 828, 834 (Bankr. D. Minn. 2005) (roughly 700 pending claims as of the petition date); In re JT Thorpe, Inc., No. 02-14216 [Dkt. 471] at 3 (Bankr. C.D. Cal. Mar. 7, 2005) (approximately 1,000 pending asbestos suits as of the petition date) (Erens Decl., Ex. 17).

"Administrative Claims Agreements" in place for handling asbestos claims *outside the tort system*; Paddock had only 900 pending asbestos claims as of its petition date. See In re Paddock Enters., LLC, No. 20-10028 [Dkt. 2] ¶¶ 9-10 (Bankr. D. Del. Jan. 6, 2020) (Erens Decl., Ex. 18). As the FCR noted in its support for the PI Motion, it seems likely that the plaintiffs' bar entered into such agreements because it was not in its interest to have the last, non-bankrupt insulation manufacturer as a defendant in the tort system (to which other co-defendants could point to assess liability). Adv. Pro. Dkt. 129 at 14-15. For the same reason, the plaintiffs' bar has no reason to seek to pursue Paddock's affiliates in the tort system now to attempt to hold them responsible for Paddock's liability in front of the same co-defendants.

Denying the injunction also would prevent these cases from achieving equal treatment across similarly situated claimants. In each of the thousands of suits that might proceed in the tort system against Protected Parties, motions to dismiss would be filed since, among other things, none of the Protected Parties manufactured or sold asbestos-containing products that give rise to asbestos claims against the Debtors. Motions to dismiss should be granted in each of the cases that would ensue absent an injunction. But given the thousands of cases that could proceed were the injunction lifted, results may differ. Some plaintiffs would then be permitted to prosecute their cases against a Protected Party and some would not. Similarly situated claims, all of which are in actuality claims against the Debtors, would then receive different treatment—time to payment may vary; amount of payment may vary; mechanism of payment undoubtedly would vary. Unequal treatment across similar claimants defeats one of the goals of the Debtors' reorganizational effort and, therefore, is harm to the estates.

The ACC cannot genuinely dispute that the preliminary injunction is fundamentally necessary to achieve the reorganizational goals of these cases. That, alone, is sufficient to satisfy

the likelihood of irreparable harm to the Debtors' estates.

### B. The ACC's Other Arguments Denying Harm to the Estates Are Equally Unavailing.

The PI Motion identified three additional harms to the Debtors that would arise if the claimants are permitted to prosecute the Aldrich/Murray Asbestos Claims against the Protected Parties: (1) indemnification claims against the Debtors would be fixed or liquidated; (2) continued litigation of the Aldrich/Murray Asbestos Claims would risk binding the Debtors through *res judicata* and collateral estoppel and impose evidentiary prejudice; and (3) the burden of managing and assisting with the asbestos litigation would divert the Debtors' personnel from restructuring efforts. See PI Mot. at 27-31. Judge Beyer recognized each of these risks as harm in Bestwall, see 606 B.R. at 249-51, 255-57, as have courts in numerous other asbestos and mass tort bankruptcies. See PI Mot. at 27-31. The ACC's responses to this weight of authority are meritless.

#### 1. Alleged "Self-Infliction"

The ACC suggests none of these harms matter because they are "self-inflicted" through the 2020 Corporate Restructuring. Obj. at 36, 38-44. But there is nothing unusual about parties involved in a corporate restructuring agreeing to *reciprocal* indemnification. These undertakings are routine in any transaction involving the allocation of assets and liabilities and were not created here strictly to "set up an argument" for preliminary injunction purposes. Obj. at 42.[23] In fact, the Debtors conducted a search of the SEC's EDGAR database to identify spin-off transactions over the last 15 years—transactions, like divisional mergers, that involve asset and liability allocation among two or more parties. *Each and every one of the approximately 150*

[23] See, e.g., Bestwall, 606 B.R. at 250 ("it makes sense that the Debtor would, and the Debtor has agreed to, indemnify its affiliates" against claims for liabilities allocated to it in the divisional merger).

*transactions identified included mutual indemnification obligations with respect to the liabilities allocated in the transaction*. See Erens Decl., Ex. 19 (exhibit lists each transaction and provides a link to documents filed with the SEC).[24]

Nor is downsizing the Debtors' in-house asbestos defense team "contrived" or otherwise self-inflicted harm. It is prudent stewardship given the expectation that the Aldrich/Murray Asbestos Claims would be resolved through a section 524(g) plan, instead of across hundreds of courts across the country.

The ACC's "self-inflicted" argument contravenes authority granting preliminary injunctions after similar, as well as other, prepetition restructurings in mass tort bankruptcy cases.[25] As evidenced by the many preliminary injunctions granted uniformly in prior asbestos cases, such injunctions are not unique to divisional merger cases. The ACC's authority involves neither a corporate restructuring nor a bankruptcy, but rather vastly different factual situations in general litigation.[26] The priorities and considerations for injunctive relief in bankruptcy differ from general litigation. See, e.g., FiberTower Network Servs. Corp. v. Federal Commc'n Comm'n (In re FiberTower Network Servs. Corp.), 482 B.R. 169, 188 n.38 (Bankr. N.D. Tex.

[24] "Judicial notice is appropriate of the content of S.E.C. filings, to the extent that this establishes that the statements therein were made, and the fact that these documents were filed with the agency." In re Mun. Mortg. & Equity, LLC, Sec. & Derivative Litig., 876 F. Supp. 2d 616, 626 n.7 (D. Md. 2012), *aff'd sub nom*. Yates v. Mun. Mortg. & Equity, LLC, 744 F.3d 874 (4th Cir. 2014) (citation omitted).

[25] See Bestwall, 606 B.R. at 247-48, 258-59 (enjoining actions against the debtor's non-debtor affiliate created through a divisional merger, and other non-debtor affiliates); In re Garlock Sealing Techs. LLC, *Order Granting Preliminary Injunction*, No. 10-31607, Adv. No. 10-03145 [Adv. Pro. Dkt. 14] (Bankr. W.D.N.C. June 21, 2010) (enjoining actions against non-debtor affiliates, including Garlock's parent, Coltec) (Erens Decl., Ex. 20).

[26] See Di Biase v. SPX Corp., 872 F.3d 224, 235 (4th Cir. 2017) (plaintiff-retirees complained of loss of insurance coverage but failed to secure replacement insurance coverage offered to them); Salt Lake Tribune Publ'g Co., LLC v. AT&T Corp., 320 F.3d 1081, 1106 (10th Cir. 2003) (plaintiff sought to enjoin contract counterparty from exercising a purchase right that was explicitly included in agreement with plaintiff); Caplan v. Fellheimer Eichen Braverman & Kaskey, 68 F.3d 828, 839 (3d Cir. 1995) (plaintiff sued insurer for settling action without its consent, notwithstanding plaintiff's affirmative agreement to allow it); Dotster, Inc. v. Internet Corp. for Assigned Names & Nos., 296 F. Supp. 2d 1159, 1163 (C.D. Cal. 2003) (citing Caplan, 68 F.3d at 839) (damages cap in a contract plaintiffs negotiated with the defendant cannot constitute irreparable harm).

2012) (rejecting arguments that harm to the debtors' estates was self-inflicted and could not constitute irreparable harm, regardless of whether, outside the bankruptcy context, debtors' conduct "would otherwise be sufficient to taint" their request). The logic of the ACC's "self-inflicted" argument—that anytime a debtor has some involvement in events that later lead to the need for a preliminary injunction the injunction should be denied—is untenable, particularly in the bankruptcy context.

**2. The Suggestion That Harm to the Debtors is Only "Possible"**

Next, the ACC suggests the Debtors have identified only the "possibility" of harm. Obj. at 36-37 ("the Debtors repeatedly frame their irreparable harm argument in terms of what 'may' or 'could' happen absent injunctive relief"). That is false.

**(a) Indemnification**

The Debtors have identified specific contractual indemnification obligations that *would be* implicated and stated that the pursuit of the Aldrich/Murray Asbestos Claims against the Protected Parties "*would* prevent the Debtors from establishing a section 524(g) trust to consolidate and collectively resolve all asbestos claims against them—current and future—through the Chapter 11 Cases." PI Mot. at 27-28 (emphasis added).

The ACC argues that the uncapped Funding Agreements prevent the Debtors from suffering any "harm" caused by their indemnification obligations. Obj. at 44; see also Suppl. Obj. at 12-13. This argument relies on the false premise that all asbestos liabilities will solely be paid by New Trane Technologies and New Trane. But as the ACC earlier acknowledges, the Funding Agreements are only a *backstop* against the Debtors' obligations with respect to asbestos

liabilities.[27] The Debtors must first use their own assets to satisfy their obligations. Accordingly, the "net result" is *not* a "wash." Suppl. Obj. at 13.

The ACC also suggests that the indemnification claims against the Debtors would be stayed as prepetition claims and therefore may not "inflict 'irreparable harm' on the Debtors." Obj. at 45-46. The ACC ignores that the prosecution of the Aldrich/Murray Asbestos Claims against the Protected Parties, and the resulting settlements and any verdicts, will irreparably fix what are otherwise contingent claims against the Debtors. The Debtors would be stuck with those settlement amounts and verdicts—and the indemnification obligations that flow from them. To accept the ACC's argument would be to ignore Robins, which held that injunctive relief is appropriate when a "judgment against the third-party defendant will in effect be a judgment or finding against the debtor." 788 F.2d at 999.

**(b) *Res judicata*, collateral estoppel, and evidentiary prejudice**

The Debtors have established that prosecution of the claims against the Protected Parties "*would* litigate the same key facts." PI Mot. at 29 (emphasis added). The Debtors have made clear that they "*would have no choice* but to participate in the defense" of claims brought against the Protected Parties. Id. at 30. Thus, there is nothing "speculative" about the Debtors' concern that prosecution of the Aldrich/Murray Asbestos Claims against the Protected Parties would create risks of *res judicata*, collateral estoppel, and evidentiary prejudice. See e.g., Bestwall, 606 B.R. at 256 ("evidence generated in other proceedings against the Protected Parties will be used to try to establish Bestwall Asbestos Claims against the Debtor") (emphasis added).

That Mr. Tananbaum could not identify a prior instance of an asbestos plaintiff using *res*

[27] Obj. at 19 ("TTC and Trane are each obligated to fund a § 524(g) trust only if their respective Debtor's 'other assets are insufficient to fund amounts necessary or appropriate to satisfy … Asbestos Related Liabilities in connection with the funding of such trust.'"). See also Tananbaum 30(b)(6) Dep. 270:8-273:8.

*judicata* against the Debtors or their predecessors, (Obj. at 47; Suppl. Obj. at 13-14), is unremarkable. The Debtors' chapter 11 filings and the Court-ordered TRO have stayed claims against the Protected Parties. See Tananbaum 30(b)(6) Dep. 197:18-201:6. The ACC's further claim that the Debtors' concerns "do not hold up under sensible logic, and scrutiny,"(Obj. at 47), is ironic. The ACC contends that these risks would not exist *if* a Section 524(g) reorganization is achieved. Id. at 47-48 ("But in 524(g) reorganizations, a debtor's liability for each asbestos claim is 'established,' … and the Debtors would have reorganized and obtained the protection of a discharge and § 524(g) channeling injunction in any event."). The "logic" of the ACC's argument presumes *there will be a successful reorganization* and an establishment of a section 524(g) trust, a premise at odds with the remainder of the Objection. But even if a plan were achieved, as the Debtors expect, that does not change the unfavorable *res judicata*, collateral estoppel, and evidentiary prejudice impacts of litigation concluded prior to the effective date of that plan, which will result in inconsistent treatment of similarly situated asbestos claims.[28]

The ACC further asserts that because Ingersoll-Rand and Trane "were in the tort system defending against asbestos claims for decades," any prejudicial evidence that could be created against the Debtors already exists. Obj. at 50. But the plaintiffs now are different, the claims are different, the counsel are different. The Aldrich/Murray Asbestos Claims, by definition, have not yet been resolved.

Lastly, because *res judicata*, collateral estoppel, and evidentiary prejudice are not the sole

[28] Moreover, *res judicata*, collateral estoppel, and evidentiary prejudice may affect the determination of the Debtors' liability through an estimation proceeding or the treatment of asbestos claims under Trust Distribution Procedures ("TDPs") governing the section 524(g) trust. For example, even under a confirmed plan, TDPs would permit all claimants to litigate claims in the tort system in lieu of an agreed settlement. See, e.g., In re Bestwall LLC, No. 17-31795 [Dkt. 1172-2] at 15-16, 24-25, 36-37 (Bankr. W.D.N.C. May 21, 2020) (committee's proposed TDPs); id. [Dkt. 1284] at 36-37, 46, 53 (Bankr. W.D.N.C. Aug. 13, 2020) (debtor's proposed TDPs); In re Specialty Prods. Holding Corp., No. 10-11780 [Dkt. 5117-3] at 19, 46 (Bankr. D. Del. Oct 23, 2014) (Erens Decl., Ex. 21).

bases for the PI Motion, the ACC's citation of cases holding that such risks, *alone*, do not merit an injunction are irrelevant. Obj. at 48, 50-51.[29] As in other mass-tort cases, these risks are just "one of many factors" that together justify protection.

**(c) Diversion of Key Personnel**

The ACC disputes the Debtors' contention that key personnel would be overwhelmed with litigation-related activity, and therefore diverted from their reorganization activities, if the PI Motion was denied. Obj. at 39, 55-56; Suppl. Obj. at 14-16. But to argue that the Debtors' personnel would *not* be materially diverted if tens of thousands of asbestos claims suddenly recommenced in the tort system is absurd.

Mr. Tananbaum explained how he, Mr. Sands, Ms. Roeder, and Ms. Bowen would all be pulled away from their reorganization activities if the preliminary injunction were lifted. See Tananbaum Dep. 65:11-76:11; see also Sands Dep. 108:21-112:25. Prior to the bankruptcy, managing asbestos litigation was an all-consuming responsibility for Mr. Sands and Mr. Tananbaum.[30] Even when they had a larger team of attorneys and paralegals, it "was a full-time job for that entire team." Tananbaum Dep. 67:22-68:14. It would be an "overwhelming task" for Mr. Tananbaum and Mr. Sands to manage that litigation today, leaving no time for their ongoing reorganization work. Id. 68:13-69:4; Tananbaum 30(b)(6) Dep. 228:7-20. Mr. Tananbaum further explained that non-legal personnel, Ms. Roeder and Ms. Bowen, would be under great

[29] The Objection's citations to Queenie, Ltd. v. Nygard Int'l, 321 F.3d 282 (2d Cir. 2003) and Cook v. Blazer, No. 7:15-cv-456, 2016 WL 3453663, at *1 (W.D. Va. June 20, 2016), do not help the ACC. There, the courts declined to extend the automatic stay to certain of the debtors' co-defendants in the tort system who had their own independent, non-derivative liability. In fact, Queenie *did* extend the stay to the debtor's wholly owned company, citing Robins and noting the adjudication of the claim against the company "will have an immediate adverse economic impact on" the debtor. 321 F.3d at 277-78. Judge Beyer cited Queenie in granting the preliminary motion in Bestwall. See 606 B.R. at 255 n.13.

[30] Tananbaum Dep. 67:8-21 ("[W]hen asbestos is unleashed and fully operating in the tort system, it's a daily barrage of settlement demands and negotiations and mediations and discovery that needs to be responded to…. I mean there's always some emergency going on and it's all consuming.").

strain if the motion were denied. Tananbaum Dep. 72:2-73:20; see also Tananbaum 30(b)(6) Dep. 236:20-237:20. Ms. Roeder and Ms. Bowen are not seconded to the Debtors and, in addition to their "day jobs," would now be forced to manage "looking at the payments of professionals, looking into the reserving of liabilities and assets and the like." Tananbaum Dep. 73:4-17; accord Roeder Dep. 61:23-62:16.

The ACC says the Debtors could just hire more personnel, (Obj. at 56)—as if suitable reinforcements were standing ready—or borrow other in-house lawyers at Trane Technologies with little to no demonstrated experience with asbestos claims. Suppl. Obj. at 15. But the reality is that the work that must be performed requires prior experience with the Debtors, their product histories, their defenses; and it is unlikely that employees downsized nearly a year ago remain available and willing to resume their prior positions today. See Tananbaum Dep. 324:13-16 ("So as a very practical matter, it just is as clear as rain that the only way these cases could be successfully defended is with [my and Mr. Sands'] intercession.").[31]

**3. The List of Protected Parties**

The ACC's final complaint—that the "Debtors have loaded up their list of Protected Parties with companies that appear never to have been sued at all for asbestos liability," (Obj. at 37)—is misguided. As ACC counsel well knows, it is common in asbestos bankruptcies to broadly identify non-debtor affiliates and other entities that have been or *could in the future* be sued.[32] It would be inefficient to exclude entities that could be sued in the future—and would

[31] Nor is there any basis to second-guess Mr. Tananbaum's selection as the Debtors' Chief Legal Officer or suggest that he and Mr. Sands are not integral to the Debtors' reorganization efforts. Suppl. Obj. at 15. That Mr. Tananbaum, unsurprisingly, relied on outside bankruptcy counsel to prepare routine bankruptcy filings, (id.), does not change the fact that he has been fully occupied by multiple tasks throughout these cases, including, among other tasks, discussing strategy with counsel and other advisors on a daily basis; coordinating and attending the Debtors' Board meetings; reviewing draft pleadings and briefs; approving counsel and expert invoices; and participating extensively in the ACC's wide-ranging discovery efforts. See Tananbaum Dep. 43:14-53:3.

[32] See, e.g., In re Bestwall LLC, No. 17-31795, Adv. No. 17-03105 [Adv. Pro. Dkt. 164] at 15-16, Appendix B (Bankr. W.D.N.C. July 29, 2019) (enjoining derivative lawsuits against over 120 "Protected Parties");

appropriately be covered by the injunction—and then have to later amend the terms of the injunction. If asbestos claimants *intend* to sue any Protected Party, then there is a valid reason to include them on the list. If the asbestos claimants do *not* intend to sue any such entity, there is no prejudice to claimants from including them.[33]

## IV. THE LIMITED HARM TO CLAIMANTS CLEARLY SUPPORTS MAINTAINING THE PRELIMINARY INJUNCTION.

The kinds of limited and theoretical consequences for claimants from maintaining preliminary injunctions like the one in force here have been addressed in many other asbestos bankruptcy cases; yet the relief has "uniformly been issued in numerous other asbestos-related cases, including in this jurisdiction." Bestwall, 606 B.R. at 254 (citing cases); PI Mot. at 23. The ACC ignores this history, the facts which demonstrate that any harm to asbestos claimants is indeed limited, and the benefits to claimants afforded by a section 524(g) plan.

### A. Asbestos Claimants Are Not Materially Harmed by a Stay of Claims Against the Protected Parties.

As the Court is now well aware, the Texas Business Organizations Code (the "TBOC") permits a single entity to divide into two or more new entities (at which point the existing entity can cease to exist) and to allocate the assets and liabilities of the old entity among the new

In re Kaiser Gypsum Co., Inc., No. 16-31602, Adv. No. 16-03313 [Adv. Pro. Dkt. 2] at Appendix B (Bankr. W.D.N.C. Sept. 30, 2016) (listing nearly 200 "Protected Parties" to be covered by the preliminary injunction), [Adv. Pro. Dkt. 18] at 5 (Bankr. W.D.N.C. Nov. 4, 2016) (granting preliminary injunction); In re Garlock Sealing Techs. LLC, No. 10-31607, Adv. No. 10-03145 [Adv. Pro. Dkt. 14] at 6, Exhibit A (Bankr. W.D.N.C. June 21, 2010) (enjoining derivative lawsuits against over 60 non-debtor "Affiliates") (Erens Decl., Ex. 20); In re Leslie Controls, Inc., No. 10-12199, Adv. No. 10-51394 [Adv. Pro. Dkt. 1] at Exhibits 1-2 (Bankr. D. Del. July 12, 2010) (listing over 120 non-debtor affiliates to be covered by the preliminary injunction), [Adv. Pro. Dkt. 12] at 5-6 (Bankr. D. Del. Aug. 9, 2010) (granting preliminary injunction) (Erens Decl., Exs. 22, 23).

[33] The ACC's suggestion, citing to Mr. Tananbaum's testimony, that of the Protected Parties only New Trane Technologies, New Trane, Trane plc, and Thermo King have been sued is misleading. Numerous Indemnified Parties, such as Ingersoll-Rand Pump Company and Dresser Industries Inc., have been sued and have tendered those cases to the Debtors and their corporate predecessors. See PI Mot. at 14-16; Tananbaum Dep. 316:21-317:10 (noting Indemnified Parties have been sued on Aldrich/Murray Asbestos Claims and sought indemnification).

entities. To effect the division of a single Texas entity into two or more new entities, such transaction must be set forth in a written "plan of merger." See TBOC Section 10.001(a). The plan of merger must be in writing and must include (i) the name and organizational form of the entity that is to be divided and will cease to exist; (ii) the name and organizational form of each new entity that is to be created; (iii) the allocation among the new entities of the property of the entity that is to be divided and will cease to exist; and (iv) the allocation among the new entities of the liabilities of the entity that is to be divided and will cease to exist. Id. Sections 10.002 and 10.003. Once the divisional merger becomes effective, the allocation of such assets and liabilities among the newly created entities becomes effective, as well. Id. Section 10.008.

There is no dispute that the 2020 Corporate Restructuring fully complied with these provisions of the TBOC and that the restructuring allocated asbestos liabilities only to the Debtors. As a result, there are no cognizable Aldrich/Murray Asbestos Claims against the Protected Parties and, thus, no harm from enjoining them. And any such claims for successor liability, alter ego, and the like would be speculative, at best, given the solvency of the Debtors and the fact that the Funding Agreements already obligate New Trane Technologies and New Trane to pay asbestos claims against the Debtors to the extent necessary. In any event, as explained in the Summary Judgment Motion, such derivative claims are property of the Debtors' estates to be pursued, if at all, by estate fiduciaries, not by thousands of asbestos claimants in their individual capacities. See PI Mot. at 32, 35-39.

Regardless, the Debtors' evidence shows that asbestos claimants would not be materially harmed by a stay of any claims against the Protected Parties during these bankruptcies. As the Court has itself recognized, the reality that asbestos claimants have numerous sources of recovery likely qualifies as an "adjudicative fact" capable of judicial notice. Feb. 25, 2021 Hr'g

Tr. at 31-34. The ACC objects that the Debtors' "generalized and offensive assertion" that "some victims may be able to obtain compensation from other defendants" is based only on "a general statement by the Debtors[']chief legal officer." Obj. at 59. But the statement is premised on decades of experience in the tort system and publicly available data.[34]

The evidence indicates that the availability of alternative sources of recovery is particularly true of claimants who have historically sued Old IRNJ and Old Trane. The Debtors' asbestos claims expert, Dr. Charles H. Mullin, analyzed the data of 627 claimants who asserted claims against both Garlock and either or both of the Debtors or their corporate predecessors ("AM Mesothelioma Claimants") and whose claims were resolved prior to 2012, when the data were submitted by claimants in the Garlock case.[35] Dr. Mullin's analysis showed that the average AM Mesothelioma Claimant received recoveries of $1.1 million from, collectively, eight tort defendants and 20 asbestos trusts. Id. ¶ 18. On average, just 3.2% of the total recoveries came from the Debtors or their predecessors. Id. ¶ 18, Figure 1. Even for the 347 AM Mesothelioma Claimants who received some payment from the Debtors or their predecessors, recoveries attributable to those entities accounted, on average, for just 5% of total recoveries. Id. ¶ 19, Figure 2.

Dr. Mullin also performed a claim-by-claim analysis which found that recoveries attributable to the Debtors or their predecessors rarely, if ever, constituted a material percentage of a claimant's total recovery. Payments from the Debtors or their predecessors contributed more than 20% of total recoveries for just 10 (1.5%) of the AM Mesothelioma Claimants. Id. ¶ 20.

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[34] Tananbaum Decl. [Dkt. 29] ¶ 41 ("Plaintiffs in asbestos-related suits in the tort system typically name multiple parties as defendants."); *cf.* In re Garlock Sealing Techs., LLC, 504 B.R. 71, 96 (Bankr. W.D.N.C. 2014) (finding that the "typical claimant alleges exposure to products of 36 parties").

[35] Expert Report of Charles H. Mullin, PhD (the "Mullin Report") ¶¶ 16-18 (Erens Decl., Ex. 24). In 2012, a randomized sample of 850 claimants in Garlock submitted information about their claims to the bankruptcy court through Personal Injury Questionnaires.

No claimant received more than 50% from the Debtors or their predecessors. The ACC's suggestion that there is some meaningful number of claimants "whose strongest evidence of asbestos exposure pertains to Ingersoll-Rand and Trane asbestos," or who would be materially impacted by "'empty chairs' left by TTC and Trane in the courtroom," Obj. at 59, is therefore groundless.

[redacted]

In fact, the ACC has not proffered *any* evidence of harm to asbestos claimants that would result from the preliminary injunction. The ACC merely cites the Fourth Circuit's decision in Williford v. Armstrong World Indus., Inc., 715 F.2d 124, 128 (4th Cir. 1983). Williford is inapposite. It denied a request from 24 co-defendants of the debtors (none related to the debtors) to stay the trial of an asbestos claimant against *all defendants* pending completion of the reorganization proceedings. See id. at 126. If anything, Williford supports the Debtors' position

[36] See [redacted] Responses and Objections ([redacted]); [redacted] Responses and Objections ([redacted]); Richard Shiel Responses and Objections (23 trusts); [redacted] Objections ([redacted]); [redacted] Responses and Objections ([redacted]) (compiled as Erens Decl., Ex. 25).

here, as it observes that the continued prosecution of claims against unrelated co-defendants allows claimants to recover against those defendants.

Any harm from delay on account of a preliminary injunction also must be weighed against the important benefits—including to asbestos claimants—that would result from preserving the Debtors' ability to successfully reorganize under section 524(g).[37] As Judge Beyer recognized in Bestwall, a section 524(g) trust "will provide all claimants—including future claimants who have yet to institute litigation—with an efficient means through which to equitably resolve their claims."[38] Once established, claimants can obtain recoveries from trusts as quickly as 90 days after completing their claims forms.[39]

By contrast, asbestos litigation is rarely efficient and often drags on for years. As of the Petition Date, nearly 80% of the tens of thousands of asbestos claims pending against the Debtors had been filed more than ten years ago, resulting in claims remaining open for years or even decades. See Tananbaum Decl. ¶ 42. A more efficient trust process also likely will reduce all parties' legal costs. See Mullin Report ¶¶ 41-43.[40] The FCR has correctly emphasized these benefits, noting that the tort system is a "decidedly inferior result for the classes of both current and future asbestos claims when compared to the benefits provided by an asbestos trust." Adv.

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[37] See Bestwall, 606 B.R. at 257 (finding it is "not necessarily the case" that the requested injunction would "delay [claimants'] attempts to obtain compensation," and adding that "the process and timing to effectuate a section 524(g) trust are, to a large extent, within the control of the parties").

[38] Bestwall, 606 B.R. at 257 (citing In re Federal-Mogul Global, Inc., 684 F.3d 355, 357-62 (3d Cir. 2012) (noting asbestos trusts' "effectiveness in remedying some of the intractable pathologies of asbestos litigation" and citing empirical research that suggests section 524(g) trusts offer more efficient resolution of asbestos claims); *see also* Mullin Report ¶ 11 ("A bankruptcy reorganization by the Debtors resulting in a trust to administer the Debtors' asbestos claims is an economically more efficient, more equitable way to compensate claimants than asbestos litigation in the tort system."); see also id. ¶¶ 22-27, 39-51.

[39] See Mullin Report ¶¶ 22, 43; https://www mesotheliomahope.com/blog/top-five-asbestos-claims-questions ("It usually takes less than a year to get money from an asbestos claim. You may even start to see money within 90 days or less in some cases.").

[40] See also Federal-Mogul, 684 F.3d at 362 ("Empirical research suggests the trusts considerably reduce transaction costs and attorneys' fees over comparable rates in the tort system.") (citing studies).

Pro. Dkt. 129 at 3, see also id. at 3-4, 8-9.[41]

Finally, a section 524(g) trust also resolves claims far more equitably, using a common set of objective factors designed to ensure that claimants with similar fact patterns receive similar compensation, than the "lottery-like" outcomes experienced in the tort system." See Mullin Report ¶¶ 44-51. And, of course, lifting the injunction will not only impair the ability to treat similarly situated asbestos claims similarly under a section 524(g) resolution of these chapter 11 cases, it will foster unequal treatment of such claims now for the reasons described in Section III.A., *supra*.[42]

### B. The 2020 Corporate Restructuring Did Not "Treat Asbestos Claimants Inequitably."

The ACC further contends that the "fraudulent nature" of the 2020 Corporate Restructuring "also tips the equitable balance against imposition of the sought-after inunction," asserting that "the fraudulent conveyances at issue have severely undermined the recourse available to asbestos claimants." Obj. at 60. The argument falls at its first step. No fraudulent conveyance action has been or could be commenced, much less supported with credible evidence. See Section II.B, *supra* at 13. The 2020 Corporate Restructuring did not "undermine"

[41] The ACC's citation to a Trane email suggesting that "[p]laintiffs [sic] lawyers" are "the most at-risk group" from an effort to resolve the Aldrich/Murray Asbestos Claims under section 524(g), (Obj. at 9), is not to the contrary. The reference is to asbestos *lawyers*, not asbestos *claimants* (though, as noted, there are significant benefits to claimants from a section 524(g) resolution). The possibility that the ACC is influenced by powerful and influential plaintiff law firms whose financial interests could be impacted by a section 524(g) resolution of asbestos claims in this and other pending asbestos bankruptcies raises questions about whether the ACC's objection to the PI Motion (and attempt to effectively dismiss these cases) is consistent with its charge to represent the current class of asbestos claimants as a whole. See Adv. Pro. Dkt. 129 at 9-10, 12 (FCR submission). In any event, the Debtors fully expect that plaintiffs' counsel would be adequately compensated in connection with a 524(g) resolution of the Aldrich/Murray Asbestos Claims, as has been the case with other section 524(g) trusts.

[42] The ACC also asserts that if an asbestos claimant dies while the injunction is in force, he or she may lose the right to certain alleged damages in certain jurisdictions on the stayed claims. Obj. at 58-59. Such circumstances generally are addressed by TDPs. See, e.g., In re Specialty Prods. Holding Corp., No. 10-11780 [Dkt. 5117-3] TDPs § 7.6 (Bankr. D. Del. Oct. 23, 2014) ("If the claimant was alive at the time the initial pre-petition complaint was filed . . . the case shall be treated as a personal injury case with all personal injury damages to be considered even if the claimant has died during the pendency of the claim.") (Erens Decl., Ex. 21); In re Leslie Controls, Inc., No. 10-12199 [Dkt. 505-3] TDPs § 7.6 (Bankr. D. Del. Jan. 18, 2011) (same) (Erens Decl., Ex. 26).

claimants or allow anyone to walk away with valuable assets. Obj. at 60-61. Rather, asbestos claimants will be able to recover the full amount of their allowed claims from the Debtors, whether through a confirmed 524(g) trust, or otherwise. Claimants have not been harmed.

The ACC suggests the Funding Agreements are an inadequate recourse for asbestos claimants' recoveries, but it provides no evidence of this. In fact, ACC counsel took the opposite position in DBMP, arguing: "Given the considerable resources behind the Funding Agreement, there is no reason to believe that the resources of New CT would be inadequate to the task of funding all asbestos claims as they arise."[43]; see also Bestwall, 606 B.R. at 252 ("[B]ecause of the Funding Agreement, the Debtor's ability to pay valid Bestwall Asbestos Claims after the 2017 Corporate Restructuring is identical to Old GP's ability to pay before the restructuring.").

The ACC says but fails to explain how the Funding Agreements are in any way "contingent." Obj. at 60. Nor does the ACC identify any reason why New Trane Technologies and New Trane's obligations under the Funding Agreement should be "guaranteed" or "secured" by some other entity. Obj. at 20, 60. Asbestos claimants did not have such guarantees or security before the 2020 Corporate Restructuring. And there is no basis to suggest that the 2020 Corporate Restructuring "structurally subordinated" asbestos claimants. Obj. at 60. Tellingly, Mr. Diaz did not repeat in his report for this case the opinion he (groundlessly) rendered in DBMP that the corporate restructuring there "structurally subordinated" claimants. See generally Diaz Report (Erens Decl., Ex. 27).

Nor does the ACC explain how any of the other alleged "flaws" in the Funding Agreements, (Obj. at 20-21), could conceivably prejudice asbestos claimants. As stated in Mr.

[43] *Mot. of the Official Comm. of Asbestos Personal Injury Claimants to Lift the Stay Pursuant to 11 U.S.C. § 362 as to Certain Asbestos Personal Injury Claims* [Dkt. 614; Adv. Pro. Dkt. 195] ¶ 62 (Bankr. W.D.N.C. Jan. 13, 2021).

Diaz's report, [redacted]. Id. ¶ 52. [redacted] See id. ¶ 47. In context, there is simply no credible basis to suggest that prohibitions on paying dividends (to countless shareholders and investors),[44] entering into new debt agreements, or compensating executives, (Obj. at 3, 20; Suppl. Obj. at 17-18), is necessary to protect asbestos claimants' sources of recovery.[45] Finally, as in Bestwall, any real issues with the Funding Agreements "can be addressed in the confirmation process." 606 B.R. at 255.[46]

Far from "treat[ing] asbestos claimants inequitably," the 2020 Corporate Restructuring was particularly sensitive to and protective of the interests of asbestos claimants.

**C. A Preliminary Injunction Would Not "Encourage Delay" in this Case.**

After accusing the Debtors of trying to use the preliminary injunction, in conjunction with the 2020 Corporate Restructuring, to pressure asbestos claimants to accept a settlement, the ACC suggests that the Court should deny injunctive relief to *pressure* the *Debtor* into a swifter resolution of this Chapter 11 Case. Obj. at 62-64. This argument only *highlights* the need for

[44] The ACC's Supplemental Objection details distributions made by Old IRNJ and Old Trane prior to the 2020 Corporate Restructuring. Suppl. Obj. at 7, 17-18. It makes no argument, nor could it, that these distributions in any way prejudiced asbestos claimants, constituted fraudulent conveyances, or were otherwise illegal. They were not. As Mr. Daudelin testified, Trane assesses any impact on creditors before dividends are approved and paid. Daudelin Dep. 92:6-22, 93:19-94:8.

[45] The ACC's statement that the Funding Agreements "explicitly allow TTC and Trane to engage in consolidations and mergers, and to transfer 'all or substantially all' of their assets," (Obj. at 21), is misleading. The Funding Agreements explicitly provide that in the event of such transaction the surviving entity must assume the obligations under the Funding Agreements. See Aldrich Funding Agreement § 4(b).

[46] The Debtors are not aware of any complications arising out of similar Keepwell agreement used in the Coltec/Garlock matter. See Diaz Dep. 258:17-259:8 (not aware of any complications).

injunctive relief to prevent irreparable harm. See Robins, 788 F.2d at 1003 (injunction appropriate when third-party litigation "would adversely or detrimentally influence and pressure the debtor through the third party").

The ACC also ignores that if asbestos claimants could return to the tort system to pursue Aldrich/Murray Asbestos Claims against the Protected Parties, the *asbestos claimants* would lose their incentive to negotiate with the Debtors on a consensual plan. The Debtors have no desire to languish in this bankruptcy case.[47] The ACC's suggestion to the contrary, (Obj. at 62-63), ignores sworn testimony from multiple witnesses.[48] As made perfectly clear in the FCR's submission, it is not the Debtors that need to be "incentivized" to move these cases forward. See Adv. Pro. Dkt. 129 at 8 n. 21 ("Despite multiple invitations from the FCR and the Debtors, the ACC has been unwilling to engage in any plan-related discussions."). The Debtors' invitation to the ACC to commence negotiations of a plan remains open, but unaccepted.[49]

The ACC's charge that asbestos claimants "must either agree to a steep 'bankruptcy discount" or "remain locked inside chapter 11 for the foreseeable future," (Obj. at 63), is baseless. Given its refusal to negotiate, the ACC has no basis to make such an assertion, which is refuted by the Debtors' sworn testimony.[50] Likewise, the ACC's reference to the Bestwall case as a "cautionary example" case is inapt. Even the ACC's expert could not say Bestwall lacked

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[47] *See* Pittard First Day Decl. ¶23 ("The Debtors are prepared immediately to commit the necessary effort and resources to satisfy the various requirements of section 524(g), including the negotiation of an agreement with the claimants' representatives on an acceptable and confirmable plan of reorganization as soon as possible. Throughout this process, the Debtors are also committed to working cooperatively with their insurers toward the goal of a consensual plan.").

[48] See, e.g., note 14, *supra* (testimony of Messrs. Tananbaum and Pittard).

[49] The ACC's complaint that the Debtors are "basically talking to everyone except the [Committee] regarding a § 524(g) plan," (Suppl. Obj. at 10 (quoting Tananbaum 30(b)(6) Dep.)), is a situation of their own making.

[50] See Tananbaum Dep. 253:7-254:3, 262:13-263:2, 296:12-297:9; Pittard Dep. 325:3-326:20; Valdes Dep. 172: 3-11; Brown Dep. 307:21-308:8, 308:18-309:9; Regnery Dep. 261:17-262:7; Roeder Dep. 157:13-158:17, 247:22-248:24; Zafari Dep. 155:6-20; Sands Dep. 213:4-18.

the appropriate incentive to resolve its case. See Diaz Dep. 112:21-115:9. Instead, in that case, it is the claimant representatives that have singularly focused on frustrating efforts to address the central issue in dispute: the amount of trust funding necessary to fairly resolve asbestos claims.

Separately, the ACC's suggestion that "two new and problematic features" in the Funding Agreements impair its ability to reach a consensual plan is false. Obj. at 19-20, 63. The ACC implies that it is somehow improper for the Funding Agreements to provide that New Trane Technologies and New Trane be granted the protections of a section 524(g) injunction. Obj. at 19. However, there are many section 524(g) cases where trust funding was provided by non-debtors who were covered by the channeling injunction. See Section V, *infra*. Any suggestion that New Trane Technologies and New Trane should provide significant contributions to an asbestos trust, yet nonetheless remain subject to unending suits in the tort system, is nonsensical. The ACC further argues that the Funding Agreements' termination after New Trane Technologies and New Trane eliminates any alternative to a lump-sum payment. Obj. at 19-20. While the Debtors would assume that the claimants prefer an upfront, lump-sum payment to the trust, there is nothing that prevents the parties from negotiating a different arrangement.

## V. THE PUBLIC INTEREST SUPPORTS THE PRELIMINARY INJUNCTION

All of ACC's arguments on the public-interest prong involve attacking the 2020 Corporate Restructuring that preceded these chapter 11 cases. Obj. at 64-68. Those attacks are misguided. There has been no effort to "perpetuate fraud or to shield assets from creditors." Obj. at 66. Beyond that, courts have consistently affirmed the public's interest in a successful reorganization, which may be at its greatest in mass-tort bankruptcies.[51] The Debtors' successful

[51] See, e.g., Robins, 788 F.2d at 1008 (noting "the unquestioned public interest in promoting a viable reorganization:); In re Gander Partners LLC, 432 B.R 781, 789 (Bankr. N.D. Ill. 2010) ("[P]romoting a successful reorganization is one of the most important public interests.") (quoting In re Integrated Health Servs., Inc., 281 B.R. 231, 239 (Bankr. D. Del. 2002)).

reorganization also would promote Congress's particular goal in section 524(g) by establishing an asbestos trust that would efficiently and equitably resolve hundreds of thousands of asbestos claims.[52] As detailed above, the preliminary injunction is a critical ingredient to the Debtors' successful reorganization.

The ACC asserts that the public interest requires denial of the preliminary injunction because, as a result of the divisional merger in the 2020 Corporate Restructuring, the Non-Debtor Affiliates, New Trane Technologies and New Trane in particular, are afforded the "benefits of bankruptcy" without "ever being subject to its burdens." Obj. at 62. The argument is flawed for several reasons.

*First*, the preliminary injunction will not "allow any party to escape any asbestos related liabilities," and a permanent channeling injunction will only be granted in connection with a confirmed plan of reorganization that meets the requirements of section 524(g).[53] There will be no "offloading [of] mass-tort liability," no lack of "responsibility to [tort] victims," and no avoidance of bankruptcy courts or the requirements of 524(g). Obj. at 67.

*Second*, the ACC's assertion that New Trane Technologies and New Trane did not "subject the[ir] assets … to the jurisdiction of this Court," (Obj. at 3), ignores the Funding Agreements. Neither the Debtors nor any Non-Debtor Affiliate dispute that this Court has the power, if necessary, to enforce the Funding Agreements against New Trane Technologies or New Trane. The ACC's "benefits of bankruptcy without its burdens" attack is instead designed to require that any effort to resolve asbestos liability under section 524(g) be accompanied by

[52] See W.R. Grace, 386 B.R. at 36 ("completing the reorganization process … [will] resolv[e] thousands of claims in a uniform and equitable manner"); In re Congoleum Corp., 362 B.R. 198, 201 (Bankr. D.N.J. 2007) ("Section 524 was created to provide a comprehensive resolution to asbestos liabilities both present and future.").

[53] In re Bestwall LLC, No. 17-03105 [Adv. Pro. Dkt. 190] slip op. at 5 (Bankr. W.D.N.C. Jan. 31, 2020).

reputational damage and adverse business disruptions, not legitimate concerns about available sources of recovery for asbestos claimants.

*Third*, the 2020 Corporate Restructuring that preceded the chapter 11 filings was a commercially sensible approach and sensitive to the interests of company's various stakeholders, including trade creditors, asbestos claimants, business partners, customers, suppliers, employees, and shareholders. As more fully discussed in the Non-Debtor Affiliates' reply in support of the preliminary injunction, the Non-Debtors' initial response in support of the PI Motion [Adv. Pro. Dkt. 84], and the expert report of Laureen M. Ryan ("Ryan Report") (Erens Decl., Ex. 28), a chapter 11 filing by New Trane Technologies and New Trane would have drawn the entire Trane enterprise into bankruptcy, would have been dramatically more complex and costly, and had detrimental impacts that were significant and far-ranging. This includes revenue losses due to reputational damage and governmental licensing and bidding requirements; a default of over $5 billion in long-term debt defaults and other cash-flow problems; significant payment delays to thousands of Trane creditors; employee complications; harm to Trane's business partners; and a likely stock delisting. See Majocha Dep. 199:16-206:7; Ryan Report; Adv. Pro. Dkt. 84. The ACC does not dispute any of this. *Instead, the ACC and its expert seek to leverage those impacts for negotiating purposes*. See Obj. at 62; Diaz Report ¶ 36; Diaz Dep. 76:20-78:7, 197:2-12, 203:12-20, 205:16-207:20.[54]

[54] While Mr. Diaz suggests that Trane could have considered a "prepackaged or prearranged" bankruptcy for Old IRNJ and Old Trane, (see Diaz Report ¶ 54(a)), he admits he has no prior experience in, and little knowledge of, such matters. See Diaz Dep. 210:5-214:17. He was able to name just one prepackaged asbestos bankruptcy, Coltec (which he became aware of through a rebuttal to his expert opinion in the DBMP matter). See id. 211:18-212:11. Nor did Mr. Diaz evaluate what a prepackaged bankruptcy would look like here and whether efforts would have been successful. See id. 215:11-224:3. Ironically, even the mass-tort prearranged bankruptcies Mr. Diaz mentioned to support his opinion, Purdue Pharma and Mallinckrodt, actually had preliminary injunctions enjoining claims against non-debtors. See id. 229:12-231:23; In re Purdue Pharm. L.P., 619 B.R. 38 (S.D.N.Y. 2020); In re Mallinckrodt PLC, No. 20-12522 [Adv. Pro. Dkt. 202] (Bankr. D. Del. Jan. 27, 2021) (Erens Decl., Ex. 29).

But none of these impacts are necessary to enable the parties to reach a sensible section 524(g) resolution of the Aldrich/Murray Asbestos Claims. The approach urged by ACC is decidedly *not* the one that would best serve all interested parties. And, in fact, the claimants themselves would not have been any better off if all of Old IRNJ and Old Trane had filed for bankruptcy. In that scenario, asbestos claims would still be stayed (by 11 U.S.C. § 362(a)), no additional assets would be available to fund a § 524(g) trust, and the underlying merit and related value of asbestos claims would be the same.

*Fourth*, the divisional mergers that occurred here do not seek unprecedented relief for non-debtors. Obj. at 64. Rather, numerous prior asbestos cases involved solvent companies resolving their asbestos liabilities under section 524(g) without subjecting the entirety of their businesses to a chapter 11 proceeding. These entities received the benefits of a section 524(g) channeling injunction (and pre-confirmation, a section 105 preliminary injunction) in return for making substantial contributions or commitments to a debtor-affiliate's section 524(g) trust—just as is contemplated here.[55]

This Court is well aware of the restructuring in Coltec, where Coltec transferred most of its assets to "NewCo" while its asbestos liabilities, a consulting business, certain insurance rights, and rights under a "Keepwell" agreement were allocated to "OldCo," which then filed for chapter 11 protection. The explicit purpose of the restructuring was to afford opportunity for a section

[55] The ACC observes that "many asbestos defendants with operating businesses—such as Celotex, Pittsburgh Corning, Federal-Mogul, USG Corporation, W.R. Grace & Co., and Garlock—filed chapter 11 and successfully reorganized with § 524(g) relief" and states "[t]here is no reason why TTC, Trane, and their nondebtor affiliates could not do the same." Obj. at 3. But, as detailed below, at least half these asbestos defendants also engaged in prepetition restructuring transactions to insulate operating businesses from a chapter 11 filing. Moreover, all but Garlock were among or akin to the "big dusties" who produced insulation, building materials, and plaster products, see In re Garlock Sealing Techs. LLC, 504 B.R. 71, 83-84 (Bankr. W.D.N.C. Jan. 10, 2014), and there were competing demands between asbestos claimants and others creditors for the debtors' assets. See, e.g., Mt. McKinley Ins. Co. v. Pittsburgh Corning Corp., 518 B.R. 307, 312, 315 (W.D. Pa. 2014); In re W.R. Grace & Co., 475 B.R. 34, 79 (D. Del. 2012); In re USG Corp., 290 B.R. 223, 224, 226 (Bankr. D. Del. 2003); In re Celotex Corp., 204 B.R. 586, 600 (Bankr. M.D. Fla. 1996).

524(g) plan while "avoid[ing] disruption and damage to" to the broader business. Garlock Discl. Statement, at 12-34 (Erens Decl., Ex. 30).

Similarly, in In re North American Refractories Co., No. 02-20198 (Bankr. W.D. Pa.) ("NARCO"), Honeywell resolved its liability on up to 116,000 pending and future asbestos claims without itself filing bankruptcy.[56] Honeywell and NARCO entered into an agreement where NARCO would file for chapter 11 protection—and seek an injunction under sections 362 and 105 to stay asbestos litigation against Honeywell arising out of the NARCO business—while Honeywell agreed to participate in the negotiation and funding of a plan of reorganization that provided Honeywell and its insurers with a section 524(g) channeling injunction.[57] NARCO confirmed a section 524(g) trust supported by claimant representatives and funded by Honeywell. See 2007 WL 7645287 at *2-3, 23.

Further examples of solvent, non-debtor entities receiving the benefits of a section 524(g) channeling injunction by making substantial contributions to a debtor-affiliate's trust include, among others, In re Quigley Co., Inc., No. 04-15739 (Bankr. S.D.NY.);[58] In re Babcock & Wilcox, No. 00-10992 (Bankr. E.D. La.);[59] In re Leslie Controls, No. 10-12199 (Bankr. D.

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[56] Honeywell's liability stemmed from its prior ownership of an entity called North American Refractories Company ("NARCO"). As explained in Judge Fitzgerald's opinion approving the NARCO plan, when Honeywell (then known as Allied Chemical) sold NARCO in 1986, the Purchase Agreement governing the sale provided that Honeywell would retain direct liability for a category of products defined as the "Discontinued Products." In re N. Am. Refractories Co., No. 02-20198, 2007 WL 7645287, at *2 (Bankr. W.D. Pa. Nov. 13, 2007).

[57] See *Combined Disclosure Statement to Accompany the Third Amended Plans of Reorganization Dated December 28, 2005 of North American Refractories Company and its Subsidiaries and Global Industrial Technologies, Inc. and Its Subsidiaries* [Dkt. 3888] at 24 (Bankr. W.D. Pa. Dec. 28, 2005) (Erens Decl., Ex. 31).

[58] See *Quigley Company, Inc. Fifth Amended and Restated Plan of Reorganization Under Chapter 11 of the Bankruptcy Code* [Dkt. 2670-1] at 14-15 (Bankr. S.D.N.Y. July 2, 2013) (non-debtor Pfizer's contribution to the trust included, among other things, a Cash Contribution of approximately $260 million, forgiveness of intercompany and DIP debt owed by Quigley to Pfizer, and relinquishment of its rights under certain insurance policies) (Erens Decl., Ex. 32).

[59] See *Summary Disclosure Statement as of September 28, 2005 Under Section 1125 of the Bankruptcy Code With Respect to the Joint Plan of Reorganization as of September 28, 2005 Proposed by the Debtors, the Asbestos Claimants' Committee, the Future Asbestos-Related Claimants' Representative, and McDermott Incorporated*, 2005 WL 8168731, at *6 (Bankr. E.D. La. Sept. 29, 2005) (non-debtor MI and McDermott

Del.);[60] and In re T H Agriculture & Nutrition, No. 08-14692 (Bankr. S.D.N.Y.).[61] The cases cited by ACC for the proposition that only entities that have "undertaken the rigors of bankruptcy should enjoy the benefits of bankruptcy," (Obj. at 50, 66), neither resemble this (or any other asbestos bankruptcy) nor involve a non-debtor entering into a Funding Agreement enforceable by a bankruptcy court.[62]

In fact, the divisional merger approach taken here was preferable to other strategic restructuring options that mass tort defendants have implemented in the past. The ACC ignores a long list of asbestos bankruptcies that followed corporate restructurings that separated asbestos liabilities from other parts of the company's operating businesses and effectively capped the assets available to pay asbestos claims.[63] But attempts to value asbestos liability and retain assets sufficient to fund those liabilities *almost inevitably* has led to lengthy, counter-productive, and often unsuccessful litigation if and when a bankruptcy proceeding ensues.[64] The approach

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International Inc.'s ("MMI") contribution included transfers of MMI common stock valued at $123.1 million, $92 million of promissory notes, and certain tax benefits) (Erens Decl., Ex. 33).

[60] See *Findings of Fact, Conclusions of Law, and Order Confirming the First Amended Plan of Reorganization of Leslie Controls, Inc. Under Chapter 11 of the Bankruptcy Code* [Dkt. 382] at 25, 46 (Bankr. D. Del. Oct. 28, 2010) (Erens Decl., Ex. 34).

[61] See *First Amended Prepacked Plan of Reorganization of T H Agriculture & Nutrition, L.L.C. Under Chapter 11 of the Bankruptcy Code* [Dkt. 465-1] at 13-14 (Bankr. S.D.N.Y. May 29, 2009) (non-debtor parent PENAC contribution included cash sufficient for the total trust contributions from all parties to equal $900 million, assumption of environmental and retirement liabilities, forgiveness of intercompany debt, and relinquishment of its rights under certain insurance policies) (Erens Decl., Ex. 35).

[62] See In re Rankin, 546 B.R. 861 (Bankr. D. Mont. 2016) (chapter 13 trustee moved to compel individual debtor to account for undisclosed inheritance); In re Venture Props., Inc., 37 B.R. 175 (Bankr. D.N.H. 1984) (rejecting debtor-general partner's attempt to enjoin defendant's sale of real property for which non-debtor had purchase rights); In re Clifford Res., Inc., 24 B.R. 778 (Bankr. S.D.N.Y. 1982) (declining to require litigation of claim against non-debtor general partnership in bankruptcy court after plaintiff dismissed debtor-general partner from action).

[63] See note 15, *supra*.

[64] See, e.g., Lippe v. Bairnco Corp., 225 B.R. 846, 850 (S.D.N.Y. 1998), *aff'd*, 99 F. App'x 274 (2d Cir. 2004)) (dismissing, after years of litigation, claims alleging prepetition spinoffs constituted fraudulent conveyances); In re Babcock & Wilcox Co., 274 B.R. 230 (Bankr. E.D. La. 2002) (dismissing, after lengthy discovery and six-day trial, claims alleging prepetition spinoffs to non-debtor parent constituted fraudulent conveyances); *First Am. Discl. Stmt. for Second Am. Joint Plan of G-I Holdings, Inc. and ACI Inc. Pursuant to Ch. 11 of the U.S. Bankr. Code* at 18, 37-38 (Erens Decl., Ex. 3) (discussing fraudulent conveyance claims relating to prepetition "Pushdown"

taken here—retaining the full paying power of assets owned by the former Old IRNJ and Old Trane through the Funding Agreements—avoids the collateral disputes seen in multiple prior asbestos bankruptcies, ensures the solvency of the debtor to pay claims, and allows the parties to focus on the amount of trust funding necessary to fairly compensate current and future asbestos claimants.

Viewed in this light, the divisional merger in these cases is not, as the ACC asserts, a groundbreaking and troubling new strategy to address asbestos liabilities which should prevent the issuance of a preliminary injunction uniformly granted in asbestos bankruptcy cases (including cases with prepetition restructurings that produced allegations of fraudulent transfer, successor liability, and alter ego assertions akin to the ACC's contentions here).[65] Instead, it is a fair and reasonable way of finally and efficiently addressing a company's asbestos liabilities, a fact other courts have noted in previously granting preliminary injunctions on similar facts. See id.; Bestwall, 606 B.R. at 254 (citing cases). If preliminary injunctions were justified in those prior cases, they clearly are justified here.

Finally, the ACC speculates that the Bestwall, DBMP, Paddock, and Aldrich/Murray cases are "only the start of what will likely become a trend for mass-tort defendants, companies with extensive environmental liabilities, and perhaps others, if this Court grants the Motion." Obj. at 67 (citing Diaz Report). This is just speculation, and it is not well founded. See Diaz Dep. 186:20-187:22 (not aware of any trend in other mass tort situations). It shows little faith in the U.S. legal system, including its available safeguards (e.g., state and federal fraudulent-transfer law, the ability to dismiss a bankruptcy case if filed in bad faith and objectively futile,

transaction); In re W.R. Grace & Co., 475 B.R. 34, 68 (D. Del. 2012) (discussing fraudulent conveyance claims relating to prepetition transfers of W.R. Grace's National Medical Care and Cyrovac packaging businesses).

[65] See note 15, *supra.*

and the plan-confirmation requirements under the Bankruptcy Code). None of those protections is affected by the preliminary injunction. Moreover, as described in the Debtors' Information Brief, asbestos is a unique tort involving, among other things, hundreds of potential defendants, tens of thousands of individual claimants each bringing a separate lawsuit (thereby involving huge costs to defend thousands of claims), long latency periods, and the inability often to know which, if any, of the multitude of defendants caused an individual plaintiff's harm.

These challenges highlight the final, and one of the most salient reasons, why the public interest supports the granting of a preliminary injunction in these cases. It will enable a rational resolution of asbestos claims involving the Debtors, compared to the past four decades of litigation in the tort system and three more decades predicted to come. Defending a single mesothelioma suit can cost $1 million or more, meaning it would cost the Debtors *billions of dollars per year* in defense costs to truly defend the mass of claims against them. Tananbaum Decl., ¶¶ 20, 22; Informational Brief at 5. Due to the volume of claims, the tort system is forced to prioritize claims in a way that results in legitimate claimants suffering delay in the prosecution of their cases and, therefore, the receipt of any recovery. As the Supreme Court has recognized, "dockets in both federal and state courts continue to grow; long delays are routine; trials are too long; the same issues are litigated over and over; transaction costs exceed the victims' recovery by nearly two to one; exhaustion of assets threatens and distorts the process; and future claimants may lose altogether." Amchem Prod., Inc. v. Windsor, 521 U.S. 591, 598 (1997) (quoting *Report of The Judicial Conference Ad Hoc Committee on Asbestos Litigation* 2-3 (Mar. 1991)).

As noted above, a vast majority of the tens of thousands of claims pending against the Debtors have been pending for ten years or more. The Debtors' goal in these chapter 11 cases is to provide current and future claimants with a simpler, more streamlined process to get funds to

legitimate claimants in a timely manner. There should be a strong public interest in seeing that result come to fruition for the benefit of all parties in interest for the reasons argued persuasively by the FCR in these cases. That result, however, cannot be reached without maintaining the preliminary injunction.

## VI. THE 2020 CORPORATE RESTRUCTURING IS NOT PREEMPTED BY SECTION 524(G).

Implicitly conceding that Texas law allocated exclusive liability for Old IRNJ and Old Trane's asbestos liability to the Debtors in the 2020 Corporate Restructuring, the ACC argues that using the Texas divisional merger provisions to "eliminate [New Trane Technologies and New Trane's] direct liability, as successors to Ingersoll-Rand and 'old' Trane," is preempted by section 524(g). Obj. at 71 n. 316. But there is no basis for preemption given that the Texas statutes and section 524(g) (and the rest of the Bankruptcy Code) work together seamlessly in addressing different purposes. Because there is no basis to find preemption, Bestwall rejected similar arguments, and the asbestos committee in that case abandoned them in its pending appeal.[66]

Here, the ACC argues only for implied preemption, which can occur either through conflict or field preemption. Obj. at 68-73. But there is a "strong presumption against inferring Congressional preemption" of state law.[67] And "[t]his presumption is strongest when Congress legislates 'in a field which the States have traditionally occupied'"—such as the field of corporate organization relevant to the Texas provisions. S. Blasting Servs., Inc. v. Wilkes Cty., N.C., 288 F.3d 584, 590 (4th Cir. 2002) (internal citation omitted).

[66] See Bestwall, 606 B.R. at 251; *Br. of Appellant Official Comm. of Asbestos Claimants of Bestwall LLC*, No. 20-00103 [Dkt. 6] (W.D.N.C. Apr. 15, 2020).

[67] Integrated Sols., Inc. v. Serv. Support Specialties, Inc., 124 F.3d 487, 493 (3d Cir. 1997).

*First*, conflict preemption occurs "when compliance with both federal and state regulations is a physical impossibility, or when state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." Id. There is no conflict here because, as the Bestwall court confirmed, the Texas divisional merger provisions and section 524(g) "concern completely different subjects and work readily in tandem." 606 B.R. at 251. There is certainly no conflict apparent in the "[s]tatutory text and structure" of the provisions, which are "the most reliable guideposts in th[e] [preemption] inquiry."[68]

Thus, the ACC argues that the Texas divisional merger provisions, "as applied" to the 2020 Corporate Restructuring, create an obstacle to the purpose of section 524(g) because the Texas provisions (1) allow asbestos liabilities to vest in one entity created through a divisional merger, and not the other, (2) without the "procedural and due process protections" of section 524(g), and (3) without requiring the dividing company to file for bankruptcy. Obj. at 70-71. This argument confuses both the nature of the divisional merger *and* the purposes of section 524(g).

The procedural measures listed by the ACC, (Obj. at 70), are required under section 524(g) for the *discharge* of demands asserted after the close of the chapter 11 case and the channeling of all claims to a trust. All of the procedural and substantive protections afforded under section 524(g) remain in place. The 2020 Corporate Restructuring did not finally resolve any of Old IRNJ or Old Trane's asbestos liabilities; it only restructured which entity is subject to those liabilities within the greater corporate enterprise (and, even then, did so in a way that did not harm asbestos claimants). See Section IV.A, *supra.* If a divisional merger is carried out in a

[68] PPL EnergyPlus, LLC v. Nazarian, 753 F.3d 467, 474 (4th Cir. 2014), *aff'd sub nom.*, Hughes v. Talen Energy Mktg., LLC, 136 S.Ct. 1288 (2016).

way that harms creditors, fraudulent-transfer laws would apply.[69] Nor did Old IRNJ or Old Trane "escape," discharge, or somehow eliminate their asbestos liabilities through the divisional mergers. They are both obligated under the Funding Agreements to fund a section 524(g) trust to the extent the Debtors' assets are insufficient.

*Second*, there also is no basis to find field preemption of "the field of asbestos-related corporate reorganizations." Obj. at 72. "Field preemption" occurs when "federal law so thoroughly occupies a legislative field as to make reasonable the inference that Congress left no room for the States to supplement it." Cipollone v. Liggett Grp., Inc., 505 U.S. 504, 516 (1992). Field preemption is rare and requires a showing that Congress has "regulat[ed] so pervasively that there is no room left for the states to supplement federal law," or that "there is a 'federal interest so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject.'"[70]

The ACC seeks to support its argument for field preemption with a lone case, MSR Exploration, Ltd. v. Meridian Oil, Inc., that actually *confirms* the absence of field preemption here. In that case, the court found that Congress had regulated the field of bankruptcy procedures. 74 F.3d 910, 913-14 (9th Cir. 1996). As a result, title 11 as a whole preempted the debtor's attempt to litigate outside of bankruptcy proceedings (via a malicious-prosecution action) its objections to conduct occurring within them. Id. Here, by contrast, the Debtors are not collaterally attacking or seeking to address asbestos claims outside of the chapter 11 process. Instead, the Debtors are seeking to utilize, in bankruptcy, section 524(g) of the Bankruptcy Code,

[69] As pointed out in Bestwall, Texas has adopted the Uniform Fraudulent Transfer Act, and fraudulent transfer law is also a part of the Bankruptcy Code. See Bestwall, 606 B.R. at 252.

[70] Bestwall, 606 B.R. at 252 (citing United States v. South Carolina, 720 F.3d 518, 528-29 (4th Cir. 2013); *accord* Hillsborough Cty., Fla. v. Automated Med. Labs., Inc., 471 U.S. 707, 713 (1985).

with all the procedural and due-process protections afforded to claimants.

Section 524(g) itself confirms the absence of preemption of some field of restructuring of entities with asbestos liabilities, because it expressly contemplates such prepetition corporate restructurings without establishing any requirements for them.[71] It reflects the Supreme Court's long-standing recognition that corporate governance is traditionally left to the States: "No principle of corporation law and practice is more firmly established than a state's authority to regulate domestic corporations."[72] It is implausible that a single sub-section of the Bankruptcy Code would occupy the field of state-law corporate restructuring of asbestos liability when it *does not even address* corporate restructurings, other than to allow for them.

Even if the Court were to (incorrectly) interpret the "demands on the debtor" language in section 524(g)(4)(A)(ii) to require that the enjoined claims against the non-debtor third party be "derivative" of claims against the debtor, the Aldrich/Murray Asbestos Claims against the Protected Parties would still satisfy the eligibility requirement. See, e.g., In re Combustion Eng'g. Inc., 391 F.3d 190, 235 (3d Cir. 2004). The liabilities in W.R. Grace and other cases where affiliate liabilities were "wholly separate" from the debtor's liabilities, and thus not eligible to be channeled, all stemmed from the independent *actions* (or failures to act) of the non-debtor parties.[73] Not so for Aldrich/Murray Asbestos Claims against the Protected Parties. Those

[71] See 11 U.S.C. § 524(g)(4)(A)(ii)(IV) (discussing transactions "changing the corporate structure" of asbestos debtors).

[72] CTS Corp. v. Dynamics Corp. of Am., 481 U.S. 69, 89 (1987); see also Cort v. Ash, 422 U.S. 66, 84 (1975) (explaining that because "[c]orporations are creatures of state law," in general "state law will govern the internal affairs of the corporation").

[73] See Continental Cas. Co. v. Carr (In re W.R. Grace & Co.), 900 F.3d 126, 139 (3d Cir. 2018) (remanding to consider whether claims based on insurer's failure to inspect debtor's operations and report hazardous conditions were non-derivative); Continental Cas. Co. v. Carr (In re W.R. Grace & Co.), 607 B.R. 419, 448-49 (Bankr. D. Del. 2019) (on remand, holding the claims against the insurers were nonderivative); see also In re Quigley Co., Inc., 676 F.3d at 49, 59-62 (subset of claims against non-debtor Pfizer alleging liability for "Pfizer's own conduct in permitting its label to be affixed to Quigley's products" were not barred by section 524(g) channeling injunction).

claims—by definition—are derived entirely from the alleged actions of *Old IRNJ* and *Old Trane* in their manufacture and sale of asbestos-containing products, liability for which the Debtors are the exclusive successor. They are the opposite of claims in which, as in W.R. Grace, "the third-party's liability is based on exposure *to a non-debtor's asbestos*," because, by operation of state corporate law (and unlike the facts of W.R. Grace), Old IRNJ's and Old Trane's asbestos liabilities are now the Debtors' asbestos liabilities. See W.R. Grace, 900 F.3d at 133, 136-137 (emphasis added). Where claims involving exposure to a non-debtor's product are claims against the debtor, as its successor, the liability may be channeled and resolved under section 524(g).[74]

## CONCLUSION

The ACC's Objection should be overruled, and the PI Motion should be granted.

[74] See, e.g., In re Garlock Sealing Techs. LLC, No. 17-00275, 2017 WL 2539412, at *31 (W.D.N.C. June 12, 2017); In re Mid Valley, Inc., No. 03-35592 [Dkt. 1716] at 13-19 (Bankr. W.D. Pa. July 21, 2004) (channeling suits against debtor's parent, where debtors were formed during pre-petition restructuring and only had successor liabilities) (Erens Decl., Ex. 36); In re G-I Holdings, No. 01-30135, Adv. No. 01-03013 [Adv. Pro. Dkt. 65] at 2-3 (Bankr. D.N.J. Feb. 22, 2002) (enjoining asbestos-related actions against debtor and non-debtor where debtor's own asbestos liabilities were based on legacy liabilities from merger) (Erens Decl., Ex. 37).

Dated: April 23, 2021
Charlotte, North Carolina

Respectfully submitted,

*/s/ John R. Miller, Jr.*

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ATTORNEYS FOR DEBTORS
AND DEBTORS IN POSSESSION

# Exhibit 1

Redacted and Excerpted Transcripts of the Depositions of:

- Sara Brown, individually and on behalf of Trane Technologies (30(b)(6))
- Richard Daudelin
- Matthew Diaz
- Chris Kuehn
- Mark Majocha
- Ray Pittard
- David Regnery
- Amy Roeder
- Robert Sands
- Allan Tananbaum
- Allan Tananbaum, on behalf of the Debtors (30(b)(6))
- Evan Turtz
- Manlio Valdes
- Robert Zafari

**Sara Brown April 1, 2021 Excerpted Deposition Transcript,
individually and on behalf of Trane Technologies (30(b)(6))**

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

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IN RE:

Chapter 11
No. 20-30608 (JCW)
(Jointly Administered)

ALDRICH PUMP LLC, et al.,

Debtors.

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ALDRICH PUMP LLC and

MURRAY BOILERS LLC,

Plaintiffs,

Adversary Proceeding
No. 20-03041 (JCW)

v.

THOSE PARTIES TO ACTIONS

LISTED ON APPENDIX A

TO COMPLAINT AND

JOHN AND JANE DOES 1-1000,

Defendants.

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APRIL 1, 2021

REMOTE VIDEOTAPED 30(b)(6)DEPOSITION OF

TRANE TECHNOLOGIES BY SARA WALDEN BROWN

Stenographically Reported By:
Mark Richman, CSR, CCR, RPR, CM
Job No. 192004

THURSDAY, APRIL 1, 2021
9:33 A.M.

Remote Videotaped 30(b)(6) Deposition of Trane Technologies by its corporate representative SARA WALDEN BROWN, and in her individual capacity, before Mark Richman, a Certified Shorthand Reporter, Certified Court Reporter, Registered Professional Reporter and Notary Public within and for the State of New York.

did, right? Okay. And in July of 2019 was part of the discussion around the restructuring that these new subsidiaries might utilize the bankruptcy to, to resolve their asbestos liabilities?

A. The new subsidiaries hadn't been formed at that time. So there wasn't an ability for them to make a decision at that time.

Q. Well I appreciate that. My question is a little different. In July of 2019 when Project Omega was, the team was meeting to discuss the restructuring, was one of the things that they were contemplating the possibility that after the restructuring the subsidiaries would deal with their asbestos liabilities through a bankruptcy?

A. We don't have control over that because that would be a decision made by the subsidiaries after they were formed. So we were creating these subsidiaries

and my job was to assist in the corporate restructuring piece that would allow them the flexibility at a later date to make a determination about how to handle asbestos liabilities going forward.

One of the potential, you know, outcomes or options would be a bankruptcy at that time.

But that's not a decision that the people, you know, involved in the project could have made at -- in July of 2019.

Q. Yeah, I am not trying to be difficult. I'm not asking the question of whether or not, you know, for instance at this particular meeting you were making the decision to file for bankruptcy.

I'm saying was a bankruptcy contemplated as one of the options when you were discussing the potential benefits or downsides to a restructuring?

pursued some other option including a bankruptcy.

Q. Okay. So were the merits of the bankruptcy option ever discussed as part of Project Omega?

MR. MASCITTI: Objection, form.

A. What do you mean by the merits?

Q. The benefits, the downsides?

A. We certainly as part of the restructuring -- restructuring, evaluated whether a decision by these entities could have a negative consequence on the company as a whole.

So as I mentioned before, we needed to think about what any potential bankruptcy within the organization, the impact that that could have on our business continuity.

Q. Okay. All right. So if I understand your testimony correctly, you're saying that Project Omega prepared the corporate restructuring, you know, evaluated it, and then eventually it was executed and it was

approved and executed on May 1st, 2020 or some of it was executed the day before, and then you left the, I assume the board of managers for these new entities Aldrich and Murray Boiler to evaluate and make an independent decision about whether or not to file for bankruptcy; is that correct?

A. That's correct.

Q. Okay. So did you do anything to prepare the Trane organization for the possibility that a bankruptcy would be filed?

A. As an attorney, I assisted with the documents in the restructuring that I mentioned before that provided for, you know, the funding agreement and the support and everything else to those entities.

I thought about the disclosure that would be necessary with respect to the bankruptcy event once that had been, you know, determined to be a potential outcome for the board when they were

S. BROWN

Q. So it says here corporate restructuring preparing progress summary and it says detailed walk through of execution plan and documents completed on 4/1.

Were you involved in the detailed walk through of the execution plan as referred to in this first bullet point?

A. I was.

Q. Okay. And what did that entail?

MR. MASCITTI: I'm going to object to that on the grounds of privilege. To the extent that you can respond to the question without disclosing any attorney-client communication or legal advice you may respond.

A. There was a meeting that was held to make sure that people that were involved in the project, particularly those that were signing documents, understood all of the aspects of the restructuring, a meeting that occurred with counsel and with myself acting as

an attorney.

Q. Okay. And do you have a sense or do you have an understanding of when that detailed walk through occurred?

A. I believe the update says April 1st.

Q. Okay.

A. A year ago today.

Q. Okay. And then the next bullet point says current Secretary of State closures/changes in process are causing a delay in planned execution, ready to execute on short notice should window open with Secretary of States.

Do you have an understanding of what was, what's being described in that bullet point?

A. I do.

Q. And were you involved in some of the dealings with the secretaries of states?

A. I was through our outside law firm. I didn't have conversations with the secretaries of states themselves,

A. We're a fairly lean organization, so both were large transformational projects for the company and involved finance, tax, legal and the businesses as well.

Q. Okay. I guess what I'm asking is, on the Project Omega side, how did the Project Omega team have to account for the fact that the Reverse Morris Trust may or may not occur?

MR. MASCITTI: Objection, form.

A. Yeah, the Reverse Morris Trust had to occur once we entered into the documentation.

Q. Okay. And how would the Project Omega have to account for that transaction?

MR. MASCITTI: Objection, form.

A. I don't understand what you mean by account for.

Q. Was there anything that they had to do to account for the fact that the Reverse Morris Trust was going to be effectuated or, or were they just two

separate transactions that did not have anything to do with each other?

A. They were two separate transactions that didn't have anything to do with each other.

Q. Okay. Do you have any understanding as to whether or not Ingersoll-Rand business that was I guess not spun off but went into the Reverse Morris Trust transaction had or carried asbestos liabilities?

A. I believe there were asbestos liabilities associated with that business. I wasn't involved in the negotiation of how those liabilities were handled so I don't have, you know, intimate knowledge of the process for how those were handled.

Q. Okay. Do you have any understanding as to whether or not the historical asbestos liabilities of Ingersoll-Rand went with the business to the new entity after the Reverse Morris Trust?

S. BROWN

Q. The ultimate goal is to resolve those asbestos liabilities in the bankruptcy, correct?

A. The ultimate goal now, yes, as of the board's decision to move forward with the bankruptcy.

Q. And when I say asbestos liabilities, we're talking about the asbestos liabilities in the tort system, correct?

A. Those are the historical liabilities, yes, that were transferred to those entities as part of the restructuring.

Q. And when we say historical, what we're really saying is legacy, right, both current and future liabilities, correct?

A. Correct, yes.

Q. Now, throughout this whole process did you hear anyone with any of the Trane family of companies say what we're trying to do here is to suppress our tort liabilities through this

bankruptcy process?

A. No, absolutely not. From the very start there was a concern as to making sure that what was effected through the restructuring and any later decision was fair and followed an orderly legal procedure.

Q. You answered Mr. DePeau's questions before about the securities filings. I just want to be clear that the liabilities that are addressed there in the various securities filings are the lower range of the tort liabilities, correct?

A. They're at the lower range of the experts' projections of those.

Q. Is it the intention of the Trane family of companies to pay whatever the right number is for those tort liabilities in full?

A. The intention of the companies is to satisfy in full the claims, the valid claims that are made to the company. The corporate restructuring was not an

attempt to diminish the claims that might be available against the company. The goal was to provide flexibility for the board to make decisions as to how to resolve those in an equitable and final resolution through an orderly bankruptcy procedure or other option if they had chosen.

Q. Thank you, Ms. Brown. And I know you're not on the finance team, you're on the legal team and you've done a great job today. Are you confident that the Trane family of companies have the ability to satisfy those legacy asbestos tort liabilities in full through the bankruptcy process?

A. Absolutely.

Q. And what gives you that confidence?

A. The company is -- has a very strong balance sheet. We have operating businesses that are very successful and that have continued to grow even during, you know, very stressful times with the

**Richard Daudelin March 9, 2021 Excerpted Deposition Transcript**

RICHARD DAUDELIN

UNITED STATES BANKRUPTCY COURT

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

CHARLOTTE DIVISION

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IN RE: Chapter 11

No. 20-30608 (JCW)

(Jointly Administered)

ALDRICH PUMP LLC, et al.,

Debtors.

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ALDRICH PUMP LLC and

MURRAY BOILER LLC,

Plaintiffs,

v. Adversary Proceeding

No. 20-03041 (JCW)

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Defendants.

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MARCH 9TH, 2021

REMOTE VIDEOTAPED DEPOSITION OF

RICHARD DAUDELIN

Reported by:

Sara S. Clark, RPR/RMR/CRR/CRC

JOB No. 191079

RICHARD DAUDELIN

MARCH 9, 2021

9:39 a.m. EST

Remote Videotaped Deposition of RICHARD DAUDELIN, held at the location of the witness, taken by the Committee of Asbestos Personal Injury Claimants, before Sara S. Clark, a Registered Professional Reporter, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public.

A. Yes.

Q. And would that be Trane Technologies PLC?

A. Yes.

Q. With respect to reports to Trane Technologies PLC after February 29th of 2020, did you propose any issuances of dividends from that -- from February 29th, 2020 to present?

A. Yes.

Q. How frequently have you made that recommendation to the finance committee?

A. Quarterly.

Q. Okay. And with respect to the liquidity position and cash flow analysis that you mentioned that goes into your consideration of it to propose a dividend, with respect to Trane Technologies PLC, has there been a -- has there been a time where you did not recommend a dividend for Trane Technologies PLC?

A. No.

Q. Is it safe to say that Trane Technologies PLC has been cash flow positive during this period from February 29th,

2020 to present?

MR. MASCITTI: Objection; form.

A. Yes.

Q. Would you say that the Trane Technologies PLC entity has had sufficient liquidity during the period from February 29th, 2020 to present?

MR. MASCITTI: Objection; form.

A. Yes.

Q. And with respect to cash flow and liquidity, are there considerations with respect to paying Trane Technologies' creditors that is considered as part of those assessments?

MR. MASCITTI: Objection; form.

A. Can you ask your question again, please?

Q. Sure.

In analyzing the cash flow of Trane Technologies PLC -- let's start there -- do you consider any obligations owed to creditors of Trane Technologies PLC in analyzing that cash flow?

A. Yes.

Q. And what is that analysis?

A. High-level cash flow and liquidity chart.

Q. Generally speaking, the cash flow addresses whether or not there are sufficient funds to pay creditors and still have funds beyond those obligations; is that fair to say?

A. Yes.

Q. And you mentioned issuing dividends on a quarterly basis -- or recommending -- excuse me -- dividends be issued on a quarterly basis since February 29th of 2020.

Have those dividends actually been issued?

A. Yes, to the best of my knowledge.

Q. And being that they're issued on a quarterly basis, was there one issued at the end of June 2020?

A. Yes, to the best of my knowledge.

Q. Was there another dividend issued at the end of August 2020?

A. No, not that I recall.

Q. Did you make a recommendation that a dividend be issued at the end of August 2020?

A. Not that I recall.

RICHARD DAUDELIN

MS. HARDMAN: No.

MR. MASCITTI: Okay. Okay for me to begin?

MS. HARDMAN: Yes. I'm sorry.

EXAMINATION

BY MR. MASCITTI:

Q. Mr. Daudelin, you've been asked about a number of documents that were presented for your signature.

In the ordinary course of Trane's business, could you please describe the process for documents to be presented to you for your signature?

A. Yes. The normal course of -- in our normal course of business in our governance, legal documents come to me and they're vetted first from a legal or an advisory perspective. And before I execute on those, they come from, again, the legal organization.

Q. And you had indicated earlier that, as part of reviewing documents before you sign them, you look at who the sender is.

Would it make a difference if the sender was someone from the legal department?

A. Yes.

Q. Why?

A. Because it would give me a comfort based on our governance that it has been reviewed by the legal department and/or outside or third-party advisors.

Q. Now, you've answered, in response to multiple questions that were presented to you today, that you couldn't recall who you received these documents from, both the board resolutions and the written agreements.

Do you recall whether you received those documents from someone in the legal department?

A. No, I do not. The reason I say that is because sometimes the legal department will pass it through to my admin, and my admin will bring it forward to me. And then based on that, I'll see within the e-mail that it's -- it has come from the legal department.

Q. So with respect to all of the documents, both the resolutions and the agreements that were presented to you today, were those received from someone in the legal

department, either directly to you or through your admin?

A. Yes, to the best of my knowledge.

Q. So although you can't recall the specific person, you did know that those documents were presented to you for execution through the legal department?

A. Yes.

Q. And why was that important?

A. Because, again, based on our governance and the way we vet legal documents, my signature is not on a document unless it's gone through our legal department.

Q. So given that we've seen your signature on multiple resolutions and agreements today, does that refresh your recollection that you authorized the legal department to apply your signature to those resolutions and agreements?

A. Yes. In good faith, that will be executed.

Q. You also answered in response to multiple questions that you didn't recall communicating with anyone regarding these

**Matthew Diaz March 23, 2021 Excerpted Deposition Transcript**

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

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IN RE:

Chapter 11
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ALDRICH PUMP LLC, et al.,

Debtors.

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ALDRICH PUMP LLC and

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March 23, 2021

REMOTE VIDEOTAPED DEPOSITION OF

MATTHEW DIAZ

Stenographically Reported By:
Mark Richman, CSR, CCR, RPR, CM
Job No. 191089

TUESDAY, MARCH 23, 2021
9:30 A.M.

Remote Videotaped Deposition of MATTHEW DIAZ, before Mark Richman, a Certified Shorthand Reporter, Certified Court Reporter, Registered Professional Reporter and Notary Public within and for the State of New York.

this moment. Mr. Tananbaum was deposed yesterday.

So I'm not sure what counsel is going to ask of me, as I know discovery is ongoing. So the short answer is I'm not sure. Really what I'm talking about today is my expert report.

Q. You agree your expert report does not render an opinion about whether or not the 2020 corporate restructuring resulted in any fraudulent transfers, correct?

A. Agree. My opinion, I do not have an opinion in my expert report on whether this was a fraudulent conveyance.

Q. Does your expert report evaluate whether the debtors received reasonably equivalent value in the 2020 corporate restructuring?

A. So my report does not specifically use the words reasonably equivalent value. My report, though it does indicate, more or less, that the

M. DIAZ

Q. Does the fact -- well let me ask you this.

Can you give me a situation where a company could use 524 (g) to resolve its asbestos liabilities that did not involve subjecting its nonasbestos creditors to bankruptcy that you would view as appropriate?

MR. WEHNER: Object to form.

A. Yeah, I don't know. I would have to, I would have think about that.

Q. Does the fact that Old IRNJ and Old Trane's nonasbestos creditors continue to get paid in the ordinary course, something that harms asbestos claimants?

A. I think it does, yes.

Q. How so?

A. So I think it goes back to the paragraph we talked about earlier about minimal economic incentives, but if you had the whole enterprise in bankruptcy if that's how you chose to deal with these liabilities, I think that the

debtors in a normal bankruptcy are incentivized to get out of bankruptcy because there's friction.

I also think there's incentives for the asbestos creditors to get out of bankruptcy where other creditors because they're not getting paid.

And when you have incentives in mind like that, you have both groups looking to get out of bankruptcy very quickly, and that's a good thing for the dynamic of the case and that helps for a bankruptcy to get resolved in a more timely manner.

I think when you have one group who's been isolated and harmed and put into a box, I mean in some ways there's almost a disincentive because at the moment Trane and New Trane Technologies used to pay a hundred million dollars a year. Now they're not paying anything. And once they resolve the bankruptcy, if the bankruptcy does get resolved, they will have to start paying costs.

So I think there's almost, to me it's all about incentives. And when you have everybody looking to get out of bankruptcy as quickly as possible, I think that's a good thing. Or it's not a bad thing.

Q. You say, is it your view that the debtors are not paying anything relating to asbestos liability today?

A. So pursuant to the funding agreement, as I understand it, New Trane and New Trane Technologies has to pay the administrative costs of the cases.

When I look at the monthly operating reports I don't see any amounts came out of the funding agreements I think through January if I recall correctly. So I was more referring to that, that pursuant to the funding agreements I haven't seen any amounts paid during the pendency of the cases.

Q. You say that the transaction series harmed asbestos creditors, and

A. I mean I think conceptually there's not been an approved plan that would pay asbestos creditors, among other reasons.

Q. In your view then in that case the debtors have not been -- Bestwall has not been appropriately incentivized to resolve this case?

A. I think similar to these cases, and to be careful to just talk generally, I think it's pretty clear that prior to the bankruptcy Bestwall was making payments to its asbestos creditors. And subsequent to the bankruptcy of Bestwall, BestWall's creditors have not been paid and Georgia-Pacific's creditors -- Georgia-Pacific's vendors have not been impacted by BestWall's bankruptcy.

Q. Do you believe that Bestwall has not been appropriately incentivized to resolve its case?

A. I believe that had Georgia-Pacific also filed for

bankruptcy or the Bestwall bankruptcy was a prearranged or prepackaged bankruptcy, that there would be different incentives in place and that bankruptcy would have been resolved more quickly.

Q. Do you believe Bestwall has not been appropriately incentivized to resolve its case?

MR. WEHNER: Object to form.

A. I believe that had -- I'm kind of repeating my answer here. But I believe that had Georgia-Pacific also filed for bankruptcy, then there would have been more incentives for Bestwall to resolve the case.

Q. I get that, Mr. Diaz. You have an obligation to answer the questions that I ask, okay? I've asked this question three times, you still haven't answered it.

The question --

MR. WEHNER: David, don't harass the witness. Just --

M. DIAZ

MR. TORBORG: I really would rather not have to do this.

MR. WEHNER: Okay, I know.

MR. TORBORG: He doesn't ask -- answer the questions that I ask and goes off an tangents that are not responsive to the questions that I asked. I'd like to get done today but I'm going to reserve the right to bring him back.

MR. WEHNER: You're using incentivized in a passive form, right, so that question, like incentivized, incentivized by who. Try just changing a little bit maybe we'll get, we'll get somewhere.

MR. TORBORG: I don't need to change my question. My question is fine as it is. You can object to form if you'd like. Okay. But the question --

MR. WEHNER: I objected to form on that one.

MR. TORBORG: Okay.

M. DIAZ

Q. The question, Mr. Diaz, is, do you believe Bestwall has not been appropriately incentivized to resolve its case?

MR. WEHNER: Object to form, asked and answered.

A. I believe I answered the question.

Q. You state that asbestos claimants in the case have been delayed in payment on their claims. Have you evaluated the extent to which claimants have received payments from other defendants in the tort system, or trust, since these bankruptcy cases were filed?

A. Just to clarify, you're now talking about the Aldrich and Murray cases?

Q. Yes, sir.

A. So with respect to -- so the answer is no, in connection with this expert report I did not look at how asbestos creditors recoveries in other trusts or other cases.

A. So throughout my report I list other implications of this transaction series, where here I just call out that if this strategy was allowed, that it doesn't take a large stretch of the imagination for other companies to try and employ a similar tactic where they isolate creditors who they feel are unwanted and want to isolate them, keep the healthy company as the healthy company, file the unwanted creditors into bankruptcy and then subsequently seek an injunction in order to protect the healthy company. I mean that seems very like not that hard to imagine.

I mention later in my report, you know, instances where that may also, that may happen.

Q. Have you seen any evidence of that happening since the Bestwall case was filed in November 2017, other than these asbestos cases that you worked on?

A. Yes, I think it's a troubling trend. We are clearly seeing this in

the asbestos world, Paddock, these two cases, DBMP, Bestwall. And I have not seen this in the other bankruptcy cases. As I mentioned earlier in my judgment, I thought it was highly unusual, and I grounded that judgment with the study that I did. But if this is allowed, what I'm saying here in paragraph 34 and later in this section, it really wouldn't take a whole stretch of the imagination to see this tactic being used to isolate other types of creditors.

Q. Have you seen, apart from the asbestos matters that you mentioned, have you seen this strategy being incorporated elsewhere to cover different kinds of unwanted creditors?

A. Yes, no, so as I just answered, I'm not seeing that outside asbestos cases.

Q. In paragraph 37 you state, if allowed to continue, going forward, this strategy could be expanded in order

Q. Did you review the indentures and other long-term debt agreements referenced in her report?

A. I did not review the underlying agreements.

Q. Do you have any basis to dispute the filing of Old IRNJ and Old Trane would trigger an event of default under at least some of those indentures and agreements?

A. No, I -- I just thought that analysis may have been oversimplistic, where it's not unusual when you have a company filing for bankruptcy that some of its subsidiaries don't file for bankruptcy and that certain arrangements could be made with lenders to negotiate how that may work, normal bankruptcy planning-type actions.

Q. I'm not sure I heard you correctly. Did you say overly, did you say pessimistic? I didn't catch what you said?

A. Sorry. I just said overly

that's what I'm asking.

A. So to clarify my answer, I list here in paragraph 54 bankruptcy planning strategies that one would normally consider with respect to Trane, Old IRNJ or Old Trane. I do not specifically undertake what a bankruptcy planning strategy would look like for those two entities, to the extent that they did hypothetically file for bankruptcy.

Q. Did you look at the debt agreements to assess the extent to which bankruptcy related events of default could be waived?

A. I do not specifically look at the debt agreements, as we talked about before. But what one would normally do is reach out to the company's lender base, as I mention in paragraph 54 C.

Q. Now here this indenture is governing a series of, of notes, right, you understand that?

A. Yes, I think I mentioned to you that I've not looked at this indenture

A. So I do not, sitting here today. I would just reiterate, though, that in many prearranged bankruptcies of very large companies with very large capital structures that I've been involved with, there are many discussions that happen in advance. There's ad-hoc groups that are formed. There are ways to help mitigate the costs of a free fall bankruptcy with your lender community. Specifically, though, I've not looked at what it would look like for either of these two companies filing for bankruptcy.

Q. In 54 B, another bankruptcy planning strategy, you note is "Seeking the approval of certain bankruptcy relief to ensure their cases are administered efficiently, reduce administrative expenses and protect suppliers, vendors, customers, business partners and employees in order to allow for sales and operations to continue in the ordinary course of business and

preserve value."

What certain bankruptcy relief are you referring to there?

A. There's often times promotions to pay salaries, there's customer motions to honor customer programs, there are critical vendor motions to provide relief to certain suppliers and vendors, and there's other, you know, first day motions that we, that we commonly see.

Q. Do you have any experience with how broad a critical vendor motion would be in terms of the percentage of creditors that would be covered by it?

MR. WEHNER: Object to form.

A. I have some experience. Not some, I have experience reviewing critical vendor programs.

Q. And what is your -- what's been your experience on the extent to which those critical vendor programs cover the -- cover a company's creditor base?

MR. WEHNER: Object to form.

A. I think Ms. Ryan has an analysis

in her report that may have referred to about 15 percent. I think it's very fact specific, but, you know, I think creditors need to be critical in order to apply that relief.

Many times creditors need to provide payment terms in order to get that critical vendor relief. And it's intended to be selective, it's not intended for everybody.

Q. Are you suggesting that certain bankruptcy relief could entirely eliminate the business's disruption that would be caused by filing Old IRNJ and Old Trane for bankruptcy?

A. No, I'm not suggesting that. I think that certain bankruptcy relief could help mitigate costs, but I don't think it would eliminate these costs.

Q. If we go to subparagraph a, we're going in reverse order it seems, another bankruptcy planning strategy that you identified was "Considering a prepackaged or prearranged bankruptcy,

And it would get support before you filed for bankruptcy, what is a prearranged, a prearranged bankruptcy.

Q. Do you have any experience, Mr. Diaz, personally with negotiating a prepackaged or prearranged bankruptcy that involved asbestos liabilities in a 524 (g) Trust?

A. I would like to have that experience. You know, unfortunately here and in the other asbestos cases that I'm dealing with they didn't do that. They put the creditors in a box, filed them, so they didn't do that.

What I have experienced, though, and it's been effective, in Purdue, which is a mass tort case, extremely complicated, in Mallinckrodt, another mass tort case, extremely complicated, both opioid cases, I found the prearranged aspect with respect to both of those cases were very helpful.

Q. But you don't have any personal experience negotiating prepackaged or

prearranged bankruptcies that involved asbestos liabilities in 524 (g) Trusts, right?

A. No, as discussed. I wish, I wish I had that experience, but unfortunately that didn't happen in this case.

Q. Have you reviewed any literature or articles on the topic of prepackaged or prearranged bankruptcies in the asbestos setting?

A. I read about the prearranged Coltec bankruptcy. I'm not sure if I've read every article. I'm not sure if I've read articles about prearranged or prepackaged in the asbestos field sitting here today.

Q. Are you aware of any prior asbestos bankruptcies that were prepacked or prearranged?

A. I think I mentioned the Coltec bankruptcy already. I would think there are a number of other bankruptcies that were prearranged on the asbestos side. But sitting here today I can't -- I

would have to look that up and look at that for formally. But I believe there may have been some.

Q. Okay. So apart from Coltec you're not aware of any specific other prepackaged or prearranged asbestos bankruptcies, correct?

A. Yeah, as mentioned, if I was asked to look for that, that would be a pretty easy thing to look at.

Q. Are you aware of any prepackaged asbestos bankruptcies that are comparable to what a prepackaged bankruptcy would look like for Old IRNJ and Old Trane?

MR. WEHNER: Object to form.

A. Yes, sitting here today I can't -- sitting here today I can't think of one. That being said, that would be an easy thing to research to determine that.

Q. Do you have an understanding across the many asbestos bankruptcies that have occurred how common

prepackaged or prearranged bankruptcies are?

A. Sitting here today, I don't. I know that in the other cases that I've been involved with, where they don't put certain creditors into a box and isolate them, they reach out to the creditors, they entered into RSAs if that's appropriate, and I find that to be quite common in the prearranged space.

In this space, I notice that now the divisive merger technique where, sure, it's a lot easier not to negotiate with your creditors, is now being a bit of a trend given these cases that we've seen filed.

Q. When you say it's easier not to negotiate with the creditors, are you suggesting that the debtors here are not willing to negotiate with their creditors?

A. No. I think we've covered that already. I'm suggesting that prepetition, prior to the divisive

merger, prior to the bankruptcy, that there was not to my knowledge an attempt to do an RSA.

Q. I take it you're not aware of any prepackaged or prearranged asbestos bankruptcies of any publicly traded companies over the last 20 years?

A. So again, I was not asked to do that research, but that's more of a factual question.

Q. And I take it you're not aware of any prepackaged or prearranged asbestos bankruptcies where the entity going into bankruptcy operated an ongoing business?

MR. WEHNER: Object to form.

A. Yes, same answer.

Q. Generally speaking, so outside of the asbestos bankruptcy context, Mr. Diaz, do you have a view on the type of situations that lend themselves to a prepackaged or prearranged bankruptcy? What are the typical, the normal ingredients for a successful prepacked or prearranged bankruptcy?

MR. WEHNER: Object to form.

A. So I think some of the ingredients would be having a -- I think among other things I think some of the ingredients would be having a creditor base to talk to, having a appropriate discussion, having an ability to have give and take, among other things.

I'm just thinking out loud here.

Q. What have you done, Mr. Diaz, to assess the feasibility of employing a prearranged or prepackaged bankruptcy strategy for Old IRNJ and Old Trane?

A. I think it conceptually could be fairly straightforward. Prepetition Old IRNJ or Old Trane could have formed the equivalent of ACC or the equivalent of a committee who represents the bulk of their lawsuits. They could have hired someone like Mr. Grier to represent the interests of the future claimants, and there could have been a negotiation of what the asbestos liability is and what are the payment terms to pay that.

M. DIAZ

I think that could have happened and that's akin to what I've seen in some of my other cases, it's just a different liability you're negotiating.

In other cases I've seen, whether it be opioids be negotiated, whether it be funded debt be negotiated, whether it be debt for equity being negotiated, but I think the key is having a group of, having a group of individuals and coming up to an agreement and that puts you in a position if you feel it's appropriate to effectuate it through bankruptcy to do that.

There could have been other ways to do it. You could have avoided the bankruptcy and done a settlement type program. You could have done it through the tort system. You could have had contractual type arrangement.

So we've talked about a faulty premise, but under your hypothetical those would be some of the things that I would consider.

Q. Did you assess the impact of the bankruptcy filing whether it be prepackaged or prearranged or otherwise, on the long-term debt of the Trane Parent enterprise?

A. So I think I've answered that question. I think, and I didn't specifically review the debt agreements or the terms, but I did note that in my experience a typical bankruptcy strategy would be to negotiate with the lawyers in advance of the filing, whether it be to arrange for financing during the bankruptcy and that sort of thing. But that's all under this premises of whether a bankruptcy is necessary or not.

Q. Could the long-term debt of the Trane enterprise remain outstanding if there was a prepackaged or prearranged bankruptcy?

A. It could, yes.

Q. How about the -- what if there was an automatic acceleration provision

requiring it to be paid back immediately, how would you deal with that?

A. Yeah, I think that would be a legal question. There are instances and there tends to be fights whether you can ramp down debt, reinstate debt in bankruptcy and that's usually very fact specific and subject to the indentures, the case, that sort of thing.

Q. If there were a prepackaged or prearranged bankruptcy here with Old IRNJ and Old Trane or involving those entities, what makes sense? What would it look like in terms of what entities would go into bankruptcy and which would not?

MR. WEHNER: Object to form.

A. Yeah, as mentioned previously, I did not map out what either of those bankruptcies will look like. What I just mentioned was that I thought Ms. Ryan's description in her report felt like a free fall bankruptcy to me

and that one would normally employ bankruptcy planning strategies as I outline in paragraph 54 of my report in order to mitigate costs associated with free fall bankruptcy.

Q. In the DBMP hearing you testified, and I can bring the transcript up if you'd like, you said it would have been good if CertainTeed reached out to its asbestos creditors. CertainTeed, you know, formed a consensual plan and then you could have executed a divisive merger based on that. Do you recall that?

MR. WEHNER: Object to form.

A. Yeah, I don't know. Sounds familiar but the transcript may be, may be helpful.

MR. TORBORG: Okay. If you could bring up tab 12.

(Debtor's Exhibit 8, transcript of proceedings, March 1, 2021 was marked for identification.)

Q. It's on page 193 of the

transcript. Which --

MS. RYAN: That will be exhibit 8.

Q. Type 193 in the PDF box there at the top and it will take you to it.

A. Yes, I'm just reading my testimony now.

Q. Sure.

A. Okay, I refreshed my memory. Can you repeat the question, please?

Q. The first question was whether you recall giving that testimony. But now you've read it so I can ask you about it.

Are you saying then, at least for the CertainTeed case that a divisive merger approach would have been appropriate if the parties were first able to negotiate a consensual plan in contemplating a divisive merger?

A. So as mentioned in that testimony, and as I mentioned in my expert report, I think the harm to asbestos creditors would have been

substantially less if this was treatment that was consensually agreed to by creditors in advance of creditors being put into a box.

Q. So the problem in your opinion is not necessarily with the divisive merger approach, it's about the fact that it was done before reaching agreement with the asbestos plaintiffs' bar on a plan; is that right?

A. I don't think I said that. I think I said that in Coltec the fact that there was consensus substantially that mitigates what happened -- substantially would mitigate what would have happened here. But if all the creditors consensually agreed to this treatment in Aldrich and Murray, we wouldn't be having this conversation.

Q. A necessary part of any prepackaged or prearranged bankruptcy here would be discussions with the asbestos plaintiffs' bar, correct?

MR. WEHNER: Object to form.

A. I'm sorry, can you repeat the question?

Q. Sure. A necessary part of any prepackaged or prearranged bankruptcy here involve discussions with the asbestos plaintiffs' bar?

A. I believe so, yes.

Q. And if they are unwilling to participate in those discussions, that option is off the table, right?

MR. WEHNER: Object to form.

A. I think in order to have a prearranged plan with the support of asbestos creditors, one would obviously need to talk to them.

Q. Do you believe that the asbestos plaintiffs' bar would have participated in discussions to arrive at a prepackaged or prearranged plan for Old IRNJ and Old Trane?

MR. WEHNER: Object to form. You're asking him to hypothesize facts?

MR. TORBORG: Based on his --

part of his opinion is that one approach here would be to consider a prepackaged bankruptcy. I'm asking him whether he believes the asbestos plaintiffs' bar would have participated in discussions. Yes.

A. I don't know if we had a chance for that to happen here. I know, for example, in Paddock, another bankruptcy that I'm involved in, there were prepetition negotiations. There were -- was a prepetition ACR so I would note in Paddock there were prepetition discussions in that case. So I'm not sure why that would be any different here.

Q. And those discussions were not successful, right?

A. I wouldn't want to get into the details of that case. What I would say is in Paddock they filed for bankruptcy.

Q. It was not a prepackaged or prearranged bankruptcy in Paddock, right?

A. It was not prepackaged or prearranged, correct.

Q. What prevents full discussions between the parties today?

MR. WEHNER: Object to form. In what case?

MR. TORBORG: This case.

MR. WEHNER: Object to form.

A. Sorry, I think we talked about that this morning. I think it's easy to have a phone call, I think it's easy to have a Zoom call. But the fact that you have one party that's been harmed as a result of the transactions here, is not on equal footing, impacts the incentives of those negotiations and makes it much more difficult to reach a resolution as we discussed earlier this -- earlier today.

Q. In your view, does that excuse the committee from participating in negotiations?

MR. WEHNER: Object to form.

A. I think I've answered that

A. That is right.

Q. And in the Purdue Pharma case you're working with some of the same lawyers at Caplin & Drysdale that you're working with in this case, correct?

A. That's correct, yes.

Q. Mr. Maclay, Mr. Wehner, Mr. Phillips are all in that case as well?

A. They are involved in Purdue as well.

Q. Were you aware in the Purdue Pharma case the debtor moved for preliminary injunction that among other things would enjoin claims against the Sacklers and other nondebtors?

A. I am aware of that, yes.

Q. Okay. And are you aware that the multistate government entities group representing by Caplin & Drysdale whom you were working with opposed that motion?

A. Yeah, I don't, I don't recall.

Q. Did you have any involvement with the preliminary injunction proceedings

in the Purdue Pharma case?

A. Not directly, no.

Q. And are you aware of whether the preliminary injunction was granted in that case?

A. It was granted on a temporary basis.

Q. For how long?

A. I forget. It may have been a year. And there may have been an extension or two after that. But it was provided on a temporary basis.

Q. And as I understand it, the latest events in the Purdue Pharma case was a amended plan that was filed just last week?

A. On Monday, that's right.

Q. And that resulted in a larger contribution from the Sackler family being proposed; is that right?

A. That proposed contribution is different from what it was previously, that's right.

Q. Is it larger?

A. It is larger, yes.
Q. And you said you are also involved in the Mallinckrodt case, correct?
A. Correct, that's right.
Q. And if you haven't told me already, I'm sorry if you already have, who do you represent in that case?
A. I represent certain cities and counties in that case.
Q. And are you aware that the debtors sought a preliminary injunction in that matter as well?
A. I am aware of that, yes.
Q. And do you recall if your client was supporting or opposing the PI?
A. I believe it was supporting on temporary a basis, but I don't totally recall.
Q. Was a PI granted in that case or not?
A. I believe that it was, yes.
Q. You talked about the Paddock case previously. And you indicated there was

M. DIAZ

Q. In any event, I take it you would disagree with any such view?

MR. WEHNER: Sorry, any what view?

Q. Any such view.

MR. WEHNER: Object to form. Can you just spell out, it's getting late, could you spell out what you're talking about with such view?

Q. Would you -- such view meaning that the funding agreement could be discussed during confirmation?

MR. WEHNER: Object to form.

A. I think, I think the order speaks for itself, and...

Q. Are you aware of any issues that have arisen in the Coltec-Garlock bankruptcy associated with the operation of the Keepwell agreement in that case?

A. I've not studied that. That arrangement happened. I'll start over. I've not studied that, how that arrangement has been subsequent to that filing and subsequent to the work that I

already mentioned that I performed as part of our discussions earlier today.

Q. Have you asked any of your colleagues at FTI whether any issues have arisen with respect to the Keepwell agreement in the Coltec-Garlock case?

A. I have not, no.

MR. TORBORG: I have no further questions at this time, Mr. Diaz. Thank you for your time.

THE WITNESS: Thank you.

MR. WEHNER: I have no questions.

MR. TORBORG: I think, I don't know if he's on the line, but -- Jonathan may have some questions. Yes, there he is.

MR. GUY: Yes, Mr. Diaz. I'd like to go off the record and maybe we can come back in about ten minutes because I want to make sure that my computer is set up so that you can see me and the court reporter can hear me.

THE VIDEOGRAPHER: We're going

**Chris Kuehn March 19, 2021 Excerpted Deposition Transcript**

CHRIS KUEHN

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

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IN RE: Chapter 11
No. 20-30608 (JCW)
(Jointly Administered)

ALDRICH PUMP LLC, et al.,

Debtors.

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ALDRICH PUMP LLC and

MURRAY BOILER LLC,

Plaintiffs,

v. Adversary Proceeding
No. 20-03041 (JCW)

THOSE PARTIES TO ACTIONS

LISTED ON APPENDIX A

TO COMPLAINT and

JOHN and JANE DOES 1-1000,

Defendants.

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REMOTE VIDEOTAPED DEPOSITION OF

CHRIS KUEHN

Reported by:
Sara S. Clark, RPR/RMR/CRR/CRC
JOB No. 191086

CHRIS KUEHN

MARCH 19, 2021

9:37 a.m. EST

Remote Videotaped Deposition of CHRIS KUEHN, held at the location of the witness, taken by the Committee of Asbestos Personal Injury Claimants, before Sara S. Clark, a Registered Professional Reporter, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public.

A. Well, prior to sign- -- I can see that I signed the document, but we reviewed these documents prior to signing. But just recalling what this document says, yes, that's what -- that's what I recall.

Q. Okay. And that was going to be my next question. On the page ending 1758, is that your signature, Mr. Kuehn?

A. Okay. I see 1758.

Yes, it is.

Q. Okay. Do you recall signing this specific document?

A. I don't recall signing this specific document, no.

Q. Do you --

A. I recall signing documents to effect the corporate restructuring, but not this specific one.

Q. Okay. Let's talk about that generally, then.

With respect to signing documents for the corporate restructuring, can you describe that process? Did you sign them electronically or in hard copy? Who presented them to you?

Any sort of description of how that process worked would be helpful.

A. Sure. My recollection is we had several meetings leading up to the presentation of the documents. Those meetings were led by company legal counsel to really explain what the documents were required to do or asked to do of the signers. We were -- at the time, this was early stages of the pandemic, so we were largely working remotely.

So after reviewing the documents and understanding the step that -- the various steps in the corporate restructuring, I would have electronically signed the document via an iPad, I believe is how it was completed.

Q. Okay. So just to unpack that a little bit, you said company legal counsel had meetings with you to describe these -- the various documents you would be signing with respect to the corporate restructuring?

A. That's correct.

Q. And who was the company legal counsel at that point that you're referring to?

A. I don't recall specifically who it

was, but it was a combination of Evan Turtz and/or Sara Brown.

Q. And they met with you in person or on Zoom? How did those meetings actually occur, all pandemic related and whatnot?

A. It's hard to recall specifically. I think it was a mix of in-person meetings as well as over, you know, Zoom or Teams applications.

Q. And about when did these meetings happen? Do you recall?

A. My recollection is they happened on or around the date on the first page, on or around May 1st, 2020, to sign the documents. There were, as I recall, meetings the previous week or so, weeks prior, actually, to explain what all of the steps would be to effect the corporate restructuring. And that connected to meetings that we had, you know, leading up to that decision.

Q. And the meeting --

MS. HARDMAN: If we could go off the record for just a moment.

VIDEOGRAPHER: The time is 10:42 a.m., and we are off the record.

(Discussion held off the record.)

VIDEOGRAPHER: The time is 10:43 a.m., and we are back on the record.

MS. HARDMAN: Great.

BY MS. HARDMAN:

Q. So Mr. Kuehn, we were just discussing the process, and you said there were a number of meetings, and you were presented these documents for signature.

When you described the signature via iPad process, I assume that was a meeting in person; is that fair?

A. If it was via iPad, it would have been the documents were sent to me via email and then executing them through an iPad and sending them back, you know, electronically. Or it was in person, right, signing. I don't recall which avenue I used, but it was one of those two to sign the document.

Q. Okay. And the iPad you're referring to, is it one of your own or did somebody give you an iPad to use for the signature process?

A. It's a company-issued iPad that's -- wasn't just used for this process. It's just a

company iPad that's used for multiple things related to the company.

Q. Okay. That's something you keep on your person for your work in the everyday operations of Trane?

A. Yes, that's fair.

Q. And on that iPad score, do you keep notes on that iPad? Sometimes folks use that electronic notepad to keep notes.

A. I do not.

Q. Okay. I am not a big fan either. I'm a big hard copy notetaker.

All right. With respect to the signing process, you mentioned a number of meetings describing the steps that would be taken for that corporate restructuring and then you were presented these documents.

Did you see multiple iterations of the documents that you ended up signing related to the corporate restructuring?

A. I recall seeing one document, not necessarily multiple iterations.

Q. Okay. And in that process, did you ask any questions with respect to the documents

that you were planning to sign?

A. I recall making sure that I was familiar with the document and what step in the process the corporate restructuring reflected to make sure that I, you know, was comfortable, A, Evan Turtz or Sara Brown, making sure signers were comfortable with what step in the process it was, and then ultimately if any questions were required, I asked them at that time if they were necessary.

Q. Okay. And you asked those questions of Mr. Turtz or Ms. Brown; is that right?

A. That would be correct. Of those two -- and I don't recall which meetings they were in, but it would have been one of those two. If there were any questions being asked, it would have been asked of them.

Q. And you said the time frame was about a two-week window, give or take, for the meetings up to the signing?

MR. MASCITTI: Object to the form.

Q. You can answer.

MR. MASCITTI: Ms. Hardman, I wanted you to clarify what meetings you're

team. I think at one point, we may have included a member or two from the business units. And I believe Mr. Pittard joined that group at some point in 2019. I don't recall when.

Q. Who was it, under your understanding, that ran Project Omega?

A. Evan Turtz, our general legal counsel, would be the one that I would describe as running the project.

Q. Okay. And so you said that you did sign an NDA with respect to Project Omega.

Do you know why you signed an NDA?

A. The project was being treated like any other large transaction in the company. Really just to ensure that the proper people were given -- the proper access were given to the proper people rather than to discuss it more openly within the organization. So I would call that fairly common practice.

Q. Why is an NDA necessary?

A. I think the sensitive nature of the subject and evaluating options that ultimately may never have come true or concluded. So we do

this commonly for transactions and mergers and acquisitions, just to include the people that we need to include to get the data or execute various steps that we think are proper.

Q. What's the sensitivity that you're describing there if this information were to be more widely disseminated?

A. Unfortunately, you can't control who has access to information if you just keep it very broad. So, you know, concerned about discussions within the company, discussions outside the company. Especially if no decision was being reached, it was really, let's evaluate options for the company. So the concern was let's bring in more people as decisions are being made, but while we're evaluating the decisions, let's limit it to a smaller group of people.

Q. I guess my question is why do you do that as a --

MR. MASCITTI: Objection; asked and answered.

You can answer again, Mr. Kuehn.

A. It's really to engage people on to the

MS. HARDMAN: I don't expect you to read the whole thing. Just let me know once you've had a chance to skim.

(Witness reviews document.)

THE WITNESS: Okay.

BY MS. HARDMAN:

Q. Are you familiar with this document?

A. Yes.

Q. Okay. And on the third page, I think it's DEBTORS ending in 2506, Page 3 of the PDF.

Is that your signature, Mr. Kuehn?

A. Yes, it is.

Q. Do you recall signing this document?

A. I do recall signing the document.

Q. Do you recall who may have presented it to you?

A. I believe that was the corporate legal department of Trane Technologies, combination of Evan Turtz and/or Sara Brown.

Q. And at a high level, did you review this document before you signed it?

A. Yes.

Q. And do you recall asking any questions -- I'm not asking what they were --

but do you recall asking any questions of Mr. Turtz or Ms. Brown with respect to this document?

A. I recall being aware of what steps in the process this document related to to effect the corporate restructuring. So just making sure I understood where this document fit into that broader plan.

Q. Okay. So putting aside this document specifically, do you know what steps in the corporate restructuring required your authorization?

A. I had assistance of our corporate legal department to include me on areas that required my involvement or my signature. So I probably couldn't recite every one of them, but it was just making sure that anything that I had to be involved in, that I was aware of what the request was and that I had an opportunity to ask questions.

Q. Okay. So do you have any specific understanding of what parts or what steps within Project Omega or the corporate restructuring that you authorized?

**Mark Majocha March 18, 2021 Excerpted Deposition Transcript**

MARK MAJOCHA

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

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IN RE: Chapter 11
No. 20-30608 (JCW)
(Jointly Administered)

ALDRICH PUMP LLC, et al.,

Debtors.

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ALDRICH PUMP LLC and

MURRAY BOILER LLC,

Plaintiffs,

v. Adversary Proceeding
No. 20-03041 (JCW)

THOSE PARTIES TO ACTIONS

LISTED ON APPENDIX A

TO COMPLAINT and

JOHN and JANE DOES 1-1000,

Defendants.

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REMOTE VIDEOTAPED DEPOSITION OF

MARK MAJOCHA

Reported by:
Sara S. Clark, RPR/RMR/CRR/CRC
JOB No. 191085

MARK MAJOCHA

MARCH 18, 2021

9:33 a.m. EST

Remote Videotaped Deposition of MARK MAJOCHA, held at the location of the witness, taken by the Committee of Asbestos Personal Injury Claimants, before Sara S. Clark, a Registered Professional Reporter, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public.

him not to answer the question as it relates to that analysis as it was done as part of work product.

But to the extent that you have questions for the topics that are listed, feel free to ask him those questions about the topics that he's been designated for.

MR. GOLDMAN: It is one of the topics. I'm asking him what he knows about it.

MR. MASCITTI: You're asking him about an analysis that he did at the request of counsel. That's not one of the topics listed.

BY MR. GOLDMAN:

Q. You've said that you're prepared to testify as to the debtors' contention that the negative consequences of bankruptcy filings by old IRNJ and old Trane would have outweighed any potential benefits of placing both entities in bankruptcy.

Why would the negative consequences of bankruptcy filings by old IRNJ and old Trane have outweighed any potential benefits of placing both entities in bankruptcy?

A. As I think through potential business impacts, if old IRNJ or old Trane would have been put into bankruptcy, there's a series of things that, you know, I could -- after understanding the business, could correlate back into a detriment. I think of loss of revenue tied to a bankruptcy proceeding. We participate in an industry that has, I would say, four to five major competitors, so it is a very tight-knit, very competitive industry that we participate in. So I believe that, you know, we would see reputational damage coming out of this. It's a highly competitive bid situation.

We would have an impact related to licensing, which would impact our revenue. We are often the contractor on a lot of the commercial jobs that we participate in, and we have contracting licenses, whether they would be general contracting, mechanical contracting, HVAC contracting, electrical, et cetera. And a lot of those licenses are up for renewal every one, two, or three years. And as part of that renewal process, there are many states that actually have a -- we are required to disclose

any bankruptcy that would have taken place.

We participate heavily in public bidding, whether it would be federal, state, or local municipalities, you know, specifically like school boards and higher education. And a bankruptcy filing within Trane U.S. Inc. could potentially inhibit our ability to bid on some of those large-scale projects that we are very successful in executing.

I continue to think down the list of some of the business impacts and the detriments associated with it. You know, we have over $5 billion of bonds that a significant majority of those bonds have a debt acceleration clause tied to them that would be triggered from a bankruptcy perspective. The guarantors further up the chain, all the way up to the PLC. So we present a lot of risk there.

I sit here and I think about the impact on, like, my organization, my employees. You know, there's not a lot of people that raise their hand and say "I want to go work for a bankruptcy entity," you know. And I really think long and hard about this because we

probably have 4,500 service technicians in the field that are working with our customers every single day who are not going to understand what a bankruptcy filing means, and they're going to become very uncomfortable and anxious. And no matter how hard we would try to script it and make people feel more comfortable, I think we would see, you know, people leaving the organization. And they're touching our customers every day. And if they go to competitors, then all of a sudden, they're going to be influencing our current customers to move to the competition.

I think of our customers that are out there, you know. We have default clauses in all of our open contracts. And while the bankruptcy, we may have a stay in place that could allow us to continue to perform, it doesn't mean we're going to get paid, because when those default clauses trigger, there's a lot of confusion that gets created. And that confusion is going to be felt. As we're trying to execute jobs, trying to work with our customers, trying to collect, they're going to

hold payment.

And then, you know, I also sit there and think about it, you know, they're going to try to attempt to cancel the agreements. A lot of them are on a purchase-order-by-purchase-order basis, so we're only locked in for a short period of time. They're going to start to worry about the warranty we give them on the product. Are they going to stand behind the warranty? You know, I think they're going to start to worry about our ability to continue to service the product in the field, so it makes me nervous there.

And then if you think about outside of our direct organization and you go further out into the chain, you know, we -- I'm sure you've had HVAC work done at your home. And those are a lot of small family-owned businesses. We have well over 4,000 contractors across North America that we support within the residential space that sell the Trane brand every single day and service it every single day. We have the same thing in our Thermo King business, where we have between 50 and 60 family-owned distributorships

with over 180 locations that stand behind us and sell our brand. So we're going to start impacting them at well, as we think about that.

And then I get into the whole supply chain risk that we would have with a bankruptcy filing because, again, we don't have -- while we may have -- I'll classify it as a memorandum of understanding with suppliers. We purchase product on a PO-by-PO basis. And as they fulfill the obligations of those POs, they're going to want to renegotiate the next purchase order we put out there. They're going to want to renegotiate pricing. They're going to want to renegotiate terms. And today we have pretty good terms with our supply base, anywhere from 60 to 75 days we pay them in. And all of a sudden we can feel a cash crunch where they say, "Hey, I want to be paid in advance or we're going to shorten up the terms."

So as I sit here and I think about the impacts to the business, they're pretty severe.

Q. And when you did your preliminary analysis, did you take all of those things into account?

A. We looked at those things. Absolutely.

Q. And if you were to try to quantify the financial impact of a larger bankruptcy or more comprehensive bankruptcy than the two that were filed, how would you go about that?

MR. TORBORG: Object to form.

A. As I think through that, I mean, we can put assumptions around some of the things I just spoke about. We can -- you know, pretty good assumptions based on analysis of the market and competitiveness of the situations that we're in. You know, we would have an understanding around what our -- how our cost of capital would increase based on a bankruptcy filing. You know, it's -- the cash that it would take to pay third-party support, like we have on this call, for an extended period of time to get us through a reorganization plan, it's tremendous.

So it far outweighs, to me, any other alternative.

Q. I'm sorry. Which far outweighs any other alternative?

A. If we were to look at IRNJ -- old IRNJ

and old IR Trane, the cost to the business, not just our business but all of our partners in the field, I just don't know how we would recover from anything like that and the damage we would cause to all of our partners and all of our employees.

Q. Changing subjects a little bit, are there any remaining Trane businesses or product lines that include production of any kind of boilers or heating devices?

MR. MASCITTI: Objection; form.

A. I personally am unaware of any. But I don't know all of the products, having been in the job less than a year.

MR. GOLDMAN: All right. Okay. Why don't I -- rather than take a break to check my notes, if there are others who have questions, let me pass to them because I --

THE WITNESS: Can I give you an out? Can I have a five-minute break?

MR. GOLDMAN: You can take a five-minute break. Absolutely.

THE WITNESS: Thank you.

MR. GOLDMAN: Okay. Thanks.

**Ray Pittard March 17, 2021 Excerpted Deposition Transcript**

RAY PITTARD

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

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IN RE: Chapter 11
No. 20-30608 (JCW)
(Jointly Administered)

ALDRICH PUMP LLC, et al.,

Debtors.

----------x

ALDRICH PUMP LLC and

MURRAY BOILER LLC,

Plaintiffs,

v. Adversary Proceeding
No. 20-03041 (JCW)

THOSE PARTIES TO ACTIONS

LISTED ON APPENDIX A

TO COMPLAINT and

JOHN and JANE DOES 1-1000,

Defendants.

----------x

MARCH 17, 2021

REMOTE VIDEOTAPED DEPOSITION OF

RAY PITTARD

Reported by:
Sara S. Clark, RPR/RMR/CRR/CRC
JOB NO: 191084

RAY PITTARD

MARCH 17, 2021

9:34 a.m. EST

Remote Videotaped Deposition of RAY PITTARD, held at the location of the witness, taken by the Committee of Asbestos Personal Injury Claimants, before Sara S. Clark, a Registered Professional Reporter, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public.

confirmed, are you?

A. Not impossible. I don't think -- I wouldn't -- I'm sure there are ways. But it's not efficient and it's certainly costly and likely to consume time and resource and energy to delay that.

I think we clearly want to make sure that we get a settlement in place so that valid claimants can get their money as quickly as possible.

Q. And what's -- I'm sorry. Go ahead.

A. Just so there's no reason to try to do both and have delays against the process. We need to go through this as quickly as we can and not be distracted. We need to get this done. That's really the intent here.

Q. Okay. And the bankruptcy was filed -- the two bankruptcies were filed approximately 10 months ago, correct?

A. That's approximately right, correct.

Q. Okay. And what efforts have been made over those 10 months to settle -- to bring about a settlement in these matters?

A. Yeah. The -- it's been my

understanding that our team has made every effort to move forward as fast as possible, both with yourselves on the ACC side, as well as the future claimants, and that the -- we stand ready today to open negotiations on an estimation and ready today to try to set this in motion and finalize this.

Q. Well, have there been any proposals made by either of the debtors as of today during the last 10 months?

A. I think there has not. I think -- that I'm aware of. But certainly I -- we stand ready to have negotiations and start that process as soon as -- as soon as the ACC comes forward to do so.

Q. Are you aware of the identity of anyone else working on the bankruptcy other than -- within the Trane organization other than Mr. Tananbaum and Mr. Sands and yourself?

A. There are officers within both Aldrich and Murray that are involved, which we had listed earlier today -- I believe they were listed -- for both entities. And there are a number of people that are in the service

MR. JONES: Object to foundation.

A. Yeah, I don't know. I don't know how much was understood back in the day. So it's hard for me to know. I know when we looked at it in this meeting, there was a good amount of detail to explain the concept and the idea. And I'm not sure we had that level of detail or idea or concept understood back earlier on.

Q. And this detail was provided at this meeting on May 5th?

A. The ideas were introduced, and then -- over the course of the presentation. And then we had asked -- the board and the officers had asked for more homework to be done, which came up, I believe, if I recall, in subsequent meetings.

So it was not a cursory look at these ideas. It was a very serious robust review and discussion that was asked for by the board and many questions by the board and myself, for that matter.

Q. Can you point me to any document -- any place that exists that suggests a -- mentions an organizational option or -- that was

Page 4 of the -- of these minutes of May 22nd, at the bottom there, which says "As part of such discussion, it was noted for the members of the board that, in contrast to the use of Section 524(g) of the Bankruptcy Code, none of the available options provide the," and then there is a redaction.

Now, let me just ask you, who noted that for the members?

A. Noted -- I'm sorry. Who noted --

Q. In other words, regardless of exactly what was said, which was redacted, but the sentence says "it was noted for members of the board." Who -- who verbally noted that to the members of the board?

A. I don't recall -- in that particular sentence, I don't recall exactly. There was a lot of discussion. I do remember that. I remember the -- there was discussion from counsel. There was discussion from the board. There was discussion from officers. And in the end, as I said earlier, the pros and cons were looked at for all three options. And really the only option that met all of the objectives

fully, fairly, and finally resolving asbestos claims was the 524(g) option.

Q. And was that -- I know the final vote wasn't until June 17th, but was that pretty much resolved by the end of the May 22nd meeting?

A. I think it wasn't really decided until the very end. I think there was questions that continued. There was discussion and deliberation that continued. As mentioned in the document, it was quite robust and a lot of debate and questions about would -- you know, each option, would they meet the full, fair, and final approach; were there consequences to any of the options that would have been impactful to, you know, the claimants, the customer -- or the stakeholders, the company.

It was very -- to be honest, I was quite proud of the way the board behaved to really thoroughly dig into this and take a very informed and thorough and cautious review to get to a good decision.

MR. GOLDMAN: Let's look at Exhibit 33.

MR. DEPEAU: Okay. 33 is up in the

And that business is a business that was acquired, the Arctic business that we talked about earlier. But it's a great business that gives us a unique product in our portfolio that our commercial teams can take and apply to a lot of different applications for cooling, for heating, for commercial applications. And it's another business. And that business is underneath Aldrich.

Q. And do both of those businesses have customers?

A. They do. They clearly have customers. They generate revenue. They generate profit. They generate cash. That cash is -- they're both healthy businesses, and, you know, those businesses are stand-alone. And they -- with that cash, they will be able to help us to pay for a portion, at least, of the asbestos costs that we've been talking about.

Q. We talked a lot about earlier -- or we heard you talk a lot about the various robust discussions that went on.

In connection with those or any other conversations you may have had -- and I'm not

looking for anything privileged here -- this is probably just a yes-or-no answer -- did you ever hear anyone say that the goal with respect to the restructuring and the 524(g) bankruptcy filing was to delay paying asbestos claimants?

A. Absolutely not. That's clearly not our intention from the very beginning. Our intention is to move as quickly as possible to settle these claims. We've had these claims with us for many, many years. And our intention is to go and get this to full, fair, and final resolution as quickly as possible. And clearly our intention is to do the right thing, to pay valid claims to people who have been injured by asbestos that is associated with our products. And so by no means is this an attempt to do any type of delay. We would like to go quicker than we're going today. If we can find a way to move it up, we stand ready to do so.

Q. And along those same lines, did you ever hear anyone say that the goal of the restructuring and the bankruptcy was to artificially suppress the debtors' asbestos liabilities in the tort system?

A. Absolutely not. We want to pay the full amount that we're responsible for to all valid claims.

What our intent here to do is to find a more efficient way to do that. And one of the interesting documents we looked at today showed that only 42 cents on the dollar goes to the claimant. I think that's unbelievable. It shows that 58 cents on the dollar goes to legal fees, attorneys' costs, and administrative costs. We would like to get through that as quickly as possible and get it into a trust where we can get money to the claimants fully, fairly, and finally, without the bureaucratic burden and without that overwhelming cost.

So clearly there's no intent to do any supression whatsoever of the liability amount. What we would like to do is find a more efficient way to take care of those claims.

MS. FELDER: And I have no further questions. Thank you so much.

THE WITNESS: You're welcome.

MR. GOLDMAN: I've just got one document I'd like to ask a few questions

**David Regnery March 12, 2021 Excerpted Deposition Transcript**

DAVID REGNERY

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

----------x

IN RE: Chapter 11
No. 20-30608
(Jointly Administered)

ALDRICH PUMP LLC, et al.,

Debtors.

----------x

ALDRICH PUMP LLC and

MURRAY BOILER LLC,

Plaintiffs,

v. Adversary Proceeding
No. 20-03041 (JCW)

THOSE PARTIES TO ACTIONS

LISTED ON APPENDIX A

TO COMPLAINT and

JOHN and JANE DOES 1-1000,

Defendants.

----------x

2ND REVISED

REMOTE VIDEOTAPED DEPOSITION OF

DAVID REGNERY

Reported by:
Sara S. Clark, RPR/RMR/CRR/CRC
JOB No. 191081

DAVID REGNERY

MARCH 12, 2021

9:31 a.m. EST

Remote Videotaped Deposition of DAVID REGNERY, held at the location of the witness, taken by the Committee of Asbestos Personal Injury Claimants, before Sara S. Clark, a Registered Professional Reporter, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public.

agreements at a high level, correct?

A. Very high level.

Q. Okay. But one of the payers under the funding agreement is Trane Technologies, correct, if you know?

A. I don't know the answer to that, Jonathan.

Q. Do you know if there's any cap on the funding agreements, the amount that they have to pay?

A. I don't know, Jonathan.

Q. That's okay. It's perfectly okay not to know, because we've got plenty of depositions coming up. Someone will know the answer to that question.

From the conversations that you've had with your colleagues leading up to the filing for the prepetition restructuring, did anyone ever say to you, "The goal of this restructuring is to suppress our asbestos liability"?

A. No.

Q. And is it your understanding --

A. The goal was -- the goal was to always -- if someone was harmed, we had every

intention of making sure they were fairly compensated.

Q. And the goal is not to pay the asbestos claims less than they would be paid in the tort system, correct?

A. No, not to my knowledge.

MR. GUY: I have no further questions. Thank you.

THE WITNESS: Okay. Thanks, Jonathan.

MR. MASCITTI: I guess why don't we go off the record, then, until Mr. Mastoris is back.

THE WITNESS: Sure. Do you want to pick a time, or -- it doesn't matter, I guess.

VIDEOGRAPHER: The time is 3:28 p.m.

We're going off the record.

(Recess taken.)

VIDEOGRAPHER: The time is 3:34 p.m.

We are back on the record.

MR. MASTORIS: Thanks again, Mr. Regnery. I only have a few more minutes of questions left. And I appreciate you giving me the time to collect my documents

**Amy Roeder March 16, 2021 Excerpted Deposition Transcript**

AMY ROEDER

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

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IN RE: Chapter 11
No. 20-30608 (JCW)
(Jointly Administered)

ALDRICH PUMP LLC, et al.,

Debtors.

---

ALDRICH PUMP LLC and

MURRAY BOILER LLC,

Plaintiffs,

v. Adversary Proceeding
No. 20-03041 (JCW)

THOSE PARTIES TO ACTIONS

LISTED ON APPENDIX A

TO COMPLAINT and

JOHN and JANE DOES 1-1000,

Defendants.

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REMOTE VIDEOTAPED DEPOSITION OF

AMY ROEDER

Reported by:
Sara S. Clark, RPR/RMR/CRR/CRC
JOB No. 191083

AMY ROEDER

MARCH 16, 2021

10:01 a.m. EST

Remote Videotaped Deposition of AMY ROEDER, held at the location of the witness, taken by the Committee of Asbestos Personal Injury Claimants, before Sara S. Clark, a Registered Professional Reporter, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public.

11:15 a.m.

BY MR. LIESEMER:

Q. Ms. Roeder, do you have Exhibit 128 in front of you?

A. I do.

Q. Do you recognize Exhibit 128?

A. Not necessarily, no.

Q. Are you aware that Aldrich and Murray are asking the bankruptcy court to issue a preliminary injunction?

A. I am.

Q. Aldrich and Murray are taking the position in the motion that's in front of you that if the bankruptcy court does not grant the requested injunction and allows its asbestos lawsuits to continue, you and others will be diverted from the debtors' reorganization efforts?

Do you understand that that is the debtors' position?

A. Yes.

Q. Do you have any understanding or expectation of how you would be diverted from the reorganization if the bankruptcy court does

not grant the injunction?

A. My only understanding would be that if -- and I'm -- this is where I have to leave things up to lawyers when it comes to what the injunction actually means -- but if I were to go back to dealing with any type of claims -- asbestos-related claims, that significantly increases my workload.

Q. Do you have any understanding of how it would significantly increase your workload?

A. Well, it would go back to a point of managing the claims reporting, metrics around claims. And there's certainly fewer people now to do that than there were, you know, previously.

Q. When you say "fewer people," do you mean people who were assisting you?

A. Prior to the restructuring, there was a litigation team. And within that team, there were -- there was a gentleman who had a role that was an operational excellence-type role over process. And he did -- helped with a lot of the tracking and management and certainly assisted me with that.

Q. And you don't remember this gentleman's name?

A. I do. His name was Mike Russell.

Q. You said he was part of the legal team, but was he a lawyer?

A. I don't think so, no.

Q. When was the first time you heard about Project Omega?

A. 20- -- let's say sometime late 2019.

Q. Do you know when Project Omega started?

A. Again, I would have to say late 2019.

Q. Who first told you about Project Omega?

A. Evan Turtz.

Q. When were you invited to join Project Omega?

A. I don't recall the dates. Late 2019.

Q. Did you have to sign a non-disclosure agreement, or NDA, to participate in Project Omega?

A. Yes. At some point, yes.

Q. Why did you have to sign an NDA to be a part of Project Omega?

MR. HIRST: Objection; form -- hold on.

Objection to the form and foundation.

Go ahead, Amy.

A. Signing NDAs for any of the projects that we work on is just a typical process that we do, because we -- regardless of the project or the subject matter or the content, as a company, typically these projects have some level of confidentiality. And so most of the time people that join a project sign an NDA, just by normal course of business.

Q. So you were heading in this direction, but -- so others had to sign an NDA to be a part of Project Omega, correct?

A. Yes.

Q. Okay. Do you know how many people were asked to sign an NDA?

A. I do not.

Q. Who decided who would be invited to join Project Omega?

MR. HIRST: Object to the form.

Go ahead.

A. I really don't know.

Bankruptcy Code, Mr. Tananbaum then reviewed the other strategic options for addressing current and future asbestos liabilities that were presented at the May 15 joint meeting."

Do you see that?

A. I do.

Q. Do you recall a lengthy and robust discussion at the meeting?

A. I do.

Q. In what way was the discussion robust?

A. I just recall a lot of involvement from all participants asking questions, obviously, the board members asking questions. I don't remember what questions they were asking, but certainly very interested in understanding everything that had really been presented and really wanted to kind of do a thorough deep dive of everything.

Q. At the meeting, was there disagreement among the board members over which options to choose?

A. No, not that I recall.

Q. The next sentence says "During his review, Mr. Tananbaum, with the assistance of

A. I can only speak to my vote, but I think I mentioned this earlier, but -- once all of the options were presented, I found bankruptcy to be the best option for Aldrich to get to the resolution that we were seeking.

Q. And what is that resolution?

A. As I mentioned earlier, the -- a fair and equitable resolution for, ultimately, the claimants. Making sure that they're compensated for any losses.

Q. That ties into my next question.

Why was it desirable and in the best interests of the company's creditors that the company seek relief under the Bankruptcy Code?

A. Again, I think in my view, it was the best way to ensure claimants were compensated, to ensure that -- how do I say this?

We didn't -- we wanted to make sure that everyone -- we weren't trying to not pay someone. We wanted to make sure everyone was paid appropriately as they should be. But to get to a resolution, there had to be some certainty in the end, and that's where bankruptcy provided that.

The other two options, they didn't really make sense to me. I didn't find them plausible. And the tort system could go on and on and on forever. And so this gave some type of certainty to everyone involved. And so I felt that was in the best interest of the claimants, the company, and, in this, the creditors.

Q. What do you mean by "everyone paid appropriately"?

A. Well, making sure that it was not in our interest to avoid paying anyone. It was -- we wanted to ensure that we're paying whoever we owe money to, whoever our creditors are, ensuring that they're paid. But this was more about finding that certainty in the end.

Q. Do you know who the other interested parties are in that resolved clause?

A. No.

MR. LIESEMER: Jessica, could you kindly send the witness Tab 31, please.

Ms. Roeder, we will be sending you now through the chat a document that is marked -- previously marked as

Aldrich to make any changes.

Q. And what changes are you referring to specifically?

A. Anything that would have changed from the first document to the second.

Q. Do you remember what those changes were?

A. Without reading this in detail, no.

Q. Do you remember asking for any changes to be made to the original funding agreement?

A. I do. And it's a very vague recollection, but I believe it had to do with the threshold amount that would trigger funding. So we had to keep a certain amount of cash on Aldrich's books. And I remember vaguely wanting a change to that amount.

Q. Do you recall the reason for that change?

A. I believe I wanted -- if I remember this correctly, I wanted a -- let me think about this for a minute just so I give you the right answer from how I remember it.

I believe the amount was lower originally, and I wanted that amount, that

funding -- I wanted those thresholds raised, because I did not want to get stuck in a position for Aldrich where we were doing any type of last-minute funding, or risking not getting funding for any reason or missing -- like having delays just in the transactional part of this. So I wanted that to be raised so that we could kind of pad ourselves on the industrial -- sorry -- on the Aldrich side, I think. I'm trying to remember. It's been a long time since I did that.

Q. You said you perceived the possibility of Aldrich not getting funding at all. Can you tell me more about that?

A. Yeah. So what I mean there is when you put in a request, and at the time of the original funding agreement, never having executed on a payment request, I did not know how long that request would take to receive approval and then certainly transact the actual funding. And if we had indemnity claims at the time that needed to be processed, defense spend, any type of expenses, I didn't want to get into a position where I'm paying our third parties

late. And so I wanted to make sure that we always were in a position to be able to pay.

Q. Can you think of any other changes that you asked for to the funding agreement?

A. Not that I remember.

Q. What is the purpose of the Aldrich funding agreement?

A. My understanding is to ensure that we have a funding mechanism to continue normal course of operations in Aldrich. As our cash needs run low, we can request that funding from Trane. Trane LLC, Trane Technologies Company, I believe that's the entity. And -- just so that, again, we can continue our normal course operations.

Q. Let me invite your attention to Page 5 of the funding agreement.

And let me know when you're there.

A. I'm there.

Q. Do you see on the page where it says "Permitted Funding Use"?

A. I do.

Q. Are you familiar with that definition?

A. I am.

Q. So there's no third amended funding agreement?

A. I don't think so.

Q. Can we refer to this document as "the Murray funding agreement"?

A. Yes.

Q. Did you read the Murray funding agreement before you signed it?

A. Absolutely.

Q. Did you negotiate the terms of the Murray funding agreement on behalf of Murray?

A. This particular agreement, the second amended, or any funding agreements?

Q. Any funding agreement.

A. So on any funding agreements, it would have been the same negotiation as I had with Aldrich. So it was just around the cash thresholds that I requested a change.

Q. And you don't recall any other further changes that you requested?

A. No, not on top of mind.

Q. What is the purpose of the Murray funding agreement?

A. The same as it is for Aldrich. This

that can resolve asbestos liabilities in one forum and create an asbestos trust other than in bankruptcy?

A. Not that I recall.

Q. Can you tell the Court why Trane PLC and all its subsidiaries didn't file for bankruptcy?

A. I don't know.

Q. That's where you get to say "I don't know." That's perfectly okay.

You're familiar with the funding agreements, correct --

A. Yes.

Q. -- Exhibits 13 and 86?

There's one for each debtor, correct, Aldrich and Murray?

A. Yes.

Q. And on behalf of Aldrich and Murray, as I understand your testimony, you negotiated changes to the funding agreements -- the original funding agreements to address your concerns that monies would be available to -- when and if needed; is that correct?

A. I wanted to make sure I had cash

readily available and didn't want to get too low from a balance standpoint, so I wanted to be able to trigger cash at a time -- just so I could do it timely. Let's put it that way.

Q. And you're familiar with the payers under those two funding agreements, correct?

A. Yes.

Q. So for Aldrich, it's Trane Technologies Company LLC, correct?

A. Correct.

Q. And for Murray, it's Trane U.S. Inc., correct?

A. Correct.

Q. Can you tell me why there are two different payers for the different debtors?

A. That gets to the legal entity structure and outside my realm of expertise.

Q. The funding agreements are the vehicles whereby Aldrich and Murray will have assurances that there will be enough money to pay the asbestos liabilities that are being assigned to them, correct?

A. I'm sorry. Can you repeat that?

Q. Yes.

Q. Correct.

A. Okay. So for 200 Park, they manufacture modular and process chillers for the commercial HVAC industry.

And on Climate Labs, they do chemical analysis, so oil analysis, basically, to look for any type of contaminants -- that was the word I was looking for earlier today -- contaminants in the oil that can be predictive of any type of potential failure.

Q. And these companies have customers?

A. Customers? Sorry. Did you say "customers"?

Q. Yes.

A. Yes.

Q. And they generate revenue, correct?

A. They do.

Q. They're not fake companies, are they?

A. They are not.

Q. So I just want to summarize.

If I understand your testimony correctly, the goal of the Trane family of companies in this bankruptcy is to ensure that all individuals who were harmed by

asbestos-containing products, either manufactured or sold by those companies, will be paid in full by an asbestos trust as soon as possible, correct?

A. Yes.

Q. And that's existing and future claims in the tort system, correct?

A. Correct.

Q. Did you ever hear anyone say at any point in all of the discussions concerning the restructuring that the goal was to delay paying asbestos claimants?

A. No.

Q. Did you ever hear anyone say at any point in all of the discussions concerning the restructuring discussion -- I just repeated that. Sorry. Let me start again. Strike that.

Did you ever hear anyone say at any point in all of the discussions concerning the restructuring that the goal was to artificially suppress the debtors' asbestos liabilities in the tort system?

A. No.

MR. GUY: I have no further questions.

**Robert Sands March 11, 2021 Excerpted Deposition Transcript**

ROBERT SANDS

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

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IN RE: Chapter 11
No. 20-30608
(Jointly Administered)

ALDRICH PUMP LLC, et al.,

Debtors.

---

ALDRICH PUMP LLC and

MURRAY BOILER LLC,

Plaintiffs,

v. Adversary Proceeding
No. 20-03041 (JCW)

THOSE PARTIES TO ACTIONS

LISTED ON APPENDIX A

TO COMPLAINT and

JOHN and JANE DOES 1-1000,

Defendants.

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REMOTE VIDEOTAPED DEPOSITION OF

ROBERT SANDS

Reported by: Sara S. Clark, RPR/RMR/CRR/CRC
JOB No. 191080

MARCH 11, 2021

9:33 a.m. EST

(Witness reviews document.)

A. Okay. I'm sorry. I've had a chance to review it.

What was your question?

Q. Are you familiar with this document?

A. Honestly, I don't recall. I may have seen it.

Q. Okay. Let's move to Page 3 of this document.

A. Okay.

Q. And if you see the first full paragraph on Page 3, under the numbered list --

A. Okay.

Q. -- could you read that paragraph for me?

A. You want me to read it out loud or to myself?

Q. Out loud, please.

A. Okay.

"In further response to Request 28, which cites excerpts from Paragraph 40 of the declaration of Allan Tananbaum, the," quote, "personnel who Mr. Tananbaum expected will play key roles in the debtors' reorganization," close

quote, who would be -- "who," quote, "would be required to spend substantial time managing and directing the activities and the day-to-day defense of these lawsuits," close quote, "are Mr. Tananbaum and Mr. Sands," period.

Q. Do you agree that you're expected to play a key role in the debtors' reorganization?

A. I believe so, yes.

Q. How so?

A. Well, as we discussed earlier, my job is to provide legal support to Mr. Tananbaum, who is the chief legal officer, and to the debtors throughout the pendency of the -- what do you call it -- the reorganization. Sorry. I wasn't sure if you used the word "bankruptcy."

And that encompasses every aspect of my duties and every aspect of the reorganization process, and we expect that to ultimately culminate in a 524(g) bankruptcy trust.

Q. If the -- strike that.

The second part of this paragraph, which states you're among "the personnel who would be required to spend substantial time managing and directing the activities involved

in the day-to-day defense of these lawsuits," let's assume for the moment that these lawsuits are lawsuits against the nondebtor affiliates if the preliminary injunction is not granted.

With that assumption in place, do you agree that you would be required to spend substantial time managing and directing those activities?

A. Do me a favor. You lost me there for a second. Please restate or reask your question.

Q. Let me ask it this way.

If the preliminary injunction is not granted and asbestos claims are allowed to continue against the nondebtor affiliates, do you expect that you will be involved in the day-to-day defense of those lawsuits?

A. I do.

Q. And would you be involved in those lawsuits as part of your 90 percent of secondment to the debtor or your 10 percent work for the nondebtor affiliates?

A. Well, I think it would have to be both, because if you think about it, these are

projects -- excuse me -- these are products and liabilities that belong to Aldrich and Murray. And if the nondebtor affiliates are being forced to defend those in the tort system while Aldrich and Murray continue in the bankruptcy system, the nondebtor affiliates -- you know, there are liabilities, so there's no one to defend them. The documents are ours. The liabilities are ours. The witnesses are ours, meaning the debtors.

The -- you know, the debtors run the risk of having collateral estoppel issues, res judicata issues, adverse rulings on issues that -- if it proceeds in the tort system -- so take discovery responses as an example -- Aldrich and Murray have a 30-plus-year history of providing discovery -- hundreds of discovery responses in the tort system.

If the nondebtor affiliates are being forced to answer for those liabilities in the tort system and are -- answer in a way that is inconsistent with our prior discovery responses, that creates issues that in this type of mass tort litigation with repeat players, same

plaintiffs' counsel in the same jurisdictions with judges that are, shall we say -- with jurisdictions that are not prone to grant summary judgment, this creates a management nightmare for us, number one, for the debtors, and we owe indemnity back, as I understand it, to those nondebtor affiliates, the new Trane U.S. Inc. and new Trane Technologies, so we're going to be stuck with their handling of those liabilities.

And it's -- you know, to say, well, is it one or the other, I don't think you can draw that line, because it directly impacts the debtors. And, of course, my job as being seconded to the debtors is to support the eventual resolution of this in a 524(g) bankruptcy, as is Mr. Tananbaum's. And if we're distracted having to defend the nondebtors in the tort system and, you know, dealing with counsel issues and dealing with discovery and dealing with trials and then being stuck with the results of that, it's clearly going to impede our ability to manage and achieve resolution of a 524(g) bankruptcy.

I think I answered your question.

Q. You did. Thank you.

Is it also your understanding that the purpose of the bankruptcy filings for Aldrich and Murray is to attempt to resolve all of the historic asbestos liabilities in one place?

A. Yes, absolutely. That is my understanding of the goal.

Q. Do you have an understanding of how current and future asbestos claimants are to be treated in a 524(g) trust process?

A. Well, I'm not an expert, but my understanding is that current and future claimants are to be treated substantially similarly. And that's -- I'm not aware of the nuts and bolts, but to me, they're supposed to be treated essentially the same.

MS. FELDER: Thank you. That was all I had.

THE WITNESS: Thank you.

MR. EVERT: Anybody else?

Then I think we're done.

VIDEOGRAPHER: All right. This concludes today's deposition of

**Allan Tananbaum March 22, 2021 Redacted and Excerpted Deposition Transcript**

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

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IN RE:

Chapter 11
No. 20-30608 (JCW)
(Jointly Administered)

ALDRICH PUMP LLC, et al.,

Debtors.

---

ALDRICH PUMP LLC and

MURRAY BOILERS LLC,

Plaintiffs,

Adversary Proceeding
No. 20-03041 (JCW)

v.

THOSE PARTIES TO ACTIONS

LISTED ON APPENDIX A

TO COMPLAINT AND

JOHN AND JANE DOES 1-1000,

Defendants.

---

March 22 2021

REMOTE VIDEOTAPED DEPOSITION OF

ALLAN TANANBAUM

Stenographically Reported By:
Mark Richman, CSR, CCR, RPR, CM
Job No. 191087

MONDAY, MARCH 22, 2021
9:30 A.M.

Remote Videotaped Deposition of Allan Tananbaum, before Mark Richman, a Certified Shorthand Reporter, Certified Court Reporter, Registered Professional Reporter and Notary Public within and for the State of New York.

understood the concept.

Q. So as of May 1st, you were seconded as chief legal officer to the two debtors and maintained your role as deputy general counsel products litigation and vice president of compliance -- I'm sorry -- and vice president for Trane Technologies; is that right?

A. Yes. But not -- not -- not the compliance piece. I think you corrected that.

Q. Right. What are your current professional duties and work responsibilities as chief legal officer of the debtors?

A. Well, I'm essentially the in-house client for all of the restructuring lawyers at Jones Day who are assisting our efforts to create a consensual trust that will pay valid asbestos victims.

Q. When you say in-house client, what does that mean? Are you

suggesting, you know, communications with, with your outside counsel?

A. Suggesting the full panoply of activities that client has to engage in, right? We've got a large team of bankruptcy attorneys who were very skilled at what they're doing but obviously they just can't turn around and do things without client approval. And so, you know, there's a large array of activities that I engage in. There are daily conference calls about strategy. There are many draft pleadings and briefs to review. There are myriad of decisions to be made on almost a daily basis. And I should also add, I apologize, there's an entirely separate workstream around finances. I have to approve many invoices for payment from our own set of counsel. I've got to approve ACC counsel payments including your firm's payments and a variety of experts as well. And I have to interact with the CFO of the debtors,

Ms. Roeder, on approval and payment of those things.

Q. You mentioned daily conference calls. Who are those conference calls with?

A. The attorneys representing the debtors in this matter.

Q. Do you have daily conference calls with people in the Trane organization about this matter?

A. Certainly close to daily conference calls with Mr. Sands who is, as I think you know, also a Trane Technologies employee who is seconded to the debtors, although his secondment currently stands at 90 percent not a hundred percent.

Certainly discussions with him, certainly several discussions a week with Ms. Roeder and Cathy Bowen who is a Trane Technologies employee who assists Ms. Roeder on financial matters.

Q. Anyone else besides Mr. Sands and Ms. Roeder and Ms. Bowen?

A. On a daily basis, I would say probably not.

Q. What about on a weekly basis or biweekly, bimonthly basis?

A. On a weekly basis I have a standing discussion with Ray Pittard who is the vice president and chief restructuring officer as you know, as I believe you know, for the debtors and who is also the chief transformation officer for Trane Technologies itself. You know, with Mr. Turtz at least on a biweekly basis I'll have a discussion.

Q. And you report to Mr. Turtz, right?

A. I wouldn't say in my seconded role I report to Mr. Turtz. I think technically I report to the boards of the debtors, and I know that there's also reference in some of the key agreements that I technically report to Mr. Valdes. But I certainly administratively report to Mr. Turtz.

Q. And those phone calls, those

biweekly phone calls with Mr. Turtz, those have to do with your administrative reporting function to him?

A. If you're asking whether the discussions are about administrative functions, the answer is no, they're about substantive issues, they're about, you know, touching base on what I've been doing and where the cases stand.

I think as you know the services agreement provides that the debtors get additional, or are entitled to additional legal support. And throughout the process of these bankruptcies we've had steady legal services provided to the debtors by both Mr. Turtz and Sara Brown.

Q. You mentioned draft pleadings and briefs. Do you look at all the pleadings and briefs that your counsel produces in these matters?

A. That's correct.

Q. Are you a bankruptcy attorney?

A. No. And in fact I'm glad you mention that. Because I'm not a bankruptcy attorney, it probably takes me much longer to review some of these pleadings and briefs and it makes some of the conversations that I have with Jones Day last much longer. Because again, I'm a client representative and I need to understand what's happening before it can be signed off on.

So you're right, I actually spend more time with my counsel because I'm not a bankruptcy attorney to make sure I get it.

Q. I think you mentioned a myriad of decisions made on a daily basis.

A. That's correct.

Q. What is that?

A. Decisions about which arguments to push and which not, arguments not to push, decisions about which motions to make and not to make, decisions about which motions to oppose and which motions not to oppose, decisions about

how Jones Day will staff various matters.

I mean I could go on and on, a lot of decisions.

Q. Do you participate in board meetings?

A. I participate in all of the debtors board meetings, that's correct.

Q. I've seen documents referring to you as the secretary in these board meetings. What does that term mean?

A. My understanding -- so, yes, I'm the chief legal officer for the debtors as well as the secretary. I believe in my role as the secretary, I'm responsible for maintaining the books and records of the debtors, and I believe I have authorization, I believe, that came from a combination of some of the orienting documents and perhaps the unanimous consents dated May 1st of 2020.

I believe I've got authorization to help open and maintain bank accounts

and the like.

Q. You mentioned your daily tasks earlier, running the full panoply I think is the, is the phrase you used.

Have those tasks evolved since the debtors filed for bankruptcy?

A. I don't know if they've evolved so much as they might be different at different points in time, depending on what is actively happening in the case at a given moment in time.

Q. So if there aren't a lot of pleadings you're not reviewing pleadings obviously, is that --

A. If there's no pleading being drafted or contemplated, that's correct, I wouldn't be reviewing pleadings.

Q. Have you been participating in discovery related to the preliminary injunction matter?

A. What do you mean by participating?

Q. Have you overseen collection of documents, have you prepared witnesses

for depositions, things of that nature?

A. So let me separate the two. On the collection of documents, I put Rob Sands in charge of that. And because Trane's production of documents was going to come from the same set last fall, we changed his secondment so that he could simultaneously support the debtors and the Trane affiliates. But Rob has, in general, been on the spot on the document productions.

Now when there are tricky issues that require counsel caucusing pertaining to a subset of the documents, you can be sure that I'm involved in those discussions but, in general, Rob's taken the lead on the documents.

With regard to testimony, I've been involved in the preparation of witnesses that Jones Day has presented in deposition on behalf of the debtors. I have not been involved in the preparation of witnesses that the Trane entities have presented as Trane

witnesses.

Q. Okay. So you participate with the debtors witnesses but not with the Trane witnesses; is that right?

A. That's correct.

Q. And what does that, what does that participation entail with respect to the debtors witnesses?

A. I participated in the teams sessions, in the team's prep sessions with the debtor witnesses and Jones Day.

Q. And why were you involved with those team sessions and preparation of the witnesses?

A. I'm the chief legal officer for the debtors, and so I think I have a right to be at -- to have a seat at the table.

Q. Have you participated in preparing all the debtors witnesses that have been deposed to date?

A. Yes, except I wasn't as involved in Mr. Sands' preparation, and I can't recall, I may have been at an initial

session but I wasn't at all of the sessions.

Q. You went through what your kind of daily tasks and typical routine is I think with respect to your current position.

Before the corporate restructuring, if I say the 2020 corporate restructuring, will you know what I'm talking about?

A. Yes.

Q. Before the 2020 corporate restructuring, what did a typical day at work look like for you?

A. Which time period are you referring to?

Q. Directly before the corporate restructuring?

A. So in the, fair to say the April 2020 time frame?

Q. Sure.

A. Okay. Because prior to April I would have had a whole other set of duties and compliance and I just wanted

Q. Okay. You also write the facts and statements set forth in this declaration are based on your review of relevant documents. Do you see that, it's C?

A. I do see that, yes.

Q. What are the relevant documents that you reviewed, do you recall?

A. I don't recall right now.

Q. Let's look at paragraph 40 of your declaration. You see, it's the paragraph that starts with personnel who I expect will play key roles, you see that?

A. That's correct.

Q. That first, that first really two sentences?

A. Right.

Q. I anticipate these activities would consume my and possible others' time?

A. Right.

Q. It ends with parties, you see that?

A. I do.

Q. What role would these personnel that you're referring to in those first two sentences play in the debtors' reorganization?

A. Well I think the only way to answer this is to talk about specific people, right.

Q. Who are the personnel that you are referring to in those first two sentences?

A. Well on the one hand principally myself and Mr. Sands in the legal function. And then on the other hand principally Ms. Roeder and I would say Cathy Bowen as well in the finance organization.

Q. Okay. Let me ask you this. What is the basis for your statement in those two sentences that personnel would be required to spend substantial time managing and directing the activities and these activities would consume my and possible others' time, what's the

basis for those two sentences?

A. Well again I'd like to divide them between the legal and the finance folks.

For Mr. Sands and myself on the legal side, as I mentioned earlier, when asbestos is -- when asbestos is unleashed and fully operating in the tort system, it's a daily barrage of settlement demands and negotiations and mediations and discovery that needs to be responded to. And sometimes, you know, obstreperous judges in wonderful places such as Madison County calling you to bring a senior corporate witness to appear at a hearing or deposition on next to no notice.

I mean there's always some emergency going on and it's all consuming.

In the past, when we ran the team with a full panoply of litigation unleashed against both Aldrich and Murray's predecessors, we took care of

that with a much larger staff than just Mr. Sands and myself. In addition to Mr. Sands, there was -- there were at least two other full-time attorneys handling asbestos. There was a full time paralegal assisting asbestos. There was a vendor who assisted in invoice review, and there was, as well, a para-technologist, a paralegal who specialized in lien process who helped do a lot of the reporting that we had.

So that was a full-time job for that entire team. If we were going to be back in the tort system which I believe failure to secure a PI would essentially bring about, and we would have that full array of activity and just Mr. Sands and myself on the legal side to handle it.

I think if that's all we were doing, that would be an overwhelming task for the two of us. But if we were also simultaneously tasked with working with bankruptcy counsel to help

effectuate a resolution in the bankruptcy case, that would be a bridge too far.

Q. Why did you reduce your staff to the current level of just you and Mr. Sands?

A. We lost several individuals in the summer, I would say July of 2020.

Q. When you say you lost them, what does that mean?

A. Their positions were eliminated.

Q. And why were their positions eliminated in July 2020?

A. So I think there are -- I think there were two components to that. The first component was that in wake of the Reverse Morris Trust transaction that closed in the end of February 2020, the entirety of Trane Technologies began a restructuring effort led by Mr. Pittard an effort that I understand continues to this day.

And given the one focus of that corporate restructuring was the need

given the smaller size of the company to restructure the corporate functions to make them leaner.

And so I think what Mr. -- what Mr. Turtz was confronted with was a need to bring his staffing levels -- to rationalize his staffing levels. And while I can't recall the number of lawyers who were asked to leave the legal function as a result of the restructuring, there were a number as well as a number of other professionals in the legal department.

And I think no corner of the legal department went unscathed. And my understanding was that given the pendency of the restructuring and the review of asbestos being undertaken by the debtors' boards, that the staffing decisions in the litigation team including the asbestos litigation team were extended until further notice.

So while a number of lawyers lost their job in the April time frame, we

were given dispensation to extend a bit before the other shoe was going to drop so to speak.

So that's sort of issue number 1.

Issue number 2, I think, was our expectation, once the bankruptcies were filed, that we'd be the beneficiaries of the automatic stay and that would not have the need for that type of staffing in the aftermath of the filing.

Q. Is there any expectation of replacing those people that were let go during the summer?

A. There was no expectation at that point in time, and I don't have that expectation now.

If the PI were not granted, I suppose we'd have to revisit how to make things work.

Q. Okay.

A. And frankly, apologize, I was just going to add that frankly we would need additional resources to be able to get the job done.

Q. I think that's what you referred to as the legal function, and then what about with respect to Ms. Roeder and Ms. Bowen?

A. Well, yes, what I would say with respect to them is that right now they have workstreams relating to the bankruptcy. Ms. Roeder, for instance, supervises the -- works with a financial consultant and supervises the filing of required monthly reports that go to the bankruptcy administrator. Ms. Roeder also ensures that -- that we book payments to various -- and pay payments to various professionals both those and those of the -- as well as those associated with both the ACC and FCR in this matter, and, and Ms. Roeder also ensures that the debtors are adequately funded at all times and on a quarterly basis will review the consolidated financial statements provided by the nondebtor sister affiliates New Trane US Inc. and Trane Technologies LLC.

A. TANANBAUM

So there's some standing workstreams that they're involved in.

Should, should the PI not be granted and should tort cases begin again against any of the protected parties, inevitably Ms. Roeder would be drawn back into some of the workstreams that she previously engaged in prior to the restructuring, things around looking at the payments of professionals, looking into the reserving of liabilities and assets and the like.

And so I think there would be a strain on both Ms. Roeder and Ms. Bowen who unlike Mr. Sands and I are not seconded and have day jobs as well.

So I think you'd just be adding to the tasks that are already on their plates and strangle them.

Q. Just so I understand it, Ms. Roeder, you said she handles the MORs or monthly operating reports, she handles payments to bankruptcy professionals, and she ensures that the

debtors are adequately funded; is that right?

A. Those are the things that came to mind, yes. I'm sure she's doing other things as well that perhaps I'm not as privy to.

Q. Are you personally aware of any other bankruptcy related activity she engages in?

A. I think those are the main ones.

Q. How much of her time is spent on those three functions?

A. Well I think --

MR. HIRST: Object to form. Go ahead.

A. I think that question would be better asked of her than of me. But -- sorry?

Q. Do you understand my question?

A. I do.

Q. Let me rephrase it just to be sure. How much time does Ms. Roeder, to your knowledge, spend on the monthly operating reports, the payments to

professionals and making sure the debtors are adequately funded?

A. I couldn't say.

Q. How about with respect to Ms. Bowen, what bankruptcy activities does she engage in?

A. Ms. Bowen supports Ms. Roeder on all of the above. She's more on the spot in the initial instance around the payment of various invoices once they've been reviewed and approved by Ms. Roeder and myself.

Q. Can you tell me, do you know how much time Ms. Bowen spends on bankruptcy related issues?

A. I couldn't. But what I can say for both her and Ms. Roeder is that from my perspective, given the breadth of their other assignments, you know, it's not an exceedingly high percentage, but whether it's 50 percent or below 50 percent I couldn't say.

Q. And you mentioned that neither of them are seconded, so they both work for

the Trane organization specifically?

A. That's correct. And they've got other ongoing duties.

Q. Besides yourself, Mr. Sands, Ms. Roeder and Ms. Bowen, are you aware of anyone else that may be distracted or averted in your opinion if the preliminary injunction is not granted?

A. Those are the main folks, I would say.

Q. Okay. Are there any others?

A. No one is coming to mind at the moment.

Q. Okay. You said that they were the main folks. Are there others that are, to use a different word, you know, secondary? Is there anyone else that you're aware of that could be distracted if the preliminary injunction is not granted?

MR. HIRST: Object to the form, asked and answered.

A. Nobody that I can think of. I'm trying to be careful, but I can't think

Q. Did any of the Trane affiliates sign-off on the decision to file for bankruptcy?

A. They did not sign-off on it; the decision was made by Aldrich and Murray's boards.

Q. How do the debtors expect to fairly resolve their asbestos claims through this bankruptcy?

A. I think for my -- from my perspective, the fair resolution is principally the product of a trilateral negotiation in which the debtors, the FCR and the ACC align on the size of a trust. I think that's principally the way it should work and I expect and hope that it will.

Q. Have you been engaged in discussions with the debtors or any nondebtor affiliate with respect to contributing to a Section 524 (g) trust?

A. Discussions within the debtor? Absolutely.

Q. Okay.

discussions to amicably resolve this matter.

Q. Mr. Tananbaum, do the debtors expect a contribution to a trust -- I'm sorry, let me rephrase that.

Do the debtors anticipate that they will pay less than they were paying in the tort system with Section 524 (g) plan?

MR. HIRST: Same objections and caution the witness if your only answer is the product of -- would reveal confidential privileged legal advice, I'll instruct you not to answer. If you have any other basis to answer, you can go ahead and do so.

A. Well since the question is couched in terms of expectations, I guess I can answer it. I would say that we don't have an expectation because we don't control the outcome of discussions, right. I don't have a present expectation because where we

land will be the result of three-way discussions.

Q. Have any of the protected parties committed to contributing to an eventual 524 (g) trust?

A. Well let me take them one by one. You've got the affiliate protected parties, and I don't think that -- I'm not aware of any expectation on the part of the non -- of the affiliates who are not the direct sister entities of Trane Technologies -- of Aldrich and Murray.

So that is to say the only affiliates who I think are expecting to be potentially funding a 524 (g) trust are New Trane and New Trane Technologies LLC.

Beyond that, you know, you've got a long list of affiliates. I wouldn't imagine there's an expectation on the part of any of those other affiliates that they're going to be needing to pay out. So that's with respect to the affiliates.

concede there's some delay that needs to be weighed. I'm not going to say otherwise. But I think in the scheme of things it's not as bad as it may look at first blush and it's clearly outweighed by the harms on our side of the -- on our side of the fence.

Q. Have you formed any opinions, sir, as to whether a successful reorganization is likely?

A. I'm optimistic and I believe it is likely.

Q. And what documents or information do you rely on to formulate that view that it is likely?

A. I'm just reminded that while these cases are hard fought, the previous cases that have all eventually gotten over the finish line. I also understand that, and I don't question that in these preliminary skirmishes the parties have to signal hard. And, you know, I understand that the ACC, for instance, is trying to signal hard right

now that there will never be a deal.

But I say to myself that that's kind of what, that's kind of what the ACC has to say right now. But I don't think it's a -- I don't think it's a barometer of what's to come later on and so I'm optimistic that we will be successful in getting this case done.

I wish we could do it a lot faster. I know the ACC likes to complain that we're all about delay but it's actually just the opposite. We would love to sit down tomorrow and negotiate a plan.

This is not some vacation from the tort system where we're rubbing our hands saying how wonderful to be out of the tort system another year. It's -- that's not it at all.

This bankruptcy filing was driven for the desire for finality, not for a desire to save a buck. And we stand ready, willing and able to sit down immediately to commence and deepen those

discussions.

Q. Are you aware that current asbestos claimants would vote on any potential 524 (g) plan, sir?

A. That's my understanding. That comports with my understanding, yes.

Q. Are you aware that 524 (g) requires a 75 percent supermajority vote by current asbestos claimants?

A. I am aware of that, yes.

Q. Are you aware of anyone working on a plan of reorganization on behalf of the debtors at this point?

MR. HIRST: Object to form. I will caution the witness not to reveal anything that's the result of confidential legal advice. If you can otherwise answer, go ahead.

A. Well, what I would say is that I've had extensive discussions with the legal team at Jones Day since these cases were filed and it's my understanding through those discussions that a plan will need to be arrived at,

22nd board meeting?

A. No reason.

Q. And your signature is at the bottom of page 5; is that right?

A. I do see that, yes, that's my signature.

Q. Did you draft this process or same process as the other ones?

A. Same process as the other ones.

Q. On page 3 it says there is an update regarding activities in connection with current asbestos related lawsuits.

A. I see that.

Q. Again points to Mr. Evert. Do you recall what those updates were?

A. Again, the same constellation of updates that I previously testified to, just updating the board as to what happened in the tort system the previous week and in discussions and communications with our defense counsel network and insurers.

Q. On page 4 the minutes say that

following a lengthy and robust discussion of the benefits and challenges associated with the use of Section 524 (g), Mr. Tananbaum then reviewed the other strategic options. Do you see that?

A. I did -- do.

Q. Do you recall a lengthy and robust discussion at this meeting?

A. I recall that this discussion went on at some length. I think it was, as many of the board meetings during this period of time were quite a long discussion and some of the board meetings, perhaps this one, went on long, lasting, you know, for upwards of three or four hours.

So I recall in general a robust discussion, yes.

Q. In what way was the discussion robust?

A. Robust in the sense that the board seemed very concerned that it understand how the options work, what

the potential benefits of each option were, what the potential limitations of each option were, what the risks of each option were, what the implementation costs of pursuing each option might be, and what the ultimate cost if you could reach the -- reach the end of the process and see it through successfully.

So kind of lots of questions around all of those angles.

MR. PHILLIPS: Let's turn to tab 42. This is the Aldrich board meeting minutes previously marked as Committee Exhibit 36.

(Committee Exhibit 36, Aldrich Pump minutes from June 17th, 2020 Bates number Debtors 50812 was previously marked for identification.)

MR. PHILLIPS: So this is Murray -- I'm sorry. This is the Aldrich Pump minutes from June 17th, 2020 it has a Bates number at the bottom starting with 50812. And I believe

A. TANANBAUM

Object to form only.

Q. Looking back at that time that Chapter 11 filing it says now, therefore, be it resolved, it says in the best interest of the company, its creditors and other interested parties?

A. That's correct.

Q. So why was it in the best interest of the creditors?

A. Well again I think I testified to this before, at least I hope I did, the boards were certainly focused on what was in the best interest of the debtors, that's a given. But the boards were also fairly focused on what was in the best interest of the creditors and particularly the asbestos claimants. And I think the board was sensitive to the delays, the significant transaction costs and the inefficiencies of the tort system. And I do believe that one of the board's motivators in authorizing the filing of the Chapter 11 case was that there had to be a better way, a

more efficient way, a more humane way, if you will, of cutting out as many of the long legal processes as possible and, you know, permitting claimants to get to a point where they can easily fill out a form and get just compensation where it's fairly due and owing.

So I think the creditor perspective was one we did express in the presentations and that the board members really asked a lot about.

I recall that the topic came up.

Q. At some point during that meeting did you ask the board to vote on the resolution?

A. That's correct.

Q. And how did the board vote?

A. The vote -- the board voted unanimously to proceed with the filing.

MR. PHILLIPS: Let's go to tab 43, Cecelia.

Q. We're going to send to you through the Chat function, Mr.

exhibit, Committee Exhibit 191 in front of you, sir.

A. I'm not seeing it pop up on the chat, unless it's going somewhere else. Oh, I see one new message. Let's see. All right, good. Let me save it to my desktop.

Q. This document has a Trane Bates label at the bottom of 7526. And it appears to be an email from Eric Hankins to Eric Hankins containing conversations with, and the subject line conversation with Hankins, Eric, appears to be a chat between Rolf Paeper and Mr. Hankins. Let me know when you've had a chance to look at that?

A. I see it. May I have a moment to review it? I don't think I've seen this before.

Q. Sure. I'd like you to turn to page 2 when you've had a chance to look at this.

A. Okay, just one moment.

Yes, okay, I've had a chance to

review it.

Q. Okay. Page 2. And do you have any reason to believe this isn't an accurate depiction of this chat between Mr. Paeper and Mr. Hankins?

A. No reason. I see it was produced with a Trane Bates stamp.

[redacted]

[redacted]

Q. But he did put it in quotes, right?

A. He did. And while I don't know what it means, I look at it and I say well that's potentially unfortunate. But Eric Hankins had it right.

And I forgot to mention Eric. He was definitely part of the Omega project on the finance side assisting particularly on Rolf's workstreams as I recall. But I think Eric got it right, it has to be an independent board of directors' decision and he also pushed back on the notion that this was definitely going to occur in some sort of set timetable.

I think as I testified before, it was, in general, thought to be a good thing to keep pushing and doing -- do this as soon as possible. Particularly, I should add, given all of the claims that started to come in against the protected parties post divisional merger that creates some risk and that's

another reason to proceed with all due haste if you can.

But, you know, Mr. Hankins' statement validates what I was saying, that we had an independent board process and, you know, whatever assumptions about time frames might have been made before the board was on a course and looked like they needed more time.

Q. And Mr. Paeper was part of Project Omega, right?

A. Mr. Paeper was. He was project manager and principally in charge of the licensing workstream, yes.

Q. Okay.

MR. PHILLIPS: Why don't we take a break now, Mr. Hirst.

MR. HIRST: Great, Todd.

MR. PHILLIPS: We'll take ten minutes. Want to come back at about 4:42, give or take.

MR. HIRST: Sounds good.

THE VIDEOGRAPHER: The time is 4:33 p.m., this is the end of media

protected parties as indemnified parties?

A. Well we tried to create a comprehensive list of M&A counterparties, that is to say, in general, companies that had, we had divested and as part of the divestiture had agreed to indemnify and protect from Aldrich and/or Murray asbestos claims as the case may be.

And so this was our attempt through a lot of archeology of old M&A deals and experience in managing tort cases to come up with a comprehensive list.

Q. Is it fair to say that none of the parties on this list are affiliates of the debtors?

A. That is correct.

Q. Do you know which, if any, indemnified parties on this list have been sued for Aldrich or Murray asbestos claims?

A. I would say most, if not all of

them.

Q. Most or all of them have been named on complaints for --

A. I believe so, yes.

Q. Do you know if those entities have sought indemnification from Aldrich or Murray?

A. Yes, and in some cases their successors.

Q. Turning to the insurers, do you know what the criteria was for including a party on the list of the protected parties as insurers? And this starts on page 10 of 27 of the PDF.

A. This list of insurers I believe is a comprehensive list of all the Aldrich and Murray historical insurers that provided comprehensive general liability insurance that would have included asbestos, you know, typically from the mid '50s through on the Murray side I believe it's April of '86 and on the Aldrich side through January 1st, '85.

law?

A. I haven't given that thought so I don't know how to answer that right now definitively. I don't think I can. But I think our motion was predicated on these contractual indemnifications. That's --

Q. Has any party ever tendered a common law indemnification claim to the debtors?

A. I am not aware of any. It's possible, but I'm not aware of any.

Q. Turning to paragraph 38 of your declaration, you state that if allowed to pursue the Aldrich Murray asbestos claims against the protected parties the defendants would litigate the same key facts involving same products, same time period, same alleged injuries. You see that paragraph?

A. I do, yes.

Q. Any rulings or findings could bind the debtors. The debtors could not stand by as liability is potentially

established. Do you see that?

A. I do.

Q. What documents or information do you rely to formulate that view articulated in paragraph 38, sir?

A. Documents? I principally don't rely on documents. I principally rely on my knowledge of the tort system, the fact that only Rob Sands and myself are equipped to defend these products and these cases.

So as a very practical matter, it just is as clear as rain that the only way these cases could be successfully defended is with our intercession.

Q. Let me ask this. How could any rulings or findings regarding the Aldrich/Murray asbestos claims asserted against protected parties bind the debtors with respect to those same claims?

A. Because again as I testified earlier and as our motion makes clear, these claims, any claims that might be

**Allan Tananbaum April 12, 2021 Excerpted Deposition Transcript,
30(b)(6) deposition on behalf of the Debtors**

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

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IN RE:

Chapter 11
No. 20-30608 (JCW)
(Jointly Administered)

ALDRICH PUMP LLC, et al.,

Debtors.

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ALDRICH PUMP LLC and

MURRAY BOILERS LLC,

Plaintiffs,

Adversary Proceeding
No. 20-03041 (JCW)

v.

THOSE PARTIES TO ACTIONS

LISTED ON APPENDIX A

TO COMPLAINT AND

JOHN AND JANE DOES 1-1000,

Defendants.

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April 12, 2021

REMOTE VIDEOTAPED 30(b)(6) DEPOSITION OF
MURRAY BOILER AND ALDRICH PUMP BY
ALLAN TANANBAUM

Stenographically Reported By:
Mark Richman, CSR, CCR, RPR, CM
Job No. 192003

MONDAY, APRIL 12, 2021
9:30 A.M.

Remote Videotaped 30(b)(6)

Deposition of Murray Boiler and Aldrich Pump by its Corporate Representative Allan Tananbaum, before Mark Richman, a Certified Shorthand Reporter, Certified Court Reporter, Registered Professional Reporter and Notary Public within and for the State of New York.

A. I would say not in drafting it but certainly in reviewing a draft plan, commenting on it, providing input.

Q. Since your deposition on March 22nd, have the debtors entered negotiations with any parties in hopes of drafting a consensual plan of reorganization?

MR. HIRST: I'm just objecting on scope here, Todd.

MR. PHILLIPS: This is topic 19, irreparable harm.

MR. HIRST: All right.

MR. PHILLIPS: And topic 21, successful reorganization.

Q. Let me repeat my question. Have the debtors entered negotiations with any parties in hoping of drafting a consensual plan of reorganization?

A. I would characterize the debtors as being in the beginning, very beginning stages of the negotiation with the FCR.

Q. Okay. To your knowledge, has a

term sheet been drafted or executed?

A. Not executed. A draft term sheet has been shared with the FCR.

Q. And can you give me a general idea of what the terms of that term sheet are?

MR. HIRST: Hold on one second. I don't have an objection, Mr. Tananbaum, giving it at a high level. This is negotiations with another party in this case.

I suspect if we were negotiating with your client, Mr. Phillips, you would not want revealed to other parties in the case. But from a high level perspective I'll let Mr. Tananbaum testify.

MR. GUY: FCR has the same objection.

Q. Let me rephrase my question. So just so I'm clear, a term sheet has been exchanged between the debtors and the FCR; is that your testimony?

A. The debtors shared a draft term

sheet for the FCR's review and comment, yes.

Q. Does that term sheet include a number for asbestos liabilities, such as a contribution to a trust?

A. No, it does not.

Q. Are in-house counsel involved in working on a term sheet with the FCR?

A. I guess I'm not quite sure how to respond to that question. The debtors already shared their proposal for a term sheet, you know, what I would say is that it's in the FCR's court right now.

Q. I'm sorry, let me rephrase my question.

Are you or Mr. Sands or anyone else from the legal department involved in that term sheet exchange and process?

A. I certainly was involved in reviewing the draft term sheet and providing input before it was communicated to counsel for the FCR.

Q. Mr. Tananbaum, what steps specifically have the debtors taken

since the petition date towards successfully reorganizing under Chapter 11 here?

A. Well, I think the communication of the draft term sheet is one tangible step. The discussions that have been proceeding between our counsel, myself, Mr. Grier's counsel and Mr. Grier are all moving in the direction of reaching a consensual plan and the continued discussions that the debtors have with their insurance representatives are also moving in that same direction.

We're basically talking to everybody except the ACC, which again we would love to begin doing as well, and those are all movements that get us closer.

I would also argue that prosecuting this preliminary injunction motion is also getting us there as well because it's clearing out the underbrush of blockers or procedural issues that will in due course I believe get us to

A. So we did review the support agreement and I believe there's similar language in the plan of divisional merger, and it does talk about, to my knowledge, indemnification and there's no explicit reference to defense. Again, if I'm wrong the agreement will control, but that's my recollection.

And so I don't see a formal contractual defense obligation, that's correct.

Q. Okay. Are the debtors aware of any parties that asserted res judicata against either Old IRNJ or Old Trane in asbestos tort litigation prebankruptcy?

A. I'm not aware of such.

Q. Are the debtors aware of any parties that asserted collateral estoppel against Old IRNJ or Old Trane in asbestos tort litigation prebankruptcy?

A. I'm not aware as such. But again, that's in a very different context where the debtors were directly

defending each case and so the risk of same wasn't the same risk that we're identifying here.

Q. Did any parties to the debtors' knowledge assert res judicata against the debtors in asbestos tort litigation prebankruptcy?

A. I believe you asked that --

MR. HIRST: Object to the form. Asked and answered. Go ahead.

A. -- but I'm not aware.

Q. I actually asked about Old IRNJ and Old Trane. This question is prebankruptcy did anyone assert res judicata against the debtors?

A. Yes, thank you for that clarification. But that's prebankruptcy. So in between the divisional merger and bankruptcy, no, not aware. And in fact, I'm sorry, for that period of time I can go beyond not aware. It did not happen, I believe.

Q. Is the answer the same for collateral estoppel prebankruptcy post

restructuring?

A. That's accurate, yes.

Q. To the debtors' knowledge did any parties assert res judicata against any of the debtors' nondebtor affiliates in asbestos tort litigation prebankruptcy?

A. I don't believe so, no.

Q. What about with respect to collateral estoppel?

A. Again, I don't believe so. I would careful during that time not to really be involved in the nondebtor affiliates' defense but I believe I would have heard and I don't believe so.

Q. Did any parties to the debtors' knowledge assert res judicata against any of the indemnified parties in asbestos tort litigation prebankruptcy?

A. No.

Q. What about collateral estoppel against any of the indemnified parties prebankruptcy?

A. No.

Q. Are the debtors aware of any

other examples of res judicata being asserted by an asbestos tort plaintiff against an asbestos tort defendant?

A. I'm not, but again I don't think the test on this motion is past is prologue. I think if there's a risk and it can be militated against then we're duty bound to look after it. That's all this motion seeks to do. And again, the context of collateral estoppel and res judicata being applied in cases where the party in interest is actively defending the case is a far cry from the proposition here where if you would have it, if the ACC would have it, these cases against the affiliates would move forward with no input from the debtors themselves even though the actual liabilities being litigated in the cases are Aldrich and Murray liabilities, so.

Q. So it's fair to say that the debtors are not aware of any examples of res judicata being asserted by an asbestos tort plaintiff against an

asbestos tort defendant?

A. I'm not aware but I don't know that I would be aware. So I don't think my lack of knowledge proves anything on that.

Q. Well I'm asking the debtors' knowledge?

A. Right, but why would the debtors, there are scores of companies involved in the asbestos litigation, I don't see why these two debtors should have awareness of what happened to some, you know, of the scores of additional companies that have been in the tort system for all these many years. I just don't think we would have that knowledge. And so our lack of knowledge just can't be viewed as meaningful.

Q. Are the debtors aware of any examples of collateral estoppel being asserted by an asbestos tort plaintiff against an asbestos tort defendant?

A. I'm not aware and I refer by reference all my previous responses.

A. I do, yes.

Q. How would the continued prosecution of claims against protected parties thwart the debtors' ability to resolve their asbestos liabilities through 524 (g)?

A. Counsel, I specifically was referring to this sentence in the second part of my prior answer, which is that it undermines the goal of resolving the 524 (g) bankruptcy simultaneously to expect continued prosecution of cases in the tort system. It just does not facilitate reaching a landing in the case.

And again it goes back to my theme that the parties need to choose a lane. We either have to slog it out in the tort system one case at a time for the next 20, 30, 40 years, who knows? Or we can all put our heads together, we can all come to the table productively and with open minds to try to resolve something efficiently and fairly.

debtors' reorganization progresses?

A. He'll continue to play a secondary client role to my own.

You know, I believe I testified about all this at great length at my original declaration. I'm not a bankruptcy attorney but I am the client. No decisions can be made, no strategy can be executed without my involvement. And because I'm not a bankruptcy attorney I take more time, not less, understanding the issues.

This insulting notion that I'm not a necessary player here because I'm not a bankruptcy attorney is just ridiculous. The idea that Jones Day can run around run this bankruptcy case with effectively no client, it's just laughable.

Q. On page 2 of Mr. Hirst's letter, exhibit 107, do you still have that open, sir?

A. No, but I'll reopen it. Okay, I reopened it.

pace and she's going to need to continue to be involved in all of those workstreams.

Q. Would the debtors expect Ms. Bowen to be involved in a contested estimation proceeding?

A. I would imagine not directly, although I could also envision that we might need to source some historical data runs from her relating to prior payments. I just don't know.

Q. Would Ms. Bowen's role include formulating a plan of reorganization?

A. No.

Q. What about negotiating a plan of reorganization, would she be involved in that?

A. No.

Q. Would Ms. Bowen be distracted from the reorganization process if asbestos litigation continued against the protected parties or the debtors?

A. I think there would be more work on her plate and she's already pretty

heavily tasked so it would certainly not be a welcome development, right? Because she would continue to do all the things I've outlined around the payment process supporting the bankruptcy and at the same time have to re-up her prior workstreams around processing defense counsel payments, tort settlements, looking at potentially any reserves around same. So she would, just as she had previously been involved I'm sure, she would need to be involved with the nondebtor affiliates named in the tort cases.

So, you know, is it a distraction? Absolutely. It's a certain level of distraction because on top of both those workstreams she's got her day job issues, so.

Q. Okay. Besides those individuals listed in Mr. Hirst's letter, are you aware of anyone else, when I say you I mean the debtors, are the debtors aware of anyone else that would be diverted by

on the project.

Q. And was that option presented as a viable option to the debtors?

A. Certainly. I presented it as a viable option to the debtors. It was viable in the sense that one could pursue it. You know, was it as viable as other options? Was it as effective as other options? I think those are different questions. But certainly it was an option that could be pursued. And Sidley & Austin told us that other companies in fact had successfully pursued it, although they also told us they could not give us the names of any of those companies.

Q. So was it a viable option post corporate restructuring and post divisional merger?

MR. HIRST: Let me just again caution, and I think again you can answer this question, Mr. Tananbaum, but not to reveal any legal advice that either you received or you

provided to the board. But I think you can go ahead and answer.

A. I would contend yes. The boards were charged with reviewing the companies', the debtors' long term asbestos position and seeing if there were a better way, a more efficient way, a fairer way to wrap asbestos up in a bow, if you will, and move past the daily slogging through the tort system.

And they made the most of that opportunity and analyzed the historical problem deeply, both from a liability and asset standpoint analyzed what it would mean to continue soldiering on in the tort system, what it might mean to file a Chapter 11 524 (g) case and what it might mean to take a different path and the structural optimization was one of those different paths.

And so the board certainly looked at it every which way. And frankly, what the prior Trane entities had or had not decided to do about it no longer

mattered. It was understood, indeed it was understood by the Trane entities that created the debtors that the decision was now out of their hands and these boards was going -- were going to make the decision.

And among the options were too revert to something like structural optimization that in the past seemed to have some traction and then maybe seemed to run out of some steam. So it was certainly on the table.

Q. You mentioned discussions with Sidley Austin about it, but you said they were not able to give you any specific examples by name.

Are you aware of any examples of structural optimization taking place after a divisional merger?

A. I'm not aware one way or another. I was disappointed to hear that Sidley & Austin felt that because of confidentiality and/or privilege concerns that it could share with us the

you know, the debtors were forced to, if you will, make dollars and cents calculations that weren't always based on what the true liability was. And so those are another cluster of harms as well.

Q. You said the debtors would have had to use up their own cash if they stayed in the tort system before turning to the Funding Agreement; is that right?

A. Right. We reviewed that portion of the Funding Agreement on several occasions, right? You can't ask for funding until and unless you've used your own assets first, right? That's the big proviso.

Q. How much cash do the debtors have after the corporate restructuring? How much cash were they allocated?

A. Well, show me Mr. Pittard's declaration and I'll give you the exact figures. I think Aldrich was allocated something like $26 million in cash and Murray was allocated I want to say 16.

But the correct and exact figures are enumerated in Mr. Pittard's declaration.

In addition to that, I know that there were I think in early June, prior to the restructuring the, the only cash calls under the Funding Agreement, if you will, occurred then and I think there were a couple for Aldrich and one for Murray and again records included in the MSRs would detail exactly what those numbers were.

But, you know, with balances moving up and down because insurance proceeds are coming in and because payments to vendors are going out the door, I can't tell you exactly as of the 18th how much sat in the accounts. But those are more or less the guard rails.

Q. Just taking those numbers that you threw out, the 26 and 16, do the debtors have to spend 26 and 16 million to access the Funding Agreement and then the Funding Agreement would cover the rest? Would the debtors have been

financially harmed by staying in the tort system?

A. Well the harm would be to the tune of 24 and the 16. That would also include cash disbursements from the operating subs. My understanding is to date no cash disbursements have been made.

To use your hypothetical, if everything was static from the 26 and the 16, the harm would be, I would contend, the 26 and the 16.

To your point, once you get beyond that you've got the Funding Agreement. But to say there's no harm at all is not true.

Q. And how much money were the debtors spending each year before the bankruptcy on the tort system?

A. All in, close to a hundred million in, for both debtors together.

Q. And so if they paid 26 and 16 and then the Funding Agreement took over, you still think that they would have

been harmed by staying in the tort system?

A. To the tune of the 42 million, that's all I'm saying. Once you get past the 42, I grant your point that it's on somebody else's nickel. But 42 million is real money where I come from.

Q. When was the idea of remaining in the tort system rejected or abandoned by the debtors?

MR. HIRST: Object to the form.

A. None of the options was rejected or abandoned until the final vote.

Q. Was remaining in the tort system presented as a viable option to the board?

A. It was certainly viable. We had, the debtors had the funding agreements. It was certainly viable that if that were the decision the debtors could revert to the tort system. You know, whether it was advisable is a separate question, but it was certainly viable.

Q. Besides the options we've

**Evan Turtz April 5, 2021 Redacted and Excerpted Deposition Transcript**

EVAN TURTZ

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

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IN RE: Chapter 11
No. 20-30608
(Jointly Administered)

ALDRICH PUMP LLC, et al.,

Debtors.

----------x

ALDRICH PUMP LLC and

MURRAY BOILER LLC,

Plaintiffs,

v. Adversary Proceeding
No. 20-03041 (JCW)

THOSE PARTIES TO ACTIONS

LISTED ON APPENDIX A

TO COMPLAINT and

JOHN and JANE DOES 1-1000,

Defendants.

----------x

REMOTE VIDEOTAPED DEPOSITION OF

EVAN TURTZ

APRIL 5, 2021

Reported by:
Sara S. Clark, RPR/RMR/CRR/CRC
JOB No. 192005

EVAN TURTZ

APRIL 5, 2021

9:33 a.m. EST

Remote Videotaped Deposition of EVAN TURTZ, held at the location of the witness, taken by the Committee of Asbestos Personal Injury Claimants, before Sara S. Clark, a Registered Professional Reporter, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public.

from -- to a standing or smaller company?

MR. MASCITTI: Objection; form.

A. There was a deal team for the RMT.

Q. And at some point, was there a transformation team as well or a transition team?

A. Not for RMT per se. Transformation is what I had spoke about earlier, which was what would Trane look like from a -- you know, from a department perspective, et cetera. You know, what would Trane Technologies look like after, effectively, the sale of the industrial businesses and becoming a much smaller company.

Q. And who led that team, the transformation team?

A. At the highest level, Ray Pittard.

Q. And what was the plan for handling asbestos claims after the transformation?

MR. MASCITTI: Objection; form; foundation; and privilege.

To the extent that you can answer that question without disclosing any attorney-client communication or legal advice, you may respond.

A. Yeah. I think we have to be really careful about time periods and things.

The RMT had absolutely nothing to do with asbestos, you know. It was an M&A transaction. Transformation took place -- you know, it was -- we were starting to look at what the company would look like upon the close, which we anticipated to be February and ended up being February. And asbestos claims continued to be handled in the manner they were prior to -- you know, from Ingersoll Rand to Trane.

Q. Except certain of those asbestos claims were now being handled by Ingersoll Rand -- the new Ingersoll Rand, weren't they, after the closing?

MR. MASCITTI: Objection; form.

A. I think it's a different question. Do you want to talk about the time period post close?

Q. Yeah, right.

After closing, some of the asbestos claims that had previously been handled by the old Ingersoll Rand were now being handled by the new Ingersoll Rand; is that correct?

A. "Handled" is a little bit of a term that I'm struggling with. But what -- if you're asking me did some things that old Ingersoll Rand have in the asbestos world move over to new Ingersoll Rand in a very high level, the answer would be yes.

Q. And those were the asbestos claims -- those included the asbestos claims relating to the Club Car business; is that correct?

MR. MASCITTI: I'm going to object because we're getting outside the scope of the genesis, planning, and implementation of Project Omega.

So, again, if we could stick to the topic for purposes of 30(b)(6), I would appreciate it.

MR. GOLDMAN: Well, I think we have a disagreement about the scope of the topic, but I got the objection.

BY MR. GOLDMAN:

Q. So if you could --

A. The RMT had absolutely nothing to do with asbestos and Project Omega, but if you want me to answer these questions, I will.

MR. MASCITTI: Objection; outside the scope.

THE WITNESS: Can you read the question one more time? I apologize.

(Record read as follows:

"Question: Those included the asbestos claims relating to the Club Car business; is that correct?")

MR. GOLDMAN: Let me try to --

THE WITNESS: Steve, can you give me another -- I can try to answer it for you.

MR. GOLDMAN: Yeah.

THE WITNESS: Thank you.

BY MR. GOLDMAN:

Q. When Project Omega was first named and commenced, the asbestos tender agreement had not yet been entered into; is that correct?

A. Yeah. Again, what I would say is this is -- the RMT and the problems -- the business issues we had with asbestos were completely unrelated. I can't be any more clear about that.

But as far as the asbestos tender agreement from the RMT, if it had been completed

A. And I'm using that in the broad sense, you know. And Trane, of course.

Q. Yeah.

And then when new Ingersoll Rand was formed and certain -- the responsibility for certain liabilities became the responsibility of new Ingersoll Rand, did that change the scope of what you were trying to address?

MR. MASCITTI: Objection.

A. It did not.

Q. So is Project Omega designed to address asbestos liabilities that became the responsibility of new Ingersoll Rand under the reverse mortgage trust transaction?

A. Project Garden, which was the Reverse Morris Trust, was an M&A deal, completely unrelated to addressing the business issues of asbestos. There were some asbestos issues in there. That's the best way for me to say it. And they were addressed, they were negotiated by the M&A team, and that was that. It had absolutely zero to do with addressing the overall asbestos program of -- in the broadest sense -- of Ingersoll Rand Trane.

still needing to be done than deciding whether to move forward once they were done?

MR. MASCITTI: Objection; form.

A. I wouldn't characterize it that way. I think we were trying to make sure we completed each step in a very good fashion and that, you know, once those steps were done, we were going to make --

Q. At some point, I gather a decision was made; is that right?

A. That's correct.

Q. And who made that decision?

MR. MASCITTI: Objection; form.

What decision are we talking about?

MR. GOLDMAN: Division to execute the divisional merger, or the two divisional mergers, I should say.

A. So I have a recollection of a meeting with Chris and Mike and Dave, so Dave Regnery and Mike Lamach, me and Chris, and I have a recollection of going through -- there may have been another businessperson there, too. I can't remember if Donny was there. A lot of this had to do with the business. And I remember that

there was decision to go or no go.

At that point, I remember that the -- I know for me, for example, Chris, we had been walked through several times over a period of hours the actual documents, making sure that they were what they said they were, and asking questions of Jones Day and at times of Sara, who was our corporate lawyer. And I remember all of those things happening. I don't remember the exact dates of these meetings. You may know better from the documents. But I remember that, and ultimately I remember Mike and Dave and me and Chris saying that we could do it through the divisional mergers.

Q. And was it on -- so I gather it was a -- well, was it a consensus decision of you, Chris, Mike, and Dave, or did Mike have the final say, or how did that work?

MR. MASCITTI: Objection.

A. Mike's management style is to -- I viewed it as a consensus decision. I think he asked good questions and -- but, you know, look, the buck stops with the CEO, right?

Q. Did either Chris or Dave voice an

opinion that you should not go forward with one or both of the divisional mergers?

A. To my knowledge, everybody was unanimous.

Q. Let's go back to Exhibit 205 here.

A. Okay.

Q. And from what I gather, you said this meeting with Chris, Mike, and Dave was sometime after April 3 but before May 1. Is that --

A. I think that's right.

Q. And on this first -- well, Page 2 of the PowerPoint, it says -- in the third bullet, it says "Demerger delay will provide additional time to evaluate risks for stay with TUI option in California."

Do you know what that is referring to?

A. I did at one point, but -- I mean, I can tell you what I think it means. The Trane -- if you go back to that original PowerPoint that you showed me earlier today, there was a discussion of licenses, either getting transferred to the new Trane entity or to the sub TUI. And in California, it was unclear whether we were going to transfer the

licenses to the new Trane entity or to TUI. We had transferred some of the licenses to TUI. So there was just a business decision as to whether or not we were going to do one or the other, and we were still evaluating that.

And as I recall, that particular issue was a little bit tricky because the state of California wasn't really working, because at that point, there was -- COVID had already kicked in, so it was hard to get a specific answer.

Q. Climate Labs, where within the Trane corporate structure had they -- were they positioned before they were created as a separate legal entity?

A. I don't recall.

Q. Who would you expect to know that?

A. Sara and the tax team.

Q. Okay. Let's look at Page 3 of the PowerPoint.

A. Okay.

Q. The bottom bullet says "Preclearance finalized and restructuring documents revised based on comments."

Those were the divisional merger documents that's referring to?

A. Yes, I believe so.

Q. Okay. Then if we go down to the next page of the PowerPoint, Page 4 --

A. Just on that bullet, the -- based on the comments, I recall, as I think I previously testified to, the -- there were a couple of meetings where we went through the documents in detail. The managers or the shareholders went through the documents in detail to find out -- make sure the documents were what they said. I know there were comments back to the legal team, which is really Troy and Sara. And we went through those documents in great detail.

Q. Okay. And then if we look at Page 4 of the PowerPoint, the section there says "Post Demerger Resources."

By "demerger," does that refer to the two divisional mergers?

A. Yes, I believe so.

Q. It says "All resources are lined up and ready to engage; financial advisor (AlixPartners) engagement letter in process."

EVAN TURTZ

MR. HIRST: I suppose it depends on his answer, Counsel, which is that if he's going to reveal specific legal advice he gave in answering the question, then, yeah, I'll instruct him not to. If his answer will not reveal any legal advice, then he can answer.

MR. GOLDMAN: Okay.

BY MR. GOLDMAN:

Q. Could you try to answer the question, Mr. Turtz? Did you make a recommendation to either or both boards that they file for bankruptcy?

A. I have no recollection of that.

Q. Do you have a recollection that you did not, or you just don't remember one way or the other?

A. I have a recollection that I would not do that and did not do that.

MR. GOLDMAN: Let's look at Exhibit 33, if we could.

MR. DEPEAU: Exhibit 33 is in the chat.

THE WITNESS: I'm there. Thanks.

[redacted]

Q. Okay. And so the first -- the slide that appears on Bates Number 51658, it's titled "Status Quo, Remain in the Tort System," and so from what you said earlier, would it be fair to say that at least your view was that that was not an acceptable option for Trane?

A. At this point, we wouldn't be talking about Trane. This was an Aldrich and Murray discussion at this point.

Q. Was this an option that you thought was desirable --

MR. MASCITTI: Objection; form.

Q. -- as of May 29, 2020?

MR. MASCITTI: Objection; form.

A. I think my role was to make sure that

Aldrich and Murray boards had the facts that they needed to make relevant decisions.

Q. And were you doing anything at these meetings to make sure they had those facts?

A. If asked the question, I certainly would try to answer it in my legal capacity.

Q. And what would be the harm to -- just taking one of them -- Aldrich of remaining in the tort system as of May 29, 2020?

MR. MASCITTI: Objection; form.

A. I mean, the same harms that IR and Trane had prior, Aldrich and Murray would have, and that's the two-thirds dismissal, the settling cases, you know, for -- when the cost of defense is a lot higher, paying on claims for encapsulated gaskets, trying to find people that actually were harmed by our product and all of the inefficiencies of that. So, you know, Murray and Aldrich establishing a trust to be fair to current claimants and future claimants, you know. That's something that I think the board -- their board should consider -- should have considered.

Q. Well, except that before the

capacity as chief legal officer of the companies, then provided his analysis of the strategic options discussed with the boards and his preliminary recommendation, the companies file Chapter 11 bankruptcy and pursue final resolution of their current and future asbestos claims against them using 524(g) of the Bankruptcy Code."

Do you recall Mr. Tananbaum making that recommendation?

A. Not specifically, no.

Q. And the next sentence says "At the request of Mr. Tananbaum, Mr. Pittard, in his capacity as vice president of each of the companies, similarly provided his analysis of the strategic options and his preliminary recommendation, the companies file Chapter 11 bankruptcy," and it goes on. I won't read the whole sentence.

Do you remember Mr. Pittard making that recommendation?

A. Not specifically.

Q. Did you join in that recommendation of either Mr. Tananbaum or Mr. Pittard?

MR. MASCITTI: Objection; privilege.

A. I had no say in that.

MR. MASCITTI: It may be helpful, Mr. Goldman, if you wanted to start that question by asking whether or not the board had asked for Mr. Turtz's recommendation. That's a yes/no.

MR. GOLDMAN: Whether they had asked for whose recommendation?

MR. MASCITTI: Whether the board had asked for Mr. Turtz's recommendation. You just asked whether he gave a recommendation, but you didn't ask whether he was asked for a recommendation.

MR. GOLDMAN: Okay. So now you want to open up with -- okay.

BY MR. GOLDMAN:

Q. Were you asked for a recommendation?

A. Not that I recall.

Q. Were you asked what you thought about the idea of bankruptcy?

MR. HIRST: Let me object here on behalf of the debtors.

You're now asking him in his capacity

Q. And who did you meet with?

A. Greg Mascitti, Morgan, and Michael Evert. And I spoke to Greg for about 20 minutes this morning on my ride in.

Q. Okay. Was the divisional merger ever presented to the old Ingersoll Rand New Jersey board or the old TUI board?

MR. MASCITTI: Objection; form.

A. Yes. As I sit here today, I can't recall who specifically was on that. But -- and I know that we did a lot by -- I'd have to go look at the documents. I know we did a lot by written resolution. But everyone that was on those boards was in meetings and, you know, reviewed documents with counsel. I just can't remember who and what.

Q. Are you responsible for the company's disclosures under the SEC regulations and statutes?

MR. MASCITTI: Objection; form.

A. You're speaking of Trane Technologies now?

Q. Yes.

A. That responsibility rolls up to me

**Manlio Valdes March 1, 2021 Excerpted Deposition Transcript**

MANLIO VALDES

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

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IN RE: Chapter 11
No. 20-30608 (JCW)
(Jointly Administered)

ALDRICH PUMP LLC, et al.,

Debtors.

---

ALDRICH PUMP LLC and

MURRAY BOILER LLC,

Plaintiffs,

v. Adversary Proceeding
No. 20-03041 (JCW)

THOSE PARTIES TO ACTIONS

LISTED ON APPENDIX A

TO COMPLAINT and

JOHN and JANE DOES 1-1000,

Defendants.

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*REVISED*

REMOTE VIDEOTAPED DEPOSITION OF

MANLIO VALDES

Reported by:
Sara S. Clark, RPR/RMR/CRR/CRC
JOB No. 190521

MANLIO VALDES

MARCH 1, 2021

8:35 a.m. EST

Remote Videotaped Deposition of MANLIO VALDES, held at the location of the witness, taken by the Committee of Asbestos Personal Injury Claimants, before Sara S. Clark, a Registered Professional Reporter, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public.

Q. And did you sign them and put them in the return envelopes back to Sara Brown?

A. Yes, sir, I believe I did.

Q. Did you carefully review the documents that were attached to this e-mail that we're looking for, April 21, or did you just sign the documents knowing in general what they were about?

MR. HAMILTON: Object to form.

A. No, I --

MR. GOLDMAN: Let me -- I'll reword the question.

Q. Did you review the document sheet -- besides the signature pages, did you review the documents that she had sent to you that were attached in the April 21 --

A. I did. I did, Mr. Goldman.

Q. Okay. Was there anything in those documents that you did not understand?

A. From memory, I don't know what the exact documents were. This is at the beginning, I believe, after I was asked if I would be willing to serve as a board member and president of those businesses. So I believe, but don't

know for certain, that this was some of the incorporations and early documents that needed to be signed.

Your question is if I understood every single word in the document? The simple answer probably would be no. Some of these documents are outside of my general field of expertise. But broadly speaking, with documents like this in our company, I review them. I try to ask questions, if there were some, from legal counsel, and counsel generally tries the best they can to give me comfort. But some of these things may sit very well outside my area of immediate expertise, so...

Q. Do you recall asking any questions about any of the documents that were sent to you on April 21st?

MR. HAMILTON: Again, I'm --

A. I --

MR. HAMILTON: Excuse me, Mr. Valdes.

I'm just going to interpose an objection.

I don't need to instruct you not to answer at this point. It's a yes-or-no

the operating company would be insolvent.

Q. And you said one of the considerations was treating the claimants equitably; is that right?

A. That is correct.

Q. You're talking about the people injured or killed by the asbestos product?

A. Correct. Anybody that had a legitimate claim against us. And we discussed it quite a bit.

Q. And if you kept, I think you said, option 1 was basically keep going the way you had been going with the claims being handled by Navigant and paid by the parent, what reason did you have to believe that those claimants -- if any, that those claimants would not be treated equitably if you had chosen option 1?

A. Well, Mr. Goldman, let me answer the question maybe this way, and then obviously if you have another question, I'll take that one.

But in my mind, my recollection, and just thinking back on it, I wasn't intent on solving a single variable. If I had been trying to solve the problem of a single constituent

**Robert Zafari March 2, 2021 Excerpted Deposition Transcript**

UNITED STATES BANKRUPTCY COURT

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

CHARLOTTE DIVISION

| | |
|---|---|
| IN RE: | |
| ALDRICH PUMP LLC, et al., Debtors, | Chapter 11 No. 20-30608 (JCW) (Jointly Administered) |
| ALDRICH PUMP LLC and MURRAY BOILER LLC, Plaintiffs, V. THOSE PARTIES TO ACTIONS LISTED ON APPENDIX A TO COMPLAINT and JOHN AND JANE DOES 1-1000, Defendants. | Adversary Proceeding No. 20-03041 (JCW) |

REMOTE DEPOSITION OF ROBERT ZAFARI

TUESDAY, MARCH 2, 2021

8:29 A.M.

REPORTED BY: KATHERINE FERGUSON, CSR NO. 12332

JOB NO. 190522

March 2, 2021

8:29 a.m.

Deposition of ROBERT ZAFARI, held remotely, before Katherine Ferguson, Certified Shorthand Reporter.

specific mention of it. I don't think it would have mattered. I don't know. I was not part of what units were created or were to be created or anything.

Q Okay. But you understood it was something in the air conditioning or air --

A Yeah, that's the nature of Trane, yes.

Q And you said -- you said that sometime after this high-level conversation you had a meeting with the team.

When approximately was that?

A It must have been either late March or early April. I don't remember. So around that period.

Q Who was part of that team meeting besides yourself?

A There was Manuel Valdez and I remember Alan Tananbaum, which became part of every meeting after that, and probably Amy Roeder. That's definitely a core in most of our meetings. And then there were a number of lawyers. I could not specifically remember who at every meeting. A lot of the people I only know by name or heard the name or by video, et cetera. So there were people I didn't know. I know there were specialists there to help us.

Q When was -- when was the subject of

bankruptcy or potential bankruptcy filing or possible bankruptcy filing first mentioned, you know, to you or in your presence?

A In an implied way, when I looked at the Bestwall case, you know, it definitely appeared like an option. But we never talked about that subject as -- as a single element. We talked about it as part of, you know, the various alternatives that were discussed in every meeting at various length. So it's never been discussed as one topic. It's been much broader than asbestos or bankruptcy.

Q Is it -- is it still being -- considered one of the options?

A It's one of the options, but there were other options also. We painstakingly reviewed, over the first many, many meetings that we have, understanding all the -- because none of us knows about bankruptcy or asbestos, so none of that had -- we were brought up to speed with a lot of questions, a lot of discussions.

Q Are you familiar with an entity named 200 Park, Inc.?

A Yeah, that's a wholly-owned subsidiary of Aldrich.

Q Are you a -- are you a manager or member of

code as a mechanism to finally resolve current and future asbestos claims against the companies."

As of May 29, 2020, had the decision been made to pursue section 524(g) of the bankruptcy code?

A I don't think so, no.

Q So despite the fact that the other options had been found on May 22nd to be not liable, it still hadn't not been (inaudible) to use 524(g)?

A Yeah. Oh, yeah. I don't think that's when we had made the resolution. It was still work in progress to look at the different options.

Q Okay.

A Still making sure we reviewed them and understood them and all of that.

Q If you could turn to page 3, please.

A Yes.

Q The first section discussion that's outlined in the minutes is an update regarding activities and connection with the current asbestos-related lawsuits.

Could you tell me what was said on that subject?

MR. HAMILTON: Object and instruct not to answer on the grounds it requires disclosure of communications protected by the attorney/client

privilege.
BY MR. GOLDMAN:
Q The second section describes a review and further discussion of strategic options to addressing current and future asbestos claims.
Could you tell me what you recall being said on that subject?
MR. HAMILTON: Object and instruct the witness not to answer that question because it requires disclosure of communications protected by the attorney/client privilege. As we did in the prior meetings, I will not object to questions that ask what were the subject -- or what were the strategic options that were considered, but if the question is what was said, I'm objecting and instructing the witness not to answer.
BY MR. GOLDMAN:
Q In this section, it says, Mr. Tananbaum briefly reviewed the strategic options for addressing current and future asbestos claims presented June 15 -- excuse me, make sure -- at the May 15th joint meeting and further discussed at the May 22 joint meeting noting that it received requests from members of the boards at and after the May 22 joint meeting to prepare for review with the boards a side-by-side

comparison of such options.

Did you make such a request?

A I think we all agreed on those and having a side by side. I don't know if it was specifically me or -- I don't know, but we all agreed that that was the right thing to do.

Q And was a side-by-side review presented at this meeting?

A I don't remember which meeting it was presented.

Q Further down the same paragraph, it says, "Mr. Tananbaum then reviewed a slide presentation which was shared electronically by internet that analyzed such options on a side-by-side basis."

A That would be this meeting.

Q So that would be on May 29?

A Probably if it says so, that's the date, yeah.

Q And do you recall the -- withdrawn.

When we talk about side by side, would that be if we do this, if we do option 1, then this thing will happen; if we do option 2, something else will happen; and so on and so forth, just going point by point? Is that what a side-by-side presentation -- is that what it was structurally?

A It was basically what we discussed before, the headlines were organizational, optimization, insurance and 524(g). And the outcome of possible permanent, efficient, et cetera. I think that's -- those are the discussions. They weren't held only during this meeting. They were held -- this whole thing traveled over time, on the 15th onward. We were digging into each scenario to make sure we're making the right decision. So side by side would definitely look at the credibility, the cost and things of that sort, all of the things we underlined earlier in our conversation and the efficiency, permanency, all of that.

Q Did you have any questions about side by side?

MR. HAMILTON: You can answer that question yes or no.

THE WITNESS: I probably did. I'm sure I did.

BY MR. GOLDMAN:

Q What were those questions?

MR. HAMILTON: Objection, instruct the witness not to answer on the grounds it requires disclosure of communications protected by the attorney/client privilege.

MS. FELDER: This is Debbie Felder from the FCR. I have one question, Mr. Zafari.

EXAMINATION

BY MS. FELDER:

Q Do you have an understanding of how asbestos claimants will be treated in the bankruptcy?

A Current or future?

Q Let's start with current.

A With the current -- well, this is to be determined as -- in the bankruptcy, if this goes through, there's all kinds of conditions we have to meet and my understanding is basically once -- and if we can set a trust, the claimants would manage the claims. So that's, in short, my understanding. And what would help me is to understand that the future claimants are treated as well as the current claimants as much as possible and they're consistent across the geographies or time. So that's how I hope that the claims would be handled.

MR. FELDER: That was all I had. Thank you.

THE WITNESS: Okay.

MR. GOLDMAN: Mr. Zafari, I have one or two followup questions.

# Exhibit 10

**Minutes of Boards of Managers of Aldrich Pump LLC and Murray Boiler LLC for the meetings held on May 15, 2020, May 22, 2020, May 29, 2020, and June 5, 2020**

# MINUTES OF JOINT MEETING

# OF

# BOARDS OF MANAGERS

**ALDRICH PUMP LLC,**
**a North Carolina limited liability company**

**MURRAY BOILER LLC,**
**a North Carolina limited liability company**

The board of managers (the "Aldrich Board") of Aldrich Pump LLC, a North Carolina limited liability company ("Aldrich Pump"), and the board of managers (the "Murray Board," together with the Aldrich Board, the "Boards") of Murray Boiler LLC, a North Carolina limited liability company ("Murray Boiler", together with Aldrich Pump, the "Companies") met jointly on Friday, May 15, 2020, by means of conference telephone and internet communications equipment whereby all persons participating in the meeting were able to hear each other. All members of the Aldrich Board—Amy Roeder, Manlio Valdes and Robert Zafari and all members of the Murray Board—Marc Dufour, Amy Roeder and Manlio Valdes—were in attendance.

At the invitation of the Boards, all non-manager officers of Companies—Allan Tananbaum, the Chief Legal Officer and Secretary of each of the Companies, and Ray Pittard, Vice President of each of the Companies—participated in the meeting. Mr. Tananbaum presided at, and acted as secretary for, the meeting.

In addition, at the invitation of the Boards, the following persons participated in the meeting: (1) Phyllis Morey, a lawyer seconded to the Companies, pursuant to a written secondment agreement that the Companies have with Trane Technologies Company LLC, a Delaware limited liability company and affiliate of each of the Companies ("TTC"); (2) Evan M. Turtz and Sara



Exhibit 31

Walden Brown, in-house lawyers at TTC, who provide general corporate legal services to each of Aldrich Pump, 200 Park, Inc., a South Carolina corporation and subsidiary of Aldrich Pump ("200 Park"), Murray Boiler and ClimateLabs LLC, a North Carolina limited liability company and subsidiary of Murray Boiler ("ClimateLabs"), pursuant to written service agreements that Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs have with TTC; (3) partners Mark Cody, Brad Erens and Troy Lewis and associate Alex Kerrigan from Jones Day, outside counsel for each of the Companies, and (4) Michael Evert of Evert Weathersby Houff, outside national coordinating counsel for each of the Companies with respect to asbestos-related lawsuits.

**(INTRODUCTORY REMARKS AND CALL TO ORDER)**

Mr. Tananbaum welcomed the members of the Boards and other meeting participants. A roll call was then taken by Mr. Tananbaum, and it was confirmed that a quorum for each of the Boards was present and the meeting could be called to order.

Following the roll call, Mr. Tananbaum called the meeting to order and reviewed the agenda, indicating that (1) first, there would be an update regarding activities in connection with the current asbestos-related lawsuits against the Companies; (2) then, Mr. Tananbaum, with the assistance of Mr. Evert and Ms. Morey, would make a presentation regarding the history of each of the Companies with asbestos and (3) then, Mr. Tananbaum, with the assistance of Mr. Erens, would review potential strategic options for addressing current and future asbestos claims. Mr. Tananbaum confirmed that the members of each of the Boards and Mr. Pittard had received the slide presentation regarding the history of each of the Companies with asbestos, which had been circulated to them in advance of the meeting.

Mr. Tananbaum then introduced Mr. Evert and asked that he begin the update regarding activities in connection with the asbestos-related lawsuits against the Companies.

**(UPDATE REGARDING ACTIVITIES IN CONNECTION WITH THE CURRENT ASBESTOS-RELATED LAWSUITS)**

Mr. Evert, with the assistance of Mr. Tananbaum, provided an update regarding the activities of the Companies in connection with their current asbestos-related lawsuits, addressing activities in the court system and communications with defense counsel and insurers. Following the update, Mr. Tananbaum, with the assistance of Mr. Evert and Mr. Erens, responded to questions from members of the Boards.

After confirming there were no additional questions regarding these activities, Mr. Tananbaum thanked Mr. Evert for leading the presentation.

**(REVIEW OF THE HISTORY OF THE COMPANIES WITH ASBESTOS)**

Mr. Tananbaum, with the assistance of Mr. Evert and Ms. Morey, then reviewed a slide presentation with respect to the history of the Companies with asbestos, noting that the slides being presented electronically at the meeting reflected minor updates to the version thereof circulated in advance of the meeting. The presentation addressed, among other things, the historical use of asbestos-containing components in products of each of the Companies, the relevant product lines of each of the Companies, the evolution of asbestos-related lawsuits in the tort system, the experience of the Companies in the tort system, challenges faced by the Companies in the tort system, historical and forecasted costs and insurance reimbursements of the Companies associated with asbestos-related lawsuits. Throughout the presentation, Mr. Tananbaum, Mr. Evert and Ms. Morey responded to questions from members of the Boards and Mr. Pittard.

After confirming there were no additional questions regarding the presentation, Mr. Tananbaum began a review of potential strategic options for addressing current and future asbestos claims against the Companies.

**(REVIEW OF POTENTIAL STRATEGIC OPTIONS FOR ADDRESSING CURRENT AND FUTURE ASBESTOS CLAIMS)**

Mr. Tananbaum reviewed options available to the Companies with respect to the resolution of current and future asbestos claims, including the potential use of section 524(g) of Bankruptcy Code. Mr. Tananbaum then asked Mr. Erens to provide an overview of section 524(g) of the Bankruptcy Code.

Mr. Erens, with the assistance of Mr. Cody, then made a presentation regarding section 524(g) of the Bankruptcy Code and the potential use thereof as a mechanism to finally resolve current and future asbestos claims against the Companies. Following the presentation, Mr. Erens, with the assistance of Mr. Lewis, responded to questions from, and engaged in discussions with, members of the Board and Mr. Pittard regarding the use of section 524(g) of the Bankruptcy Code as a mechanism to finally resolve current and future asbestos claims.

**(REVIEW OF SCHEDULE FOR FUTURE BOARD MEETINGS AND ADJOURNMENT)**

Mr. Tananbaum then discussed briefly with members of the Boards the schedule for future meetings and confirmed there were no further questions. Having no other business to consider, Mr. Tananbaum thanked the participants for their participation, and the meeting was adjourned.

Allan Tananbaum
Chief Legal Officer and Secretary

# MINUTES OF JOINT MEETING

# OF

# BOARDS OF MANAGERS

**ALDRICH PUMP LLC,**
**a North Carolina limited liability company**

**MURRAY BOILER LLC,**
**a North Carolina limited liability company**

The board of managers (the "Aldrich Board") of Aldrich Pump LLC, a North Carolina limited liability company ("Aldrich Pump"), and the board of managers (the "Murray Board," together with the Aldrich Board, the "Boards") of Murray Boiler LLC, a North Carolina limited liability company ("Murray Boiler", together with Aldrich Pump, the "Companies") met jointly on Friday, May 22, 2020, by means of conference telephone and internet communications equipment whereby all persons participating in the meeting were able to hear each other. All members of the Aldrich Board—Amy Roeder, Manlio Valdes and Robert Zafari—and all members of the Murray Board—Marc Dufour, Amy Roeder and Manlio Valdes—were in attendance.

At the invitation of the Boards, all non-manager officers of Companies—Allan Tananbaum, the Chief Legal Officer and Secretary of each of the Companies, and Ray Pittard, Vice President of each of the Companies—participated in the meeting. Mr. Tananbaum presided at, and acted as secretary for, the meeting.

In addition, at the invitation of the Boards, the following persons participated in the meeting: (1) Phyllis Morey, a lawyer seconded to the Companies, pursuant to a written secondment agreement that the Companies have with Trane Technologies Company LLC, a Delaware limited liability company and affiliate of each of the Companies ("TTC"); (2) Evan M. Turtz and Sara



Exhibit 32

Walden Brown, in-house lawyers at TTC, who provide general corporate legal services to each of Aldrich Pump, 200 Park, Inc., a South Carolina corporation and subsidiary of Aldrich Pump ("200 Park"), Murray Boiler and ClimateLabs LLC, a North Carolina limited liability company and subsidiary of Murray Boiler ("ClimateLabs"), pursuant to written service agreements that Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs have with TTC; (3) partners Mark Cody, Brad Erens and Troy Lewis and associate Alex Kerrigan from Jones Day, outside counsel for each of the Companies, and (4) Michael Evert of Evert Weathersby Houff, outside national coordinating counsel for each of the Companies with respect to asbestos-related lawsuits.

**(INTRODUCTORY REMARKS AND CALL TO ORDER)**

Mr. Tananbaum welcomed the members of the Boards and other meeting participants. A roll call was then taken by Mr. Tananbaum, and it was confirmed that a quorum for each of the Boards was present and the meeting could be called to order.

Following the roll call, Mr. Tananbaum called the meeting to order and reviewed the agenda, indicating that (1) first, there would be an update regarding activities in connection with the current asbestos-related lawsuits against the Companies; (2) then, Mr. Tananbaum, with the assistance of Mr. Erens, would review and further discuss the strategic options for addressing current and future asbestos claims that were presented at the joint meeting of the Boards held on May 15, 2020 (the "May 15 Joint Meeting"), and (3) then, Mr. Erens and Mr. Cody would provide a review of preparations for the potential use of section 524(g) of the Bankruptcy Code as a mechanism to finally resolve current and future asbestos claims against the Companies.

Mr. Tananbaum then introduced Mr. Evert and asked that he begin the update regarding activities in connection with the asbestos-related lawsuits against the Companies.

**(UPDATE REGARDING ACTIVITIES IN CONNECTION WITH THE CURRENT ASBESTOS-RELATED LAWSUITS)**

Mr. Evert provided an update regarding the activities of the Companies in connection with their current asbestos-related lawsuits, addressing activities in the court system and communications with defense counsel and insurers. Following the update, Mr. Evert, with the assistance of Mr. Tananbaum and Mr. Erens, responded to questions from members of the Boards and Mr. Pittard.

After confirming there were no additional questions regarding these activities, Mr. Tananbaum thanked Mr. Evert for leading the presentation.

**(REVIEW AND FURTHER DISCUSSION OF STRATEGIC OPTIONS FOR ADDRESSING CURRENT AND FUTURE ASBESTOS CLAIMS)**

Mr. Tananbaum briefly reviewed the topics presented at the May 15 Joint Meeting and noted the numerous questions received from members of the Boards and Mr. Pittard both at and after the May 15 Joint Meeting. After thanking members of the Boards for their engagement on these topics, Mr. Tananbaum began a review and further discussion of the strategic options for addressing current and future asbestos claims that were presented at the May 15 Joint Meeting, indicating that he, with the assistance of Mr. Erens and other meeting participants, would attempt to respond to the questions already received and encouraging members of the Board and Mr. Pittard to raise any additional questions they may have.

Mr. Tananbaum then asked Mr. Erens to review the experience of companies that recently made chapter 11 filings in an effort to finally resolve their current and future asbestos claims utilizing section 524(g) of the Bankruptcy Code. As requested, Mr. Erens reviewed the history of the chapter 11 cases of each of Bestwall LLC (which made its chapter 11 filing following a

restructuring of Georgia-Pacific LLC), DBMP LLC (which made its chapter 11 filing following a restructuring of CertainTeed Corporation), and Paddock Enterprises LLC (which made its chapter 11 filing following a restructuring of Owens-Illinois, Inc.). Throughout his presentation, Mr. Erens, with the assistance of Mr. Tananbaum, Mr. Evert and Mr. Lewis, responded to questions from members of the Board and Mr. Pittard regarding these chapter 11 cases and the chapter 11 process and use of section 524(g) of the Bankruptcy Code generally.

Following a lengthy and robust discussion of the benefits and challenges associated with the use of section 524(g) of the Bankruptcy Code, Mr. Tananbaum then reviewed the other strategic options for addressing current and future asbestos claims that were presented at the May 15 Joint Meeting. During his review, Mr. Tananbaum, with the assistance of Mr. Evert, Mr. Erens, Ms. Morey and Mr. Turtz, responded to questions from members of the Boards and Mr. Pittard, resulting in a lengthy and robust discussion of the mechanics and limitations of these other options. As part of such discussion, it was noted for the members of the Board that, in contrast to the use of section 524(g) of the Bankruptcy Code, none of the other available options provide the

**Redacted - Privileged**

**Redacted - Privileged**

**(REVIEW OF PREPARATIONS FOR THE POTENTIAL USE OF SECTION 524(G) OF THE BANKRUPTCY CODE)**

Mr. Erens provided a general overview regarding the preparations that had been undertaken as contingency planning in case the Boards were ultimately to determine to make pursue a strategy of using section 524(g) of the Bankruptcy Code to finally resolve current and future asbestos claims against the Companies. At the request of Mr. Erens, Mr. Cody then reviewed more specifically the documentation and pre-filing activities required in order for the Companies to commence chapter 11 cases and the status thereof. Following such review, Mr. Erens and Mr. Cody responded to questions.

**(REVIEW OF SCHEDULE FOR FUTURE BOARD MEETINGS AND ADJOURNMENT)**

Mr. Tananbaum then discussed briefly with members of the Boards the schedule for future meetings and confirmed there were no further questions. Having no other business to consider, Mr. Tananbaum thanked the participants for their participation, and the meeting was adjourned.

Allan Tananbaum
Chief Legal Officer and Secretary

# MINUTES OF JOINT MEETING

# OF

# BOARDS OF MANAGERS

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**a North Carolina limited liability company**

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The board of managers (the "Aldrich Board") of Aldrich Pump LLC, a North Carolina limited liability company ("Aldrich Pump"), and the board of managers (the "Murray Board," together with the Aldrich Board, the "Boards") of Murray Boiler LLC, a North Carolina limited liability company ("Murray Boiler", together with Aldrich Pump, the "Companies"), met jointly on Friday, May 29, 2020, by means of conference telephone and internet communications equipment whereby all persons participating in the meeting were able to hear each other. All members of the Aldrich Board—Amy Roeder, Manlio Valdes and Robert Zafari—and all members of the Murray Board—Marc Dufour, Amy Roeder and Manlio Valdes—were in attendance.

At the invitation of the Boards, all non-manager officers of the Companies—Allan Tananbaum, the Chief Legal Officer and Secretary of each of the Companies, and Ray Pittard, Vice President of each of the Companies—participated in the meeting. Mr. Tananbaum presided at, and acted as secretary for, the meeting.

In addition, at the invitation of the Boards, the following persons participated in the meeting: (1) Phyllis Morey, a lawyer seconded to the Companies, pursuant to a written secondment agreement that the Companies have with Trane Technologies Company LLC, a Delaware limited liability company and affiliate of each of the Companies ("TTC"); (2) Evan M. Turtz and Sara



Exhibit 33

Walden Brown, in-house lawyers at TTC who provide general corporate legal services to each of Aldrich Pump, 200 Park, Inc., a South Carolina corporation and subsidiary of Aldrich Pump ("200 Park"), Murray Boiler and ClimateLabs LLC, a North Carolina limited liability company and subsidiary of Murray Boiler ("ClimateLabs"), pursuant to written service agreements that Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs have with TTC; (3) partners Mark Cody, Brad Erens, Jim Jones and Troy Lewis and associate Alex Kerrigan from Jones Day, outside counsel for each of the Companies, and (4) Michael Evert of Evert Weathersby Houff, outside national coordinating counsel for each of the Companies with respect to asbestos-related lawsuits.

**(INTRODUCTORY REMARKS AND CALL TO ORDER)**

Mr. Tananbaum welcomed the members of the Boards and other meeting participants. A roll call was then taken by Mr. Tananbaum, and it was confirmed that a quorum for each of the Boards was present and the meeting could be called to order.

Following the roll call, Mr. Tananbaum called the meeting to order and reviewed the agenda, indicating that (1) first, there would be an update regarding activities in connection with the current asbestos-related lawsuits against the Companies; (2) then, Mr. Tananbaum, with the assistance of Mr. Erens, would review and further discuss the strategic options for addressing current and future asbestos claims that were presented at the joint meeting of the Boards held on May 15, 2020 (the "May 15 Joint Meeting") and discussed again at the joint meeting of the Boards held on May 22, 2020 (the "May 22 Joint Meeting"), (3) then, the Jones Day lawyers would provide an update regarding preparations for the potential use of section 524(g) of the Bankruptcy Code as a mechanism to finally resolve current and future asbestos claims against the Companies and (4) finally, Ms. Roeder would provide a review of (a) the final opening balance sheets of the Companies and (b) the businesses and operating results of 200 Park and ClimateLabs.

Mr. Tananbaum then introduced Mr. Evert and asked that he begin the update regarding activities in connection with the asbestos-related lawsuits against the Companies.

**(UPDATE REGARDING ACTIVITIES IN CONNECTION WITH THE CURRENT ASBESTOS-RELATED LAWSUITS)**

Mr. Evert provided an update regarding the activities of the Companies in connection with their current asbestos-related lawsuits. Following the update, Mr. Evert, with the assistance of Mr. Tananbaum, Mr. Turtz and Mr. Erens, responded to questions from members of the Boards and Mr. Pittard.

After confirming there were no additional questions regarding these activities, Mr. Tananbaum thanked Mr. Evert for his update.

**(REVIEW AND FURTHER DISCUSSION OF STRATEGIC OPTIONS FOR ADDRESSING CURRENT AND FUTURE ASBESTOS CLAIMS)**

Mr. Tananbaum briefly reviewed the strategic options for addressing current and future asbestos claims presented at the May 15 Joint Meeting and further discussed at the May 22 Joint Meeting, noting that he had received requests from members of the Boards at and after the May 22 Joint Meeting to prepare for review with the Boards a side-by-side comparison of such options. Mr. Tananbaum then reviewed a slide presentation, which was shared electronically by internet, that analyzed such options on a side-by-side basis, all as compared to the status quo of remaining in the tort system. Throughout his presentation, Mr. Tananbaum, with the assistance of Mr. Erens, Mr. Turtz, Mr. Evert and Mr. Lewis, responded to questions from members of the Boards and Mr. Pittard. Following lengthy and robust discussion of the strategic options, Mr. Tananbaum confirmed there were no additional questions regarding his presentation and asked Mr. Erens to

provide an overview of preparations for the potential use of section 524(g) of the Bankruptcy Code to finally resolve current and future asbestos claims against the Companies.

**(UPDATE REGARDING PREPARATIONS FOR THE POTENTIAL USE OF SECTION 524(G) OF THE BANKRUPTCY CODE)**

Mr. Erens began his presentation by asking Mr. Jones to provide a brief overview of potential factual inquiries that could be expected in the event the Boards were ultimately to determine to pursue a strategy of using section 524(g) of the Bankruptcy Code to finally resolve current and future asbestos claims against the Companies. Mr. Jones completed his presentation and confirmed that there were no questions.

Mr. Erens then reviewed certain proposed amendments to the funding agreements to which the Companies are party. Mr. Erens, with the assistance of Mr. Turtz, Mr. Tananbaum and Mr. Lewis, responded to questions from members of the Boards and Mr. Pittard regarding the proposed amendments. The Boards were not asked to take action with respect to the proposed amendments, and it was noted that appropriate written consents with respect to the proposed amendments to the funding agreements would be circulated in due course.

Mr. Erens then described information proposed to be included in documents being prepared for submission to the bankruptcy court as part of the contingency planning in case the Boards were ultimately to determine to pursue a strategy of using section 524(g) of the Bankruptcy Code to finally resolve current and future asbestos claims against the Companies. Throughout his presentation, Mr. Erens, with the assistance of Mr. Evert, responded to questions asked by the members of the Boards and Mr. Pittard.

Finally, at the request of Mr. Erens, Mr. Cody provided an update regarding the status of the other documentation required in order for the Companies to commence chapter 11 cases.

**(REVIEW OF FINAL OPENING BALANCE SHEETS OF THE COMPANIES AND THE BUSINESSES AND OPERATING RESULTS OF 200 PARK AND CLIMATELABS)**

Mr. Tananbaum then invited Ms. Roeder to begin the review of (a) the final opening balance sheets of the Companies and (b) the businesses, financial condition and operating results of 200 Park and ClimateLabs. At this time, Eric Hankins, who provides finance services to Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs pursuant to written service agreements that Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs have with TTC, joined the meeting at the invitation of the Boards to assist Mr. Roeder with her presentation. Ms. Roeder then reviewed the final opening balance sheets of each of the Companies, sharing the same electronically by internet. Ms. Roeder then shared select financial and operating data regarding 200 Park and ClimateLabs electronically by internet, and Mr. Hankins provided a brief overview of the businesses of 200 Park and ClimateLabs.

During the presentation, Ms. Roeder and Mr. Hankins responded to questions from members of the Boards. After confirming there were no further questions for Ms. Roeder and Mr. Hankins, Mr. Tananbaum thanked them for the presentation and Mr. Hankins departed from the meeting.

**(REVIEW OF SCHEDULE FOR FUTURE BOARD MEETINGS AND ADJOURNMENT)**

Mr. Tananbaum then discussed briefly with members of the Boards the schedule for future meetings and confirmed there were no further questions. Having no other business to consider, Mr. Tananbaum thanked the participants for their participation, and the meeting was adjourned.

Allan Tananbaum
Chief Legal Officer and Secretary

# MINUTES OF JOINT MEETING

# OF

# BOARDS OF MANAGERS

**ALDRICH PUMP LLC,**
**a North Carolina limited liability company**

**MURRAY BOILER LLC,**
**a North Carolina limited liability company**

The board of managers (the "Aldrich Board") of Aldrich Pump LLC, a North Carolina limited liability company ("Aldrich Pump"), and the board of managers (the "Murray Board," together with the Aldrich Board, the "Boards") of Murray Boiler LLC, a North Carolina limited liability company ("Murray Boiler", together with Aldrich Pump, the "Companies"), met jointly on Friday, June 5, 2020, by means of conference telephone and internet communications equipment whereby all persons participating in the meeting were able to hear each other. All members of the Aldrich Board—Amy Roeder, Manlio Valdes and Robert Zafari—and all members of the Murray Board—Marc Dufour, Amy Roeder and Manlio Valdes—were in attendance.

At the invitation of the Boards, all non-manager officers of the Companies—Allan Tananbaum, the Chief Legal Officer and Secretary of each of the Companies, and Ray Pittard, Vice President of each of the Companies—participated in the meeting. Mr. Tananbaum presided at, and acted as secretary for, the meeting.

In addition, at the invitation of the Boards, the following persons participated in the meeting: (1) Evan M. Turtz and Sara Walden Brown, in-house lawyers at Trane Technologies Company LLC, a Delaware limited liability company and affiliate of each of the Companies ("TTC") who provide general corporate legal services to each of Aldrich Pump, 200 Park, Inc., a



Exhibit 34

South Carolina corporation and subsidiary of Aldrich Pump ("200 Park"), Murray Boiler and ClimateLabs LLC, a North Carolina limited liability company and subsidiary of Murray Boiler ("ClimateLabs"), pursuant to written service agreements that Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs have with TTC; (2) partners Mark Cody, Brad Erens and Troy Lewis and associate Alex Kerrigan from Jones Day, outside counsel for each of the Companies, and (3) Michael Evert of Evert Weathersby Houff, outside national coordinating counsel for each of the Companies with respect to asbestos-related lawsuits.

**(INTRODUCTORY REMARKS AND CALL TO ORDER)**

Mr. Tananbaum welcomed the members of the Boards and other meeting participants. A roll call was then taken by Mr. Tananbaum, and it was confirmed that a quorum for each of the Boards was present and the meeting could be called to order.

Following the roll call, Mr. Tananbaum called the meeting to order and reviewed the agenda, indicating that (1) first, there would be an update regarding activities in connection with the current asbestos-related lawsuits against the Companies; (2) then, Mr. Tananbaum would summarize (a) the activities of the Boards since the creation of the Companies on May 1, 2020, including discussions regarding strategic options for addressing current and future asbestos claims that occurred at the joint meetings of the Boards held on May 15, 2020 (the "May 15 Joint Meeting"), on May 22, 2020 (the "May 22 Joint Meeting") and on May 29, 2020 (the "May 29 Joint Meeting"), and (b) the anticipated request for action by the Boards to authorize the Companies to file chapter 11 bankruptcy and pursue final resolution of their current and future asbestos claims using section 524(g) of the Bankruptcy Code, (3) then, the Jones Day lawyers would review the chapter 11 bankruptcy process generally and section 524(g) of the Bankruptcy Code specifically, (4) then, the Jones Day lawyers would provide an update regarding preparations

for the potential use of section 524(g) of the Bankruptcy Code and (5) finally, Mr. Tananbaum would provide an overview of the communications plan in connection with the potential use of section 524(g) by the Companies. Mr. Tananbaum confirmed the receipt by members of the Boards of the section 524(g) overview and draft informational brief sent to them in advance of the meeting.

Mr. Tananbaum then introduced Mr. Evert and asked that he begin the update regarding activities in connection with the asbestos-related lawsuits against the Companies.

**(UPDATE REGARDING ACTIVITIES IN CONNECTION WITH THE CURRENT ASBESTOS-RELATED LAWSUITS)**

Mr. Evert provided an update regarding the activities of the Companies in connection with their current asbestos-related lawsuits. Mr. Tananbaum then provided a brief update regarding coordination and recent discussions with the Companies' insurers. Following Mr. Tananbaum's report, Mr. Evert, with the assistance of Mr. Erens, responded to questions from members of the Boards and Mr. Pittard regarding activities in the tort system.

After confirming there were no additional questions regarding these activities, Mr. Tananbaum thanked Mr. Evert for his update.

**(REVIEW OF ACTIVITIES OF THE BOARDS SINCE MAY 1, 2020, INCLUDING DISCUSSIONS OF STRATEGIC OPTIONS FOR ADDRESSING CURRENT AND FUTURE ASBESTOS CLAIMS)**

Mr. Tananbaum summarized the activities of the Boards since May 1, 2020. As part of his presentation, Mr. Tananbaum reviewed the strategic options for addressing current and future asbestos claims against the Companies that were discussed at each of the May 15 Joint Meeting, the May 22 Joint Meeting and the May 29 Joint Meeting. Throughout his presentation, Mr.

Tananbaum, with the assistance of Mr. Erens, Mr. Evert and Mr. Turtz, responded to numerous questions from, and observations of, members of the Boards and Mr. Pittard and there was robust discussion regarding the various options.

Mr. Tananbaum then indicated that, while the Boards were not currently being asked to take any action, he anticipated management of the Companies would soon ask the Boards to authorize the Companies to file chapter 11 bankruptcy and pursue final resolution of their current and future asbestos claims using section 524(g) of the Bankruptcy Code. Mr. Tananbaum, in his capacity as Chief Legal Officer of each of the Companies, then provided his analysis of the strategic options discussed with the Boards and his preliminary recommendation that the Companies file chapter 11 bankruptcy and pursue final resolution of their current and future asbestos claims against them using section 524(g) of the Bankruptcy Code. At the request of Mr. Tananbaum, Mr. Pittard, in his capacity as Vice President of each of the Companies, similarly provided his analysis of the strategic options and his preliminary recommendation that the Companies file chapter 11 bankruptcy and attempt to use section 524(g) of the Bankruptcy Code to finally resolve their current and future asbestos claims. Following Mr. Pittard's remarks, Mr. Tananbaum and Mr. Pittard answered questions from, and engaged in discussion with, members of the Boards.

Following extended discussion of the strategic options and the preliminary recommendations of Mr. Tananbaum and Mr. Pittard, Mr. Tananbaum asked Mr. Erens and Mr. Cody to review the chapter 11 bankruptcy process generally and section 524(g) of the Bankruptcy Code specifically and thereafter to provide an update regarding preparations for the potential use by the Companies of section 524(g) of the Bankruptcy Code and facilitate a discussion of the draft informational brief that had been sent to the members of the Boards in advance of the meeting.

**(REVIEW OF THE CHAPTER 11 BANKRUPTCY PROCESS AND SECTION 524(G) OF THE BANKRUPTCY CODE AND UPDATE REGARDING PREPARATIONS FOR THE POTENTIAL USE OF SECTION 524(G))**

After initial remarks by Mr. Erens, Mr. Cody provided an in-depth description of the chapter 11 bankruptcy process. Mr. Erens then reviewed section 524(g) of the Bankruptcy Code. Throughout the presentation, Mr. Cody and Mr. Erens, with the assistance of Mr. Tananbaum and Mr. Turtz, responded to questions from members of the Boards and Mr. Pittard. After confirming that there were no further questions, Mr. Erens asked Mr. Lewis to provide an update regarding the proposed amendments to the funding agreements discussed at the May 29 Joint Meeting and to review certain proposed amendments to the written service agreements that Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs have with TTC.

Mr. Lewis then reviewed the proposed amendments to the funding agreements discussed at the May 29 Joint Meeting and summarized certain proposed amendments to the written service agreements that Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs have with TTC. Following discussion of the proposed amendments, Mr. Lewis explained that the Boards were not currently being asked to take action with respect to the proposed amendments and that appropriate written consents with respect to the proposed amendments would be circulated following the meeting.

Mr. Tananbaum then suggested that, in light of the time, the update regarding preparations for the potential use of section 524(g) of the Bankruptcy Code, including the discussion of the draft informational brief sent to the members of the Boards in advance of the meeting, and the review of the communications plan in connection with the potential use of section 524(g) each be deferred

and presented at a joint meeting of the Boards on Friday, June 12, 2020. Following a brief discussion, the members of the Board concurred with Mr. Tananbaum's suggestion.

**(REVIEW OF SCHEDULE FOR FUTURE BOARD MEETINGS AND ADJOURNMENT)**

Mr. Tananbaum confirmed that there were no further questions. Having no other business to consider, Mr. Tananbaum thanked the participants for their participation, and the meeting was adjourned.

Allan Tananbaum
Chief Legal Officer and Secretary