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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re:	:	**Chapter 11**
HOPEMAN BROTHERS, INC.,	:	**Case No. 24-32428 (KLP)**
Debtor.	:	

OMNIBUS REPLY IN SUPPORT OF SOLICITATION PROCEDURES MOTION

Hopeman Brothers, Inc., the debtor and debtor in possession in the above-captioned chapter 11 case ("Hopeman" or the "Debtor"), by and through its undersigned counsel, hereby submits this omnibus reply in support of the *Joint Motion of the Debtor and Official Committee of Unsecured Creditors for Entry of an Order (I) Scheduling a Combined Hearing to Approve the Disclosure Statement and Confirm the Plan; (II) Conditionally Approving the Disclosure Statement (III) Establishing Objection Deadlines; (IV) Approving the Form and Manner of Notice; (V) Approving the Solicitation and Tabulation Procedures; and (VI) Granting Related Relief.* [Docket No. 691] (the "Solicitation Procedures Motion")[1] and in response to the objections filed by the Chubb Insurers [Docket No. 718] (the "Chubb Insurers' Objection") and Liberty Mutual [Docket Nos. 720 and 721] (the "Liberty Mutual Objection"; together with the Chubb Insurers'

[1] Capitalized terms not otherwise defined herein shall have the meanings set forth in the Solicitation Procedures Motion.

Objection, the "Objections"). For the reasons stated below, this Court should overrule the Objections and approve the Solicitation Procedures Motion.

PRELIMINARY STATEMENT

1. The Debtor and the Committee (together with the Debtor, the "Movants") have resolved the objection to the Solicitation Procedures Motion of the Office of the United States Trustee [Docket Nos. 713 and 714]. The remaining Objections, those of the Chubb Insurers and Liberty Mutual, should be overruled. The Disclosure Statement contains adequate information to allow creditors to make an informed judgment about the jointly-proposed Plan in accordance with § 1125 of the Bankruptcy Code.

2. The remaining Objections to the Solicitation Procedures Motion are confirmation objections or efforts to delay the Debtor in making a prompt exit from bankruptcy. The proposed Plan contemplates a reorganization of the Debtor.

3. The Chubb Insurers' primary objection, joined in by Liberty Mutual, is that the proposed Plan is not confirmable because the Debtor, they claim, is not eligible for section 524(g) relief. They are wrong. The Debtor can reorganize around what will be substantial cash and insurance assets, will operate a business on and after the Effective Date, will not be eliminated as a corporation and will be an ongoing entity available to be sued, will be owned by the Asbestos Trust that will have control of the Debtor's insurance coverage and available cash for funding the Reorganized Debtor's operations, and can qualify for the channeling injunction authorized by section 524(g) upon presentation of sufficient evidence at the confirmation hearing.

4. Importantly, the proposed Plan will not alter any rights or defenses of any liability insurers of Hopeman who are "Non-Settling Asbestos Insurers." Both the Chubb Insurers and Liberty Mutual are Non-Settling Asbestos Insurers because they are not party to an "Asbestos

Insurance Settlement," which is limited by definition in the Plan to a settlement that was approved by this Court.

5. Said differently, the Plan is "insurance neutral" as to both the Chubb Insurers and Liberty Mutual. They will be left with whatever rights and defenses they have or had under the policies they issued. Yet, both argue against the Debtor confirming the Plan, or even soliciting votes on a plan, because the Plan will allow claimants an opportunity, *if available under applicable non-bankruptcy law*, to pursue insurance coverage that may be available to them under the Debtor's remaining liability policies.

6. What is perfectly apparent is that the Chubb Insurers are attempting through the Chubb Insurers' Objection to prevent claimants without direct action rights from having the Reorganized Debtor to sue, hoping thereby to avoid responsibility for many millions of dollars of liability insurance coverage they issued to Hopeman to cover claims and certain defense costs. Their objection is not appropriately tailored to the adequacy of the disclosure statement for conditional Court approval. The Debtor has adequately described in the Disclosure Statement the Chubb Insurers' unresolved contentions. Their remaining objection can be resolved at the confirmation hearing after the presentation of evidence.

7. Liberty Mutual, on the other hand, settled with and was released by Hopeman twenty-two years ago. Liberty Mutual asserts an alleged contractual indemnity right in those settlement documents to make Hopeman spend money to defend Liberty Mutual in any direct action litigation filed against Liberty Mutual despite the fact that the plain text of the parties' agreement provides that the settlement funds paid to a trust pursuant to the settlement were to be the sole source for recovery of any indemnity claim Liberty Mutual may have as a result of being

sued by claimants after buying back its policies.[2] That dispute is teed up to be decided in June on Hopeman's objection to Liberty Mutual's proof of claim. *See* Docket Nos. 693 and 694. Nothing about the Court approving of the Solicitation Procedures Motion will alter whatever claims, defenses or rights Liberty Mutual may have under contract or applicable law.

8. Liberty Mutual also objects to the Solicitation Procedures Motion because, it argues, Hopeman is attempting to "*maximize* the possibility that Asbestos Claims will be asserted against Liberty." Hopeman, of course, is doing no such thing. As to Liberty Mutual, the proposed Plan simply would lift the protection of the extended stay Hopeman voluntarily sought and Liberty Mutual has enjoyed since the beginning of the bankruptcy. Under the Plan, Liberty Mutual will be able to assert whatever defenses it has against claimants, whether those defense are based on the 2003 release from the Debtor or otherwise. Those defenses are not being altered by the Plan.[3]

9. Finally, Liberty Mutual complains about the schedule for voting on the proposed Plan. It asserts this is not a case in which expedited consideration of a plan is appropriate. Liberty Mutual's objection should be overruled. As this Court knows, this case has been hard fought and extremely expensive. Extending the period between the hearing on approval of the Solicitation Procedures Motion and confirmation will simply result in more fees and less funding of the proposed Asbestos Trust, which ultimately will harm asbestos claimants. The limited discovery that would be relevant to any plan objections of Liberty Mutual or the Chubb Insurers can be

[2] Liberty Mutual's alleged claim for breach of any indemnity obligation, if any exists, undoubtedly is a prepetition, unsecured claim, at best, and if the settlement agreements remain executory, they can be rejected by the Debtor.

[3] If, as Liberty Mutual contends, it has no liability on policies that were either exhausted or bought back from Hopeman, Liberty Mutual should be able to obtain quick dismissals of claims under those policies.

completed expeditiously and in the time allotted. There is no justifiable reason for the delay they seek.

ARGUMENT

I. THE CHUBB INSURERS' OBJECTIONS TO THE SOLICITATION PROCEDURES MOTION ARE CONFIRMATION OBJECTIONS

10. The Chubb Insurers argue in the Chubb Insurers' Objection that the Plan is patently unconfirmable because, they assert, the Debtor is not eligible for a discharge under § 1129, which they argue means the Debtor is not eligible for the supplemental injunctive relief provided by § 524(g). Those arguments address the standards for confirmation and should be considered by the Court at the confirmation hearing. The arguments are not legitimate objections to the Solicitation Procedures Motion. The Disclosure Statement contains adequate information. In addition, the proposed Plan, on its face, meets all of the requirements for confirmation and for § 524(g) treatment, and confirmation will depend on the evidence presented at the confirmation hearing.

11. The Disclosure Statement also accurately reflects the Chubb Insurers' arguments concerning the confirmability of the proposed Plan. In section V(C) of the Disclosure Statement, the Debtor has included a description of the Chubb Insurers' arguments regarding § 524(g) and other unresolved contentions they have asserted in this case. That should be sufficient to apprise creditors of their arguments in advance of the confirmation hearing.

II. THE DEBTOR IS ELIGIBLE FOR A DISCHARGE UNDER § 1141 AND A CHANNELING INJUNCTION UNDER § 524(g)

12. Even if the Chubb Insurers' confirmation objections are not premature, they nevertheless are meritless. The Chubb Insurers argue that the Plan is patently unconfirmable because the Debtor has no existing business and is therefore ineligible for a chapter 11 discharge. Chubb Obj. at 4-8. But their argument misses the mark by a wide margin. Section 8.10 of the Plan provides in relevant part: "On or after the Confirmation Date, Hopeman or Reorganized

Hopeman may take such actions as it determines to be necessary or appropriate to effectuate, implement, and consummate the Restructuring Transactions . . . ." The Plan defines the term "Restructuring Transactions" as "the acquisition by Hopeman or Reorganized Hopeman of the low-cost, income generating business or interest in such business, which acquisition cost will be $500,000 or less . . . ." Plan § 1.101. In other words, as part of its § 524(g) reorganization, the Debtor will be acquiring an income-generating business or an interest in such business and will be eligible for a chapter 11 discharge under 11 U.S.C. § 1141(d). Evidence of the Restructuring Transactions will be presented at the confirmation hearing, and a more detailed description of the interest being acquired will be provided in a plan supplement. Projections regarding Reorganized Hopeman's income from the proposed investment were included in Exhibit C to the Disclosure Statement.

13. The Chubb Insurers contend that acquiring a business postpetition is insufficient to obtain a discharge because, they insist, a debtor's business must have been operating prepetition and be "continuing" or "ongoing" during the bankruptcy. Chubb Obj. at 3-4, 6. In pressing this argument, the Chubb Insurers misread the Bankruptcy Code. The words "continuing" or "ongoing" appear nowhere in § 1141(d)(3). Rather, a debtor is deprived of a chapter 11 discharge if, *inter alia*, "the debtor does not engage in business *after* consummation of the plan[.]" 11 U.S.C. § 1141(d)(3)(B) (emphasis added). Section 1141(d)(3)(B) "does not mandate that . . . debtor[s] continue their preconfirmation business into their post-consummation lives." *In re Lucido*, 655 B.R. 355, 365 (Bankr. N.D. Cal. 2023). The *Lucido* court reasoned:

> The text of the code section is plain and contains one simple query – will the debtor "engage in business" after consummation of the plan? The court finds it notable that there are no modifiers or qualifiers regarding the type or form of business that will satisfy the requirement. The text does not say "the debtor does not **continue to engage** in business after consummation of the plan," nor does it say, "the debtor does not engage in business **of the type engaged in pre-petition** after

> consummation of the plan." The statute is stated in the present tense, is forward-looking, and simply requires that the debtor "engage in business" post-consummation. The court declines to insert a business continuity requirement into the statute where none exists.

Id. Similarly, the court in *Flintkote*, a § 524(g) reorganization, stated:

> [T]here is no requirement under § 1141(d) that a debtor continue the same business lines and activities as it engaged in pre-petition. The requirement under the statute, in order to receive a discharge, is simply to "engage in business after consummation of the plan." § 1141(d)(3)(B). There is no qualification in the statute that the business must be a pre-petition business, nor any language qualifying what level of business activity is sufficient.

In re Flintkote Co., 486 B.R. 99, 132 (Bankr. D. Del. 2012) (footnote omitted), *aff'd,* 526 B.R. 515 (D. Del. 2014). Here, the Plan provides that Hopeman will have acquired a business or interest therein by the Effective Date (*i.e.*, consummation). *See* Plan §§ 1.101, 8.10. Therefore, there is no doubt that Hopeman is eligible for a discharge and a § 524(g) channeling injunction upon proper proof at the confirmation hearing.

14. In addition to misconstruing the statute, the Chubb Insurers ignore § 524(g) precedent involving chapter 11 debtors that acquired business interests postpetition. *E.g.*, *Order Confirming the Second Amended Plan of Reorganization, as Modified, for Sepco Corporation Under Chapter 11 of the Bankruptcy Code, and Report and Recommendation to the District Court*, at 63, *In re Sepco Corp.*, No. 16-50058 (Bankr. N.D. Ohio Mar. 24, 2020), Docket No. 732 ("As of the Effective Date, Reorganized Sepco will purchase from SGC 33.33% of the membership interests of Moores for $400,000 . . . . Reorganized Sepco will own 33.33% of the membership interest of Moores and will be the non-managing member of Moores."); *Memorandum Opinion Overruling Objections to the Amended Joint Plan of Reorganization, Confirming Plan and Recommending the Affirmation of Confirmation and of the § 524(g) Injunction*, at 8-9, *In re Flintkote Co.*, No. 04-11300 (Bankr. D. Del. Dec. 21, 2012), Docket No. 7253 ("Flintkote's real estate operations consist of owning and managing the leasing of six 'quick-service restaurant

properties,' which Flintkote purchased with portions of its recovered insurance assets, upon Court approval, during the course of the bankruptcy proceedings . . . . Flintkote intends to allocate $10 million of the working capital it will hold under the Plan for the purchase of seven additional properties by the end of the second year, post-effective date, with the goal of securing similar long-term, triple-net leases for each property." (footnote omitted)).

15. Moreover, § 524(g) debtors have emerged from chapter 11 with interests in real estate-related businesses. In *Combustion Engineering*, for example, the debtor's business activity consisted of owning and leasing an environmentally contaminated piece of land, which the bankruptcy court held was sufficient for obtaining a discharge under § 1141(d) and that the funding requirements of § 524(g)(2)(B)(i)(II) were satisfied.[4] The district court subsequently affirmed the bankruptcy court's confirmation order.[5] This was also true in *Fairbanks Co.*, when the debtor entered into a sale transaction through which a new entity would, *inter alia*, "lease the Debtor's real property pursuant to a long-term triple net lease agreement."[6] Likewise, the *Yarway Corp.* debtor owned a 49% ownership interest in a company, which in turn was a 50% member of a joint venture which owned and operated a largely-occupied four-story commercial office building near

[4] *In re Combustion Eng'g, Inc.*, No. 03-10495-JKF, 2005 WL 8169097, at *14 (Bankr. D. Del. Dec. 19, 2005).

[5] *Order*, *In re Combustion Eng'g, Inc.*, No. 1:06-mc-00021-JEI (D. Del. Mar. 1, 2006), Docket No. 5.

[6] *Report of Findings of Fact and Conclusions of Law and Recommendation for Confirmation of the First Amended Plan of Reorganization of The Fairbanks Company Under Chapter 11 of the Bankruptcy Code*, at 21-22, *In re Fairbanks Co.*, No. 18-41768-PWB (Bankr. N.D. Ga. Jul. 9, 2021), Docket No. 790 ("Fairbanks Confirmation Findings and Conclusions") (finding that a "Sale Transaction will serve . . . restructuring purposes" where a new entity would, *inter alia*, "lease the Debtor's real property pursuant to a long-term triple net lease agreement").

Cleveland, Ohio.[7] Both bankruptcy courts found that the debtors were entitled to discharges under § 1141 and channeling injunctions in accordance with § 524(g)(3)(A),[8] and both district courts confirmed those plans.[9] The Chubb Insurers assert that "Hopeman had no business operations when it filed its Chapter 11 petition, and it has none today."[10] But the cases cited above show that the absence of a prepetition business on the filing date is irrelevant.

16. The Chubb Insurers' arguments echo those rejected in *Flintkote*. *See Flintkote Co.*, 486 B.R. at 131. There, an objector argued that the debtor was not "worth saving" because the debtor was "not continuing its pre-petition business, and it is improper, and against the spirit of § 524(g), for Flintkote to establish new business lines while in bankruptcy to satisfy § 524(g)." *Id.* at 130. The court disagreed, reasoning in part that "[n]othing in § 524(g), § 1129, § 1141, or

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[7] *Cf. Disclosure Statement with Respect to Plan of Reorganization for Yarway Corporation Under Chapter 11 of the Bankruptcy Code Proposed by Yarway Corporation and Tyco International plc*, *In re Yarway Corp.*, No. 13-11025(BLS) (Bankr. D. Del. Dec. 22, 2014), Docket No. 704 ("Yarway has had no manufacturing, distribution or sales operations. Yarway currently owns a 49% ownership interest in STI Properties, Ltd. . . . , which itself is a 50% member of a joint venture which owns and operates a largely-occupied four-story commercial office building near Cleveland, Ohio. Reorganized Yarway is expected to continue to own the interest in STI Properties after the Effective Date of the Plan."); *Findings of Fact and Conclusions of Law in Support of Order Confirming the Plan of Reorganization for Yarway Corporation Under Chapter 11 of the Bankruptcy Code Proposed by Yarway Corporation and Tyco International plc*, *In re Yarway Corp.*, No. 13-11025(BLS) (Bankr. D. Del. Apr. 8, 2015), Docket No. 860 ("Yarway Confirmation Findings and Conclusions") ("The Plan is also feasible because of the revenue generated by Reorganized Yarway's real property business. Reorganized Yarway's income will come from its continued 49% ownership interest in STI Properties.").

[8] *E.g.*, *Fairbanks* Confirmation Findings and Conclusions at 14-15, 39-41; *Fairbanks* Confirmation Findings and Conclusions, ¶¶ 119-20, 133.

[9] *Order Confirming the First Amended Plan of Reorganization of The Fairbanks Company Under Chapter 11 of the Bankruptcy Code*, *In re The Fairbanks Co.*, No. 4:21-mi-00001-LMM (N.D. Ga. Jul. 21, 2021), Docket No. 4; *Order*, *In re Yarway Corp.*, No. 1:15-mc-00085-LPS (D. Del. Jul 14, 2015), Docket No. 3.

[10] Chubb Obj. at 6.

Combustion Engineering requires a debtor to continue to engage in a pre-petition (and possibly unsuccessful) business to the exclusion of any other." *Id.* at 131.

17. Neither § 524(g) nor its legislative history contains or implies a requirement that a debtor must operate a viable, ongoing, pre-petition business to make use of its channeling provisions. *See id.* Indeed, "[t]he language of § 524(g)(2)(B)(i)(II) states only that the debtor is obligated to make 'future payments, including dividends' to the trust, and in our view it is the ability of the debtor to do so that is relevant. The court finds nothing improper about a debtor adapting its business model while in bankruptcy." *Id.* at 133.[11] The flexibility to adapt the debtor's business is particularly important where "§ 524(g) is the only means of providing recovery to [a debtor's] exposed yet unimpaired asbestos creditors." *See id.* Therefore, the *Flintkote* court concluded if "§ 524(g)(2)(B)(i)(II) requires a 'going concern,' . . . Flintkote's real estate business and its consulting and executive management services business satisfy that requirement" and that "Flintkote's business activity is sufficient to satisfy any 'ongoing business' requirement that may be imposed by § 524(g)." *Id.* at 133-34.

18. Here, like the 524(g) debtors described above, Hopeman will acquire a business or an interest therein as part of its reorganization. Hopeman certainly will be eligible for a chapter 11 discharge and a supplemental channeling injunction under § 524(g). The Chubb Insurers' confirmation objections, therefore, are unavailing.

[11] *See also id.* ("In fact, in this Court's experience, most companies that successfully reorganize undertake some type of business 'reorganization.' Some divest business lines or corporate divisions or spin off subsidiaries. Others buy businesses or form partnerships or limited liability companies to take strategic advantage of a blended business. To stay viable, any corporation must assess its strengths and weaknesses and adapt its business, whether in or out of bankruptcy.").

19. The Chubb Insurers' reliance on *Grausz v. Sampson* (*In re Grausz*), 63 F. App'x 647 (4th Cir. 2003), is misplaced.[12] As the court in *Flintkote* explained:

> *Grausz* is an unpublished case involving an individual Chapter 11 debtor whose plan called for the liquidation of his prepetition businesses. *Grausz,* 63 Fed. Appx. at 650. The debtor argued that because, post-consummation, he would be working as a consultant for an entity unrelated to the bankruptcy, he was engaged in business sufficient to satisfy § 1141(d) and receive a discharge. *Id.* The Court of Appeals noted that the business Dr. Grausz worked for post-consummation was unrelated to the entities in bankruptcy, and that § 1141(d)(3)(B) "does not refer to basic employment by an individual debtor but to the *continuation* of a *pre - petition* business." *Id.* Thus, Dr. Grausz's prepetition business was liquidating; there was no ongoing business at all. Instead, Dr. Grausz simply became an employee for an entirely unrelated entity. The circumstances here are clearly inapposite, as Flintkote is: (1) not an individual debtor, (2) not liquidating, and (3) continuing to engage in business post-confirmation. . . . Neither [*Grausz* nor *In re S. Canaan Cellular Invs.*, 427 B.R. 44 (Bankr. E.D. Pa. 2010)] can be said to impose a requirement in § 524(g) that a reorganized debtor forever engage in a particular pre-petition business, as § 524(g) is not implicated in either case.

Flintkote, 486 B.R. at 132. *Grausz* is inapposite here for the same reasons.

20. Moreover, the Chubb Insurers erroneously quote statements made by the Debtor and the Committee regarding an entirely different plan, the Debtor's proposed *Plan of Liquidation of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* [Docket No. 56].[13] That plan is not moving towards confirmation. Movants' commentary on what that plan would have done is of no moment when evaluating the Plan.

21. In sum, the Chubb Insurers' arguments regarding why the Plan is patently unconfirmable are without merit. At a minimum, the Solicitation Motion should be approved, and the Court can consider these confirmation objections at the confirmation hearing.[14]

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[12] Chubb Obj. at 4.

[13] *See* Chubb Obj. at 3-4.

[14] The Chubb Insurers also argue that the Future Claimants' Representative ("FCR") should be afforded time to comment on the proposed Plan prior to solicitation. That time has been provided

III. LIBERTY MUTUAL'S OBJECTION REQUESTING MORE TIME BEFORE THE CONFIRMATION HEARING SHOULD BE OVERRULED

22. Liberty Mutual argues that the period between the filing of the Disclosure Statement and the proposed confirmation hearing is too short.[15] Liberty Mutual asserts that the circumstances of this case do not warrant the combined disclosure statement and plan confirmation process the Debtor requested and discussed with the Court at the status conference held on March 10, 2025. There is indeed in this case a form of "melting ice cube" Liberty Mutual argues does not exist. Every day this case remains in bankruptcy, the less money there will be to fund the Asbestos Trust. This case has been expensive, and the backlog of administrative expense payments will require use of proceeds from the Court-approved settlement and buy-back of the Certain Settling Insurers to fund the case and the proposed Asbestos Trust. Every dollar obtained by the Debtor through compromising its insurance coverage rights must be guarded closely in an effort to deliver as much as reasonably possible of the Debtor's cash to a vehicle to preserve the valuable insurance assets for the benefit of claimants. Frittering away money through extended discovery and briefing periods will not redound to anyone's benefit in this case.

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by the appointment of the FCR on May 13, and the FCR has studied the Plan-related documents and already discussed them with the Debtor and the Committee. The FCR, in fact, has agreed that the documents are ready for solicitation in their revised form.

[15] By its own assertions, Liberty Mutual is not a current insurer of Hopeman. It was released by Hopeman under settlement agreements entered into in 2003. Yet, in direct contrast to that position, it seeks standing to oppose the Solicitation Procedures Motion as an "insurer" under *Truck Insurance Exchange v. Kaiser Gypsum Co., Inc.* Nevertheless, Liberty Mutual also has filed a proof of claim, to which the Debtor has objected in full. Liberty Mutual has no claim against the Debtor or this estate. It had potential claims to limited funds held in trust that were exhausted prepetition. Because the Debtor's claim objection will not be decided by this Court prior to the hearing on the Debtor's Solicitation Motion, the Debtor does not contest, at present, Liberty Mutual's request to be heard by this Court on the Solicitation Motion. The Debtor reserves the right, however, to assert that Liberty Mutual will lack standing to object to confirmation and will not be aggrieved by the Plan, if confirmed.

23. Liberty Mutual claims that its due process rights are impacted by the timeframe allotted for confirmation. They are not. Liberty Mutual appeared in this case through counsel early in the case, on September 9, 2024. Just like all other parties, they have had adequate notice of the proposed Plan and disclosure statement. Their real objection is that they did not settle with the Debtor during this case. Liberty Mutual needs very little time for "examining the circumstances under which the Plan came to fruition." It was reached in a judicially-supervised mediation. The Debtor has been transparent on the process with the Court and with parties-in-interest. Any legitimate discovery needed easily can be addressed in the time between solicitation and confirmation. [16]

24. Liberty Mutual argues that because section 524(g) provides for a channeling injunction involving asbestos claimants, the plan does not fit into prior precedent allowing a combined final approval of a disclosure statement and confirmation. Many of those cases, they assert, involved prepackaged plans with the impacted parties voting prepetition. Liberty Mutual, of course, is complaining about the rights of others, not itself. Liberty Mutual's rights and defenses are not impacted by the terms of the Plan, they are preserved. The Plan is not designed to impair the rights of any insurers who did not settle with Court approval, only to make clear that the Non-Settling Asbestos Insurers' rights and defense are not affected.

25. Liberty Mutual does not need discovery to read the Plan. If it believes it has a good faith basis under Rule 11 to assert that the Plan – reached through the assistance of Judge Huennekens as mediator – is not being proposed in good faith, it can easily take that discovery before the confirmation hearing.

[16] The Chubb Insurers already have served extensive confirmation-related discovery requests on the Debtor. Reserving all of its rights to object to certain of these requests, the Debtor will proceed with utmost speed to provide non-privileged responsive documents.

26. Contrary to Liberty Mutual's arguments, there also is no need for additional time in the schedule for the parties to brief and the Court to decide the issue of whether the Debtor is entitled to utilize section 524(g). That issue will be decided at confirmation, and there is no need for an extended briefing schedule on it. The Chubb Insurers have already made this argument repeatedly, and Liberty Mutual has also joined in this argument in its objection. To the extent these insurers want to file additional authorities on this issue, there is adequate time in the schedule for them to do so through an objection to plan confirmation by the proposed deadline of June 13, 2025.

27. Hopeman is willing to add to the Disclosure Statement, in the section already designated for "Unresolved Contentions," that Liberty contends, as it does in paragraph 31 of its Objection, that its "insurance coverage is unavailable to any Asbestos Claimant as a consequence of the 2003 Agreements" and that Liberty Mutual contends, and Hopeman disagrees, that "Hopeman's participation in orchestrating a Plan that targets Liberty breaches Hopeman's contractual obligations to Liberty." The Debtor also is willing to add an additional statement that "Liberty contends that the Plan cannot transfer Hopeman's rights in the Liberty Policies because Hopeman has no such rights", as requested in paragraph 32 of the Liberty Mutual Objection.[17]

28. Liberty Mutual next complains that it will not learn the names of the proposed Asbestos Trustee, the Post-Effective Date Future Claimants' Representative, and members of the Trust Advisory Committee until after the Disclosure Statement is conditionally approved. Disclosing the names of persons to fill post-Effective Date roles through plan supplements is

[17] There is no discovery needed on the provision in the Plan for the Debtor to transfer to the Trust whatever asbestos liability insurance rights it has through what is, in effect, a quitclaim deed. If it has no rights as to Liberty, then the Debtor will not be transferring any such rights. These are legal arguments that can be heard at confirmation.

commonplace. None of these persons, however, will owe any duties to Liberty Mutual. They will serve for the benefit of the Asbestos Claimants, not Liberty Mutual.

29. Liberty Mutual also argues that the Disclosure Statement does not state when the proposed Confirmation Order and related findings of fact and conclusions of law will be submitted so that Liberty Mutual can review them. As is typical, the proposed findings and conclusions will be submitted with the proponents' reply in support of confirmation. Liberty Mutual will have an opportunity to review them in advance of confirmation and argue about the proposed findings and conclusions at the confirmation hearing.

30. Next, Liberty Mutual asserts that the Plan does not adequately describe the amount of the "Asbestos Trust Contribution." That amount currently is unknowable. By definition, it will be the cash owned by the Debtor on the Effective Date, including settlement proceeds the Debtor will have in hand, less administrative expenses and the other payments to be made under the Plan. Whatever the balance of cash the Debtor may have, it will be contributed to the Asbestos Trust, together with whatever insurance coverage rights the Debtor has at the time. The contribution amount will be known at confirmation, and an estimate of that amount is contained within the liquidation analysis included as an Exhibit B to the Disclosure Statement.

31. Finally, Liberty Mutual argues that the Court would have ample cause to extend the "Stay Period" past the end date of June 30, 2025, to preserve the status quo while the Plan is pending. Liberty Mutual is arguing, of course, for it to be protected from direct action lawsuits, not anything for the benefit of claimants who have been waiting since the petition date for the right to continue or commence lawsuits against insurers of the Debtor and Wayne. While the Debtor likely will need a bridge order extending the stay for its benefit, Liberty Mutual offers no logical

reason why the ability to get a stay extension justifies extending the confirmation process. Time is money, and there is no justifiable reason for delay.

CONCLUSION

For the reasons explained above and in the Solicitation Procedures Motion, this Court should approve the Solicitation Procedures Motion and overrule the Objections.

Dated: May 20, 2025
Richmond, Virginia

/s/ Henry P. (Toby) Long, III

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