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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.	)
	)

JOINDER MEMORANDUM OF THE FCR IN SUPPORT OF PROPONENTS' MEMORANDUM OF LAW IN SUPPORT OF: (A) FINAL APPROVAL OF THE DISCLOSURE STATEMENT WITH RESPECT TO THE AMENDED PLAN OF REORGANIZATION OF HOPEMAN BROTHERS, INC. UNDER CHAPTER 11 OF THE BANKRUPTCY CODE, AND (B) CONFIRMATION OF THE AMENDED PLAN OF REORGANIZATION OF HOPEMAN BROTHERS, INC. UNDER CHAPTER 11 OF THE BANKRUPTCY CODE; AND, OMNIBUS REPLY TO PLAN OBJECTIONS

AND NOW, comes Marla Rosoff Eskin, Esquire, in her capacity as the Future Claimants' Representative (the "FCR"), by and through her undersigned attorneys, and submits this Joinder Memorandum in Support of the *Plan Proponents' Memorandum of Law in Support of: (A) Final Approval of the Disclosure Statement with Respect to the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code and (B) Confirmation of the Amended Plan of Reorganization of Hopeman Brother, Inc. Under Chapter 11 of the Bankruptcy Code; and, Omnibus Reply to Plan Objections* (the "Plan Proponent Confirmation Brief") and avers as follows.

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Introduction

1. On May 21, 2025, the debtor, Hopeman Brothers, Inc. (the "Debtor") and the Official Committee of Unsecured Creditors (the "Committee" and collectively with the Debtor, the "Plan Proponents") proposed the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code [Dkt. No. 766] (the "Plan").

2. In connection with the Plan, the Plan Proponents submitted a Disclosure Statement [Dkt. No. 690] (the "Disclosure Statement"). This Court conditionally approved the Disclosure Statement, finding it contained "adequate information" as required by 11 U.S.C. §1125.

3. The only objections to the final approval of the Disclosure Statement and/or confirmation of the Plan are those of various Debtor insurers: Century Indemnity Company ("Century"), Westchester Fire Insurance Company ("Westchester" and together with Century, the "Chubb Insurers"), Liberty Mutual Insurance Company ("Liberty Mutual"), the Travelers Indemnity Company ("Travelers Indemnity"), Travelers Casualty and Surety Company ("Travelers Casualty"), St. Paul Fire and Marine Insurance Company ("St. Paul" and together with Travelers Indemnity and Travelers Casualty, "Travelers"), and Hartford Accident and Indemnity Company and First State Insurance Company ("Hartford" and together with the Chubb Insurers, Liberty Mutual, and Travelers, the "Objecting Insurers").

4. Throughout the administration of this Chapter 11 case, the Objecting Insurers have engaged in a scorched earth pattern of objections to any effort by the Debtor to reorganize that did not ratify or result in agreements to discount their potential liability to pay the claims of creditors holding asbestos personal injury claims against the Debtor pursuant to their insurance contracts.

5. There is no provision of the Bankruptcy Code which entitles the Objecting Insurers to any relief from the contractual liabilities created by their insurance contracts with the Debtor.

6. Creditors have expressed their overwhelming support for confirmation of the Plan through their votes, and the FCR supports confirmation of the Plan as clearly the best alternative for recovery for future claimants.

7. The Plan Proponents have provided detailed responses to the objections of the Objecting Insurers in their Confirmation Brief (the "Plan Objections"), and the FCR incorporates those responses into this Joinder Brief as if fully set forth below.

8. Additionally, the FCR submits the following in response to the Plan Objections and asks this Court to overrule such objections and confirm the Plan.

Response of the FCR

A. The Disclosure Statement Provides Adequate Information and Should Be Finally Approved

9. The Chubb Insurers argue that this Court should decline to approve the Disclosure Statement, as it lacks adequate information as required by 11 U.S.C. §1125.

10. A disclosure statement accompanying a plan provides "adequate information" pursuant to the Bankruptcy Code, where it provides information sufficient for creditors to make an informed decision regarding their respective rights and outcomes under the proposed plan. 11 U.S.C. §1125(a)(1). See also A.H Robins v. Dalkon Shield, 163 F.3d 598 (4th Cir. 1998) (a disclosure statement is adequate if the information disclosed if sufficient "to permit a reasonable, typical creditor to make an informed judgment about the merits of the plan").

11. The typical present creditor in this case is an asbestos personal injury claimant who is represented by counsel and has or can otherwise assert a tort claim for asbestos-related injuries caused by exposure to the Debtor's asbestos products or asbestos-related business operations.

12. The Court appointed FCR represents the interest of those asbestos-related personal injury claimants who have yet to manifest injuries from their exposure to the Debtor's asbestos

products or asbestos-related business operations or otherwise been unable to presently assert and defend their claim rights.

13. The Disclosure Statement enables the "typical creditor" to fully understand the history of the Debtor's business activities, including its asbestos-related products and operations. It also adequately describes the Debtor's insurance coverage, coverage disputes, and the compromises it negotiated with its insurers. Finally, it adequately describes the choice involved in choosing to vote in favor of the Plan, or to reject the Plan and pursue any of the other alternatives currently available to the Debtor.

14. In summary, all the facts relevant to consideration of the Plan are adequately described in the Disclosure Statement and they are not subject to dispute. While the opinions of experts can always be contested, creditors can readily discern what is fact from what is opinion and evaluate the Plan accordingly.

15. The choice afforded creditors is straightforward. If the Plan is confirmed, asbestos personal injury claimants will be permitted to liquidate their claims and pursue, without bankruptcy related impairment, any insurance available for such claims under applicable state law. If the Plan is rejected, the Debtor or any subsequently appointed Trustee would likely endeavor to negotiate some form of settlement with the Debtor's insurers which would significantly compromise the Debtor's insurance coverage rights without the consent of such claimants in order to facilitate a conclusion of the bankruptcy case.

16. Understanding this choice, both the FCR and the Debtor's creditors overwhelmingly support confirmation of the Plan.

17. Based upon the foregoing, the Chubb argument that the Disclosure Statement is inadequate is spurious. The FCR and creditors have received adequate information to determine

whether to support the Plan, and they have spoken as to their preference. For these and the reasons set forth in the Plan Proponent Confirmation Brief, the Disclosure Statement should be approved.

B. The Debtor is Eligible for Relief Under 11 U.S.C. 524(g)

18. The Objecting Insurers argue that the Debtor is not entitled to the creation of a trust pursuant to 11 U.S.C. §524(g) because the Debtor fails to meet the "ongoing business" requirement, i.e., a purported requirement that the Debtor be a going concern in order to be entitled to the relief that Section 524(g) affords.

19. As set forth in the Plan Proponents Confirmation Brief, Section 524(g) of the Bankruptcy Code does not impose an "ongoing business" requirement on the Debtor. There is no language in Section 524(g) which requires a debtor to be engaged in ongoing business. Instead, the Bankruptcy Code only requires that a debtor be able to fund a trust and "deal equitably with claims and future demands." 11 U.S.C. §524(g)(2)(B)(ii)(III).

20. Courts have confirmed plans under Section 524(g) where the debtor is no longer engaged in or does not intend to continue to engage in an ongoing prepetition business related to the use or manufacturing of asbestos products. See e.g., In re: Flinktkote Company, 486 B.R. 99, 130-31 (D.Del. 2012) (holding that the debtor is not required to continue to engage in its' prepetition business, but only that the debtor continue some business sufficient to fund the trust, without regard to how such funding is accomplished); In re: W. Asbestos Co., 313 B.R. 832, 853 (Bankr.N.D. Cal. 2003) (authorizing reorganization under Section 524(g) notwithstanding the debtor's lack of business operations); In re: Swan Transp. Co., No. 01-11690 (Bankr. D. Del. May 30, 2003) (confirming plan of reorganization where debtor had conducted no business pre or post-petition); In re: Quigley Co., Inc., 437 B.R. 102, 140 (Bankr.S.D.N.Y. 2010) (holding that it is the funding requirement that authorizes a debtor to reorganize under the provisions of Section 524(g)).

21. Moreover, even if the Court were to find an "ongoing business" requirement in Section 524(g), the Debtor does, in fact, propose to engage in the same business of managing its investments and coordinating with its insurers in the processing of its asbestos liabilities that it has been engaged in for the last twenty-two years. Such activities constitute ongoing business sufficient to allow the Debtor to reorganize under Section 524(g). See Flinktkote Company, 486 B.R. at 132-33 (Bankr. D. Del. 2012) (holding that the debtor's "new business" model to fund the plan was sufficient to show ongoing business).

C. The Plan is Insurance Neutral

22. The Objecting Insurers argue that the Plan is not "insurance neutral," and therefore not confirmable. As set forth in the Plan Proponents' Confirmation Brief, after the *Truck Insurance* decision, insurance neutrality is no longer a requirement for confirmation of the Plan. Truck Ins. Exch. v. Kaiser Gypsum Co., Inc., 602 U.S. 268 (2024).

23. Even though insurance neutrality is no longer a requirement for plan confirmation after *Truck*, the Plan is, in fact, insurance neutral. As more fully discussed in the Confirmation Brief, the Plan specifically states that all the "rights, duties, defenses, obligations and liabilities under the insurance policies are hereby preserved." See Plan at §6.2.

24. The Plan does not alter the rights or obligations of the Objecting Insurers or the beneficiaries of the policies. Instead, it specifically preserves the rights of those parties, whomever they may be.

25. Nothing in the Plan seeks to enlarge the rights of the Debtor or the third-party beneficiaries of the Debtor's insurance policies. Alternatively, by objecting to Plan confirmation, the Objecting Insurers seek to compel a compromise of their contractual obligations under their

insurance policies. Thus, it is the Objecting Insurers, not the Plan Proponents, who seek to alter the parties' respective rights and obligations under the insurance policies.

D. The Plan is Fair and Proposed in Good Faith

26. The Objecting Insurers argue that the Plan was not proposed in good faith because the Plan is the result of collusion between the Plan Proponents and Asbestos Claimants which creates a fundamental conflict of interest.

27. The Insurers offer no evidence to support their allegation of collusion. The FCR joins in the arguments set forth in the Plan Proponents' Confirmation Brief establishing that nothing in the Plan is the result of collusion with the Asbestos Claimants, nor does the Plan create any conflict of interest.

28. Rather, the Plan – consistent with other court-approved 524(g) plans – simply provides for the creation an Asbestos Trust and Trust Distribution Procedures, subject to the oversight of fiduciaries, which ensure fair and equitable treatment of Asbestos Claimants.

29. As the Insurers note in their Objections, the FCR was appointed after the Plan was filed, and thus could not have colluded in the formulation of the Plan. Moreover, after appropriate notice and hearing, this Court found the FCR to be appropriately qualified to protect the interests of future Asbestos Claimants.

30. The Insurers objection that the formulation of the Plan was the product of collusion is without merit.

Conclusion

31. For the reasons set forth herein and in the Confirmation Brief, and as will be set forth in the hearing on confirmation of the Plan, the FCR supports confirmation, and respectfully requests this Court overrule the Plan Objections.

WHEREFORE, the FCR requests this Court enter an Order: (i) approving the Disclosure Statement on a final basis; (ii) confirming the Plan; (iii) overruling the Plan Objections; and (iv) granting such other relief as this Court deems necessary and proper.

Dated: August 18, 2025

Respectfully submitted,

/s/ Michael G. Wilson

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