

**STEPTOE LLP**

Joshua R. Taylor (VSB No. 45919)  
Catherine D. Cockerham (admitted *pro hac vice*)  
Jefferson Klocke (admitted *pro hac vice*)  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
Telephone: (202) 429-3000  
jrtaylor@steptoe.com  
ccockerham@steptoe.com  
jklocke@steptoe.com

*Counsel for The Travelers Indemnity Company,  
Travelers Casualty and Surety Company, formerly  
known as The Aetna Casualty and Surety Company,  
and St. Paul Fire and Marine Insurance Company*

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

**In re:**

**HOPEMAN BROTHERS, INC.,  
  
Debtor.**

**Chapter 11**

**Case No. 24-32428 (KLP)**

**TRAVELERS' RESPONSE TO THE JOINT STATEMENT OF PLAN PROPONENTS IN  
RESPONSE TO THE PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF  
LAW REGARDING CONFIRMATION OF THE MODIFIED AMENDED PLAN OF  
REORGANIZATION OF HOPEMAN BROTHERS, INC. UNDER CHAPTER 11 OF  
THE BANKRUPTCY CODE AND  
APPROVING ADEQUACY OF THE DISCLOSURE STATEMENT**



**TABLE OF CONTENTS**

I.	PRELIMINARY STATEMENT .....	2
II.	ARGUMENT .....	4
A.	The Plan Proponents’ Revisions Do Not Comply with the Proposed Findings, as the Plan Documents Continue to Include Impermissible Declarations that Impair Travelers’ Rights and Defenses .....	4
1.	The Plan Proponents’ Revisions Do Not Comply with the Proposed Findings with Respect to Plan Section 8.18.....	7
2.	The Plan Proponents’ Revisions Do Not Comply with the Proposed Findings with Respect to Plan Section 10.6 and the Corresponding Provision in their Proposed Confirmation Order .....	9
3.	The Plan Proponents’ Proposed Revisions to Plan Section 11.1(g)(xxvii) Are Not Consistent with the Proposed Findings. ....	10
B.	Additional Revisions Are Required to Implement the Proposed Findings’ Ruling that the Asbestos Insurance Rights Remain Subject to Applicable Terms and Conditions .....	13
C.	To Comply with the Proposed Findings, the Plan Documents Must Be Modified to Preclude the TAC and FCR From Accessing Debtor’s Privileged Information .....	17
D.	The Plan Must Be Revised to Correctly Identify Travelers’ Insurance Policies .....	19
III.	RESERVATION OF RIGHTS .....	20
IV.	CONCLUSION.....	20

The Travelers Indemnity Company (“Travelers Indemnity”), Travelers Casualty and Surety Company, formerly known as The Aetna Casualty and Surety Company (“Travelers Casualty”), and St. Paul Fire and Marine Insurance Company (“St. Paul,” and collectively with Travelers Indemnity and Travelers Casualty, “Travelers”),<sup>1</sup> parties in interest, respectfully submit the following response to the *Joint Statement of Plan Proponents In Response to the Proposed Findings of Fact and Conclusions of Law Regarding Confirmation of the Modified Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code and Approving Adequacy of the Disclosure Statement*, Dkt. 1309 (“Plan Proponents’ Statement”).

In the Plan Proponents’ Statement, Hopeman Brothers, Inc. (“Hopeman” or “Debtor”) and the Official Committee of Unsecured Creditors (“Committee” and collectively with Hopeman, the “Plan Proponents”) state that they do not object to the Bankruptcy Court’s Proposed Findings,<sup>2</sup> agree to make the revisions required by the Proposed Findings, and then propose minimal revisions to the Plan<sup>3</sup> and certain Plan Documents<sup>4</sup> and submit a revised version of their Proposed Confirmation Order.<sup>5</sup> However, as explained herein, even if the District Court were to adopt the

---

<sup>1</sup> Travelers notes that page 14 of the Proposed Findings incorrectly identifies and defines “Travelers” by excluding St. Paul from the definition of the term “Travelers.” Travelers requests that the Proposed Findings be corrected to identify all three of the Travelers entities as “Travelers.”

<sup>2</sup> *Proposed Findings of Fact and Conclusions of Law Regarding Confirmation of the Modified Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code and Approving Adequacy of the Disclosure Statement*, Dkt. 1267 (“Proposed Findings”).

<sup>3</sup> *Second Modified Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code*, Dkt. 1185 (the “Plan”).

<sup>4</sup> Capitalized terms used, but not defined herein, have the meanings ascribed to them in Travelers’ Objection to the Proposed Findings (Dkt. 1312, as defined below) or the Plan if not defined therein.

<sup>5</sup> The Plan Proponents submitted a proposed confirmation order on September 5, 2025. *See* Dkt. 1187, at Exhibit C. While the Bankruptcy Court recommended confirmation of a potential

Proposed Findings (rather than deny Plan confirmation or require additional modifications to the Plan and related documents, as specifically identified and argued in “Travelers’ Objection to the Proposed Finding”<sup>6</sup>), the Plan Proponents’ proposed revisions are insufficient and do not address all of the revisions required by the Bankruptcy Court’s Proposed Findings. In support thereof, Travelers respectfully states as follows:

## **I. PRELIMINARY STATEMENT**

1. In Travelers’ Objection to the Proposed Findings, Travelers explained that the Bankruptcy Court (i) correctly found that the Plan must be modified to address a few of Travelers’ objections, but (ii) erred by overruling (or not addressing) a number of Travelers’ other Plan objections. *See* Dkt. 1312. Travelers does not repeat those arguments here, and instead, responds to the Plan Proponents’ argument that they have revised the Plan and related documents to conform to the Proposed Findings, including those findings upholding certain of Travelers’ objections.

2. Specifically, in their Statement, the Plan Proponents state that they “do not object to the Proposed Findings” and “agree to make” the revisions required by the Proposed Findings. Dkt. 1309 (Plan Proponents’ Statement) ¶ 1. They also propose certain revisions to the Plan, Asbestos Trust Agreement, and their Proposed Confirmation Order that purportedly “are intended to conform those documents to the Proposed Findings.” *Id.* ¶ 2. However, the proposed revisions by the Plan Proponents are insufficient and do not conform to the Proposed Findings.

---

revised Plan with modifications consistent with the Proposed Findings, the Proposed Findings did not expressly address the Plan Proponents’ proposed confirmation order. The Plan Proponents then filed a revised proposed confirmation order in the form of a Redline, attached as Exhibit C to the Plan Proponents’ Statement, Dkt. 1309 (the “Plan Proponents Proposed Confirmation Order”).

<sup>6</sup> *Travelers’ Objection to the Bankruptcy Court’s Proposed Findings of Fact and Conclusions of Law Regarding Confirmation of the Modified Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code and Approving Adequacy of the Disclosure Statement*, Dkt. 1312 (“Travelers’ Objection to the Proposed Findings”).

3. First, the Bankruptcy Court clearly upheld Travelers’ objections to various Plan provisions as containing impermissible findings of fact and impairing Travelers’ and other insurers’ rights and defenses. Travelers’ “well-founded” objections related to provisions concerning: (i) the purported effect of the Plan, including the effect of provisions regarding the transfer of assets and provisions regarding the effect of the discharge and releases provided in the Plan, on Travelers’ rights; (ii) preclusion and estoppel provisions; and (iii) Hopeman’s purported compliance with Asbestos Insurance Cooperation Obligations and covenants of good faith and fair dealing. However, in response to the Bankruptcy Court’s findings, the Plan Proponents struck language in a *single* Plan provision (and as discussed herein, replaced that language with other problematic language), but left all other impermissible provisions. That is, the Plan Proponents’ proposed revisions fail to comply with the Bankruptcy Court’s Proposed Findings, and additional revisions to Plan Documents are required to strike improper provisions.

4. Second, although the Plan Proponents made a single, limited revision to the Plan and Proposed Confirmation in response to the Bankruptcy Court’s holding that the Asbestos Insurance Rights transferred under the Plan remain subject to the terms and conditions of the relevant agreements, the Plan Proponents’ revisions are insufficient. Additional revisions to these and other provisions of the Plan and Proposed Confirmation Order are required to implement the Proposed Findings and avoid inconsistencies.

5. Third, the Plan Proponents’ proposed revisions to the Plan do not reflect the Court’s finding that the Trust Advisory Committee (“TAC”) and the Future Claims Representative (“FCR”) do not share a common interest with the Asbestos Trust, which precludes the TAC and FCR from accessing the Debtor’s privileged documents.

6. Finally, for the reasons set forth in Travelers' Objection to the Proposed Findings, the Plan cannot be confirmed as drafted, even if the Plan Documents are amended to reflect the modifications required by the Proposed Findings. To the extent this Court agrees with Travelers, further revisions to the Plan, Plan Documents, and the Plan Proponents' Proposed Confirmation Order are required. As noted, those changes are not addressed in this Response.

## **II. ARGUMENT**

### **A. *The Plan Proponents' Revisions Do Not Comply with the Proposed Findings, as the Plan Documents Continue to Include Impermissible Declarations that Impair Travelers' Rights and Defenses***

7. Travelers objected to various Plan provisions, including provisions in Plan Sections 8.18, 10.6, and 11(g)(xxviii), because they constitute improper declaratory judgments concerning the Plan's effect on insurers' rights and obligations, violating the "insurance neutrality" principle and impairing Travelers' rights in possible future coverage litigation. *See, e.g.*, Dkt. 944 & 949 (Travelers' Objection) ¶¶ 42, 60-65; Dkt. 1188 (Travelers' Proposed Findings) ¶¶ 36-54. As the Bankruptcy Court explained, "Travelers objects to language in the Plan that may be interpreted as a declaration of the effect of the Plan on the Objecting Insurers' rights and defenses under the Insurance Policies" and other agreements. Dkt. 1267 (Proposed Findings) at 55.

8. Specifically, the objectionable Plan provisions contain impermissible findings of fact concerning: (1) the purported impact on insurers' liability of the transfer of the Asbestos Insurance Rights to the Asbestos Trust (*see* Dkt 1185 (Plan) § 8.18), (2) the purported effect of the discharge, release, and/or injunction in these proceedings (*see id.* §§ 8.18 & 10.6), (3) the purported res judicata and collateral estoppel effect of the Plan and Plan confirmation (*see id.* § 8.18); and (4) whether, during this Chapter 11 case, Hopeman has violated any Asbestos Insurance Cooperation Obligations or breached any express or implied covenant of good faith and fair

dealing (*see id.* § 11(g)(xxviii)). *See* Dkt. 944 & 949 (Travelers’ Objection) ¶¶ 42, 60-65; Dkt. 1188 (Travelers’ Proposed Findings) ¶¶ 36-54.

9. The Bankruptcy Court properly found that Travelers’ objections are “well founded,” ruling that the Plan must be “insurance neutral” and may not impair the insurers’ rights and defenses. Dkt. 1267 (Proposed Findings) at 54-55. Thus, the Bankruptcy Court concluded that, with one exception,<sup>7</sup> the Plan may not include any declarations “of the effect of the Plan on the Objecting Insurers’ rights and defenses under the Insurance Policies.” *Id.* at 55. The Bankruptcy Court explained: “To truly be insurance neutral, the Plan should not impair any available rights or defenses in connection with the insurance policies, save for the voidability of anti-assignment provisions.” *Id.* The Bankruptcy Court also agreed with Travelers<sup>8</sup> that a future coverage action—not Plan confirmation—is the appropriate forum for adjudicating the declaratory relief sought by Plan Proponents:

To the extent there is a future dispute over the effect of the Plan, those issues should be more properly resolved in the context of a future coverage dispute. *In re Boy Scouts of Am. & Del. BSA, LLC*, 650 B.R. at 147 (providing that any issues regarding the debtor or trustee’s cooperation obligations should more properly be addressed as a defense to coverage).

Dkt. 1267 (Proposed Findings) at 55; *see also id.* at 56 (“Any coverage dispute should be more properly brought in connection with future proceedings.”).

10. With respect to Travelers’ objections to language in Plan Section 8.18 regarding the effect on insurers of the transfer of Asbestos Insurance Rights, the Court expressly held:

While the Plan may permissibly transfer the Asbestos Insurance Rights, the Bankruptcy Court agrees that ***it would be improper at this stage to determine the***

---

<sup>7</sup> The Bankruptcy Court identified one exception, noting that the Plan “may permissibly transfer the Asbestos Insurance Rights.” *Id.*

<sup>8</sup> *See, e.g.,* Dkt. 944 & 949 (Travelers’ Objection) ¶¶ 42, 60; Dkt. 1188 (Travelers’ Proposed Findings) ¶¶ 37-38 (collecting cases).

***impact of such a transfer upon the insurers and/or the effect of the bankruptcy case and the actions taken in connection therewith.***

Dkt. 1267 (Proposed Findings) at 55 (emphasis added); *see also id.* at 50 (while “the Plan may provide for the transfer of the Asbestos Insurance Rights pursuant to section 1123 of the Bankruptcy Code, the Bankruptcy Court also agrees with the Objecting Insurers that ***it would be improper for either the Plan or the Confirmation Order to include any findings regarding the effect of such transfer***, as such language may impermissibly affect the rights and defenses of the insurers”) (emphasis added).

11. The Bankruptcy Court similarly upheld Travelers’ objection to provisions in the Plan regarding preclusion and estoppel:

This rationale also applies as to the preclusive effect of any order confirming the Plan. The Bankruptcy Court agrees that issues of preclusion and estoppel are more properly to be determined by a future court. *In re Boy Scouts of Am. & Delaware BSA, LLC*, 642 B.R. at 631 (“[T]he res judicata or collateral estoppel effect of any Order I issue confirming the Plan is for a future court to decide in the context of specific litigation.”); *In re AIO US, Inc.*, 2025 WL 2426380, at \*26, 2025 Bankr. LEXIS 2012, \*77 (“It is generally settled law . . . that the preclusive effect of a court’s judgment is properly decided by the subsequent court, not the rendering court. A court usually does not get to dictate the preclusion consequences of its own judgment.”).

Dkt. 1267 (Proposed Findings) at 55.

12. The Bankruptcy Court similarly upheld Travelers’ objection to the inclusion of Plan Section 11.1(g)(xxvii), finding that the Plan should not include a finding that the Debtor complied with its Asbestos Insurance Cooperation Obligations and did not violate any duty of good faith and fair dealing. Dkt. 1267 (Proposed Findings) at 55 n.27.

13. Notwithstanding the Bankruptcy Court’s clear ruling, the Plan Proponents’ Statement does not reflect the required changes to the Plan and related documents.



**1. *The Plan Proponents' Revisions Do Not Comply with the Proposed Findings with Respect to Plan Section 8.18***

14. First, Travelers objected to language in Plan Section 8.18 (labeled “Insurance Neutrality”) that constitutes improper declarations regarding: (i) the impact of the transfer of Asbestos Insurance Rights on Travelers’ rights and (ii) the impact of the discharge, release, and injunction provisions of the Plan on Travelers’ rights. *See, e.g.*, Dkt. 944 & 949 (Travelers’ Objection) ¶¶ 42, 62; Dkt. 1188 (Travelers’ Proposed Findings) ¶¶ 40-45. In particular, notwithstanding other language in that Section that is intended to preserve insurance neutrality, Section 8.18 impermissibly states (in bold):

*provided, however, that, (a) the transfer of rights in and under the Asbestos Insurance Rights to the Asbestos Trust is valid... and that such transfer shall not affect the liability of any insurer, and (b) the discharge and release of Hopeman and Reorganized Hopeman from all Claims and the injunctive protection provided to Hopeman, Reorganized Hopeman, and the Protected Parties with respect to Claims as provided herein shall not affect the liability of any insurer, except to the extent that any such insurer is a Settled Asbestos Insurer.”*

Dkt. 766 (May Plan)<sup>9</sup> § 8.18 (emphasis added); *see also* Dkt. 1185 (Plan) § 8.18. After Travelers filed its objection, the Plan Proponents modified Section 8.18 to add an additional sentence that reiterated these carveouts. Dkt. 1141 (August Plan) § 8.18;<sup>10</sup> Dkt. 1146 (Redline) § 8.18; *see also* Dkt. 1185 (Plan) § 8.18.

15. In addition to the provisions described above, Travelers also objected to Section 8.18 because it contains the following proposed finding regarding the res judicata and collateral estoppel effect of the Plan and confirmation of the Plan:

---

<sup>9</sup> Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code, Dkt. 766 (“May Plan”).

<sup>10</sup> Modified Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code (Dkt. 1141) (“August Plan”).

Further, nothing in this Section 8.18 is intended or shall be construed to preclude otherwise applicable principles of res judicata or collateral estoppel from being applied against any insurer with respect to any issue that is actually litigated by such insurer as part of its objections to confirmation of the Plan.

Dkt. 1185 (Plan) § 8.18; *see* Dkt. 944 & 949 (Travelers' Objection) ¶¶ 61; Dkt. 1188 (Travelers' Proposed Findings) ¶¶ 45.

16. As explained above, the Bankruptcy Court found Travelers' objections to be "well-founded, agreeing that the Plan may not include declarations of the "effect of the Plan on the Objecting Insurers' rights and defenses" Dkt. 1267 (Proposed Findings) at 55 (similarly ruling that the Plan may not "determine the impact of [the] transfer" of Asbestos Insurance Rights). The Bankruptcy Court also agreed that it cannot dictate the preclusive effect of the Plan. *Id.* ("issues of preclusion and estoppel are more properly to be determined by a future court"). Although the Proposed Findings clearly upheld Travelers' objections, the Plan Proponents' proposed revisions to the Plan do not include a single proposed revision to Section 8.18. The problematic language remains.

17. To comply with the Proposed Findings, which upheld Travelers' objections, Section 8.18 must be modified by striking certain language, as follows:

**8.18. Insurance Neutrality.** Nothing in the Plan, the other Plan Documents, the Confirmation Order, any finding of fact or conclusion of law with respect to confirmation of the Plan, or any order or opinion entered on appeal from the Confirmation Order (i) shall preclude any Non-Settling Asbestos Insurer from asserting in any proceeding any and all claims, defenses, rights, or causes of action that it has or may have under or in connection with any of its Asbestos Insurance Policies or any of its Asbestos CIP Agreements; or (ii) shall be deemed to waive any claims, defenses, rights, or causes of action that any Non-Settling Asbestos Insurer has or may have under the provisions terms, conditions, defenses, or exclusions contained in its Asbestos Insurance Policies and its Asbestos CIP Agreements, including any and all such claims, defenses, rights, or causes of action based upon or arising out of the Channeled Asbestos Claims that are liquidated, resolved, discharged, channeled, or paid in connection with the Plan; provided, however, that (a) the transfer of rights in and under the Asbestos Insurance Rights to the Asbestos Trust is valid and enforceable and transfers such rights under the

Asbestos Insurance Rights as Hopeman or Reorganized Hopeman may have, ~~and that such transfer shall not affect the liability of any insurer, and (b) the discharge and release of Hopeman and Reorganized Hopeman from all Claims and the injunctive protection provided to Hopeman, Reorganized Hopeman, and the Protected Parties with respect to Claims as provided herein shall not affect the liability of any insurer, except to the extent that any such insurer is a Settled Asbestos Insurer.~~ Notwithstanding anything in this Section 8.18 to the contrary, nothing in this Section 8.18 shall affect or limit, or be construed as affecting or limiting, (1) the binding effect of the Plan and the Confirmation Order on Hopeman, Reorganized Hopeman, the Asbestos Trust, or the beneficiaries of the Asbestos Trust or (2) the protection afforded to any Settled Asbestos Insurer by the Asbestos Permanent Channeling Injunction. ~~Further, nothing in this Section 8.18 is intended or shall be construed to preclude otherwise applicable principles of res judicata or collateral estoppel from being applied against any insurer with respect to any issue that is actually litigated by such insurer as part of its objections to confirmation of the Plan.~~ Except as otherwise provided in this Section 8.18, including, without limitation, the foregoing (a) regarding the transfer of the Asbestos Insurance Rights to the Asbestos Trust ~~and the foregoing (b) regarding the discharge of Hopeman and Reorganized Hopeman,~~ the Asbestos Insurance Rights held by the Asbestos Trust and any claims made against the Asbestos Insurance Policies on account of such rights will be subject to any coverage defenses a Non-Settling Asbestos Insurer may raise as a result of Reorganized Hopeman's failure, if any, to comply with the Asbestos Insurance Cooperation Obligations. ....

**2. *The Plan Proponents' Revisions Do Not Comply with the Proposed Findings with Respect to Plan Section 10.6 and the Corresponding Provision in their Proposed Confirmation Order***

18. Travelers objected to language in Plan Section 10.6 concerning the purported impact of the Plan's releases on Travelers' rights. *See, e.g.*, Dkt. 944 & 949 (Travelers' Objection) ¶ 63; Dkt. 1188 (Travelers' Proposed Findings) ¶¶ 46-47. Specifically, Travelers objected that Section 10.6 contains a proposed finding/advisory ruling that "no release of the Released Parties shall diminish, reduce, or eliminate the duties of any Asbestos Insurer under any Asbestos Insurance Policy or any Asbestos CIP Agreement." Dkt. 1185 (Plan) § 10.6.

19. As explained above, the Bankruptcy Court's Proposed Findings found Travelers' objections to be "well founded" and further ruled that the Plan may not include provisions determining the "the effect of the Plan on the Objecting Insurers' rights and defenses." Yet, that is exactly what Plan Section 10.6 does. And while the Plan Proponents "agree[d]" to make the

revisions required by the Proposed Findings, the Plan Proponents' Statement does not make any changes to Plan Section 10.6. Dkt. 1309 (Plan Proponents' Statement) at Exhibit A. To comply with the Proposed Findings, the second paragraph of Section 10.6 must be modified by striking the impermissible language, as follows:

In exchange for holders of Non-Asbestos Claims or Equity Interests opting in to grant the release provided in this section 10.6 of the Plan, each Released Party shall waive and release any and all Causes of Action that such Released Party did commence or could have commenced against any such holders of Non-Asbestos Claims or Equity Interests that opted-in that is based upon, attributable to, or arising from any acts or omissions of Releasing Parties occurring prior to the Effective Date in any way attributable to Hopeman, Reorganized Hopeman, the Chapter 11 Case, or the Plan; ~~provided, however, that, notwithstanding the foregoing, no release of the Released Parties shall diminish, reduce, or eliminate the duties of any Asbestos Insurer under any Asbestos Insurance Policy or any Asbestos CIP Agreement.~~

20. Further, the Plan Proponents' Proposed Confirmation Order contains similar language, and thus, also violates the Proposed Findings. Specifically, in the last sentence of Paragraph 42 of their Proposed Confirmation Order, the Plan Proponents seek an improper advisory ruling regarding the impact of the Plan's release and discharge on insurers, as follows:

42. ... Notwithstanding the foregoing or anything else in the Plan or this Confirmation Order, no release or discharge of any of the Released Parties, Hopeman or Reorganized Hopeman, or any of their respective present or former directors, officers, employees, members, subsidiaries, predecessors, successors, attorneys, accountants, investment bankers, financial advisors, appraisers, or representatives and agents, in each case acting in such capacity, shall diminish, reduce or eliminate the duties or obligations of any Asbestos Insurer under any Asbestos Insurance Policy.

Dkt. 1309 (Plan Proponents' Statement), Ex. C (Redline of Proposed Confirmation Order) ¶ 42.

To comply with the Proposed Findings, this improper language must be stricken.

**3. *The Plan Proponents' Proposed Revisions to Plan Section 11.1(g)(xxvii) Are Not Consistent with the Proposed Findings.***

21. Travelers further objected to Plan Section 11.1(g)(xxvii), which makes confirmation of the Plan contingent upon a finding that Hopeman's conduct did not violate any of

its Asbestos Insurance Obligations or the covenant of good faith and fair dealing. *See, e.g.*, Dkt. 944 & 949 (Travelers’ Objection) ¶ 64; Dkt. 1188 (Travelers’ Proposed Findings) ¶ 48. Specifically, that provision provides:

(g) In addition to the foregoing, the Confirmation Order shall contain the following findings of fact and conclusions of law, among others...

(xxvii) Hopeman’s conduct in connection with and throughout the Chapter 11 Case, including its negotiations with the Committee and the Future Claimants’ Representative, Hopeman’s commencement of this Chapter 11 Case, and the drafting, negotiation, proposing, confirmation, and consummation of the Plan, does not and has not violated any Asbestos Insurance Cooperation Obligations, nor were such events or conduct a breach of any express or implied covenant of good faith and fair dealing.

Dkt. 1185 (Plan) § 11.1(g)(xxvii).

22. The Bankruptcy Court found that Plan Section 11.1(g)(xxvii) contains an improper “express factual finding that the Debtor has not violated any Asbestos Insurance Cooperation Obligations, including any express or implied covenant of good faith and fair dealing,” and that disputes on the issue “should be preserved for future adjudication in a coverage dispute.” Dkt. 1267 (Proposed Findings) at 55 n.27. The Bankruptcy Court also observed that its separate finding that the Plan Proponents proposed the Plan in good faith (as required by Section 1129(a)(3)) does not justify the additional declaration sought by the Plan Proponents in Section 11.1(g)(xxvii). *Id.* Specifically, the Bankruptcy Court ruled that:

The Plan includes an express factual finding that the Debtor has not violated any Asbestos Insurance Cooperation Obligations, including any express or implied covenant of good faith and fair dealing. Plan § 11.1(g)(xxvii), ECF No. 1185 at 53. The Court must find – and the Bankruptcy Court has found – that the Debtor has filed the Bankruptcy Case in good faith and has proposed this Plan in good faith. However, such a finding does not necessarily mean that the Debtor has complied with its Asbestos Insurance Cooperation Obligations. To the extent a disagreement exists, such issue should be preserved for future adjudication in a coverage dispute.

*Id.*

23. While the Proposed Findings make clear that the Bankruptcy Court did not approve Section 11.1(g)(xxvii) and that the entire provision should be stricken, the Plan Proponents did not strike Section 11.1(g)(xxvii). Instead, the Plan Proponents propose to revise the Section to make improper findings that the Bankruptcy Court did not make, proposing the following revisions:

Hopeman's conduct in connection with and throughout the Chapter 11 Case, including its negotiations with the Committee and the Future Claimants' Representative, Hopeman's commencement of this Chapter 11 Case, and the drafting, negotiation, proposing, confirmation, and consummation of the Plan, ~~does not and has not violated any Asbestos Insurance Cooperation Obligations, nor were such events or conduct a breach of any express or implied covenant of good faith and fair dealing.~~ were done in good faith and consistent with the purposes of the Bankruptcy Code.

Dkt. 1309 (Plan Proponents' Statement), Ex. A (Proposed Revisions to Plan) ¶ F.

24. While Travelers agrees that the stricken language must be removed, the remainder of the provision *also* must be stricken to conform to the Bankruptcy Court's Proposed Findings. The revisions made by the Plan Proponents are not consistent with (and exceed) the Bankruptcy Court's Proposed Findings, and therefore, are improper.

25. The Bankruptcy Court noted that it had found "that the Debtor has filed the Bankruptcy Case in good faith and has proposed this Plan in good faith," nothing more. The Plan Proponents' revisions go beyond that and make findings as to all of "Hopeman's conduct in connection with and throughout the Chapter 11 Case," including with respect to the drafting, negotiation, confirmation, and consummation of the Plan (which has not even occurred yet). The Bankruptcy Court did not make any such findings. Elsewhere in the Proposed Findings, the Bankruptcy Court found that the Plan was proposed in good faith, satisfying Section 1129(a)(3).

See Dkt. 1267 (Proposed Findings) at 59-73.<sup>11</sup> The Bankruptcy Court made no findings regarding good faith in connection with all of Hopeman's conduct throughout its Bankruptcy Case.<sup>12</sup>

26. Further, not only is the Plan Proponents' revised Section 11.1(g)(xxvii) inconsistent with the Proposed Findings, but it is also unnecessary because the Plan already had a provision regarding the Proposed Findings' *actual* good-faith finding. See Dkt. 1185 (Plan) § 11.1(g)(i) (requiring a finding of fact and conclusion of law that "the Plan complies with all applicable provisions of the Bankruptcy Code, including ... those requiring that the Plan was proposed in good faith....").

27. Simply put, the Plan Proponents proposed revisions are not consistent with the Proposed Findings, exceed the Bankruptcy Court's findings, and cannot be approved. To comply with the Proposed Findings (to which the Plan Proponents did not object), Section 11.1(g)(xxvii) should be stricken in its entirety.

**B. *Additional Revisions Are Required to Implement the Proposed Findings' Ruling that the Asbestos Insurance Rights Remain Subject to Applicable Terms and Conditions***

28. Under the Plan, on the Effective Date, the Asbestos Insurance Rights will be transferred, and indefeasibly vested in, the Asbestos Trust "free and clear of all Claims, Demands, Equity Interests, Encumbrances, and other interests of any Entity." See, e.g., Dkt. 1185 (Plan) § 8.3(b). "Asbestos Insurance Rights" include Hopeman's rights with respect: (i) Asbestos

---

<sup>11</sup> The Bankruptcy Court also found that votes were solicited in good faith. *Id.* at 59.

<sup>12</sup> Moreover, Plan Section 11.1(g)(xxvii) is a provision that requires the Court to issue the "following findings of fact and conclusions of law . . ." Dkt. 1185 (Plan) § 11.1(g). Because the Bankruptcy Court has already issued its Proposed Findings, there is no need to amend the Plan to prescribe the content of those Findings. The Proposed Findings speak for itself and already includes the entirety of the Court's good faith findings. In any event, even if the Plan were to include such a provision, it must not expand the good faith findings beyond those deemed appropriate in the Proposed Findings.

Insurance Settlements, (ii) Asbestos Insurance Policies, and (iii) Asbestos CIP Agreements.<sup>13</sup> *Id.* § 1.13. Travelers objected to the Plan, arguing that, *inter alia*, the transfer of Asbestos Insurance Rights to the Asbestos Trust must include the corresponding terms and conditions related to those rights—*i.e.*, the terms and conditions under the Asbestos Insurance Settlements, Asbestos Insurance Policies, and Asbestos CIP Agreements. Dkt. 1188 (Travelers’ Proposed Findings) ¶¶ 55-67; Dkt. 949 (Travelers’ Objection) ¶¶ 24-33.

29. Based on Travelers’ objections and objections raised by Chubb, the Bankruptcy Court determined that “any order confirming the Plan should make clear that the Asbestos Insurance Rights are being transferred to the Asbestos Trust subject to any existing terms and conditions.” Dkt. 1267 (Proposed Findings) at 49-50. That is, the Plan’s contemplated transfer of the Asbestos Insurance Rights to the Asbestos Trust may “not affect any attendant terms and conditions.” *Id.* at 49. The Bankruptcy Court further explained that for the Plan to be confirmable as an insurance-neutral plan, “it must truly provide for the passthrough of any rights, duties, and defenses that all persons may have with respect to the Asbestos Insurance Agreements and Asbestos CIP Agreements.” *Id.* at 56.

30. In response, the Plan Proponents propose a single revision and only to Plan Section 8.3(b). Dkt. 1309 (Plan Proponents’ Statement), Ex. A (Proposed Revisions to Plan) at ¶ A:

(b) Transfer of the Asbestos Insurance Rights. On the Effective Date, by virtue of Confirmation, without further notice, action, or deed, and subject to Section 6.2 hereof, the Asbestos Insurance Rights shall be automatically transferred to, and

---

<sup>13</sup> “**Asbestos Insurance Rights** means any and all of Hopeman’s rights, title, privileges, interests, claims, demands, or entitlements in or to any insurance coverage, defense, indemnity, proceeds, payments, escrowed funds, initial or supplemental dividends, scheme payments, supplemental scheme payments, state guaranty fund payments, causes of action, and choses in action under, for, or related to (i) the Asbestos Insurance Settlements, (ii) the Asbestos Insurance Policies, or (iii) the Asbestos CIP Agreements, whether now existing or hereafter arising, accrued or unaccrued, liquidated or unliquidated, matured or unmatured, disputed or undisputed, fixed or contingent, including ...” Dkt. 1185 (Plan) § 1.13.



indefeasibly vested in, the Asbestos Trust, and the Asbestos Trust shall thereby become the estate representative pursuant to sections 1123(a)(5) and 1123(b)(3)(B) of the Bankruptcy Code, with the exclusive right to enforce any and all of the Asbestos Insurance Rights against any Entity, subject to the provisions of Section 8.13 and Section 8.15 hereof, and the Proceeds of the recoveries of any such Asbestos Insurance Rights shall be the property of, and shall be deposited in, the Asbestos Trust. The Asbestos Insurance Rights shall be indefeasibly vested in the Asbestos Trust subject to applicable terms and conditions but otherwise free and clear of all Claims, Demands, Equity Interests, Encumbrances, and other interests of any Entity.

31. The Plan Proponents' proposed revision should be further modified to add the following phrase—“of the Asbestos Insurance Settlements, Asbestos Insurance Policies, and Asbestos CIP Agreements”—immediately following “subject to applicable terms and conditions.” This addition will ensure clarity as to the terms and conditions referenced. Further, the following provision should be added to the end of 8.3(b) to make clear that the transfer is subject to all applicable terms and conditions:

For the avoidance of doubt, notwithstanding anything to the contrary in this Plan, the Plan Documents, or Confirmation Order, the Asbestos Insurance Rights transferred pursuant to this Plan remain subject to the terms and conditions of the applicable Asbestos Insurance Settlements, Asbestos Insurance Policies, and Asbestos CIP Agreements.

32. Additionally, modifications to other Plan provisions also are required to make clear that the terms and conditions remain in place and to avoid potential inconsistencies with other parts of the Plan that also address the Asbestos Insurance Rights and/or their transfer. Namely, Plan Section 1.13 (the definition of “Asbestos Insurance Rights”) should be revised to make clear that the Asbestos Insurance Rights are subject to the relevant terms and conditions, as follows:

1.13. **Asbestos Insurance Rights** means, subject to the terms and conditions of the applicable Asbestos Insurance Settlements, Asbestos Insurance Policies and Asbestos CIP Agreements, any and all of Hopeman's rights, title, privileges, interests, claims, demands, or entitlements in or to any insurance coverage, defense, indemnity, proceeds, payments, escrowed funds, initial or supplemental dividends, scheme payments, supplemental scheme payments, state guaranty fund payments, causes of action, and choses in action under, for, or related to (i) the Asbestos Insurance Settlements, (ii) the Asbestos Insurance Policies, or (iii) the Asbestos CIP

Agreements, whether now existing or hereafter arising, accrued or unaccrued, liquidated or unliquidated, matured or unmatured, disputed or undisputed, fixed or contingent, including . . .

33. Further, as the Bankruptcy Court's Proposed Findings make clear, "*any order* confirming the Plan should make clear that the Asbestos Insurance Rights are being transferred to the Asbestos Trust subject to any existing terms and conditions" Dkt. 1267 (Proposed Findings) at. 49-50 (emphasis added). Thus, any confirmation order, not just the Plan, should include a provision that is super-preemptory and unequivocal.<sup>14</sup> Accordingly, the following language should be added to paragraph 22 of the Plan Proponents' Proposed Confirmation Order to make clear that the transfer is subject to all applicable terms and conditions:

22. On the Effective Date, by virtue of confirmation, without further notice, action, or deed, and subject to Section 6.2 of the Plan, the Asbestos Insurance Rights shall be automatically transferred to, and indefeasibly vested in, the Asbestos Trust, and the Asbestos Trust shall thereby become the estate representative pursuant to sections 1123(a)(5) and 1123(b)(3)(B) of the Bankruptcy Code, with the exclusive right to enforce any and all of the Asbestos Insurance Rights against any Entity, subject to the provisions of Section 8.13 and Section 8.15 of the Plan, and the Proceeds of the recoveries of any such Asbestos Insurance Rights shall be the property of, and shall be deposited in, the Asbestos Trust. The Asbestos Insurance Rights shall be indefeasibly vested in the Asbestos Trust subject to applicable terms and conditions of the Asbestos Insurance Settlements, Asbestos Insurance Policies and Asbestos CIP Agreements but otherwise free and clear of all Claims, Demands, Equity Interests, Encumbrances, and other interests of any Entity. For the avoidance of doubt, notwithstanding anything to the contrary in this Confirmation Order, the Plan, or Plan Documents, the Asbestos Insurance Rights transferred pursuant to this Plan remain subject to the terms and conditions of the Asbestos Insurance Settlements, Asbestos Insurance Policies, and Asbestos CIP Agreements.

34. The foregoing revisions are necessary to fully implement the Bankruptcy Court's Proposed Findings. The limited revisions proposed by the Plan Proponents are insufficient.

---

<sup>14</sup> Such super-preemptory and unequivocal language is also necessary because the Plan Proponents' Proposed Confirmation Order provides that its terms control "if there is any direct conflict between the terms of the Plan or any Exhibit thereto and the terms of this Confirmation Order." Dkt. 1309 (Plan Proponents' Statement) at Ex. C (Redline of Proposed Confirmation Order) ¶ 3.

**C. *To Comply with the Proposed Findings, the Plan Documents Must Be Modified to Preclude the TAC and FCR From Accessing Debtor's Privileged Information***

35. The Plan Proponents' proposed revisions regarding access to the Debtor's books and records are not consistent with the Proposed Findings.

36. The Plan provides that Hopeman's books and records—including privileged materials reflecting Hopeman's defense strategies against Asbestos Claims—shall be transferred to Reorganized Hopeman. Dkt. 1185 (Plan) § 8.3(l). Travelers objected to the Plan and Plan Documents because they (i) give the Asbestos Trust unfettered access to Hopeman's books and records and (ii) fail to preclude the FCR and TAC from accessing the privileged books and records. Dkt. 944 & 949 (Travelers' Objection) ¶ 95; Dkt. 1188 (Travelers Proposed Findings) ¶¶ 87-95. As to its first objection, the Bankruptcy Court agreed with Travelers that Plan Section 8.3(l) must be modified to limit the Asbestos Trust's access to the books and records. Dkt. 1267 (Proposed Finding) at 45. In response, the Plan Proponents state they will incorporate certain revisions to Plan Section 8.3(l). Dkt. 1309 (Plan Proponents' Statement), Ex. A ¶ C.

37. However, as noted, Travelers *also* raised objections because the Trust Agreement gives the TAC and FCR full access to Hopeman's privileged books and records that the Asbestos Trust obtains from Reorganized Hopeman. Dkt. 944 & 949 (Travelers' Objection) ¶ 95; Dkt. 1188 (Travelers Proposed Findings) ¶¶ 87-95. In particular, the Trust Agreement provides that the TAC, the FCR, and the TAC/FCR Professionals "shall also have complete access to **all information** generated by [the Asbestos Trust's officers, employees, agents, and the Trust Professionals employed by the Asbestos Trust] **or otherwise available to the Asbestos Trust or the Trustees.**" Dkt. 1143 (Second Plan Suppl.) Ex. A, Trust Agreement ¶¶ 5.5(a), 6.4(a) (emphasis added).

38. In response to Travelers' objection, it appears the Bankruptcy Court properly concluded that the TAC and FCR should be barred from accessing Hopeman's privileged

documents and information due to waiver concerns. Dkt. 1267 (Proposed Findings) at 46.<sup>15</sup> The Bankruptcy Court noted that because the TAC and FCR “each represent only certain constituencies of the Asbestos Trust, the Bankruptcy Court is not persuaded that the FCR and the TAC would necessarily be covered by the common interest doctrine ....” *Id.* In other words, whereas the TAC will seek to maximize the recoveries of current claimants, and the FCR will seek to maximize recoveries of future claimants, the Asbestos Trust will work to ensure fair evaluation and potential payment—or *claim denial*—with respect to Uninsured Asbestos Claims to *both* sets of claimants, per the TDPs and other Plan Documents. Dkt. 1143 (Second Plan Suppl.) Ex. A, Trust Agreement ¶¶ 1.2, 2.1; Dkt. 1143 (Second Plan Suppl.) Ex. B, TDPs §§ 5.2, 5.3, and 6.1. Since the TAC and FCR will not share a common legal interest with the Asbestos Trust, giving the TAC, the FCR, or TAC/FCR Professionals access to privileged Hopeman books and records would necessarily result in an improper waiver of privilege.

39. In light of the Proposed Findings, the Plan Documents (including Sections 5.5(a) and 6.4(a) of the Trust Agreement) must be amended to preclude the Asbestos Trust from sharing any of Hopeman’s privileged information with the TAC or FCR. The Plan Proponents’ proposed revisions make no such changes. At a minimum, Trust Agreement Sections 5.5(a) and 6.4(a) should be modified as follows<sup>16</sup>:

**Trust Agreement Section 5.5(a):**

The TAC may but is not required to retain and/or consult counsel, accountants, appraisers, auditors, forecasters, experts, and financial and investment advisors, and

---

<sup>15</sup> To the extent the Proposed Findings do not clearly reflect this holding, Travelers has requested that the District Court clarify the Proposed Findings. Dkt. 1312 (Travelers’ Objection to the Proposed Findings) ¶¶ 38-41.

<sup>16</sup> See, e.g., Trust and Settlement Facility Agreement (Ex. A to Modified Joint Plan), *In re Garlock Sealing Techs., LLC*, No. 17-CV-00275 (W.D.N.C. June 9, 2017), ECF No. 13-1, §§ 5.5(a), 6.4(a) (providing that the claimant advisory committee and future claims representative shall only have access to “**non-privileged**” information from the debtor) (emphasis added).

such other parties deemed by the TAC to be qualified as experts on matters submitted to the TAC (the “TAC Professionals”). The TAC and the TAC Professionals shall at all times have complete access to the Asbestos Trust’s officers, employees and agents, as well as to the Trust Professionals, and shall also have complete access to all non-privileged information generated by them or otherwise available to the Asbestos Trust or the Trustees provided that any information provided by the Trust Professionals shall not constitute a waiver of any applicable privilege. ...

**Trust Agreement Section 6.4(a):**

The FCR may, but is not required to, retain and/or consult counsel, accountants, appraisers, auditors, forecasters, experts, and financial and investment advisors, and such other parties deemed by the FCR to be qualified as experts on matters submitted to the FCR (the “FCR Professionals”). The FCR and the FCR Professionals shall at all times have complete access to the Asbestos Trust’s officers, employees and agents, as well as to the Trust Professionals, and shall also have complete access to all non-privileged information generated by them or otherwise available to the Asbestos Trust or the Trustees provided that any information provided by the Trust Professionals shall not constitute a waiver of any applicable privilege. ...

40. Plan Section 8(l) and the Plan Proponents’ Proposed Confirmation Order Paragraph 20 should also be modified to include the following sentence: “The Asbestos Trust shall not allow the TAC or FCR to access Hopeman’s privileged books and records.”

41. The foregoing revisions are necessary to properly conform the Plan Documents and Plan Proponents’ Proposed Confirmation Order to the Bankruptcy Court’s Proposed Findings.

***D. The Plan Must Be Revised to Correctly Identify Travelers’ Insurance Policies***

42. The Plan incorrectly identifies certain Travelers’ insurance policies, including containing (1) incomplete insurer names and (2) a typographical error in a policy number. *See, e.g.*, Dkt. 1188 (Travelers’ Proposed Findings) ¶ 103 n.29; Dkt. 1312 (Travelers’ Objection) ¶ 63 & ¶ 63 n.29. The Plan Proponents do not dispute these errors,<sup>17</sup> but have failed to remedy them.

---

<sup>17</sup> *See, e.g.*, Travelers Ex. A (Travelers 2005 Agreement) at 1, 6. Dkt. 949.

While not expressly addressing them, the Bankruptcy Court's Proposed Findings similarly do not dispute these errors. The Plan should be revised to correct these issues.

43. Specifically, the definition of "Travelers 2005 Insurance Policies" in Section 1.111 of the Plan should be revised to correct the insurer names and policy number as follows:

"1.111 **Travelers 2005 Agreement Asbestos Insurance Policies** means ... (i) The Travelers Indemnity Company Policy No. CUP 2669174, and (ii) The Aetna Casualty and Surety Company Policy No. 01 XN 541 WCA."

### **III. RESERVATION OF RIGHTS**

44. As explained above, this Response responds only to the Plan Proponents' failure to comply with the Bankruptcy Court's Proposed Findings, and thus, addresses only the insufficiency of the Plan Proponents' Statement's proposed revisions to the Plan, Plan Documents, and their Proposed Confirmation Order. In Travelers' Objection to the Proposed Findings, Travelers raised numerous other objections to the proposed Plan and Plan Documents. Travelers reserves all, and does not waive any, of those objections, which require denial of confirmation or, at a minimum, additional modifications to the Plan, Plan Documents, and Proposed Confirmation Order. Further, Travelers reserves all rights regarding any revisions to the Plan, Plan Documents, and Plan Proponents' Proposed Confirmation Order.

### **IV. CONCLUSION**

For the foregoing reasons, this Court should find that the Plan Proponents' proposed revisions to the Plan and Plan Documents, as well as the Plan Proponents' Proposed Confirmation Order, do not comply with the Bankruptcy Court's Proposed Findings and grant such other and further relief as the Court deems just and proper. As explained above, to comply with the Proposed Findings, further revisions are required to the Plan, Plan Documents, and Plan Proponents' Proposed Confirmation Order.

Dated: December 12, 2025

Respectfully submitted,

/s/ Joshua R. Taylor

Joshua R. Taylor (VSB No. 45919)

Catherine D. Cockerham (admitted *pro hac vice*)

Jefferson Klocke (admitted *pro hac vice*)

**STEPTOE LLP**

1330 Connecticut Avenue, N.W.

Washington, D.C. 20036

Telephone: (202) 429-3000

jrtaylor@steptoe.com

ccockerham@steptoe.com

jklocke@steptoe.com

*Counsel for The Travelers Indemnity Company,  
Travelers Casualty and Surety Company, formerly  
known as The Aetna Casualty and Surety Company,  
and St. Paul Fire and Marine Insurance Company*