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February 22, 2013

VIA ELECTRONIC FILING

233843

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

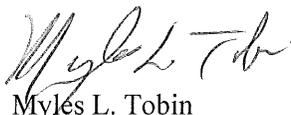
ENTERED
Office of Proceedings
February 22, 2013
Part of
Public Record

Re: **STB Finance Docket 35506**
Response of WCTU Railway LLC

Dear Ms. Brown:

Enclosed please find the response of WCTU Railway LLC to the correspondence previously filed by Mr. Matthew Winters (allegedly on behalf of the "Citizens for Equitable Enforcement of 49 U.S.C. 11323").

Very truly yours,



Myles L. Tobin
Attorney for the RVTR Rail Holdings LLC

MLT/ekf

Attachments (1)

cc: Scott DeVries (w/ encl.)
Matthew Winters (via U.S. Mail, w/ encl.)

WCTU Railway LLC

*WCTR Response to Winters/CEE 49 USC 11323 “Petition for
Investigation”
(STB Docket FD-35506)*

The Honorable Daniel R. Elliott
Chairman
Surface Transportation Board
395 E Street SW
Washington DC 20423-0011

Thursday, 2013-01-23

Dear Chairman Elliott,

I am writing in response to the filing of Mr. Matthew Winters (Citizens for Equitable Enforcement of 49 U.S.C. 11323) (“Winters/CEE”) filed on 1/9/2013, requesting an STB investigation into my purchase of the WCTU Railway LLC. To clarify for the record, the legal name of the railroad in question is WCTU Railway LLC (“WCTR”), not the White City Terminal Union Railroad, which has never been a legal name for this railroad despite a variety of news articles and Internet references in recent weeks that incorrectly identified the railroad.

I am deeply concerned by Winters/CEE’s baseless and unsubstantiated allegations of fraud and other abuses of law that are clearly based on wild assumptions and seem to be questionable in intent and backed by suspicious motives. This transaction (specifically the WCTR divestiture proper) has already received unprecedented scrutiny from both concerned STB regulatory officials and the national news media due to the unprecedented nature of the most recent issues presented in this particular docket as they may relate to Berkshire Hathaway Inc., et al.

For the record, I began evaluating several Class III railroads for sale in April 2012. I had engaged a

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professional business consultant at my personal expense to initiate negotiations on my behalf with each prospective rail line. I terminated negotiations with all other potential acquisition targets for commercial reasons in or prior to October 2012. I subsequently became aware of the WCTR divestiture opportunity via previous STB filings in this docket and again engaged my consultant at my sole expense to initiate negotiations with Berkshire Hathaway's Marmon Transportation Services LLC subsidiary and their affiliates.

After making the necessary contacts, I negotiated to purchase the WCTR via a newly formed holding company, RVTR Rail Holdings LLC ("RVTR"). RVTR is an Oregon limited-liability company formed on 11/20/2012, of which I am the sole member (i.e. stockholder). I formed RVTR with the intention of having a "holding company platform" established should I ever seek to purchase another railroad in the distant future (which would of course require an appropriate STB regulatory approval or a timely exemption filing at that time in accordance with 49 U.S.C. 11323, et al).

Under penalty of applicable law, I state for the record the following relevant facts for public record:

- I, Scott B. DeVries ("DeVries"), have been and still am the sole member (owner) of 100% of the outstanding membership interests of RVTR Rail Holdings LLC ("RVTR").
- RVTR in turn, is the sole member (owner) of 100% of the outstanding membership interests of WCTU Railway LLC ("WCTR") at the present time.
- Neither DeVries nor RVTR Rail Holdings LLC, was a common carrier, nor in direct or indirect control of another common carrier railroad at any time prior to the WCTR acquisition closing on 12/17/2012.
- Neither DeVries nor RVTR have entered into any agreements nor are contemplating entering into any agreements with an common-carrier railroad or entity controlling a common-carrier railroad (as defined in 49 U.S.C. 11323) to divest any controlling interest in either RVTR or WCTR respectively.
- Any future acquisitions or divestitures made by DeVries or RVTR will be made in full compliance with all applicable regulatory exemption or approval requirements as codified in 49 U.S.C. 11323 or any other applicable law(s) in effect at such time.

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- Neither DeVries nor RVTR have any affiliation with BNSF Railway Company, Berkshire Hathaway Inc., or any of their affiliates, subsidiaries or agents. My dealing with any of these entities has been for the sole exclusive purpose of purchasing WCTR for my own account and business goals.

Prior to taking any action on the Winters/CEE filing, I respectfully request that the Board take into careful consideration the following relevant facts and / or observations:

- Winters/CEE offers absolutely zero evidence to support their bold fraud allegations.
- Winters/CEE have apparently overlooked the important fact that any future sale of WCTR to an STB-regulated common carrier or railroad-controlling entity are already governed by 49 U.S.C. 11323 and would be subject to a required filing with the STB before any sale to a railroad entity could be consummated. At that time, there would be actual facts to investigate rather than just hypothetical speculations. The required filings that would be necessitated in such a scenario would allow Winters/CEE, or any other interested party, to renew their concerns without prejudice. The STB would still have all available legal remedies and tools at their disposal should the Board decide that any action is required to properly administer National Transportation Policy, specific STB regulatory mandates and legal requirements.
- What are the ultimate intentions and motives of Winters/CEE? Why does someone purporting to represent an alleged “concerned citizens” organization that no one has ever heard of in central Illinois have a vested interest in the ownership of an industrial park terminal railroad in southwestern Oregon that few had ever heard of prior to September 2012?
- Considering the notable consolidation in the Class III railroad industry in the past few years, many activist shipper groups would celebrate the entrance of a new “player” (such as myself/RVTR) to bring competition and innovation to this increasingly concentrated industry. The reality is that new entrants are not common in this industry

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due to the high commercial and economic barriers that typically must be overcome for a person or company to enter the industry. Why does Winters/CEE seem opposed to a new entrant in this sector? They appear to indirectly blast Berkshire Hathaway on the basis of alleged anti-competitive behavior while trying to simultaneously defame and destroy a new competitor in the industry. Is there any rationale behind this contradiction?

- A prolonged investigation into unsupported hypothetical speculations could potentially have a significant adverse effect on WCTR's financial capacity and solvency. This in turn could jeopardize WCTR's ability to provide its Oregon customers with adequate rail service given the railroad's small traffic base. Several Oregon businesses (and eventually more) have their very success or failure tied to WCTR's ability to provide cost-effective, efficient rail service. Sacrificing the rail service needs of Rogue Valley businesses to defend WCTR and its owner against an Illinois man's unsupported allegations of hypothetical crimes hardly seems consistent with National Transportation Policy and STB past practice.
- Why is "**Citizens for Equitable Enforcement of 49 U.S.C. 11323**" not registered with the Illinois Secretary of State (or any other U.S. state for that matter) as a corporate entity, association or D.B.A./Trade Name? For someone so concerned with the letter of the law, I find it puzzling that Mr. Winters apparently overlooked or was unconcerned with the laws of Illinois requiring all businesses and associations/organizations to register with the Secretary of State. It would likely suggest that "CEE 49 USC 11323" is an unregistered D.B.A. / Trade Name used to add "weight" to Mr. Winters' speculations and bold allegations for whatever underlying motives he may have in attacking my business, myself and my character.

With the forgoing said, I respectfully request that the "investigation" request of Winters/CEE be denied.

I trust that this confirms all previous discussions with STB officials on this particular transaction. Please

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feel free to contact my counsel or myself at any time if you have any additional questions or concerns on this matter. Thank you for your time and consideration of my response to the Winters/CEE filing.

Respectfully,

Scott DeVries

Scott B. DeVries

Managing Member (Sole Owner) – RVTR Rail Holdings LLC

President & General Manager – WCTU Railway LLC

3018 North 21st Street

Superior, Wisconsin 54880-4604

WhiteCityRRManagement@GoogleMail.com

CC: STB Docket Clerk
Mr. Myles L. Tobin (Counsel for Scott B. DeVries / RVTR Rail Holdings LLC)