

BEFORE THE
SURFACE TRANSPORTATION BOARD



STB DOCKET NO. AB-167 (Sub- No. 1190X)

CONSOLIDATED RAIL CORPORATION – ABANDONMENT EXEMPTION –
IN HUDSON COUNTY, NJ

MOTION FOR A PROTECTIVE ORDER PURSUANT TO 49 CFR 1104.14

Comes now James Riffin (“Riffin”), pursuant to 49 CFR 1104.14, who herewith requests that the Board issue a protective order allowing Riffin to make available to the Board, under seal, certain highly confidential documents and information in connection with his Offer of Financial Assistance (“Offer”) in the above captioned case, which Offer was filed on August 7, 2009. Such highly confidential documents include a personal financial statement, which Riffin does not want published in the public docket. Accordingly, Riffin requests that the Board adopt the protective order contained in the appendix hereto.

Respectfully submitted,

James Riffin

Filed: August 7, 2009

ENTERED
Office of Proceedings
AUG 7 - 2009
Part of
Public Record

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of August, 2009, a copy of the foregoing Motion for a Protective Order Pursuant to 49 CFR 1104.14, was served by first class mail, postage prepaid, upon John K. Enright, Associate General Council, Conrail, 1717 Arch Street, Philadelphia, PA 19103.



James Riffin

APPENDIX

PROTECTIVE ORDER

1. For purposes of this Protective Order, "Highly Confidential Information" means the data and documents appended to this Protective Order and furnished to the Board by James Riffin ("Riffin") in connection with his Offer of Financial Assistance, in the above-captioned matter, STB Docket No. AB-167 (Sub. No. 1190X).
2. Highly Confidential information shall be provided to John K. Enright, Associate General Counsel for Conrail, or to Outside Counsel of any party to this proceeding, only pursuant to this Protective Order and only upon execution and prior delivery to Riffin of the attached Undertaking. Highly Confidential Information shall be used solely for the purpose of this and any related Board proceedings, or any judicial review proceeding arising therefrom, and not for any other business, commercial, or any other purpose. Highly Confidential Information shall not be provided or disclosed to any person or entity who is not John K. Enright or Outside Counsel to a party to this proceeding.
3. Highly Confidential Information shall not be disclosed in any way or to any person without the prior written consent of Riffin, or an order of the Board, solely for use in connection with this and related Board proceedings, or any judicial review proceeding arising therefrom, provided that such person has been given and has read a copy of this Protective Order and agrees to be bound by its terms and has executed the attached Undertaking prior to receiving access to this information.
4. Any documents containing Highly Confidential Information must be destroyed, and notice of such destruction must be served on Riffin, at the completion of this and any related Board proceedings, or any judicial review proceeding arising therefrom, whichever comes first.
5. If the Board retains the Highly Confidential Information, it shall, in order to keep it Highly Confidential, threat the information in accordance with the procedure set forth at 49 CFR 1104.14.
6. If any party intends to use Highly Confidential Information at hearings in this proceeding or in any related Board proceedings, or in any judicial review proceeding arising therefrom, the party shall submit any documents setting forth or revealing such Highly Confidential Information to the Board, or the reviewing court as appropriate, under seal, and shall accompany such submission with a written request to the Board or the court to (i) restrict attendance at the hearing during discussion of such Highly Confidential Information, and (ii) restrict access to the portion of the record or briefs reflecting discussion of such Highly Confidential Information in accordance with the Protective Order.
7. All parties must comply with all of the provisions stated in this Protective Order unless good cause, as determined by the Board, is shown by any party to warrant suspension of any of the provisions herein.

UNDERTAKING

HIGHLY CONFIDENTIAL MATERIAL

I, _____, have read the Protective Order governing the filing of Highly Confidential Information by James Riffin (“Riffin”) in STB Docket No. AB-167 (Sub. No. 1190X), understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any data or information obtained under the Undertaking, or to use or permit the use of any techniques disclosed or information learned as a result of receiving such data or information, for any purpose other than the preparation and preservation of evidence and argument in STB Docket No. AB-167 (Sub. No. 1190X) or any judicial review proceedings taken or filed in connection therewith. I further agree not to disclose any data or information obtained under this Protective Order to any person who is not also bound by the terms of this Protective Order and has executed an Undertaking in the form hereof.

I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking and that Riffin shall be entitled to specific performance and injunctive and / or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking, but shall be in addition to all other remedies available at law or equity.

Signed: _____ Address: _____

Position: _____

Affiliation: _____ Telephone: _____

Dated: _____