

Subsidiary of
Irving Trust



Irving Leasing

\$13
16242-D

Irving Leasing Corporation
1290 Avenue of the Americas
New York, NY 10104

RECORDATION NO 16242 FILED 1423
Peter Rudzitis
Vice President

May 10, 1989

MAY 10 1989 - 2 30 PM

INTERSTATE COMMERCE COMMISSION

No.
Date

Ms. Noreta R. McGee
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

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ICC Washington, D. C.

Dear Ms. McGee:

Enclosed for recordation pursuant to the provisions of Section 11303(a) of Title 49 of the U.S. Code are two (2) fully executed originals of a Release and Agreement, dated as of May 10, 1989, a secondary document, as defined in the Commission's Rules for the Recordation of Documents.

The enclosed document relates to the Security Agreement, dated as of March 22, 1989, between SH Leasing, Inc., as debtor, and Irving Leasing Corporation, as secured party, which was filed and recorded on March 22, 1989 at 12:55 PM under Recordation Number 16242.

The names and addresses of the parties to the enclosed document are:

SH Leasing, Inc.
c/o MGC Leasing Corp.
666 Fifth Avenue
New York, New York 10103

MGC Leasing Corp.
666 Fifth Avenue
New York, New York 10103

Irving Leasing Corporation
1290 Avenue of the Americas
29th Floor
New York, New York 10104

MAY 10 - 2 24 PM '89
MOTOR OPERATING UNIT

A description of the railroad equipment covered by the enclosed Release and Agreement follows:

1. Eighteen (18) 3,000 H.P. model GP40-2 diesel electric locomotives, bearing identification numbers (B&M) 300-317.

Chas. Kayser

2. One hundred (100) 52'6" 100-ton gondolas, bearing identification numbers CR584000 - CR584099, manufactured by Thrall Car Manufacturing Company; and
3. Twenty-six (26) 2,000 H.P. model GP 38-2 diesel electric locomotives bearing identification numbers (MP) 2238-2263 (renumbered from 4300-4325)

Also enclosed is a check in the amount of \$13 payable to the order of the Interstate Commerce Commission covering the required recordation fee.

Kindly return a stamped copy of the enclosed document to David K. Bhonslay, Esq., Chadbourne & Parke, 30 Rockefeller Plaza, New York, New York 10112.

A short summary of the Release and Agreement to appear in the index follows:

Release and Agreement, dated as of May 10, 1989, between SH Leasing, Inc. and Irving Leasing Corporation providing for the release by Irving Leasing Corporation of its lien and security interest, upon the terms and conditions therein set forth, in the Assets (as defined therein) which include eighteen (18) 3,000 H.P. model GP40-2 diesel electric locomotives, bearing identification numbers (B&M) 300-317; one hundred (100) 52'6" 100-ton gondolas, bearing numbers CR584000-CR584099; and twenty-six (26) 2,000 H.P. model GP 38-2 diesel electric locomotives bearing identification numbers (MP) 2238-2263.

Very truly yours,



Peter Rudzitis
Vice President

RECORDATION NO 16242
FILED 1425

MAY 10 1989 - 2 30 PM
INTERSTATE COMMERCE COMMISSION

copy

RELEASE AND AGREEMENT

RELEASE AND AGREEMENT, dated as of May 10, 1989, by and among Irving Leasing Corporation, a New York corporation ("ILC"), SH Leasing, Inc., a Delaware corporation ("SH Leasing"), and MGC Leasing Corp., a New York corporation ("MGC").

WHEREAS ILC and SH Leasing are parties to a Security Agreement and Assignment, dated as of March 22, 1989 (the "Security Agreement"), pursuant to which SH Leasing granted to ILC a first priority security interest in certain collateral to secure the obligations of SH Leasing under a certain Credit Agreement, dated as of March 22, 1989 (as amended or supplemented, the "Credit Agreement"), among ILC, SH Leasing and MGC; and

WHEREAS Citicorp North America, Inc., a Delaware corporation ("CNAI"), and Citicorp Railmark, Inc., a Delaware corporation ("CRI"), desire to purchase from SH Leasing pursuant to the Asset Purchase Agreement, dated as of May 10, 1989 (the "Asset Purchase Agreement"), among CNAI, CRI, SH Leasing and DC-9NY-I; Inc., a Delaware corporation, the SHL Assets (as such term is defined below in paragraph 1 hereof) free from the lien and security interest of ILC created pursuant to the Security Agreement; and

WHEREAS ILC is contemporaneously herewith receiving from SH Leasing the sum of \$21,999,949.00 representing the full cash consideration, before deduction of costs and expenses, payable by CRI and CNAI to SH Leasing for the SHL Assets, the Net Proceeds (as such term is defined in the Credit Agreement) of which will be used first to pay the applicable prepayment premium, and thereafter, to pay down accrued interest on and the outstanding principal amount of the loans made by ILC pursuant to the Credit Agreement;

NOW, THEREFORE, in consideration of the foregoing, ILC is delivering this Release and Agreement and hereby agrees as follows:

1. For purposes of this Release and Agreement, "SHL Assets" means all of the right, title and interest (direct or indirect) of SH Leasing in, to and under (a) the lease agreements listed on Schedule I hereto (the "Leases"), (b) all agreements, instruments and documents referred to in the Leases or in any way related to the transactions contemplated by the Leases, including, without limitation, all related participation agreements, trust agreements, residual sharing

agreements, guaranties, bills of sale, purchase agreements, invoices, insurance certificates and subleases, in each case as amended, modified or supplemented through the date hereof, and all books, records and correspondence of SH Leasing to the extent and solely to the extent that they are related to any of the foregoing, (c) all property of whatever kind or nature that is the subject matter of the Leases, including, without limitation, the equipment listed on Schedule II hereto, and all property interests and rights of SH Leasing, as lessor under a Lease or holder of a beneficial interest in a Lease, as the case may be, arising under or in connection with any of the foregoing documents relating to any Lease, including, without limitation, all aircraft, airframes, engines, gondola cars, locomotives and other equipment covered by each Lease and all insurance policies maintained under or pursuant to such Lease.

2. ILC hereby releases the SHL Assets from all liens, encumbrances and security interests granted pursuant to the Security Agreement and hereby relinquishes all of its right, title and interest in, to or under, and any claims or rights it may have in respect of, the SHL Assets, and the estate, right, title and interest of ILC in the SHL Assets shall hereby cease and become void, effective as of the date hereof.

3. In order to evidence the release of the SHL Assets, ILC is, concurrently with the execution and delivery of this Release and Agreement, executing and delivering the following documents:

(i) Forms UCC-3, to be filed in the offices listed in Schedule III hereto, necessary to release the SHL Assets from the liens and security interests of the Security Agreement;

(ii) a letter to the Interstate Commerce Commission (the "ICC") describing this Release and Agreement and the transactions referred to herein, in form and substance satisfactory to the ICC, substantially in the form set forth in Schedule IV hereto, together with executed copies of this Release and Agreement, duly acknowledged by each party hereto; and

(iii) an additional executed copy of this Release and Agreement to be filed by Seller with the Federal Aviation Administration as an exhibit to Amendment No. 2 to the Trust Agreement relating to the equipment identified on Schedule II hereto as leased to United Air Lines, Inc.

4. Notwithstanding any provisions of the Credit Agreement to the contrary, it is agreed that from and after the date hereof, ILC, upon receipt of any payment relating to the SHL Assets from any lessee, trustee or any other person (other than MGC, SH Leasing or an affiliate thereof) (a "Payment"), will notify SH Leasing (or its designee) of the receipt of such Payment, including the source and amount thereof, and shall promptly remit such payment to SH Leasing (or its designee). In connection with the foregoing, it is agreed and understood that ILC shall have no liability to SH Leasing or to any third party by reason of its receiving and disbursing any such Payment in accordance with the foregoing and any written instructions of SH Leasing. ILC's sole obligation in respect of any such Payment shall be to receive and pay out the amount thereof in the form received, and it shall be under no obligation in respect of any such Payment to invest or otherwise seek a return on any funds received. In the event any endorsement of ILC in respect of any such Payment is required, it shall be made "without recourse" and MGC and SH Leasing hereby agree, jointly and severally, to indemnify and hold ILC harmless from and against any and all losses, liabilities, claims and expenses (including legal fees) incurred by ILC by reason of any such endorsement. ILC shall be entitled to rely on any written instructions received by it hereunder and shall have no obligation to verify the authenticity of any signatures thereon or the authority of the person or persons executing the same. Unless otherwise agreed by ILC and SH Leasing, all costs and expenses incurred by ILC in complying with this paragraph 4 shall be reimbursed to it in accordance with Section 9.5 of the Credit Agreement. For purposes of the foregoing, the following shall constitute written instructions from SH Leasing to ILC pursuant to this paragraph 4:

(a) SH Leasing hereby designates (i) CNAI to receive notice of any and all Payments in respect of the United Air Lines, Inc. transaction (the "United Transaction") and (ii) CRI to receive notice of any and all Payments in respect of any of the other transactions described on Schedule I hereto (the "Other Transactions") and further instructs and directs ILC to remit all Payments received by ILC to CNAI in respect of the United Transaction and CRI in respect of any of the Other Transactions.

(b) Notices of Payments shall be in writing and mailed by Federal Express or other overnight delivery service (i) in the case of notices of Payments relating to the United Transaction, to Citicorp North America, Inc., 601 Midland Avenue, Rye, New York 10580, Attention: Aircraft Special Projects Finance-Operations and (ii) in the case of notices of Payments relating to any of the Other Transactions, to Citicorp Railmark, Inc., 601 Midland Avenue, Rye, New York 10580, Attention: President - Citicorp Railmark, Inc.

(c) Any Payments received by ILC in the form of a check or other investment, endorsed as provided above if required, shall be sent to CNAI or CRI, as the case may be, with the notice described above. Any Payments received by ILC in the form of wire transferred funds shall be remitted to CNAI or CRI, as the case may be, by wire transfer to the account of Citicorp North America, Inc. or Citicorp Railmark, Inc., as the case may be, at Citibank, N.A., 399 Park Avenue, New York, New York 10043, Account No. 3885-9283, ABA No. 0210-00089 in respect of transfers for the account of CNAI, and Account No. 4051-9181, ABA No. 0210-00089 in respect of transfers for the account of CRI.

(d) The designation of CNAI and CRI and the related instructions contained herein are irrevocable and may only be amended, modified, supplemented, waived or rescinded in writing, signed by SH Leasing, CNAI and CRI.

CNAI and CRI shall be third party beneficiaries of the provisions of subparagraphs (a) through (d) of this paragraph 4 and of paragraph 5 as the same relates to CNAI and CRI.

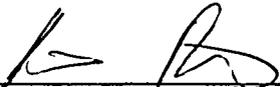
5. ILC agrees that, at the request of SH Leasing and at the sole expense of SH Leasing, it will promptly and duly execute such further documents and assurances and take such further action as SH Leasing or any of its respective successors and assigns (which are affiliates of SH Leasing) may from time to time reasonably request in order more effectively to carry out the intent and purpose of this Release and Agreement and to terminate all right, title and interest of ILC in, to or under the SHL Assets, including, without limitation, the execution and delivery of such additional documents confirming the release of all, or any part of, the SHL Assets, in such form as SH Leasing or any of its successors and assigns (which are affiliates of SH Leasing) may reasonably request. It is agreed that CRI and

CNAI, as transferees of the SHL Assets under the Asset Purchase Agreement, may exercise the rights of SH Leasing hereunder, provided that any request by CRI or CNAI hereunder shall be accompanied by its written agreement to pay all costs and expenses of ILC in connection with such request.

6. This Release and Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

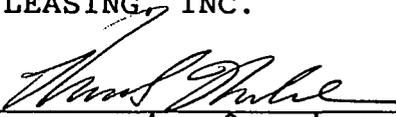
IN WITNESS WHEREOF, ILC has caused this Release and Agreement to be duly executed in its name and on its behalf on the date first written above.

IRVING LEASING CORPORATION

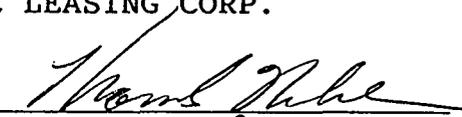
By 
Title: Vice President

The terms of this Release and Agreement are hereby consented and agreed to:

SH LEASING, INC.

By 
Title: Vice President

MGC LEASING CORP.

By 
Title: Vice President

SCHEDULE I

List of Lease Transactions

1. Lease of Railroad Equipment, dated as of December 1, 1977, between SH Leasing, Inc. as Lessor and Robert W. Meserve and Benjamin H. Lacey, Trustees of the Property of Boston & Maine Corporation as Lessee.
2. Lease of Railroad Equipment, dated as of March 15, 1978, between SH Leasing, Inc. as Lessor and Consolidated Rail Corporation as successor in interest to William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company (Debtor) as Lessee.
3. Lease of Railroad Equipment, dated as of February 1, 1979, between SH Leasing, Inc. as Lessor and Consolidated Rail Corporation as Lessee.
4. Lease of Railroad Equipment, dated as of April 15, 1980, between SH Leasing, Inc. as Lessor and Missouri Pacific Railroad Company as Lessee.
5. Lease Agreement, dated as of September 15, 1979, between United States Trust Company of New York as Lessor and United Air Lines, Inc. as Lessee.
6. Equipment Lease, dated as of May 1, 1979, between SH Leasing, Inc. as Lessor and Western Co-Operative Fertilizers (U.S.) Inc. as Lessee.

SCHEDULE II

Description of Equipment

| <u>Lease Transaction (Identified by Lessee)</u> | <u>Equipment</u> |
|---|---|
| Boston & Maine Corporation | Eighteen (18) 3,000 H.P. model GP40-2 diesel electric locomotives, bearing identification numbers 300-317. |
| Consolidated Rail Corporation (ConRail I) | 99 100-ton, 52' 6" gondola cars bearing identification numbers CR 400100-400130 and 400132-400199 ConRail road numbers. |
| Consolidated Rail Corporation (ConRail II) | Fourteen (14) 3,000 H.P. model SD-40-2 diesel electric locomotives, bearing identification numbers CR 6483-6496; and nine (9) 2,250 H.P. model B23-7 diesel electric locomotives (with 345 signal cabs), bearing identification numbers CR 1992-2000. |
| Missouri Pacific Railroad Company | Twenty-six (26) 2,000 H.P. model CP 38-2 diesel electric locomotives bearing identification numbers 2238-2263 (renumbered from 4300-4325). |
| United Air Lines, Inc. | Two (2) Boeing 727-222A aircraft U.S. Federal Aviation Administration Aircraft Registration Numbers N7448U, Manufacturer's Serial No. 21902, and N7449U, Manufacturer's Serial No. 21903. Three (3) Pratt & Whitney model JT8D-15 |

engines, initially installed on each airframe, bearing Manufacturer's Serial Nos. P700264B, P700260B and P700265B for Aircraft N7448U, and Manufacturer's Serial Nos. P700263B, P700262B and P700269B for Aircraft N7449U (each of which engines has 750 or more rated takeoff horsepower or the equivalent of such horsepower).

Western Co-Operative
Fertilizers (U.S.) Inc.

One hundred fifty (150) covered hopper cars marked and numbered MBFX 4600 to MBFX 4749, complying with Manufacturer's Specifications HL3-47A.

SCHEDULE III

With respect to SH Leasing, Inc., ILC will file UCC-3 statements releasing the liens on and security interests in the Assets with the following authorities in the following jurisdictions:

1. Secretary of State, Delaware
2. Recorder of Deeds, Kent County, Delaware
3. Secretary of State, New York
4. City Register, New York County, New York

SCHEDULE IV

May , 1989

Ms. Noreta R. McGee
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Ms. McGee:

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c/o MGC Leasing Corp.
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New York, New York 10103

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Irving Leasing Corporation
1290 Avenue of the Americas
29th Floor
New York, New York 10104

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Very truly yours,

Peter Rudzitis
Vice President

CORPORATE ACKNOWLEDGEMENT

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

On this 8th day of May, 1989 before me personally appeared, Peter Rudzitis, to me personally known, who being by me duly sworn, says that he is the Vice President of Irving Leasing Corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Sworn to before me this
8th day of May, 1989

John P. Guiton
Notary Public

JOHN P. GUITON
NOTARY PUBLIC State of New York
No. 31-4791513
Qualified in New York County
Commission Expires 9/30/89

CORPORATE ACKNOWLEDGEMENT

STATE OF NEW YORK)
 : ss. :
COUNTY OF NEW YORK)

On this 8th day of May, 1989 before me personally appeared, THOMAS G. WENDEL, to me personally known, who being by me duly sworn, says that he is a Vice President of SH Leasing, Inc., that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Sworn to before me this
8th day of May, 1989



Notary Public

ROBERT A. GINZBERG
Notary Public, State of New York
No. 31-485443
Qualified in New York County
Commission Expires Mar. 10, 1991

CORPORATE ACKNOWLEDGEMENT

STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

On this 8th day of May, 1989 before me personally appeared, THOMAS G. WENDEL, to me personally known, who being by me duly sworn, says that he is a Vice President of MGC Leasing Corp., that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Sworn to before me this
8th day of May, 1989



Notary Public

ROBERT A. GINZBERG
Notary Public, State of New York
No. 31-485443
Qualified in New York County
Commission Expires Mar. 10, 1990