

ALVORD AND ALVORD
ATTORNEYS AT LAW
1050 SEVENTEENTH STREET, N.W.
SUITE 301
WASHINGTON, D.C.

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

20036

OF COUNSEL
URBAN A. LESTER

(202) 393-2266

FAX (202) 393-2156

E-MAIL alvordlaw@aol.com

July 25, 2002

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

RECORDATION NO. 24052 FILED

JUL 26 '02 4-12 PM

SURFACE TRANSPORTATION BOARD

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Memorandum of Mortgage, dated as of July 25, 2002, a primary document as defined in the Board's Rules for the Recordation of Documents.

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

Debtor: Babcock & Brown Rail Funding LLC
599 Lexington Avenue
New York, New York 10022

[Secured Party: Bayerische Hypo-Und Vereinsbank AG, as
Agent
FPA 4 Lease/Asset Finance
Am Tucherpark 1 (FPA)
80538 Munich
Germany]

Mr. Vernon A. Williams
July 25, 2002
Page Two

A description of the railroad equipment covered by the enclosed document is:

50 gondolas WE 2600 – 2649, inclusive, and 280 Bethgon coal porters PSTX 5001 – 5030, inclusive and PSTX 8001- 8250 inclusive.

A short summary of the document to appear in the index is:

Memorandum of Mortgage.

Also enclosed is a check in the amount of \$30.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/anr
Enclosures

RECORDATION NO.

24052

FILED

JUL 26 '02

4-12 PM

EXECUTION COPY

SURFACE TRANSPORTATION BOARD

MEMORANDUM OF MORTGAGE

Memorandum of Mortgage, made and entered into as of July 16, 2002 by BABCOCK & BROWN RAIL FUNDING LLC (the "Debtor"), in favor of BAYERISCHE HYPO- UND VEREINSBANK AG, as Agent under the Security Agreement referred to below (together with its successors and permitted assigns, the "Secured Party"). Terms used in this instrument have the meanings assigned thereto in the Security Agreement dated as of December 1, 2000 between the Secured Party and the Debtor (as supplemented, including by Security Agreement Supplement No. 7 dated the date hereof, the "Security Agreement").

WITNESSETH:

The undersigned has entered into the Security Agreement, under which the Debtor has granted a security interest in certain railroad equipment bearing reporting marks and road numbers as listed on Exhibit A attached hereto and in each lease referred to on Exhibit B attached hereto to the Secured Party in order to secure the Debtor's performance of its obligations as described in the Security Agreement.

IN WITNESS WHEREOF, the party hereto has caused this memorandum to be duly executed by an officer duly authorized as of the date and year first above written.

BABCOCK & BROWN RAIL FUNDING LLC

By: _____

Name: Thomas McGraw

Title: Vice President

Memorandum of Mortgage

NEWYORK/#91374.1

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

On the 26th day of July in the year 2002 before me personally came Thomas McGraw to me known, who, being by me duly sworn, did depose and say that he resides at 1632 Washington Lane, West Chester, PA 19382; that he is the Vice President of Babcock & Brown Rail Funding LLC, the limited liability company described in and which executed the above instrument; and that he assigned his name thereto by authority of the officers of said limited liability company.

[Notarial Seal]

Jennifer Moreno
Notary Public

*Jennifer Moreno
Notary Public, State of New York
No. 02M06096946
Qualified in Queens County
Commission Expires January 24, 2006*

Memorandum of Mortgage

**Exhibit A
to Memorandum of Mortgage**

EQUIPMENT

Lease #	# Cars	Year Built	Description	Reporting Marks	Casualty Marks
1	280	2002	4,520 CF Aluminum Bethgon Coal Porters manufactured by Johnstown America.	PSTX 5001-5030, inclusive; and 8001-8250, inclusive.	None.
2	50	1998	52' 5 1/2" sided Mill Gondolas manufactured by Thrall.	WE 2600-2649, inclusive.	None.

Exhibit B
to Memorandum of Mortgage

LIST OF LEASES AND OTHER OPERATIVE AGREEMENTS

Lease #

1. Railroad Equipment Lease dated as of November 28, 2001, by and between Joseph Leasing Ltd. (as assignee of Joseph Transportation Services, Inc.) and Consumers Energy Company.

Memorandum of Railroad Equipment Lease Agreement entered into November 28, 2001, between Joseph Leasing Ltd. (as assignee of Joseph Transportation Services, Inc.) and Consumers Energy Company.

Acceptance Certificate dated as of January 11, 2001, covering 135 Aluminum Bethgon Coal Porters bearing reporting marks PSTX 8001 – 8135.

Acceptance Certificate dated as of January 21, 2002, covering 135 Aluminum Bethgon Coal Porters bearing reporting marks PSTX 5001 – 5020, inclusive; and PSTX 8136 – 8250, inclusive.

Acceptance Certificate dated as of January 23, 2002, covering 10 Aluminum Bethgon Coal Porters bearing reporting marks PSTX 5021 – 5030, inclusive.

Assignment and Assumption Agreement dated November 28, 2001 between Joseph Transportation Services, Inc. and Joseph Leasing Ltd.

Notice of Assignment of Lease and Acknowledgement by Lessee dated as of May 3, 2002, among Joseph Transportation Services, Inc., Joseph Leasing Ltd. and Consumers Energy Company.

Memorandum of Assignment and Assumption Agreement dated November 28, 2001 between Joseph Transportation Services, Inc. and Joseph Leasing Ltd.

Bill of Sale dated December 14, 2001, from Johnstown America Corporation to Joseph Transportation Services, Inc.

Bill of Sale dated January 17, 2002, from Johnstown America Corporation to Joseph Transportation Services, Inc.

Assignment and Assumption of Obligations dated as of July 26, 2002 between Joseph Transportation Services, Inc. and Babcock & Brown Rail Funding LLC.
2. Railroad Equipment Lease dated as of January 30, 1998 by and between Joseph Leasing Ltd. (f/k/a DJJ Leasing Ltd.) and Wheeling & Lake Erie Railway.

Memorandum of Railroad Equipment Lease dated as of January 30, 1998, between Joseph Leasing Ltd. (f/k/a DJJ Leasing Ltd.) and Wheeling & Lake Erie Railway.

Amendment No. 1 to the Railroad Equipment Lease entered into November 20, 1998, between Joseph Leasing Ltd. (f/k/a DJJ Leasing Ltd.) and Wheeling & Lake Erie Railway.

Memorandum of Railroad Equipment Lease Amendment No. 1 dated as of November 20, 1998, between Joseph Leasing Ltd. (f/k/a DJJ Leasing Ltd.) and Wheeling & Lake Erie Railway.

Amendment No. 2 to the Railroad Equipment Lease entered into January 12, 2001, between Joseph Leasing Ltd. (f/k/a DJJ Leasing Ltd.) and Wheeling & Lake Erie Railway.

Memorandum of Railroad Equipment Lease Amendment No. 2 entered into January 12, 2001, between Joseph Leasing Ltd. (f/k/a DJJ Leasing Ltd.) and Wheeling & Lake Erie Railway.

Acceptance Certificate dated as of April 22, 1998, covering 50 Mill Gondolas bearing reporting marks WE 2600 – 2649, inclusive.

CERTIFICATION

I, Edward M. Luria, an attorney licensed to practice in the District of Columbia, the State of Delaware and the Commonwealth of Pennsylvania, do hereby certify under penalty of perjury that I have compared the attached copy of a Memorandum of Mortgage with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: July 26, 2002

Edward M. Luria
Edward M. Luria