

RECORDATION NO. 26048 FILED

DEC 22 '05 2:10 PM

SURFACE TRANSPORTATION BOARD

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

December 22, 2005

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

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 December 22, 2005, a primary document as defined in the Board's Rules for the Recordation of Documents.

The name and address of the party to the enclosed document are:

Debtor: Babcock & Brown Rail Funding LLC
885 Second Avenue
New York, New York 10017

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

Mr. Vernon A. Williams
December 22, 2005
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A description of the railroad equipment covered by the enclosed document
is:

238 boxcars: NS 472000 - NS 472239 (excluding NS 472033 and NS
472201).

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

Memorandum of Mortgage.

Also enclosed is a check in the amount of \$33.00 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/anm
Enclosures

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SURFACE TRANSPORTATION BOARD

MEMORANDUM OF MORTGAGE

Memorandum of Mortgage, made and entered into as of December 22, 2005 between **BABCOCK & BROWN RAIL FUNDING LLC** (the "Debtor") and **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 Amended and Restated Security Agreement dated as of October 18, 2002 (as supplemented, including by Security Agreement Supplement No. 30 dated the date hereof, the "Security Agreement") between the Secured Party and the Debtor.

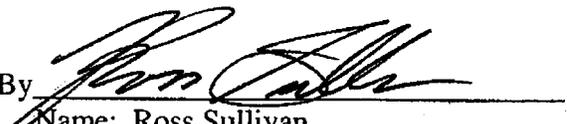
WITNESSETH:

The undersigned and the Secured Party have entered into the Security Agreement, by 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 its officer duly authorized as of the date and year first above written.

**BABCOCK & BROWN RAIL FUNDING
LLC**

By


Name: Ross Sullivan
Title: Vice President

**Exhibit A
to Memorandum of Mortgage**

EQUIPMENT

<u>Lease #</u>	<u># Cars</u>	<u>Year Built</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty Marks</u>
1	238	2003	60' Plate F cushioned boxcars with 12' plug doors, 286K lbs. GRL, AAR Car Code Type B635 built in 2003 by National Steel Car Limited	NS 472000 through NS 472239, inclusive, except for Casualty Marks.	NS 472033 and NS 472201

**Exhibit B
to Memorandum of Mortgage**

LIST OF LEASES AND OTHER OPERATIVE AGREEMENTS

Lease # 1

Master Net Railcar Lease made as of October 8, 1998, by and between The CIT Group/Equipment Financing, Inc. and Norfolk Southern Railway Company, to the extent the same relates to the Equipment described in Exhibit A hereto.

Rider A to Master Net Railcar Lease made as of October 8, 1998, by and between The CIT Group/Equipment Financing, Inc. and Norfolk Southern Railway Company, to the extent the same relates to the Equipment described in Exhibit A hereto.

Schedule No. 10 to Master Net Railcar Lease made as of November 15, 2002, by and between The CIT Group/Equipment Financing, Inc. (as assignee of C.I.T. Leasing Corporation) and Norfolk Southern Railway Company, to the extent the same relates to the Equipment described in Exhibit A hereto.

Memorandum of Railcar Lease dated as of November 15, 2002, by and between The CIT Group/Equipment Financing, Inc. (as assignee of C.I.T. Leasing Corporation) and Norfolk Southern Railway Company, in respect of the Equipment described in Exhibit A hereto.

Purchase Agreement dated October 1, 2002, by and between National Steel Car Limited and The CIT Group/Equipment Financing, Inc. (as assignee of C.I.T. Leasing Corporation), to the extent the same relates to the Equipment described in Exhibit A hereto.

Letter Agreement dated October 21, 2002, between National Steel Car Limited. and The CIT Group/Equipment Financing, Inc. (as assignee of C.I.T. Leasing Corporation), to the extent the same relates to the Equipment described in Exhibit A hereto.

Bills of Sale dated March 14, 2003, March 21, 2003, March 28, 2003, April 4, 2003 and April 15, 2003, from National Steel Car Limited to The CIT Group/Equipment Financing, Inc. (as assignee of C.I.T. Leasing Corporation) and each Certificate of Acceptance executed by The CIT Group/Equipment Financing, Inc. in relation to the railcars identified in such Bills of Sale.

Purchase Agreement dated as of December 22, 2005, between The CIT Group Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described in Exhibit A hereto.

Bill of Sale dated December 22, 2005 from The CIT Group Equipment Financing, Inc. to Babcock & Brown Rail Funding LLC, in respect of the Equipment described in Exhibit A hereto.

Assignment and Assumption Agreement dated as of December 22, 2005, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, in respect of the Equipment described in Exhibit A hereto.

Notice and Acknowledgement dated December 22, 2005, made by The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC to Norfolk Southern Railway Company, in respect of the Equipment described in Exhibit A hereto.

Notice Pursuant to Notice and Acknowledgement dated December 22, 2005, made by The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC to Norfolk Southern Railway Company, in respect of the Equipment described in Exhibit A hereto.

Warranty Assignment dated as of December 22, 2005, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, in respect of the Equipment described in Exhibit A hereto.

Manufacturer's Consent dated December 22, 2005, made by National Steel Car Limited to Babcock & Brown Rail Funding LLC, in respect of the Equipment described in Exhibit A hereto.

Side Letter dated December 22, 2005, from The CIT Group/Equipment Leasing, Inc. to Babcock & Brown Rail Funding LLC, in respect of the original equipment cost for the Equipment described in Exhibit A hereto.

Together with all substitutions, replacements and renewals of the property above described, and all property which shall hereafter become physically attached to or incorporated in the property above described, whether the Debtor now has rights therein or such rights shall hereafter be acquired by it.

CERTIFICATION

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: 12/21/05



Robert W. Alvord