

RECORDATION NO. 27205 FILED

OCT 15 '07 -1 30 PM

SURFACE TRANSPORTATION BOARD

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

20036

(202) 393-2266

FAX (202) 393-2156

E-MAIL alvordlaw@aol.com

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

OF COUNSEL
URBAN A. LESTER

October 15, 2007

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 October 15, 2007, 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
885 Second Avenue
49th Floor
New York, NY 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
October 15, 2007
Page 2

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

195 railcars as follows

125 gondola cars: BNBX 121520 – BNBX 121644;

41 cars: BNBX 500001 – BNBX 500044 (excluding 500014, 500036 and 500037);

29 covered hopper cars within the series BNBX 122039 – BNBX 122146 as more particularly set forth in the attachment to the document.

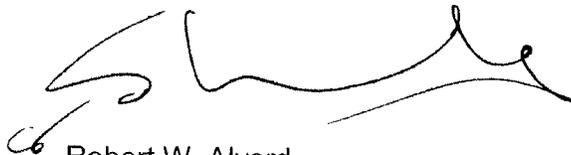
A short summary of the document to appear in the index is:

Memorandum of Mortgage.

Also enclosed is a check in the amount of \$35.00 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,

A handwritten signature in black ink, appearing to read 'Robert W. Alvord', with a stylized flourish at the end.

Robert W. Alvord

RWA/sem
Enclosures

RECORDATION NO. 27205 FILED

OCT 15 07 -1 30 PM

SURFACE TRANSPORTATION BOARD

MEMORANDUM OF MORTGAGE

Memorandum of Mortgage, made and entered into as of October 15, 2007 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 Second Amended and Restated Security Agreement dated as of September 21, 2007 (as supplemented, including by Security Agreement Supplement No. 64 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 document 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: Larry Littlefield
Title: Vice President

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

On October 11th, 2007, before me, Indra Bedasie, Notary Public, personally appeared Larry Littlefield, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

INDRA BEDASIE
Notary Public, State of New York
No. 01BE6014602
Qualified in Queens County
Certificate Filed in New York County
Commission Expires October 19, 2010

Indra Bedasie
Notary Public

*Exhibit A
to Memorandum of Mortgage*

EQUIPMENT

<u>Lessee</u>	<u># Cars</u>	<u>Year Built</u>	<u>Manufacturer</u>	<u>AAR Code</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty Marks</u>
None	125	2007	FreightCar America, Inc.	J311	4520 CF capacity, 286,000 lbs GRL Aluminum Car Body Bethgon II Coal Gondola Railcars	BNBX 121520-121644, inclusive	None
None	41	2007	American Railcar Industries, Inc.	T108	100-ton, 30,000 gallon, non-coiled, non-insulated, stub sill sloped bottom tank cars	BNBX 500001-500013, inclusive; 500015-500035, inclusive; 500038-500044, inclusive.	None
None	29	2007	Trinity North American Freight Car, Inc.	C114	6351 CF Quadruple Covered Hopper Railcars, 286,000 lbs GRL	BNBX 122039, 122045, 122055, 122063, 122064, 122071, 122085, 122091, 122095, 122098, 122102, 122106-122109, inclusive; 122114-122117, inclusive; 122120, 122121, 122122, 122128, 122129, 122135-122137, inclusive; 122142, 122146.	None

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.

Exhibit B
to Memorandum of Mortgage

LIST OF LEASES AND OTHER OPERATIVE AGREEMENTS

Master Railcar Manufacturing and Purchase Agreement made and entered into as of June 28, 2005, by and between FreightCar America, Inc. and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described in Exhibit A hereto.

Rider No. 20 dated May 25, 2007 to Master Railcar Manufacturing and Purchase Agreement, by and between FreightCar America, Inc. and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described in Exhibit A hereto.

Warranty Bill of Sale dated as of October 15, 2007 from FreightCar America, Inc. to Babcock & Brown Rail Funding LLC and Certificates of Acceptance executed by Babcock & Brown Rail Funding LLC in relation to the railcars identified in such Warranty Bill of Sale.

Letter Agreement dated August 11, 2006 between Trinity North American Freight Car, Inc. and Babcock & Brown Rail Funding LLC to the extent the same relates to the Equipment described in Exhibit A hereto.

Warranty Bill of Sale dated as of October 15, 2007 from Trinity North American Freight Car, Inc. to Babcock & Brown Rail Funding LLC and Certificates of Acceptance executed by Babcock & Brown Rail Funding LLC in relation to the railcars identified in such Warranty Bill of Sale.

Railcar Manufacturing and Purchase Agreement dated as of June 26, 2007, by and between American Railcar Industries, Inc. and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described in Exhibit A hereto.

Warranty Bill of Sale dated as of October 15, 2007 from American Railcar Industries, Inc. to Babcock & Brown Rail Funding LLC and Certificates of Acceptance executed by Babcock & Brown Rail Funding LLC in relation to the railcars identified in such Warranty Bill of Sale.

Together with all substitutions, replacements and renewals of 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: 10/15/07



Robert W. Alvord