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UNITED STATES BANKRUPCTY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Lead Case No.
TERRESTAR CORPORATION, *et al* TERRESTAR NETWORKS, *et al* DEBTORS IN POSSESSION	11 CV 10612 (SHL) 10 CV 15466 (SHL)

MOTION FOR STAY OF BANKRUPTCY OF THE SWARTS CLAIMS APPEALS

v.

TERRESTAR CORPORATION (CLAIM #142)
TERRESTAR NETWORKS, INC. (CLAIM #129)
&
LORAL SPACE & COMMUNICATIONS
&
JEFFERIES & COMPANY, INC.

INTRODUCTION

This Motion is filed with the bankruptcy court in support of TSN claim #129 and TSC claim #142, that is the Swarts Claims. These claims were timely filed, shortly after the court signed its **§363** sale order that dispersed the assets of TSN to Echostar on May 4, 2011. The debtors' phased bankruptcy scheme was designed to suppress the filing of legitimate claims, including the Swarts Claims, however we did file our claims by the parent company bar date of May 13, 2011.

The debtors' prior bar date objection to our TSN claim lacked merit. It appeared that both parties were attempting in good faith to come to a consensual resolution, as stated by Ms. Schultz in the Disclosures hearing on January 10, 2012. [1] These discussions indicated that the debtors did not have fundamental objection to the date of our TSN claim filing on May 13, 2011. The question is why did it take them from June of 2011 to early 2012 to come to this conclusion? This is an undue delay that could have been resolved 8-months earlier.

The debtors and their advisors strung us along for months, dangling the "settlement carrot", while our legal options were slipping away. As the court is very aware, the debtors unilaterally adjourned our claim hearing set for June 16, 2011 – a hearing I was well prepared to attend and take part in. [2] I objected to the adjournment of the June of 2011 hearing.

The Swarts Claims were finally heard on March 16, 2012, nearly a year after they were filed. Despite extensive discovery requests prior to that hearing, the *unsigned* Jefferies expert report, among numerous other expert reports, were not provided by the debtors until 7-months *later*, a few days prior to the Confirmation hearing on October 10, 2012. This delay, carefully crafted and executed by the debtors' legal advisors, Akin Gump, prejudiced our ability to amply defend our claims when they were originally heard on March 16, 2012. This delay was entirely of the debtors making. These tactics show that the debtors settlement discussions were a ruse executed in bad faith.

When the expert reports came into my possession, just prior to Confirmation, I filed an amended motion for reconsideration of the Swarts Claims on the basis of new information and

[1] Under §408(b) "Permitted Uses. This rule does not require exclusion if the evidence is offered for purposes not prohibited by subdivision", i.e. in this case to demonstrate that there has been undue delay regarding the TSN claim. It was scheduled to be heard on June 16, 2011. Both have negotiated in good faith without resolution, but the length of time it has taken has been prejudicial to our claims and equity interests.
[2] Exhibit A - Jeffrey_M_Swarts-Derivative_Claim -Original, submitted with proof of claim on May 13, 2012

manifest injustice. This motion was filed just 2-weeks later on October 24, 2012.[3] I called the court three times requesting a hearing of my reconsideration motion, with no response. The court's clerk, Liza Ebanks, finally called back about 2-months later stating that I was not going to be given a hearing by the court – even though my motion made it clear that I had new information, that had been suppressed by the debtors and that was vital to the prosecution of our claims of manifest injustice.

BACKGROUND OF THE SWARTS CLAIMS

Our claims in these cases are numbered #129 in the TSN proceedings and #142 in TSC. The total of our claim, **$960,342.13**, includes a preferred face value of **$562,500** plus the contract rate of 6% interest of **$382,363.03** calculated from August, 2002 until May 1, 2011, paid in arrears and compounded annually. The preferred portion claim is valued at **$944,863.03**, with interest continuing to accrue at 6% from the May 1, 2011 date of calculation. In addition, for the purposes of our claims, I valued my improperly eliminated 1170 LRLSQ common shares at **$13.23** per share, for a value of **$15,479.10**. The claims were filed in both TSN and TSC for the avoidance of doubt by the TSC bar date of May 13, 2011. [4] We do not seek duplicate relief, but we filed our claims in both cases, against the claims of Loral and Terrestar's managements, who are both at fault for asset concealment before, during and after the Loral bankruptcy. [5]

The fact is that there is no significant difference between TSN and TSC, its management, its financial arrangements, its advisors or its statements to the financial markets. They are one and the

[3] 670_10612-Swarts Claims-Amended Motion for Reconsideration
[4] It is "excusable neglect" to not have filed the TSN claim by the TSN bar date. The TSN 1st POR contemplated that the entire assets of TSN would go to the DIP provider, Echostar. When the POR was withdrawn and TSC filed for Chapter 11, it recalibrated the potential outcomes for claimants. Additionally, following the TSN bar date the claims register showed clearly the magnitude of the Loral vendor financing to TSN upon which our claims rest.
[5] Our TSN claim was objected to by the debtors in Docket # 591_15446, the TSN-Omnibus Objection to Certain Proofs of Claim on the basis that it was not timely filed. No other objection was articulated at the time. The hearing scheduled for June 16, 2011 was unilaterally adjourned by the debtors without explanation and without our consent.

same, as affirmed in virtually every filing to the SEC. If one goes back through the SEC filings of Terrestar, Motient, Skyterra (Lightsquared) and TMI, one is astounded by the constantly evolving corporate structure of the "company". Both debtors are represented by the same advisors, Akin Gump and Blackstone.

Our claims at both TSN and TSC are based upon the assistance provided by Terrestar management(s) to Loral in its concealment of the TS-1 and TS-2 contracts and vendor financing at Space Systems/Loral (SS/L) before, during and after the elimination of Loral's preferred and common equity claims in Loral's bankruptcy, with an effective date of November 21, 2005. [6] These acts and failure to disclose this material information to the financial markets demonstrates an ongoing *willingness to deceive* investors on the part of Terrestar's management from mid-2002 until at least the spring of 2005, just before Loral's confirmation hearing.

Throughout the Loral bankruptcy, Akin Gump's attorneys, David H. Botter and the head of its bankruptcy group, Daniel H. Golden, argued that the Loral debtors were *hopelessly insolvent*, a key legal standard that obstructed efforts to get an official equity committee appointed by the court and the US Trustee, Pamela Lustrin.[7] Even after the Loral Examiner found "a not insignificant understatement in value, amounting in the aggregate to $281 - $463 million", Weil Gotshal and Akin Gump vigorously opposed its use at confirmation with the US Trustee's and Judge Drain's assent. Subsequent to the Examiner's report, however, the US Trustee did appoint an Official Equity Committee and I was honored to be selected as a member. Unfortunately, and due to the improper influence of Sonnenschein attorney, John Bicks, the committee membership was controlled by *de*

[6] Terrestar originally signed a non-contingent contract with SS/L on July 14, 2002, 1-year and 1-day prior to the bankruptcy filing of Loral Space & Communications on July 15, 2003 in the SDNY, case # 03-41710(RDD). This contract, although it went through numerous changes, was not disclosed by the company until April 11, 2005, nearly 3-years later. See original claim papers, *Jeffrey_M_Swarts-Derivative_Claim-Original*, Exhibits C & D.

[7] Ms. Martini appointment as the US Trustee for the SDNY was announced on October 31, 2003, just 3-1/2 months after the filing of the Loral Chapter 11 petition on July 15, 2003. Ms. Martini was *contemporaneously* involved in a romantic affair with Akin Gump bankruptcy group head, Daniel Golden.

facto unelected chairman Neil Subin. [8] Mr. Subin had numerous debilitating conflicts with Loral managers and creditors with whom he was cultivating business for corporations that he controlled, including First Avenue Networks and Fibertower. Most other committee members, excepting myself, David Kilcoyne and Brad Gold had extensive business interests with Mr. Subin, including Joseph Samberg and Giora Payes. With their support Mr. Subin dictated the retention of Mr. Bicks and Sonnenschein, which led to the resignation of two common members of the committee.

Peter Wolfson, the head of Sonnenschein's bankruptcy group, was a former law student at Buffalo Law School with Mr. Golden. They have worked many bankruptcies from the opposite sides of the table. [9] At the time of the Loral bankruptcy, Mr. Wolfson was also the personal attorney of Carl Icahn. Mr. Icahn was the former employer of Mark H. Rachesky, who's MHR Fund, with the assistance of Mr. Golden, Akin Gump and others took control of Loral's assets in bankruptcy. [10] Mr. Golden was also a personal friend of Judge Drain at the time, and they had worked several bankruptcies together while Robert Drain was still in private practice, including the first ICO bankruptcy. These crony relationships and many more represented material conflicts of interest that undermined the bankruptcy process and led to an unjust outcome. There is a reasonable inference of scienter of these parties under the group pleading doctrine. These conflicts are still finding effect in the Terrestar cases and have contributed to the elimination of common equity at Terrestar.

During the Loral bankruptcy and class action, I repeatedly stated that I was reserving all rights. [11] Judge Marrero did not allow me to present my objection to the settlement during the

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[8] Mr. Bicks and Sonnenschein were, at the time, privately retained by Mr. Subin and Aspen to represent his interests in the Loral bankruptcy. Mr. Bicks is a long-time associate of Raymond L. Steele, former director and interim CEO of Motient Corporation, Terrestar's predecessor corporation.

[9] Exhibit N - Walter Industries-T-3A-030795, pg. 165-166. Robert D Drain represented Lehman Brothers Inc. in the Walter Industries bankruptcy. Lehman Brothers was a major investor in numerous Loral spin offs, before it declared bankruptcy itself during 2008. Weil Gotshal, former legal advisors for Loral, represent the Lehman debtors.

[10] Exhibit L - Akin Gump-869; pg. 3-5. This document shows the extremes to which Akin Gump goes to search out and exploit distressed companies.

[11] Exhibit F - Jeffrey M Swarts-Loral Class Action-Request for Exclusion

settlement hearing on February 26, 2009, however he did acknowledge that I was reserving all rights in his summation and in his Order and Final Judgment. [12] My objection to the class action settlement, which contains key information about the misconduct of Loral fiduciaries, is included here for the court's information. [13]

I declare that my wife and I are owed derivative claims offset against the unsecured claims of Loral Space & Communications and/or the Terrestar estates. The basis of our claims is the previously described fraudulent conveyance of Loral preferred and common equity claims to: (1) the former unsecured creditors of Old Loral – the primary beneficiaries of the Terrestar bankruptcies, including Echostar and Charles Ergen; and (2) the Terrestar debtors who received and concealed vendor financing from Loral *while Loral was still in bankruptcy*. This is *prima fascia* evidence of a fraudulent transfer. The extent of collusion through a string of similar bankruptcies in the satellite industry by these parties provides a strong inference of scienter under the group pleading doctrine.

The elimination of the *legitimate* Swarts Claims against the Loral estates were coordinated and facilitated by Akin Gump partner Daniel Golden. As head of the Akin Gump bankruptcy group he has been similarly involved in the *legitimate* claims and interests of the Swarts Claimants against the Terrestar estates. After 10-years of obfuscation of these legitimate claims, Akin Gump and the Terrestar debtors cannot now *legitimately and rationally object to a stay of these proceedings, vis-à-vis the Swarts Claims Appeal.*

Similarly, David Posner of Otterbourg, Steindler, Houston & Rosen, P.C., Counsel to the TSN Liquidating Trustee, who represented the Terrestar Networks UCC, and with former Loral Counsel and current President, Avi Katz, as the UCC Chair, cannot *legitimately and rationally object to a stay of these proceedings, vis-à-vis the Swarts Claims Appeal.* Mr. Posner and his firm

[12] Exhibit G - 6051-92-Loral Class Action-Marrero Order & Final Judgment; pg. 5-5 & Exhibit A
[13] Exhibit H - Jeffrey M Swarts-Objection to Loral Class Action Settlement

are also representing the UCC in the Fibertower Chapter 11 – another spectrum-rich debtor who cannot seem to monetize its value until *after* its shareholders are eliminated. The Swarts Claimants also have long-standing significant holdings of Fibertower stock, 4,150 shares, which was beaten down, pre-petition, by a 10:1 reverse split.

For these "professionals" to object to our Motion for a Stay of the Terrestar bankruptcy proceedings, pending our appeal, would itself be a manifest injustice, since it is they who concealed key information that led to the elimination of our Preferred interest in the Loral debtors in the first place and our common interest in the TSC debtors in the second instance.

ARGUMENT

Loral was described as *hopelessly insolvent* throughout its bankruptcy by Mr. Golden and Mr. Botter of Akin Gump for the Loral UCC. However, the vendor financing arrangement with Terrestar was not disclosed to the court in any known pleading or at the confirmation hearing, which I attended in person. There is no known confidential deposition or transcript in which the facts of the Terrestar vendor financing were asked or testified about by any party. The facts are plain – now – they were not then. Repeated requests for discovery in the Loral bankruptcy were stonewalled by Weil Gotshal lead attorney, Stephen Karotkin and supported by Akin Gump attorneys throughout the proceedings. Loral signed the contract for the Terrestar satellite program on July 14, 2002. [14] TS-1's original contract value was approximately $216.25 million plus $10 million in orbital incentives. TS-2, the spare satellite program, was valued at $187 million. The contract grew and changed over time to including adjustments to the specification, design, build and launch of TS-1..

The amount of vendor financing provided is readily apparent from the TSN claims register. The original Proof of Claim, TSN Claim #43 was signed by Loral Vice President and Treasurer,

[14] Exhibit I - Loral 2280-Terrestar-Unredacted Contract; pg. 13 of the PDF

Richard P. Mastoloni, in the amount of **"at least $144,577,803.80*"**. [15] The scheduled amount is **$35,647,804.11** with an allowed amount of **$5,337,572.00**. Mr. Mastolini was an officer of Loral during the Loral bankruptcy, as was the claim contact, Avi Katz, esq., the company's then General Counsel and Senior Vice President. Mr. Katz is a member of the TSN Unsecured Creditors Committee, appointed by Susan Golden, the US Trustee. I previously objected to his presence on the committee and will continue to do so.

Further time-sensitive evidence that the Loral vendor financing extended to Terrestar was a fraudulent transfer can be found in an opinion of the United States Court of Appeals for the District of Columbia Circuit, case No. 04-1248, judges Randolph, Rogers and Williams. [16] It was filed in 2004, by ICO Global v. the FCC, contemporaneously with the pre-Examiner phase of the Loral bankruptcy. The pertinent passage of the opinion follows:

> On the merits, however, we find no inconsistency. To satisfy the first milestone requirement, *TMI, a Canadian partnership holding both a Canadian license and a United States "reservation of spectrum" in the 2GHz band, arranged for satellite construction via a contract between TerreStar, a corporation created and wholly owned by a partnership in which TMI held a 40% share of equity and a quarter of the voting rights, and Space Systems/Loral, a designer and builder of satellites. The latter partnership brought substantial U.S. financial resources into the picture*—resources that, the FCC says, could not have come in via investment in TMI because of Canadian rules evidently requiring at least 80% Canadian ownership of any Canadian licensee. TMI, 19 FCC Rcd at 12,618, ¶ 40-41 & n.89. The FCC evaluated the TerreStar-Loral contract's provisions regarding timing of construction and of payments and found them satisfactory, TMI, 19 FCC Rcd at 12,610, ¶ 21, 12,618, ¶ 42, a conclusion with which appellants do not quarrel.
>
> The problem, according to the FCC, was that while the contents of the contract were adequate to meet the first

[15] Exhibit J - 1000664_337-TSN-Loral Proof of Claim
[16] Exhibit K - 04-1248-102805-FCC Order Appeal; pg. 11 (emphasis added)

> milestone, TMI itself was not a party and thus was not on the hook financially to a degree that reflected the requisite commitment to the timely completion of the project. The FCC reached this conclusion even though "TMI appears to stand to suffer some financial loss if the satellite is not constructed as a result of its 40 percent ownership of TerreStar's parent company." Id. at 12,619, ¶ 44. To cure this problem the FCC attached a condition to its waiver: it required TMI to "*obligate itself to cover TerreStar's future satellite construction contract expenditures, by entering into a guarantee or reimbursement agreement with TerreStar and/or Loral, or by some similar arrangement.*" Id. at 12,620, ¶ 45.

The case was argued on September 13, 2005, just 6-weeks after the Loral confirmation hearing. So, clearly, at the time of the elimination of Loral equity claims, Loral had been extending significant financial resources, i.e. *vendor financing* to Terrestar. However, this was all done confidentially. No known statement about this financing was included in contemporaneous news releases, public SEC or FCC filings or the court record – all of which supported a program of material, ongoing deception of the court, shareholders and the investing public.

I believe that our TSN Claim #129 of **$960,342.13** is senior to the Loral allowed claim based upon this material, ongoing deception, with interest continuing to accrue at the contract rate of **6%** from the date of the filing of our TSC claim on May 13, 2011. The full value of our claim should be carved out of the Loral allowed claim based upon the fraudulent conveyance of vendor financing to TSN from Loral while Loral was still in bankruptcy. Terrestar management took part in this material deception by failing to publicly disclose key satellite construction contracts with Loral until just before the Loral confirmation hearing, when an official equity committee had finally been appointed. Unfortunately, both the legal and financial advisors to the committee had *serious contemporaneous and historical conflicts-of-interest* that should have disqualified them from representing the equity

committee, but did not. When I finally uncovered these conflicts and presented them to the Loral court, *nothing was done to correct the situation.*

The word "Loral" does not occur in any known publicly available Terrestar (Motient) SEC filing until the 2005 POS AM filing on June 6, 2005. That was 3-days after the filing of the Disclosure statement for the Loral Disclosure statement, filed on June 3, 2005 and 2-months before the Loral confirmation hearing. [17] In Motient's (TSC) 2005 10-K, filed on March 30, 2006, 4-months after the Loral effective date, the company finally disclosed for the first time in a public SEC filing that it had entered into a satellite construction contract with Loral in 2002. The pertinent excerpt from pg. 4 follows:

> During 2002, TerreStar entered into a contract with Space Systems/Loral, Inc. to purchase a satellite system, including certain ground infrastructure for use with the 2 GHz band. At the end of 2005, TerreStar entered into a letter of intent to execute, and in 2006, TerreStar executed, a contract with Hughes Networks Systems, LLC. for additional ground-based components of the system. The communications system being developed by TerreStar will ultimately include a main satellite, a spare satellite, ground-switching infrastructure, launch costs and insurance, among other things. The cost of the satellite system alone could exceed $550 million. In order to finance future payments, TerreStar will be required to obtain additional debt or equity financing, or may enter into various joint ventures to share the cost of development. [18]

This was the first known public release by TSC that Loral had been selected in *2002* to provide TSN with a satellite system *while Loral was itself still in bankruptcy*. The original Loral contract date of July 14, 2002 was concealed from the public for nearly 3-years by both Loral and Terrestar/Motient. Its exclusion from Loral's disclosures in the first three of four distinct POR's

[17] Exhibit M - Loral 2074-4th POR-Main, pg. 36. Although the date of the Terrestar satellite contract is stated, July 14, 2002, there is no mention of vendor financing. Loral also states that there was an option for a second satellite, but the Loral Statement of Work (SOW) for the Terrestar contract, specifically states "b. Contractor shall provide (2) Satellites". Only one Echostar satellite is listed in the Disclosures, although by then there were most likely four additional satellite contracts. ICO was described as "in design phase" when the Loral internal factory loading diagram shows that long lead time parts purchasing had begun 5-months earlier in January of 2005. Some subsystems may have been "in design phase" but the program was well underway by January of 2005, 4-months before the news release disclosing the project to the investing public.

represents a clear, ongoing program of asset concealment by the Loral debtors, their advisors and their crony creditors. This material concealment of at least $400 million in badly needed satellite construction business was a prime factor undermining the DCF valuations of Loral by its advisors in bankruptcy. At no time was the existence of vendor financing from Loral to Terrestar disclosed, even after the existence of the satellite contract was finally disclosed to the public on April 4, 2005.

The value of this asset concealment, when added to the concealment of the ICO-1 and three of five subsequently disclosed Echostar satellites, brings the total known concealment of Loral satellite contracts to approximately $1 - 1.1 billion in expected, but concealed revenues. That DBSD, TSN and Echostar will soon be merged into one business using the very same bankruptcy system that unjustly eliminated our equity interest in Loral is unconscionable and represents a *manifest injustice* to ourselves and to other investors similarly situated.

As a former member of the Official Loral Equity Committee, I can state without equivocation, that at no time during the Loral bankruptcy proceedings did the Loral debtors, its fiduciaries, or its unsecured creditors, including Charles Ergen and Echostar – represented by Akin Gump – reveal that Loral had provided vendor financing to Terrestar. This concealed financing, which has priority status in TSN as a "Contract Cure", elevates our claim to priority status over the Loral claims in TSN and other non-debt claims at TSC. The Allocations Analysis of TSN Docket #847, Exhibit F, indicates that TSN will distribute $3.5 million of the TSN sale proceeds to TSC. [19] This entire amount has been allocated by Duff & Phelps LLC to the construction and launch of TS-1 ($300 K) and the construction of TS-2 ($3.2 MM). [20]

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[18] There is no mention of vendor financing.
[19] See TSN Docket #847_15446-Disclosures-Valuation Analyses; Exhibit F, pg. 5
[20] *Ibid*; C. Allocations Analysis,Section beginning "Non-Sprint Unsecured Creditor Recoveries", Line for "TSC Intercompany Claims", pg. 5

As previously stated, I hereby reiterate that our principal claim at TSC is junior to TSC's allowed creditors, but senior to the preferred shareholders. Most of our claim against the Loral estate was preferred equity – 11,250 shares of LORBQ, Series C – and therefore, on a priority basis, is at least equal to or superior to the claims of TSC's preferred shareholders vis-à-vis the absolute priority rule. The fact is that this allocation is ascribed to the constructions of TS-1 and TS-2, and that Loral vendor financing was provided by Loral to Terrestar in order to build these satellites while Loral was still in bankruptcy. This depressed the DCF values of the estate and contributed to insolvency arguments made by the Loral debtors and the unsecured creditors pre-petition, post-petition and during confirmation of the 4th Amended Plan of Reorganization.

The insolvency arguments of the Loral debtors and their crony unsecured creditors are now clearly shown to be self-serving and bereft of integrity. The company's Orion bonds traded in the .70's throughout the bankruptcy – hardly distressed levels. The company did not default on a single note. The company did not require DIP financing and its post-emergence valuations so far exceed those promulgated by the Loral debtors in bankruptcy that the company currently has a market value of **$1.8 billion**, plus **$1.05 billion** dispersed in a special dividend of **$29** per share to holders of New Loral Shares, plus the company's interest in Canadian company, Telsat, which received Loral's Skynet division in an asset dispersal about 3-years ago. [21] This valuation of approximately **$3.55 billion** is **365%** greater than the **$970 million** estate value found by Judge Drain in the Loral Confirmation Hearing.

Loral's valuation at the end of the forecast period by far outweighed any argument for adequate protection of creditors in bankruptcy. Our Loral preferred stock claim against the Terrestar estates rests upon a Loral estate debt held against TSN that was wrongly and fraudulently concealed from investors in the Loral bankruptcy confirmation hearing. It also rests upon the selective service

of *key* discovery in the TSC case, which *post-dated the Swarts Claims Hearing*. The managements of TSN and TSC are one and the same. Therefore, because the Loral vendor financing was a fraudulent conveyance to Terrestar, and our preferred interest was unjustly eliminated by the Loral bankruptcy court, at least partially based on this concealment, our claims for the $50 per share principal of our Loral preferred shares, are superior to those of TSC's management and it's equity holders, *including TSC's preferred shareholders*, who have garnered the lion's share of New TSC's assets, pursuant to the confirmed and effective date of POR.

It is still possible for our legitimate claims on the Terrestar estates to be satisfied, without violating the equitable mootness doctrine. The plan need not be revoked. The plan has provisions which the courts could exercise that would be equitable to all parties. The appeals court could find in favor of the Swarts Claimants, but only if the bankruptcy proceedings, vis-à-vis the Swarts Claims, are stayed long enough for the appeal to be heard. Given the delays we have endured, for the past decade, and within the context of these cases, this is not an excessive request that will impede the emergence of New Terrestar as a viable corporate entity.

REQUESTED RELIEF

There is strong support for the court to order a Stay of the TSN and TSC bankruptcy proceedings, pending the resolution of the Swarts Claims Appeal. Following receipt of pre-confirmation discovery, we filed a revised Motion for Reconsideration of the Swarts Claims, based upon new, previously unknown information that corroborated our claims. It was filed just 14-days later on October 24, 2012. The court did not order a hearing, nor were there any objections to our motion for reconsideration. The court denied our Motion on February 28, 2013, nearly 4-months

[21] The Loral debtors in their disclosures estimated a post-petition estate equity value of $555 million.

later. [22] We filed our notice of appeal of the court's order on March 13, 2013, just 14-days later. [23] The Swarts Claimants filed their Statement of Issues and Designation of Contents on March 27, 2013, again just 14-days later, and within statutory requirements. All of this was done *pro se* and with great effort, while working a 9-5 job full time. There have been *no delays* on the part of the Swarts Claimants. To deny a stay at this point, pending the outcome of our appeal, would further aggravate the manifest injustice we have already suffered. We pray that the court order this limited stay so that the Swarts Claimants can be ruled on by a court with broader jurisdiction.

RESERVATION OF RIGHTS

We reserve all rights associated with our claims and our equity interests in the Terrestar debtors.

/s/ Jeffrey M. Swarts (*Pro Se*)
April 29, 2013

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[22] 11-10612-shl Doc 730 Filed 02/28/13; 10-15446-shl Doc 1084 Filed 02/28/13
[23] 11-10612-shl Doc 743 Filed 03/13/13

Donald K. Townsend
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May 10, 2013

Honorable Sean H. Lane
United States Bankruptcy Court
One Bowling Green
New York 10004

Honorable Judge Sean H. Lane:

RE: Employee Number: 74869…Portion of Retirement Lost

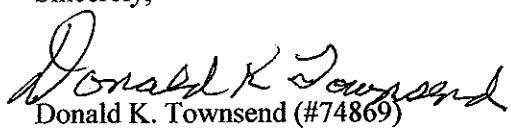
As a loyal, dedicated employee for forty (40) years, I had retired on April, 1994 and appeal to you for help. Until January 1, 2012, I had been receiving two separate checks. Initially, I had both questioned why I had been singled out to receive my full pension in two checks , one larger and a smaller check in the amount of $28.55. Some of my fellow employees had been receiving two checks and to date are still receiving their full pension in two separate checks.

Whenever I questioned this unusual arrangement, I was told "Don't worry about why you get two checks. You are still getting your full pension and you will always get it." At one point I had written a letter questioning why I seemed to be the only whose smaller check was taken from me. I was and am still concerned. Could there possible have been a clerical error in taking the $28.55 out of the corporate account instead of the pension account?

On January 1, 2012, I had received my check for $28.55. On January 10, 2012 AA recalled the check on January 20. The check was re-issued by State Street Bank and then once more it was recalled. The bank charged me $10.00 twice for the recalled check. The bank did return $20.00 to my account after I had challenged the charge. It was, after all, a Corporate Check? I have not received any more of these smaller retirement checks. These friends did get their smaller checks in February 2012 and continue to receive them to date.

All that AA will tell me is that they can take this part of my pension. I feel this is an injustice toward me. I was entitled to my pension for nearly eighteen (18) years and received it on schedule. Then on January 1, 2012 it stopped. Why, when others checks were stopped and then made good. We were all members of management? Thank you.

Sincerely,



Donald K. Townsend (#74869)

cc: AMR Corporation, et al, c/o GCG

5151 Blazer Parkway, Suite A

Dublin, OH 43017

cc:

enc: 3

☐ CORRECTED (IF CHECKED)

PAYER'S name, street address, city, state, and ZIP code STATE STREET RETIREE SERVICES FOR AMERICAN AIRLINES CORPORATE PAYMENT P O BOX 5149 BOSTON, MA 02206-5149	1 Gross distribution $ 358.20 2a Taxable amount $ 358.20	OMB No. 1545-0119 **2011** FORM 1099-R	Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.
	2b Taxable amount not determined ☐ Total distribution ☐		**Copy 2** File this copy with your state, city, or local income tax return, when required.
PAYER'S federal identification number 04-3581074	RECIPIENT'S identification number ***-**-1989	3 Capital gain (included in box 2a) $ 0.00	4 Federal income tax withheld $ 0.00
RECIPIENT'S name, street address (including apt. no.), city, state, and ZIP code DONALD K TOWNSEND 43957 LEEANN ST CANTON, MI 48187-2831		5 Employee contributions/Designated Roth contributions or insurance premiums $ 0.00	6 Net unrealized appreciation in employer's securities $ 0.00
		7 Distribution code(s) 7 IRA/SEP/SIMPLE ☐	8 Other $ 0.00 %
		9a Your percentage of total distribution %	9b Total employee contributions $
10 Amount allocable to IRR within 5 years $	11 1st year of desig. Roth contrib.	12 State tax withheld $ 15.60	13 State/Payer's state no. MI/04-3581074	14 State distribution $ 358.20
Account number (see instructions) AMER-398-		15 Local tax withheld $	16 Name of locality	17 Local distribution $

Form 1099-R
DST 00083241

Department of the Treasury-Internal Revenue Service

FORM 1099R - FOR YEAR 2011 REFLECTING #358.20 PENSION
DID NOT RECIEVE THIS PART OF MY PENSION
BEGINNING 1-1-2012

Donald K. Townsend
43957 Leeann Ln
Canton MI 48187-2831

History Account Number 576064513
01-02-2012 to 02-29-2012

Post Date	Eff Date	Check Nbr	Description	Amount	Running Bal	Status
02-21-2012	02-21-2012		External Withdrawal	(226.63)	5,859.42	Completed
02-09-2012	02-09-2012		External Withdrawal	(122.86)	6,086.05	Completed
01-31-2012	01-31-2012		Credit Interest	0.59	6,208.91	Completed
01-25-2012	01-25-2012	1132	Check	(29.20)	6,208.32	Completed
01-24-2012	01-24-2012	1131	Check	(500.00)	6,237.52	Completed
01-23-2012	01-23-2012	1130	Check	(500.00)	6,737.52	Completed
01-23-2012	01-23-2012	1133	Check	(57.20)	7,237.52	Completed
01-23-2012	01-23-2012		Returned Check Charge Reversal	10.00	7,294.72	Completed
01-18-2012	01-18-2012		External Withdrawal	(175.16)	7,284.72	Completed
01-10-2012	01-10-2012		Returned Check Charge	(10.00)	7,459.88	Completed
01-10-2012	01-10-2012		Returned Check	(28.55)	7,469.88	Completed
01-10-2012	01-10-2012		Returned Check	28.55	7,498.43	Error Corrected
01-10-2012	01-10-2012		Returned Check Charge	10.00	7,469.88	Error Corrected
01-10-2012	01-10-2012		Returned Check Charge	(10.00)	7,459.88	Completed
01-10-2012	01-10-2012		Returned Check	(28.55)	7,469.88	Completed
01-10-2012	01-10-2012		External Withdrawal	(123.62)	7,498.43	Completed
01-03-2012	01-03-2012		Deposit	1,000.33	7,622.05	Completed

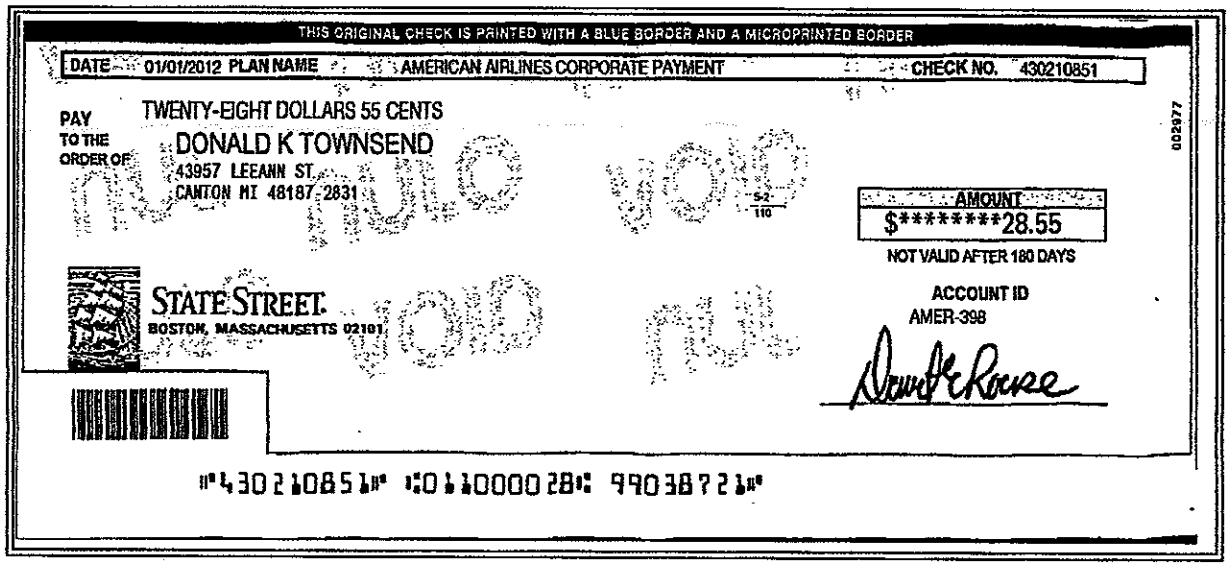
BANK HISTORY FOR JANUARY 2012 REFLECTING TWO DEPOSITS OF 28.55 AND THEN TAKEN BACK. NOTE TWO $10.00 CHARGES FOR BAD CHECK. THIS $20.00 CHARGE WAS GIVEN BACK TO ME BY THE BANK

Flagstar® Bank

02/22/12

Account: 99038721
Name:
Address:

The image shown below represents an official copy of the original document as processed by our institution


THIS ORIGINAL CHECK IS PRINTED WITH A BLUE BORDER AND A MICROPRINTED BORDER

DATE 01/01/2012 PLAN NAME AMERICAN AIRLINES CORPORATE PAYMENT CHECK NO. 430210851

PAY TO THE ORDER OF TWENTY-EIGHT DOLLARS 55 CENTS
DONALD K TOWNSEND
43957 LEEANN ST
CANTON MI 48187-2831

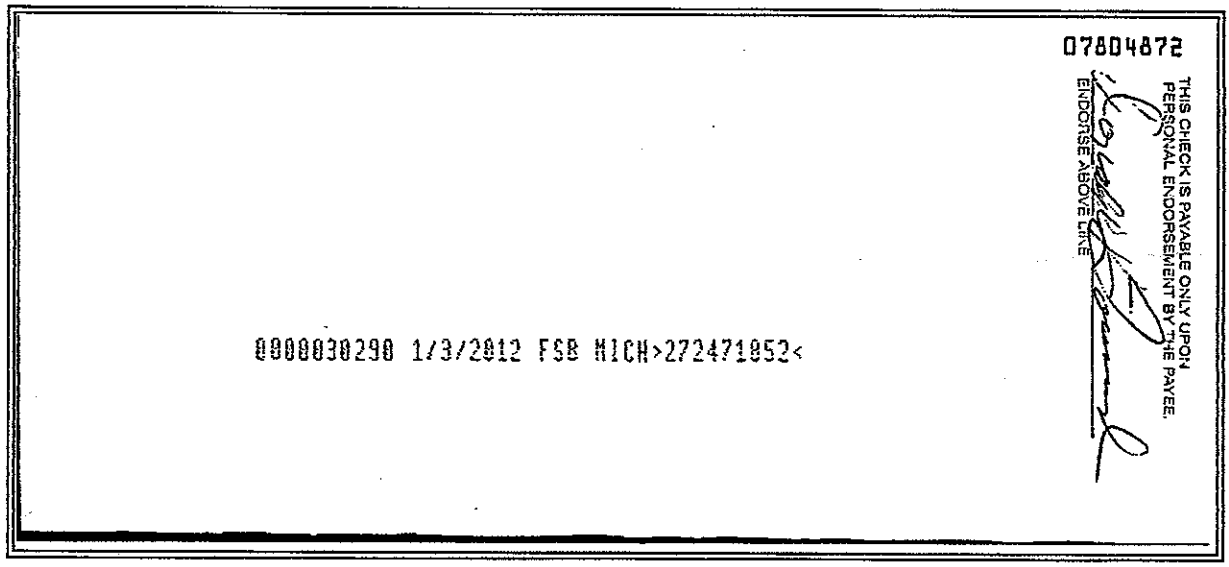
AMOUNT $********28.55
NOT VALID AFTER 180 DAYS

STATE STREET.
BOSTON, MASSACHUSETTS 02101

ACCOUNT ID
AMER-398

⑈430210851⑈ ⑆011000028⑆ 99038721⑈

430210851 01/03/12 30290 28.55


07804872

THIS CHECK IS PAYABLE ONLY UPON PERSONAL ENDORSEMENT BY THE PAYEE. ENDORSE ABOVE LINE

0000030290 1/3/2012 FSB MICH>272471852<

COPY OF FIRST PENSION CHECK FOR 2012 (I DID NOT HAVE DIRECT DEPOSIT.) THIS CHECK WAS REMOVED FROM MY ACCOUNT — THEN REDEPOSITED ONLY TO ONCE AGAIN TAKEN BACK