

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

In re:	§	Chapter 11
AIR METHODS CORPORATION, <i>et al.</i> ,	§	Case No. 23-90886 (MI)
Debtors. <sup>1</sup>	§	(Jointly Administered)
	§	Re: Docket No. 156
	§	

DECLARATION OF PARRY SORENSEN IN SUPPORT  
OF THE MOTION OF DEBTORS FOR ORDER (I) APPROVING OMNIBUS  
PROCEDURES, NOTEHOLDER ELECTION PROCEDURES, AND RELATED  
FORMS, (II) AUTHORIZING DEBTORS TO CONDUCT RIGHTS OFFERINGS AND  
PRIVATE PLACEMENT IN CONNECTION WITH DEBTORS' PLAN OF  
REORGANIZATION, (III) AUTHORIZING DEBTORS' ENTRY INTO AND  
PERFORMANCE UNDER THE PURCHASE COMMITMENT AND BACKSTOP  
AGREEMENT (IV) APPROVING OBLIGATIONS THEREUNDER AS  
ADMINISTRATIVE EXPENSE CLAIMS, AND (V) GRANTING RELATED RELIEF

I, Parry Sorensen, pursuant to section 1746 of title 28 of the United States Code, hereby declare that the following is true and correct to the best of my knowledge, information, and belief:

1. I submit this declaration (the “**Declaration**”) in support of the *Motion of Debtors For Order (I) Approving Omnibus Procedures, Noteholder Election Procedures, and Related Forms, (II) Authorizing Debtors to Conduct Rights Offerings and Private Placement in Connection with Debtors' Plan of Reorganization, (III) Authorizing Debtors' Entry Into and Performance Under the Purchase Commitment and Backstop Agreement, (IV) Approving*

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Air Methods Corporation (5893), ASP AMC Holdings, Inc. (3873), ASP AMC Intermediate Holdings, Inc. (2677), Air Methods Telemedicine, LLC (2091), United Rotorcraft Solutions, LLC (2763), Mercy Air Service, Inc. (0626), LifeNet, Inc. (3381), Rocky Mountain Holdings, L.L.C. (3822), Air Methods Tours, Inc. (4178), Tri-State Care Flight, L.L.C. (5216), Advantage LLC (2762), Enchantment Aviation, Inc. (5198), Native Air Services, Inc. (8798), Native American Air Ambulance, Inc. (8800), AirMD, LLC (1368), Midwest Corporate Air Care, LLC (N/A). The Debtors' mailing address is 5500 South Quebec Street, Suite 300, Greenwood Village, CO 80111.

*Obligations Thereunder as Administrative Expense Claims, and (V) Granting Related Relief*  
(Docket No. 156) (the “**Motion**”).<sup>2</sup>

2. Except as otherwise indicated, the statements in this Declaration are based on (i) my personal knowledge or opinion, (ii) information I obtained from the Debtors’ advisors, the Debtors’ management, and employees of Lazard working directly with me or under my supervision, (iii) my involvement in negotiating with the relevant counterparties (and their advisors) on behalf of the Debtors, and/or (iv) my review of the relevant documents. If called to testify, I could and would testify to each of the facts set forth herein on the foregoing bases. I am not being compensated specifically for this testimony other than through non-contingent payments received by Lazard as a professional proposed to be retained by the Debtors.

#### **A. Background and Qualifications**

3. I am a Managing Director in the Restructuring & Liability Management Group at Lazard Frères & Co. LLC (“**Lazard**”), the proposed investment banker for Air Methods Corporation (“**AMC**”) and its affiliated debtors and debtors in possession (collectively, the “**Debtors**”) in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”). My qualifications and professional background are more fully laid out in the *Declaration of Parry Sorensen in Support of Emergency Motion of the Debtors for Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing, (B) Use Cash Collateral, and (C) Grant Liens and Provide Superpriority Administrative Expense Claims, (II) Granting Adequate Protection to Certain Prepetition Secured Parties, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief* (Docket No. 23).

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed in the Motion (as defined below).

4. Since October 2022, Lazard has worked closely with the Debtors' management team and other professionals retained by the Debtors in the Chapter 11 Cases to analyze the Debtors' business, operations, and financial projections. In my representation of the Debtors, I have, among other things, provided advice on strategic transaction alternatives and restructuring options. Members of my team and I have also assisted the Debtors in reviewing and negotiating certain terms of the Rights Offerings, Equity Cash-Out Option, and Private Placement and certain terms and conditions of the *Purchase Commitment and Backstop Agreement*, dated October 26, 2023 (the "**Purchase Commitment and Backstop Agreement**"), annexed to the Motion as Exhibit A.

#### **B. The Debtors' Restructuring Goals**

5. The Debtors negotiated the RSA and the Plan (each as defined below) with five major goals in mind: (i) to achieve significant deleveraging of the Debtors' balance sheet and thereby ensure that the Reorganized Debtors' capital structure is sustainable upon their exit from the Chapter 11 Cases; (ii) to maximize value to the benefit of all stakeholders; (iii) to achieve the broadest possible consensus on the Plan by addressing the varied interests of key stakeholders; (iv) to implement the restructuring as expeditiously as possible; and (v) to ensure sufficient post-emergence liquidity in both the short term and long term given the volatility in the Debtors' business and the Debtors' exposure to the potential impacts of certain uncontrollable factors.

6. With these objectives, the Debtors, under the guidance of the Special Committee and with the assistance of their advisors, engaged in restructuring discussions with an ad hoc group of holders of Prepetition Secured Loans and Prepetition Unsecured Notes (the "**Ad Hoc Group**") and the Consenting Sponsor. After good-faith, arm's-length negotiations, on October 23, 2023, the Debtors, members of the Ad Hoc Group, and the Consenting Sponsor reached agreement on the terms of an in-court restructuring, and the Debtors and the Consenting

Parties entered into that certain *Restructuring Support Agreement* (Docket No. 16 pp. 80–123) (as may be amended, supplemented, or otherwise modified from time to time including all exhibits thereto, the “RSA”). The Consenting Creditors who initially signed the RSA represented approximately (i) 71.6% of the aggregate outstanding principal amount of Prepetition Secured Loan Claims and (ii) 66.8% of the aggregate outstanding principal amount of Prepetition Unsecured Note Claims. Additional parties have since executed joinders to the RSA, such that the RSA has now been signed by holders of: (i) 98% of Prepetition Secured Loan Claims and (ii) 72% of the Prepetition Unsecured Note Claims.

7. Pursuant to the RSA, the Consenting Parties agreed to support and vote in favor of the Debtors’ restructuring contemplated by and on the terms set forth in the RSA, including by voting in favor of the *Joint Prepackaged Chapter 11 Plan of Air Methods and its Affiliated Debtors* (Docket No. 16) (including any exhibits and schedules thereto and as may be amended, supplemented, otherwise modified from time to time in accordance with its terms, the “Plan”). The Plan provides for a comprehensive restructuring of the Debtors’ capital structure.

8. The Plan is structured to achieve each of the Debtors’ restructuring objectives, outlined above, and enjoys overwhelming support from the Ad Hoc Group as well as other creditors. Moreover, implementation of the Plan will preserve over 4,900 jobs and maximize recovery to the Debtors’ stakeholders. Through the RSA and the overwhelming support of the Debtors’ debt and equity holders thereunder, the Debtors have a clear path forward to emergence from the Chapter 11 Cases.

### C. The Debtors’ Need for Significant Capital

9. To consummate the transactions contemplated by the Plan, the Debtors require significant capital to fund the distributions thereunder and to provide the Reorganized Debtors with sufficient go-forward operating liquidity. The Plan provides for (i) payment in full

in cash of the Debtors' \$80 million new money DIP loan, (ii) payment in full in cash of all administrative claims, (iii) payment in full in cash of all Allowed General Unsecured Claims and certain other cash distributions, (iv) the ability for certain creditors to elect to receive cash in lieu of equity distributions, and (v) post-emergence liquidity for the Debtors of at least \$135 million.

10. Without the new capital contemplated by the Plan (including through the Rights Offerings and Private Placement) and committed through the Purchase Commitment and Backstop Agreement, the Debtors may not be able effectively restructure and exit the Chapter 11 Cases on the currently contemplated timeline. If the Debtors' stay in chapter 11 is prolonged as a result of having to revamp their restructuring plan to secure new sources of capital outside of those contemplated by the Plan and described in the Motion, the Debtors will not have sufficient liquidity to fund the Debtors' projected financing needs for operations and additional chapter 11 expenses during any such extended stay in chapter 11.

#### **D. The Rights Offerings and Private Placement**

11. To access this necessary additional capital, the Plan contemplates a capital infusion of up to \$335 million in new money upon emergence comprised of: (i) debt financing in an aggregate amount of up to \$200 million and (ii) equity financing in an aggregate amount of up to \$135 million. These arrangements are structured to achieve the Debtors' key restructuring objectives—*i.e.* sufficient go-forward operating liquidity, significant reduction in the Debtors' level of funded indebtedness, and consensus for the Plan by giving certain creditors the ability to elect to receive recovery in their preferred form of consideration.

12. The debt financing will be raised through a debt rights offering (the “**DRO**”) that will provide for at least \$175 million in new capital, with the potential to increase such funding up to \$200 million, depending on the Debtors' liquidity needs. The DRO is capped at \$200 million to limit the amount of pro forma debt at emergence.

13. The equity financing has two components: (i) a new money rights offering (the “**ERO**” and, together with the DRO, the “**Rights Offerings**”); and (ii) a private placement of New Interests in the Reorganized Debtors (the “**Private Placement**”). As further explained in the Motion and the Plan, this up to \$135 million in equity financing will be allocated between the ERO and the Private Placement as follows, based on the Debtors’ forecasted liquidity needs at emergence. First, if \$200 million of proceeds from the DRO is insufficient to achieve the Debtors’ agreed minimum liquidity threshold at emergence (*i.e.*, \$135 million), the Debtors can use up to \$135 million of new capital raised in connection with the ERO to reach that minimum liquidity threshold. Second, any remaining portion of the \$135 million that is not raised in the ERO to satisfy the minimum liquidity threshold can instead be raised through the Private Placement to fund an option for certain creditors to elect to receive a discounted amount of cash in lieu of their equity distributions under the Plan (the “**Equity Cash-Out Option**”).

14. The Rights Offerings and the Private Placement are critical components to the Plan. The Debtors, in consultation with their advisors, determined they require a minimum of \$135 million in projected liquidity at emergence. The Rights Offerings will help ensure this liquidity threshold is satisfied, in addition to ensuring the Debtors can implement the transactions and fund the distributions contemplated by the Plan. The Private Placement will facilitate the Equity Cash-Out Option, which was a critical component to building creditor consensus for the Plan, as it addresses limitations and preferences certain creditors have with respect to receiving equity in exchange for debt under a chapter 11 plan. The Rights Offerings and the Private Placement are products of the RSA and the months-long negotiation surrounding the RSA and the Plan.

**E. The Purchase Commitment and Backstop Agreement**

15. To secure the funding anticipated by the Rights Offerings and Private Placement, the Debtors negotiated the Purchase Commitment and Backstop Agreement with certain members of the Ad Hoc Group and certain affiliates of the Consenting Sponsor (the “**Commitment Parties**”). Under the Purchase Commitment and Backstop Agreement, the Commitment Parties have agreed to backstop the DRO and a subset of the Commitment Parties have agreed to backstop the ERO and the Private Placement.

16. The Commitment Parties’ funding commitments under the Purchase Commitment and Backstop Agreement provide the Debtors and their stakeholders with certainty the Debtors will have funds sufficient to satisfy their obligations under the Plan and emerge from the Chapter 11 Cases with a strengthened balance sheet.

17. In exchange for the Commitment Parties’ obligations under the Purchase Commitment and Backstop Agreement, the Debtors agreed to provide certain consideration to the Commitment Parties, in the form of the Commitment Premiums, the Termination Premiums, the Expense Reimbursement, and the Indemnification Obligations (each as described below and collectively the “**Commitment Obligations**”).

18. The Commitment Obligations are structured to compensate the Commitment Parties for the substantial time, cost and risk they are incurring to aid the Debtors in their restructuring efforts, including (i) time and expense in conducting diligence, submitting restructuring proposals, and negotiating and drafting the terms of the Purchase Commitment and Backstop Agreement and other documents key to the Debtors’ reorganization, (ii) the opportunity costs associated with committing and reserving substantial capital for a significant period of time, and (iii) the risk that economic, market, or commercial developments negatively impact the

Debtors during the period that the backstop commitments are in place and reduce the attractiveness of the investment.

*i. The Commitment Premiums*

19. In exchange for the commitment to backstop the DRO, the Debtors have agreed to pay to the DRO Backstop Commitment Parties a nonrefundable aggregate premium of New Interests equal to 11% of the New Interests outstanding as of the Plan Effective Date, subject to dilution in accordance with the Plan (the “**DRO Backstop Commitment Premium**”). Subject to the terms and conditions set forth in the Purchase Commitment and Backstop Agreement and as described in the Motion, the DRO Backstop Commitment Parties may elect to receive the DRO Backstop Commitment Premium in cash in an amount calculated at a 10% discount to Plan Equity Value, to be paid out of the Equity Cash-Out Amount.

20. In exchange for the commitment to backstop the ERO, the Debtors have agreed to pay the ERO Backstop Commitment Parties a nonrefundable aggregate premium of New Interests in an amount equal to 10% of the Adjusted ERO Amount, calculated at a 35% discount to Plan Equity Value (the “**ERO Backstop Commitment Premium**”).

21. In exchange for the commitment to fund the Private Placement, the Debtors have agreed to pay the Private Placement Commitment Parties a nonrefundable aggregate premium of New Interests in an amount equal to 10% of the difference of \$135 million and the Adjusted ERO Amount, calculated at a 35% discount to Plan Equity Value (the “**Private Placement Commitment Premium**” and, together with the DRO Backstop Commitment Premium and the ERO Backstop Commitment Premium, the “**Commitment Premiums**”).

22. The ERO Backstop Commitment Premium and the Private Placement Commitment Premium effectively amount to one commitment premium, as in the aggregate they are equal to a premium of 10% of \$135 million, which is the maximum amount of equity financing

that could be raised, in the aggregate, through the ERO and the Private Placement. The ERO Backstop Commitment Premium and the Private Placement Commitment Premium are both payable in New Interests at a price consistent with the price that non-backstop parties have been offered to participate in the ERO. The price that non-backstop parties have been offered to participate in the ERO is at a 35% discount to Plan Equity Value.

*ii. The Termination Premiums*

23. In the event of certain termination events defined in the Purchase Commitment and Backstop Agreement, the Debtors will be obligated to pay each of the Commitment Parties a cash termination premium (collectively, the “**Termination Premiums**”).

24. Specifically, the Purchase Commitment and Backstop Agreement contemplates the following Termination Premiums: (i) to the DRO Backstop Commitment Parties, a nonrefundable aggregate premium payable in cash in an amount equal to 9% of the Plan Equity Value; (ii) to the ERO Backstop Commitment Parties, a nonrefundable aggregate premium payable in cash in an amount equal to 8% of the Adjusted ERO Amount, assuming the Adjusted ERO Amount were \$67.5 million, calculated at a 35% discount to Plan Equity Value; and (iii) to the Private Placement Commitment Parties, a nonrefundable aggregate premium payable in cash in an amount equal to 8% of the Adjusted ERO Amount, assuming the Adjusted ERO Amount were \$67.5 million, calculated a 35% discount to Plan Equity Value.

*iii. The Expense Reimbursement and Indemnification Obligations*

25. The Purchase Commitment and Backstop Agreement also provides for the reimbursement of certain fees and expenses incurred by the Commitment Parties and their advisors in connection with the Chapter 11 Cases or the transactions contemplated by the Purchase Commitment and Backstop Agreement and the RSA, such as reasonable advisor fees, travel costs, filing fees, and other expenses (the “**Expense Reimbursement**”).

26. The Debtors also agreed to indemnify the Commitment Parties for certain losses, claims, damages, liabilities, and reasonable costs and expenses arising out of or in connection with the Purchase Commitment and Backstop Agreement, the Plan, and the transactions contemplated thereby (the “**Indemnification Obligations**”).

**F. The Purchase Commitment and Backstop Agreement Provides Significant Benefits to the Debtors**

27. The Purchase Commitment and Backstop Agreement provides substantial benefits to the Debtors and their estates.

28. First, the Purchase Commitment and Backstop Agreement provides key financial support for the Plan, by ensuring the Rights Offerings and Private Placement have sufficient commitment to generate the funds necessary to finance the transactions contemplated by the Plan. The Purchase Commitment and Backstop Agreement will ensure the Debtors have sufficient liquidity to fund the distributions contemplated by the Plan, and will provide confidence to customers, vendors, employees, and other interested parties that the Debtors are able to meet their obligations.

29. Second, the Purchase Commitment and Backstop Agreement helps to ensure the Debtors will be able consummate the Rights Offerings and Private Placement and emerge from the Chapter 11 Cases on the contemplated timeline, avoiding liquidity issues that may arise from an extended stay in chapter 11. During the period of time between entry into the Purchase Commitment and Backstop Agreement and consummation of the Plan, the Debtors will be exposed to various economic, market, commercial, or regulatory risks that could negatively impact their ability to raise capital. The Commitment Parties’ commitment of up to \$335 million in funding during this time mitigates this risk, and increases the likelihood the Debtors can successfully implement the Plan to maximize value for all stakeholders. Without these

commitments, there is no assurance that the Debtors would be able to finance emergence from the Chapter 11 Cases.

30. Third, together with the RSA, the commitments under the Purchase Commitment and Backstop Agreement were important to building creditor consensus for the Plan.

**G. Negotiation of the Rights Offering, Private Placement, and Purchase Commitment and Backstop Agreement**

31. The Rights Offerings, Private Placement, and Purchase Commitment and Backstop Agreement are the product of extensive good-faith, arm's-length negotiations among the Debtors and their key economic stakeholders. These negotiations, which were conducted with oversight from the Special Committee, touched on (among other things) the size, structure, and terms of the Rights Offerings and Private Placement, as well as the Purchase Commitment and Backstop Agreement. The Commitment Premiums and Termination Premiums were also key terms that were heavily negotiated.

32. Throughout the course of these negotiations, the Debtors were able to improve on the terms that were initially offered by the Commitment Parties. During the negotiating process, the Commitment Parties also made it clear to the Debtors that the protections afforded by the Commitment Obligations were a necessary condition to providing binding commitments to backstop the Rights Offerings and Private Placement.

33. The Debtors and their advisors evaluated the risks and costs associated with entry into the Purchase Commitment and Backstop Agreement, including the Commitment Obligations, relative to the benefits to be derived from such agreement. Based on their evaluations, the Debtors determined that the benefits of having a source of committed, incremental financing to provide sufficient funds to implement the transactions contemplated by the Plan outweighed the risks and costs associated with the Purchase Commitment and Backstop Agreement.

## H. Lazard's Analysis of Backstop Arrangements in Precedent Chapter 11 Cases

34. In connection with the negotiation of the Purchase Commitment and Backstop Agreement, Lazard analyzed backstop arrangements for comparable rights offerings in other recent large and complex chapter 11 cases. Specifically, Lazard reviewed debt and equity backstop commitments entered into since February 2020, the start of the COVID-19 pandemic, in order to assess market terms during the most recent period of market volatility and uncertainty.<sup>3</sup> In total, Lazard reviewed seven other debt rights offerings and twenty-two other equity rights offerings.

35. Costs of backstopped capital in rights offerings can take various forms, including (i) a discount at which the new money is being invested, (ii) a commitment premium or backstop fee (typically based on a percentage of the full size of the commitment provided by the backstop parties and paid in cash, debt and/or equity consideration that can be priced at a discount to plan value), (iii) a direct allocation or “holdback” (which allows the backstop parties to invest no less than a certain amount), and (iv) reimbursement of professional fees and expenses and indemnification obligations. Termination payments are also common in backstop arrangements in chapter 11 cases. When included, termination payments are typically based on a percentage of the full size of the commitment provided by the backstop parties and are triggered as compensation in certain scenarios where the backstop arrangement is terminated.

36. The Commitment Premiums provided for by the Purchase Commitment and Backstop Agreement fall within the range of fees paid in the comparable transactions reviewed. For instance, the DRO Backstop Commitment Premium here is 11% of the New Interests (which

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<sup>3</sup> The comparable debt rights offerings reviewed by Lazard included “stapled equity” (i.e., rights offerings where participants received an equity instrument in addition to the debt instrument received upon exercise of subscription rights).

equates to approximately 15% of the DRO commitment amount at Plan Equity Value), which is below the average and median of equivalent fees to backstop parties in the debt rights offerings Lazard reviewed. Similarly, the ERO Backstop Commitment Premium and the Private Placement Commitment Premium equate to approximately 15% of the total value of the ERO commitment amount at Plan Equity Value, which falls under the average and median of equivalent fees to backstop parties in the equity rights offerings Lazard reviewed.

37. The Termination Premiums, which equate to approximately 12% of the commitment amounts here, also fall within the range of similar fees in comparable transactions reviewed. Lazard reviewed deals with termination fees as large as approximately 20% of the commitment amount for backstop parties in debt rights offerings and approximately 37% of the commitment amount for backstop parties in equity rights offerings. Also, approximately 40% of the comparable transactions Lazard reviewed included termination fees of 10% of the commitment amount or more.

## **I. Conclusion**

38. From my perspective, the decisions to implement the Rights Offering pursuant to the Rights Offering Procedures, implement the Equity Cash-Out Option to be funded by the Private Placement, enter into the Purchase Commitment and Backstop Agreement, and pay any amounts required thereunder serve to minimize the Debtors' risk and maximize value for the Debtors' stakeholders. The Purchase Commitment and Backstop Agreement is a critical component to the RSA and the Plan. The relief requested in the Motion should allow the Debtors to meet their restructuring goals to ensure sufficient liquidity, create a sustainable capital structure by deleveraging the Debtors' balance sheets, maximize value for the Debtors and their shareholders, and generate creditor consensus for the Plan.

39. I believe that the Purchase Commitment and Backstop Agreement was negotiated in good faith and at arms' length. The Debtors entered into the Purchase Commitment and Backstop Agreement after careful consideration of its terms—including the Commitment Obligations—by Debtors' management in consultation with their experienced financial and legal advisors, including Lazard. In evaluating the Purchase Commitment and Backstop Agreement, the Debtors and their advisors determined that (i) its terms, taken as a whole, are reasonable under the circumstances and (ii) it will help ensure the Debtors have sufficient funds to implement the transactions contemplated by the RSA and the Plan.

40. The Commitment Obligations are essential components to the Purchase Commitment and Backstop Agreement. As discussed above, during negotiations the Commitment Parties insisted on the Commitment Obligations, which were necessary inducements for the Commitment Parties to agree to provide the valuable backstop and funding commitments in the Purchase Commitment and Backstop Agreement. Based on my professional experience and Lazard's assessment and comparison of the Commitment Obligations to similar commitments in comparable cases, I believe the Commitment Obligations, taken as a whole, are reasonable under the circumstances in consideration of the cost of capital and the certainty the Purchase Commitment and Backstop Agreement provides the Debtors with respect to their Chapter 11 Cases.

41. In light of the foregoing, I believe approval of the Purchase Commitment and Backstop Agreement and the Commitment Obligations is appropriate, as it will help ensure the success of the Debtors' restructuring efforts by securing the capital required for the Debtors to timely emerge from chapter 11.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information and belief.

Dated: November 13, 2023  
New York, New York

/s/ Parry Sorensen  
Parry Sorensen  
Managing Director  
Lazard Frères & Co. LLC

**Certificate of Service**

I hereby certify that on November 13, 2023, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas, and will be served as set forth in the Affidavit of Service to be filed by the Debtors' claims, noticing, and solicitation agent.

*/s/ Gabriel A. Morgan*

Gabriel A. Morgan