

ORIGINAL

LAW OFFICES
GORDON P. MACDOUGALL
1025 CONNECTICUT AVE. N.W.
WASHINGTON, D. C. 20006

TELEPHONE
AREA CODE 202
223-9738

August 26, 2002



Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington DC 20423

Re: F.D. No. 34209, NS Ry. Co.-Tr.Rts.-D&H Ry. Co., Inc. -206110
F.D. No. 34225, NS Ry. Co.-Tr.Rts.-Rdg. Blue Mtn. & Nor. RR -206111

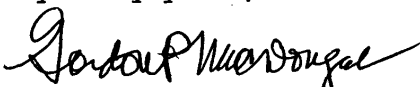
Dear Mr. Williams:

Protestant on August 12 filed its Motion to Compel and to Extend Time for Filing Supplemental Petition to Revoke. (Motion). NS Ry. has today responded to that pleading (NS Reply), but has not complied with the Board's August 16 protective order decision.

This letter is to supplement the Motion to advise that protestant on August 16--10 days ago--served the attached 5-page undertaking, by depositing the same at the U.S. Post Office during collection hours. (Cf. NS Reply, at pp. 6, 7n.6, 11, 12).

Today I received a telephone communication that one of the discovery requests--the restructuring agreement--would be furnished, perhaps by overnight mail. Of course, this does not in any way moot the remaining discovery requests, i.e., the agreements of May 5, 1998, April 11, 1999, and June 16, 1999. (Motion, App. A)

Very truly yours,


Atty. for Samuel J. Nesca

cc: John V. Edwards
Scott M. Zimmerman

ENTERED
Office of Proceedings

AUG 27 2002

Part of
Public Record

LAW OFFICES
GORDON P. MACDOUGALL
1085 CONNECTICUT AVE., N. W.
WASHINGTON, D. C. 20036

TELEPHONE
AREA CODE 202
223-9738

August 16, 2002



Mr. John V. Edwards
Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk VA 23510-9241

Re: F.D. No. 34209, NS Ry. Co.-Tr.Rts.-CPR.
F.D. No. 34225, NS Ry. Co.-Tr.Rts.-RBMN

Dear Mr. Edwards:

I enclose executed originals of Undertaking-Confidential Material, and Undertaking-Highly Confidential Material, for each of the above two captioned proceedings.

These undertakings are pages 7-8 of the STB's two decisions issued today.

I would appreciate unredacted versions of the NS-RBMN and the NS-CPR agreements mentioned in today's decisions, i.e., the trackage rights and restructuring agreements.

Very truly yours,

A handwritten signature in cursive script that reads 'Gordon P. MacDougal'.

UNDERTAKING – CONFIDENTIAL MATERIAL

I, Gordon P. MacDougall, have read the Protective Order served August 16, 2002, governing the production and use of Confidential Information and Confidential Documents in STB Finance Docket No. 34209, understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any Confidential Information or Confidential Documents obtained pursuant to that Protective Order, or to use or to permit the use of any methodologies or techniques disclosed or information learned as a result of receiving such data or information, for any purpose other than the preparation and presentation of evidence and argument in Finance Docket No. 34209, any related proceedings before the Surface Transportation Board, and/or any judicial review proceedings in connection with Finance Docket No. 34209 and/or with any related proceedings. I further agree not to disclose any Confidential Information, Confidential Documents, methodologies, techniques, or data obtained pursuant to the Protective Order except to persons who are also bound by the terms of the Order and who have executed Undertakings in the form hereof, and that at the conclusion of this proceeding (including any proceeding on administrative review, judicial review, or remand), I will promptly destroy any documents containing or reflecting materials designated or stamped as "CONFIDENTIAL," other than file copies, kept by outside counsel, of pleadings and other documents filed with the Board.

I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking and that Applicants or other parties producing confidential information or confidential documents shall be entitled to specific performance and injunctive and/or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking but shall be in addition to all remedies available at law or equity.



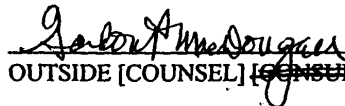
Dated: August 16, 2002

UNDERTAKING -- HIGHLY CONFIDENTIAL MATERIAL

I, Gordon P. MacDougall, am outside [counsel] ~~[consultant]~~ for United Transp. Union-NY State Legislative Board for whom I am acting in this proceeding. I have read the Protective Order served on August 16, 2002, governing the production and use of Confidential Information and Confidential Documents in STB Finance Docket No. 34209, understand the same, and agree to be bound by its terms. I agree not to use or to permit the use of any Confidential Information or Confidential Documents obtained pursuant to that Protective Order, or to use or to permit the use of any methodologies or techniques disclosed or information learned as a result of receiving such data or information, for any purpose other than the preparation and presentation of evidence and argument in Finance Docket No. 34209, any related proceedings before the Surface Transportation Board, or any judicial review proceedings in connection with Finance Docket No. 34209 and/or with any related proceedings. I further agree not to disclose any Confidential Information, Confidential Documents, methodologies, techniques, or data obtained pursuant to the Protective Order except to persons who are also bound by the terms of the Order and who have executed undertakings in the form hereof.

I also understand and agree, as a condition precedent to my receiving, reviewing, or using copies of any information or documents designated or stamped as "HIGHLY CONFIDENTIAL," that I will take all necessary steps to assure that said information or documents be kept on a confidential basis by any outside counsel or outside consultants working with me, that under no circumstances will I permit access to said materials or information by employees of my client or its subsidiaries, affiliates, or owners, and that at the conclusion of this proceeding (including any proceeding on administrative review, judicial review, or remand), I will promptly destroy any documents containing or reflecting information or documents designated or stamped as "HIGHLY CONFIDENTIAL," other than file copies, kept by outside counsel, of pleadings and other documents filed with the Board.

I understand and agree that money damages would not be a sufficient remedy for breach of this undertaking and that Applicants or other parties producing confidential information or confidential documents shall be entitled to specific performance and injunctive and/or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking but shall be in addition to all remedies available at law or equity.


OUTSIDE [COUNSEL] ~~[CONSULTANT]~~

Dated: August 16, 2002

UNDERTAKING -- CONFIDENTIAL MATERIAL

I, Gordon P. MacDougall, have read the Protective Order served August 16, 2002, governing the production and use of Confidential Information and Confidential Documents in STB Finance Docket No. 34225, understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any Confidential Information or Confidential Documents obtained pursuant to that Protective Order, or to use or to permit the use of any methodologies or techniques disclosed or information learned as a result of receiving such data or information, for any purpose other than the preparation and presentation of evidence and argument in Finance Docket No. 34225, any related proceedings before the Surface Transportation Board, and/or any judicial review proceedings in connection with Finance Docket No. 34225 and/or with any related proceedings. I further agree not to disclose any Confidential Information, Confidential Documents, methodologies, techniques, or data obtained pursuant to the Protective Order except to persons who are also bound by the terms of the Order and who have executed Undertakings in the form hereof, and that at the conclusion of this proceeding (including any proceeding on administrative review, judicial review, or remand), I will promptly destroy any documents containing or reflecting materials designated or stamped as "CONFIDENTIAL," other than file copies, kept by outside counsel, of pleadings and other documents filed with the Board.

I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking and that Applicants or other parties producing confidential information or confidential documents shall be entitled to specific performance and injunctive and/or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking but shall be in addition to all remedies available at law or equity.

Gordon P. MacDougall

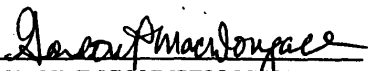
Dated: August 16, 2002

UNDERTAKING -- HIGHLY CONFIDENTIAL MATERIAL

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OUTSIDE [COUNSEL] ~~[CONSULTANT]~~

Dated: August 16, 2002