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Locking Up the Case



Walter Energy

- July 15, 2015 chapter 11 filing
- Pre-petition funded debt obligations of \$3.153 billion, consisting of:
 - \$978.2 first lien term loans and \$73 million in letter of credit commitments
 - \$970 million of 9.5% Senior Secured Notes
 - \$360.5 million in 11%/12% Senior Secured Second Lien PIK Toggle Notes
 - \$388 million in 9.875% Senior Notes
 - \$383.3 million in 8.5% Senior Notes
- Significant unfunded Pension and OPEB Liabilities



Walter Pre-Petition Restructuring Support Agreement

- Economic Terms

- \$1.8 billion of secured debt converted into all of Walter's common stock
- Up to 10% of equity for senior management under a Management Incentive Plan
- Broad releases of all claims against senior lenders including potential fraudulent transfer liability arising from financing of Western Coal Corp. acquisition



Walter Pre-Petition Restructuring Support Agreement

- **Milestones**

- 31 days after filing, Debtor required to:
 - File acceptable Plan and Disclosure Statement
 - Make acceptable §§1113 and 1114 proposals to UMWA, USW and non-union retirees
- 34 days after filing, final approval of cash collateral order with RSA parties which limited all committees to \$10,000 per month in compensation for all professionals and the right to proceed to a sale of the Debtors in the event of a default
- 60 days after filing, court approval of the RSA



Walter Pre-Petition Restructuring Support Agreement

- Milestones (cont.)
 - 96 days after filing, Debtor required to file §§1113 and 1114 motions
 - 104 days after filing, court approval of Disclosure Statement
 - 134 days after filing, court rulings on §§ 1113 and 1114 motions that are acceptable to RSA parties
 - 180 days after filing, confirmation order entered
 - 210 days after filing, substantial consummation of plan



Walter Pre-Petition Restructuring Support Agreement

- Termination Events
 - Any change to RSA or Cash Collateral Order
 - Failure to meet any deadlines
 - Projected non-ordinary administrative or priority claims exceeding \$10 million
 - Strike or work slow-down lasting more than three days
 - Failure to obtain §§ 1113 or 1114 relief acceptable to the RSA parties



Walter Pre-Petition Restructuring Support Agreement

- Extraordinary Remedies
 - Cash Collateral and RSA were cross-defaulted
 - Case flipped to a §363 sale where RSA parties would credit bid and receive significant bid protections in the event of a default
 - Appointment to board of foreign subs selected by RSA parties
 - Severe limitations on payment of professional fees to any party that might challenge the RSA or Cash Collateral Order



Exide Technologies

- Bankruptcy filing on June 10, 2013
- Petition Date capital structure:
 - \$887M of debt outstanding
 - \$160M ABL Facility
 - \$675M of Senior Secured Notes
 - \$52M in Convertible Debt
- 2L Lenders (\$675M Senior Secured Notes) provided the majority of the DIP Financing



Exide DIP Financing Summary – Original Proposed Terms

▪ **DIP Financing:**

- \$225M first-out asset-based revolving credit facility (led by JP Morgan)
- \$275M second-out term loan facility (provided by existing 2L Lenders)

▪ **Term/Maturity:**

- 16 months after the conditions to initial funding are satisfied
 - Could be brought forward in Event of Default, entering into a reorganization plan, etc.



Exide DIP Financing Summary – Original Proposed Terms

▪ Significant Milestones and Events of Default:

Date	Months After Petition Date	Milestone
Dec. 10, 2013	6	Finalize a business plan acceptable to the DIP Agent and Required Lenders
Mar. 10, 2014	9	File a Reorg Plan acceptable to the lenders
June 10, 2014	12	Begin solicitation of acceptance for a Plan
Oct. 10, 2014	16	Deadline for Effective Date of a Plan acceptable to the DIP Agent and Required Lenders



Exide DIP Financing Summary – Original Proposed Terms

▪ **Financial Covenants**

- Capital expenditures (“Capex”)
 - Cannot exceed \$25M in a fiscal quarter
 - Cannot exceed \$85M in four consecutive fiscal quarters
- Cumulative EBITDA
 - Must meet a minimum threshold
 - Tested on a monthly basis
- Other
 - Non-recurring costs and expenses related to environmental compliance initiatives not to exceed \$5M for EBITDA add-backs



Exide Unsecured Creditor's Committee DIP Objection

- Among other considerations, the UCC primarily objected to:
 - **Maturity:**
 - An inappropriately short for the loan (16 months) under the circumstances
 - **Deadlines:**
 - Business plan/reorg deadlines too short for appropriate assessment of issues
 - **Financial covenants:**
 - Viewed as restrictive and unreasonable in light of Exide's past history and future needs, specifically:
 - Capex limitations, including environmental capex
 - Cap on environmental compliance costs being added back to EBITDA
 - **Monthly cumulative EBITDA tests viewed as overly restrictive**



Resolution of Contested Issues

In response to the UCC objections, both parties ultimately negotiated a settlement that provided for more flexibility and relaxed the control provisions in the DIP

- A number of objectionable terms in the DIP financing were addressed in the settlement, most notably:
 - Capital expenditures limitations relaxed
 - Definition of Acceptable Plan changed to remove specific “acceptable to the DIP Agent” language
 - Case milestones extended
- Changes to the DIP helped Exide use the additional time and financial flexibility to provide a more value-maximizing plan for all creditors to be pursued (and ultimately confirmed)



Verso Corporation / New Page Corporation

- Two companies merged in 2014 but maintained separate capital structures
- Post-Merger New Page paid Verso \$13 million per month under a Shared Services Agreement
- January 26, 2016 chapter 11 filing
- New Page owed Verso \$16.6 million / New Page held potential avoidance claims against Verso
- RSA executed two days before filing



Verso/New Page Prepetition Restructuring Support Agreement

Economic Terms:

*as of 4-27-16

Claim Type	Petition Date Claim Amount	Plan Treatment	Creditors Class % Executing RSA*
Verso First Lien Claims	\$1.118 billion	(i) 50% of the reorganized Verso Corp. common equity (before giving effect to any dilution caused by the Plan Warrants and the New Equity Incentive Plan, the " <u>Common Equity</u> "); and (ii) Plan warrants for 5% of the Common Equity on a fully diluted basis and a seven year term.	63%



Verso/New Page Prepetition Restructuring Support Agreement

Economic Terms:

*as of 4-27-16

Claim Type	Petition Date Claim Amount	Plan Treatment	Creditors Class % Executing RSA*
Verso Senior Debt Claims	\$550 million	2.85% of the Common Equity	78%
Verso Subordinated Debt Claims	\$106 million	0.15% of the Common Equity	44%
NewPage Roll-Up DIP Term Loan Claims	\$175 million	The portion of up to 47% of the Common Equity having a plan value equal to the allowed amount of the claim	100%
NewPage First Lien Claims	\$556 million	Any equity remaining from distributions made to the NewPage Roll-Up DIP Term Loan Claims	99%



■ Milestones

- 28 days after case filing – Approval of a new shared services agreement
- 60 days after case filing – Acceptable plan and disclosure statement filed
- 104 days after case filing – Approval of disclosure statement
- 160 days after case filing – Confirmation Order entered
- 30 days after confirmation – Effective Date



Verso/New Page Pre-Petition Restructuring Support Agreement

- Termination Rights

- Unacceptable changes to DIP Financing Order
- Failure to use DIP Proceeds to take certain actions
- Any party challenges the liens or claims of the “Required Consenting Creditors”
- Any unacceptable modifications to the Disclosure Statement or Plan
- Any extension by more than 90 days of any milestone deadline

- Extraordinary Remedies

- Both the DIP and the RSA contained provisions that triggered the right of the participating creditors to force a sale of the Debtors’ assets in the event of a default of the DIP or termination of the RSA