

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

In re:

**MISSISSIPPI PHOSPHATES
CORPORATION, *et al.***

Debtor.

Case No. 14-51667-KMS

**FIRST INTERIM APPLICATION FOR COMPENSATION AND REIMBURSEMENT
OF EXPENSES SUBMITTED BY BURR & FORMAN LLP, ATTORNEYS FOR THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

COVER SHEET

1. Name of Applicant: Burr & Forman LLP ("Applicant"), 420 North Twentieth Street, Suite 3400, Birmingham, Alabama 35203
2. Authorized to Provide Professional Services to: Official Committee of Unsecured Creditors
3. Petition Date: October 27, 2014
4. Date of Retention: November 14, 2014
5. Date of Application to Employ: December 24, 2014 (Dkt. # 336)
6. Date of Order Granting Application to Employ: February 10, 2015 (*nunc pro tunc* to November 14, 2014) (Dkt. # 473)
7. Period for which compensation and reimbursement is sought: November 14, 2014 through February 28, 2015.
8. Amount of compensation sought as actual, reasonable, and necessary: \$460,684.63.
9. Amount of expense reimbursement sought as actual, reasonable, and necessary: \$7,423.69.
10. Blended Hourly Rate of Attorneys: \$319.00
11. This is a/an: ☒ interim ☐ final application

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
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**FIRST INTERIM APPLICATION FOR COMPENSATION AND REIMBURSEMENT
OF EXPENSES SUBMITTED BY BURR & FORMAN LLP, ATTORNEYS FOR THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

COMES NOW, Burr & Forman LLP, attorneys for the Official Committee of Unsecured Creditors (the “Committee”), pursuant to the *Court’s Granting Motion of the Debtors for an Administrative Order Pursuant to 11 U.S.C. §§ 331 and 503 to Establish a Procedure for Interim Compensation and Reimbursement of Expenses of Employed Professionals of the Debtors and the Official Committee of Unsecured Creditors* (“Compensation Order”) (Dkt. No. 586), and in accordance with Fed. R. Bankr. P. 2016 and the *Stipulation Regarding Uniform Procedures For Attorney Timekeeping, Billing and Budgets* (Dkt. No. 614) (the “Stipulation”), hereby request that this Court award it attorneys' fees and reimbursement of expenses and authorize payment thereof in the amount of \$468,108.32, consisting of fees in the amount of \$460,684.63 and expenses in the amount of \$7,423.69. This request is for legal services rendered to the Committee from November 14, 2014 through February 28, 2015. In support of this Application, Burr & Forman LLP (“Applicant”) sets forth as follows:

TIMEKEEPER SUMMARIES

1. Person(s) who performed the services covered by this Application:

Name/Position	Admitted to Bar	Practice Group	Time	Hourly Rate ¹	Fees Billed	No. of Rate Increases Since Case Inception
PARTNERS:						
Baker, Jeff T (2014)	1988	Banking & Real Estate	17.60	\$475.00	\$8,360.00	1
Baker, Jeff T (2015)	1988	Banking & Real Estate	10.00	\$490.00	\$4,900.00	1
Creswell, Bess P.	2004	Creditor's Rights & Bankruptcy	250.20	\$300.00	\$75,060.00	
Creswell, Bess P. (Travel Rate) ²	2004	Creditor's Rights & Bankruptcy	5.50	\$225.00	\$1,237.50	
Gillespy, Gerald P.	1991	Commercial Litigation	11.60	\$475.00	\$5,510.00	
Meek, Derek F.	1999	Creditor's Rights & Bankruptcy	340.00	\$425.00	\$144,500.00	
Meek, Derek F. (Travel Rate)	1999	Creditor's Rights & Bankruptcy	17.50	\$318.75	\$5,578.13	
Moore, Cathleen C.	1999	Creditor's Rights & Bankruptcy	10.00	\$375.00	\$3,750.00	
Solomon, Marc P.	2002	Creditor's Rights & Bankruptcy	292.00	\$400.00	\$116,800.00	
Solomon, Marc P. (Travel Rate)	2002	Creditor's Rights & Bankruptcy	12.80	\$300.00	\$3,840.00	

¹ Jeff T. Baker, Kasee S. Heisterhagen, Michael Ivey, Meredith Stinson, and Margaret Tomes hourly rate increased pursuant to Burr & Forman's annual periodic step increases as set forth herein effective January 1, 2015.

² Bess Creswell, Derek Meek, and Marc Solomon have time billed for Non-Working Travel at only ¾ of their normal billing rate.

Name/Position	Admitted to Bar	Practice Group	Time	Hourly Rate[†]	Fees Billed	No. of Rate Increases Since Case Inception
ASSOCIATES:						
Haithcock, Jay H. III	2007	Creditor's Rights & Bankruptcy	79.70	\$325.00	\$25,902.50	
Heisterhagen, Kasee S. (2014)	2009	Creditor's Rights & Bankruptcy	38.10	\$230.00	\$8,763.00	1
Heisterhagen, Kasee S. (2015)	2009	Creditor's Rights & Bankruptcy	42.60	\$250.00	\$10,650.00	1
Nardella, Michael A	2008	Creditor's Rights & Bankruptcy	42.80	\$325.00	\$13,910.00	
Owens, R. Rhett	2008	Commercial Litigation	8.30	\$300.00	\$2,490.00	
Rains, Ellen C. (2014)	2012	Creditor's Rights & Bankruptcy	46.50	\$230.00	\$10,695.00	1
Rains, Ellen C. (2015)	2012	Creditor's Rights & Bankruptcy	4.80	\$260.00	\$1,248.00	1
PARALEGALS:						
Ivey, Michael (2014)	N/A	Creditor's Rights & Bankruptcy	1.40	\$185.00	\$ 259.00	1
Ivey, Michael (2015)	N/A	Creditor's Rights & Bankruptcy	12.70	\$200.00	\$2,540.00	1
Salter, Kinette	N/A	Commercial Litigation	39.50	\$180.00	\$7,110.00	
Stinson, Meredith (2014)	N/A	Creditor's Rights & Bankruptcy	12.00	\$185.00	\$2,220.00	1
Stinson, Meredith (2015)	N/A	Creditor's Rights & Bankruptcy	12.10	\$200.00	\$2,420.00	1
Tomes, Margaret (2014)	N/A	Creditor's Rights & Bankruptcy	9.20	\$120.00	\$1,104.00	1

Name/Position	Admitted to Bar	Practice Group	Time	Hourly Rate[†]	Fees Billed	No. of Rate Increases Since Case Inception
Tomes, Margaret (2015)	N/A	Creditor's Rights & Bankruptcy	14.70	\$125.00	\$1,837.50	1
TOTAL			101.60		\$17,490.50	

2. Applicant is regularly involved in bankruptcy work and has a great deal of expertise in that field, and submits that this factor has been and continues to be important in the case at bar.

3. Applicant requests that the Court approve the fees and expenses contained in this fee application. Applicant avers that its hourly rates set out hereinabove are the same rates that it charges for other clients and that said fees are considered fair and reasonable in the community.

4. Applicant submits this Application pursuant to Sections 330 and 331 of the Bankruptcy Code. Section 330 provides that the Bankruptcy Court may award to Applicant (1) reasonable compensation for actual, necessary services rendered to the Committee based on the nature, extent, and value of such services, the time spent on such services, Applicant's skill and experience in the bankruptcy field, and the cost of comparable services other than in a case under this title; and (2) reimbursement for actual, necessary expenses. 11 U.S.C. § 330. In determining the allowance of attorneys' fees and reimbursement of expenses under Section 330 of the Bankruptcy Code, the Fifth Circuit has concluded that the Bankruptcy Court must: (1) determine the nature and extent of the services rendered; (2) determine the value of those services; and (3) consider the twelve factors adopted by the Fifth Circuit in *Johnson v. Georgia Highway Exp., Inc.*, 488 F.2d 714, 717 (5th Cir. 1974), overturned on other grounds by

Blanchard v. Bergeron, 489 U.S. 87 (1989). See also *Migis v. Pearle Vision, Inc.*, 135 F.3d 1041, 1047 (5th Cir. 1998). Applicant has addressed each of the issues separately below.

NATURE AND EXTENT OF THE SERVICES RENDERED

5. Applicant has participated in every aspect of this bankruptcy case. Applicant has expended substantial time and effort in providing counsel to the Committee in connection with all aspects of the bankruptcy case during the Application Period, as more fully set forth herein.

VALUE OF SERVICES

6. An objective estimate of value of the services of a creditors' Committee attorney is determined by multiplying the number of hours reasonably expended by the attorney's reasonable hourly rate. See *Brantley v. Surles*, 804 F.2d 321, 325 (5th Cir. 1986) (citing *Blum v. Stenson*, 465 U.S. 886 (1984)) (holding that an award of attorney's fees should normally be based on multiplying a reasonable number of hours worked by a reasonable rate of compensation); *Louisiana Power & Light Co. v. Kellstrom*, 50 F.3d 319, 324 (5th Cir. 1995) (finding that the district court must multiply the reasonable hours by the reasonable hourly rates). This estimate is referred to as the "lodestar" method. The attorney's reasonable hourly rate is the prevailing market rate in the relevant legal community for similar services by attorneys of reasonably comparable skill, experience, and reputation.

7. During the course of Applicant's assistance to the Committee, Applicant utilized lawyers and legal assistants with different skills and expertise, as necessary. Applicant's hourly rates reflect those of differing skills and experience of its lawyers and are in conformity with the prevailing market rates of the legal communities and municipalities outlined above. Applicant's

hourly rates are neither more nor less than the hourly rates received by attorneys with comparable skill and experience in both bankruptcy and non-bankruptcy matters.

REASONABLENESS OF RATES AND HOURS

8. A determination of the reasonableness of the rates and hours submitted by Applicant involves consideration of the twelve (12) factors set forth below. *See Johnson*, 488 F.2d at 717.

(a) ***Time and Labor Required:*** Applicant has spent a substantial amount of time in the present case since the date of employment, and Applicant has also expended much effort because this case has required such effort for a thorough and complete job. Attached hereto as **Exhibit A** are detailed itemized records of Applicant's time and expenses which report the substance and time of every transaction performed by Applicant. Applicant has itemized telephone calls, correspondence, conferences, research, and document preparation time with respect to each aspect of the case. The time expended includes time for staff which has proven a cost effective means of handling some matters. Applicant submits that there has been a significant amount of time spent in the present case.

(b) ***The Novelty and Difficulty of the Question:*** Applicant has been requested to advise the Committee on various novel and difficult legal issues and problems, all of which required the attention of Applicant to fulfill its duties and obligation to the Committee. The complexity and difficulty of the issues presented in this case warrant the full allowance of the fees requested and the services performed.

(c) ***The Skills Requisite to Perform the Professional Services Properly:*** Applicant submits that a high degree of skill has been and continues to be essential in the representation of

the Committee. The difficulty of the issues involved has often required the immediate attention of experienced attorneys; however, Applicant has made every effort to delegate matters not requiring the services of more experienced attorneys to less experienced attorneys with a lower hourly rate.

(d) ***The Preclusion of Other Employment by Applicant Due to the Acceptance of the Case:*** While time and effort requirements of the representation of the Committee have not caused Applicant to be precluded from representing other clients, the time-sensitive nature of this bankruptcy case has demanded that this matter be given top priority. The representation of the Committee has not caused any conflicts of interest to occur.

(e) ***The Customary Fee:*** Applicant avers that its hourly rates set out herein are the rates it typically charges, and that said fees are customary, fair, and reasonable in the community.

(f) ***Whether the Fee is Fixed or Contingent:*** The fee is not contingent, other than the client's ability to pay, and no amount of the fee has been guaranteed by any third party.

(g) ***Time Limitations Imposed by the Client or the Circumstances:*** Many of the matters that Applicant has handled for the Committee have been time-sensitive.

(h) ***The Amount Involved and the Results Obtained:*** The fee requested by Applicant is reasonable given the size and complexity of the case and the results obtained thus far. As illustrated in the Project Summary Sheets set forth in **Exhibit D**, Applicant has been diligent in representing the Committee's interests in the Debtor's bankruptcy case within a very short time period.

(i) ***The Experience, Reputation and the Ability of the Professionals:*** As stated above, Applicant has extensive experience with representing debtors, creditors, and creditors' Committees in bankruptcy matters. Derek Meek, Marc Solomon, and Bess Creswell are bankruptcy lawyers with considerable experience in complex chapter 11 cases, and they have worked on all aspects of the bankruptcy-related work that has arisen in these cases. These attorneys have been assisted by junior attorneys and paralegals in their field as needed in order to provide excellent legal service to the Committee in the most cost-effective manner possible. Applicant submits that its regular involvement in bankruptcy work and its expertise in the field has been and continues to be important in the case at bar. The skill and experience of Applicant's attorneys has been of benefit to the Committee, and the complexity and difficulty of the issues involved in this case warrant the full allowance of fees requested for the services performed by Applicant.

(j) ***The Undesirability of the Case:*** Applicant submits that the case at bar is not undesirable.

(k) ***The Nature and Length of Professional Relationship with the Client:*** Not applicable.

(l) ***Awards in Similar Cases:*** Applicant relies on this Court's experience and knowledge with respect to fee awards in similar cases. Applicant submits that the fees requested in this Application are comparable to those awarded in similar cases of this nature and complexity.

STATEMENTS REGARDING RETENTION

9. The following is provided in response to the questions set forth in the U.S.

Trustee Appendix B Guidelines:

(a) **Question:** Did Applicant agree to any variations from, or alternatives to, Burr & Forman's standard billing arrangements for this engagement?

Answer: Yes. Applicant agreed to cap the hourly rate of Derek Meek at \$425, whereas his standard rate is \$440.

(b) **Question:** If fees sought in this Application as compared to the fees budgeted for the time period covered by this Application are higher than 10% or more, did you discuss the reason for variation with the client?

Answer: While a few specific project categories were over budget, the overall fees sought in this Application are not higher than 10% of the amount budgeted.

(c) **Question:** Have any of the professionals included in this fee application varied their hourly rate based on the geographic location of the bankruptcy case?

Answer: No.

(d) **Question:** Does the fee application include time or fees related to reviewing or revising time records or preparing, reviewing, or revising invoices?

Answer: No.

(e) **Question:** Does the fee application include time or fees for reviewing time records to redact any privileged or other confidential information?

Answer: No.

(f) **Question:** If the fee application includes any rate increases since retention: (i) Did your client review and approve those rate increases in advance? (ii) Did your client agree when retaining the law firm to accept all future rate increases?

Answer: The fee application includes standard step increase rates for those individuals identified specifically herein. The client reviewed and approved those rates in advance and agreed when retaining the law firm to accept all future rate increases.

BUDGET AND STAFFING ANALYSIS

10. Attached hereto is the Budget (**Exhibit B**) and Staffing Plan (**Exhibit C**) for Applicant thru April 2015.

11. Through February 2015, while Applicant was over budget in some limited categories, Applicant remains within its estimated overall budget of \$567,000. Specific budget overviews are set forth in **Exhibit D**.

12. As for staffing, Applicant had to bring in two additional attorneys to handle specific matters related to their areas of expertise. However, in each of these cases, these attorneys did not bill over 20.00 hours in total.

13. Specifically, Gerald P. Gillespy was brought in to deal with potential director and officer claim issues due to his extensive experiencing at defending and bringing such claims. Mr. Gillespy billed a total of 11.60 hours. Additionally, Rhett R. Owens was brought in to assist Mr. Gillespy with research regarding potential director and officer claims. Mr. Owens billed a total of 8.30 hours.

14. With regards to paraprofessionals, Kinette Salter is a member of Applicant's Litigation Support Staff that was brought in to handle the extensive document production regarding potential claims and challenges. While Ms. Salter billed a total of 39.50 hours, other paraprofessional staff billed on average only 25.0 hours.

15. The Project Summary Sheets and Summary of Compensation and Expenses setting forth additional details with regards to work performed and expenses incurred by Applicant are attached hereto as **Exhibit D** and **Exhibit E** respectively.

16. The Project Fee Codes³ are as follows:

<u>Project Fee Code</u>	<u>Project Fee Category</u>
1	Asset Analysis & Recovery
2	Asset Disposition & Sale Process
3	Assumption & Rejection of Contracts, Leases & Insurance Issues
4	Challenge Investigation
4(a)	Avoidance Actions & Non-Challenge Investigation
4(b)	Settlement
5	Budgeting (Case)
6	Case Administration
7	Claims Administration and Objections
8	Committee Governance & Related Issues
9	Employment and Fee Application Preparations
10	Employment and Fee Application Objections
11	Financing and Cash Collateral
12	Contested Matters/Adversary Proceedings
13	Meetings & Communication with Committee and Creditors
14	Non-Working Travel
15	Plan and Disclosure Statement
16	Real Estate
17	Relief from Stay and Adequate Protection
18	Reporting and Other Communications with US Trustee
19	Tax Issues
20	Valuation of Assets

17. All services for which compensation is requested were performed on behalf of the Committee pursuant to the Order approving employment of Applicant dated February 10, 2015, and not on behalf of the Debtor, any Creditor or other person or persons. Applicant has not received any payments from the Debtor, the Committee or the estate, nor is Applicant holding any sums. There is no agreement or understanding between Applicant or any other entity for the

³ Project Codes 15, 16, 19 and 20 did not have any activity for the time period covered by this Interim Application. As such, no Project Summary Sheets have been prepared for these codes.

sharing of compensation received or to be received for services rendered in or in connection with this case.

CONCLUSION

WHEREFORE, Applicant hereby respectfully request that allowance be made to it in the total amount of \$468,108.32, including compensation for necessary professional legal services rendered to the Committee in the amount of \$460,684.63, and for reimbursement of actual and necessary costs and expenses in the amount of \$7,423.69 during the time period covered by this Interim Application.

Dated: March 26, 2015.

/s/ Derek F. Meek

Derek F. Meek

Marc P. Solomon

Bess M. Parrish Creswell

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CERTIFICATE OF SERVICE

I certify that the foregoing pleading was filed electronically through the Court's ECF system and served electronically on all persons who are registered users of the CM/ECF System for the Bankruptcy Cases. I further certify that the foregoing pleading was served on all persons and entities listed on the Shortened Service List approved by the Court in the Bankruptcy Cases.

Dated: March 26, 2015.

/s/ Derek S. Meek

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LOCKE LORD LLP
C DAVIN BOLDISSAR
RE: BROCK SERVICES LLC
601 POYDRAS STREET, STE 2660
NEW ORLEANS, LA 70130-6036
(ECF PARTY)

MCCRANEY MONTAGNET QUIN NOBLE PLLC
DOUGLAS C NOBLE
RE: INTEROCEANIC CORPORATION
602 STEED ROAD, STE 200
RIDGELAND, MS 39157
(ECF PARTY)

MCDOWELL KNIGHT ROEDDER&SLEDGE LLC
RICHARD GAAL
RE: FLEXICREW STAFFING INC
11 NORTH WATER STREET, STE 13290
MOBILE, AL 36602
(ECF PARTY)

MCDOWELL KNIGHT ROEDDER&SLEDGE LLC
ROBERT B MCGINLEY JR
RE: FLEXICREW STAFFING INC
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MOBILE, AL 36602
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MILAM HOWARD NICANDRI DEES & GILLAM
MICHAEL T FACKLER ESQ
RE: BASTECH LLC
14 EAST BAY STREET
JACKSONVILLE, FL 32202

MILFAM I LP
ATTN: STUW, LLC
777 THIRD AVE.
NEW YORK, NY 10009

MILFAM I LP
ATTN ERIC W FANGMANN
3300 S DIXIE HIGHWAY SUITE 1-365
WEST PALM BEACH, FL 33405

MILFAM II LP
ATTN ERIC W FANGMANN
3300 S DIXIE HIGHWAY SUITE 1-365
WEST PALM BEACH, FL 33405

MILFAM II LP
ATTN: STUW, LLC
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MOTLEY RICE LLC
JOSEPH F RICE
RE: SPECIAL COUNSEL FOR DEBTORS
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MS SECRETARY OF STATE
DELBERT HOSEMAN
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MS STATE DEPT. OF HEALTH
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MS STATE HWY. DEPT.
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MS STATE TAX COMMISSION
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PAUL WEISS RIFKIND ET AL
BRIAN HERMANN
RE: HC2 HOLDING INC
1285 AVENUE OF THE AMERICAS
NEW YORK, NY 10019-6064

PAUL WEISS RIFKIND ET AL
D MEYERS
RE: HC2 HOLDING INC
1285 AVENUE OF THE AMERICAS
NEW YORK, NY 10019-6064

PAUL WEISS RIFKIND ET AL
JULIE MARTINELLI
RE: HC2 HOLDING INC
1285 AVENUE OF THE AMERICAS
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PHELPS DUNBAR LLP
JIM O'MARA
RE: TRAMMO INC FKA TRANSAMMONIA INC
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RICHARD MONTAGUE
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JEROME C. HAFTER
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PINE RIVER CREDIT RELATIVE VALUE MA
ATTN: STUW, LLC
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PINE RIVER CREDIT RELATIVE VALUE MS
ATTN ADRIAN ROSSI
C/O PINE RIVER CAPITAL MANAGEMENT L
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NEW YORK, NY 10022

PINE RIVER DEERWOOD FUND LTD
ATTN ADRIAN ROSSI
C/O PINE RIVER CAPITAL MANAGEMENT L
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PINE RIVER DEERWOOD FUND, LTD.
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PINE RIVER FIXED INCOME MASTER FUND
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RECOVERY & BANKRUPTCY GROUP
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SILVER, VOIT & THOMPSON
LAWRENCE B VOIT
RE: NICHOLAS INSULATION, RANGER
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4317-A MIDMOST DRIVE
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STUW LLC, AS ADMINISTRATIVE AGENT
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VIRTUS ANGELS FUND LP
C/O VIRTUS CAPITAL LP
ATTN STEVE GIDUMAL
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VIRTUS CAPITAL LP
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PINE RIVER MAP
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ROB LUNSFORD, CARTER DOBBS
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RE: DRESSER-RAND
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HUGO S. 'BRAD' DEBEAUBIEN
RE: CENTRAL MAINTENANCE & WELDING,
INC.
BANK OF AMERICA PLAZA
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RE: SHOOK & FLETCHER INSULATION CO
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LAWRENCE B VOIT
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VIRTUS KG FUND LP
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VIRTUS TK LLC
C/O VIRTUS CAPITAL LP
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WALLACE, JORDAN, RATLIFF & BRANDT
THOMAS A. MCKNIGHT, JR.
RE: MCCAIN ENGINEERING CO., INC.
800 SHADES CREEK PARKWAY, SUITE 400
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MICHAEL D WATSON JR
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DAVID WHEELER
RE: PHOSPHATE HOLDINGS INC
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WILFRID GLOBAL OPPORTUNITY FUND LP
C/O WILFRID AUBREY LLC
ATTN NICK WALSH
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