

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE: )  
MET-COIL SYSTEMS CORPORATION, ) Chapter 11  
Debtor. ) Case No. 03-12676 (MFW)

**RESPONSE OF MB FINANCIAL BANK, N.A. TO DEBTOR'S  
SECOND OMNIBUS OBJECTION (SUBSTANTIVE) TO CERTAIN CLAIMS  
PURSUANT TO SECTION 502 OF THE BANKRUPTCY CODE, RULE 3007 OF THE  
FEDERAL RULES OF BANKRUPTCY PROCEDURE AND RULE 3007-1 OF THE  
LOCAL RULES OF BANKRUPTCY PROCEDURE**

MB Financial Bank, N.A. ("MB Financial") responds to Debtor's Second Omnibus Objection (Substantive) to Certain Claims Pursuant To Section 502 of the Bankruptcy Code, Rule 3007 of the Federal Rules of Bankruptcy Procedure and Rule 3007-1 of the Local Rules of Bankruptcy (the "Debtor's Objection") and states as follows:

1. MB Financial's claim (claim number 173) has been designated by Debtor's Objection as a "No Liability Claim" and Debtor asks that such claim be disallowed in full and expunged.
2. MB Financial's claim is based upon the Note from Debtor to MB Financial dated July 26, 2002 (the "Note") in the amount of \$5,500,000 (the "Loan Amount") attached hereto as Exhibit A and hereby incorporated by reference as amended by that certain Loan Modification Agreement dated July 10, 2003 (the "Modification") attached hereto as Exhibit B and hereby incorporated by reference.
3. Pursuant to the Note and Modification, Debtor was obligated to pay MB Financial Bank on the Maturity Date the Loan Amount together with interest in arrears.

4. As of August 26, 2003, the date of Debtor's bankruptcy filing, the total amount of principal and interest due MB Financial was \$5,512,833.34 with a per diem interest of \$611.11 for each day paid thereafter. See Declaration of Peter Straus in support of the Response of MB Financial Bank, N.A. to Debtor's Second Omnibus Objection (Substantive) to Certain Claims Pursuant To Section 502 of the Bankruptcy Code, Rule 3007 of the Federal Rules of Bankruptcy Procedure and Rule 3007-1 of the Local Rules of Bankruptcy (the "Straus Declaration") attached hereto as Exhibit C and hereby incorporated by reference.

5. On September 8, 2003 MB Financial received \$5,500,000 when it drew on a letter of credit for its benefit of which Mestek, Inc. was the applicant (the "Letter of Credit"). See the Straus Declaration.


6. As a result of MB Financial Bank drawing on the Letter of Credit, the amount due MB Financial from Met-Coil for outstanding interest is \$20,777.78. See the Straus Declaration.

WHEREFORE, MB Financial Bank, N.A. prays as follows:

1. That this Court deny Debtor's Objection and award MB Financial Bank, N.A. the amount of \$20,777.78; and
2. That this Court grant such other and further relief as this Court deems just.

Dated: January 9, 2004

MB FINANCIAL BANK, N.A.

By:   
One of its Attorneys

Jay R. Goldberg (Illinois ARDC # 6201235)  
Field and Goldberg, LLC  
10 South LaSalle Street, Suite 2910  
Chicago, Illinois 60603  
312-408-7200

NOTE

\$5,500,000.00

July 26, 2002  
Chicago, Illinois

1. Agreement to Pay. FOR VALUE RECEIVED, the undersigned, MET-COIL SYSTEMS CORPORATION (herein called the "Borrower"), promises to pay to the order of MB FINANCIAL BANK, N.A. (herein, together with each successive owner and holder of this Note, called "Lender") in the manner provided for herein the principal sum of Five Million Five Hundred Thousand Dollars (\$5,500,000.00), or so much as may from time to time be disbursed and remain unpaid hereunder, together with interest in arrears on the balance of principal remaining from time to time unpaid at the rates provided for in Sections 3 and 4 hereof from and after the date of disbursement ("Disbursement Date") that all or any portion of the proceeds of the loan evidenced hereby shall have been initially disbursed (the "Indebtedness").

2. Definitions. For the purposes hereof, the following terms shall have the meanings set forth below:

- A. "Default Rate" shall mean interest payable at the rate set forth in Section 4 hereof.
- B. "Maturity Date" shall mean and refer to July 25, 2003.
- C. "Prime Rate" shall mean the prime rate of interest as published on a daily basis in the *Wall Street Journal*.
- D. "Regular Rate" shall mean interest payable at the rate equal to One-Half of One Percent (.5%) per annum below the Prime Rate, provided, however, that said Regular Rate shall never be less than Four Percent (4%).

3. Interest Rate Prior to Default. Borrower shall pay interest to Lender on the principal balance hereof outstanding every month prior to default at the Regular Rate. The per diem calculation of interest shall be on the basis of a three hundred sixty (360) day year, and the per diem sum so ascertained shall be multiplied by the number of days in each respective billing period to determine the amount of interest from time to time due and owing.

4. Default Rate. In the event that there shall occur:

- A. Any monetary default hereunder;
- B. Any default under any of the Loan Documents; or

EXHIBIT A

C. Maturity of the indebtedness evidenced hereby, whether by passage of time, acceleration, declaration or otherwise,

then and in any such event, the entire principal balance hereof and all indebtedness secured by the Letter of Credit (hereinafter referred to) shall thereafter bear interest at a rate equal to Five Percent (5%) per annum in excess of the Regular Rate for each day all or any part of the principal balance hereof shall remain outstanding or until the default referred to above shall be cured, whichever shall first occur. As a condition to curing any such default, however, Borrower shall pay all amounts in default together with interest charged at the Default Rate to the extent such amount exceeds interest charged at the Regular Rate.

5. Late Charge. Without limiting the provisions of Section 4 hereof, in the event any installment of interest and/or principal and interest is not paid on the due date thereof the undersigned promises to pay a late charge of Five Percent (5%) of the amount due to defray the expense incident to handling any such delayed payment or payments.

6. Payments. Subject to the provisions of the next succeeding paragraph of this Section 6, Borrower shall make monthly payments of interest only on the fifth (5<sup>th</sup>) day of each month, with the first such payment due on the fifth (5<sup>th</sup>) day of the month which immediately follows the Disbursement Date.

Notwithstanding the above, if the Disbursement Date is not on the fifth (5<sup>th</sup>) day of the month (i) on the Disbursement Date Borrower shall pay interest from the Disbursement Date through the end of the month in which the Disbursement Date has occurred, and (ii) the first full payment of interest will be due on the fifth (5<sup>th</sup>) day of the second (2nd) month following the Disbursement Date.

Borrower shall pay all Indebtedness on the Maturity Date.

7. Prepayment Privilege. The unpaid principal under this Note, along with interest due as of the date of prepayment may be prepaid without premium, penalty or other fee.

8. Application of Payments. All payments, and/or draws upon the Letter of Credit, as hereinafter defined, on account of the indebtedness evidenced by this Note shall be applied as follows:

A. First to indebtedness secured by the Letter of Credit, as hereinafter defined, which Borrower has deposited with Lender, other than the principal hereof and interest hereon charged at the Regular Rate, and specifically including but without limitation, late charges and interest, if any, charged at the difference between the Regular Rate and the Default Rate;

B. Current interest on the unpaid principal balance hereof at the applicable Regular Rate; and then

C. The unpaid principal balance of the Note.

9. Method and Place of Payment. Payments upon this Note shall be made in lawful money of the United States of America which shall be legal tender for public and private debts at the time of payment, and shall be made at such place as Lender may from time to time in writing appoint, provided that in the absence of such appointment all payments hereon shall be made at the offices of Lender, 1200 North Ashland Avenue, Chicago, Illinois 60622.

10. Loan Documents. This Note is given to evidence an actual loan in the above amount, and is the Note referred to in and/or secured by the following and such other instruments evidencing, securing, or pertaining to this Note as shall, from time to time, be executed and delivered by Borrower or any other party to Lender, including, but not limited to the following documents (collectively, the "Loan Documents"):

A. A Letter of Credit issued by Fleet National Bank, N.A. to Borrower in the amount of \$5,500,000.00 which names Lender as the sole beneficiary (herein called the "Letter of Credit"); and

B. A Closing Certificate (the "Closing Certificate").

Reference is hereby made to the Loan Documents, which are incorporated herein by this reference as fully and with the same effect as if set forth herein at length, a statement of the representations, warranties, covenants and agreements of the Borrower, a statement of the rights, remedies and security afforded thereby, and all other matters therein contained.

11. Default, Acceleration, Right to Draw Upon Letter of Credit. The Lender may draw upon all or part of any Letter of Credit at any time and without notice to the Borrower, and apply the proceeds to the Indebtedness, if any of the following occurs:

a. On or after the Maturity Date, which may be accelerated, the Borrower has failed to pay any portion of the Indebtedness;

b. Upon the occurrence of a default hereunder; or

c. Upon the occurrence of default under any of the other Loan Documents;

12. Usury. Borrower represents that the loan evidenced by this Note is exempt from any limitations on the rate of interest that may be charged hereunder. In no event shall any interest or payment in the nature of interest be charged or collected by Lender or paid by Borrower which shall exceed the maximum contract interest rate now allowed for a loan of this type by the laws of the State of Illinois (the "Maximum Interest Rate"). It is the intention of Lender and Borrower not to contract for a greater rate of interest than

the Maximum Interest Rate. Interest, or any payment determined to be in the nature of interest, charged or collected by Lender or paid by Borrower exceeding the Maximum Interest Rate shall be deemed to result from mutual mistake, and any sums so charged, collected, or paid shall be refunded to Borrower.

13. **Costs of Enforcement.** In the event that this Note is placed in the hands of an attorney-at-law for collection after maturity, or in the event that proceedings at law, in equity, or bankruptcy, receivership or other legal proceedings are instituted or threatened in connection herewith, or if Lender or its participant, if any, is made a party to any such proceeding, or in the event that this Note is placed in the hands of an attorney-at-law following a default hereunder or under any of the Loan Documents to enforce or interpret any of the rights or requirements contained herein or in the Letter of Credit given as security for, or related to, the Indebtedness evidenced hereby, the Borrower hereby agrees to pay all reasonable costs of collecting or attempting to collect this Note, or protecting, interpreting or enforcing such rights, including, without limitation, reasonable attorneys' fees, costs and expenses (whether or not suit is brought), in addition to all principal, interest and other amounts payable hereunder; all of which shall be secured by the Letter of Credit.

14. **Addresses and Notices.** Any notice which any party hereto may desire or may be required to give to any other party shall be in writing, and the personal delivery thereof or electronic facsimile transmission thereof, or the passage of three days after the mailing thereof by registered or certified mail, return receipt requested, or upon the next business day after timely and proper deposit, charges paid, with any overnight carrier with respect to next day service, to the addresses initially specified in the introductory paragraph hereof, or to such other place or places as any party hereto may by notice in writing designate, shall constitute service of notice hereunder. Any notice sent by facsimile shall be deemed received on the date of transmission if confirmation is received before 5:00 P.M. Chicago time on a business day, otherwise, such notice shall be deemed received on the next business day.

A copy of all notices shall be directed as follows:

If to Lender:

MB Financial Bank, N.A.  
Attn: Peter Straus  
3232 West Peterson Avenue  
Chicago, Illinois 60659  
Fax: (773) 583-4082

and a copy to:

Field and Goldberg, LLC  
Attn: Jay R. Goldberg  
321 South Plymouth Court, Suite 800

Chicago, Illinois 60604  
Fax: (312) 408-7201

If to Borrower:

Met-Coil Systems Corporation  
Attn: Rian Scheel  
711 Ogden Avenue.  
Lisle, Illinois 60532  
Fax: 630-964-8489

and a copy to:

Mestek, Inc.  
Attn: J. Nicholas Filler  
260 North Elm Street  
Westfield, Massachusetts 01085  
Fax: (413) 568-7428

All notices required or permitted to be given hereunder shall be given in the manner and to the place as provided herein for notices to the party to whom such notice is given.

15. Time. Time is of the essence of this Note and each of the provisions hereof.
16. Captions. The captions to the sections of this Note are for convenience only and shall not be deemed part of the text of the respective sections and shall not vary, by implication or otherwise, any of the provisions of this Note.
17. Disbursement to Escrow. Funds representing the proceeds of the principal evidenced hereby which are disbursed by Lender by mail, wire transfer or other delivery to the Borrower or at Borrower's direction, to escrows or otherwise for the benefit of the Borrower, for all purposes, shall be deemed outstanding hereunder and to have been received by Borrower as of the date of such mailing, wire transfer or other delivery, and interest shall accrue and be payable upon such funds from and after the date of such wire transfer, mailing or delivery and until repaid, notwithstanding the fact that such funds may not at any time have been remitted by such escrows to Borrower or for its benefit.
18. Governing Law. This Note shall be governed by the laws of the State of Illinois.
19. Waivers. The Borrower hereby:
  - A. Waives demand, presentment for payment, notice of dishonor, protest and notice of protest, notice of nonpayment and all other notices of any kind;

B. Waives notice of and consents to any and all extensions of this Note, or any part thereof, the release of all or any part of the security for this Note, or the release of any party liable hereon, and agrees that such extension or release may be made at any time and from time to time without notice to the Borrower and without discharging its liability, if any, and without affecting any lien or security given for this Note;

C. Waives any and all notice of whatsoever kind or nature, except where notice is specifically required by applicable law, hereunder, or under any other document which evidences, secures or governs the disbursement of the loan evidenced hereby and the exhaustion of legal remedies hereon.

20. Release of Letter of Credit. Lender shall release the Letter of Credit to Borrower within ten (10) days of payment of the Indebtedness in full.

21. Forbearance. Any forbearance by Lender in exercising any right or remedy under this Note, or any other Loan Documents or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by Lender of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender's right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment. Enforcement by Lender of any security for Borrower's obligations under this Note shall not constitute an election by Lender of remedies so as to preclude the exercise of any other right or remedy available to Lender.

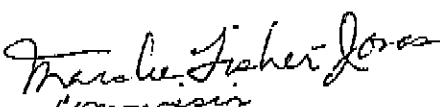
Dated as of the day and year first above written.

MET-COIL SYSTEMS CORPORATION

By: 

Name: Rian Scheel

Its: Senior Vice President

  
Commissioner  
Sept 9-1-02





## LOAN MODIFICATION AGREEMENT

THIS LOAN MODIFICATION AGREEMENT (the "Agreement") is made and entered into as of the 10<sup>th</sup> day of July, 2003 by and among MB FINANCIAL BANK, N.A. ("Lender") and MET-COIL SYSTEMS CORPORATION ("Borrower").

### WITNESSETH:

WHEREAS, Borrower has heretofore made a loan (the "Loan") to Borrower in the stated principal sum of Five Million Five Hundred Thousand Dollars (\$5,500,000.00); and

WHEREAS, the Loan is evidenced and secured by the following documents in favor of Lender (hereinafter defined and all other documents evidencing, securing or otherwise governing the Loan are collectively referred to as the "Loan Documents") each of which is dated July 26, 2002 unless otherwise stated:

(a) Note (the "Note") made by Borrower to Lender in the principal amount of Five Million Five Hundred Thousand Dollars (\$5,500,000.00); and

(b) Letter of Credit No. 1S1343160 dated July 24, 2002 issued by Fleet National Bank, N.A. to Borrower in the amount of Five Million Five Hundred Thousand Dollars (\$5,500,000.00) which names Lender as the sole beneficiary; (herein called the "Letter of Credit"); and

(c) Closing Certificate; and

WHEREAS, the Maturity Date of the Loan is July 25, 2003; and

WHEREAS, Lender and Borrower have agreed to extend the Maturity Date of the Loan; and

WHEREAS, the agreements of the parties are set forth herein and limited to this Loan Modification Agreement.

### AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed, as of the date hereof, as follows:

1. Preambles. The preambles hereto are incorporated herein by reference as fully and with the same force and effect as if each and every term, provision and condition thereof was specifically recited herein at length.

2. Definitions. All capitalized terms herein not otherwise defined shall have the same meanings as in the Note, Letter of Credit and other Loan Documents.

EXHIBIT B

3. Amendment to Note. The Note is modified to extend the Maturity Date to September 30, 2003.

4. Notices. All notices required under the Loan Documents to be sent to Field and Goldberg, LLC shall be sent as follows:

Field and Goldberg, LLC  
Attn: Jay R. Goldberg  
10 South LaSalle Street, Suite 2910  
Chicago, Illinois 60603  
Fax: (312) 408-7201

5. Continued Priority. In the event that, by virtue of any of the terms, conditions and provisions of this Agreement, a lien or other property interest otherwise junior in priority to the liens created by the Loan Documents shall gain superiority over the liens created by the Loan Documents, this Agreement shall, nunc pro tunc, be null and void without further action of the parties hereto to the fullest extent as if it had never been executed, to the end that the priority of the Loan Documents shall not be impaired.

6. Lender Expenses. Borrower agrees to pay all costs, fees and expenses (including but not limited to legal fees) incurred by Lender in connection with the preparation of this Loan Modification Agreement. Such of the foregoing as are incurred prior to the execution and delivery of this Agreement shall be paid concurrent with such execution and delivery. All other fees, costs and expenses shall be paid within five (5) business days after notice from Lender of the amount due and the reason therefor.

7. Ratification. The Loan Documents are hereby ratified, confirmed and approved and are and shall remain in full force and effect. Each of the Loan Documents is hereby modified and amended so that all reference to such documents shall be deemed to be a reference to the Loan Documents as hereby modified and amended.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the day, month and year first written above.

**LENDER:**

**MB FINANCIAL BANK, N.A.**

By: \_\_\_\_\_

Name: Peter Strays

Title: V.P.

**BORROWER:**

**MET-COIL SYSTEMS CORPORATION, a  
Delaware corporation**

By: \_\_\_\_\_

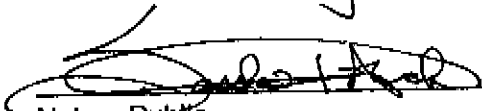
Name: Randall T Stodola

Its: Controller

STATE OF ILLINOIS     )  
                                  ) SS  
COUNTY OF COOK     )

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that Peter Straus, the Vice President of MB Financial Bank, N.A., personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of the corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 16th day of July, 2003.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

4-23-05



STATE OF )  
 ) SS  
COUNTY OF )

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Randall J Stodola, the Controller of **Met-Coll Systems Corporation, a Delaware corporation**, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer of said corporation, appeared before me in person and acknowledged that he/she delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal this 10th day of July, 2003.

Kathleen M. Michael  
Notary Public

My Commission Expires:  
11/3/04

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE: )  
MET-COIL SYSTEMS CORPORATION, ) Chapter 11  
Debtor. ) Case No. 03-12676 (MFW)  
)

**DECLARATION OF PETER STRAUS IN SUPPORT OF  
RESPONSE OF MB FINANCIAL BANK, N.A. TO DEBTOR'S SECOND OMNIBUS  
OBJECTION (SUBSTANTIVE) TO CERTAIN CLAIMS PURSUANT TO SECTION 502  
OF THE BANKRUPTCY CODE, RULE 3007 OF THE FEDERAL RULES OF  
BANKRUPTCY PROCEDURE AND RULE 3007-1 OF THE  
LOCAL RULES OF BANKRUPTCY PROCEDURE**

I, PETER STRAUS, hereby declare under penalty of perjury:

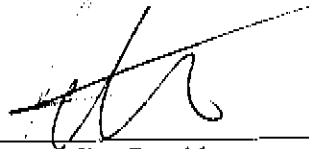
1. I am a Vice-President of MB Financial Bank, N.A. ("MB Financial").
2. I make this declaration in connection with the Response of MB Financial to Debtor's Second Omnibus Objection (Substantive) to Certain Claims Pursuant To Section 502 of the Bankruptcy Code, Rule 3007 of the Federal Rules of Bankruptcy Procedure and Rule 3007-1 of the Local Rules of Bankruptcy (the "Response"). Capitalized terms not otherwise defined herein have the meanings given to them in the Response.
3. I was intimately involved in the Note, Loan Modification and Letter of Credit and am familiar with, and have personal knowledge of, all of the facts and circumstances described in the Response and the relief requested therein.
4. Attached as Exhibits A and B to the Response is a true and correct copy of the Note and Loan Modification, respectively.
5. As of August 26, 2003, the date of Debtor's bankruptcy filing, the total amount of principal and interest due MB Financial was \$5,512,833.34 with a per diem interest of \$611.11 for each day paid thereafter.

**EXHIBIT C**

6. On September 8, 2003 MB Financial received \$5,500,000 when it drew on a letter of credit for its benefit of which Mestek, Inc. was the applicant.

7. The amount now due MB Financial from Met-Coil for outstanding interest is \$20,777.78.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. Executed on January 9, 2004.



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Peter Straus, Vice President  
MB Financial Bank, N.A.