

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

<i>In re</i>	:	
	:	Chapter 11
TRANS WORLD AIRLINES, Inc., <i>et al</i>	:	
	:	Case Number 01-0056 (PJW)
	:	
Debtors.	:	Jointly Administered

**UNITED STATES TRUSTEE'S OBJECTION TO DEBTORS' MOTION  
TO LIMIT NOTICE AND SHORTEN TIME FOR FILING  
OBJECTIONS TO DISCLOSURE STATEMENT (D.I. 2457)**

In support of his Objection to the Debtors' Motion to Limit Notice and Shorten Time for Filing Objections to the Disclosure Statement, (the "Motion"), Donald F. Walton, Acting United States Trustee for Region 3 ("UST"), by undersigned counsel, avers as follows:

1. This Court has jurisdiction to hear the above-referenced Objection.
2. Pursuant to 28 U.S.C. § 586, the UST is charged with overseeing the administration of Chapter 11 cases filed in this judicial district. This duty is part of the UST's overarching responsibility to enforce the bankruptcy laws as written by Congress and interpreted by the courts. *See United States Trustee v. Columbia Gas Sys., Inc. (In re Columbia Gas Sys., Inc.)*, 33 F.3d 294, 295-96 (3d Cir. 1994) (noting that UST has "public interest standing" under 11 U.S.C. § 307, which goes beyond mere pecuniary interest); *Morgenstern v. Revco D.S., Inc. (In re Revco D.S., Inc.)*, 898 F.2d 498, 500 (6<sup>th</sup> Cir. 1990) (describing the UST as a "watchdog").
3. In furtherance of his case supervisory responsibilities, as well as pursuant to 11 U.S.C. § 307, the UST has standing to raise and be heard on issues of compensation and reimbursement of expenses.

4. By their Motion, the Debtors seek to reduce the time fixed for filing objections to their disclosure statement from the twenty-five (25) days mandated by Bankruptcy Rule 2002(b) to twenty (20) days, plus three days for mailing.

5. Del.Bankr.LR. 9006-1(e) provides in relevant part that “[n]o motion will be scheduled on less notice than required by these Rules or the Fed.R. Bankr. P. except by Order of the Court, on written motion (served on all interested parties) *specifying the exigencies justifying shortened notice.*”

6. The Motion does not set forth *any* exigent circumstances which would justify a five day reduction in the time available for parties in interest to object to the disclosure statement. Indeed, the Motion does not even purport to explain the request. At best, one might infer that the Debtors want the disclosure statement hearing to proceed on the January 3, 2002 omnibus hearing date, but at the same time wish to preserve for themselves the benefit of a full week or more before the hearing to address such objections. Having failed to file and serve the disclosure statement in sufficient time to allow parties in interest the twenty-five (25) days’ notice required by Bankruptcy Rule 2002(b), the Debtors now seek to externalize the detriment of their inadequate planning by shifting it to their creditors and other parties in interest.

7. The Advisory Committee Comments to Bankruptcy Rule 2002 indicate that:

Subdivision (b) is similar to subdivision (a) but lengthens the notice time to 25 days *with respect to those events particularly significant in Chapter 9, 11 and 13 cases.* The additional time may be necessary to formulate objections to a disclosure statement or confirmation of a plan and preparation for the hearing on approval of the disclosure statement or confirmation.

(Emphasis added). Bankruptcy Rule 2002(b) was drafted to ensure adequate notice and time to object with respect to significant Chapter 11 events. Its time frame should not be trifled with to

suit the convenience of the Debtors. If the Debtors were unable to serve their disclosure statement in sufficient time to hold a hearing on January 3, 2002 and still comply with Bankruptcy Rule 2002(b), penalizing creditors and other parties in interest by shortening their objection period is not the answer. The appropriate solution is for the Debtors to reschedule the disclosure statement hearing to allow compliance with Bankruptcy Rule 2002(b).

8. Moreover, the distribution of the Debtors' disclosure statement and the deadline for filing objections to it run squarely through the Christmas season, where delays in mail service are a well-known fact of life. Such holiday-driven delays, which are in addition to the mail service interruptions fomented by the anthrax attacks that followed the September 11, 2001 attacks on the United States, serve only to exacerbate the usual difficulties of shortening the notice and objection period. This further militates against shortening the objection period.

9. The Debtors allege that the requested shortening of time for filing objections is "minor" and will not prejudice any party in interest. In fact, the Debtors are requesting that creditors and other parties in interest be stripped of twenty percent (20%) of the time allowed to review, analyze and formulate objections to the disclosure statement, which is one of the most significant events in a Chapter 11 case. Such a reduction is neither minor nor non-prejudicial, and should not be permitted.

10. Although not specifically addressed in the title of their Motion (and in fact buried deep within the Motion), the Debtors ask the Court to require that anyone who objects to the adequacy of the disclosure statement "provide the specific text of the additional or different disclosure that the objecting party believes to be appropriate to resolve such objection." This is unsatisfactory and inappropriate for at least two reasons:

(a) Preparation of a disclosure statement in support of their plan liquidating plan of reorganization is the responsibility of the Debtors. Indeed, through successive motions under 11 U.S.C. § 1121(d), the Debtors have retained the exclusive right to file a plan. The Debtors cannot have it both ways by requiring creditors to prepare all or any part of the Debtors' disclosure statement.

(b) Objecting parties may not be in possession of the information needed to prepare additional or different disclosures. Again, it is inappropriate for the Debtors to shift to others the burden of obtaining information for inclusion in the Debtors' disclosure statement. Although it may be permissible to suggest that objecting parties are *permitted* to provide specific text of additional or different disclosures that would resolve their objections, it is inappropriate and unfair to *require* them to provide such additional text.

WHEREFORE, the Acting United States Trustee respectfully requests that this Court deny the Motion in its entirety.

Respectfully submitted,

**DONALD F. WALTON**  
**ACTING UNITED STATES TRUSTEE, REGION 3**

Dated: December 6, 2001

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