

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re:) Case No. 08-36642-KLP
CANAL CORPORATION, *et al.*,) Chapter 11
Debtors.¹) (Jointly Administered)

**DECLARATION OF J.P. CAUSEY, JR.,
IN SUPPORT OF PLAN CONFIRMATION**

I, J.P. Causey, Jr., hereby declare (the "Declaration"), pursuant to 28 U.S.C. § 1746, that the following statements are true and correct, to the best of my knowledge and belief after due inquiry as described herein:

1. I submit this Declaration in support of confirmation of the *Amended Plan of Liquidation of WTM I Company* [Docket No. 2422] (as amended or modified, the "Plan").²

2. I have been involved with Debtor Canal Corporation (f/k/a Chesapeake Corporation) ("Canal") for over 37 years. During that time, I have served as a corporate officer in numerous capacities. As of December 29, 2008 (the "Petition Date"), I served as Canal's Executive Vice President, Secretary & General Counsel, and as an officer and/or director for many of the other Debtors.

3. Following the effective date of the *Second Amended Joint Plan of Liquidation of Canal Corporation and Certain of its Affiliated Debtors* [Docket No. 1324] (as amended or

¹ The Debtors whose chapter 11 cases have not been closed and the last four digits of their respective taxpayer identification numbers are as follows: Canal Corporation (f/k/a Chesapeake Corporation) (6880), Canal NC Company (f/k/a Chesapeake Printing and Packaging Company) (9208), Canal NY Company, Inc. (f/k/a Chesapeake Pharmaceutical Packaging Company, Inc.) (0010), and WTM I Company (1080).

² Capitalized terms not defined in this Declaration shall have the meanings ascribed to them in the Plan.



modified, the “Canal Plan”) on April 18, 2011, I have served as the plan administrator of the Canal Plan Debtors and as the Vice President and Secretary of WTM I Company (“WTM”).

4. In this capacity, I am familiar with WTM’s operations, the terms and conditions of the Plan, the *Disclosure Statement With Respect to Amended Plan of Liquidation of WTM I Company* [Docket No. 2423] (the “Disclosure Statement”), and other documents related thereto, having participated in the negotiation and development of many features thereof.

5. Except as otherwise indicated, all facts set forth in this Declaration are based upon: my personal knowledge; my experience, knowledge, and information concerning WTM; my review of relevant business records; information provided to me by persons working under my direction; or a review of pleadings and orders on the Court’s docket for these cases. If called upon to testify, I would testify competently to the facts set forth in this Declaration.

I. General Background

6. On the Petition Date, WTM and each of the Canal Plan Debtors filed with the Court its voluntary petition for relief under chapter 11 of the Bankruptcy Code, commencing the above-captioned chapter 11 cases.

7. On April 1, 2011, the Bankruptcy Court entered the *Findings of Fact, Conclusions of Law and Order Confirming the Second Amended Joint Plan of Liquidation of Canal Corporation and Certain of its Affiliated Debtors* [Docket No. 1416], which confirmed the Canal Plan.

8. WTM is not one of the Canal Plan Debtors and WTM remains a debtor in possession.

II. The Plan

9. On February 4, 2021, WTM filed the Plan and the Disclosure Statement.

10. On February 10, 2021, the court entered the *Order (I) Approving the Disclosure Statement; (II) Establishing Procedures for Solicitation and Tabulation of Votes to Accept or Reject the Plan, Including (A) Approving Form and Manner of Solicitation Procedures, (B) Approving Form and Notice of the Confirmation Hearing, (C) Establishing Record Date and Approving Procedures for Distribution of Solicitation Packages, (D) Approving Forms of Ballots, (E) Establishing Deadline for Receipt of Ballots and (F) Approving Procedures for Vote Tabulations; (III) Establishing Deadline for Procedures for Filing Objections (A) to Confirmation of the Plan, and (B) to Proposed Cure Amounts; and (IV) Granting Related Relief* [Docket No. 2429] (the “Disclosure Statement Order”).

III. The Plan Satisfies Section 1129 of the Bankruptcy Code

11. On the basis of my understanding of the Plan, the events that have occurred throughout WTM’s chapter 11 case, and discussions with WTM’s legal advisors regarding various orders entered during these cases and the requirements of the Bankruptcy Code, I believe that the Plan fully complies with the applicable provisions of section 1129 of the Bankruptcy Code for confirmation of a chapter 11 plan, that the Plan was proposed in good faith, and that WTM, acting through its officers, directors, professionals, and agents, has conducted itself in a manner that complies with applicable law in relation to the formulation and negotiation of, and the solicitation of votes with respect to, the Plan.

12. WTM’s Compliance with the Bankruptcy Code (11 U.S.C. § 1129(a)(1)). On the basis of my understanding and discussions with WTM’s legal advisors, I believe that the Plan complies with section 1129(a)(1) of the Bankruptcy Code as follows:

- Section 1122 of the Bankruptcy Code: Article III of the Plan sets forth the classification of Claims and Interests. I have been advised that such classification complies with section 1122

of the Bankruptcy Code because each Class contains only Claims or Interests that are substantially similar to each other. In addition, Claims of the type described in section 507(a)(1) of the Bankruptcy Code (Administrative Claims and Professional Fee Claims) and section 507(a)(8) of the Bankruptcy Code (Priority Tax Claims) are not classified in Article III of the Plan. Rather, the treatment of such Claims is addressed in Article IV of the Plan.

- Section 1123(a)(1) of the Bankruptcy Code: Article III of the Plan provides for the separate classification of Claims against, and Interests in, WTM, as required by section 1123(a)(1) of the Bankruptcy Code and designates the Classes of Claims and Interests, other than the Claims of the type described in sections 507(a)(2), 507(a)(3), and 507(a)(8) of the Bankruptcy Code.
- Section 1123(a)(2) of the Bankruptcy Code: Article V of the Plan specifies that the Classes of Claims and Interests either are impaired or unimpaired under the Plan within the meaning of section 1124 of the Bankruptcy Code.
- Section 1123(a)(3) of the Bankruptcy Code: Article V of the Plan sets forth the treatment of each Class of Claims and Interests that are impaired under the Plan, as required by section 1123(a)(3) of the Bankruptcy Code.
- Section 1123(a)(4) of the Bankruptcy Code: Article V of the Plan details the treatment for Holders of Claims and Interests in each Class and provides that the treatment within each Class is not disparate among the Class members as required by section 1123(a)(4) of the Bankruptcy Code.
- Section 1123(a)(5) of the Bankruptcy Code: Articles VI, VII, VIII, IX and X of the Plan set forth adequate means for implementation of the Plan, as required by section 1123(a)(5) of the Bankruptcy Code.

- Section 1123(a)(6) of the Bankruptcy Code: The Plan contemplates cancellation of all Interests in WTM. There is no provision in the Plan for the issuance of nonvoting equity securities.
- Section 1123(a)(7) of the Bankruptcy Code: The Plan provides for the appointment of the Plan Administrator as the sole officer and director of the post-Effective Date WTM, in all respects consistent with the interests of creditors and public policy, as required by section 1123(a)(7) of the Bankruptcy Code.
- Section 1123(a)(8) of the Bankruptcy Code: This section applies to individual debtors and is not applicable to WTM.

13. WTM's Compliance with the Bankruptcy Code (11 U.S.C. § 1129(a)(2)). On the basis of my understanding and discussions with WTM's legal advisors, I believe that WTM has complied with the applicable provisions of the Bankruptcy Code, including sections 1125 and 1126 of the Bankruptcy Code regarding disclosure and Plan solicitation. To the best of my knowledge and belief, and as evidenced by the Disclosure Statement Order, prior orders of this Court, and the filings submitted by WTM, WTM has complied with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Disclosure Statement Order in transmitting the Disclosure Statement, the Plan, and related documents and notices to known Holders of Claims for purposes of soliciting and tabulating votes on the Plan. Counsel for WTM has advised me that good, sufficient, and timely notice of the Confirmation Hearing has been provided to all known record Holders of Claims and Interests and all other parties in interest to whom notice was required to have been provided.

14. Additionally, it is my understanding, as described in the *Declaration of Angela M. Nguyen Regarding Tabulation of Ballots with Respect to Vote on Amended Plan of Liquidation*

of *WTM I Company* filed with the Bankruptcy Court on Monday, March 22, 2021 [Docket No. 2436] (the “Voting Declaration”), that WTM has properly solicited and tabulated votes with respect to the Plan. Accordingly, I believe that WTM has complied with the requirements of section 1129(a)(2) of the Bankruptcy Code.

15. Plan Proposed in Good Faith (11 U.S.C. § 1129(a)(3)). On the basis of my understanding and discussions with WTM’s legal advisors, I believe that WTM has met its good faith obligations under section 1129(a)(3) of the Bankruptcy Code. The Plan has been proposed with the legitimate and honest purpose of expeditiously liquidating any remaining Assets, distributing value to creditors and dissolving WTM. The Plan and the Disclosure Statement reflect the culmination of arms-length negotiations by and among WTM, the FTB, and other Persons.

16. Thus, WTM has complied with the requirement of section 1129(a)(3) of the Bankruptcy Code that the Plan be proposed in “good faith and not by any means forbidden by law.”

17. Payments for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)). On the basis of my understanding and discussions with WTM’s legal advisors, the Bankruptcy Court has authorized and approved the payment of certain fees and expenses of professionals retained in these cases. These fees and expenses, as well as all other accrued fees and expenses of non-ordinary course professionals retained by WTM, and any ordinary course professional that exceeded the applicable fee caps, either have been approved on a final basis as reasonable by the Court, or remain subject to final review by the Bankruptcy Court for reasonableness under sections 327, 328, 330 and 331 of the Bankruptcy Code and the Plan requires the filing of a final fee application by such professionals.

18. Therefore, I believe such payments are reasonable, represent a reasonable exercise of sound business judgment, and are in the best interests WTM, its Estate, its Creditors, and other parties in interest.

19. Directors and Officers (11 U.S.C. § 1129(a)(5)). WTM has selected me as the Plan Administrator. The Plan Administrator Agreement identifies the compensation to be paid to the Plan Administrator.

20. Based on the foregoing and on the basis of my understanding and discussions with WTM's legal advisors, I believe that WTM has satisfied the requirements of section 1129(a)(5) of the Bankruptcy Code.

21. No Rate Changes (11 U.S.C. § 1129(a)(6)). Section 1129(a)(6) of the Bankruptcy Code is inapplicable to these cases because WTM is not changing any rates that require approval by a governmental agency.

22. "The Best Interest of Creditors Test" (11 U.S.C. § 1129(a)(7)). On the basis of my understanding and discussions with WTM's legal advisors, I believe that the Plan complies with section 1129(a)(7) of the Bankruptcy Code. I have been advised that in order to satisfy the "best interests" test under this section, each Holder within an impaired Class must either (a) vote to accept the Plan or (b) receive no less than such Holder would have received in a liquidation. In a chapter 7 liquidation case, Holders of General Unsecured Claims could very possibly receive no Distributions from WTM's Estate (in contrast to the expected Distributions under the Plan) because the FTB Settlement Agreement would not become effective in a chapter 7 liquidation case. Accordingly, the treatment provided to Holders of General Unsecured Claims under the Plan is no worse than Holders of General Unsecured Claims would receive in a chapter

7 liquidation. In addition, the Interests in Class 5 receive nothing under the Plan and would not receive anything in a chapter 7 liquidation case.

23. Accordingly, I believe that the Plan satisfies the “best interest” test.

24. Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)). The Voting Declaration reflects the compilation of the votes to accept or reject the Plan by each of the impaired Classes entitled to vote.

25. The holders of Claims in Class 1 and Class 2 are not impaired by the Plan and therefore not entitled to vote. The holders of Claims in these Classes are conclusively presumed to have accepted the Plan.

26. As demonstrated in the Voting Declaration, the only Classes entitled to vote, Class 3 and Class 4, each voted to accept the Plan.

27. Treatment of Administrative Claims, Professional Fee Claims, and Priority Claims (11 U.S.C. § 1129(a)(9)). On the basis of my understanding and discussions with WTM’s legal advisors, I believe that the Plan complies with section 1129(a)(9) of the Bankruptcy Code.

28. In accordance with section 1129(a)(9)(A) of the Bankruptcy Code, Sections 4.1 and 4.2 of the Plan provide that Holders of Allowed Administrative Claims and Allowed Professional Fee Claims will be paid in cash in the Allowed amount of such Claims.

29. In accordance with section 1129(a)(9)(B) of the Bankruptcy Code, Section 5.1 of the Plan provides that, except to the extent the Holder of an Allowed Priority Non-Tax Claim agrees to less favorable treatment, Holders of Allowed Priority Non-Tax Claims will be paid in full in accordance with the Plan.

30. In accordance with sections 1129(a)(9)(C)-(D) of the Bankruptcy Code, Section 4.3 of the Plan provides that, except to the extent the Holder of an Allowed Priority Tax Claim agrees to less favorable treatment, Holders of Allowed Priority Tax Claims will receive cash in an amount equal to the unpaid portion of such Allowed Claim.

31. Acceptance by Impaired Classes of Claims (11 U.S.C. § 1129(a)(10)). On the basis of my understanding and discussions with WTM's legal advisors, I believe the Plan satisfies section 1129(a)(10) of the Bankruptcy Code because at least one class of impaired Claims has accepted the Plan, determined without including any acceptance of the Plan by an insider.

32. As set forth in the Voting Declaration, impaired Classes 3 and 4 each voted to accept the Plan by the requisite majorities in such Classes, without including votes cast by insiders.

33. Feasibility (11 U.S.C. § 1129(a)(11)). On the basis of my understanding and discussions with WTM's legal advisors, I am aware that section 1129(a)(11) of the Bankruptcy Code permits a plan to be confirmed if it is feasible, meaning that it is not likely to be followed by the liquidation or need for further financial reorganization, unless such liquidation or reorganization is contemplated by the plan. On the basis of my understanding and discussions with WTM's legal advisors, I believe that the Plan satisfies the requirements of section 1129(a)(11) of the Bankruptcy Code because the Plan is a liquidating plan.

34. Payment of Fees (11 U.S.C. § 1129(a)(12)). WTM will pay on the Effective Date all fees, if any, then payable under section 1930 of chapter 123 of title 28 of the United States Code, and WTM will pay any such fees due after the Effective Date. Thus, on the basis of my

understanding and discussions with the WTM's legal advisors, the Plan satisfies the requirements of section 1129(a)(12) of the Bankruptcy Code.

35. Continuation of Retiree Benefits (11 U.S.C. § 1129(a)(13)). On the basis of my understanding and discussions with WTM's legal advisors, WTM is not obligated now, nor will it become obligated in the future, to pay retiree benefits as described in section 1129(a)(13) of the Bankruptcy Code.

36. Confirmation of Plan Using Cram Down Provisions (11 U.S.C. § 1129(b)). On the basis of my understanding and discussions with WTM's legal advisors, a plan may be confirmed notwithstanding the rejection or deemed rejection by a class of claims or equity interests so long as the plan does not "discriminate unfairly" and is "fair and equitable." It is my further understanding, based on such discussions, that (i) a plan does not discriminate unfairly if the legal rights of a dissenting class are treated in a manner that is consistent with the treatment of other classes whose legal rights are substantially similar to those of such dissenting class; and (ii) the "fair and equitable" requirement, as set forth in section 1129(b)(2) of the Bankruptcy Code, is satisfied with respect to unsecured claims and equity interests if the holders of claims and interests in junior classes do not receive any property under the Plan.

37. Based on my understanding and discussions with WTM's legal advisors, I believe that the Plan does not discriminate unfairly, and is fair and equitable, with respect to the only Class deemed to have rejected the Plan, Class 5, for the following reasons:

- All Interests in Class 5 under the Plan are treated the same. The Interests are extinguished under the Plan. Additionally, no Holders of Claims against or Interests in WTM junior to Class 5 will receive or retain any property under the Plan on account of such Claims or Interests. No Class of Claims or Interests

senior to Class 5 will receive property under the Plan having a value more than the Allowed amount of such Claims or Interests. Thus, there is no discrimination against any Holder of a Class 5 Interest, and the Plan is fair and equitable with respect to Class 5.

38. Principal Purpose of the Plan (11 U.S.C. § 1129(d)). The Plan has not been filed for the purpose of avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933.

39. Permissive Provisions in the Plan (11 U.S.C. § 1123(b)). On the basis of my understanding and discussions with WTM's legal advisors, section 1123(b) of the Bankruptcy Code sets forth permissive provisions that may be incorporated into a chapter 11 plan, and I believe that the Plan contains the following permissive provisions allowed by section 1123(b):

- Section 1123(b)(1) of the Bankruptcy Code: The Plan impairs or leaves unimpaired Classes of Claims and Interests, as permitted by section 1123(b)(1) of the Bankruptcy Code. Article V of the Plan provides for Class 1 (Priority Non-Tax Claims) and Class 2 (Secured Claims) to be unimpaired. Article V of the Plan provides for the following impaired Classes: Class 3 (General Unsecured Claims), Class 4 (FTB Settlement Claim), and Class 5 (Interests).
- Section 1123(b)(2) of the Bankruptcy Code: Article VII of the Plan provides for the assumption, assumption and assignment, or rejection of WTM's executory contracts and unexpired leases not previously rejected under section 365 of the Bankruptcy Code, as contemplated by section 1123(b)(2) of the Bankruptcy Code.

- Section 1123(b)(3) of the Bankruptcy Code: Consistent with section 1123(b)(3) of the Bankruptcy Code, the Plan effectuates the FTB Settlement Agreement and provides for the retention of all Claims and Causes of Action by WTM.
- Section 1123(b)(5) of the Bankruptcy Code: As authorized by section 1123(b)(5) of the Bankruptcy Code, and as discussed above, the Plan sets forth, among other things, WTM's proposed treatment of unsecured and secured Claims against WTM's Estate. In certain instances (as discussed in more detail above and in the Plan), WTM proposes to modify the rights of certain Classes, while WTM proposes to leave other Classes of Claims unimpaired, all in a manner permissible under the Bankruptcy Code.
- Section 1123(b)(6) of the Bankruptcy Code: In accordance with this permissive section of the Bankruptcy Code, the Plan provides for, among other things, (i) the revesting of the Assets with WTM, (ii) the appointment of the Plan Administrator to undertake the duties of the Plan Administrator prescribed in the Plan, and (iii) releases, exculpation and injunction provisions.

IV. Conclusion

40. Based upon the facts set forth herein and the law as I understand it, I believe that WTM has formulated, negotiated, and proposed a Plan that treats all Classes of Claims and Interests fairly, equitably, and reasonably, and satisfies all of the confirmation requirements contained in the Bankruptcy Code. I further believe that due and adequate notice of the Confirmation Hearing, the deadline for creditors in impaired Classes of Claims entitled to vote to accept or reject the Plan, and the deadline for objecting to confirmation of the Plan was properly

given. I believe WTM will have sufficient funds to carry out the provisions of the Plan, the Plan is feasible, and that confirmation of the Plan is in the best interests of WTM and its creditors.

41. Therefore, I respectfully request that the Bankruptcy Court enter an order confirming the Plan, and grant to WTM such other and further relief as is just and proper.

I, J.P. Causey, Jr., declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on March 22, 2021

/s/ J.P. Causey, Jr.
J.P. Causey, Jr.