
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

SCHEDULE 14D-1
(AMENDMENT NO. 1)
TENDER OFFER STATEMENT PURSUANT TO SECTION 14(D) (1)
OF THE SECURITIES EXCHANGE ACT OF 1934

CONRAIL INC.
(NAME OF SUBJECT COMPANY)

NORFOLK SOUTHERN CORPORATION
ATLANTIC ACQUISITION CORPORATION
(Bidders)

COMMON STOCK, PAR VALUE \$1.00 PER SHARE
(INCLUDING THE ASSOCIATED COMMON STOCK PURCHASE RIGHTS)
(Title of Class of Securities)

208368 10 0
(CUSIP Number of Class of Securities)

SERIES A ESOP CONVERTIBLE JUNIOR
PREFERRED STOCK, WITHOUT PAR VALUE
(INCLUDING THE ASSOCIATED COMMON STOCK PURCHASE RIGHTS)
(Title of Class of Securities)

NOT AVAILABLE
(CUSIP Number of Class of Securities)

JAMES C. BISHOP, JR.
EXECUTIVE VICE PRESIDENT-LAW
NORFOLK SOUTHERN CORPORATION
THREE COMMERCIAL PLACE
NORFOLK, VIRGINIA 23510-2191
TELEPHONE: (757) 629-2750
(Name, Address and Telephone Number of Person Authorized
to Receive Notices and Communications on Behalf of Bidder)

with a copy to:
RANDALL H. DOUD, ESQ.
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
919 THIRD AVENUE
NEW YORK, NEW YORK 10022
TELEPHONE: (212) 735-3000

This Amendment No. 1 amends the Tender Offer Statement on Schedule 14D-1 filed on October 24, 1996 (the "Schedule 14D-1"), by Norfolk Southern Corporation, a Virginia corporation ("Parent"), and its wholly owned subsidiary, Atlantic Acquisition Corporation, a Pennsylvania corporation ("Purchaser"), relating to Purchaser's offer to purchase all outstanding shares of (i) Common Stock, par value \$1.00 per share (the "Common Shares"), and (ii) Series A ESOP Convertible Junior Preferred Stock, without par value (the "ESOP Preferred Shares" and, together with the Common Shares, the "Shares"), of Conrail Inc. (the "Company"), including, in each case, the associated Common Stock Purchase Rights, upon the terms and subject to the conditions set forth in the Offer to Purchase dated October 24, 1996 (the "Offer to Purchase") and in the related Letter of Transmittal (which, together with any amendments or supplements thereto, constitute the "Offer"), copies of which were filed as Exhibits (a)(1) and (a)(2) to the Schedule 14D-1, respectively. Unless otherwise defined herein, all capitalized terms used herein shall have the respective meanings given such terms in the Offer to Purchase.

ITEM 3. PAST CONTACTS, TRANSACTIONS OR NEGOTIATIONS WITH THE SUBJECT COMPANY.

Item 3 is hereby amended to add the following:

(b) On October 29, 1996, a request was made to the Company pursuant to the PBCL for the use of the Company's shareholder list and security position information as well as certain other information regarding the Company and its directors and officers for purposes of permitting Parent and Purchaser to communicate with the Company's shareholders relating to their interests as shareholders, including communicating with the Company's shareholders in order to solicit offers from such shareholders to tender their Shares in the Offer and to solicit proxies against the Company's proposed amendment to the Company Articles to "opt out" of the Pennsylvania Control Transaction Law.

ITEM 4. SOURCE AND AMOUNT OF FUNDS OR OTHER CONSIDERATION.

Item 4 is hereby amended to add the following:

(a)-(b) On October 27, 1996, Parent, Purchaser, the Lenders and the Arrangers agreed to certain modifications to the terms of the Financing Commitment. The revised Summary of Terms and Conditions of the Financing Commitment is filed as an exhibit hereto.

ITEM 5. PURPOSE OF THE TENDER OFFER AND PLANS OR PROPOSALS OF THE BIDDER.

Item 5 is hereby amended to add the following:

(b) On October 29, 1996, Parent sent a letter to Parent's and the Company's customers (the "Customer Letter") which described Parent's analysis of the perceived competitive benefits of the Offer and the Proposed Merger as compared with the Proposed CSX Transaction. In addition, Parent indicated in the Customer Letter its willingness to dispose of certain of the Company's railroad assets located in New York in order to foster continued competition.

On October 30, 1996, Parent issued a press release summarizing the Customer Letter and the competitive analysis contained therein.

ITEM 10. ADDITIONAL INFORMATION.

Item 10 is hereby amended to add the following:

(e) On October 28, 1996, defendants in the Pennsylvania Litigation (the Company, its directors and CSX, the "Defendants") filed a motion to dismiss the Pennsylvania Litigation alleging that the plaintiffs (Parent, Purchaser and a Company shareholder, the "Plaintiffs") failed to state a claim in the Complaint for which relief can be granted based upon, among other things, Defendants' allegations that shareholders are not permitted to sue directors directly for breach of fiduciary duty under Pennsylvania law; and that, as a result of Parent's breach of its confidentiality agreement with the Company, the Plaintiffs' claims for equitable relief are barred. In addition, on October 28, 1996, Parent issued a press release relating to the foregoing motion to dismiss the Pennsylvania Litigation.

On October 30, 1996, the Plaintiffs amended the Complaint. In addition to the allegations cited in the original Complaint, the amended Complaint alleges, among other things, that the provisions in the CSX Merger Agreement which prohibit the Company Board from redeeming, amending or otherwise taking further action with respect to the Rights Agreement, are ultra vires under Pennsylvania law and constitute a breach of the Company directors' fiduciary duties of loyalty and care; that the tender offer materials disseminated by the Company and CSX misrepresent key terms of the Rights Agreement necessary to an understanding of the effects of the Rights Agreement; that the provision of the CSX Merger Agreement which prohibit the Company Board from withdrawing their recommendation that the Company's shareholders accept and approve the Proposed CSX Transaction and from terminating the CSX Merger Agreement for a period of 180 days from execution of the CSX Merger Agreement is ultra vires under Pennsylvania law and constitutes a breach of the Company directors' fiduciary duties of loyalty and care; and that CSX has knowingly participated in the illegal conduct of the Company and its directors.

In the amended Complaint, in addition to the relief sought pursuant to the original Complaint, the Plaintiffs seek declaratory relief and an order preliminarily and permanently enjoining the Defendants, their directors, officers, partners, employees, agents, subsidiaries and affiliates, and all

other persons acting in concert with or on behalf of the Defendants directly or indirectly from: (a) taking any action to enforce the provisions in the CSX Merger Agreement regarding the Rights Agreement described in the immediately preceding paragraph; (b) failing to take such action as is necessary to postpone the occurrence of a Distribution Date under the Rights Agreement; and (c) taking any action to enforce the provisions of the CSX Merger Agreement regarding the 180-day lock-out restrictions described in the immediately preceding paragraph.

ITEM 11. MATERIAL TO BE FILED AS EXHIBITS.

Item 11 is hereby amended to add the following:

- (a) (11) Press Release issued by Parent on October 28, 1996.
- (a) (12) Customer Letter dated October 28, 1996.
- (a) (13) Press Release issued by Parent on October 30, 1996.
- (b) (2) Revised Summary of Terms and Conditions of the Financing Commitment dated October 27, 1996.
- (g) (2) Amended Complaint filed by Parent, Purchaser and Kathryn B. McQuade against the Company, CSX et. al. (dated October 30, 1996, United States District Court for the Eastern District of Pennsylvania).

SIGNATURE

After due inquiry and to the best of its knowledge and belief, the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: October 30, 1996

NORFOLK SOUTHERN CORPORATION

By: /s/ JAMES C. BISHOP, JR.

Name: James C. Bishop, Jr.

Title: Executive Vice President - Law

ATLANTIC ACQUISITION CORPORATION

By: /s/ JAMES C. BISHOP, JR.

Name: James C. Bishop, Jr.

Title: Vice President and General
Counsel

EXHIBIT INDEX

Exhibit Number		Page
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FOR IMMEDIATE RELEASE

CONTRACT: Robert C. Fort
(757) 629-2714
(757) 463-3276

NORFOLK, VA. -- October 28, 1996 -- Norfolk Southern today released the following statement with respect to the lawsuit the Company has filed in federal court in Philadelphia against Conrail and CSX Corporation:

"In its motion to dismiss Norfolk Southern's action, Conrail has once again shown no regard for the right of its shareholders to decide for themselves which offer they prefer.

"The purpose of our lawsuit is to ensure that Conrail shareholders have complete and accurate information about the two offers and the opportunity to evaluate them on the merits. Given that chance, we're confident they'll conclude that Norfolk Southern's offer is clearly superior.

"The directors and management of Conrail, in concert with CSX Corporation, have acted deliberately and illegally to deprive Conrail stockholders of free choice and the opportunity to maximize the value of their investments through the Norfolk Southern proposal.

"Through our lawsuit, Norfolk Southern seeks the same result as purportedly sought by Conrail in its motion -- to `allow the shareholders of Conrail the opportunity to decide their futures for themselves.'"

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BALANCED RAIL COMPETITION
NORFOLK SOUTHERN'S COMMITMENT
TO THE CUSTOMERS OF NS/CONRAIL

October 28, 1996

To All Rail Shippers:

Norfolk Southern's Chairman, President and Chief Executive Officer David R. Goode announced NS's \$100 a share tender offer for Conrail on October 23. At the same time he emphasized that NS, in acquiring Conrail, would be receptive to competitive enhancements going far beyond anything envisaged by CSX's stonewall advocacy of the status quo. Specifically, he said that the nation's largest consumer market, the New York/New Jersey area, had been neglected.

Today we want to spell out, for the benefit of customers and communities, exactly how Norfolk Southern would be willing to shape its transaction to improve competition.

Let us say that we provide this outline not entirely out of altruism. In the first place, Norfolk Southern year in and year out is the nation's most efficient railroad and does not fear the impact of balanced competition. In fact, we think we will thrive in that environment. Secondly, we do not read the UPSP decision in the narrow, self-serving, hypertechnical way that CSX does. We read it to say that a region is best served by having two railroads of comparable size and scope competing for the business of customers. So we are willing to act consistently with that interpretation.

These are the principles of balanced competition, the four fundamentals of competition in reality and not just in name.

FIRST, BALANCED COMPETITION REQUIRES THAT THE COMPETING SYSTEMS OPERATE WITH COMPARABLE SCALE AND SCOPE, though absolute equality is unnecessary. While one hesitates to apply a mathematical formula, the 70-30 split which would result from a CSX acquisition of Conrail precludes effective competition. NS and CSX now have, respectively, about 45% and 55% shares of their total business. The spread of 10 percentage points is already an advantage for CSX if you credit Conrail -- it said at the time of the announcement that one reason for preferring CSX was its wider market reach. In the West, the respective shares of UP and of BNSF, before the concessions to BN, were 53/47. A NS/Conrail combination produces approximately a 60/40 split in the East, clearly preferable to approximately 70/30 with CSX/Conrail. And, applying the principles spelled out here, we are willing to work towards something even closer to an even split than 60/40.

Significant market dominance would exist across all industry sectors with a CSX/Conrail combination. One glaring example is that CSX/Conrail would serve approximately 111 power generating plants and NS would serve only 39.

These are not just numbers. Railroading is a network business with increasing economies of scale. This reality means that if you are much smaller than your competitor, you are competing with a handicap. We can cite case after case in which our system's ability to compete hinged not on its presence in some particular market but on the scope of our network and efficiency of our overall operations.

Perhaps the best example is the most recent. As you may know, with the present rough parity between NS and CSX, we recently won a 12-year contract for Ford's new mixing centers. We were able to give Ford a proposal for NS operation of centers as far west as Kansas City. And, of course, we serve many Ford destinations. Our ability to link all these points on our own

rail network clearly appealed to Ford, and Norfolk Southern will ultimately increase its Ford business by approximately 60% as a result.

In short, in addition to the volume efficiencies which permit competitive pricing, our customers are demanding service which only a network of broad scope can provide. Real competition, long-term effective competition, depends on having railroads of comparable scale and scope. NS's acquisition of Conrail will make this goal much easier to achieve than CSX's, because the CSX/Conrail combination produces disparities so much greater than the NS/Conrail combination. Even so, we are willing to work to reduce our 60/40 disparity.

SECOND, BALANCED COMPETITION REQUIRES THAT THE LARGEST MARKETS HAVE SERVICE BY TWO RAILROADS. This follows from the previous discussion of balanced, effective competition: a network cannot compete effectively, cannot meet the demands of customers operating on a global scale, if it does not reach all or most of the most important markets. Our customers do not just ask, can you get me from A to B. They ask, what can you do for my traffic moving between and among A to Z.

This is why Norfolk Southern recognized at the outset that it would have to address the New York/New Jersey port area situation. When the East is served by two railroads, competitive balance without access to the Port is a contradiction in terms. If only one large railroad provides good service to New York (or, in the case of the proposed CSX/Conrail combination, only one big railroad serves Philadelphia, Baltimore, Newark, Wilmington, Charleston, Pittsburgh, Indianapolis, Grand Rapids, and Lordstown), big customers do not really have two viable alternatives. They will need to use the railroad which has these big markets to itself.

Speaking more broadly, the port, the big city and the region which lacks a competitive rail infrastructure not competition to every station, but competition at and between the largest markets suffers a real handicap in the contest for industrial development and economic growth. While one can argue about the chicken and the egg, we offer for your consideration the lack of growth of the Port of New York during the Conrail monopoly epoch compared to the phenomenal growth of the Port of Hampton Roads, served by NS and CSX. Competitive rail service is relevant to growth and development. We have an economy and a rail system grounded on the reality that competition works better than monopoly.

As with the question of size, one hesitates to be too precise in prescribing solutions which may be affected by a host of real world complexities. But we are willing to look at New York and we are willing to look at the major markets defined by the Department of Transportation in 1974 in the process which led to the creation of Conrail. The government did not intend to fortify a rail monopoly in the Northeast. It did intend, as the report just cited and the Final System Plan show, to establish competing systems.

THIRD, BALANCED COMPETITION REQUIRES THAT EACH RAILROAD OWN ITS OWN ROUTES TO MAJOR MARKETS WHERE FEASIBLE. At Norfolk Southern, we pride ourselves on the quality of our fixed plant and the efficiency of our operations. Our year-in-and-year-out investment in the maintenance and renewal of our lines, at the highest level in the industry, is the bedrock of our safety record (best in the industry), our efficiency (best of any major railroad), and our highly regarded service. If you do not own your line, you do not control this investment, so you also lack control over safety, efficiency, and service. In short, you cannot stay competitive.

Here is an anecdote which makes the point. Norfolk Southern has trackage rights over a CSX double-track main line in Cincinnati. We continually experienced delays and associated added costs and service failures in trying to move our trains over these trackage rights. One could attribute this to the

capacity of the CSX line or to the malign influence of CSX, but in truth the problem was that CSX's priorities and self-interest are different from our priorities, and CSX owns and controls the track. So we have cooperated to build a third main through Cincinnati, which Norfolk Southern owns.

Another example is the CP's attempt to provide competitive service to the New York area over trackage rights on Conrail. It never really worked, and CP wants to withdraw from the market. The route could have been adequate, and in fact had offered effective competition in the pre-Conrail era. But trackage rights over an unenthusiastic, competing owner did not suffice to give customers the service they wanted.

Norfolk Southern is not against trackage rights. We utilize them and other facilities coordinations widely. They can work well for short cuts and for access over branches of, say, up to 100 miles, solidly anchored on the user's own trunk line. Consider, in connection with BN's existing network, the combination of owned or jointly owned lines, trackage rights, and joint facilities prerogatives gained by BN in UPSP. You can see that contrary to popular understanding, traditional trackage rights were not accepted as a solution there. Furthermore, we are fully aware that circumstances such as tax issues, labor problems, or efficiency (density) considerations may dictate creative alternatives in which a user controls a non-owned line.

Where trackage rights are the best alternative for market access, they should be on the CMA, UPSP model, permitting access to new plants, build-outs, and terminals and other necessary infrastructure.

All that said, a railroad needs, where feasible, to own its own trunk lines to and between major markets. In the context of New York, this means we will be willing to sell a line, and will not play the game of pretending to wish our competitor success over extended trackage rights on lines owned and controlled by Norfolk Southern.

FOURTH, BALANCED COMPETITION REQUIRES THAT EACH RAILROAD HAVE EFFECTIVE TERMINAL ACCESS. It does not do you any good to ride the train if you can't get off. A railroad may need yards, intermodal and multi-modal terminals. It should have reasonable access from day one so competition will be a reality, and it should also have the right, where feasible, to build its own terminals.

* * * *

Now it is much easier to lay out our understanding of what is necessary for effective competition than to bring it about. A host of details and problems can interfere.

We see a clear way through some of them. We will not give any competitor a free ride, but will expect them to pay, on a formula based on revenues and reflecting the costs of the acquisition to NS, for the assets they acquire. If they do not pay a proportionate price, we will not be competing on equal terms.

The last thing we want to comment on is the UPSP decision, on which CSX/Conrail had relied. That decision, as we understand it, is one of the best thought out in the long history of railroad regulation. It shows a grasp of the realities of railway economics and operations of the importance of scope and scale for the efficiencies which permit improving service at decreasing rates which our regulators have not always had in the past. It says to us that

(a) a third-place railroad like SP, despite the intrinsic value of its routes, could not provide effective competition,

(b) and in fact not even UP could provide competition

comparable to the substantially larger BNSF;

(c) customers are best served when two strong railroads of comparable size operate to and between all the major markets in a region;

(d) enhanced trackage rights to particular points, when grounded on a solid infrastructure of lines owned by a railroad already having a presence in the area, can work to provide competition.

The STB decision in UPSP does not hold that a 70-30 split, perhaps not even a 60-40 split, is good for rail transportation and the customers who use rail transportation. It was said of the old Romans, they make a desert and call it peace. We would say of CSX/Conrail, they extend a monopoly and call it competition. They would have found cold comfort in UPSP for that kind of grab. Norfolk Southern will acquire Conrail and will apply, as it must, the real message of UPSP. NS/Conrail customers will have competitive alternatives in major markets.

NORFOLK SOUTHERN CORPORATION

FOR IMMEDIATE RELEASE
October 30, 1996

Contact: Robert C. Fort
(757) 629-2714

NS OUTLINES BENEFITS OF BALANCED COMPETITION

NORFOLK, VA -- In a letter to shippers, Norfolk Southern today declared its commitment to balanced competition in the rail industry and said it would structure its proposed combination with Conrail to improve competition in the East.

Saying a region is best served by having two railroads of comparable size and scope competing for the business of customers, Norfolk Southern Chairman, President and Chief Executive Officer David R. Goode said Norfolk Southern would be willing to shape its transaction to improve competition.

The letter outlined several principles of competition and reaffirmed the railroad's strong commitment to customer service. Norfolk Southern, in acquiring Conrail, would be receptive to competitive enhancements going far beyond anything envisaged by CSX's stonewall advocacy of the status quo, adding specifically that the New York/New Jersey area, the nation's largest consumer market, had been neglected.

Goode noted that balanced, effective competition requires: rail systems of comparable size and scope; large-market service by more than one railroad; rail ownership of major trunk-line routes to ensure safety, efficiency and service; effective terminal access, and an understanding that competitive service is not free.

Norfolk Southern last week announced an all-cash tender offer for Conrail, bidding \$100 per share and topping CSX's cash-and-stock offer of \$92.50 a share.

- MORE -

PRINCIPLES OF BALANCED RAIL COMPETITION

NORFOLK SOUTHERN'S COMMITMENT
TO NS/CR CUSTOMERS

1. COMPETITION REQUIRES RAIL SYSTEMS OF COMPARABLE SIZE AND SCOPE

Railroads compete with each other, not just trucks
Balance between railroads must not be eliminated by mergers
Customers demand full rail route networks
Mergers should result in balance within regions, not dominance

2. THE LARGEST MARKETS MUST BE SERVED BY (AT LEAST) TWO LARGE RAILROADS

Major markets require competitive service
Rail mergers should not be an excuse to control a market
Competition at ports is especially important
Lack of competition has disadvantaged Northeastern markets
Routes and terminals must be adequate to protect competition

3. OWNED ROUTES ARE ESSENTIAL TO COMPETITION

Railroads need to control their major trunk-line routes
Route ownership enables competition on safety, price and service
Competition on major corridors, such as New York/Philadelphia -
Chicago, should be over owned routes
Trackage rights do work for short-distance industrial access, and as
shortcuts between owned lines

4. COMPETITION DEPENDS ON EFFECTIVE TERMINAL ACCESS

The rail network is anchored by terminals and yards
Terminals are just as important to competition as routes
Competitors must have the right to buy or build their own terminal
facilities

5. COMPETITION IS NOT FREE

Competitors must make a commitment to owning lines and terminals
NS/CR will not subsidize its competitors
Competitors must pay a fair portion of the overall purchase price

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World Wide Web Site - <http://www.nscorp.com>

I. SUMMARY OF TERMS AND CONDITIONS

I. PARTIES

Borrower: Norfolk Southern Corporation
("NS").

Guarantors: All direct and indirect Significant
Subsidiaries of the Borrower,
(including, without limitation,
Norfolk Southern Railway and North
American Van Lines, Inc.) and,
following the date on which the
approval of the Surface
Transportation Board (the "STB")
shall have been obtained (the "STB
Approval Date") and the Merger
shall have been consummated (the
"Merger Date", and the later of
such dates, the "Consummation
Date"), Conrail, Inc. ("Conrail")
(in such capacities, the
"Guarantors"; the Borrower and the
Guarantors, collectively, the
"Credit Parties").

Arrangers: J.P. Morgan Securities Inc. and
Merrill Lynch & Co. (collectively,
in such capacities, the
"Arrangers").

Administrative Agent: Morgan (as defined below) (in such
capacity, the "Administrative
Agent").

Documentation Agent: Merrill (as defined below) (in such
capacity, the "Documentation
Agent"; together with the
Administrative Agent, the
"Agents").

Lenders: The banks, financial institutions
and other entities, including
Morgan Guaranty Trust Company of
New York ("Morgan") and Merrill
Lynch Capital Corporation
("Merrill") selected in the
syndication effort (collectively,
the "Lenders").

II. TYPES AND AMOUNTS OF CREDIT FACILITIES

1. TERM LOAN FACILITY - I

Amount: \$2,500,000,000 (the loans
thereunder, "Term Loan - I").

Maturity: Term Loan - I shall be payable on
the earlier of six months from the
STB Approval Date and three years
from the date on which the
definitive documentation is signed
(the "Closing Date").

Availability: A portion of Term Loan - I shall be
drawn on the date on which the
shares have been acquired pursuant
to the tender offer (the
"Acquisition Date"). The
commitments under the Term Loan

Facility - I shall terminate on the Merger Date immediately after the final funding of Term Loan - I.

Purpose: The proceeds of Term Loan - I shall be used to finance the Acquisition and to pay related fees and expenses.

2. TERM LOAN FACILITY - II

Amount: \$3,000,000,000 (the loans thereunder, "Term Loan - II").

Maturity: Term Loan - II shall be payable in full 24 months after the maturity of Term Loan - I.

Availability: A portion of Term Loan - II shall be drawn on the Acquisition Date and a portion on the Merger Date. The commitments under the Term Loan Facility - II shall terminate on the Merger Date immediately after the final funding of Term Loan - II.

Purpose: The proceeds of Term Loan - II shall be used to finance the Acquisition and to pay related fees and expenses.

3. TERM LOAN FACILITY - III

Amount: \$3,000,000,000 (the loans thereunder, "Term Loan - III"; together with Term Loan - I and Term Loan - II, the "Term Loans"). The Term Loan Facility - I, Term Loan Facility - II and Term Loan Facility - III are collectively referred to herein as the "Term Loan Facilities".

Maturity: Term Loan - III shall be payable six and one-half years from the Closing Date.

Availability: A portion of Term Loan - III shall be drawn on the Acquisition Date and a portion on the Merger Date. The commitments under the Term Loan Facility - III shall terminate on the Merger Date immediately after the final funding of Term Loan - III.

Amortization: To be determined, but substantially equal quarterly payments.

Purpose: The proceeds of Term Loan - III shall be used to finance the Acquisition and to pay related fees and expenses.

III. REVOLVING CREDIT FACILITY

Type and Amount of Facility: Five-year revolving credit facility (the "Revolving Credit Facility") in the amount of \$3,000,000,000 (the loans thereunder, the "Revolving Credit Loans"). The Term Loan Facilities and the Revolving Credit Facility are collectively referred to herein as

the "Credit Facilities".

Maturity: The Revolving Credit Facility shall mature five years after the Closing Date (the "Revolving Credit Termination Date").

Availability: The Revolving Credit Facility shall be available on a fully revolving basis commencing on the Acquisition Date and ending on the Revolving Credit Termination Date.

Purpose: The proceeds of the Revolving Credit Loans shall be used to finance the Acquisition, to pay related fees and expenses, to refinance a portion of the existing bank debt of NS (including under the existing credit agreement), and for general corporate purposes.

Drawdowns: Minimum amounts of \$25,000,000 with additional increments of \$1,000,000. Drawdowns are at the Borrower's option with same day notice for Base Rate Loans, one business day's for Money Market Absolute Rate Loans, two business days for Adjusted CD Loans, three business days for LIBOR Loans, and five business days for Money Market LIBOR Loans.

Money Market Option Description: The Borrower may request the Agent to solicit competitive bids from the Banks at a margin over LIBOR or at an absolute rate, for interest periods of 30 days or more. Each Bank will bid at its own discretion for amounts up to the total amount of commitments and the Borrower will be under no obligation to accept any of the bids. Any Money Market advances made by a Bank shall be deemed usage of the facility for the purpose of fees and availability. However, each Bank's advance shall not reduce such Bank's obligation to lend its pro rata share of the remaining undrawn commitment.

Bid Selection Mechanism: The Borrower will determine the aggregate amount of bids, if any, it will accept. Bids will be accepted in order of the lowest to the highest rates ("Bid Rates"). If two or more Banks bid at the same Bid Rate and the amount of such bids accepted is less than the aggregate amount of such bids, then the amount to be borrowed at such Bid Rate will be allocated among such Banks in proportion to the amount for which each Bank bid at such Bid Rate. If the bids are either unacceptably high to the Borrower or are insufficient in amount, the Borrower may cancel the auction.

IV. GENERAL PROVISIONS

Fees and Interest Rates:	See Pricing Grid.
Borrowing Options:	<p>LIBOR, Adjusted CD, Base Rate and for the Revolving Credit Facility only, Money Market.</p> <p>CD will be automatically adjusted for reserves and other regulatory requirements. LIBOR adjustments for Regulation D will be charged by Banks individually.</p> <p>Base Rate means the higher of Morgan's prime rate or the federal funds rate + 0.50 percent.</p>
Interest Periods:	<p>Syndicated Borrowings:</p> <p>LIBOR Loans - 1, 2, 3, or 6 months.</p> <p>Adjusted CD Loans - 30, 60, 90, or 180 days.</p> <p>Non-Syndicated Borrowings:</p> <p>Money Market LIBOR Loans - minimum 1 month.</p> <p>Money Market Absolute Rate Loans - minimum 14 days.</p>
Optional Prepayments and Commitment Reductions:	<p>Base Rate Loans may be prepaid at any time on one business day's notice. LIBOR, Adjusted CD and Money Market Loans may not be prepaid before the end of an Interest Period. Optional prepayments of the Term Loans may not be reborrowed. Money Market Loans may not be prepaid without the consent of the relevant Lender.</p>
Mandatory Prepayments and Commitment Reductions:	<p>The following amounts shall be applied, prior to the Acquisition Date, to reduce the commitments under the Term Loan Facilities, and, following the Acquisition Date, to prepay the Term Loans:</p> <p>(a) 100 percent of the net cash proceeds of any sale or issuance of equity or incurrence of indebtedness (subject to customary exceptions, including an exception for the net cash proceeds from the issuance of stock in connection with employee benefit plans and dividend reinvestment plans) after the Closing Date by NS or any of its subsidiaries (including, after Consummation Date, Conrail and its subsidiaries); and</p> <p>(b) 100 percent of the net cash proceeds of any sale or other disposition after the Closing Date by NS or any of its subsidiaries (including, after the Consummation Date, Conrail and its subsidiaries) of any assets (excluding (i) the sale of inventory in the ordinary course of business, and (ii) individual asset sales the proceeds of which do not exceed \$10,000,000, and (iii) sales of certain other assets the proceeds of which were</p>

projected in NS's base projections to be received by NS in the 1996 fiscal year).

Mandatory Term Loan commitment reductions shall be applied first, to the reduction of the commitments under the Term Loan Facility - I, second, to the reduction of the commitments under the Term Loan Facility - II and third, to the reduction of the commitments under the Term Loan Facility - III. In the event of any reduction of the commitments under any Term Loan Facility, the installments specified for the relevant Term Loan herein shall be reduced ratably. Mandatory Term Loan prepayments shall be applied first, to the prepayment of Term Loan - I, second, to the prepayment of Term Loan - II and third, to the prepayment of the Term Loan Facility - III. Each such prepayment shall be applied to the installments of the relevant Term Loan ratably in accordance with the then outstanding amounts thereof. Mandatory prepayments of the Term Loans may not be reborrowed.

V. GUARANTEES AND COLLATERAL

Guarantees: All obligations of the Borrower under the Credit Documentation shall be unconditionally guaranteed by the Guarantors.

Collateral: The Credit Facilities shall be secured by a perfected first priority security interest in (i) the voting trust certificates of Conrail, (ii) the shares of all significant subsidiaries of NS and, after the Consummation Date, (iii) the shares of all significant subsidiaries of Conrail. The collateral shall be released upon NS receiving unsecured senior credit ratings from S&P and Moody's of at least BBB- and Baa3, respectively.

VI. CERTAIN CONDITIONS

Initial Borrowing Conditions: The making of the Loans on the Acquisition Date shall be conditioned upon satisfaction of each of the following conditions precedent:

(a) Each Credit Party shall have executed and delivered satisfactory definitive financing documentation with respect to the Credit Facilities (the "Credit Documentation").

(b) There shall have been validly tendered to NS sufficient shares of Conrail common stock to enable NS to effect a merger of Conrail with a wholly-owned subsidiary of NS, without the requirement of any

action by any other Conrail security holder; all conditions to purchase set forth in the Offer to Purchase shall have been satisfied without waiver or amendment (except with the prior written consent of the Required Lenders), and NS shall have accepted for purchase all such tendered shares.

(c) Concurrently with the making of the Loans on the Acquisition Date, NS's existing credit agreement shall have been terminated and all amounts outstanding thereunder shall have been repaid.

(d) The Lenders, the Agents and the Arrangers shall have received all fees and expenses required to be paid on or before the Acquisition Date.

(e) The Lenders shall have received prior to the Acquisition Date consolidated NS/Conrail pro forma financial statements as of the Closing Date, adjusted to give effect to the consummation of the Acquisition and the financings contemplated hereby (as if such events had occurred on such date).

(f) The Agents and the Lenders shall be satisfied that the Credit Facilities, the use of proceeds thereof and the collateral security therefor comply in all respects with Regulations G, T and U of the Board of Governors of the Federal Reserve System.

(g) The STB shall have approved the terms of the Voting Trust and such terms shall be acceptable to the Lenders.

(h) NS shall have acquired concurrently with the making of the final Term Loans, directly or indirectly, all of the issued and outstanding common stock of Conrail (on a fully diluted basis) at a purchase price (i) not to exceed \$100.00 per share in cash and (ii) not to exceed \$11,500,000,000 in the aggregate in cash, including fees.

(i) All material governmental and third party approvals (including approvals under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and other consents [but excluding STB approval]) necessary in connection with the Acquisition and the financing contemplated hereby shall have been obtained and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken by any competent authority which has restrained, prevented or otherwise imposed

materially adverse conditions on the Acquisition or the financing thereof. The Agents shall have received copies, certified by NS, of all filings made with any governmental authorities in connection with the Acquisition.

(j) The Lenders shall have received such legal opinions (including (i) opinions from counsel to NS and its subsidiaries, (ii) opinions (if any) delivered to NS by counsel to Conrail, accompanied by reliance letters in favor of the Lenders and (iii) opinions from such special counsel as may be required by the Agents), documents and other instruments as are customary for transactions of this type or as they may reasonably request.

Ongoing
Conditions:

The making of each extension of credit (that increases principal outstanding) shall be conditioned upon (a) all representations and warranties in the Credit Documentation (including, without limitation, the material adverse change representation) being true and correct in all material respects and (b) there being no default or Event of Default (as defined below) in existence at the time of, or after giving effect to the making of, such extension of credit. The "material adverse change representation" shall be to the effect that there has been no material adverse change (a "Material Adverse Change") in the consolidated financial condition, operations, assets, business or prospects taken as a whole of NS and Conrail from that set forth in the information heretofore made available to the Lenders.

VII. REPRESENTATIONS, WARRANTIES, COVENANTS AND
EVENTS OF DEFAULT

The Credit Documentation shall contain representations, warranties, covenants and events of default customary for financings of this type and other terms deemed appropriate by the Lenders, including, without limitation:

Representations
and Warranties:

Corporate existence; financial condition and statements (including pro forma financial statements); no material adverse change; no litigation; no default; no conflict with law or contractual obligations; corporate action and enforceability of Credit Documentation; approvals; use of proceeds (Federal Reserve regulations); ERISA; taxes; Investment Company Act; Public Utility Holding Company Act; environmental matters; subsidiaries; accuracy of

disclosure; ownership of property; intellectual property; and creation and perfection of security interests.

Consummation of
Acquisition:

The Borrower shall use its best efforts to cause the merger to be consummated, the STB approval to be obtained and the acquisition of Conrail to be consummated, all at the earliest practicable times.

Affirmative
Covenants:

Delivery of financial statements, reports filed with the SEC or delivered to shareholders, officers' certificates and other information reasonably requested by the Lenders; notices of defaults, litigation and other material events; continuation of business and maintenance of existence and material rights and privileges; compliance with laws (including environmental laws) and material contractual obligations; payment of taxes and other obligations; maintenance of property and insurance; maintenance of books and records; and right of the Lenders to inspect books and records.

Financial
Covenants:

Usual and customary for transactions of this type including, but not limited to:

(a) Interest Coverage Ratio (as defined below).

As used herein, "Interest Coverage Ratio" shall mean the ratio of (EBITDA-Capital Expenditures) to Interest Expense determined on a rolling four quarter basis; provided, that until four full fiscal quarters have passed since the Acquisition Date the Interest Coverage Ratio shall be measured for the three, six, and nine month periods commencing with the first full fiscal quarter after the Acquisition Date.

(b) Net Worth on the last day of any fiscal quarter ending after the Acquisition Date to be not less than the sum of (i) 80 percent of the Net Worth of NS on the Acquisition Date, (ii) 50 percent of cumulative Net Income (excluding any losses) since the Acquisition Date and (iii) 100 percent of the net proceeds of any equity issuances since the Acquisition Date, as at the end of such fiscal quarter.

(c) Leverage Ratio (as defined below).

As used herein, "Leverage Ratio" shall mean the ratio of Total Debt (including guarantees of third-party Debt) to EBITDA.

"Interest Expense", "Net Worth",

"Net Worth", "Capital Expenditures", "EBITDA" and "Net Income" shall be determined on a consolidated basis in accordance with GAAP unless otherwise agreed by NS and the Agents and shall in each case be subject to adjustments to be agreed upon by NS and the Agents.

(d) Restricted Investments (as defined below) shall not be permitted. As used herein, "Restricted Investments" shall mean payments, transfers or other distributions of cash or other assets from NS to Conrail prior to the Consummation Date.

(e) Within 45 days of Closing, the Borrower will have entered into and thereafter maintain interest rate agreements fixing the interest rate on at least 40 percent of the principal amount of its outstanding debt on such terms as are acceptable to the Lenders.

Negative
Covenants:

Limitations on: maturities or amortization of indebtedness (including preferred stock) prior to the date which is six months after the final maturity of the Loans (subject to a basket for any such indebtedness having earlier maturities, e.g., commercial paper, and other set baskets); indebtedness of subsidiaries (subject to a set basket); investments in Conrail prior to the STB Approval Date; liens, including sale/leaseback transactions (subject to a set basket for liens and/or sale-leasebacks and other standard); mergers, consolidations, liquidations, dissolutions and sales of assets; ability of subsidiaries to pay dividends; transactions with affiliates; and changes in fiscal year.

Events of Default:

Nonpayment of principal when due; nonpayment of interest, fees or other amounts when due; material inaccuracy of representations and warranties; violation of covenants; cross event of default; bankruptcy; certain ERISA events; material judgments; actual or asserted invalidity of any guarantee or security document or security interest; and a change of control. Certain of the events of default shall include customary thresholds and grace periods. For the purposes hereof, "Event of Default" refers to any of the foregoing events so long as any requirement for the giving of notice or the lapse of time shall have been satisfied.

VIII. CERTAIN OTHER TERMS

Voting:

Amendments and waivers with respect

to the Credit Documentation shall require the approval of Lenders (the "Required Lenders") holding Loans and commitments representing not less than 51 percent of the aggregate amount of the Loans and commitments under the Credit Facilities, except that (a) the consent of each Lender affected thereby shall be required with respect to (i) reductions in the amount of any scheduled payment (including scheduled installment payments), or extensions of the scheduled maturity date (including scheduled installment dates), of any Loan, (ii) reductions in the rate of interest or any fee or extensions of any due date thereof and (iii) increases in the amount or extensions of the expiry date of any Lender's commitment and (b) the consent of 100 percent of the Lenders shall be required with respect to (i) modifications to any of the voting percentages and (ii) releases of all or substantially all of the collateral (except as provided as above).

Assignments and
Participations:

The Lenders shall be permitted to assign and sell participations in their Loans and commitments, subject, in the case of assignments (other than to another Lender or to an affiliate of the assigning Lender), to the consent of the Administrative Agent and NS (which consent in each case shall not be unreasonably withheld, and which consent shall not be required if there exists a Default or Event of Default). Non-pro rata assignments shall be permitted. The minimum assignment amount shall be \$10,000,000 and the aggregate commitments and/or Loans retained by any assigning Lender shall equal at least \$25,000,000, unless (in either case) the assigning Lender's commitments and Loans are being reduced to \$0. Participants shall have the same benefits as the Lenders with respect to yield protection and increased cost provisions. Voting rights of participants shall be limited to those matters with respect to which the affirmative vote of the Lender from which it purchased its participation would be required as described under "Voting" above. Promissory notes shall be issued under the Credit Facilities only upon request.

Yield Protection:

The Credit Documentation shall contain customary provisions (a) protecting the Lenders against loss of yield resulting from changes in reserve, tax, capital adequacy and other requirements of law and from the imposition of withholding or other taxes and (b) indemnifying the Lenders for "breakage costs"

incurred in connection with, among other things, prepayment of a Eurodollar Loan on a day other than the last day of an interest period with respect thereto.

Expense and
Indemnification:

The Borrower shall pay (a) all reasonable out-of-pocket expenses of the Agents and the Arrangers associated with the syndication of the Credit Facilities and the preparation, execution, delivery and administration of the Credit Documentation and any amendment or waiver with respect thereto (including the reasonable fees and disbursements and other charges of counsel) and (b) all out-of-pocket expenses of the Agents and the Lenders in connection with the enforcement of the Credit Documentation (including the fees and disbursements and other charges of counsel).

The Borrower shall indemnify, pay and hold harmless the Agents, the Arrangers and the Lenders (and their respective directors, officers, employees and agents) against any loss, liability, cost or expense incurred in respect of the financing contemplated hereby or the use or the proposed use of proceeds thereof (except to the extent resulting from the gross negligence or willful misconduct of the indemnified party).

Governing Law and
Forum:

State of New York.

Counsel to the Agents
and the Arrangers:

Davis Polk & Wardwell.

Commitment
Termination Dates:

The Closing Date must have occurred on or before March 1, 1997, and the Acquisition Date must have occurred on or before July 1, 1997.

Facility Fee:

NS shall pay a per annum fee calculated on a 360 day basis payable on each Lender's commitment irrespective of usage, quarterly in arrears, at the rate set forth on the Pricing Grid attached hereto.

Default Rate:

At any time when either Borrower is in default in the payment of any amount due under the Credit Facilities, the principal of all Loans shall bear interest at 2 percent above the rate otherwise applicable thereto. Overdue interest, fees and other amounts shall bear interest at 2 percent above the rate applicable to Base Rate Loans.

Rate and Fee Basis:

All per annum rates shall be calculated on the basis of a year of 360 days (or 365/366 days, in the case of Base Rate Loans the interest rate payable on which is then based on the Prime Rate) for

actual days elapsed.

Pricing Grid:

Until such time as the Borrower's ratings shall have been affirmed by S&P and Moody's following the announcement of the Offer to Purchase (the "Initial Pricing Period"), pricing shall be as follows:

EURO- DOLLAR LOAN MARGIN	BASE RATE LOAN MARGIN	FACILITY FEE	TOTAL USED COST
75 bps	0 bps	25 bps	L + 100 bps

The Eurodollar Loan Margin, the Base Rate Loan Margin and the facility fee rate shall be determined in accordance with this Pricing Grid based upon NS's Senior Unsecured Long-Term Debt Ratings established by S&P and Moody's as follows):

Category	Senior unsecured long-term debt ratings		Eurodollar loan margin	Base rate loan margin	Facility fee	Total used cost
	S&P	Moody's				
1	BBB+	Baa1	22.5 bps	0 bps	12.5 bps	L + 35 bps
2	BBB	Baa2	35 bps	0 bps	15 bps	L + 50 bps
3	BBB-	Baa3	47.5 bps	0 bps	17.5 bps	L + 65 bps
4	BB+	Ba1	75 bps	0 bps	25 bps	L + 100 bps
5	BB	Ba2	87.5 bps	25 bps	37.5 bps	L + 125 bps

If the Borrower is split-rated and the ratings differential is one level, the higher rating will apply, unless one of the ratings is sub-investment grade, in which case the lower rating will apply. If the Borrower is split-rated and the ratings differential is two levels or more, the rating at the midpoint will apply. If there is no midpoint rating, the higher of the two intermediate ratings will apply, unless one of the ratings is sub-investment grade, in which case the lower of the two intermediate ratings will apply.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

- - - - -x
 NORFOLK SOUTHERN CORPORATION, a :
 Virginia corporation, :
 Three Commercial Place :
 Norfolk, VA 23510-2191, :
 :
 Atlantic Acquisition Corporation :
 Three Commercial Place :
 Norfolk, VA 23510-2191, :
 :
 and :
 :
 Kathryn B. McQuade :
 5114 Hunting Hills Drive :
 Roanoke, VA 24014, :
 :
 Plaintiffs, :
 :C.A. No. 96-CV-7167
 -against- :
 :
 Conrail Inc., a Pennsylvania :
 corporation, :
 Two Commerce Square :
 2001 Market Street :
 Philadelphia, PA 19101, :
 :
 David M. LeVan :
 245 Pine Street :
 Philadelphia, PA 19103-7044, :
 :
 H. Furlong Baldwin :
 4000 N. Charles Street :
 Baltimore, MD 21218-1756, :
 :
 Daniel B. Burke :
 Capital Cities/ABC Inc. :
 77 W. 66th Street :
 New York, NY 10023-6201, :
 :
 Roger S. Hillas :
 Two Commerce Square :
 2001 Market Street, :
 Philadelphia, PA 19101, :
 :
 Claude S. Brinegar :
 1574 Michael Lane :
 Pacific Palisades, CA 90272-2026, :
 :
 Kathleen Foley Feldstein :
 147 Clifton Street :
 Belmont, MA 02178-2603, :
 :
 David B. Lewis :
 1755 Burns Street :
 Detroit, MI 48214-2848, :
 :
 John C. Marous :C.A. No. 96-CV-7167
 109 White Gate Road :
 Pittsburgh, PA 15238, :
 :
 David H. Swanson :
 Countrymark Inc. :
 950 N. Meridian Street :
 Indianapolis, IN 46204-3909, :
 :
 E. Bradley Jones :
 2775 Lander Road :

4. Because plaintiff NS believes that a business combination between Conrail and NS would yield benefits to both companies and their constituencies far superior to any benefits offered by the proposed Conrail/CSX combination, NS on October 23, 1996 announced its intention to commence, through its wholly-owned subsidiary, plaintiff Atlantic Acquisition Corporation ("AAC") a cash tender offer (the "NS Offer") for all shares of Conrail stock at \$100 per share, to be followed by a cash merger at the same price (the "Proposed Merger," and together with the NS Offer, the "NS Proposal"). The following day, on October 24, 1996, the NS Offer commenced.

5. At the heart of this controversy is the assertion by defendants, both expressly and through their conduct, that the Director Defendants, as directors of a Pennsylvania corporation, have virtually no fiduciary duties. While it is true that Pennsylvania statutory law provides directors of Pennsylvania corporations with wide discretion in responding to acquisition proposals, defendants here have gone far beyond what even Pennsylvania law permits. Indeed, it appears that defendants are taking Pennsylvania's statutory regime as carte blanche to insulate Conrail, through the first half of the first decade of the next millennium, from any acquisition by any party (including CSX) other than the CSX Transaction with its current pricing and other terms, regardless of how favorable any such other proposed acquisition might be to Conrail's shareholders, customers, and other constituencies. As a result, this battle for control of Conrail presents the most audacious array of lock-up devices ever attempted:

- * The Poison Pill Lock-In. The CSX Merger Agreement exempts the CSX Transaction from Conrail's Poison Pill Plan, and purports to prohibit the Conrail Board from redeeming, amending or otherwise taking any further action with respect to the Plan. Under the terms of the Poison Pill Plan, the Conrail directors will lose their power to make the poison pill inapplicable to any acquisition transaction other than the CSX Transaction on November 7, unless CSX agrees to let them postpone that date. Thus, the Poison Pill Lock-In threatens to lock-up Conrail, even from friendly transactions, until the year 2005, when the poison pill rights expire. That is, unless the November 7 date is postponed, Conrail will be unable to be acquired other than through the CSX Transaction, under its current terms, for a period of almost nine years. Put simply, the CSX Merger Agreement purports to require Conrail to swallow its own poison pill. The Poison Pill Lock-In is an unprecedented, draconian and utterly preclusive lock-up device, is ultra vires under Pennsylvania law, and constitutes a total abdication and breach of the Conrail directors' fiduciary duties of loyalty and care. To make matters worse, in violation of the federal securities laws, the defendants in their tender offer filings affirmatively misrepresented key terms of the Conrail Poison Pill Plan bearing directly upon the Poison Pill Lock-In.
- * The 180-Day Lock-Out. The CSX Merger Agreement audaciously and unashamedly purports to prohibit Conrail's directors from withdrawing their recommendation that Conrail's shareholders accept and approve

the CSX Transaction and from terminating the CSX Merger Agreement, even if their fiduciary duties require them to do so, for a period of 180 days from execution of the agreement. Put simply, Conrail's directors have agreed to take a six-month leave of absence during what may be the most critical six months in Conrail's history. The 180-Day Lock-Out is ultra vires under Pennsylvania law and constitutes a complete abdication and breach of the Conrail directors' duties of loyalty and care.

- * The Stock Option Lock-Up And The \$300 Million Break-Up Fee. The CSX Merger Agreement provides, in essence, that Conrail must pay CSX a \$300 million windfall if the CSX Merger Agreement is terminated and Conrail is acquired by another company. Further, a Stock Option Agreement granted by Conrail to CSX threatens over \$100 million in dilution costs to any competing bidder for Conrail. This lock-up option is particularly onerous because the higher the competing bid, the greater the dilution it threatens.
- * The Continuing Director Amendments To Conrail's Poison Pill Plan. Recognizing that Pennsylvania law permits shareholders of Pennsylvania corporations to elect a new board of directors if they disagree with an incumbent board's decisions concerning acquisition offers, the Conrail Board altered the Conrail Poison Pill Plan in September 1995 to deprive Conrail's shareholders of the ability to elect new directors fully empowered to act to render the poison pill ineffective or inapplicable to a transaction they deem to be in the corporation's best interests. This amendment to the Conrail Poison Pill Plan is ultra vires under Pennsylvania law and Conrail's Charter and By-Laws, and constitutes an impermissible interference in the stockholder franchise and a breach of the Conrail directors' duty of loyalty.

At bottom, what defendants have attempted here is to litter the playing field with illegal, ultra vires apparent impediments to competing acquisition proposals, and then coerce Conrail shareholders to swiftly deliver control of Conrail to CSX before the illegality of such impediments can be determined and revealed.

6. Accordingly, by this action, plaintiffs NS, AAC, and Kathryn B. McQuade, a Conrail shareholder, seek emergency relief against defendants' illegal attempt to lock-up the rapid sale of control of Conrail to CSX through their scheme of coercion, deception and fraudulent manipulation, in violation of the federal securities laws, Pennsylvania statutory law, and the fiduciary duties of the Director Defendants. In addition, to facilitate the NS Proposal, plaintiffs seek certain declaratory relief with respect to replacement of Conrail's Board of Directors at Conrail's next annual meeting of shareholders.

Jurisdiction and Venue

7. This Court has jurisdiction over this complaint pursuant to 28 U.S.C. SECTIONSECTION 1331 and 1367.

8. Venue is proper in this District pursuant to 28 U.S.C. SECTION 1391.

The Parties

9. Plaintiff NS is a Virginia corporation with its principal place of business in Norfolk, Virginia. NS is a holding company operating rail and motor transportation services through its subsidiaries. As of December 31, 1995, NS's railroads operated more than 14,500 miles of road in the states of Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia and West Virginia, and the Province of Ontario, Canada. The lines of NS's railroads reach most of the larger industrial and trading centers in the Southeast and Midwest, with the exception of those in Central and Southern Florida. In the fiscal year ended December 31, 1995, NS had net income of \$712.7 million on total transportation operating revenues of \$4.668 billion. According to the New York Times, NS "is considered by many analysts to be the nation's best-run railroad." NS is the beneficial owner of 100 shares of common stock of Conrail.

10. Plaintiff AAC is a Pennsylvania corporation. The entire equity interest in AAC is owned by NS. AAC was organized by NS for the purpose of acquiring the entire equity interest in Conrail.

11. Plaintiff Kathryn B. McQuade is and has been, at all times relevant to this action, the owner of Conrail common stock.

12. Defendant Conrail is a Pennsylvania corporation with its principal place of business in Philadelphia, Pennsylvania. Conrail is the major freight railroad serving America's Northeast-Midwest region, operating over a rail network of approximately 11,000 route miles. Conrail's common stock is widely held and trades on the New York Stock Exchange. During the year ended December 31, 1995, Conrail had net income of \$264 million on revenues of \$3.68 billion. On the day prior to announcement of the CSX Transaction, the closing per share price of Conrail common stock was \$71.

13. Defendant David M. LeVan is President, Chief Executive Officer, and Chairman of Conrail's Board of Directors. Defendants H. Furlong Baldwin, Daniel B. Burke, Roger S. Hillas, Claude S. Brinegar, Kathleen Foley Feldstein, David B. Lewis, John C. Marous, David H. Swanson, E. Bradley Jones, and Raymond T. Schuler are the remaining directors of Conrail. The foregoing individual directors of Conrail owe fiduciary duties to Conrail and its stockholders, including plaintiffs.

14. Defendant CSX is a Virginia corporation with its principal place of business in Richmond, Virginia. CSX is a transportation company providing rail, internodal, ocean container-shipping, barging, trucking and contract logistic services. CSX's rail transportation operations serve the southeastern and midwestern United States.

Factual Background

The Offer

15. In response to the surprise October 15 announcement of the CSX Transaction, on October 23, 1996, NS announced its intention to commence a public tender offer for all shares of Conrail common stock at a price of \$100 cash per share. NS further announced that it intends, as soon as practicable following the closing of

the NS Offer, to acquire the entire equity interest in Conrail by causing it to merge with AAC in the Proposed Merger. In the Proposed Merger, Conrail common stock not tendered and accepted in the NS Offer would be converted into the right to receive \$100 in cash per share. On October 24, 1996, NS, through AAC, commenced the NS Offer. The NS Offer and the Proposed Merger represent a 40.8% premium over the closing market price of Conrail stock on October 14, 1996, the day prior to announcement of the CSX Transaction.

16. In a letter delivered on October 23, 1996 to the Defendant Directors, NS stated that it is flexible as to all aspects of the NS Proposal and expressed its eagerness to negotiate a friendly merger with Conrail. The letter indicated, in particular, that while the NS Proposal is a proposal to acquire the entire equity interest in Conrail for cash, NS is willing to discuss, if the Conrail board so desires, including a substantial equity component to the consideration to be paid in a negotiated transaction so that current Conrail shareholders could have a continuing interest in the combined NS/Conrail enterprise.

The Current Crisis: In a Surprise Move
Intended To Foreclose Competing Bids,
Conrail and CSX Announce On October 15
That Conrail Has Essentially Granted CSX
A Lock-Up Over Control Of The Company

17. After many months of maintaining that Conrail was not for sale, on October 16, 1996, the Conrail Board announced an abrupt about-face: Conrail would be sold to CSX in a multiple-step transaction designed to swiftly transfer effective, if not absolute, voting control over Conrail to a voting trustee who would be contractually required to vote to approve CSX's acquisition of the entire equity interest in Conrail through a follow-up stock merger.

18. Two circumstances relating to the CSX Transaction create the current crisis. First, as noted above, and as explained more fully below, on November 7, 1996, a "Distribution Date" will occur under Conrail's Poison Pill Plan, after which time Conrail's Board will lose the ability to remove the poison pill rights as an obstacle to any transaction other than the CSX Transaction. This event, if it is allowed to occur, will irreparably harm Conrail, its shareholders, and other constituencies by making Conrail incapable of being acquired until the year 2005, other than through the CSX Transaction as it is currently proposed.

19. Even if the "Distribution Date" problem with Conrail's Poison Pill Plan were remedied, the fate of Conrail could be effectively determined on November 14, 1996, just 23 business days after announcement of the CSX Transaction. That is when Conrail shareholders will be called upon to vote on a proposed amendment to Conrail's Articles of Incorporation designed to facilitate the swift transfer of control in favor of CSX, and only CSX. If they approve the Charter Amendment, and then, in the misinformed belief that the NS Proposal does not present a viable and superior alternative, tender 40% of Conrail's stock to CSX, Conrail's shareholders will have been coerced by defendants' fraudulent and manipulative tactics to sell Conrail to the low bidder.

Defendants Were Well Aware That
A Superior Competing Acquisition
Proposal By NS Was Inevitable

20. For a number of years, certain members of senior management of NS, including David R. Goode,

Chairman and Chief Executive Officer of NS, have spoken numerous times with senior management of Conrail, including former Conrail Chairman and Chief Executive Officer, James A. Hagen, and current Conrail Chairman and Chief Executive Officer, defendant David W. LeVan, concerning a possible business combination between NS and Conrail. Ultimately, Conrail management encouraged such discussions prior to Mr. Hagen's retirement as Chief Executive Officer of Conrail. Conrail discontinued such discussions in September 1994, when the Conrail Board elected Mr. LeVan as Conrail's President and Chief Operating Officer as a step toward ultimately installing him as Chief Executive Officer and Chairman upon Mr. Hagen's departure.

21. Prior to 1994, senior management of NS and Conrail discussed, from time to time, opportunities for business cooperation between the companies, and, in some of those discussions, the general concept of a business combination. While the companies determined to proceed with certain business cooperation opportunities, including the Triple Crown Services joint venture, no decisions were reached concerning a business combination at that time.

22. In March of 1994, Mr. Hagen approached Mr. Goode to suggest that under the current regulatory environment, Conrail management now believed that a business combination between Conrail and NS could be accomplished, and that the companies should commence discussion of such a transaction. Mr. Goode agreed to schedule a meeting between legal counsel for NS and Conrail for the purpose of discussing regulatory issues. Following that meeting, Mr. Goode met with Mr. Hagen to discuss in general terms an acquisition of Conrail by NS. Thereafter, during the period from April through August 1994, management and senior financial advisors of the respective companies met on numerous occasions to negotiate the terms of a combination of Conrail and NS. The parties entered into a confidentiality agreement on August 17, 1994. During these discussions, Mr. Hagen and other representatives of Conrail pressed for a premium price to reflect the acquisition of control over Conrail by NS. Initially, NS pressed instead for a stock-for-stock merger of equals in which no control premium would be paid to Conrail shareholders. Conrail management insisted on a control premium, however, and ultimately the negotiations turned toward a premium stock-for-stock acquisition of Conrail.

23. By early September 1994, the negotiations were in an advanced stage. NS had proposed an exchange ratio of 1-to-1, but Conrail management was still pressing for a higher premium. In a meeting in Philadelphia on September 23, 1994, Mr. Goode increased the proposed exchange ratio to 1.1-to-1, and left the door open to an even higher ratio. Mr. Hagen then told Mr. Goode that they could not reach agreement because the Conrail board had determined to remain independent and to pursue a stand-alone policy. The meeting then concluded.

24. The 1.1-to-1 exchange ratio proposed by Mr. Goode in September of 1994 reflected a substantial premium over the market price of Conrail stock at that time. If one applies that ratio to NS's stock price on October 14, 1996 -- the day the Conrail Board approved the CSX Transaction -- it implies a per share acquisition price for Conrail of over \$101. Thus, there can be no question that Mr. LeVan, if not Conrail's Board, was well aware that NS would likely be willing and able to offer more -- to Conrail's shareholders, rather than management, that is -- than CSX could offer for an acquisition of Conrail.

Defendant LeVan Actively Misleads NS

Management In Order To Permit Him To
Lock Up The Sale of Conrail to CSX

25. During the period following September of 1994, Mr. Goode from time to time had conversations with Mr. LeVan. During virtually all of these conversations, Mr. Goode expressed NS's strong interest in negotiating an acquisition of Conrail. Mr. LeVan responded that Conrail wished to remain independent. Nonetheless, Mr. Goode was led to believe that if and when the Conrail Board determined to pursue a sale of the company, it would do so through a process in which NS would have an opportunity to bid.

26. At its September 24, 1996 meeting, the NS Board reviewed its strategic alternatives and determined that NS should press for an acquisition of Conrail. Accordingly, Mr. Goode again contacted Mr. LeVan to (i) reiterate NS's strong interest in acquiring Conrail and (ii) request a meeting at which he could present a concrete proposal. Mr. LeVan responded that the Conrail board would be holding a strategic planning meeting that month and that he and Mr. Goode would be back in contact after that meeting. Mr. Goode emphasized that he wished to communicate NS's position so that Conrail's Board would be aware of it during the strategic planning meeting. Mr. LeVan stated that it was unnecessary for Mr. Goode to do so. At that point, the conversation concluded.

27. Following September 24, Mr. LeVan did not contact Mr. Goode. Finally, on Friday, October 4, 1996, Mr. Goode telephoned Mr. LeVan. Mr. Goode again reiterated NS's strong interest in making a proposal to acquire Conrail. Mr. LeVan responded that the Conrail Board would be meeting on October 16, 1996, and assumed that he and Mr. Hagen would contact Mr. Goode following that meeting. Mr. Goode again stated that NS wanted to make a proposal so that the Conrail Board would be aware of it. Mr. LeVan stated that it was unnecessary to do so.

CSX's Chairman Snow Contributes To
LeVan's Deception

28. Several days prior to October 15, CSX's Chairman, John W. Snow, publicly stated that he did not expect to see any major business combinations in the railroad industry for several years. On October 16, 1996, the New York Times reported that "less than a week ago, Mr. Snow told Wall Street analysts that he did not expect another big merger in the industry (in the next few years)."

On the Day Before the Purportedly
Scheduled Meeting of Conrail's Board,
Defendants Announce the CSX Transaction

29. To NS's surprise and dismay, on October 15, 1996, Conrail and CSX announced that they had entered into a definitive merger agreement (the "CSX Merger Agreement") pursuant to which control of Conrail would be swiftly sold to CSX and then a merger would be consummated following required regulatory approvals. As of the close of business on October 29, 1996, the blended value of the CSX Transaction was slightly more than \$85 per Conrail share. The CSX Transaction includes a break-up fee of \$300 million and a lock-up stock option agreement threatening substantial dilution to any rival bidder for control of Conrail. Integral to the CSX Transaction are covenants substantially increasing Mr. LeVan's compensation and guaranteeing that he will succeed John W. Snow, CSX's Chairman and Chief Executive Officer, as the combined company's CEO and Chairman.

CSX Admits That The Conrail Board Approved
The CSX Transaction Rapidly.

30. On October 16, 1996, the New York Times reported that CSX's Snow on October 15, 1996, had stated that the multi-billion dollar sale of Conrail in the CSX Transaction "came together rapidly in the last two weeks." The Wall Street Journal reported on October 16 that Mr. Snow stated that negotiations concerning the CSX Transaction had gone "very quickly," and "much faster than he and Mr. LeVan had anticipated." On October 24, 1996, the Wall Street Journal observed that "[i]n reaching its agreement with CSX, Conrail didn't solicit other bids ... and appeared to complete the accord at breakneck speed."

31. Thus, Conrail's board approved the CSX Transaction rapidly without a good faith and reasonable investigation. Given the nature of the CSX Transaction, with its draconian and preclusive lock-up mechanisms, the Conrail Board's rapid approval of the deal constitutes reckless and grossly negligent conduct.

CSX's Snow Implies That the CSX Transaction
Is a Fait Accompli and States That Conrail's
Directors Have Almost No Fiduciary Duties

32. On October 16, 1996, Mr. Goode met in Washington, D.C. with Mr. Snow to discuss the CSX Transaction and certain regulatory issues that its consummation would raise. Mr. Snow advised Mr. Goode during that meeting that Conrail's counsel and investment bankers had ensured that the CSX Transaction would be "bulletproof," implying that the sale of control of Conrail to CSX is now a fait accompli. Mr. Snow added that the "Pennsylvania statute," referring to Pennsylvania's Business Corporation Law, was "great" and that Conrail's directors have almost no fiduciary duties. Mr. Snow's comments were intended to discourage NS from making a competing offer for control of Conrail and to suggest that NS had no choice but to negotiate with CSX for access to such portions of Conrail's rail system as would be necessary to address the regulatory concerns that would be raised by consummation of the CSX Transaction. After Mr. Snow told Mr. Goode what CSX was willing to offer to NS in this regard, the meeting concluded.

NS Responds With A
Superior Offer For Conrail

33. On October 22, the NS Board met to review its strategic options in light of the announcement of the CSX Transaction. Because the NS Board believes that a combination of NS and Conrail would offer compelling benefits to both companies, their shareholders and their other constituencies, it determined that NS should make a competing bid for Conrail. On October 23, 1996, NS publicly announced its intention to commence a cash tender offer for all shares of Conrail stock for \$100 per share, to be followed, after required regulatory approvals, by a cash merger at the same price. On October 24, 1996, NS, through AAC, commenced the NS Offer.

CSX Tells The Market That NS's Superior
Proposal To Acquire Conrail Is Not Real

34. CSX responded to the NS Proposal by attempting to lead the market to believe that the superior NS Proposal does not represent a real, viable and actually available alternative to the CSX Transaction. On October 24, 1996, the Wall Street Journal reported:

CSX issued a harshly worded statement last night that called Norfolk's move a "nonbid" that would face inevitable delays and be subject to numerous conditions. It said the Norfolk bid couldn't be approved without Conrail's board, and notes that merger pact [with CSX] prohibited Conrail from terminating its pact until mid-April. It said the present value of the Norfolk bid was under \$90 a share because of the minimum six-month delay....

On the same day, the New York Times reported that "a source close to CSX" characterized the NS Proposal as "a phantom offer."

35. These statements are an integral part of defendants' scheme to coerce, mislead and manipulate Conrail's shareholders to rapidly deliver control of Conrail to CSX by creating the false impression that the NS Proposal is not a viable and actually available alternative.

The CSX Transaction

36. Consistent with Mr. Snow's remarks, discussed above, that Conrail's advisers had ensured that the CSX Transaction is "bullet-proof" and that Conrail's directors have almost no fiduciary duties, the CSX Merger Agreement contains draconian "lock-up" provisions which are unprecedented. These provisions are designed to foreclose success by any competing bidder for Conrail and to protect the lucrative compensation increase and executive succession deal promised to defendant LeVan by CSX.

The Poison Pill Lock-In

37. Perhaps the most onerous of these provisions, in terms of the drastic consequences it threatens to Conrail, its stockholders and its other legitimate constituencies, is the poison pill "lock-in" provision (the "Poison Pill Lock-In"). The CSX Merger Agreement purports to bind the Conrail board not to take any action with respect to the Conrail Poison Pill to facilitate any offer to acquire Conrail other than the CSX Transaction. At the same time, the Conrail board has amended the Conrail Poison Pill to facilitate the CSX Transaction.

38. Because of certain unusual provisions to the Conrail Poison Pill Plan -- which provisions, as noted below, not only were not disclosed in the Schedule 14D-1 filed with the Securities and Exchange Commission or in the Offer to Purchase circulated to Conrail's stockholders by CSX, or in the Schedule 14D-9 circulated to Conrail's shareholders by Conrail, but were in fact affirmatively misdescribed in CSX's Schedule 14D-1 and Offer to Purchase -- the provision in the CSX Merger Agreement barring the Conrail Board from taking action with respect to the Conrail Poison Pill threatens grave, imminent and irreparable harm to Conrail and all of its constituencies.

39. The problem is that on November 7, 1996, a "Distribution Date", as that term is defined in the Conrail Poison Pill Plan, will occur. Once that happens, the "Rights" issued under the Plan will no longer be redeemable by the Conrail Board, and the Plan will no longer be capable of amendment to facilitate any takeover or merger proposal. Put simply, once the Distribution Date occurs, Conrail's directors will have no control over the Conrail Poison Pill's dilutive effect on an acquiror. Because of the draconian effects of the poison pill dilution on a takeover bidder, no bidder other than CSX will be able to acquire Conrail until the poison pill

rights expire in the year 2005, regardless of whether such other bidder offers a transaction that is better for Conrail and its legitimate constituencies than the CSX Transaction. Further, not even CSX will be able to acquire Conrail in a transaction other than the CSX Transaction. In other words, if Conrail is not acquired by CSX in the CSX Transaction for the level of cash and stock currently offered by CSX, then it appears that Conrail will not be capable of being acquired until at least 2005. In essence, Conrail is about to swallow its own poison pill.

40. Poison Pills -- typically referred to as "shareholders rights plans" by the corporations which adopt them -- are normally designed to make an unsolicited acquisition prohibitively expensive to an acquiror by diluting the value and proportional voting power of the shares acquired.

41. Under such a plan, stockholders receive a dividend of originally uncertificated, unexercisable rights. The rights become exercisable and certificated on the so-called "Distribution Date," which under the Conrail Poison Pill Plan is defined as the earlier of 10 days following public announcement that a person or group has acquired beneficial ownership of 10% or more of Conrail's stock or 10 days following the commencement of a tender offer that would result in 10% or greater ownership of Conrail stock by the bidder. On the Distribution Date, the corporation would issue certificates evidencing the rights, each of which would allow the holder to purchase a share of stock at a set price. Initially, the exercise price of poison pill rights is set very substantially above market to ensure that the rights will not be exercised. Once rights certificates were issued, the rights could trade separately from the associated shares of stock.

42. The provisions of a poison pill plan that cause the dilution to an acquiror's position in the corporation are called the "flip-in" and "flip-over" provisions. Poison pill rights typically "flip in" when, among other things, a person or group obtains some specified percentage of the corporation's stock; in the Conrail Poison Pill plan, 10% is the "flip-in" level. Upon "flipping in," each right would entitle the holder to receive common stock of Conrail having a value of twice the exercise price of the right. That is, each right would permit the holder to purchase newly issued common stock of Conrail at half price (specifically, \$410 worth of Conrail stock for \$205). The person or group acquiring the 10% or greater ownership, however, would be ineligible to exercise such rights. In this way, a poison pill plan dilutes the acquiror's equity and voting position. Poison pill rights "flip over" if the corporation engages in a merger in which it is not the surviving entity. Holders of rights, other than the acquiror, would then have the right to buy stock of the surviving entity at half price, again diluting the acquiror's position. The Conrail Poison Pill Plan contains both a "flip-in" provision and a "flip-over" provision.

43. So long as corporate directors retain the power ultimately to eliminate the anti-takeover effects of a poison pill plan in the event that they conclude that a particular acquisition would be in the best interests of the corporation, a poison pill plan can be used to promote legitimate corporate interests. Thus, typical poison pill plans reserve power in a corporation's board of directors to redeem the rights in toto for a nominal payment, or to amend the poison pill plan, for instance, to exempt a particular transaction or acquiror from the dilutive effects of the plan.

44. The Conrail Poison Pill Plan contains provisions for redemption and amendment. However, an unusual aspect of the Conrail Poison Pill Plan is that the power of Conrail's directors to redeem the rights or amend the plan to exempt a particular transaction or bidder terminates on the Distribution Date. While the Conrail Poison Pill Plan gives Conrail directors the power to effectively postpone the Distribution Date, the CSX Merger Agreement purports to bind them contractually not to do so. Thus, the Distribution Date under Conrail's Poison Pill Plan will occur on November 7, 1996 -- ten business days after the date when NS commenced the Offer -- and Conrail's directors have entered into an agreement which purports to tie their hands so that they cannot do anything to prevent it.

45. Ironically, the specific provisions of the CSX Merger Agreement which purport to prevent the Conrail directors from postponing the Distribution Date are the very same sections which require Conrail to exempt the CSX Transaction from the Conrail Poison Pill -- Sections 3.1(n) and 5.13. Section 3.1(n) provides, in pertinent part:

Green Rights Agreement and By-laws. (A) The Green Rights Agreement has been amended (the "Green Rights Plan Amendment") to (i) render the Green Rights Agreement inapplicable to the Offer, the Merger and the other transactions contemplated by this Agreement and the Option Agreements and (ii) ensure that (y) neither White nor any of its wholly owned subsidiaries is an Acquiring Person (as defined in the Green Rights Agreement) pursuant to the Green Rights Agreement and (z) a Shares Acquisition Date, Distribution Date or Trigger Event (in each case as defined in the Green Rights Agreement) does not occur by reason of the approval, execution or delivery of this Agreement, and the Green Stock Option Agreement, the consummation of the Offer, the Merger or the consummation of the other transactions contemplated by this Agreement and the Green Stock Option Agreement, and the Green Rights Agreement may not be further amended by Green without the prior consent of White in its sole discretion. (emphasis added)

Section 5.13 provides, in pertinent part:

The Board of Directors of Green shall take all further action (in addition to that referred to in Section 3.1(n)) reasonably requested in writing by White (including redeeming the Green Rights immediately prior to the Effective Time or amending the Green Rights Agreement) in order to render the Green Rights inapplicable to the Offer, the Merger and the other transactions contemplated by this Agreement and the Green Stock Option Agreement. Except as provided above with respect to the Offer, the Merger and the other transactions contemplated by this Agreement and the Green Stock Option Agreement, the Board of Directors of Green shall not (a) amend the Green Rights Agreement or (b) take any action with respect to, or make any determination under, the Green Rights Agreement, including a redemption of the Green Rights or any action to facilitate a Takeover Proposal in respect of Green.

46. Thus, although under the Conrail Poison Pill Plan the Conrail Board is empowered to "determine[] by action ... prior to such time as any person becomes an Acquiring Person" that the Distribution Date will occur

on a date later than November 7, the Conrail board has contractually purported to bind itself not to do so.

47. If the Distribution Date is permitted to occur, Conrail, its shareholders, and its other constituents face catastrophic irreparable injury. If the Distribution Date occurs and then the CSX Transaction does not occur for any number of reasons -- for instance, because (i) the Conrail shareholders do not tender sufficient shares in the CSX offer, (ii) the Conrail shareholders do not approve the CSX merger, (iii) the merger does not receive required regulatory approvals, or (iv) CSX exercises one of the conditions to its obligation to complete its offer -- Conrail will be essentially incapable of being acquired or engaging in a business combination until 2005. This would be so regardless of the benefits and strategic advantages of any business combination which might otherwise be available to Conrail. In the present environment of consolidation in the railroad industry, such a disability would plainly be a serious irremediable disadvantage to Conrail, its shareholders and all of its constituencies.

48. The irreparable harm that will befall Conrail and all of its constituencies if the Distribution Date is permitted to occur is manifest.

The 180-Day Lock-Out

49. Setting aside the Poison Pill Lock-In, the CSX Merger Agreement also contains an unprecedented provision purporting to bind Conrail's directors not to terminate the CSX Merger Agreement for 180 days regardless of whether their fiduciary duties require them to do so. The pertinent provisions appear in Section 4.2 of the CSX Merger Agreement. Under that section, Conrail covenants not to solicit, initiate or encourage other takeover proposals, or to provide information to any party interested in making a takeover proposal. The CSX Merger Agreement builds in an exception to this prohibition -- it provides that prior to the earlier of the closing of the CSX Offer and Conrail shareholder approval of the CSX Merger, or after 180 days from the date of the CSX Merger Agreement, if the Conrail board determines upon advice of counsel that its fiduciary duties require it to do so, Conrail may provide information to and engage in negotiations with another bidder. Thus, the drafters of the CSX Merger Agreement -- no doubt counsel for Conrail and CSX -- recognize that there are circumstances in which Conrail's directors would be required by their fiduciary duties to consider a competing acquisition bid.

50. However, despite the recognition in the CSX Merger Agreement that the fiduciary duties of the Conrail Board may require it to do so, Section 4.2(b) of the agreement (the "180-Day Lock-Out") purports to prohibit the Conrail Board from withdrawing its recommendations that Conrail shareholders tender their shares in the CSX Offer and approve the CSX Merger for a period of 180 days from the date of the CSX Merger Agreement. Likewise, it prohibits the Conrail Board from terminating the CSX Merger Agreement, even if the Conrail Board's fiduciary duties require it to do so, for the same 180-day period.

51. Thus, despite the plain contemplation of circumstances under which the Conrail Board's fiduciary duties would require it to entertain competing offers and act to protect Conrail and its constituencies by (i) withdrawing its recommendation that Conrail shareholders approve the CSX Transaction and (ii) terminating the CSX Merger Agreement, Conrail's Board has seen fit to disable itself contractually from doing so.

52. As with the Poison Pill Lock-In, this "180-Day Lock-Out" provision amounts to a complete abdication of the duty of Conrail's directors to act in the best interests of the corporation. With the 180-day Lock-Out, the Conrail directors have determined to take a six-month leave of absence despite their apparent recognition that their fiduciary duties could require them to act during this critical time.

53. The effect of this provision is to lock out competing superior proposals to acquire Conrail for at least six months, thus giving the CSX Transaction an unfair time value advantage over other offers and adding to the coercive effects of the CSX Transaction.

54. Because it purports to restrict or limit the exercise of the fiduciary duties of the Conrail directors, the 180-Day Lock-Out provision of the CSX Merger Agreement is ultra vires, void and unenforceable. Further, by agreeing to the 180-Day Lock-Out as part of the CSX Merger Agreement, the Conrail directors breached their fiduciary duties of loyalty and care.

Rapid Transfer of Control

55. The CSX Transaction is structured to include (i) a first-step cash tender offer for up to 19.9% of Conrail's stock, (ii) an amendment to Conrail's charter to opt out of coverage under Subchapter 25E of Pennsylvania's Business Corporation Law (the "Charter Amendment"), which requires any person acquiring control of over 20% or more of the corporation's voting power to acquire all other shares of the corporation for a "fair price," as defined in the statute, in cash, (iii) following such amendment, an acquisition of additional shares which, in combination with other shares already acquired, would constitute at least 40% and up to approximately 50% of Conrail's stock, and (iv) following required regulatory approvals, consummation of a follow-up stock-for-stock merger.

56. Thus, once the Charter Amendment is approved, CSX will be in a position to acquire either effective or absolute control over Conrail. Conrail admits that the CSX Transaction contemplates a sale of control of Conrail. In its preliminary proxy materials filed with the Securities and Exchange Commission, Conrail stated that if CSX acquires 40% of Conrail's stock, approval of the merger will be "virtually certain." CSX could do so either by increasing the number of shares it will purchase by tender offer, or, if tenders are insufficient, by accepting all tendered shares and exercising the Stock Option. CSX could obtain "approximately 50 percent" of Conrail's shares by purchasing 40% pursuant to tender offer and by exercising the Stock Option, in which event shareholder approval of the CSX Merger will be, according to Conrail's preliminary proxy statement, "certain."

57. The swiftness with which the CSX Transaction is designed to transfer control over Conrail to CSX can only be viewed as an attempt to lock up the CSX Transaction and benefits it provides to Conrail management, despite the fact that a better deal, financially and otherwise, is available for Conrail, its shareholders, and its other legitimate constituencies.

The Charter Amendment

58. Conrail's Preliminary Proxy Materials for the November 14, 1996 Special Meeting set forth the resolution to be voted upon by Conrail's shareholders as follows:

An amendment (the "Amendment") of the Articles

of Incorporation of Conrail is hereby approved and adopted, by which, upon the effectiveness of such amendment Article Ten thereof will be amended and restated in its entirety as follows: Subchapter E, Subchapter G and Subchapter H of Chapter 25 of the Pennsylvania Business Corporation Law of 1988, as amended, shall not be applicable to the Corporation; and further, that the Board of Directors of Conrail, in its discretion, shall be authorized to direct certain executive officers of Conrail to file or not to file the Articles of Amendment to Conrail's Articles of Incorporation reflecting such Amendment or to terminate the Articles of Amendment prior to their effective date, if the Board determines such action to be in the best interests of Conrail.

59. Further, the preliminary proxy materials state that

Pursuant to the Merger Agreement and in order to facilitate the transactions contemplated thereby, if the [Charter Amendment] is approved, Conrail would be required to file the Amendment with the Pennsylvania Department of State so as to permit the acquisition by CSX of in excess of 20% of the shares, such filing to be made and effective immediately prior to such acquisition. If CSX is not in a position to make such acquisition (because, for example, shares have not been tendered to CSX, Conrail is not required to make such filing, (although approval of the [Charter Amendment] will authorize Conrail to do so) and Conrail does not currently intend to make such filing unless it is required under the Merger Agreement to permit CSX to acquire in excess of 20% of the Shares.

60. Thus, if Conrail shareholders fail to tender sufficient shares to CSX to permit CSX to acquire in excess of 20% of the shares, for example, because they wish to instead accept the superior NS Proposal, the Defendant Directors are actually asking Conrail shareholders to grant them the authority to discriminatorily withhold the filing of the Charter Amendment, and thereby attempt to prevent consummation of the NS Proposal.

The \$300 Million Breakup Fee

61. The CSX Merger Agreement provides for a \$300 million break-up fee. This fee would be triggered if the CSX Merger Agreement were terminated following a competing takeover proposal.

62. This breakup fee is disproportionately large, constituting over 3.5% of the aggregate value of the CSX Transaction. The breakup fee unreasonably tilts the playing field in favor of the CSX Transaction -- a transaction that the defendant directors knew, or reasonably should have known, at the time they approved the CSX Transaction, provided less value and other benefits to Conrail and its constituencies than would a transaction with NS.

The Lock-Up Stock Option

63. Concurrently with the CSX Merger Agreement, Conrail and CSX entered into an option agreement (the "Stock Option Agreement") pursuant to which Conrail granted to CSX an option, exercisable in certain events, to purchase 15,955,477 shares of Conrail

common stock at an exercise price of \$92.50 per share, subject to adjustment.

64. If, during the time that the option under the Stock Option Agreement is exercisable, Conrail enters into an agreement pursuant to which all of its outstanding common shares are to be purchased for or converted into, in whole or in part, cash, in exchange for cancellation of the Option, CSX shall receive an amount in cash equal to the difference (if positive) between the closing market price per Conrail common share on the day immediately prior to the consummation of such transaction and the purchase price. In the event (i) Conrail enters into an agreement to consolidate with, merge into, or sell substantially all of its assets to any person, other than CSX or a direct or indirect subsidiary thereof, and Conrail is not the surviving corporation, or (ii) Conrail allows any person, other than CSX or a direct or indirect subsidiary thereof, to merge into or consolidate with Conrail in a series of transactions in which the Conrail common shares or other securities of Conrail represent less than 50% of the outstanding voting securities of the merged corporation, then the option will be adjusted, exchanged, or converted into options with identical terms as those described in the Stock Option Agreement, appropriately adjusted for such transaction.

65. CSX and Conrail also entered into a similar option agreement, pursuant to which CSX granted to Conrail an option, exercisable only in certain events, to purchase 43,090,773 shares of CSX Common Stock at an exercise price of \$64.82 per share.

66. The exercise price of the option under the Stock Option Agreement is \$92.50 per share. The Stock Option Agreement contemplates that 15,955,477 authorized but unissued Conrail shares would be issued upon its exercise. Thus, for each dollar above \$92.50 that is offered by a competing bidder for Conrail, such as NS, the competing acquiror would suffer \$15,955,477 in dilution. Moreover, there is no cap to the potential dilution. At NS's offer of \$100 per share, the dilution attributable to the Stock Option would be \$119,666,077.50. At a hypothetical offering price of \$101 per share, the dilution would total \$135,621,554.50. This lock-up structure serves no legitimate corporate purpose, as it imposes increasingly severe dilution penalties the higher the competing bid!

67. At the current \$100 per share level of NS's bid, the sum of the \$300 million break-up fee and Stock Option dilution of \$119,666,077.50 constitutes nearly 5.2% of the CSX Transaction's \$8.1 billion value. This is an unreasonable impediment to NS's offer. Moreover, because these provisions were not necessary to induce an offer that is in Conrail's best interests, but rather were adopted to lock up a deal providing Conrail's management with personal benefits while selling Conrail to the low bidder, their adoption constituted a plain breach of the Director Defendants' fiduciary duty of loyalty.

Selective Discriminatory Treatment of Competing Bids

68. Finally, the Conrail board has breached its fiduciary duties by selectively (i) rendering Conrail's Poison Pill Plan inapplicable to the CSX Transaction, (ii) approving the CSX Transaction and thus exempting it from the 5-year merger moratorium under Pennsylvania's Business Combination Statute, and (iii), as noted above, purporting to approve the Charter Amendment in favor of CSX only.

69. While Pennsylvania law does not require directors to amend or redeem poison pill rights or to take action rendering anti-takeover provisions inapplicable, the law is silent with respect to the duties of directors once they have determined to do so. Once directors have determined to render poison pill rights and anti-takeover statutes inapplicable to a change of control transaction, their fundamental fiduciary duties of care and loyalty require them to take such actions fairly and equitably, in good faith, after due investigation and deliberation, and only for the purpose of fostering the best interests of the corporation, and not to protect selfish personal interests of management.

70. Thus, Conrail's directors are required to act evenhandedly, redeeming the poison pill rights and rendering anti-takeover statutes inapplicable only to permit the best competing control transaction to prevail. Directors cannot take such selective and discriminatory defensive action to favor corporate executives' personal interests over those of the corporation, its shareholders, and other legitimate constituencies.

LeVan's Deal

71. As an integral part of the CSX Transaction, CSX, Conrail and defendant LeVan have entered into an employment agreement dated as of October 14, 1996 (the "LeVan Employment Agreement"), covering a period of five-years from the effective date of any merger between CSX and Conrail. The LeVan Employment Agreement provides that Mr. LeVan will serve as Chief Operating Officer and President of the combined CSX/Conrail company, and as Chief Executive Officer and President of the railroad businesses of Conrail and CSX, for two years from the effective date of a merger between CSX and Conrail (the "First Employment Segment"). Additionally, Mr. LeVan will serve as Chief Executive Officer of the combined CSX/Conrail company for a period of two years beginning immediately after the First Employment Segment (the "Second Employment Segment"). During the period commencing immediately after the Second Employment Segment, or, if earlier, upon the termination of Mr. Snow's status as Chairman of the Board (the "Third Employment Segment"), Mr. LeVan will additionally serve as Chairman of the Board of the combined CSX/Conrail company.

72. Defendant LeVan received a base salary from Conrail of \$514,519 and a bonus of \$24,759 during 1995. The LeVan Employment Agreement ensures substantially enhanced compensation for defendant LeVan. It provides that during the First Employment Segment, Mr. LeVan shall receive annual base compensation at least equal to 90% of the amount received by the Chief Executive Officer of CSX, but not less than \$810,000, together with bonus and other incentive compensation at least equal to 90% of the amount received by the Chief Executive Officer of CSX. During 1995, Mr. Snow received a base salary of \$895,698 and a bonus having a cash value of \$1,687,500. Thus, if Mr. Snow's salary and bonus were to equal Mr. Snow's 1995 salary and bonus, the LeVan Employment Agreement would provide LeVan with a salary of \$810,000 and a bonus of \$1,518,750 in the First Employment Period. During the Second and Third Employment Segments, Mr. LeVan will receive compensation in an amount no less than that received by the Chief Executive Officer during the First Employment Segment, but not less than \$900,000.

73. If CSX terminates Mr. LeVan's employment for a reason other than cause or disability or Mr. LeVan terminates employment for good reason (as those terms are defined in the LeVan Employment Agreement), Mr. LeVan

will be entitled to significant lump sum cash payments based on his compensation during the five year term of the employment agreement, continued employee welfare benefits for the longer of three years or the number of years remaining in the employment agreement; and the immediate vesting of outstanding stock-based awards.

Defendants' Campaign Of Misinformation

74. On October 15, 1996, Conrail and CSX issued press releases announcing the CSX Transaction, and Conrail published and filed preliminary proxy materials with the SEC. On October 16, 1996, CSX filed and published its Schedule 14D-1 Tender Offer Statement and Conrail filed its Schedule 14D-9 Solicitation/Recommendation Statement. These communications to Conrail's shareholders reflect a scheme by defendants to coerce, mislead and fraudulently manipulate such shareholders to swiftly deliver control of Conrail to CSX and effectively frustrate any competing higher bid.

75. Conrail's Preliminary Proxy Statement contains the following misrepresentations of fact:

(a) Conrail states that "certain provisions of Pennsylvania law effectively preclude ... CSX from purchasing 20% or more" of Conrail's shares in the CSX Offer "or in any other manner (except the [CSX] Merger." This statement is false. The provisions of Pennsylvania law to which Conrail is referring are those of Subchapter 25E of the Pennsylvania Business Corporation Law. This law does not "effectively preclude" CSX from purchasing 20% or more of Conrail's stock other than through the CSX Merger. Rather, it simply requires a purchaser of 20% or more of Conrail's voting stock to pay a fair price in cash, on demand, to the holders of the remaining 80% of the shares. The real reason that CSX will not purchase 20% or more of Conrail's voting stock absent the Charter Amendment is that, unlike NS, CSX is unable or unwilling to pay a fair price in cash for 100% of Conrail's stock.

(b) Conrail states that its "Board of Directors believes that Conrail shareholders should have the opportunity to receive cash in the near-term for 40% of [Conrail's] shares," and that "[t]he Board of Directors believes it is in the best interests of shareholders that they have the opportunity to receive cash for 40% of their shares in the near term." These statements are false. First of all, the Conrail Board believes that Conrail shareholders should have the opportunity to receive cash in the near-term for 40% of Conrail's shares only if such transaction will swiftly deliver effective control of Conrail to CSX. Second, the Conrail Board of Directors does not believe that such swift transfer of control to CSX is in the best interests of Conrail shareholders; rather, the Conrail Board of Directors believes that swift transfer of effective control over Conrail to CSX through the CSX Offer will lock up the CSX Transaction and preclude Conrail shareholders from any opportunity to receive the highest reasonably available price in a sale of control of Conrail.

76. CSX's Schedule 14D-1 contains the following misrepresentations of fact:

(a) CSX states that:

At any time prior to the announcement by [Conrail] or an Acquiring Person that an Acquiring Person has become such,

[Conrail] may redeem the [Conrail Poison Pill Plan] rights

This statement is false. In fact, the Conrail Poison Pill rights are redeemable any time prior to the Distribution Date. After the Distribution Date, they cannot be redeemed. CSX further states that:

The terms of the [Conrail Poison Pill] rights may be amended by the [Conrail Board] without the consent of the holders of the Rights ... to make any other provision with respect to the Rights which [Conrail] may deem desirable; provided that from and after such time as Acquiring Person becomes such, the Rights may not be amended in any manner which would adversely affect the interests of holders of Rights.

This statement is also false. The Conrail Board's power to freely amend the poison pill rights terminates on the Distribution Date, not the date when someone becomes an Acquiring Person. These misrepresentations operate to conceal the fact that the Conrail Board will lose its power to control the drastic effects of the poison pill ten days following commencement of a competing tender offer.

(b) CSX states that the "purpose of the [CSX] Offer is for [CSX] . . . to acquire a significant equity interest in [Conrail] as the first step in a business combination of [CSX] and [Conrail]." This statement is false. The purpose of the CSX Offer is to swiftly transfer effective control over Conrail to CSX in order to lock up the CSX Transaction and foreclose the acquisition of Conrail by any competing higher bidder.

(c) CSX states that "the Pennsylvania Control Transaction Law effectively precludes [CSX, through its acquisition subsidiary] from purchasing 20% or more of Conrail's shares pursuant to the [CSX] Offer." This statement is false. The provisions of Pennsylvania law to which Conrail is referring are those of Subchapter 25E of the Pennsylvania Business Corporation Law. This law does not "effectively preclude" CSX from purchasing 20% or more of Conrail's stock other than through the CSX Merger. Rather, it simply requires a purchaser of 20% or more of Conrail's voting stock to pay a fair price in cash, on demand, to the holders of the remaining 80% of the shares. The real reason that CSX will not purchase 20% or more of Conrail's voting stock absent the Charter Amendment is that, unlike NS, CSX is unable or unwilling to pay a fair price in cash for 100% of Conrail's stock.

77. Conrail's Schedule 14D-9 states that "the [CSX Transaction] . . . is being structured as a true merger-of-equals transaction." This statement is false. The CSX Transaction is being structured as a rapid, locked-up sale of control of Conrail to CSX involving a significant, albeit inadequate, control premium.

78. Each of the Conrail Preliminary Proxy Statement, the CSX Schedule 14D-1 and the Conrail Schedule 14D-9 omit to disclose the following material facts, the disclosure of which are necessary to make the statements made in such documents not misleading:

(a) That the Conrail Board will lose its power to redeem or freely amend the Conrail Poison Pill Plan rights on the "Distribution Date," which

will occur 10 business days from the date when a competing tender offer for Conrail is commenced.

(b) That both Conrail (and its senior management) and CSX (and its senior management) knew (i) that NS was keenly interested in acquiring Conrail, (ii) that NS has the financial capacity and resources to pay a higher price for Conrail than CSX could, and (iii) that a financially superior competing bid for Conrail by NS was inevitable.

(c) That Conrail management led NS to believe that if and when the Conrail Board determined to sell Conrail, it would do so through a process in which NS would be given the opportunity to bid, and that in the several weeks prior to the announcement of the CSX Transaction, defendant LeVan on two occasions prevented Mr. Goode from presenting an acquisition proposal to Conrail by stating to him that making such a proposal would be unnecessary and that Mr. LeVan would contact Mr. Goode concerning NS's interest in acquiring Conrail following (i) the Conrail Board's strategic planning meeting scheduled for September 1996 and (ii) a meeting of the Conrail Board purportedly scheduled for October 16, 1996.

(d) That in September of 1994, NS had proposed a stock-for-stock acquisition of Conrail at an exchange ratio of 1.1 shares of NS stock for each share of Conrail stock, which ratio, if applied to the price of NS stock on the day before announcement of the CSX Transaction, October 14, 1996, implied a bid by NS worth over \$101 per Conrail share.

(e) That the CSX Transaction was structured to swiftly transfer effective, if not absolute voting control over Conrail to CSX, and to prevent any other bidders from acquiring Conrail for a higher price.

(f) That although Conrail obtained opinions from Morgan Stanley and Lazard Freres that the consideration to be received by Conrail stockholders in the CSX Transaction was "fair" to such shareholders from a financial point of view, Conrail's Board did not ask its investment bankers whether the CSX Transaction consideration was adequate, from a financial point of view, in the context of a sale of control of Conrail such as the CSX Transaction.

(g) That although in arriving at their "fairness" opinions, both Morgan Stanley and Lazard Freres purport to have considered the level of consideration paid in comparable transactions, both investment bankers failed to consider the most closely comparable transaction -- NS's September 1994 merger proposal, which as noted above, would imply a price per Conrail share in excess of \$101.

(h) That, if asked to do so, Conrail's investment bankers would be unable to opine in good faith that the consideration offered in the CSX Transaction is adequate to Conrail's shareholders from a financial point of view.

(i) That Conrail's Board failed to seek a fairness opinion from its investment bankers concerning the \$300 million breakup fee included in the CSX Transaction.

(j) That Conrail's Board failed to seek a fairness opinion from its investment bankers concerning the Stock Option Agreement granted by Conrail to CSX in connection with the CSX

Transaction.

(k) That the Stock Option Agreement is structured so as to impose increasingly severe dilution costs on a competing bidder for control of Conrail for progressively higher acquisition bids.

(l) That the Conrail Board intends to withhold the filing of the Charter Amendment following its approval by Conrail's stockholders if the effectiveness of such amendment would facilitate any bid for Conrail other than the CSX Transaction.

(m) That the Charter Amendment and/or its submission to a vote of the Conrail shareholders is illegal and ultra vires under Pennsylvania law.

(n) That the Conrail Board's discriminatory (i) use of the Charter Amendment, (ii) amendment of the Conrail Poison Pill and (iii) action exempting the CSX Transaction from Pennsylvania's Business Combination Statute, all to facilitate the CSX Transaction and to preclude competing financially superior offers for control of Conrail, constitute a breach of the Director Defendants' fiduciary duty of loyalty.

(o) That Conrail's Board failed to conduct a reasonable, good faith investigation of all reasonably available material information prior to approving the CSX transaction and related agreements, including the lock-up Stock Option Agreement.

(p) That in recommending that Conrail's shareholders tender their shares to CSX in the CSX Offer, Conrail's Board did not conclude that doing so would be in the best interests of Conrail's shareholders.

(q) That in recommending that Conrail's shareholders approve the Charter Amendment, the Conrail Board did not conclude that doing so would be in the best interests of Conrail's shareholders.

(r) That in recommending that Conrail shareholders tender their shares to CSX in the CSX Offer, primary weight was given by the Conrail Board to interests of persons and/or groups other than Conrail's shareholders.

(s) That in recommending that Conrail shareholders tender their shares to CSX in the CSX Offer, primary weight was given to the personal interests of defendant LeVan in increasing his compensation and succeeding Mr. Snow as Chairman and Chief Executive Officer of the combined CSX/Conrail company.

(t) That the Continuing Director Requirement in Conrail's Poison Pill (described below in paragraphs 80 through 88, adopted by Conrail's board in September 1995 and publicly disclosed at that time, is illegal and ultra vires under Pennsylvania law and therefore is void and unenforceable.

79. Each of the misrepresentations and omitted facts detailed above are material to the decisions of Conrail's shareholders concerning whether to vote in favor of the Charter Amendment and whether, in response to the CSX Offer, to hold, sell to the market, or tender their shares, because such misrepresentations and omitted facts bear upon (i) the good faith of the Conrail directors in recommending that Conrail shareholders

approve the Charter Amendment and tender their shares in the CSX Offer, (ii) whether taking such actions are in the best interests of Conrail shareholders, (iii) whether the CSX Offer represents financially adequate consideration for the sale of control of Conrail and/or (iv) whether the economically superior NS Proposal is a viable, available alternative to the CSX Transaction. Absent adequate corrective disclosure by the defendants, these material misrepresentations and omissions threaten to coerce, mislead, and fraudulently manipulate Conrail shareholders to approve the Charter Amendment and deliver control of Conrail to CSX in the CSX Offer, in the belief that the NS Proposal is not an available alternative.

Conrail's Directors Attempt To Override
Fundamental Principles of Corporate Democracy
By Imposing A Continuing Directors
Requirement in Conrail's Poison Pill

80. As noted above, Conrail's directors have long known that it was an attractive business combination candidate to other railroad companies, including NS.

81. Neither Conrail management nor its Board, however, had any intention to give up their control over Conrail, unless the acquiror was willing to enter into board composition, executive succession, and compensation and benefit arrangements satisfying the personal interests of Conrail management and the defendant directors, such as the assignments provided for in the CSX Transaction. They were aware, however, that through a proxy contest, they could be replaced by directors who would be receptive to a change in control of Conrail regardless of defendants' personal interests. Accordingly, on September 20, 1995, the Conrail directors attempted to eliminate the threat to their continued incumbency posed by the free exercise of Conrail's stockholders' franchise. They drastically altered Conrail's existing Poison Pill Plan, by adopting a "Continuing Director" limitation to the Board's power to redeem the rights issued pursuant to the Rights Plan (the "Continuing Director Requirement").

82. Prior to adoption of the Continuing Director Requirement, the Conrail Poison Pill Plan was a typical "flip-in, flip-over" plan, designed to make an unsolicited acquisition of Conrail prohibitively expensive to an acquiror, and reserving power in Conrail's duly elected board of directors to render the dilutive effects of the rights ineffective by redeeming or amending them.

83. The September 20, 1995 adoption of the Continuing Director Requirement changed this reservation of power. It added an additional requirement for amendment of the plan or redemption of the rights. For such action to be effective, at least two members of the Board must be "Continuing Directors," and the action must be approved by a majority of such "Continuing Directors." "Continuing Directors" are defined as members of the Conrail Board as of September 20, 1995, i.e., the incumbents, or their hand-picked successors.

84. By adopting the Continuing Director Requirement, the Director Defendants intentionally and deliberately have attempted to destroy the right of stockholders of Conrail to replace them with new directors who would have the power to redeem the rights or amend the Rights Agreement in the event that such new directors deemed such action to be in the best interests of the company. That is, instead of vesting the power to accept or reject an acquisition in the duly elected Board of Directors of Conrail, the Rights Plan, as amended, destroys the power of a duly elected Board to act in connection with acquisition offers, unless such Board

happens to consist of the current incumbents or their hand-picked successors. Thus, the Continuing Director Requirement is the ultimate entrenchment device.

85. The Continuing Director Requirement is invalid per se under Pennsylvania statutory law, in that it purports to limit the discretion of future Boards of Conrail. Pennsylvania law requires that any such limitation on Board discretion be set forth in a By-Law adopted by the stockholders. See Pa. BCL SECTION 1721. Thus, the Director Defendants were without power to adopt such a provision unilaterally by amending the Rights Agreement.

86. Additionally, the Continuing Director Requirement is invalid under Conrail's By-Laws and Articles of Incorporation. Under Section 3.5 of Conrail's By-Laws, the power to direct the management of the business and affairs of Conrail is broadly vested in its duly elected board of directors. Insofar as the Continuing Director Requirement purports to restrict the power of Conrail's duly elected board of directors to redeem the rights or amend the plan, it conflicts with Section 3.5 of Conrail's By-Laws and is therefore of no force or effect. Article Eleven of Conrail's Articles of Incorporation permits Conrail's entire board to be removed without cause by stockholder vote. Read together with Section 3.5 of Conrail's By-Laws, Article Eleven enables Conrail's stockholders to replace the entire incumbent board with a new board fully empowered to direct the management of Conrail's business and affairs, and, specifically, to redeem the rights or amend the plan. Insofar as the Continuing Director Requirement purports to render such action impossible, it conflicts with Conrail's Articles of Incorporation and is therefore of no cause or effect.

87. Furthermore, the adoption of the Continuing Director Requirement constituted a breach of the Director Defendants' fiduciary duty of loyalty. There existed no justification for the directors to attempt to negate the right of stockholders to elect a new Board in the event the stockholders disagree with the incumbent Board's policies, including their response to an acquisition proposal.

88. Moreover, while the Director Defendants disclosed the adoption of the Continuing Director Requirement, they have failed to disclose its illegality and the illegality of their conduct in adopting it. If they are not required to make corrective disclosures, defendants will permit the disclosure of the Continuing Director Requirement's adoption to distort stockholder choice in connection with the special meeting, the CSX Offer, and (if they have not successfully locked up voting control of Conrail by then) in the next annual election of directors. The Director Defendants' conduct is thus fraudulent, in that they have failed to act fairly and honestly toward the Conrail stockholders, and intended to preserve their incumbency and that of current management, to the detriment of Conrail's stockholders and other constituencies. Accordingly, such action should be declared void and of no force or effect. Furthermore, adequate corrective disclosure should be required.

Conrail's Charter Permits The Removal
and Replacement of Its Entire Board of
Directors At Its Next Annual Meeting

89. As noted above, plaintiff NS intends to facilitate the NS Proposal by replacing the Conrail board at Conrail's next annual meeting. Conrail's next annual meeting is scheduled to be held on May 21, 1997 (according to Conrail's April 3, 1996 Proxy Statement, as

filed with the Securities and Exchange Commission).

90. The Director Defendants adopted the Continuing Director Requirement in part because they recognized that under Conrail's Articles, its entire Board, even though staggered, may be removed without cause at Conrail's next annual meeting.

91. Section 3.1 of Conrail's By-Laws provides that the Conrail Board shall consist of 13 directors, but presently there are only 11. The Conrail Board is classified into three classes. Each class of directors serves for a term of three years, which terms are staggered.

92. Article 11 of Conrail's Articles of Incorporation provides that:

The entire Board of Directors, or a class of the Board where the Board is classified with respect to the power to elect directors, or any individual director may be removed from office without assigning any cause by vote of stockholders entitled to cast at least a majority of the votes which all stockholders would be entitled to cast at any annual election of directors or of such class of directors.

93. Under the plain language of Article 11, the entire Conrail Board, or any one or more of Conrail's directors, may be removed without cause by a majority vote of the Conrail stockholders entitled to vote at the annual meeting. Plaintiffs anticipate, however, that defendants will argue that under Article 11, only one class may be removed at each annual meeting. Accordingly, plaintiffs seek a declaratory judgment that pursuant to Article 11, the entire Conrail Board, or any one or more of Conrail's directors, may be removed without cause at Conrail's next annual meeting.

Declaratory Relief

94. The Court may grant the declaratory relief sought herein pursuant to 28 U.S.C. SECTION 2201. The Director Defendants' adoption of the CSX Transaction (with its discriminatory Charter Amendment poison pill, and state anti-takeover statute treatment and draconian lock-up provisions) as well as their earlier adoption of the Continuing Director Requirement, clearly demonstrate their bad faith entrenchment motivation and, in light of the NS Proposal, that there is a substantial controversy between the parties. Indeed, given the NS Proposal, the adverse legal interests of the parties are real and immediate. Defendants can be expected to vigorously oppose each judicial declaration sought by plaintiffs, in order to maintain their incumbency and defeat the NS Proposal -- despite the benefits it would provide to Conrail's stockholders and other constituencies.

95. The granting of the requested declaratory relief will serve the public interest by affording relief from uncertainty and by avoiding delay and will conserve judicial resources by avoiding piecemeal litigation.

Irreparable Injury

96. The Director Defendants' adoption of the CSX Transaction (with its discriminatory Charter Amendment, poison pill and state antitakeover statute treatment and draconian lock-up provisions) as well as their earlier adoption of the Continuing Director Requirement threaten to deny Conrail's stockholders of their right to exercise their corporate franchise without manipulation, coercion or false and misleading

disclosures and to deprive them of a unique opportunity to receive maximum value for their stock. The resulting injury to plaintiffs and all of Conrail's stockholders would not be adequately compensable in money damages and would constitute irreparable harm.

Derivative Allegations

97. Plaintiffs bring each of the causes of action reflected in Counts One through Seven and Fourteen and Fifteen below individually and directly. Alternatively, to the extent required by law, plaintiffs bring such causes of action derivatively on behalf of Conrail.

98. No demand has been made on Conrail's Board of Directors to prosecute the claims set forth herein since, for the reasons set forth below, any such demand would have been a vain and useless act since the Director Defendants constitute the entire Board of Directors of Conrail and have engaged in fraudulent conduct to further their personal interests in entrenchment and have ratified defendant LeVan's self-dealing conduct:

a. The Director Defendants have acted fraudulently by pursuing defendants' campaign of misinformation, described above, in order to coerce, mislead, and manipulate Conrail shareholders to swiftly deliver control of Conrail to the low bidder.

b. The form of resolution by which the shareholders are being asked to approve the Charter Amendment is illegal and ultra vires in that it purports to authorize the Conrail Board to discriminatorily withhold filing the certificate of amendment even after shareholder approval. Thus, its submission to the shareholders is illegal and ultra vires and, therefore, not subject to the protections of the business judgment rule.

c. The Conrail directors' selective amendment of the Conrail poison pill and discriminatory preferential treatment of the CSX Transaction under the Pennsylvania Business Combination Statute were motivated by their personal interest in entrenchment, constituting a breach of their fiduciary duty of loyalty and rendering the business judgment rule inapplicable.

d. The Director Defendants' adoption of the breakup fee and stock option lock-ups in favor of CSX was motivated by their personal interest in entrenchment, constituting a breach of their duty of loyalty and rendering the business judgment rule inapplicable.

e. The Continuing Director Requirement is illegal and ultra vires under Pennsylvania statutory law and under Conrail's charter and by-laws, rendering the business judgment rule inapplicable to its adoption by the Director Defendants.

f. In adopting the Continuing Director Requirement, each of the Defendant Directors has failed to act fairly and honestly toward Conrail and its stockholders, insofar as by doing so the Defendant Directors, to preserve their own incumbency, have purported to eliminate the stockholders' fundamental franchise right to elect directors who would be receptive to a sale of control of Conrail to the highest bidder. There is no reason to think that, having adopted this ultimate in entrenchment devices, the Director

Defendants would take action that would eliminate it.

g. Additionally, the Director Defendants have acted fraudulently, in that they intentionally have failed to disclose the plain illegality of their conduct.

h. There exists no reasonable prospect that the Director Defendants would take action to invalidate the Continuing Director Requirement. First, pursuant to Pennsylvania statute, their fiduciary duties purportedly do not require them to amend the Rights Plan in any way. Second, given their dishonest and fraudulent entrenchment motivation, the Director Defendants would certainly not commence legal proceedings to invalidate the Continuing Director Requirement.

99. Plaintiffs are currently beneficial owners of Conrail common stock. Plaintiffs' challenge to the CSX Transaction (including the illegal Charter Amendment, discriminatory treatment, and lock-ups) and to the Continuing Director Requirement presents a strong prima facie case, insofar as the Director Defendants have deliberately and intentionally, without justification, acted to foreclose free choice by Conrail's shareholders. If this action were not maintained, serious injustice would result, in that defendants would be permitted illegally and in pursuit of personal, rather than proper corporate interests to deprive Conrail stockholders of free choice and a unique opportunity to maximize the value of their investments through the NS Proposal, and to deprive plaintiff NS of a unique acquisition opportunity.

100. This action is not a collusive one to confer jurisdiction on a Court of the United States that it would not otherwise have.

COUNT ONE

(Breach of Fiduciary Duty with
Respect to the Charter Amendment)

101. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

102. The Conrail directors were and are obligated by their fiduciary duties of due care and loyalty, to act in the best interests of the corporation.

103. In conjunction with the proposed merger, the Conrail board of directors has approved, and recommended that the shareholders approve, an amendment to Conrail's Charter. The amendment is required to allow a third party to acquire more than 20% of Conrail's stock.

104. The Conrail directors have publicly stated their intention to file the amendment only if the requisite number of shares are tendered to CSX.

105. By adopting the illegal Charter Amendment and then discriminately applying it to benefit themselves, the Conrail directors have breached their fiduciary duties of care and loyalty.

106. Plaintiffs have no adequate remedy at law.

COUNT TWO

(Breach of Fiduciary Duty
With Respect to the Poison Pill)

107. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

108. The Conrail board of directors adopted its Poison Pill Plan with the ostensible purpose of protecting its shareholders against the consummation of unfair acquisition proposals that may fail to maximize shareholder value.

109. The Conrail Board has announced its intention to merge with CSX, and the Conrail Board has also sought to exempt CSX from the provisions of the Poison Pill.

110. Additionally, the Conrail Board has committed itself to not pursue any competing offer for the Company.

111. By selectively and discriminately determining to exempt CSX, and only CSX, from the Poison Pill provisions, to the detriment to Conrail's shareholders, the Conrail directors have breached their fiduciary duties of care and loyalty.

112. Plaintiffs have no adequate remedy at law.

COUNT THREE

(Breach of Fiduciary Duty
with Respect to the Pennsylvania
Business Combinations Statute)

113. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

114. By approving the CSX Offer prior to its consummation, the Director Defendants have rendered the Pennsylvania Business Combinations Statute, subchapter 25F of the Pennsylvania Business Corporation Law, and, particularly, its five-year ban on mergers with substantial stockholders, inapplicable to the CSX Transaction, while it remains as an impediment to competing higher acquisition offers such as the NS Proposal.

115. By selectively and discriminately exempting the CSX Transaction from the five-year merger ban, for the purpose of facilitating a transaction that will provide substantial personal benefits to Conrail management while delivering Conrail to the low bidder, the Director Defendants have breached their fiduciary duties of care and loyalty.

116. Plaintiffs have no adequate remedy at law.

COUNT FOUR

(Declaratory Judgment Against All
Defendants that the Poison Pill
Lock-In is Void Under Pennsylvania Law)

117. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

118. By purporting to bind Conrail and its directors not to amend or take any action with respect to the Conrail Poison Pill Plan without CSX's consent, the CSX Merger Agreement purports to restrict the managerial discretion of Conrail's directors.

119. Under Pennsylvania law, agreements

restricting the managerial discretion of the board of directors are permissible only in statutory close corporations. Conrail is not a statutory close corporation.

120. No statute countenances Conrail's and the Director Defendants' adoption of the Poison Pill Lock-In terms of the CSX Merger Agreement. No Conrail By-Law adopted by the Conrail shareholders provides that Conrail's directors may contractually abdicate their fiduciary duties and managerial powers and responsibilities with respect to the Conrail Poison Pill Plan.

121. Plaintiffs, as well as all of Conrail's shareholders and other legitimate constituencies, face imminent irreparable harm unless the poison pill lock-in provisions are declared ultra vires, void and unenforceable, and Conrail's directors are enjoined to take such action as is necessary to postpone the "Distribution Date" under the Conrail Poison Pill Plan and retain their power to redeem and/or amend the poison pill rights.

122. Plaintiffs have no adequate remedy at law.

COUNT FIVE

(Against the Defendant Directors
for Breach of Fiduciary Duty with
Respect to the Poison Pill Lock-In)

123. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

124. By entering into the Poison Pill Lock-In provisions of the CSX Merger Agreement, the Director Defendants purported to relinquish their power to act in the best interests of Conrail in connection with proposed acquisitions of Conrail, and, unless they are enjoined to take such action as is necessary to postpone the occurrence of a "Distribution Date" under the Conrail Poison Pill Plan, will by their inaction lock Conrail into a situation in which it cannot be acquired, regardless of how beneficial the proposed transaction is, until the year 2005, other than through the CSX Transaction at its current price.

125. Thus, by entering into the CSX Transaction and by failing to postpone the "Distribution Date", the Director Defendants have intentionally, in violation of their duty of loyalty, completely abdicated their fiduciary duties and responsibilities. Alternatively, the Director Defendants, by entering into the Poison Pill Lock-In provision of the CSX Merger Agreement without adequate investigation and comprehension of the consequences of their action, and by failing to take action to rescind the Poison Pill Lock-In provision and postpone the "Distribution Date", have acted and are acting recklessly and with gross negligence.

126. Absent prompt injunctive relief, plaintiffs, as well as Conrail and all of its legitimate constituencies, face imminent irreparable harm.

127. Plaintiffs have no adequate remedy at law.

COUNT SIX

(Declaratory Judgment Against All
Defendants That the 180-Day Lock-Out
is Void Under Pennsylvania Law)

128. Plaintiffs repeat and reallege each of the

foregoing allegations as if fully set forth in this paragraph.

129. By purporting to bind Conrail and its directors from acting to protect the interests of Conrail, its shareholders and its other legitimate constituencies by withdrawing its recommendation that Conrail's shareholders accept the CSX Offer and approve the CSX Merger even when the fiduciary duties of Conrail's directors would require them to do so, the 180-Day Lock-Out provision of the CSX Merger Agreement purports to restrict the managerial discretion of Conrail's directors.

130. By purporting to prohibit Conrail's directors from terminating the CSX Merger Agreement when their fiduciary duties would require them to do so, the 180-Day Lock-Out provision of the CSX Merger Agreement purports to restrict the managerial discretion of Conrail's directors.

131. Under Pennsylvania law, agreements restricting the managerial discretion of the board of directors are permissible only in statutory close corporations. Conrail is not a statutory close corporation.

132. No statute countenances Conrail's and the Director Defendants' adoption of the 180-Day Lock-Out terms of the CSX Merger Agreement. No Conrail By-Law adopted by the Conrail shareholders provides that Conrail's directors may contractually abdicate their fiduciary duties and managerial powers and responsibilities.

133. Unless the 180-Day Lock-Out provision is declared ultra vires and void and defendants are enjoined from taking any action enforcing it, Conrail and its legitimate constituencies face irreparable harm.

134. Plaintiffs have no adequate remedy at law.

COUNT SEVEN

(Against the Defendant Directors
for Breach of Fiduciary Duty with
Respect to the 180-Day Lock-Out)

135. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

136. By entering into the 180-Day Lock-Out provision of the CSX Merger Agreement, the Director Defendants purported to relinquish their power to act in the best interest of Conrail in connection with proposed acquisitions of Conrail.

137. Thus, by entering into the 180-Day Lock-Out provision, the Conrail directors have abdicated their fiduciary duties, in violation of their duties of loyalty and care.

138. Plaintiffs have no adequate remedy at law.

COUNT EIGHT

(Breach of Fiduciary Duty with
Respect to the Lock-Up Provisions)

139. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

140. In conjunction with the CSX Merger

Agreement, the Conrail Board has agreed to termination fees of \$300 million and to the lock-up Stock Option Agreement.

141. These provisions confer no benefit upon Conrail's shareholders and in fact operate and are intended to operate to impede or foreclose further bidding for Conrail.

142. The Conrail directors have adopted these provisions without regard to what is in the best interest of the Company and its shareholders, in violation of their fiduciary duties.

143. Plaintiffs have no adequate remedy at law.

COUNT NINE

(Declaratory Relief Against
Conrail and Director Defendants That
The Continuing Director Requirement
Is Void Under Pennsylvania Law)

144. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

145. Under Pennsylvania law, the business and affairs of a Pennsylvania corporation are to be managed under the direction of the Board of Directors unless otherwise provided by statute or in a By-Law adopted by the stockholders. Pa. BCL SECTION 1721.

146. Under Pennsylvania law, agreements restricting the managerial discretion of directors are permissible only in statutory close corporations.

147. No statute countenances Conrail's and the current Board's adoption of the Continuing Director Requirement. No Conrail By-Law adopted by the Conrail stockholders provides that the current Board may limit a future Board's management and direction of Conrail. Conrail is not a statutory close corporation.

148. Adoption of the Continuing Director Requirement constitutes an unlawful attempt by the Director Defendants to limit the discretion of a future Board of Directors with respect to the management of Conrail. In particular, under the Continuing Director Requirement, a duly elected Board of Directors that includes less than two continuing directors would be unable to redeem or modify Conrail's Poison Pill even upon determining that to do so would be in Conrail's best interests.

149. Plaintiffs seek a declaration that the Continuing Director Requirement is contrary to Pennsylvania statute and, therefore, null and void.

150. Plaintiffs have no adequate remedy at law.

COUNT TEN

(Declaratory Relief Against Conrail
and The Director Defendants That
The Continuing Director Requirement
Is Void Under Conrail's Articles
of Incorporation And By-Laws)

151. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

152. Under Section 3.5 of Conrail's By-Laws,

The business and affairs of the Corporation shall be managed under the direction of the Board which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Articles or by these By-Laws directed or required to be exercised and done by the shareholders.

153. Pursuant to Section 1505 of the Pennsylvania Business Corporation Law, the By-Laws of a Pennsylvania corporation operate as regulations among the shareholders and affect contracts and other dealings between the corporation and the stockholders and among the stockholders as they relate to the corporation. Accordingly, the Rights Plan and the rights issued thereunder are subject to and affected by Conrail's By-Laws.

154. Insofar as it purports to remove from the duly elected board of Conrail the power to redeem the rights or amend the Rights Plan, the Continuing Director Requirement directly conflicts with Section 3.5 of Conrail's By-Laws, and is therefore void and unenforceable.

155. Article Eleven of Conrail's Articles of Incorporation provides that Conrail's entire board may be removed without cause by vote of a majority of the stockholders who would be entitled to vote in the election of directors. Read together with Section 3.5 of Conrail's By-Laws, Article Eleven enables the stockholders to replace the entire incumbent board with a new board with all powers of the incumbent board, including the power to redeem the rights or to amend the Rights Agreement. The Continuing Director Requirement purports to prevent the stockholders from doing so, and is therefore void and unenforceable.

156. Plaintiffs have no adequate remedy at law.

COUNT ELEVEN

(Declaratory Relief Against Conrail
and The Director Defendants That Adoption
of the Continuing Director Requirement
Constituted A Breach of the Duty of Loyalty)

157. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

158. Adoption of the Continuing Director Requirement constituted a breach of the duty of loyalty on the part of the Director Defendants. Such adoption was the result of bad faith entrenchment motivation rather than a belief that the action was in the best interests of Conrail. In adopting the Continuing Director Requirement, the Director Defendants have purported to circumvent the Conrail stockholders' fundamental franchise rights, and thus have failed to act honestly and fairly toward Conrail and its stockholders. Moreover, the Director Defendants adopted the Continuing Director Requirement without first conducting a reasonable investigation.

159. The Continuing Director Requirement not only impedes acquisition of Conrail stock in the NS Offer, it also impedes any proxy solicitation in support of the NS Proposal because Conrail stockholders will, unless the provision is invalidated, believe that the nominees of plaintiffs will be powerless to redeem the Poison Pill rights in the event they conclude that redemption is in the best interests of the corporation. Thus, stockholders may believe that voting in favor of

plaintiffs' nominees would be futile. The Director Defendants intended their actions to cause Conrail's stockholders to hold such belief.

160. Plaintiffs seek a declaration that the Director Defendants' adoption of the Continuing Director Requirement was in violation of their fiduciary duties and, thus, null, void and unenforceable.

161. Plaintiffs have no adequate remedy at law.

COUNT TWELVE

(Against Conrail And The Director
Defendants For Actionable Coercion)

162. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

163. The Director Defendants owe fiduciary duties of care and loyalty to Conrail. Furthermore, Conrail and the Director Defendants, insofar as they undertake to seek and recommend action by Conrail's shareholders, for example with respect to the Charter Amendment, the CSX Offer or the NS Offer, stand in a relationship of trust and confidence vis a vis Conrail's shareholders, and accordingly have a fiduciary obligation of good faith and fairness to such shareholders in seeking or recommending such action.

164. Conrail and its directors are seeking the approval by Conrail's shareholders of the Charter Amendment and are recommending such approval.

165. Conrail and its directors are seeking the tender by Conrail's shareholders of their shares into the CSX Offer and are recommending such tender.

166. In seeking such action and making such recommendations, Conrail and its directors have sought to create the impression among the Conrail shareholders that the NS Proposal is not a financially superior, viable, and actually available alternative to the CSX Transaction. This impression, however, is false. The only obstacles to the NS Proposal are the ultra vires, illegal impediments constructed by defendants, including the Poison Pill Lock-In, the 180-Day Lock-Out, and the continuing director provisions of the Conrail Poison Pill Plan.

167. The purpose for which defendants' seek to create this impression is to coerce Conrail shareholders into delivering control over Conrail swiftly to CSX. Furthermore, the effect of this false impression is to coerce Conrail shareholders into delivering control over Conrail to CSX.

168. This coercion of the Conrail shareholders constitutes a breach of the fiduciary relation of trust and confidence owed by the Corporation and its directors to shareholders from whom they seek action and to whom they recommend the action sought.

169. The conduct of defendants Conrail and its directors is designed to, and will, if not enjoined, wrongfully induce Conrail's shareholders to sell their shares to CSX in the CSX Offer not for reasons related to the economic merits of the sale, but rather because the illegal conduct of defendants has created the appearance that the financially (and otherwise) superior NS Proposal is not available to them, and that the CSX Transaction is the only opportunity available to them to realize premium value on their investment in Conrail.

170. Plaintiffs have no adequate remedy at law.

COUNT THIRTEEN

(Against CSX For Aiding And Abetting)

171. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

172. Defendant CSX, through its agents, was aware of and knowingly and actively participated in the illegal conduct and breaches of fiduciary duty committed by Conrail and the Director Defendants and set forth in Counts One through Nine and Count Twelve of this complaint.

173. CSX's knowing and active participation in such conduct has harmed plaintiffs and threatens irreparable harm to plaintiffs if not enjoined.

174. Plaintiffs have no adequate remedy at law.

COUNT FOURTEEN

(Declaratory and Injunctive Relief Against
Conrail and the Director Defendants for
Violation of Section 14(a) of the Exchange Act
and Rule 14a-9 Promulgated Thereunder)

175. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

176. Section 14(a) of the Exchange Act provides that it is unlawful to use the mails or any means or instrumentality of interstate commerce to solicit proxies in contravention of any rule promulgated by the SEC.
15 U.S.C. SECTION 78n(a).

177. Rule 14a-9 provides in pertinent part:
"No solicitation subject to this regulation shall be made by means of any ... communication, written or oral, containing any statement which, at the time, and in light of the circumstances under which it is made, is false and misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading...."
17 C.F.R. SECTION 240.14a-9.

178. Conrail's Preliminary Proxy Statement contains the misrepresentations detailed in paragraph 75 above. It also omits to disclose the material facts detailed in paragraph 78 above.

179. Unless defendants are required by this Court to make corrective disclosures, Conrail's stockholders will be deprived of their federal right to exercise meaningfully their voting franchise.

180. The defendants' false and misleading statements and omissions described above are essential links in defendants' effort to deprive Conrail's shareholders of their ability to exercise choice concerning their investment in Conrail and their voting franchise.

181. Plaintiffs have no adequate remedy at law.

COUNT FIFTEEN

(Against Defendant CSX For Violation
Of Section 14(d) Of The Exchange Act
And Rules Promulgated Thereunder)

182. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

183. Section 14(d) provides in pertinent part: "It shall be unlawful for any person, directly or indirectly by use of the mails or by any means or instrumentality of interstate commerce ... to make a tender offer for ... any class of any equity security which is registered pursuant to section 781 of this title, ... if, after consummation thereof, such person would, directly or indirectly, be the beneficial owner of more than 5 per centum of such class, unless at the time copies of the offer, request or invitation are first published, sent or given to security holders such person has filed with the Commission a statement containing such of the information specified in section 78m(d) of this title, and such additional information as the Commission may by rules and regulations prosecute" 15 U.S.C. SECTION 78n(d).

184. On October 16, 1996, defendant CSX filed with the SEC its Schedule 14D-1 pursuant to Section 14(d).

185. CSX's Schedule 14D-1 contains each of the false and misleading material misrepresentations of fact detailed in paragraph 76 above. Furthermore, CSX's Schedule 14D-1 omits disclosure of the material facts detailed in paragraph 78 above. As a consequence of the foregoing, CSX has violated, and unless enjoined will continue to violate, Section 14(d) of the Exchange Act and the rules and regulations promulgated thereunder.

186. CSX made the material misrepresentations and omissions described above intentionally and knowingly, for the purpose of fraudulently coercing, misleading and manipulating Conrail's shareholders to tender their shares into the CSX Offer.

187. Plaintiffs have no adequate remedy at law.

COUNT SIXTEEN

(Against Defendant Conrail For Violation
Of Section 14(d) Of The Exchange Act
And Rules Promulgated Thereunder)

188. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

189. Section 14(d)(4) provides in pertinent part: "Any solicitation or recommendation to the holders of [securities for which a tender offer has been made] to accept or reject a tender offer or request or invitation for tender shall be made in accordance with such rules and regulations as the [SEC] may prescribe as necessary or appropriate in the public interest of investors." Rule 14d-9 provides in pertinent part: "No solicitation or recommendation to security holders shall be made by [the subject company] with respect to a tender offer for such securities unless as soon as practicable on the date such solicitation or recommendation is first published or sent or given to security holders such person ... file[s] with the [SEC] eight copies of a Tender Offer Solicitation/Recommendation Statement on Schedule 14D-9."

190. On October 16, 1996, Conrail (i) published its board of directors' recommendation that Conrail shareholders tender their shares in the CSX Offer and (ii) filed with the SEC its Schedule 14D-9.

191. Conrail's Schedule 14D-9 contains each of the false and misleading material misrepresentations

detailed in paragraph 77 above. Further, Conrail's Schedule 14D-9 omits disclosure of the material facts detailed in paragraph 78 above. As a consequence of the foregoing, Conrail has violated, and unless enjoined will continue to violate, Section 14(d) of the Exchange Act and the rules and regulations promulgated thereunder.

192. Conrail made the material misrepresentations and omissions described above intentionally and knowingly, for the purpose of fraudulently coercing, misleading and manipulating Conrail's shareholders to tender their shares into the CSX Offer.

193. Plaintiffs have no adequate remedy at law.

COUNT SEVENTEEN

(Against Conrail and CSX for Violation
of Section 14(e) of the Exchange Act
and Rules Promulgated Thereunder)

194. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

195. Section 14(e) provides in pertinent part: "It shall be unlawful for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or to engage in any fraudulent, deceptive, or manipulative acts or practices in connection with any tender offer . . . or any solicitation of security holders in opposition to or in favor of any such offer" Defendants have violated and threaten to continue to violate Section 14(e).

196. The CSX Schedule 14D-1 constitutes a communication made under circumstances reasonably calculated to result in the procurement of tenders from Conrail shareholders in favor of the CSX Offer.

197. The Conrail Schedule 14D-9 and Proxy Statement constitute communications made under circumstances reasonably calculated to result in the procurement of tenders from Conrail shareholders in favor of the CSX Offer.

198. The CSX Schedule 14D-1 contains the false and misleading material misrepresentations detailed in paragraph 76 above. The CSX Schedule 14D-1 omits disclosure of the material facts detailed in paragraph 78 above.

199. The Conrail Schedule 14D-9 contains the false and misleading material misrepresentations detailed in paragraph 77 above. The Conrail Schedule 14D-9 omits disclosure of the material facts detailed in paragraph 78 above.

200. The Conrail Proxy Statement contains the false and misleading material misrepresentations detailed in paragraph 75 above. The Conrail Proxy Statement omits disclosure of the material facts detailed in paragraph 78 above.

201. These omitted facts are material to the decisions of Conrail shareholders to hold, sell to market, or tender their shares in the CSX tender offer.

202. The defendants intentionally and knowingly made the material misrepresentations and omissions described above, for the purpose of coercing, misleading,

and manipulating Conrail shareholders to swiftly transfer control over Conrail to CSX by tendering their shares in the CSX Tender Offer.

203. Absent declaratory and injunctive relief requiring adequate corrective disclosure, plaintiffs, as well as all of Conrail's shareholders, will be irreparably harmed. Conrail shareholders will be coerced by defendants' fraudulent and manipulative conduct to sell Conrail to the low bidder. Plaintiffs NS and AAC will be deprived of the unique opportunity to acquire and combine businesses with Conrail.

204. Plaintiffs have no adequate remedy at law.

COUNT EIGHTEEN

(Against Defendants Conrail and CSX
For Civil Conspiracy To Violate
Section 14 Of The Exchange Act
And Rules Promulgated Thereunder)

205. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

206. Defendants Conrail and CSX conspired and agreed to conduct the campaign of misinformation described in paragraphs 48 through 51 above for the purpose of coercing, misleading and manipulating Conrail shareholders to swiftly transfer control over Conrail to CSX. As set forth in Counts Fourteen through Seventeen above, which are incorporated by reference herein, the defendants' campaign of misinformation is violative of Section 14 of the Exchange Act and the rules and regulations promulgated thereunder.

207. Plaintiffs have no adequate remedy at law.

COUNT NINETEEN

(Against Conrail for
Estoppel/Detrimental Reliance)

208. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

209. By his actions, silence and statements during the period from September 1994 to October 15, 1996, and particularly by his statements to Mr. Goode in September and October of 1996 (as detailed above in paragraphs 17 through 24, defendant LeVan, purporting to act on behalf of Conrail and its Board of Directors and with apparent authority to so act, led Mr. Goode to believe that Conrail's Board was not interested in a sale of the company and that if and when the Conrail Board decided to pursue such a sale, it would let NS know and give NS an opportunity to bid.

210. Prior to October 15, 1996, NS had justifiably relied on Mr. LeVan's false statements and representations in refraining from making a proposal to Conrail's Board or initiating a tender offer of its own for Conrail shares.

211. Mr. LeVan and Conrail knew or should have known that their actions, silence, statements and representations to NS would induce NS to believe that Conrail's board was not interested in selling the company and that NS would be given an opportunity to bid if Conrail's Board decided that Conrail would be sold.

212. Mr. LeVan and Conrail knew or should have known that NS would rely upon their actions, silence,

statements and representations to its detriment in refraining from making a proposal to Conrail's Board or initiating a tender offer of its own for Conrail shares.

213. NS did in fact rely upon LeVan's and Conrail's actions, silence, statements and representations to its detriment in refraining from making a proposal to Conrail's Board or initiating a tender offer of its own for Conrail shares.

214. Conrail and its Board are estopped from effectuating a sale of the company without giving NS an adequate opportunity to present its competing tender offer to the Conrail Board of Directors and Conrail shareholders. Similarly, any provision in the CSX Merger Agreement that would impede directors' or shareholders' ability to approve a competing tender offer or takeover proposal, such as that made by NS, is null and void.

215. By virtue of NS's justifiable reliance on Conrail's and Mr. LeVan's actions, silence and statements, it has suffered and will continue to suffer irreparable harm.

216. Plaintiffs have no adequate remedy at law.

COUNT TWENTY

(Unlawful And Ultra Vires Amendment
of Conrail's Articles of Incorporation)

217. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

218. The Conrail Board of Directors is attempting to freeze out any competing tender offers and lock up the CSX deal, to the detriment of shareholders, by improperly maneuvering to "opt-out" of the "anti-takeover" provisions of the Pennsylvania Business Corporation Law in a discriminatory fashion. This procedure distorts and subverts the provisions of the Pennsylvania statute.

219. At the special meeting of Conrail shareholders, such shareholders will be asked to approve the following amendment to Conrail's Articles of Incorporation, which has already been approved by the Conrail Board of Directors: "Subchapter E, Subchapter G and Subchapter H of Chapter 25 of the Pennsylvania Business Corporation Law of 1988, as amended, shall not be applicable to the Corporation."

220. The Director Defendants are also asking for authorization to exercise discretion in deciding whether or not to file the Charter Amendment. According to the proposed proxy materials, the defendant directors only intend to file the Charter Amendment if CSX is in a position to purchase more than 20% of Conrail's shares. Consequently, in effect, the Charter Amendment becomes a "deal specific" opt-out.

221. The PBCL does not allow for such a discriminatory application of an opt-out provision. Section 2541(a) of the PBCL provides that Subchapter 25E will not apply to corporations that have amended their articles of incorporation to state that the Subchapter does not apply. Section 1914 of the PBCL provides that an articles amendment "shall be adopted" if it received the affirmative vote of a majority of shareholders entitled to vote on the amendment. While section 1914 also provides that the amendment need not be deemed to be adopted unless it has been approved by the directors, that approval has already been given.

222. Conrail's Board is trying to distort and subvert the provisions of the Pennsylvania statute by keeping a shareholder-approved opt-out from taking effect unless the CSX deal is moving forward. The PBCL is quite clear -- it allows corporations to exercise general, not selective, opt-outs. Therefore, any action taken at the November 14, 1996 shareholder meeting would be a nullity.

223. If the November 14, 1996 shareholder meeting is allowed to take place and the amendment is passed, NS will suffer irreparable harm.

224. Plaintiffs have no adequate remedy at law.

COUNT TWENTY-ONE

(Declaratory Judgment Against Conrail and the Director Defendants That the Entire Conrail Board, Or Any One or More of Conrail's Directors, Can Be Removed Without Cause)

225. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

226. Plaintiffs intend, if necessary to facilitate the NS Proposal, to solicit proxies to be used at Conrail's next annual meeting to remove Conrail's current Board of Directors.

227. There is presently a controversy among Conrail, the Director Defendants and the plaintiffs as to whether the entire Conrail Board, or any one or more of Conrail's directors, may be removed without cause at the annual meeting by a vote of the majority of Conrail stockholders entitled to cast a vote at the Annual Meeting.

228. Plaintiffs seek a declaration that Article 11 of Conrail's Articles of Incorporation permits the removal of the entire Conrail Board, or any one or more of Conrail's directors, without cause by a majority vote of the Conrail stockholders entitled to cast a vote at an annual election.

229. Plaintiffs have no adequate remedy at law.

WHEREFORE, plaintiffs respectfully request that this Court enter judgment against all defendants, and all persons in active concert or participation with them, as follows:

A. Declaring that:

(a) defendants have violated Sections 14(a), 14(d) and 14(e) of the Exchange Act and the rules and regulations promulgated thereunder;

(b) defendants' use of the Charter Amendment is violative of Pennsylvania statutory law and their fiduciary duties;

(c) defendants' discriminatory use of Conrail's Poison Pill Plan violates the director defendants' fiduciary duties;

(d) the termination fees and stock option agreements granted by Conrail to CSX are violative of the defendants' fiduciary duties;

(e) the Continuing Director Requirement of Conrail's Poison Pill Plan is ultra vires and illegal under Pennsylvania Law and Conrail's Articles of Incorporation and Bylaws; and is illegal because its adoption constitutes a breach of the defendants'

fiduciary duties;

(f) Conrail's entire staggered board or any one or more of its directors, can be removed without cause at Conrail's next annual meeting of stockholders;

(g) the defendants have engaged in a civil conspiracy to violate Section 14 of the Exchange Act and the rules and regulations promulgated thereunder;

(h) the Poison Pill Lock-In provisions in the CSX Merger Agreement are ultra vires and, therefore, void under Pennsylvania Law;

(i) the 180-Day Lock-Out provision in the CSX Merger Agreement is ultra vires under Pennsylvania law and, therefore, void; and

(j) the Director Defendants, by approving the CSX Merger Agreement, breached their fiduciary duties of care and loyalty.

B. Preliminarily and permanently enjoining the defendants, their directors, officers, partners, employees, agents, subsidiaries and affiliates, and all other persons acting in concert with or on behalf of the defendants directly or indirectly, from:

(a) commencing or continuing a tender offer for shares of Conrail stock or other Conrail securities;

(b) seeking the approval by Conrail's stockholders of the Charter Amendment, or, in the event it has been approved by Conrail's stockholders, from taking any steps to make the Charter Amendment effective;

(c) taking any action to redeem rights issued pursuant to Conrail's Poison Pill Plan or render the rights plan inapplicable as to any offer by CSX without, at the same time, taking such action as to NS's outstanding offer;

(d) taking any action to enforce the Continuing Director Requirement of Conrail's Poison Pill Plan;

(e) taking any action to enforce the termination fee or stock option agreement granted to CSX by Conrail;

(f) failing to take such action as is necessary to exempt the NS Proposal from the provisions of the Pennsylvania Business Combination Statute;

(g) holding the Conrail special meeting until all necessary corrective disclosures have been made and adequately disseminated to Conrail's stockholders;

(h) taking any action to enforce the Poison Pill Lock-In and/or the 180-Day Lock-Out provisions of the CSX Merger Agreement;

(i) failing to take such action as is necessary to ensure that a Distribution Date does not occur under the terms of the Conrail Poison Pill Plan; and

(j) failing to take any action required by the fiduciary duties of the Director Defendants.

C. Granting compensatory damages for all incidental injuries suffered as a result of defendants' unlawful conduct.

D. Awarding plaintiffs the costs and disbursements of this action, including attorneys' fees.

E. Granting plaintiffs such other and further relief as the court deems just and proper.

Respectfully Submitted:

/s/ MARY A. MCLAUGHLIN
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DATED: October 30, 1996

VERIFICATION

Pursuant to Federal Rule of Civil Procedure 23.1 and 28 U.S.C. SECTION 1746, I, Henry C. Wolf, hereby verify under penalty of perjury that the allegations and averments in the foregoing First Amended Complaint for Declaratory and Injunctive Relief are true and correct.

/s/ HENRY C. WOLF
Henry C. Wolf
Executive Vice President
Norfolk Southern Corporation

Executed on October 29, 1996.