

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

13 CIV 621

Pension Benefit Guaranty Corporation,

Plaintiff,

-against-

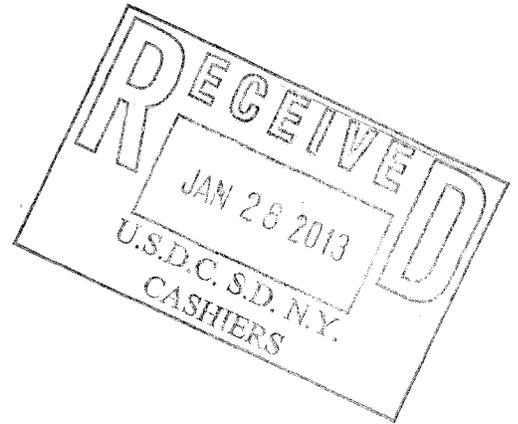
The Renco Group, Inc.,
Ilshar Capital LLC,
Blue Turtles, Inc.,
Unarco Material Handling, Inc.,
Inteva Products LLC,
The Doe Run Resources Corporation, and
US Magnesium LLC,

Defendants.

CIVIL ACTION NUMBER:

ECF CASE

COMPLAINT



COMPLAINT

1. This action arises under Title IV of the Employee Retirement Income Security Act of 1974, *as amended* (“ERISA”), 29 U.S.C. §§ 1301 – 1461 (2006 & Supp. V 2011), and the common law. Plaintiff, Pension Benefit Guaranty Corporation (“PBGC”), brings this action pursuant to 29 U.S.C. §§ 1362 and 1369 and the common law claiming that The Renco Group, Inc. (“Renco”) engaged in and consummated a financing agreement, a principal purpose of which was to evade the pension liabilities of the defined benefit pension plans of its subsidiary RG Steel, LLC (“RG Steel”), along with damages, attorneys’ fees and costs.

Jurisdiction and Venue

2. This Court has jurisdiction over this action, without regard to the amount in controversy, under 29 U.S.C. § 1303(e)(3) and 28 U.S.C. § 1331.

3. Venue properly lies in this Court under 29 U.S.C. § 1303(e)(2). Renco conducts business at One Rockefeller Plaza, 29th Floor, New York, New York 10020, among other locations in the United States and abroad.

Parties

4. Plaintiff PBGC is a wholly owned United States government corporation established under 29 U.S.C. § 1302(a) to administer and enforce the pension insurance program created under Title IV of ERISA. When a defined benefit pension plan covered by Title IV terminates without sufficient assets to pay promised benefits, PBGC typically becomes the statutory trustee of the plan and, subject to statutory limits, pays the plan's unfunded benefits with its insurance funds. *See* 29 U.S.C. §§ 1321-22, 1342, 1361. PBGC's principal place of business is 1200 K Street, N.W., Washington, D.C. 20005.

5. Defendant Renco is a private holding company, organized under the laws of New York, with its principal place of business located in New York, New York. Upon information and belief, Renco and its subsidiaries employ more than 20,000 people worldwide and currently have revenues in excess of \$5 billion annually. Renco was founded in 1975 and is involved with investments in companies in the mining, mineral recovery, steel and other metals production/fabrication, defense, and automotive supply industries. Defendants Ilshar Capital LLC; Blue Turtles, Inc.; Unarco Material Handling, Inc.; Inteva Products LLC; The Doe Run Resources Corporation; and US Magnesium LLC (collectively, the "Renco Controlled Group Members") are subsidiaries of Renco. As explained below, each of these entities is a member of a "controlled group" with Renco for purposes of Title IV of ERISA.

General Factual Allegations

PBGC and the Plans

6. PBGC administers the nation's pension insurance program under Title IV of ERISA. Congress vested PBGC with the authority to enforce and administer a mandatory government-insurance program that protects the pension benefits of workers who participate in certain defined benefit pension plans that are governed by ERISA. ERISA and the Internal Revenue Code of 1986, *as amended*, 26 U.S.C. §§ 1-9834, establish, among other things, minimum funding requirements for defined benefit pension plans and rules for plan terminations. PBGC guarantees the payment of basic pension benefits – up to a statutory limit – to participants if a covered pension plan terminates with insufficient assets to pay promised benefits. 29 U.S.C. §§ 1302(a)(3), 1322, and 1361.

7. Title IV of ERISA sets forth the exclusive statutory criteria under which a pension plan may be terminated. 29 U.S.C. §§ 1341, 1342. If a covered plan terminates with insufficient assets, PBGC is typically appointed the statutory trustee for the terminated plan, and assumes an unconditional obligation to pay participants and beneficiaries their lifetime Title IV benefits. 29 U.S.C. §§ 1322, 1361. PBGC uses the plan's assets and adds its own insurance funds to make up the remainder of the guaranteed benefits.

8. Upon termination of a covered pension plan, the plan sponsor and each member of its controlled group become jointly and severally liable to PBGC for, *inter alia*, the amount of the pension plan's "Unfunded Benefit Liabilities," plus interest as of the plan's termination date. 29 U.S.C. § 1362(a), (b). The amount of Unfunded Benefit Liabilities equals the value of the benefit liabilities¹ as of the pension plan's termination date minus the current value of the

¹ "'Benefit liabilities' means the benefits of employees and their beneficiaries under the [pension] plan." 29 U.S.C. § 1301(a)(16).

pension plan's assets. 29 U.S.C. § 1301(a)(18); 29 C.F.R. §§ 4044.41-.75. The sponsor and members of its controlled group are also jointly and severally liable for any unpaid minimum funding contributions that are owed to the pension plan. See 29 U.S.C. §§ 1082(b), 1362(c); 26 U.S.C. § 412(b). In addition to the Unfunded Benefit Liabilities and unpaid contributions, if a defined benefit pension plan terminates under certain circumstances, the plan sponsor and each member of its controlled group become jointly and severally liable for statutory termination premiums of \$1,250 per plan participant per year for three years (the "Termination Premiums"). 29 U.S.C. §§ 1306(a)(7), 1307.

9. As stated above, each member of a plan sponsor's "controlled group" is jointly and severally liable to PBGC for, *inter alia*, the Unfunded Benefit Liabilities, unpaid minimum funding contributions, and Termination Premiums. Controlled group membership is determined according to tests set forth in the Internal Revenue Code and elaborated in the Treasury Department's regulations. See *e.g.*, 29 U.S.C. §§ 1301(a)(14)(A), 1301(b)(1); 29 C.F.R. §§ 4001.2, 4001.3(a)(1); 26 C.F.R. §§ 1.414(c)-1, 1.414(c)-2.

10. A controlled group includes:

[O]ne or more chains of organizations conducting trades or businesses connected through ownership of a controlling interest with a common parent organization if –

(i) A controlling interest in each of the organizations, except the common parent organization, is owned (directly and with the application of 26 C.F.R. § 1.414(c)-4(b)(1), relating to options) by one or more of the other organizations; and

(ii) The common parent organization owns (directly and with the application of 26 C.F.R. § 1.414(c)-4(b)(1), relating to options) a controlling interest in at least one of the other organizations, excluding, in computing such controlling interest, any direct ownership interest by such other organization.

26 C.F.R. § 1.414(c)-2(b). A “controlling interest” is defined as ownership of 80% or more of the voting stock or stock value of a corporation, or ownership of an 80% or greater profits or capital interest in a partnership. *See* 26 C.F.R. §§ 1.414(c)-2(b)(2)(i)(A) & (C).

11. Under the foregoing test, Renco holds a controlling interest in each of the Renco Controlled Group Members. Therefore, each of the Renco Controlled Group Members is a member of Renco’s controlled group.

12. Under the foregoing test, prior to January 17, 2012, Renco held a controlling interest of 100% ownership in RG Steel and indirectly, RG Steel’s subsidiaries, including RG Steel Wheeling, LLC and RG Steel Warren, LLC. Therefore, Renco, along with each of the Renco Controlled Group Members, was a member of RG Steel’s controlled group.²

13. RG Steel subsidiaries RG Steel Warren, LLC and RG Steel Wheeling, LLC sponsored the RG Steel Warren, LLC Hourly Employees Pension Plan and the RG Steel Wheeling, LLC Pension Plan, respectively (the “Plans”). The Plans are “single-employer” plans, providing benefits for a total of 1354 participants. *See* 29 U.S.C. §§ 1301(a)(15), 1002(35).

Purchase of RG Steel by Renco

14. On or around March 1, 2011, Renco entered into an agreement with Severstal US Holdings II, Inc., Severstal US Holdings, LLC, and Severstal Sparrows Point, LLC (collectively “Severstal”) to purchase all the equity of the steel mill company Severstal Sparrows Point, LLC. Severstal Sparrows Point, LLC, in turn, owned all the outstanding equity of two other steel mill companies, Severstal Warren, LLC and Severstal Wheeling, LLC.

² PBGC will refer directly to RG Steel’s (rather than RG Steel Warren, LLC’s and/or RG Steel Wheeling, LLC’s) controlled group throughout this Complaint.

15. Upon Renco's purchase of Severstal Sparrows Point, LLC, Renco consolidated the steel mills under an entity known as RG Steel, LLC. RG Steel became a wholly owned subsidiary of Renco.

16. As part of the purchase, Renco committed to pay \$125 million in cash to Severstal, delivered to Severstal a secured \$100 million note due five years after closing, undertook to repay \$317 million of third-party debt, and agreed to cause the acquired business to pay an additional \$36 million to Severstal US Holdings, LLC on the first anniversary of the closing. The various steel mills being acquired by Renco retained accounts payable and employee-related and environmental liabilities aggregating approximately \$900 million.

17. Prior to the transaction between Severstal and Renco, Severstal Wheeling, LLC and Severstal Warren, LLC sponsored the Plans. When PBGC learned of the pending transaction, PBGC promptly contacted Severstal and Renco to obtain additional information about the transaction and its effect on the Plans.

18. As part of its diligence process, PBGC shared its concerns about the transaction with Renco. In particular, PBGC was concerned because the RG Steel Plans were moving from the huge Severstal controlled group to the Renco controlled group. In a letter sent by Renco to address PBGC's concerns, Roger Fay, the Vice President of Finance of Renco, shared the advantages of the Plans' sponsors becoming part of a controlled group with Renco. A copy of that letter is annexed hereto as Exhibit "A." Mr. Fay stated: "We believe the Warren and Wheeling defined benefit pensions will be in better hands after the acquisition." Among other reasons, Mr. Fay noted that "Renco has honored its obligations and assumed various pension plans where sponsors were distressed or other factors suggested it was desirable" and that "Renco has significant equity and liquid assets." In closing, Mr. Fay stated that "[t]he Renco

team and its advisors have a long and, we believe, good working relationship with the [PBGC] team.” PBGC took no action with respect to the transfer of the Plans from Severstal to Renco.

Renco’s Misrepresentations to PBGC

19. Less than one year after Renco purchased RG Steel, RG Steel encountered financial difficulties.

20. In certain cases, ERISA requires that the plan administrator and each contributing sponsor notify PBGC of certain “reportable events” at least 30 days before the effective date of the reportable event. *See* 29 U.S.C. § 1343; 29 C.F.R. § 4043.61(b). For advance reporting, only the contributing sponsor of each plan for which a reportable event is going to occur is required to report to PBGC. 29 C.F.R. § 4043.61(a).

21. Among other things, a reportable event occurs for a plan when there is a transaction that results, or will result, in one or more persons ceasing to be members of the plan’s controlled group. 29 C.F.R. § 4043.29. A transaction in this context “includes, but is not limited to, a legally binding agreement, whether or not written, to transfer ownership, an actual transfer of ownership, and an actual change in ownership that occurs as a matter of law or through the exercise or lapse of pre-existing rights.” *Id.*

22. Advance notice of a reportable event to PBGC is required so that PBGC can take action to protect the plan participants and the termination insurance program in appropriate cases. 29 C.F.R. § 4043.

23. Because RG Steel Warren, LLC and RG Steel Wheeling, LLC are contributing sponsors of the Plans, they were required under ERISA to file an advance notice of a reportable event when they became aware of a potential transaction that would break up their controlled groups.

24. On December 16, 2011, PBGC received an Advance Notice of Reportable Events form (the "Form 10 Notice"), pursuant to 29 C.F.R. § 4043.62, from RG Steel. Such a form of notice is used by a contributing sponsor of a single-employer plan in order to notify PBGC in advance that a reportable event will occur. A copy of the Form 10 Notice is annexed hereto as Exhibit "B."

25. The Form 10 Notice stated that there would be a potential breakup of RG Steel's controlled group due to a proposed transfer of some of Renco's interest in RG Steel to a private institutional investor. According to the Form 10 Notice, RG Steel was in the market to raise capital for general corporate purposes.

26. In response to RG Steel's Form 10 Notice, PBGC sent Renco an Information Request on December 20, 2011 seeking more information regarding the potential transaction that would result in the dilution of Renco's interest in RG Steel. PBGC's initial request was followed by supplemental information requests, and eventually, an administrative subpoena. Additionally, several telephone conference calls were held between PBGC and Renco personnel to discuss the nature and purpose of this possible transaction.

27. A principal purpose of this proposed transaction was to dilute Renco's ownership in RG Steel below the 80% threshold set forth in ERISA in order to break up the controlled group, thereby allowing Renco to evade liabilities owed to PBGC if the Plans were to terminate.

28. Renco never disclosed this principal purpose to PBGC.

29. In response to RG Steel's Form 10 Notice and additional information given to PBGC by RG Steel and Renco, PBGC promptly sent a letter to Renco apprising Renco of its concerns about the proposed transaction and its impact on the Plans, and informing Renco that,

as of early January 2012, the Plans were already collectively underfunded by at least \$70 million on a termination basis.

30. PBGC may initiate termination of a defined benefit pension plan if it determines that, *inter alia*, PBGC's risk of long-run loss with respect to a plan may reasonably be expected to increase unreasonably unless the plan is terminated. 29 U.S.C. § 1342(a)(4). Under 29 U.S.C. § 1342(c), PBGC must determine that termination is necessary to protect the plan participants, the plan's assets, and/or PBGC.

31. Based on the information received during its diligence process, PBGC was concerned about the removal of the financially-strong Renco and Renco Controlled Group Members from RG Steel's controlled group, particularly given RG Steel's financial weakness and unfavorable future prospects. The Plans' \$70 million in Unfunded Benefit Liabilities, coupled with RG Steel's financial weakness, presented a serious concern of a significant long-run loss to PBGC if a transaction like that described in the Form 10 Notice was consummated.

32. Had PBGC been afforded the opportunity to terminate the Plans under 29 U.S.C. § 1342 prior to the consummation of any financing agreement between Renco and a third party, it would have been able to hold Renco and the Renco Controlled Group Members financially responsible for the Plans.

33. To avoid the necessity of terminating the Plans, PBGC requested a guarantee from Renco that it, and the Renco Controlled Group Members, would remain jointly and severally liable for any termination liabilities relating to the Plans. PBGC clearly stated to Renco that without such guarantee, it would initiate proceedings to terminate the Plans pursuant to ERISA to protect its interests.

34. Between January 11, 2012 and January 13, 2012, PBGC internally approved a proposal to initiate termination of the Plans as soon as practicable. During that period, PBGC's Director signed Notices of Determination for each of the Plans, stating that PBGC had determined that each of the Plans should be terminated under Title IV of ERISA. PBGC also prepared to publish its termination decision on January 17, 2012.

35. On Friday, January 13, 2012, Renco requested that PBGC not initiate proceedings to terminate the Plans and, to induce PBGC to refrain, falsely represented that no transaction was imminent, that no transaction currently under consideration involved the transfer of any of Renco's equity interest in RG Steel, and that Renco was amenable to the concept of a standstill agreement with PBGC.

36. In light of, and in reliance on the foregoing misrepresentations by Renco to PBGC, PBGC suspended the termination process and proposed that both parties enter into a standstill agreement whereby PBGC would abstain from exercising its right to terminate the Plans in exchange for an agreement by Renco and the Renco Controlled Group Members to remain part of RG Steel's controlled group notwithstanding any transaction that transferred more than 20% of Renco's equity in RG Steel.

37. PBGC sent a form of standstill agreement to Renco on Friday, January 13, 2012.

38. Renco never signed such standstill agreement.

39. On Tuesday, January 17, 2012, the first business day after PBGC sent the standstill agreement to Renco, Renco informed PBGC that a deal had been closed with an affiliate of Cerberus Capital Management, L.P. ("Cerberus") over the prior weekend, resulting in Renco's ownership of RG Steel being reduced to 75.5%, with 24.5% of the ownership going to Cerberus (the "Transaction"). The consummation of the Transaction was directly contrary to

Renco's express representations made to PBGC on January 13, 2012, on which PBGC relied in not initiating termination.

40. The Transaction provided Cerberus with 24.5% of the equity in RG Steel, along with warrants to purchase an additional 24.5% of the equity. Despite obtaining this interest in RG Steel, Cerberus did not obtain a position on the Board of Managers of RG Steel, LLC.

41. As part of the Transaction, Cerberus and/or its affiliates made secured loans to RG Steel. Specifically, Cerberus and/or its affiliates committed to make a Term Loan A in the amount of \$62.5 million, a Term Loan B in the amount of \$62.5 million, and a Term Loan C for an amount up to \$100 million. Each loan was secured by a second-position lien on essentially all of RG Steel and its subsidiaries' assets. Additionally, Renco agreed to take certain actions, which limited Cerberus' risk in the Transaction, including providing security for part of the Cerberus loans.

42. Renco made a public announcement of the Transaction on January 18, 2012, stating that Renco and Cerberus had committed to provide RG Steel with new capital that would substantially improve its liquidity and financial strength.

RG Steel Bankruptcy

43. On May 31, 2012, less than five months after the Transaction closed and Renco and Cerberus made the public announcement, RG Steel filed a Chapter 11 Bankruptcy Petition in the United States Bankruptcy Court for the District of Delaware (the "RG Steel Bankruptcy"). Shortly thereafter, during July and August 2012, RG Steel entered into a series of agreements under section 363 of the Bankruptcy Code, 11 U.S.C. § 363, to sell substantially all of its assets to third parties. Following the sales, RG Steel intends to distribute the sales proceeds and its

remaining assets to its creditors and liquidate. PBGC is a significant creditor in the RG Steel Bankruptcy proceedings.

The Plans and Termination

44. Each of the Plans is covered under Title IV of ERISA. 29 U.S.C. §§ 1002(35), 1301(a)(15), and 1321(a).

45. RG Steel Warren, LLC and RG Steel Wheeling, LLC are the plan sponsors of the Plans, as defined by 29 U.S.C. § 1002(16)(B), and the plan administrators of the Plans, as defined by 29 U.S.C. §§ 1002(16)(A) and 1301(a)(1).

46. On September 18, 2012, PBGC issued a notice of determination that each of the Plans should be terminated pursuant to 29 U.S.C. § 1342(a)(2), because the Plans will be unable to pay benefits when due. On September 19 and 20, 2012, PBGC delivered its notices of determination to the Plans' administrators – RG Steel Warren, LLC and RG Steel Wheeling, LLC. PBGC also sent a trusteeship agreement for each of the Plans.

47. On November 13, 2012, PBGC and the plan administrators, RG Steel Warren, LLC and RG Steel Wheeling, LLC, entered into agreements that (1) terminated each of the Plans pursuant to 29 U.S.C. § 1342(c), (2) established August 31, 2012 as each Plans' termination date, and (3) appointed PBGC as statutory trustee for each of the Plans.

48. The Plans' effective date of termination is August 31, 2012 (the "Termination Date").

49. As of August 31, 2012, the Plans are estimated to have total Unfunded Benefit Liabilities of about \$87,200,000, unpaid minimum funding contributions of \$4,904,932, and Termination Premiums of \$5,077,500. A copy of PBGC's Pension Information Profile for the Plans is attached hereto as Exhibit "C."

CLAIMS FOR RELIEF

COUNT I

ERISA Reachback Liability, 29 U.S.C. § 1369(a)

50. PBGC repeats and realleges the allegations set forth in paragraphs 1 through 49 of this Complaint as if fully set forth herein.

51. Under 29 U.S.C. § 1369, if any person enters into a transaction within five years prior to the date of the termination of a pension plan covered by Title IV of ERISA with a principal purpose of evading liability under 29 U.S.C. § 1362, then such person, and the members of that person's controlled group, are subject to liability as if the person were a contributing sponsor of the terminated plans as of the date of termination.

52. One of Renco's principal purposes in entering into the Transaction with Cerberus was to evade liability under 29 U.S.C. § 1362 by breaking up the Renco-backed controlled group of RG Steel, thereby purportedly allowing Renco and the Renco Controlled Group Members to avoid financial responsibility for the Plans. The Transaction was consummated after PBGC had notified Renco of its concerns and Renco had falsely assured PBGC that the Transaction would not go forward and the controlled group would remain intact.

53. The Transaction evaded 29 U.S.C. § 1369 liability by virtue of the 24.5% interest in RG Steel that Renco conveyed to Cerberus, bringing Renco's interest in RG Steel down to 75.5%, just below the requisite 80% ownership threshold required by ERISA for Renco to remain part of RG Steel's controlled group.

54. The intention to evade the Plans' liabilities is demonstrated by the fact that prior to the Transaction, Renco deliberately and clearly stated to PBGC that any financing agreement that would break up the controlled group was not imminent.

55. Renco understood at the time it was structuring the Transaction that PBGC could initiate termination and hold Renco financially responsible for the financial obligations of the Plans. Knowing that a deal with Cerberus was just days away from consummation, Renco misrepresented to PBGC the status of the matter and expressed a false willingness to discuss entering a standstill agreement with PBGC, thus intentionally inducing PBGC to refrain from exercising its right to initiate termination of the Plans.

56. Upon information and belief, Renco never intended to sign a standstill agreement.

57. In direct contravention of its representations to PBGC on Friday, January 13, 2012, Renco informed PBGC on the very next business day, January 17, 2012, that it already had closed the Transaction.

58. The intention to evade the Plans' liabilities is further demonstrated by the structure of the Transaction. Renco agreed to take certain actions, which limited Cerberus' risk in the Transaction. And RG Steel's financial distress meant that its equity was essentially worthless at the time of the Transaction, and the transfer of that equity to Cerberus had little or no economic value. Moreover, even if Renco's purported transfer of a 24.5% interest in RG Steel had some real economic or business consequence other than avoidance of Title IV liability, that purpose was negligible in light of the amount of pension liabilities that were putatively avoided.

59. Renco's transfer of the worthless equity in RG Steel was not a fundamental basis for Cerberus loaning more than two hundred million dollars to RG Steel. Rather, the Transaction was structured to ensure that Renco and the Renco Controlled Group Members were removed from RG Steel's controlled group. This purpose is emphasized by the fact that Cerberus did not

receive a seat on the board of RG Steel, nor did it obtain any other rights, power, or consent rights one would expect of an active distressed debt investor.

60. On May 31, 2012, fewer than five months after the closing of the Transaction, RG Steel filed for bankruptcy in the United States Bankruptcy Court for the District of Delaware.

61. On November 13, 2012, within five years of the effective date of the Transaction, the Plans were terminated by agreement between PBGC and the plan administrators pursuant to 29 U.S.C. § 1342(c) with an effective termination date of August 31, 2012.

62. Renco's knowledge of PBGC's intent to seek termination of the Plans before the steps taken by Renco to remove the Pension Plans from the Renco controlled group, Renco's misrepresentations to PBGC just one business day prior to its informing PBGC of the consummation of the Transaction with Cerberus, the structure of the Transaction, and the insolvency of RG Steel, confirm that a principal purpose of the Transaction was to evade pension related liabilities.

63. Therefore, under 29 U.S.C. § 1369, Renco and the Renco Controlled Group Members are jointly and severally liable to PBGC for the Plans' Unfunded Benefit Liabilities in the amount of \$87,200,000, unpaid minimum funding contributions of \$4,904,932, and Termination Premiums of \$5,077,500, plus interest on each as of August 31, 2012 at the rate specified under 26 U.S.C. § 6621.

COUNT II

Common Law Fraud

64. PBGC repeats and realleges the allegations set forth in paragraphs 1 through 63 of this Complaint as if fully set forth herein.

65. Renco intentionally deceived PBGC as to the status and progress of negotiations with Cerberus for the sale of an interest in RG Steel.

66. First, Renco knowingly made a false representation to PBGC that any deal that would be done with Cerberus was now off the table. Specifically, on January 13, 2012, Renco, in response to PBGC's concern regarding a transaction affecting the status of RG Steel's controlled group, falsely represented to PBGC that no transaction was imminent.

67. Second, Renco, knowing that it needed to alleviate PBGC's concerns to prevent PBGC from taking steps to terminate the Plans, indicated its willingness to consider entering a standstill agreement whereby PBGC would not terminate the Plans, and Renco and the Renco Controlled Group Members would agree to remain part of RG Steel's controlled group notwithstanding any transaction that transferred more than 20% of Renco's equity in RG Steel, keeping Renco and the Renco Controlled Group Members financially responsible for the Plans.

68. Although Renco indicated that it would be amenable to PBGC's standstill agreement, it never signed the standstill agreement, nor, upon information and belief, did it intend to.

69. Rather, on January 17, 2012, the next business day after PBGC sent the draft standstill agreement to Renco, Renco informed PBGC that a deal had been closed with Cerberus resulting in Renco's ownership of RG Steel being reduced to 75.5%, with 24.5% of the ownership going to Cerberus. A public announcement of this Transaction was made by Renco on January 18, 2012.

70. Renco's false representations to PBGC that any deal that would break up RG Steel's controlled group was off the table were intentional misrepresentations and omissions of material facts. Had Renco not made such misrepresentations to PBGC, it knew that PBGC had

every intention of taking the steps necessary to terminate the Plans. Therefore, in order to dissuade PBGC from taking such action, Renco knowingly made these false material representations to PBGC with the intent of inducing PBGC to rely upon them by not initiating termination proceedings for the Plans.

71. PBGC reasonably relied on Renco's misrepresentations and omissions of material facts when it agreed to refrain from exercising its right to terminate the Plans. Had PBGC taken steps to terminate the Plans prior to the Transaction's consummation, Renco and the Renco Controlled Group Members would have been liable for the Plan obligations as controlled group members.

72. Renco committed actual fraud by making the above material representations, which were false, knowing that such representations were false, with the intent of inducing PBGC to rely upon such false representations, which reliance in turn has caused PBGC to incur damages in the amount of \$97,182,432.

COUNT III

Common Law Fraudulent Concealment

73. PBGC repeats and realleges the allegations set forth in paragraphs 1 through 72 of this Complaint as if fully set forth herein.

74. PBGC and Renco were engaged in a business relationship with respect to the Plans.

75. In the days leading up to the negotiation of the standstill agreement, Renco knew that PBGC objected to, or had grave concerns regarding Renco's planned deal with Cerberus and that this deal was likely to close soon. After PBGC raised these concerns with Renco, Renco

knowingly and actively concealed vital and relevant information from PBGC regarding the progress and status of the Transaction.

76. Renco, as the party with superior knowledge of the state of the progress and status of the Transaction, had an affirmative duty to disclose those facts accurately to PBGC.

77. After PBGC raised its concerns with Renco regarding the Transaction, PBGC was not aware of the then current state of negotiations and imminent deal with Cerberus. This information was never readily available to PBGC, nor could it have been ascertained by PBGC other than through Renco's disclosure.

78. Renco intentionally, willfully, and maliciously concealed and suppressed the facts relating to the status of the Transaction, as set forth above, from PBGC, with the intent to defraud PBGC as alleged herein.

79. Renco's clear motive was to avoid any disruption of the Transaction by PBGC, and Renco knew that in order to consummate the Transaction, it was important to delay PBGC from taking any action.

80. As a proximate and foreseeable result of this knowing and fraudulent concealment of material facts by Renco, PBGC incurred full exposure to the financial obligations of the terminated Plans, causing damages to PBGC in the amount of \$97,182,432.

COUNT IV

Negligent Misrepresentation

81. PBGC repeats and realleges the allegations set forth in paragraphs 1 through 80 of this Complaint as if fully set forth herein.

82. Renco's relationship to the Plans and PBGC placed Renco in a position of having specialized and unique information and experience with respect to the status of the negotiations with Cerberus for the Transaction.

83. Any details regarding the issues and negotiations involving the Transaction were possessed solely by Renco, and not readily ascertainable by PBGC.

84. Renco was fully aware, or at the very least should have known, that its statements to PBGC regarding the status and progress of the Transaction were incorrect and false representations.

85. Renco knew, or at the very least should have known, that PBGC would rely and act, or not act, based upon Renco's incorrect and false representations.

86. Renco knew, or at the very least should have known that when it made the above incorrect and false representations to PBGC, that PBGC would rely upon those representations for the specific purpose of evaluating its options with respect to the Plans' financial management and status, administration, and potential termination.

87. Indeed, the nature of Renco's false representation – that no deal to break up the Plans' controlled group was imminent – demonstrates Renco's intention to have PBGC rely on the misrepresentations.

88. The fact that Renco informed PBGC only one business day after Renco made its misrepresentations to PBGC that the Transaction had already been consummated demonstrates that Renco should have known that its representations were false.

89. Renco made statements directly to PBGC in a circumstance where Renco's aim was to induce PBGC to forbear from terminating the Plans in order to close the Transaction without PBGC's advance knowledge of the impending consummation of the Transaction.

90. PBGC's reliance on Renco's statements induced PBGC to refrain from exercising its right to initiate termination of the Plans.

91. PBGC reasonably relied to its detriment on the misrepresentations made by Renco.

92. As a result of PBGC's reliance on Renco's misrepresentations, it has incurred damages in the amount of \$97,182,432.

COUNT V

Declaratory Judgment

93. PBGC repeats and realleges the allegations set forth in paragraphs 1 through 92 of this Complaint as if fully set forth herein.

94. Renco claims that in light of the Transaction, neither it nor the Renco Controlled Group Members are still part of a controlled group with RG Steel Warren, LLC or RG Steel Wheeling, LLC, and therefore no longer financially responsible for the Plans.

95. PBGC claims that the Transaction is an evasion of pension liabilities as alleged in Counts I, II, III, and IV above, and should be disregarded, thereby continuing Renco and the Renco Controlled Group Members' liability to PBGC with respect to the Plans.

96. As a result, a justiciable controversy exists between PBGC and the Defendants under 28 U.S.C. §§ 2201 and 2202.

97. Accordingly, PBGC is entitled to a judgment declaring that (i) the Transaction should be disregarded for ERISA purposes and treated as if it never occurred; and that (ii) the Defendants remain members of a controlled group with RG Steel.

98. Such a declaration is necessary and appropriate because a substantial controversy exists between the parties having adverse legal interests as to the Transaction and the financial

obligations of Renco and the Renco Controlled Group Members as a result of the Transaction, and it is of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff PBGC respectfully requests that this Court:

1. Enter judgment in PBGC's favor and against defendants declaring (a) that the principle purpose of the Transaction was to evade or avoid pension liabilities for ERISA purposes under 29 U.S.C. §§ 1362 and 1369 and (b) that defendants are jointly and severally liable for the Unfunded Benefit Liabilities of the Plans;
2. Enter judgment in PBGC's favor and against defendants on Count I, under 29 U.S.C. § 1369 for the total amount of Unfunded Benefit Liabilities to the Plans as of the Termination Date, August 31, 2012, together with the unpaid minimum funding contributions and Termination Premiums, 29 U.S.C. §§ 1307, 1362, plus interest thereon to the extent permitted by law;
3. Enter a judgment in PBGC's favor and against defendants on Count II, common law fraud, for damages;
4. Enter a judgment in PBGC's favor and against defendants on Count III, common law fraudulent concealment, for damages;
5. Enter a judgment in PBGC's favor and against defendants on Count IV, common law negligent misrepresentation, for damages;
6. For costs and attorneys' fees; and
7. For such other and further relief that the Court deems just and reasonable.

Dated: January 28, 2013
New York, NY

By: Sarah Reid

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Attorneys for Plaintiff
PENSION BENEFIT GUARANTY
CORPORATION

Exhibit A



The Renco Group, Inc.
One Rockefeller Plaza New York City 10020

29th Floor

212-541-6000
Facsimile 212-541-6197

March 24, 2011

Mr. Ajit Gadre
Pension Benefit Guaranty Corporation
1200 K Street, N.W.
Washington, DC 20005-4026

Dear Mr. Gadre:

As we indicated in our call yesterday, we have considered the concerns you raised. We believe the Warren and Wheeling defined benefit pensions will be in better hands after the acquisition. Listed below are some of our thoughts.

What is the current status of the Warren and Wheeling defined benefit pension plans:

- 1) Included in a controlled group the parent of which is a foreign entity – Is it reachable.
- 2) Sponsored by entity which have been in a constant battle with the United Steelworkers Union.
- 3) Sponsored by entities which today are either shut down or processing material for related entities.

What are the advantages to the Warren and Wheeling defined benefit pension plans being part of the Renco controlled group:

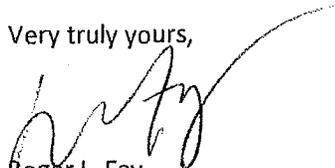
- 1) Renco subsidiaries have a long history of being financially responsible in funding their pension plans.
- 2) Renco has honored its obligations and assumed various pension plans when sponsors were distressed or other factors suggested it was desirable.
- 3) Renco has significant equity and liquid assets.
- 4) Management of Renco believes its investments in various subsidiaries are worth significantly more than the net book value of such investments e.g. Doe Run and US Magnesium. Your office has received copies of their financials.

Mr. Ajit Gadre
Pension Benefit Guaranty Corporation
March 24, 2011
Page 2

- 5) RG Steel, LLC capitalization will include a \$175 Million equity infusion from Renco.
- 6) RG Steel's debt on closing, although collateralized by all assets, will only include a revolving loan for which the borrowing base is strictly receivables and inventory and the Seller Note. This is providing lenders with comfort.
- 7) RE Steel's cash availability at closing will be at least \$100 Million, we believe, approximately twice the current availability of the acquired entities.
- 8) RG Steel has negotiated a union contract with the United Steelworkers, something the current owners were unable to do. This achievement shows sustainability, something that does not exist today.
- 9) The operating plan prepared by RG Steel has passed the reasonableness test of both the lenders and the union. Both with significant capital in the operation. In fact, more than any amount of potential defined benefit pension liability.
- 10) RG Steel will be managed by veterans of the steel industry.
- 11) The Renco team and its advisors have a long and, we believe, good working relationship with the Pension Benefit Guaranty Corporation team.

We appreciate your interest and concern. We feel RG Steel is an adequately capitalized business and the operating entities are being restructured in such a way to improve their chances of success. As such, we make no proposal to increase the funding of the pension plans being discussed. We are available to discuss this with you and your associates.

Very truly yours,



Roger L. Fay
Vice President-Finance

Exhibit B



ADVANCE NOTICE OF REPORTABLE EVENTS

PBGC Form 10-Advance
Approved OMB #1212-0013
Expires 03/31/2012

This form may be used by a contributing sponsor of a single-employer plan required to notify the Pension Benefit Guaranty Corporation in advance that a reportable event will occur.

IDENTIFYING INFORMATION

SEVERSTAR WHEELING, INC. PENSION PLAN, WCI STEEL, INC. - USW DEFINED BENEFIT PLAN
Name of Plan

R.G. STEEL, LLC.
Name of contributing sponsor

JOHN GRIMADIS / BARRY LEVINE
Name / title of individual to contact

1430 SPARROWS PT. BLVD.
Street address of contributing sponsor

1 ROCKETFELLER PLAZA
Street address of contact

BALTIMORE MD 21219
City, State, Zip

NEW YORK, NY 10020
City, State, Zip

27-5101805, 27-5101805 112, 003
EIN of contributing sponsor Plan number

212-541-6070 291
Telephone number of contact Ext.

REPORTABLE EVENTS

See instructions for descriptions of these events. Check all boxes that apply.

- Change in contributing sponsor or controlled group
- Application for minimum funding waiver
- Liquidation
- Loan default
- Extraordinary dividend or stock redemption
- Bankruptcy or similar settlement
- Transfer of benefit liabilities

BRIEF DESCRIPTION

Briefly describe the pertinent facts relating to the event.



The next page lists additional information that must be submitted with this form, if not included above.

A. Pertinent facts relating to the event:

RG Steel, LLC is currently in the market to raise capital with various private institutional investors. The capital will be used for general corporate purposes. The various investment proposals that RG Steel is entertaining will likely result in RG Steel's ultimate parent, The Renco Group, Inc. owning less than 80% of the fully diluted shares of RG Steel. We believe this constitutes a reportable event. It is the goal of these third party investors to monetize this investment through an initial public offering of RG Steel sometime in the future.

It is anticipated that a transaction(s) would occur by the end of January 2012.

B. Description of the plans' control group:

RG Steel, LLC was formed in March 2011 and upon its acquisition of certain steel making assets, the RG Steel sponsored plans joined The Renco Group Inc. control group which includes the sponsors listed in C.1 – C.4 below, and Ilshar Capital LLC, Blue Turtles, Inc., Unarco Material Handling, Inc., and Inteva Products LLC. It is anticipated that upon completion of the transaction(s) RG Steel and its subsidiaries will exit this control group. This control group will remain as it was prior to the March 2011 transaction.

C. Name of each plan in the old control group:

1. Doe Run Resources Retirement Plan (EIN/PN: 13-1255630/101) sponsored by The Doe Run Resources Corporation
2. US Magnesium LLC Defined Benefit Plan (EIN/PN: 01-0705446/003) sponsored by US Magnesium LLC
3. Pyro / Baron Retirement Plan (EIN/PN: 13-3370264/008) sponsored by The Renco Group, Inc.
4. WCI Steel Frozen Defined Benefit Plan (EIN/PN: 13-3370264/003) sponsored by The Renco Group, Inc.
5. Severstal Wheeling, Inc. Pension Plan (EIN/PN: 27-5101806/112) sponsored by RG Steel, LLC
6. WCI Steel, Inc. – USW Defined Benefit Plan (EIN/PN: 27-5101806/303) sponsored by RG Steel, LLC

D. Name of each plan in new control group:

Doe Run Resources Retirement Plan sponsored by The Doe Run Resources Corporation

US Magnesium LLC Defined Benefit Plan sponsored by US Magnesium LLC

Pyro / Baron Retirement Plan sponsored by The Renco Group, Inc.

WCI Steel Frozen Defined Benefit Plan sponsored by The Renco Group, Inc.

E. Copy of actuarial statement relating to plans sponsored by RG Steel, LLC:

See attached most recent for WCI Steel, Inc. -USW Defined Benefit Plan

F. Financial Information:

See previously submitted ERISA 4010 filings

Exhibit C

RG Steel

Pension Information Profile

| | Warren, LLC Hourly Employees Pension Plan 275101806/003 | RG Steel Wheeling, LLC Pension Plan 550703273/112 | Total of Underfunded Plans |
|--|---|--|----------------------------------|
| EIN/PN | | | |
| Plan Frozen? | Partial | 31-Jan-12 | |
| Plan Terminated? | No | No | |
| Cash Balance Plan? | No | No | |
| Part I -- Actuarial Information | | | |
| Date of Bankruptcy Filing | 31-May-12 | 31-May-12 | 31-May-12 |
| PBGC Valuation Date | 31-Aug-12 | 31-Aug-12 | 31-Aug-12 |
| PBGC Interest Factors | | | |
| First Period | 2.95% | 2.95% | 2.95% |
| Thereafter | 3.66% | 3.66% | 3.66% |
| Date Calculation Completed by CFRD Actuaries | 23-Jan-13 | 23-Jan-13 | 23-Jan-13 |
| Part II -- Underfunding Details (in millions) | | | |
| Assets as of April 30, 2012 Projected to August 31, 2012 | \$42.4 | \$6.7 | \$49.1 |
| Estimated Unfunded Guaranteed Liability - UGL | | | |
| Retired | \$7.9 | \$3.2 | \$11.1 |
| Terminated Vested | \$0.4 | \$2.5 | \$2.9 |
| Active | \$71.9 | \$7.6 | \$79.5 |
| <u>Expenses</u> | <u>\$0.6</u> | <u>\$0.1</u> | <u>\$0.7</u> |
| Total | \$80.8 | \$13.4 | \$94.2 |
| UGL | \$38.4 | \$6.7 | \$45.1 |
| Funded GL Ratio [Assets/Guaranteed Liabilities] | 52% | 50% | 52% |
| Estimated Unfunded Benefit Liability - UBL | | | |
| Retired | \$7.9 | \$3.2 | \$11.1 |
| Terminated Vested | \$0.4 | \$2.5 | \$2.9 |
| Active | \$113.7 | \$7.6 | \$121.3 |
| <u>Expenses</u> | <u>\$0.9</u> | <u>\$0.1</u> | <u>\$1.0</u> |
| Total | \$122.9 | \$13.4 | \$136.3 |
| UBL | \$80.5 | \$6.7 | \$87.2 |
| Funded BL Ratio [Assets/Benefit Liabilities] | 34% | 50% | 36% |
| Part III -- Number of Participants at Plan Valuation Date | | | |
| Retired | 226 | 21 | 247 |
| Terminated Vested | 26 | 18 | 44 |
| <u>Active</u> | <u>956</u> | <u>107</u> | <u>1,063</u> |
| Total | 1,208 | 146 | 1,354 |
| Part IV -- Unpaid Minimum Required Contributions (in dollars) | | | |
| §1362(c) Amount | \$0 | \$149,030 | \$149,030 |
| Total Unpaid Minimum Required Contributions (DUEC) | \$4,652,351 | \$252,581 | \$4,904,932 |
| Date of Cessation of Business | 31-Aug-12 | 31-Aug-12 | 31-Aug-12 |
| Bankruptcy Claims | | | |
| - General Unsecured Claim | \$1,701,768 | \$227,970 | \$1,929,738 |
| - 180 Day Normal Cost Claim | \$1,720,858 | \$12,410 | \$1,733,268 |
| - (a)(2) Administrative Normal Cost Claim | \$1,229,725 | \$12,201 | \$1,241,926 |

RG Steel

Pension Information Profile

| | | |
|--------|---------------|---------------|
| | Warren, LLC | |
| | Hourly | RG Steel |
| | Employees | Wheeling, LLC |
| | Pension Plan | Pension Plan |
| EIN/PN | 275101806/003 | 550703273/112 |

Part V -- Funding Information (in millions)

| | | |
|--|-----------|-----------|
| Plan Year Beginning (PYB) | 01-Apr-11 | 01-Aug-11 |
| Plan Valuation Date (PVD) | 01-Apr-11 | 01-Aug-11 |
| Is the Plan At-Risk? (for PYB) | Yes | No |
| Monthly Annuities In Payment (on PYB) | \$0.9 | \$0.0 |
| Funding Target Attainment Percentage (FTAP) on PVD | 81.40% | 78.17% |
| Adjusted FTAP (AFTAP) on PVD | 81.40% | 78.17% |
| Carry-Over Balance (COB) as of PYB | \$0.1 | \$0.0 |
| Pre-Funding Balance (PFB) as of PYB | \$0.0 | \$0.0 |
| Minimum Required Contribution (MRC) as of PVD | \$11.1 | \$0.5 |
| Can COB and PFB be used to reduce MRC? | No | Yes |
| Maximum Deductible Contribution as of PVD | #N/A | #N/A |
| Actual 2010 PY Contribution | \$10.4 | \$0.7 |

Part VI -- Comments

The salaried plan froze benefit accruals January 31, 2012.

Hourly Plan shutdown benefits were included in the BL, but not included in the GL. The hourly plan was closed to new members hired after March 31, 2011. The benefit multiplier increase was never effective due to IRC Section 436 limitations. The benefit multiplier increase is not included in either the BL or the GL.

CFRD assumed that participants' WC1 offset benefits would commence at age 62 for participants with more than 30 years of service at December 31, 2005.

Monthly Annuities in Payment is 1/12 of the actual total benefit payments made from plan assets from April 1, 2010 to March 31, 2011.

No funding relief elections under PRA '10 were made for any plan year. MAP-21 funding stabilization interest rates were used to calculate the minimum required contributions for the 2012 plan year. The DUEC was calculated assuming no funding relief in any plan year and MAP-21 interest rates for the 2012 plan year.

Part VII -- Sources & Methods

| | | |
|----------------|----------------|----------------|
| AVR/AFTAP Date | 04/01/2011 AVR | 08/01/2011 AVR |
| 5500 Year | 2010 | 2010 |
| Asset Date | 30-Apr-12 | 30-Apr-12 |

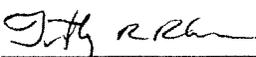
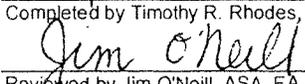
Hourly Plan: Other data sources include 2012 Lump Sums. Assets provided by J. P. Morgan as of April 30, 2012 and were assumed to earn 7.07% per year (based on an investment allocation of 9% equity and 91% bonds; and investment indices known through August 2012). Salaried Plan: Assets provided by J. P. Morgan as of April 30, 2012 and were assumed to earn 6.78% per year (based on an investment allocation of 17% equity and 83% bonds; and investment indices known through August 2012).

Calculations assume employer shuts down.

Liabilities provided by the plan actuary have been converted to estimated Benefit Liabilities. Adjustments were made for interest, mortality, benefit accruals, benefit payments, and retirement age to reflect PBGC assumptions.

Estimated Guaranteed Liability is derived from vested liability and reflects PBGC assumptions. This estimate does not take into account benefits in excess of guaranteed benefits which may be payable as a result of \$4044 asset allocation. Since the bankruptcy filing date of 5/31/2012 is after 9/16/2006, adjustments to the calculations of the guaranteed liabilities due to the changes enacted by PPA 2006 in ERISA 4022(g) are recognized as applicable (e.g. limiting the benefit accruals, the phase-in period for plan improvements, and the grow-ins for guaranteed benefits as of the bankruptcy filing date).

The BL and GL for the Hourly Plan active participants were calculated directly from grouped data provided by the Company. Benefits were estimated based on our understanding of the plan document

| | |
|---|-----------|
|  | 1/23/2013 |
| Completed by Timothy R. Rhodes, ASA, EA | Date |
|  | 1/23/2013 |
| Reviewed by Jim O'Neill, ASA, EA | Date |

The signatures above attest to the validity of all calculations on the PIP, the UBL spreadsheet, and the DUEC spreadsheet