

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
SEVERSTAL US HOLDINGS, LLC, a Delaware :
limited liability company, and SEVERSTAL US :
HOLDINGS II, INC., a Delaware corporation, :

Plaintiffs,

v.

RG STEEL, LLC, a Delaware limited liability :
company, :

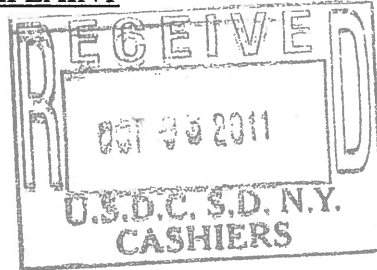
Defendant.
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JUDGE SWEET

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11 CV 6922

COMPLAINT



Plaintiffs Severstal US Holdings, LLC (“SUSH”) and Severstal US Holdings II, LLC (“SUSH II”), by and through their undersigned counsel, for their Complaint against defendant RG Steel, LLC (“RG Steel”), allege upon knowledge with respect to themselves and their own acts and upon information and belief with respect to all other matters, as follows:

NATURE OF THE ACTION

1. This action arises from a Stock Purchase Agreement by and among SUSH, SUSH II, Severstal Sparrows Point, LLC (“Severstal Sparrows Point”), and RG Steel, dated as of March 1, 2011 (the “SPA”).

2. Under the SPA, RG Steel acquired Severstal Sparrows Point from SUSH II for, among other things, a base purchase price of \$125.0 million in cash. The price was reduced to \$84.9 million at closing based on the difference between certain financial metrics set forth in the SPA and SUSH II’s estimate of those metrics as of the opening of business on the closing date, or the “Effective Time.” The price is subject to further final adjustments based on the difference between SUSH II’s estimates and final calculations of those metrics as of the closing date.

3. As part of the process for determining the final adjustments, SUSH II proposed final calculations in May 2011 and RG Steel proposed adjustments to those calculations in June 2011. RG Steel's proposed adjustments would reduce the price by an additional \$83.0 million, to \$1.9 million, less than 2% of the base price of \$125.0 million.

4. SUSH II and RG Steel resolved a handful of RG Steel's proposed adjustments after June 2011, but they reached an impasse as to the vast majority of them. On September 13, 2011, RG Steel provided notice that it was referring the remaining proposed adjustments to an accounting firm, PricewaterhouseCoopers LLP ("PwC"), for determination in an arbitration under the price-adjustment provisions of the SPA. On September 27, 2011, it circulated a markup of a draft engagement letter prepared by PwC and stated that it was prepared to execute the engagement letter immediately.

5. Through its continuing investigation of the proposed adjustments, SUSH II has learned that at least \$44.4 million of the proposed adjustments are not based on any change in value of the metrics at issue, but rather are based on impermissible changes in the application of GAAP and other policies, procedures, principles, and methods in assessing those metrics. Under the SPA and precedents such as the New York Court of Appeals' decision in *In re Westmoreland Coal Co. v. Entech, Inc.*, 794 N.E.2d 667 (N.Y. 2003), and the Second Circuit's decision in *E*TRADE Financial Corp. v. Deutsche Bank AG*, No. 09-3029-cv, 2010 WL 1196814 (2d Cir. Mar. 30, 2010), those adjustments are outside the scope of the arbitration agreement in the price-adjustment provisions of the SPA.

6. To the extent RG Steel takes issue with the accounting reflected in earlier financial statements, it is limited to asserting a claim against SUSH and SUSH II under the indemnification provisions of the SPA. But it cannot use different accounting as the foundation

for a claim against SUSH II under the price-adjustment provisions of the SPA. SUSH and SUSH II never agreed to arbitrate such claims.

7. On September 27, 2011, SUSH II circulated comments on the draft engagement letter that would limit the scope of the arbitration accordingly. In a letter to PwC the next day, RG Steel rejected those comments and urged PwC to finalize the engagement letter and proceed with the arbitration as to all of the remaining proposed adjustments, presumably without SUSH II's consent or participation.

8. From the parties' exchange of letters, it is apparent that there is an actual controversy as to the scope of the arbitration agreement in the price-adjustment provisions of the SPA and the corresponding rights and duties of the parties under the SPA. Accordingly, in their claim for relief, SUSH and SUSH II seek a declaratory judgment that will resolve this controversy and establish that there is no basis for RG Steel's attempt to obtain a massive price reduction through adjustments that are not covered by the arbitration agreement in the price-adjustment provisions of the SPA.

PARTIES

9. Plaintiff SUSH is a Delaware limited liability company. It owns all of the issued and outstanding equity interests of SUSH II. It is a party to the SPA.

10. Plaintiff SUSH II is a Delaware corporation. It is the former owner of all of the issued and outstanding equity interests of Severstal Sparrows Point. It is a party to the SPA.

11. Defendant RG Steel is a Delaware limited liability company. It is a party to the SPA.

JURISDICTION

12. This Court has subject-matter jurisdiction over this action under 28 U.S.C. § 1332(a).

13. Plaintiff SUSH is a limited liability company. Its members are Severstal Investments, LLC, OAO Severstal, and Baracom Limited. Severstal Investments, LLC is a limited liability company. Its sole member is OAO Severstal. OAO Severstal is a citizen of a foreign state, Russia. Baracom Limited is a citizen of a foreign state, Cyprus. Thus, SUSH is a citizen of the foreign states of Russia and Cyprus for purposes of 28 U.S.C. § 1332(a).

14. Plaintiff SUSH II is a corporation. It was incorporated under Delaware law and its principal place of business is in Dearborn, Michigan. Thus, SUSH II is a citizen of Delaware and Michigan for purposes of 28 U.S.C. § 1332(a).

15. Defendant RG Steel is a limited liability company. Its sole member is The Renco Group, Inc. The Renco Group, Inc. is a corporation. It was incorporated under New York law and its principal place of business is in New York, New York. Thus, RG Steel is a citizen of New York for purposes of 28 U.S.C. § 1332(a).

16. SUSH and SUSH II seek a declaratory judgment regarding the arbitrability of proposed adjustments in the aggregate amount of at least \$44.4 million. Thus, the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

BACKGROUND

17. SUSH and SUSH II are part of the Severstal International division of OAO Severstal, a global steelmaker that generated nearly \$13.6 billion of revenue in 2010. OAO Severstal and its affiliates (“Severstal”) have operations in Russia, the United States, and elsewhere. Severstal’s North American operations are focused on steelmaking facilities in Dearborn, Michigan, and Columbus, Mississippi, which are two of the most technologically advanced plants in North America.

18. Over a three-month period beginning in May 2008 and ending in August 2008, Severstal International acquired facilities in Sparrows Point, Maryland; Warren, Ohio; and Wheeling, West Virginia.

19. On March 1, 2011, SUSH, SUSH II, Severstal Sparrows Point, and RG Steel entered into the SPA. Under the SPA, RG Steel acquired from SUSH II all of the issued and outstanding equity interests of Severstal Sparrows Point. Through its acquisition of Severstal Sparrows Point, RG Steel acquired, among other things, the facilities in Sparrows Point, Warren, and Wheeling. The acquisition closed on March 31, 2011.

20. The SPA established a purchase price of \$225.0 million comprising a note in the principal amount of \$100.0 million and payable in 2016 and \$125.0 million in cash payable at closing. The cash component was subject to initial adjustments at closing and remains subject to final adjustments based on fluctuations in financial metrics known as “Net Citicorp Indebtedness” and “Net Working Capital.” (SPA § 1.04.)

21. Under Section 1.04(b)(ii) of the SPA, “Net Working Capital” means:

the difference between [Severstal Sparrows Point’s] and the Subsidiaries consolidated (A) accounts receivable . . . and inventories and (B) accounts payable . . . , *determined in accordance with GAAP consistently applied and following the policies, procedures, principles and methods employed in preparing [Severstal Sparrows Point’s] balance sheet as of December 31, 2010 included in the Financial Statements*

(Emphasis added.)

22. The initial adjustments of the cash component of the purchase price were based on (i) the difference between a baseline Net Citicorp Indebtedness of approximately \$311.0 million set forth in the SPA and SUSH II’s estimate of Net Citicorp Indebtedness as of the Effective Time, known as “Estimated Net Citicorp Indebtedness,” and (ii) the difference between a baseline Net Working Capital of \$450.0 million set forth in the SPA and SUSH II’s estimate of

Net Working Capital as of the Effective Time, known as “Estimated Net Working Capital.” (*See* SPA § 1.04(a).)

23. Shortly before the closing on March 31, 2011, SUSH II delivered to RG Steel its calculation of Estimated Net Citicorp Indebtedness in the amount of approximately \$299.8 million and its calculation of Estimated Net Working Capital in the amount of approximately \$398.6 million. The calculations were set forth on what is known as the “Estimated Working Capital Statement.” (*See* SPA § 1.04(a).) The Estimated Working Capital Statement decreased the cash due at closing by approximately \$40.1 million, from \$125.0 million to approximately \$84.9 million.

24. The final adjustments of the cash component of the purchase price are based on (i) the difference between the Estimated Net Citicorp Indebtedness of approximately \$299.8 million and the final calculation of Net Citicorp Indebtedness as of the Effective Time, known as “Final Net Citicorp Indebtedness,” and (ii) the difference between the Estimated Net Working Capital of approximately \$398.6 million and the final calculation of Net Working Capital as of the Effective Time, known as “Final Net Working Capital.” (*See* SPA § 1.04(b)(iv).)

25. The SPA establishes a multi-step procedure for determining Final Net Citicorp Indebtedness and Final Net Working Capital.

26. On May 27, 2011, SUSH II delivered to RG Steel a final calculation of Net Citicorp Indebtedness as of the Effective Time and Net Working Capital as of the Effective Time in a document known as the “Closing Statement.” (*See* SPA § 1.04(b)(i).) The Closing Statement sets forth Net Citicorp Indebtedness of approximately \$297.6 million and Net Working Capital of approximately \$425.9 million.

27. On June 16, 2011, RG Steel delivered to SUSH II its objections to the Closing Statement in a document known as the "Protest Notice." (*See* SPA § 1.04(b)(iii).) In the Protest Notice, RG Steel proposed a series of adjustments to the Closing Statement that would increase Net Citicorp Indebtedness by approximately \$9.0 million, to approximately \$306.6 million, and would decrease Net Working Capital by approximately \$103.4 million, to approximately \$322.5 million. The net effect of RG Steel's proposed adjustments would be to decrease the cash component of the purchase price by an additional amount of approximately \$83.0 million, from approximately \$84.9 million to approximately \$1.9 million.

28. On July 15, 2011, SUSH II delivered to RG Steel its objections to the Protest Notice. (*See* SPA § 1.04(b)(iii).) SUSH II objected to most, but not all, of RG Steel's proposed adjustments.

29. In the weeks following July 15, 2011, SUSH II and RG Steel engaged in discussions concerning a potential consensual resolution of the remaining adjustments. (*See* SPA § 1.04(b)(iii).) Those discussions culminated in an in-person meeting between SUSH II and RG Steel and their respective legal and financial advisors in Independence, Ohio, on August 16, 2011. At that meeting, SUSH II and RG Steel reached an agreement with respect to two of the adjustments.

30. In a letter dated September 13, 2011, RG Steel notified SUSH II of its intention to refer the remaining adjustments to PwC, known as the "Independent Accounting Firm," for final determination in an arbitration. (*See* SPA § 1.04(b)(iii).) As of September 13, 2011, the remaining adjustments included one upward adjustment of Net Citicorp Indebtedness in the approximate amount of \$9.0 million and many downward adjustments of Net Working Capital in the aggregate amount of \$89.6 million.

31. On September 23, 2011, the Independent Accounting Firm delivered to SUSH II and RG Steel a draft engagement letter.

32. On September 27, 2011, RG Steel delivered to the Independent Accounting Firm and SUSH II its comments on the draft engagement letter and informed the Independent Accounting Firm and SUSH II that it was prepared to execute the engagement letter immediately.

33. SUSH II has been investigating RG Steel's proposed adjustments since it received the Protest Notice on June 16, 2011. Its investigation is continuing.

34. In the course of its investigation, SUSH II has discovered that several of the proposed adjustments of Net Working Capital (i) are premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP and/or (ii) are based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010 (the "Barred Adjustments").

35. The Barred Adjustments are not subject to the price-adjustment arbitration under the SPA for several reasons.

36. Under Section 1.04(b)(ii) of the SPA, Net Working Capital must be "determined in accordance with GAAP consistently applied and following the policies, procedures, principles and methods employed in preparing [Severstal Sparrows Point's] balance sheet as of December 31, 2010 included in the Financial Statements."

37. When, as here, parties are preparing financial calculations for comparative purposes, what is most important is that the methodology be consistently applied; i.e., the accountants follow the same GAAP and other policies, procedures, principles, and methods when computing the reported values. The emphasis on consistent treatment in Section 1.04(b)(ii)

of the SPA reflects a purpose to flag changes in value occurring as a result of the operations of Severstal Sparrows Point and its subsidiaries between December 31, 2010, and the Effective Time. The Barred Adjustments are not based on such changes, but rather on changes in applications of GAAP and other policies, procedures, principles, and methods.

38. Further, to the extent the Barred Adjustments are premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP, RG Steel's exclusive remedy is an indemnity claim against SUSH and SUSH II, not a Net Working Capital price-adjustment claim.

39. In Section 2.06(a) of the SPA, SUSH and SUSH II (and Severstal Sparrows Point) specifically represented and warranted to RG Steel that Severstal Sparrows Point's balance sheet as of December 31, 2010, was "prepared in accordance with GAAP, consistently applied throughout the periods indicated."

40. In Section 8.06 of the SPA, RG Steel agreed that the indemnities set forth in Article VIII of the SPA are its "exclusive remedies" for "any inaccuracy" in that representation and warranty.

41. The SPA's indemnification provisions afford a complete, comprehensive remedy for any and all claims for breach of a representation and warranty. They also afford SUSH and SUSH II certain protections that are not available in the price-adjustment arbitration. These protective provisions include, among others, Section 8.02(c)(iii) of the SPA, which states that "no indemnity shall be payable under this Article VIII until the aggregate of [RG Steel's] Covered Losses exceeds \$9,500,000, and then only for any such Covered Losses in excess of such amount." They also include Section 10.08 of the SPA, under which any dispute regarding

an indemnity claim will be resolved through litigation in a state or federal court in New York, with all of the protections attendant to formal litigation.

42. Allowing RG Steel to move forward in the price-adjustment arbitration with Barred Adjustments that are premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP would subvert the SPA's exclusive-remedies provision and circumvent the \$9.5 million threshold and other limitations on RG Steel's indemnity rights.

43. In addition, RG Steel's sole member, The Renco Group, Inc., has experience in the steel industry, including prior ownership of the Warren facility that RG Steel acquired under the SPA. Through this experience and knowledge of the steel business, RG Steel was presumably familiar with accounting conventions and problems, including any peculiar to the steel industry.

44. Furthermore, before the transaction closed on March 31, 2011, RG Steel had the opportunity to and in fact did conduct due diligence concerning Severstal Sparrows Point's balance sheet as of December 31, 2010. Due diligence is undertaken, among other reasons, so that the buyer may perform an independent investigation of the target companies and make an independent judgment as to the economics and risks prior to committing to a transaction or agreeing on a purchase price. But now, RG Steel has proposed adjustments that, if fully credited by the Independent Accounting Firm in a streamlined arbitration, would reduce the cash component of the purchase price by an additional 98%, from approximately \$84.9 million to approximately \$1.9 million, largely on the basis of proposed adjustments based on accounting methodologies that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010.

45. As a matter of due diligence, RG Steel knew about (or certainly had the opportunity to learn) the applications of GAAP and the policies, procedures, principles, and methods employed in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010, before it agreed to acquire Severstal Sparrows Point. As sophisticated commercial parties, the parties to the SPA did not intend to consign a significant portion of the cash component of the purchase price to arbitration, and in fact they did not.

46. Based on the results of its investigation as they exist today, SUSH II is aware of the Barred Adjustments described in paragraphs 47–138 below. This list is subject to change depending on the results of SUSH II's continuing investigation.

(\$6,863) of (\$10,162) adjustment of Sparrows Point inventories¹

47. RG Steel has proposed a (\$10,162) adjustment of Sparrows Point inventories. The adjustment is based on a lower-of-cost-or-market valuation of Sparrows Point inventories.

48. RG Steel asserts that (\$6,863) of this adjustment should have been included in Sparrows Point inventories in Severstal Sparrows Point's balance sheet as of December 31, 2010, and should be included in Sparrows Point inventories in calculating Net Working Capital as of the Effective Time.

49. The (\$6,863) was not included in Sparrows Point inventories in Severstal Sparrows Point's balance sheet as of December 31, 2010.

50. Thus, RG Steel's position is that:

(a) Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP with respect to this matter; or

¹ From this heading through paragraph 132, all dollar amounts are in thousands.

(b) Severstal Sparrows Point's balance sheet as of December 31, 2010, was prepared in accordance with GAAP with respect to this matter, but including the (\$6,863) in Sparrows Point inventories would have been in accordance with GAAP as well.

51. If the former is true, then this portion of the adjustment is premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP.

52. If the latter is true, then this portion of the adjustment is based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010.

53. In either case, this portion of the adjustment falls outside the scope of the price-adjustment arbitration.

(\$538) of (\$614) adjustment of Warren inventories

54. RG Steel has proposed a (\$614) adjustment of Warren inventories. (\$538) of this adjustment is based on a write-down of Warren inventories pursuant to an alleged 150-day aging policy.

55. The alleged 150-day aging policy was not employed in preparing the Warren inventories section of the Severstal Sparrows Point's balance sheet as of December 31, 2010.

56. RG Steel asserts that the alleged 150-day aging policy should be employed in calculating Net Working Capital as of the Effective Time.

57. Thus, RG Steel's position is that:

(a) Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP with respect to this matter; or

(b) Severstal Sparrows Point's balance sheet as of December 31, 2010, was prepared in accordance with GAAP with respect to this matter, but employing the alleged 150-day aging policy would have been in accordance with GAAP as well.

58. If the former is true, then this portion of the adjustment is premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP.

59. If the latter is true, then this portion of the adjustment is based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010.

60. In either case, this portion of the adjustment falls outside the scope of the price-adjustment arbitration.

\$22,959 adjustment of Sparrows Point accounts payable

61. RG Steel has proposed a \$22,959 adjustment of Sparrows Point accounts payable. The adjustment is based on amounts allegedly owed under an agreement with Cliffs Sales Company ("Cliffs") arising from Severstal Sparrows Point's failure to take pellets from Cliffs in the fourth quarter of 2010 and the first quarter of 2011 and an agreement with United Bulk Carrier ("United") arising from Severstal Sparrows Point's failure to utilize United's shipping services in connection with those pellets.

62. As to the amounts allegedly owed under the agreements and relating to the fourth quarter of 2010, these amounts were not included in Sparrows Point accounts payable in Severstal Sparrows Point's balance sheet as of December 31, 2010.

63. As to the amounts allegedly owed under the agreements and relating to the first quarter of 2011, these kinds of alleged liabilities were not included in Sparrows Point accounts payable in Severstal Sparrows Point's balance sheet as of December 31, 2010.

64. RG Steel asserts that amounts allegedly owed under the agreements arising from Severstal Sparrows Point's failure to take pellets from Cliffs in the fourth quarter of 2010 and the first quarter of 2011 and Severstal Sparrows Point's failure to utilize United's shipping services in connection with those pellets should be included in Sparrows Point accounts payable in calculating Net Working Capital as of the Effective Time.

65. Thus, RG Steel's position is that:

(a) Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP with respect to this matter; or

(b) Severstal Sparrows Point's balance sheet as of December 31, 2010, was prepared in accordance with GAAP with respect to this matter, but including these kinds of alleged liabilities in Sparrows Point accounts payable would have been in accordance with GAAP as well.

66. If the former is true, then this adjustment is premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP.

67. If the latter is true, then this adjustment is based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010.

68. In either case, this adjustment falls outside the scope of the price-adjustment arbitration.

\$1,181 adjustment of Sparrows Point accounts payable

69. RG Steel has proposed a \$1,181 adjustment of Sparrows Point accounts payable. The adjustment is based on amounts allegedly owed for employee health benefits and taxes.

70. Amounts owed for employee health benefits and taxes were not included in Sparrows Point accounts payable in Severstal Sparrows Point's balance sheet as of December 31, 2010.

71. RG Steel asserts that employee health benefits and taxes should be included in Sparrows Point accounts payable in calculating Net Working Capital as of the Effective Time.

72. Thus, RG Steel's position is that:

(a) Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP with respect to this matter; or

(b) Severstal Sparrows Point's balance sheet as of December 31, 2010, was prepared in accordance with GAAP with respect to this matter, but including such amounts in Sparrows Point accounts payable would have been in accordance with GAAP as well.

73. If the former is true, then this adjustment is premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP.

74. If the latter is true, then this adjustment is based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010

75. In either case, this adjustment falls outside the scope of the price-adjustment arbitration.

\$2,558 adjustment of Sparrows Point accounts payable

76. RG Steel has proposed a \$2,558 adjustment of Sparrows Point accounts payable. The adjustment is based on amounts allegedly owed to Siemens as of December 31, 2010.

77. The \$2,558 was not included in Sparrows Point accounts payable in Severstal Sparrows Point's balance sheet as of December 31, 2010.

78. RG Steel asserts that the \$2,558 should be included in Sparrows Point accounts payable in calculating Net Working Capital as of the Effective Time.

79. Thus, RG Steel's position is that:

(a) Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP with respect to this matter; or

(b) Severstal Sparrows Point's balance sheet as of December 31, 2010, was prepared in accordance with GAAP with respect to this matter, but including the \$2,558 in Sparrows Point accounts payable would have been in accordance with GAAP as well.

80. If the former is true, then this adjustment is premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP.

81. If the latter is true, then this adjustment is based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010.

82. In either case, this adjustment falls outside the scope of the price-adjustment arbitration.

\$1,425 of \$21,870 adjustment of Warren accounts payable

83. RG Steel has proposed a \$21,870 adjustment of Warren accounts payable. \$1,425 of this adjustment relates to amounts allegedly owed as of December 31, 2010, under a Transportation Contract by and between Norfolk Southern Railway Company and its subsidiary railroads and Severstal Warren, Inc., dated as of December 1, 2010.

84. The \$1,425 was not included in Warren accounts payable in Severstal Sparrows Point's balance sheet as of December 31, 2010.

85. RG Steel asserts that the \$1,425 should be included in Warren accounts payable in calculating Net Working Capital as of the Effective Time.

86. Thus, RG Steel's position is that:

(a) Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP with respect to this matter; or

(b) Severstal Sparrows Point's balance sheet as of December 31, 2010, was prepared in accordance with GAAP with respect to this matter, but including the \$1,425 in Warren accounts payable would have been in accordance with GAAP as well.

87. If the former is true, then this portion of the adjustment is premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP.

88. If the latter is true, then this portion of the adjustment is based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010.

89. In either case, this portion of the adjustment falls outside the scope of the price-adjustment arbitration.

\$2,320 adjustment of Wheeling accounts payable

90. RG Steel has proposed a \$2,320 adjustment of Wheeling accounts payable. The adjustment is based on amounts allegedly owed to Wheeling-Nisshin, Inc. under a Settlement Agreement and Mutual Release, dated as of July 8, 2010.

91. Amounts owed under this agreement were not included in Wheeling accounts payable in Severstal Sparrows Point's balance sheet as of December 31, 2010.

92. RG Steel asserts that amounts owed under this agreement should be included in Wheeling accounts payable in calculating Net Working Capital as of the Effective Time.

93. Thus, RG Steel's position is that:

(a) Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP with respect to this matter; or

(b) Severstal Sparrows Point's balance sheet as of December 31, 2010, was prepared in accordance with GAAP with respect to this matter, but including such amounts in Wheeling accounts payable would have been in accordance with GAAP as well.

94. If the former is true, then this adjustment is premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP.

95. If the latter is true, then this adjustment is based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010.

96. In either case, this adjustment falls outside the scope of the price-adjustment arbitration.

\$770 adjustment of Wheeling accounts payable

97. RG Steel has proposed a \$770 adjustment of Wheeling accounts payable. The adjustment is based on amounts allegedly owed for legal services.

98. Amounts owed for legal services were not included in Wheeling accounts payable in Severstal Sparrows Point's balance sheet as of December 31, 2010.

99. RG Steel asserts that amounts owed for legal services should be included in Wheeling accounts payable in calculating Net Working Capital as of the Effective Time.

100. Thus, RG Steel's position is that:

(a) Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP with respect to this matter; or

(b) Severstal Sparrows Point's balance sheet as of December 31, 2010, was prepared in accordance with GAAP with respect to this matter, but including such amounts in Wheeling accounts payable would have been in accordance with GAAP as well.

101. If the former is true, then this adjustment is premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP.

102. If the latter is true, then this adjustment is are based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010.

103. In either case, this adjustment falls outside the scope of the price-adjustment arbitration.

\$959 adjustment of Wheeling accounts payable

104. RG Steel has proposed a \$959 adjustment of Wheeling accounts payable. The adjustment is based on amounts allegedly owed to the Steelworkers Pension Trust.

105. Amounts owed to the Steelworkers Pension Trust were not included in Wheeling accounts payable in Severstal Sparrows Point's balance sheet as of December 31, 2010.

106. RG Steel asserts that amounts owed to the Steelworkers Pension Trust should be included in Wheeling accounts payable in calculating Net Working Capital as of the Effective Time.

107. Thus, RG Steel's position is that:

(a) Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP with respect to this matter; or

(b) Severstal Sparrows Point's balance sheet as of December 31, 2010, was prepared in accordance with GAAP with respect to this matter, but including such amounts in Wheeling accounts payable would have been in accordance with GAAP as well.

108. If the former is true, then this adjustment is premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP.

109. If the latter is true, then this adjustment is based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010.

110. In either case, this adjustment falls outside the scope of the price-adjustment arbitration.

\$2,023 adjustment of Wheeling accounts payable

111. RG Steel has proposed a \$2,023 adjustment of Wheeling accounts payable. The adjustment is based on amounts allegedly owed for employee health benefits.

112. Amounts owed for employee health benefits were not included in Wheeling accounts payable in Severstal Sparrows Point's balance sheet as of December 31, 2010.

113. RG Steel asserts that amounts owed for employee health benefits should be included in Wheeling accounts payable in calculating Net Working Capital as of the Effective Time.

114. Thus, RG Steel's position is that:

(a) Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP with respect to this matter; or

(b) Severstal Sparrows Point's balance sheet as of December 31, 2010, was prepared in accordance with GAAP with respect to this matter, but including such amounts in Wheeling accounts payable would have been in accordance with GAAP as well.

115. If the former is true, then this adjustment is premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP.

116. If the latter is true, then this adjustment is based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010.

117. In either case, this adjustment falls outside the scope of the price-adjustment arbitration.

\$200 adjustment of Wheeling accounts payable

118. RG Steel has proposed a \$200 adjustment of Wheeling accounts payable. The adjustment is based on amounts allegedly owed for pensions.

119. Amounts owed for pensions were not included in Wheeling accounts payable in Severstal Sparrows Point's balance sheet as of December 31, 2010.

120. RG Steel asserts that amounts owed for pensions should be included in Wheeling accounts payable in calculating Net Working Capital as of the Effective Time.

121. Thus, RG Steel's position is that:

(a) Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP with respect to this matter; or

(b) Severstal Sparrows Point's balance sheet as of December 31, 2010, was prepared in accordance with GAAP with respect to this matter, but including such amounts in Wheeling accounts payable would have been in accordance with GAAP as well.

122. If the former is true, then this adjustment is premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP.

123. If the latter is true, then this adjustment is based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010.

124. In either case, this adjustment falls outside the scope of the price-adjustment arbitration.

\$2,370 adjustment of Wheeling accounts payable

125. RG Steel has proposed a \$2,370 adjustment of Wheeling accounts payable. The adjustment is based on amounts allegedly owed for equipment repairs that were completed as of December 31, 2010.

126. These amounts were not included in Wheeling accounts payable in Severstal Sparrows Point's balance sheet as of December 31, 2010.

127. RG Steel asserts that these amounts should be included in Wheeling accounts payable in calculating Net Working Capital as of the Effective Time.

128. Thus, RG Steel's position is that:

(a) Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP with respect to this matter; or

(b) Severstal Sparrows Point's balance sheet as of December 31, 2010, was prepared in accordance with GAAP with respect to this matter, but including such amounts in Wheeling accounts payable would have been in accordance with GAAP as well.

129. If the former is true, then this adjustment is premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP.

130. If the latter is true, then this adjustment is based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010.

131. In either case, this adjustment falls outside the scope of the price-adjustment arbitration.

\$273 adjustment of Wheeling accounts payable

132. RG Steel has proposed a \$273 adjustment of Wheeling accounts payable. The adjustment is based on amounts allegedly owed for sales, use, and business and occupation taxes.

133. Amounts owed for sales, use, and business and occupation taxes were not included in Wheeling accounts payable in Severstal Sparrows Point's balance sheet as of December 31, 2010.

134. RG Steel asserts that amounts owed for sales, use, and business and occupation taxes should be included in Wheeling accounts payable in calculating Net Working Capital as of the Effective Time.

135. Thus, RG Steel's position is that:

(a) Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP with respect to this matter; or

(b) Severstal Sparrows Point's balance sheet as of December 31, 2010, was prepared in accordance with GAAP with respect to this matter, but including such amounts in Wheeling accounts payable would have been in accordance with GAAP as well.

136. If the former is true, then this adjustment is premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP.

137. If the latter is true, then this adjustment is based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010.

138. In either case, this adjustment falls outside the scope of the price-adjustment arbitration.

* * *

139. On September 27, 2011, the same day it received RG Steel's comments on the Independent Accounting Firm's engagement letter, SUSH II delivered to RG Steel a letter addressing the fact that the Barred Adjustments are not subject to the price-adjustment arbitration under the SPA, and proposing revisions to the engagement letter that limit the scope of the price-adjustment arbitration accordingly.

140. On September 28, 2011, RG Steel's counsel delivered to the Independent Accounting Firm and SUSH II a letter in which it rejected SUSH II's proposed changes to the engagement letter and urged the Independent Accounting Firm to finalize the engagement letter and proceed with the arbitration, presumably without SUSH II's consent or participation.

**AS AND FOR A
FIRST CLAIM FOR RELIEF
(Declaratory Judgment)**

141. SUSH and SUSH II incorporate by reference all other paragraphs of this Complaint.

142. SUSH, SUSH II, and RG Steel are parties to the SPA.

143. The SPA is a contract.

144. There is an actual controversy between SUSH and SUSH II, on one hand, and RG Steel, on the other, regarding the scope of the arbitration agreement in the price-adjustment provisions of the SPA and the corresponding rights and duties of the parties.

145. SUSH and SUSH II's position is that the price-adjustment arbitration does not encompass the Barred Adjustments identified in paragraphs 47-138 or any other proposed adjustments that (i) are premised on the notion that Severstal Sparrows Point's balance sheet as

of December 31, 2010, was not prepared in accordance with GAAP and/or (ii) are based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010.

146. RG Steel has taken the opposite position. And in their letter to the Independent Accounting Firm on September 28, 2011, RG Steel's counsel urged the Independent Accounting Firm to proceed with the price-adjustment arbitration on RG Steel's terms, presumably without SUSH II's consent or participation.

147. The Barred Adjustments identified in paragraphs 47–138 and any other proposed adjustments that (i) are premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP and/or (ii) are based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010, are outside the scope of the price-adjustment arbitration for the reasons discussed in paragraphs 34–138 above.

148. Accordingly, SUSH and SUSH II are entitled to a declaratory judgment that the Barred Adjustments identified in paragraphs 47–138 and any other proposed adjustments that (i) are premised on the notion that Severstal Sparrows Point's balance sheet as of December 31, 2010, was not prepared in accordance with GAAP and/or (ii) are based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point's balance sheet as of December 31, 2010, are outside the scope of the price-adjustment arbitration.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs SUSH and SUSH II pray that this Court enter judgment:

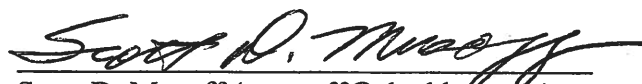
A. Declaring that the Barred Adjustments identified in paragraphs 37–138 and any other proposed adjustments that (i) are premised on the notion that Severstal Sparrows Point’s balance sheet as of December 31, 2010, was not prepared in accordance with GAAP and/or (ii) are based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point’s balance sheet as of December 31, 2010, are outside the scope of the price-adjustment arbitration under the SPA;

B. Declaring that RG Steel has no right to pursue in the price-adjustment arbitration under the SPA the Barred Adjustments identified in paragraphs 37–138 or any other proposed adjustments that (i) are premised on the notion that Severstal Sparrows Point’s balance sheet as of December 31, 2010, was not prepared in accordance with GAAP and/or (ii) are based on applications of GAAP and/or other policies, procedures, principles, and methods that are inconsistent with those used in preparing Severstal Sparrows Point’s balance sheet as of December 31, 2010;

C. Awarding SUSH and SUSH II their costs in this action, including reasonable attorneys’ fees; and

D. Awarding SUSH and SUSH II such other and further relief as the Court deems just and proper.

Dated: New York, New York
October 3, 2011



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