

UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

In Re:

AMR Corporation, et al.,

Case No. 11-15463-SHL

Chapter 11

Jointly Administered

Debtors.

**OBJECTION OF THE STATE OF MICHIGAN, DEPARTMENT OF TREASURY  
TO DEBTORS' SECOND AMENDED JOINT PLAN OF REORGANIZATION**

Now comes the State of Michigan, Department of Treasury by and through its attorneys, Bill Schuette, Attorney General and Juandisha Harris, Assistant Attorney General and objects to Debtors' Second Amended Joint Plan of Reorganization as follows:

1. The Debtors filed their petitions for bankruptcy under Chapter 11 of the Bankruptcy Code on November 29, 2011.

2. The business activities of the debtor resulted in various tax liabilities to the State of Michigan.

3. The Michigan Department of Treasury has several claims pending against American Airlines, Inc. (11-15464).

4. The Debtors have requested confirmation of their Second Amended Joint Chapter 11 Plan of Reorganization.

5. Article 10.11 of Debtors' Plan proposes to except governmental units from certain releases, but it excludes non-debtors from the exception (See Articles 10.7 and 10.8). To the extent that Articles 10.7, 10.8 and 10.11 of the proposed plan is an

attempt to limit or enjoin the collection of tax debts due the State from non-debtors, the plan sections violate the Tax Injunction Act, 28 USC 1341, which provides:

The District Court shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under state law where a plain, speedy and effective remedy may be had in the courts of such state.

Michigan law provides remedies found to be “plain, speedy and efficient.” See *Kistner v Milliken*, 432 F Supp 1001 (ED Mich, 1977). The Sixth Circuit in *In re Dow Corning Corp*, 280 F3d 648, 658 (CA 6, 2002) held that in “unusual circumstances” a plan of reorganization may provide for enjoining claims against non-debtors; as a precondition to confirmation of such a plan, however, each of seven defined factors must be present. Few, if any, of these factors appear to be satisfied in this matter and, accordingly, the Debtors' waiver is inappropriate.

6. In addition, the Courts of Appeal that have examined the interplay of the Bankruptcy Code and the Anti-Injunction Act, 26 USC 7421, a statute similar to the Tax Injunction Act but applicable to federal tax liabilities, have concluded that Bankruptcy Courts may not enjoin the collection of tax liabilities from responsible officers of corporate debtors. See *In re American Bicycle Association*, 895 F2d 1277, 1279-80 (CA 9, 1990), *A to Z Welding & Mfg Co v United States*, 803 F2d 932, 933 (CA 8, 1986) and *In re LaSalle Rolling Mills, Inc*, 832 F2d 390, 394 (CA 7, 1987).

7. Confirmation of the Debtors proposed plan under 11 USC 1129(a) or (b) is precluded by the treatment proposed for the claims of the State of Michigan, Department of Treasury. The Plan fails to meet all the applicable provisions of 1129(a) and fails to meet the fair and equitable standard required for impaired classes by 11 USC 1129(b)(1).

WHEREFORE, it is prayed that confirmation of the Debtors' proposed Second Amended Joint Plan of Reorganization be denied or that any language attempting to limit or enjoin the rights of the State of Michigan, Department of Treasury to collect tax debts be stricken.

Respectfully submitted,

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