

PALS 2011

May 11, 2011

**“Crossing Friction Experts & Brake
Defendant – Punitive Damages” –
Part II: Pneumo Abex & Cooper –
Their not very secret plan**

**Presented by Steven Kazan,
Managing Partner
Kazan, McClain, Lyons, Greenwood
& Harley, PLC**



Cooper Industries plc (8CS)

8-K

Current report filing
Filed on 02/07/2011
Filed Period 02/01/2011

On February 1, 2011

(i) A subsidiary of the Company will pay, subject to certain payments adjustments

A Mutual Guaranty Agreement, dated as of December 30, 1994

The settlement contemplates termination of the Mutual Guaranty and the creation of a Settlement Trust upon consummation of the closing.

\$307.5 million

And **\$15 million** to Pneumo Abex; and (iii) ownership of Pneumo Abex will be contributed to the Settlement Trust.

Consummation of the settlement is expected during approximately the second quarter of 2011

Top of the Form
Item 1.01 Entry into a Material Definitive Agreement.

Cooper Industries LLC, together with certain other subsidiaries of the Company, entered into a settlement agreement on February 1, 2011 with Pneumo Abex LLC and certain of its affiliates (collectively "Pneumo Abex") in connection with a lawsuit filed in the New York State Supreme Court, Commercial Division. The lawsuit was filed by Pneumo Abex challenging the joint venture transaction between the Company and Mafo Corporation announced in July 2010 and involved, among other things, the parties' respective rights and obligations under a Mutual Guaranty Agreement, dated as of December 30, 1994 (the "Mutual Guaranty"), pursuant to which a subsidiary of the Company guaranteed certain indemnification obligations to Pneumo Abex in connection with certain asbestos-related personal injury claims. Pneumo Abex asserted, among other things, that the joint venture transaction and certain transactions engaged in by the Company diminished the ability of the obligated party to perform its agreements under the Mutual Guaranty. The settlement resolves all of Pneumo Abex's claims against the Company and its subsidiaries as well as claims that the Company and its subsidiaries alleged against Pneumo Abex. The settlement contemplates termination of the Mutual Guaranty and the creation of a Settlement Trust upon consummation of the closing. If the settlement is approved by the court and upon closing of the transactions contemplated by the settlement agreement, the parties will make the following contributions to the Settlement Trust: (i) a subsidiary of the Company will pay, subject to certain payment adjustments, \$307.5 million (\$250 million upon closing and the remainder over the next four years); (ii) Pneumo Abex's parent and one of its affiliates will collectively contribute \$5 million to the Settlement Trust and \$15 million to Pneumo Abex; and (iii) ownership of Pneumo Abex will be contributed to the Settlement Trust. Thereafter, Pneumo Abex will continue to resolve asbestos-related claims asserted against it and the Settlement Trust will indemnify Pneumo Abex and the Company with respect to asbestos-related personal injury claims and the Company and its subsidiaries will have no further obligations under the Mutual Guaranty. Pneumo Abex will continue to have access to its asbestos-related insurance policies where the provider is in receivership. Upon completion of the transactions contemplated by the settlement agreement, the Company will adjust its estimated net liability recorded for its obligations under the Mutual Guaranty with the amount payable under the settlement agreement, which is expected to result in a pre-tax, noncash gain in an amount equal to the difference between the two amounts. A copy of the settlement agreement is attached as Exhibit 10.1 and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

Full and Final Release, Settlement and Indemnity Agreement dated as of February 1, 2011, among M & F Worldwide Corp., Pneumo Abex LLC, Mafo Corporation, Mafo Consolidated Group LLC, PCT International Holdings Inc., Cooper Industries plc, Cooper Industries, Ltd., Cooper Holdings Inc., Cooper US, Inc. and Cooper Industries, LLC.





**Kazan, McClain, Lyons,
Greenwood & Harley, PLC™**

KAZANLAW.COM

Jack London Market • 25 Harrison Street, Suite 400 • Oakland, CA 94607
(510) 362-1000 • (510) 465-7728 • FAX: (510) 835-4913

Steven Kazan
David M. McClain
Danna Lyons
Gordon D. Greenwood
Philip A. Harley (510) 362-1000
James L. Oshman*
Francis E. Fernandez
Leigh A. Kemzab

Of Counsel
Denise Abrams
Francis C. Schnenberg

Andrea Huston
Patty DeJesse
Ian A. Rivamonte
Matthew L. Thiel
Barbra Fano
Justin A. Beal
Michael T. Stewart
Daniel Wosson
William F. Ruiz
Elise Agnoli
Gloria C. Ansell

February 9, 2011

M & F Worldwide Corporation
Attention: Chief Legal Officer
35 East 62nd Street
New York, NY 10065

Kenneth M. Schneider, Esq.
Paul, Weiss, Riffkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019-6064

Cooper Industries Ltd.
Attention: General Counsel
600 Travis, Suite 5800
Houston, TX 77210-4446

Roger Frankel, Esq.
Orrick, Herrington & Sutcliffe LLP
1152 - 15th Street, NW
Washington, DC 20005

Gentlemen,

It is with great interest and some amusement that I read Cooper Industries PLC's 8-K Exhibit 10.1 filed with the SEC on February 7, 2011. We take no position on the wisdom of the agreement described therein. The purpose of this letter is simply to alert you to the likelihood that this agreement, and all the negotiations leading thereto, will most likely be the subject of litigation in the future. I would therefore respectfully request that you **issue appropriate preservation notices** to all involved both internally in your companies and externally with all your lawyers, accountants, investment bankers, and other professionals to ensure the preservation of all documents, including those existing only in electronic form, so that they will be available when formal discovery commences.

Should any or all of you actually desire to seek a resolution of your collective obligations to those holding asbestos-related claims, I am sure you know where to find their representatives. In the interim, you can find us one by one in courthouses across the country.

Very truly yours,

Steven Kazan

SK:troy

cc: Steven L. Fasman, President
Pneumo Abex LLC

**Issue appropriate
preservation
notices**



Fourth Amended Joint Plan of Reorganization

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

RECEIVED

FEB 26 2007

KAZAN, MCCLAIN, ADAMS,
LYONS, FARRISE & GREENWOOD

In re:

FEDERAL-MOGUL GLOBAL INC.,
T&N LIMITED, et al.¹

Chapter 11

Case Nos. 01-10578 (JKF)
(Jointly Administered)

Debtors.

SUPPLEMENTAL DISCLOSURE STATEMENT RELATING TO FOURTH AMENDED JOINT PLAN OF REORGANIZATION

¹ The U.S. Debtors (collectively, the "U.S. Debtors") are Carter Automotive Company, Inc., Federal-Mogul Corporation, Federal-Mogul Dutch Holdings Inc., Federal-Mogul FX, Inc., Federal-Mogul Global Inc., Federal-Mogul Global Properties, Inc., Federal-Mogul Ignition Company, Federal-Mogul Machine Tool, Inc., Federal-Mogul Mystic, Inc., Federal-Mogul Piston Rings, Inc., Federal-Mogul Powertrain, Inc., Federal-Mogul Products, Inc., Federal-Mogul Puerto Rico, Inc., Federal-Mogul U.K. Holdings, Inc., Federal-Mogul Venture Corporation, Federal-Mogul World Wide, Inc., Felt Products Manufacturing Co., FM International LLC, Ferodo America, Inc., Gasket Holdings Inc., J.W.J. Holdings, Inc., McCord Sealing, Inc., and T&N Industries Inc.

The U.K. Debtors (collectively, the "U.K. Debtors") are AE Dayton Services Limited, AE Group Machines Limited, AE Holdings Limited, AE International Limited, AE Limited, AE Piston Products Limited, AE Sales (Africa) Limited, Aeroplane & Motor Aluminum Castings Limited, Amber Supervision Limited, Ashburton Road Services Limited, Associated Engineering Group Limited, Awacast Limited, Bearings (North-Western) Limited, Beake Linings Limited, Colvan Rubber Co. Limited, Contact 100 Limited, Cosmid Limited, Carhold Limited, Dealings Limited, Dampington Services Limited, Duroa Limited, E W Engineering Limited, Edmunds, Walker & Co. Limited, Engineering Components Limited, Federal-Mogul Acquisition Company Limited, Federal-Mogul Aftermarket UK Limited, Federal-Mogul Bradford Limited, Federal-Mogul Brake Systems Limited, Federal-Mogul Bridgwater Limited, Federal-Mogul Camshaft Castings Limited, Federal-Mogul Camshafts Limited, Federal-Mogul Engineering Limited, Federal-Mogul Eurofriction Limited, Federal-Mogul Export Services Limited, Federal-Mogul Friction Products Limited, Federal-Mogul Global Growth Limited, Federal-Mogul Ignition (U.K.) Limited, Federal-Mogul Powertrain Systems International Limited, Federal-Mogul Sealing Systems (Cardiff) Limited, Federal-Mogul Sealing Systems (Rochdale) Limited, Federal-Mogul Sealing Systems (Slough) Limited, Federal-Mogul Sealing Systems Limited, Federal-Mogul Shoreham Limited, Federal-Mogul Sistered Products Limited, Federal-Mogul Systems Protection Group Limited, Federal-Mogul Technology Limited, Federal-Mogul U.K. Limited, Ferodo Caernarfon Limited, Ferodo Limited, FHE Technology Limited, Fleetside Investments Limited, F.M. UK Holding Limited, FP Diesel Limited, Friction Materials Limited, G.B. Tools & Components Exports Limited, Genthope Limited, Groot Limited, Halls Gaskets Limited, Hepworth & Grandage Limited, High Precision Equipment Limited, Inblist Limited, Instantwonder Limited, J.W. Roberts Limited, Kings Park Housing Limited, Lahon Limited, Lanoh Limited, Lanoh Precision Equipment Limited, Leeds Piston Ring & Engineering Co. Limited, M.T.A. (Kettering) Limited, Mantra Engineering Co. Limited, Mobile Distributing (Spares) Limited, Moores Plastic Units Limited, Newalls Insulation Company Limited, Outall Limited, Payen (Europe) Limited, Pecal Limited, Presswork-Components Limited, Sistrution Limited, Sourcecork Limited, Specialoid Limited, STS (1996) Limited, TAF International Limited, T&N Holdings Limited, T&N International Limited, T&N Investments Limited, T&N Limited, T&N Materials Research Limited, T&N Piston Products Group Limited, T&N Properties Limited, T&N Shelf Eight Limited, T&N Shelf Eighteen Limited, T&N Shelf Fifteen Limited, T&N Shelf Five Limited, T&N Shelf Four Limited, T&N Shelf Fourteen Limited, T&N Shelf Nine Limited, T&N Shelf Nineteen Limited, T&N Shelf One Limited, T&N Shelf Seven Limited, T&N Shelf Six Limited, T&N Shelf Sixteen Limited, T&N Shelf Ten Limited, T&N Shelf Thirteen Limited, T&N Shelf Thirty Limited, T&N Shelf Thirty-One Limited, T&N Shelf Thirty-Three Limited, T&N Shelf Three Limited, T&N Shelf Twenty Limited, T&N Shelf Twenty-Eight Limited, T&N Shelf Twenty-Five Limited, T&N Shelf Twenty-Four Limited, T&N Shelf Twenty-Nine Limited, T&N Shelf Twenty-One Limited, T&N Shelf Twenty-Six Limited, T&N Shelf Twenty-Two Limited, T&N Shelf Two Limited, T&N Trade Marks Limited, T&N Welfare Trust Limited, TBA Belting Limited, TBA Belting (Residual) Limited, TBA Industrial Products Limited, Telford Rubber Processors Limited, Telford Technology Supplies Limited, The British Piston Ring Company Limited, The Washington Chemical Company Limited, Tinblo Limited, Touchdown Adhesive Products Limited, Turner & Newall Limited, Turner Brothers Asbestos Company Limited, Tyada Limited, Varwall Cars Limited, Wellworthy Limited, Wellworthy Property Developments Limited, and William C. Jones (Polymers) Limited. Unlike all the other U.K. Debtors, T&N Investments Limited is a Scottish rather than English company and commenced administration in Scotland in April 2002.



The Pneumo Abex Settlement consists of two separate alternative settlement structures.

The Plan A Settlement provides that, among other consideration, **\$756 million** will be paid into the “Pneumo Abex Subfund” to be established as part of the Trust, consisting of \$256 million in cash (of which \$246 million will be paid by Cooper and \$10 million will be paid by PCT, the parent of Pneumo Abex) and a \$500 million promissory note payable in 25 annual installments of \$20 million each.

The Fourth Amended Plan contains a comprehensive negotiated resolution of the Claims asserted against various Debtors and non-Debtor Affiliates by Cooper, Pneumo Abex, and certain of their affiliates (as defined in the Plan, the “Pneumo Parties”): The Pneumo Abex Settlement was negotiated between the Debtors, the Asbestos Claimants Committee, and the Future Claimants Representative, on the one hand, and the Pneumo Parties, on the other hand, and resolves approximately one-half-billion dollars in filed Claims against the Estates and several years of mounting litigation, including a pending appeal before the United States Court of Appeals for the Third Circuit seeking a determination of Cooper’s right to vote 47,000 individual Asbestos Personal Injury Claims in Class 5J against FMP’s Plan.³ The Pneumo Abex Settlement also resolves potential objections to confirmation of the Plan raised by the Pneumo Parties, and will eliminate votes rejecting the Plan previously submitted by the Pneumo Parties.

The Pneumo Abex Settlement consists of two separate alternative settlement structures. The primary settlement structure is referred to as the Plan A Settlement. The terms of the Plan A Settlement are contained in the Addendum of Additional Provisions Incorporated Into Joint Plan of Reorganization (Pneumo Abex “Plan A” Settlement) (the “Addendum”). A copy of the Addendum is attached to the Plan as Exhibit 1.1.4. If the Plan A Settlement is ultimately implemented, it will be implemented in accordance with the terms of Section 8.23 of the Plan. In addition, if the Plan A Settlement is ultimately implemented, the Addendum will be incorporated into the Plan and the Addendum and the exhibits thereto will be Plan Documents.

The Plan A Settlement provides that, among other consideration, \$756 million will be paid into the “Pneumo Abex Subfund” to be established as part of the Trust, consisting of \$256 million in cash (of which \$246 million will be paid by Cooper and \$10 million will be paid by PCT, the parent of Pneumo Abex) and a \$500 million promissory note payable in 25 annual installments of \$20 million each. Certain insurance rights will also be distributed by Cooper and the Pneumo Protected Parties to the Pneumo Abex Subfund, along with the membership interests in Pneumo Abex LLC. In addition, as of the Effective Date, all of the Pneumo Released Parties on their own behalf and, to the extent permitted by applicable law, on behalf of the other Pneumo Protected Parties, will unconditionally release all of their claims against all of the Federal-Mogul entities that arise prior to the Plan A Date, subject to the exclusions set forth in Section 2.3.1(c) of the Addendum.

In exchange for this consideration, the Pneumo Protected Parties will be included under the protection afforded by the Pneumo Protected Party Injunction contained in the Addendum, which will bar the assertion of “Pneumo Asbestos Claims” (as well as Wagner Asbestos Claims) against the Pneumo Protected Parties. Pneumo Asbestos Claims are defined in the Addendum as follows:

“any and all Claims and Demands (including without limitation any Claim or Demand for compensatory damages; loss of consortium; medical monitoring; survivorship; wrongful death; proximate, consequential, general, special or punitive damages; reimbursement; indemnity; warranty; contribution or subrogation), whenever and however asserted, whether now existing or hereafter arising, whether in the nature of or sounding in tort, contract, warranty, conspiracy or any other theory of law, equity or admiralty whatsoever, for, attributable to, based on, arising out of or under or derivative of, directly or indirectly, physical, emotional or other personal injuries (including without limitation death resulting therefrom) caused, or allegedly caused, in whole or in part, directly or indirectly, by the presence of or exposure to asbestos or asbestos-containing products for which F-M Products is or could be liable and arising or allegedly arising, directly or indirectly, from acts, omissions, business or operations of one or more of the Debtors or the predecessors of any of the Debtors, or any other Entity for whose acts, omissions, business or operations any of the Debtors have liability (to the extent of such Debtor’s or Debtors’ liability for such acts, omissions, business or operations), including without limitation those (A) for which Wagner is or could be liable, directly or indirectly, under or as a result of 1994 APA, (B) for which Cooper is or could be liable under the Mutual Guaranty, (C) against any Pneumo Protected Party to the extent arising, directly or indirectly, from acts, omissions, business, or operations of Wagner (including without limitation its successors in interest) pertaining to or in connection with

³ Cooper Industries, LLC v. Federal-Mogul Global Inc., Case No. 05-3495 (3d Cir. filed July 25, 2005).

\$756 million

Pneumo Protected Parties will be included under the protection afforded by the Pneumo Protected Party Injunction



The Plan B Settlement Agreement provides, in general terms, that Cooper LLC shall receive \$138 million and Pneumo Abex shall receive \$2 million in cash from the assets available for distribution under the Plan in full and complete satisfaction and settlement of all Claims held by the Pneumo Protected Parties (save a few enumerated non-asbestos claims), whether against the Debtors or their non-Debtors Affiliates.

\$138 million

the operation of any business, activity, and operations of Wagner while Wagner (or its successors in interest) was a direct or indirect subsidiary of Cooper, or (D) against any Pneumo Protected Party to the extent such Claims or Demands would constitute "Assumed Liabilities" within the meaning of the 1994 APA or to the extent arising, directly or indirectly, from acts, omissions, business, or operations of Pneumo Abex (including without limitation its predecessors in interest) pertaining to or in connection with the operation of the Business but excluding Retained Liabilities (as defined in the 1994 APA) for so long as they remain Retained Liabilities; *provided, however*, that Pneumo Asbestos Claims do not include (i) any Claims brought by a past or present employee under an applicable workers' compensation statute or (ii) Wagner Asbestos Claims."⁴

If the Plan A Settlement is fully and finally implemented, Pneumo Asbestos Claims will be channeled to the Trust and paid from the Pneumo Abex Subfund using the assets described above, but will not be assertable against the Pneumo Protected Parties in the tort system. The Asbestos Claimants Committee and the Future Claimants Representative have projected, under the Trust Distribution Procedures applicable to the Pneumo Abex Subfund (the "Pneumo Abex TDP"), that the assets in the Pneumo Abex Subfund will be sufficient to satisfy Pneumo Asbestos Claims in full at the values set forth in the Pneumo Abex TDP (described in Section IV).

In addition, in connection with the Plan A Settlement, the Confirmation Order or any other order or agreement shall be subject to the Addendum and any order issuing the Pneumo Protected Party Injunction shall be in form and reasonably acceptable to Cooper with respect to matters related to or contemplated by the Plan A Settlement. The Addendum shall additionally, to the extent directly involving the Plan A Settlement and directly related to Pneumo Abex, be subject to the consent of Pneumo Abex and PCT, which consent shall not be unreasonably withheld.

The secondary, alternative structure of the Pneumo Abex Settlement, referred to as the Plan B Settlement, is embodied in the Plan B Settlement Agreement, which is attached to the Plan as Exhibit B. The Plan B Settlement, if implemented, will be implemented in accordance with the terms of Section 8.22 of the Plan. The Plan B Settlement will only become effective if the Plan A Settlement is not fully and finally implemented. The Plan B Settlement Agreement provides, in general terms, that Cooper LLC shall receive \$138 million and Pneumo Abex shall receive \$2 million in cash from the assets available for distribution under the Plan in full and complete satisfaction and settlement of all Claims held by the Pneumo Protected Parties (save a few enumerated non-asbestos claims), whether against the Debtors or their non-Debtor Affiliates.

If the Plan B Settlement is implemented, there will be no Pneumo Protected Party Injunction preventing the assertion of Pneumo Asbestos Claims against the Pneumo Protected Parties, and holders of Pneumo Asbestos Claims will continue to be able to assert those claims in the tort system against parties other than Reorganized-FMP and the rest of Reorganized Debtors and their Affiliates, which will be protected against the assertion of such claims by the Third Party Injunction under the Plan. To the extent that holders of Pneumo Asbestos Claims attempt to pursue such claims against the Trust in the event the Plan B Settlement is implemented, it is anticipated that the Trust will object to the allowance of such claims by virtue of the terms of the Plan B Settlement, which includes the

⁴ Wagner Asbestos Claims are defined in the Addendum as any and all Claims and Demands (including without limitation any Claim or Demand for compensatory damages; loss of consortium; medical monitoring; survivorship; wrongful death; proximate, consequential, general, special or punitive damages; reimbursement; indemnity; warranty; contribution or subrogation), whenever and however asserted, whether now existing or hereafter arising, whether in the nature of or sounding in tort, contract, warranty, conspiracy or any other theory of law, equity or admiralty whatsoever, for, attributable to, based on, arising out of or under or derivative of, directly or indirectly, physical, emotional or other personal injuries (including without limitation death resulting therefrom) caused, or allegedly caused, in whole or in part, directly or indirectly, by the presence of or exposure to asbestos or asbestos-containing products for which F-M Products is or could be liable and arising or allegedly arising, directly or indirectly, from acts, omissions, business, or operations of Wagner prior to the consummation of the acquisition of the Business pursuant to the 1994 APA (and which shall expressly not include any acts, omissions, business or operations of Pneumo Abex Corporation or its predecessors); *provided however* that Wagner Asbestos Claims shall not include any Claims brought by a past or present employee under an applicable workers' compensation statute.



Thank you for your attention!

Copies of these slides will be available at:

www.kazanlaw.com/PALS2011Abex

Questions?

Please email me at:

skazan@kazanlaw.com

