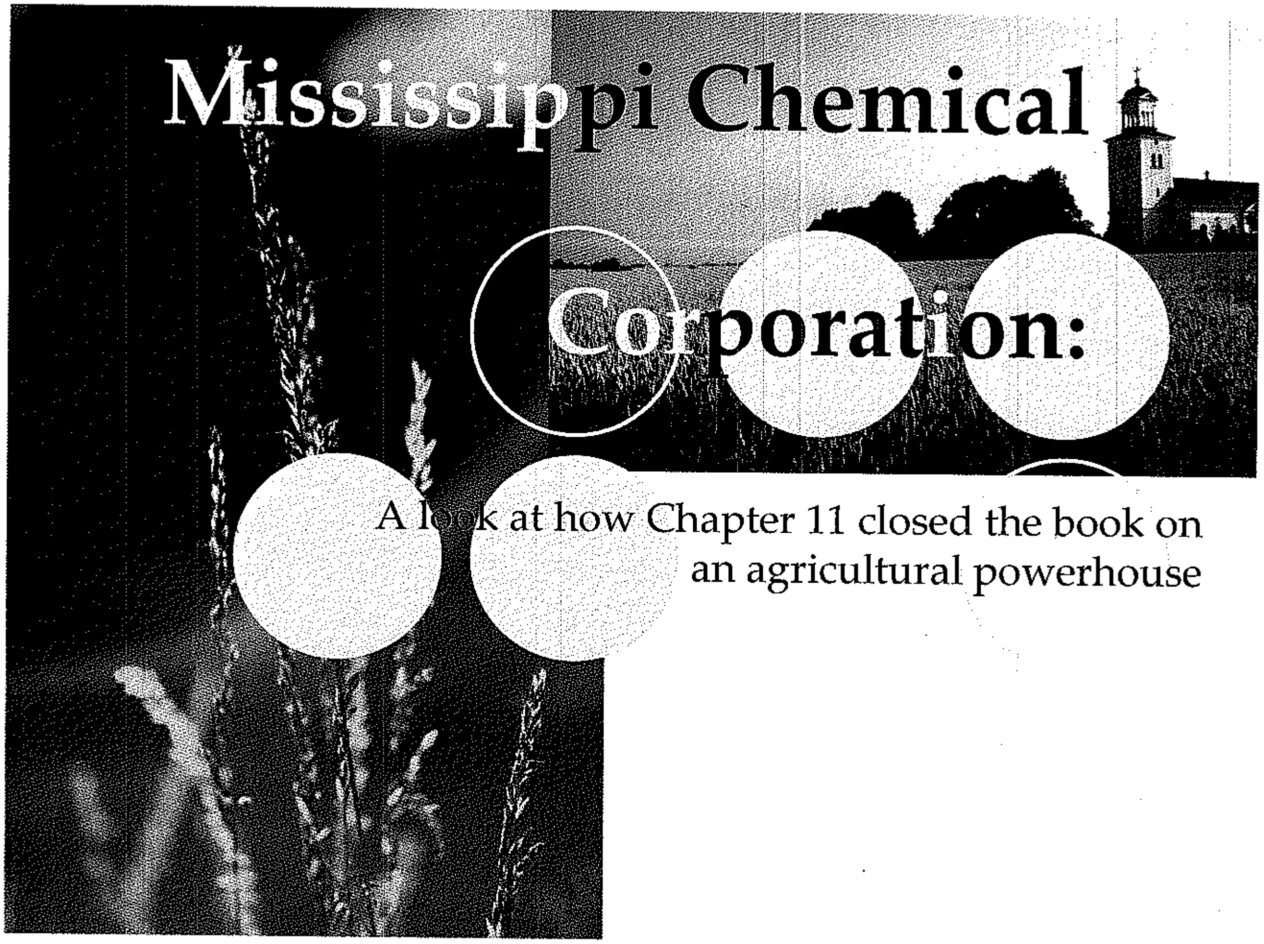

# Mississippi Chemical Corporation:

A look at how Chapter 11 closed the book on an agricultural powerhouse

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## [§ 1. Introduction]

When Mississippi Chemical Corporation filed for Chapter 11 protection on May 15, 2003, it signaled the demise of an industry maker with a 56-year history in agricultural and commodity chemicals products. The downfall of Mississippi Chemical was indicative of adverse market conditions faced by chemicals producers since the late 1990s. Since that time, many small to mid-sized chemicals producers have yielded market share and profit margins to the market leaders and have been driven into bankruptcy (and, consequently, out of the market). Mississippi Chemical is unique in that the company was able to emerge from Chapter 11 with much of its going concern value in tact and has been able to continue its operations post-Chapter 11. This report identifies and chronicles the factors forcing Mississippi Chemical to consider and enter Chapter 11, the road through Chapter 11 leading to its reemergence, and the results of that reorganization effort on the present-day company.

### [§ 1.1—Mississippi Chemical Corporation]

[§1.1.1—*A Brief Company History*]

Mississippi Chemical Corporation ("Mississippi Chemical" or "Company") was founded in 1948 when 600 farmers from across the South met in the fertile Mississippi Delta region northwest of Jackson, Mississippi to establish a resource for high-quality, affordable fertilizer.[1] First established as a cooperative, the company grew steadily and was soon able to become the first co-op to build its own fertilizer plant, a plant that

[1] Disclosure Statement for Debtor's Joint Plan of Reorganization Art. 2.1.1, *In re Miss. Chem. Corp.*, No. 03-02984 WEE (Bankr. S.D. Miss. Apr. 15, 2004), *available at* http://docs.bmccorp.net/MissChem/docs/mssb_03-02984_617.pdf [hereinafter *First Disclosure Statement*].

continues to operate today.[2] After some forty years of growth, management recognized that the structure of Mississippi Chemical had become too rigid for the modern agriculture markets composing its client base. In an effort to create diversity and flexibility, Mississippi Chemical Corporation became a publicly traded commodity on October 10, 1996, trading on the New York Stock Exchange under the symbol GRO.[3] Initially, 5,080,000 common shares were offered at $15 per share, generating $47.7 million in proceeds for the company.

[§ 1.1.2—*The Modern Company*]

The modern Mississippi Chemical Company had found a number of clients in a variety of markets, producing and distributing industrial chemicals used in pharmaceuticals manufacture, fertilizers and crop nutrients and rocket propulsion.[4] The Company's nitrogen products include ammonia, ammonium nitrate, ammonium nitrate solutions, nitric acid, dinitrogen textroxide, UAN solutions (N-Sol 32), and Urea solutions.[5] Mississippi Chemical also produces diammonium phosphate (DAP) and potash for sale as both raw materials and salable products in their own right.[6] Despite this diverse product offering, the Company's primary salable good is anhydrous ammonia.[7]

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[2] Mississippi Chemical Corporation website *no longer available at* http://www.misschem.com/mschemcorpoverview.html (but included in source binder)
[3] *First Disclosure Statement, supra* note 1, at Art. 2.1.1.1.
[4] *Products*, Mississippi Chemical Corporation Website *no longer available at* http://www.misschem.com/mschemproducts.html (included in source binder).
[5] *Id.*
[6] For a better understanding of these products, their uses and effect on Mississippi Chemical Corporation, please see Exhibit A.
[7] *First Disclosure Statement, supra* note 3, at Art. 3.1.

## [§ 1.2—The Agricultural Fertilizer Industry]

At least 13 mineral nutrients are required for plants to prosper.[8] These sources are often mined from two supplies: organic manure and mineral fertilizers.[9] While organic manure is used in some productions, mineral fertilizers are called on to bridge the gap between supply and demand. In fact, the Haber-Bosch process, by which nitrogen and its by-product ammonia is produced, was developed as a result of concerns that increased demand for crop production would force the destruction of delicate environments without assistance from synthetic fertilizers.[10]

Since 1950, worldwide consumption of fertilizer has boomed. While only about 20 million tons were consumed in the 1950's, nearly 140 million tons were consumed in 2000 and 2001.[11] North America is second only to Asia in fertilizer consumption, and second only to China in fertilizer production.[12] It is this boom in fertilizer that allowed Mississippi Chemical Corporation to develop into an industry powerhouse.

## [§ 1.3—The Commodity Chemicals Industry]

### [§1.3.1—*Defining the Industry*]

Commodity chemicals are those chemicals used in the production and manufacture of other products. Commodity chemicals manufacturers take naturally occurring substances and process or refine them to either isolate their component parts or combine them with other substances. The commodity chemical industry has been

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[8] Introduction of Fertilizer Indicators *at* http://www.fertilizer.org/ifa/statistics/indicators/pocket_summary.asp
[9] *Id.*
[10] *Id.*
[11] Fertilizer Consumption *at* http://www.fertilizer.org/ifa/statistics/indicators/pocket_consumption.asp
[12] *Id.*

characterized as the business equivalent of a catch-.22.[13] Commodity chemical companies are very sensitive to increases in raw material costs at one end of the supply chain and, at the other end, are under enormous pressure from their competitors to keep prices down to make sales.[14]

[§1.3.2—*The Problem of Margin Squeezing*]

Most chemical makers use natural gas and petroleum as raw materials and as ingredients.[15] This complete reliance on raw materials can pose a problem when the cost of those materials increases. Raw material costs affect basic or commodity chemical makers moreso than other, more specialized chemicals manufacturers because the majority of commodity chemical producers' prices reflect the prices at which they are able to buy raw materials. For example, when petroleum prices rise, costs associated with chemical manufacture also rise—both for the raw materials used to make chemicals and for the power needed to run plants.[16] At the same time, rising oil and natural gas prices can depress the overall economy resulting in manufacturers, agricultural firms, construction products companies, and automakers—the industry's biggest customers—curtailing their chemical purchases, driving down the demand for commodities chemicals.[17] Decreased demand necessitates a drop in the price of the commodities sold. So, as costs for raw materials used in chemicals are rising, the prices for those chemicals may simultaneously fall due to the reduced demand, shrinking chemicals manufacturer's margins. In the last decade, that scenario has played out and many of the largest

[13] Chemical Manufacturing Industry Overview *at* http://biz.yahoo.com/ic/profile/chmmfg_1085.html
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] *Id.*

chemical and fertilizer producers, including Dow Chemical, DuPont, ExxonMobil Chemical, saw continued drops in revenues as a result.[18]

[§ 1.3.3—*Industry Outlook*]

Last year the chemicals industry made a slow but sustained rebound from these margin squeezes because chemical companies raised their prices, apparently considering high raw materials costs to be a permanent fixture.[19] High raw materials costs have become less shocking to end users because, despite higher prices, large chemical consumers have, over the past year, steadily increased their demand for chemical products.[20]

**[§ 1.4—Mississippi Chemical's Demise]**

[§ 1.4.1—*The Beginning of the End*]

As with many of its chemical-producing colleagues, Mississippi Chemical's profitability was dependent upon the favorability of the cost of its inputs. At the end of the twentieth century, Mississippi Chemical's necessary reliance on raw goods pricing caught up with them. Between 1998 and 2003 a number of factors caused Mississippi Chemical to run "in the red," and ultimately led the Company to file for Chapter 11 protection.

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[18] *Id.*
[19] *Id.*
[20] *Id.*

[§ 1.4.2—*Bankruptcy Factors*]

The most obvious, and most damning, factor was the rise in the cost of natural gas, the Company's primary raw material, in late 2000 and 2001.[21] Natural gas makes up between 70 and 90 percent of the costs associated with producing the Company's nitrogen-based products.[22] In fact, when the Company was operating at full capacity, an increase in the cost of natural gas as small as $.10 per unit[23] could result in the approximate reduction in the company's initial annual earnings estimates of $2 million.[24]

Why was natural gas so expensive at the turn of the century? Because natural gas is difficult to distribute; an insufficient natural gas distribution infrastructure (e.g., pipeline and storage facilities) made it hard to get natural gas from gas fields in the Gulf of Mexico and Texas to end users scattered throughout the country. As the demand from U.S. end-users of natural gas increased and the infrastructure remained the same, a bottleneck occurred and gas costs in the U.S. spiked.[25]

In an effort to find more cost efficient natural gas supplies, Mississippi Chemical secured 50 percent interest in an ammonia production facility in The Republics of Trinidad and Tobago in 1994. This facility was capable of producing 715,000 tons of ammonia annually with low-cost natural gas mined in the Caribbean fields nearby and supplied by the National Gas Company of Trinidad and Tobago.[26] Even with discounted

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[21] Press Release, Mississippi Chemical Corporation, Mississippi Chemical Files for Chapter 11 Reorganization: Business Operations Continue Under Reorganization (May 15, 2003) *available at* http://www.misschem.com/newpressreleases/5-15-03chapter11.htm (included in source binder) [hereinafter *Initial Press Release*].

[22] *Id.*

[23] Natural gas is sold by either millions of British Thermal Units (MMbtu) which measure the amount of heat producible if the gas is burned or by volume in millions of cubic feet ($MMft^3$).

[24] *Initial Press Release*, *supra* note 17.

[25] *Id.*

[26] Press Release, Terra Industries Incorporated, Terra Industries Inc. to Acquire Mississippi Chemical Corporation for approximately $268 million (August. 9, 2004) *available at*

natural gas prices in the Caribbean ammonia plant, Mississippi Chemical's margins continued to shrink as the company-wide cost of natural gas increased. Prices increased an average of $2.03/MMbtu between fiscal years 2002 and 2003.[27] In 2004, the average price passed the $5/MMbtu mark, a hefty expense for a company that used approximately 20 million MMbtu's per year.[28]

The Company also suffered from a worldwide glut of ammonia production, spurred by the opening of a number of new plants in the late 1990s, which drove the price of ammonia down.[29] A poor farm economy and two consecutive wet United States growing seasons provided little outlet for globally stockpiled fertilizers and exacerbated the Company's problem of excess, on-hand inventories and further limited its production demand.[30] This stockpiling problem meant that even when the price of natural gas finally fell in 2002, the Company was forced to sell the stockpiled fertilizer made with higher cost natural gas in 2000 and 2001 at the discounted rates dictated by the oversupplied 2002 and 2003 markets. The non-existent margins resulting from these price fluctuations left Mississippi Chemical with net losses for a continuous five year period.

[§ 1.4.3—*Phosphates and Potash Problems*]

These problems demonstrated the lackluster state of Mississippi Chemical's nitrogen segment, but the Company's other segments suffered as well. The phosphate segment suffered from limited availability of raw materials, primarily sulfur and sulfuric acid, and the high cost of ammonia resulting from rising natural gas costs.[31] The potash

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http://www.misschem.com/newpressreleases/Terra%20PurchaseMS%20Chem.html (included in source binder).

[27] *First Disclosure Statement*, *supra* note 1, at Art. 3.1, at 18.

[28] *Id.*

[29] *Id.*

[30] *See id.*

[31] *Id.*

segment suffered from decreased demand in both domestic and international markets, as well as increased operating costs due to lower-than-expected ore grade levels.[32]

[§ 1.4.4—*The Company's Repositioning Efforts*]

At the end of 2002, Mississippi Chemical operated through 11 subsidiaries and numerous holding companies, using more than 10 plants in the United States and the Republics of Trinidad and Tobago to manufacture its products.[33] Confident that the Company's margins and overall profitability could be regained, management hired consultants and investment bankers from the Gordian Group, LLC ("Gordian"). Gordian's task was to advise and assist in exploring strategic alternatives for (1) restructuring of the Company's debt structure, (2) raising new capital or replacement capital, (3) merger, consolidation, recapitalization, reorganization, joint venture, sale of assets or some combination of those alternatives, and (4) obtaining debtor-in-possession financing.[34] Gordian and the Company's management attempted to right the sinking ship in several ways.

In February, 2003, the Company idled one of its Donaldsonville, Louisiana-based ammonia production facilities indefinitely, and limited the production of another, eliminating 24 full-time positions and $1.5 million in cash fixed costs in an effort to reduce excess inventories and eliminate some production costs.[35] Unfortunately, the investing public got wind of the Donaldsonville idling and, assuming the worst was about to happen, pulled its collective money out of the company's stock. The sell off was so

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[32] *Id.*
[33] *Initial Press Release, supra* note 17.
[34] Gordian Group, LLC website *at* http://www.gordiangroup.com/clients/mcc.php.
[35] Press Release, Mississippi Chemical Corporation, Mississippi Chemical Announces Production Changes (Feb. 26, 2003) *available at* http://www.misschem.com/newpressreleases/2-26-03donalsonville.htm (included in source binder).

bad, in fact, that the New York Stock Exchange had to suspend its listing of Mississippi Chemical common stock because the Company's market capitalization fell below $15 million and its shares traded at less than $1 for more than 30 consecutive days.[36]

Despite the Wall Street debacle, Company management pressed on with its attempts to plug the holes in blind denial that the investing public was right and that the Company was on a terminal downward spiral. In April of 2003, management chose to purchase Melamine Chemicals, Inc., a producer of melamine resin used in special function plastics.[37] The Company, in conjunction with Borden Chemical, purchased Melamine in the hopes that the plant would serve as an additional outlet for its ammonia and "provide diversity in the product lines available from [the Donaldsonville, Louisiana] complex."[38]

[§1.4.5—*The Filing*]

The repositioning efforts were too little, too late it seemed because precisely one month later, on May 15, 2003, Mississippi Chemical announced it was filing for bankruptcy under Chapter 11 of the U.S. Bankruptcy Code.[39] Although it had already been determined that Chapter 11 would provide the most efficient means to effectively restructure the company's debt in the long term, it became much more relevant in the short term. The relief afforded by Chapter 11 would be necessary to avoid defaulting on

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[36] Gary Taylor, *NYSE suspends Miss Chem for low price, market cap,* CHEMICAL NEWS & INTELLIGENCE. Feb. 4, 2003.

[37] Press Release, Mississippi Chemical Corporation, Mississippi Chemical Corporation Purchases Melamine Chemicals, Inc. (Apr. 15, 2003) *available at* http://www.misschem.com/newpressreleases/41503Melmaine.htm (included in source binder). Melamine resin, when added to the other ingredients of glass, allows glass to be compression molded in much the same way that many plastics are molded.

[38] *Id.*

[39] Notice of Bankruptcy and Automatic Stay, *In re Miss. Chem. Corp.*, No. 03-02984 WEE (Bankr. S.D. Miss. May 15, 2003).

the payment of a semi-annual coupon amount of $7 million due under an Indenture for a Senior Note in the summer of 2003.[40]

The Company's corporate management claimed that the reorganization was necessary to recuperate from a significant financial loss resulting from a combination of the depression in the agricultural sector and the extreme increase and volatility in the price of domestic natural gas.[41] Mississippi Chemical was not alone. Many fertilizer companies found themselves involved in bankruptcies, buyouts, and reorganizations, because of the squeezed margins caused by increasing natural gas prices.[42]

The filing included the parent company and nine subsidiaries: Mississippi Chemical Management Company, Mississippi Chemical Company, L.P., Mississippi Nitrogen, Inc., MissChem Nitrogen, L.L.C., Mississippi Phosphates Corporation, Mississippi Potash, Inc., Eddy Potash, Inc., Melamine Chemicals, Inc. and Triad Nitrogen, L.L.C.[43] Affiliated company Farmland MissChem Limited, foreign subsidiaries and an ammonia terminal in Houston, Texas were not included in the initial filing.[44]

## [§ 2.—The Bankruptcy]

Beginning in 1999, Mississippi Chemical experienced slumping sales and net losses over a five year period.[45] In 2001, the Company's annual sales totaled $540.4

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[40] *First Disclosure Statement, supra* note 1, at Art. 3.1, at 19.
[41] *See id.*
[42] Wayne Wenzel, *Fertilizer rising*, FARM INDUSTRY NEWS, Oct. 1. 2004, at 9.
[43] Notice of Bankruptcy and Automatic Stay, at Continuation Sheet, *In re Miss. Chem. Corp.*, No. 03-02984 WEE (Bankr. S.D. Miss. May 15, 2003).
[44] *See id.* (demonstrating that these entities were not filed as affiliate debtors to Mississippi Chemical's bankruptcy filing.
[45] Hoover's Company Profiles—Mississippi Chemical Corporation *at* http://www.hoovers.com/mississippi-chemical/--ID__42216--/free-co-fin-factsheet.xhtml.

million, but experienced a net loss of $95.2 million.[46] In 2002, annual sales totaled $451.3 million and net losses increased to $121.2 million.[47] In 2003 and 2004 sales continued to slump totaling $446.4 million in '03 and only $305 million in '04.[48] Net losses actually dropped to $105.9 million in 2003, but rose to the highest levels in company history in 2004, totaling $137 million.[49] Chapter 11 proceeds were filed in U.S. Bankruptcy Court for the Southern District of Mississippi on May 15, 2003 contributing to the Company's poor sales numbers in 2004.[50] Mississippi Chemical filed hoping to obtain debtor-in-possession financing in the amount of $37.5 million from existing lenders.[51] According to initial filings, Mississippi Chemical listed Bancorpsouth Bank and The Bank of New York Trust Company of Florida, NA as its two largest creditors with claims in interest totaling more than $221.9 million.

**[§ 2.1—Pre-petition Creditors]**

On November 15, 2002, Mississippi Chemical had entered into an Amended and Restated Credit Agreement with a number of banks led by Harris Trust and Savings Bank ("Harris").[52] This pre-petition credit facility consisted of two loans. Loan A was valued not to exceed $58.5 million and secured by first liens and interests in the Mississippi Chemical's inventory, accounts receivable and other personal property.[53] Loan B was valued not exceed $105 million and secured by first liens on Mississippi Chemical's

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[46] *Id.*
[47] *Id.*
[48] *Id.*
[49] *Id.*
[50] Notice of Bankruptcy and Automatic Stay, *In re Miss. Chem. Corp.*, No. 03-02984 WEE (Bankr. S.D. Miss. May 15, 2003).
[51] *Initial Press Release*, *supra* note 17.
[52] *First Disclosure Statement*, *supra* note 1, at Art. 3.1, at 19.
[53] *Id.*

domestic real property and operating facilities and second liens on the collateral for Loan A.[54]

Harris also served as lender and Agent in a Debtor-In-Possession ("DIP") Credit Facility negotiated prior to the petition date. This DIP Credit Facility provided Mississippi Chemical with $37.5 million[55] and a letter of credit availability of up to $10 million of that amount.[56] In exchange for this credit facility, lenders "were granted super-priority liens and security interests on substantially all assets of the Debtors."[57]

Other pre-petition parties in interest included the holders of senior notes. In November, 1997, Mississippi Chemical issued $200 million in senior notes at 7.25 percent interest.[58] Immediately prior to filing, BancorpSouth Bank was the indenture trustee. However, post-filing BancorpSouth was replaced by HSBS Bank USA.[59]

Mississippi Chemical also served as guarantor for industrial revenue bonds issued by subsidiary Mississippi Phosphates Corporation ("MPC") in 1997, in the amount of $14.5 million, to build a phosphogypsum disposal facility.[60] In 1998, a new bond issue was made in the same amount, the proceeds of which were used to pay the remaining principal amounts of the 1997 issue.[61] The 1998 bonds were tax-exempt, due to mature in 2022, carried a fixed interest rate of 5.8 percent and had named Bank of New York as the indenture trustee.[62]

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[54] *Id.*
[55] The $37.5 million DIP financing amount was subject to several budgetary constraints.
[56] *First Disclosure Statement*, *supra* note 1, at Art. 3.1, at 19.
[57] *Id.* at 20.
[58] *Id.*
[59] *Id.*
[60] *Id.*
[61] *Id.*
[62] *Id.*

**[§ 2.2—Post Petition Financings and Repositioning Efforts]**

What follows is a chronological look at the bankruptcy proceedings of Mississippi Chemical with emphasis on post-petition financings and repositioning efforts.

[§ 2.2.1—*May 2003*]

Early on, the Debtor negotiated a Standstill Agreement providing that Debtor could use the cash collateral of the pre-petition lenders as long as there was no default under the Post-Petition Credit Agreement and the pre-petition lenders agreed to not pursue enforcement of another of Mississippi Chemical's guarantees.[63] While this agreement was presented as part of the "First Day Motions", and granted pending final hearing, the rising costs of natural gas and poor Spring sales due to wet weather quickly placed the Standstill Agreement in jeopardy.

[§ 2.2.2—*June 2003*]

With reorganization proceedings in their early stages, the company temporarily idled its two potash mines in Carlsbad, New Mexico and cut production at the Yazoo City nitrate facility.[64] The Company idled the potash mines because of excess inventory problems and cut production at the nitrate facility because of increased natural gas prices and concerns about a "short-term …weak fertilizer market."[65]

[§ 2.2.3—*October 2003*]

Mississippi Chemical was able to secure a debtor-in-possession revolving credit facility in the amount of $32.5 million from a consortium of lenders led by existing

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[63] *Id.*

[64] Press Release, Mississippi Chemical Corporation, Mississippi Chemical Temporarily Idles Potash Mines and Curtails Production at Yazoo City (June 18, 2003) *available at* http://www.misschem.com/newpressreleases/6-18-03potash.htm (included in source binder).

[65] *Id.*

secured creditor Harris Trust in Savings Bank.[66] This amount was $5 million less than the $37.5 million originally sought. In addition to the new DIP financing, the company announced $11 million cash on hand to fund continuing operations.

With additional funding, production resumed at the Yazoo City, Mississippi nitrate facility and potash facilities in Carlsbad, New Mexico[67]; production at these facilities had either been curtailed or idled in four months prior.

Mississippi Chemical also announced its intentions to sell the company's 50 percent equity interest in its Trinidad facility to Koch Nitrogen Company. According to preliminary discussions, the deal would be worth approximately $127 million: cash proceeds totaling $92 million and $35 million in assumed liabilities.[68] According to Mr. O'Mara, attorney for the Debtor, the secured creditors for the $158 million pre-petition credit facility were strongly encouraging Mississippi Chemical to liquidate the company's holdings in The Republics of Trinidad and Tobago via a stalking horse bid, selling to Koch Nitrogen Company in order to most effectively recover and protect their interests.

[§ 2.2.4—*December 2003*]

Mississippi Potash, Inc., and Eddy Potash, Inc. announced "a definitive agreement to sell substantially all of their potash assets to two wholly owned subsidiaries of Intrepid Mining LLC."[69] The deal, worth an estimated $27 million and represented by a stalking horse bid, included the assumption of liabilities by the purchasers.

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[66] Press Release, Mississippi Chemical Corporation, Mississippi Chemical Announces Completion of $32.5 million Debtor-in-Possession Credit Facility (Oct. 2, 2003) *available at* http://www.misschem.com/newpressreleases/DIP%20announce%2010-03.htm (included in source binder).
[67] *Id.*
[68] *News Notes: Agreement Signed*, BANKRUPTCY DATASOURCE (Jan. 2004) (included in source binder).
[69] *News Notes: Agreement Announced*, BANKRUPTCY DATASOURCE (Jan. 2004) (included in source binder).

In the final days of 2003, Mississippi Chemical was able to reach an agreement with Delaware Street Capital and DDJ Capital Management LLC for a $96.7 million Supplemental Post-Petition Credit Agreement.[70] According to Mr. O'Mara, this agreement was struck to enhance the prospects for plan approval, allowing Delaware to buyout a portion of existing secured debt, thus removing some parties disagreeable to Mississippi Chemical's plans for restructuring.[71] This debt buyout was planned to allow Mississippi Chemical to reduce pre-petition bank debt by 60 percent while allowing the company to retain its 50 percent equity in the Trinidad operation.[72]

Also as part of the agreement, the new investors or their affiliates would pay the remaining secured bank debt, including the initial DIP credit facility, an amount equal to "par plus accrued interest."[73] The agreement had to be accepted "by at least 51 percent of participating banks representing not less than 66 2/3 percent of the outstanding principal amounts."[74] This buyout of debt in no way impeded the planned sell of the company's potash assets in Mississippi Potash, Inc., and Eddy Potash, Inc.

[§ 2.2.5—*March 2004*]

Mr. Charles O. Dunn retired from his position as President, CEO and Director of Mississippi Chemical Corporation on March 1, 2004 ending a 25-year career with the company.[75] Upon his departure, Mr. Dunn remarked that his leaving was amicable, citing that Mississippi Chemical's "markets have improved significantly" and that the

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[70] Press Release, Mississippi Chemical Corporation, Mississippi Chemical Announces New Financing Agreement (Dec. 22, 2003) *available at* http://www.misschem.com/newpressreleases/Trinidad%20DDJ-DSC%20DECEMBER%2022%202003.htm (included in source binder).
[71] Mr. O'Mara generously supplied much information on behalf of the debtor, revealing more in-depth information such as motivations on behalf of the debtor to seek a debt buyout.
[72] Press Release, Mississippi Chemical Corporation, Mississippi Chemical Announces New Financing Agreement.
[73] *Id.*
[74] *Id.*
[75] *Handing over the baton at MissChem; People,* FERTILIZER INTERNATIONAL. May 1, 2004, at 76.

efforts of the reorganization team had "repositioned the company to achieve an orderly resolution to its reorganization process."[76] Mr. Coley L. Bailey was tapped to assume the responsibilities of CEO; he maintained his position as Chairman.[77] As he took over the reigns, he found himself at the helm of a corporation with an "encouraging" prognosis, with "a core nitrogen business . . . generating healthy margins despite high gas prices" and an improving phosphate market.[78] Mr. Larry Holley was also promoted, serving as Senior Vice President and Chief Operating Officer.[79]

### [§ 2.3—The Debtor's First Plan]

Generally, a Chapter 11 plan of reorganization divides claims and equity interests into separate classes, specifies the property that each class is to receive under the plan and contains any other provisions necessary to the reorganization of the debtor. Once a plan is proposed, §§ 1126(c) and 1129(a)(10)[80] provide that to be confirmed a plan must be approved by, at the very least, claim holders holding at least two-thirds in amount and more than one-half in number of one class of impaired claims in the debtor's estate. Once confirmed, a plan must be carried out according to its terms.

[§ 2.3.1—*April 2004*]

Mississippi Chemical[81] filed its first plan of reorganization on April 15, 2004, just days before the first anniversary of its entry into Chapter 11. Under § 1121(b), the

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[76] *Id.*
[77] *Id.*
[78] *Id.*
[79] *Id.*
[80] For the purposes of this paper, all section references refer to Title 11 of the United States Code, Chapter 11 unless otherwise specifically noted.
[81] In this section, Mississippi Chemical may be referred to as "Debtor." The term "Debtor" refers to the pre-petition Mississippi Chemical Corporation and includes all subsidiary corporations or partnerships filing bankruptcy in the same proceeding. The term "Debtor" does not refer to any entity created by any

debtor, and only the debtor, has 120 days from the date of filing for Chapter 11 protection in which to propose a plan of reorganization. By that rule, Debtor's exclusive filing period would have run for 120 days from May 15, 2003, or until September 12, 2003. However, if the debtor requests an extension of the exclusivity period under §1121(d) and the court grants that request, debtor may have up to 180 more days to prepare and file a plan. After being granted three separate extensions, Debtor filed its first plan of reorganization pursuant to § 1121 on April 15, 2004.[82] That first plan was later amended on September 2, 2004. Later still, the first plan was abandoned before it became confirmed and Debtor proposed a second plan for the reorganization. However, the salient provisions of the first plan merit brief discussion.

[§ 2.3.2--*Debtor's Reorganization*]

Mississippi Chemical's first plan of reorganization sought to create two separate companies, New Mississippi Chemical ("New MissChem") and Old Mississippi Chemical ("Old MissChem").[83] Old MissChem was to retain an ownership interest in Debtor's properties and operational facilities in Trinidad and Tobago, while New MissChem was to retain an interest in all of Debtor's other properties and operational facilities except for Mississippi Potash, Inc. ("Potash") and Eddy Potash, Inc. ("Eddy"). Under Debtor's first plan, Potash and Eddy were to be liquidated and the proceeds were to be distributed to the holders of allowed class 11 claims.[84]

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plan of reorganization. Those entities proposed to be created by the plan will be referred to as "Old MissChem" and "New MissChem."

[82] The Court granted extensions of the Debtor's exclusivity period on October 10, 2003, January 5, 2004 and March 29, 2004. *First Disclosure Statement, supra* note 1, at Art. 3.2.10 It is interesting to note that the Debtor's first request for extension was granted on October 10, 2003. This is well after the initial 120 day period lapsed.

[83] *First Disclosure Statement, supra* note 1, at Art. 1.3.

[84] *Id.* Class 11 claims were general unsecured claims against Potash and Eddy totaling $2,523,427.00. At the time of the proposal of the first plan, not all of these claims were unimpaired.

After the split, 60 percent of Old MissChem's stock was to be owned by the holders of allowed SDIP claims[85] and Investor Secured claims[86] and 40 percent of Old MissChem stock was to be retained by New MissChem.[87] The common stock of New MissChem was to be held in its entirety by the holders of Allowed Bonds Unsecured Claims and by the holders of Allowed General Unsecured Claims who elected to receive it.[88]

[§ 2.3.3—*First Plan Claims Classes*]

In its first plan, Debtor segregated its various creditors into 17 separate classes of claims and interests, 16 enumerated classes plus the administrative expense claims.[89] Section 503(b) allows court-approved professionals to recoup expenses before the debtor pays any other claims. Section 503(b) allows professionals to receive compensation for services rendered and reimbursement for expenses incurred in representing the debtors and any committees of creditors or other parties in interest. At the time of the first plan's proposal, the administrative expenses totaled approximately $4 million.[90]

The remainder of the classes and their respective proposed treatments under Debtor's first plan are summarized in the table below.[91]

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[85] This class of claimants held claims totaling $105,164, 972.00, and was unimpaired at the time the first plan was proposed.
[86] This class of claimants held claims totaling $54,898,664.00, and was unimpaired at the time the first plan was proposed.
[87] *First Disclosure Statement*, *supra* note 1, at Art. 1.3.
[88] *Id.*
[89] *Id.* at Art. 4.2.1.
[90] *Id.*
[91] Table 2.3.1 was compiled from data found in Disclosure Statement for Debtor's Joint Plan of Reorganization Arts. 1.4 and 4.2.2.

**Table 2.3.1**

| Class | Claim/Interest | Treatment of Claim/Interest | Estimated Aggregate Amount of Allowed Claims or Interests | Status and Voting Rights |
|---|---|---|---|---|
| 1 | Allowed Wage Priority Claims | Paid in Full upon Confirmation or Allowance | $94,249.00 | Unimpaired/ Non-voting |
| 2 | Allowed Employee Benefit Plan Priority Claims | Paid in Full upon Confirmation or Allowance | $5,105.00 | Unimpaired/ Non-Voting |
| 3 | Allowed Tax Priority Claims | Paid in Full upon Confirmation or Allowance | $150,000.00 | Unimpaired/ Non-voting |
| 4 | Allowed Other Priority Claims | Paid in Full upon Confirmation or Allowance | $3,658.00 | Unimpaired/ Non-voting |
| 5 | Allowed SDIP Claims | Pro Rata interest in certain loan notes and 60% of Old MissChem Common Stock | $105,164,972.00 | Impaired/ Voting |
| 6 | Allowed Investor Secured Claims | Pro Rata interest in certain loan notes and 60% of Old MissChem Common Stock | $54,898,664.00 | Impaired/ Voting |
| 7 | Allowed Other Secured Claims | Upon Confirmation or Allowance, Debtor cures all defaults, reinstates original terms of outstanding debt, and pays debtor for any damages entitling holder to accelerated payment | $432,342.00 | Impaired/ Voting |
| 8 | Allowed Intercompany Claims | Upon Confirmation or Allowance all claims will be set off and any remaining balances will be contributed to capital and cancelled, extinguished and discharged | $448,189,337.00 | Impaired/ Voting |
| 9 | Allowed Convenience Unsecured Claims | Paid in Full upon Confirmation or Allowance | $862,918.00 plus all Class 12 claims electing Class 9 Treatment | Unimpaired/ Non-voting |
| 10 | Allowed Bonds Unsecured Claims | Upon Confirmation or Allowance each claim holder will receive one share of New MissChem common stock for every $15 of such holder's Class 12 Claim | $221,924,171.00 | Impaired/ Voting |
| 11 | Allowed Potash/Eddy General Unsecured Claims | 20 days after sale of Potash/Eddy or upon Allowance each claim holder will receive its pro rata share of the sale proceeds | $2,523,427.00 | Impaired/ Voting |
| 12 | Allowed Other General Unsecured Claims | Upon Confirmation or Allowance each claim will receive, at the holder's election, cash equal to 40% of such claim or 1 share of New MissChem common stock for each $15 of such holder's Class 12 Claim | $4,922,941 less any Class 12 claims electing Class 9 Treatment | Impaired/ Voting |
| 13 | Allowed Tort Claims | Upon Confirmation or Allowance each claim will receive 40% of any claim not paid under any applicable insurance proceeds | $0.00 | Impaired/ Voting |

| | | | | |
|---|---|---|---|---|
| 14 | Allowed Potash/Eddy Interests | Upon Confirmation all interests will be cancelled, extinguished and discharged | $0.00 | Impaired/ Voting |
| 15 | Allowed Subsidiary Interests | All Interests shall remain in full force and effect on and after Confirmation | 100% of Outstanding Subsidiary Interests | Impaired/ Voting |
| 16 | Allowed Old Equity Interests | Upon Confirmation all interests will be cancelled, extinguished and discharged and each holder of such interest will receive New MissChem warrants | 24,250,100 Outstanding Shares | Impaired/ Voting |

In order to effectuate the distributions to creditors outlined in the first plan as set forth in the table above, Debtor planned to continue its basic business operations, obtain financing from new creditors and restructure its corporate structure to trim excess expenses. The first plan sought to obtain creditor approval to maintain business operations which would yield profits with which to pay Debtor's creditors. It also obtained DIP financing from new creditors to help in the continuance of business operations and the payment of currently outstanding debts. Finally, the Debtor sought to reincorporate New MissChem as a new entity under the state laws of Delaware and issue stock in repayment of debt to its allowed creditors' claims. Debtor also sought to amend Old MissChem's Articles of Incorporation to yield some control and ownership to creditors in repayment of their investments.

[§ 2.3.4—*Second Replacement DIP Financing*]

The Delaware Street Capital and DDJ Capital Management LLC financing obtained at the end of 2003 did not last long. Just six months later, in June of 2004, Mississippi Chemical had to obtain $182.5 million in replacement DIP financing, an amount sufficient to replace all pre- and post-petition secured debt, from Citigroup

Global Markets, Inc and Perry Principals Investments, LLC.[92] The second DIP financing also provided for $210 million in exit financing for the company's emergence from Chapter 11.[93] While the arrangement with Delaware Street Capital required the immediate liquidation of some of its Trinidad and Tobago holdings, this financing allowed Mississippi Chemical to retain its 50 percent interest in the Ponta Lisas ammonia facility located in Trinidad.[94]

[§ 2.3.5—*Terra Buyout Opportunity—August 2004*]

Following a tumultuous summer, Mississippi Chemical agreed to sell out to Midwestern agriculture giant Terra Industries Incorporated ("Terra"). The buyout, worth $299 million at the time of its initial proposal, dictated that Terra would not only assume all of the Company's outstanding equity, but $161 million in debt as well.[95] According to Mr. O'Mara, this move came at the encouragement of the new creditors, eager to see Mississippi Chemical successfully emerge from Chapter 11.[96]

Under the terms of the agreement, secured creditors Perry Principals Investments and Citigroup Global Markets, Inc., would commit to extend the terms of Mississippi Chemical's DIP loan by four years beyond emergence from bankruptcy.[97] Terra and Mississippi Chemical would utilize cash on hand to reduce the principal amount of the loan by $30 million and "satisfy all other cash payments to creditors

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[92] Press Release, Mississippi Chemical Corporation, Mississippi Chemical Announces $182.5 million Replacement Debtor-in-Possession Financing and Commitment for $210 million Exit Financing (June 28, 2004) *available at* http://www.misschem.com/newpressreleases/CitiCorpPerry.html (included in source binder).
[93] *Id.*
[94] *Id.*
[95] Press Release, Terra Industries Incorporated, Terra Industries Inc. to Acquire Mississippi Chemical Corporation for Approximately $268 Million (Aug. 9, 2004) *available at* http://www.misschem.com/newpressreleases/Terra%20PurchaseMS%20Chem.html (included in source binder).
[96] Referring again to Mr. O'Mara, attorney for the debtor.
[97] *Id.*

required by the amended plan of reorganization."[98] In addition, 14.75 million shares of Terra common stock and an amount of preferred stock would be issued to certain unsecured creditors of Mississippi Chemical.[99]

[§ 2.3.6—*Amendment of Plan—September 2004*]

Mississippi Chemical filed an amended plan of reorganization in September, 2004, announcing the proposed purchase of the company's nitrogen operations by Terra Industries, Inc., while maintaining the separation and sale of the company's potash and phosphate operations.[100]

**[§ 2.4 The Debtor's Second Plan—October 2004]**

As noted above, Debtor's first joint plan of reorganization was never confirmed and carried out. Instead, Debtor found a buyer for its operations. Terra, a competing commodity chemical and agricultural goods producer, offered to make a leveraged buyout of the Company's operations through one of its subsidiaries. The buyout ("the Terra Transaction") would give Debtor's creditors Terra stock, worth approximately $299 million, for their interests and claims against Debtor.[101] To effectuate the Terra Transaction, Debtor proposed its second plan of reorganization on October 22, 2004.[102] In comparison to the first plan, the second plan is actually better described as three separate sub-plans relating to the two separate groups of sub-debtors within the Debtor's

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[98] *Id.*
[99] *Id.*
[100] Press Release, Terra Industries Incorporated, Mississippi Chemical Announces Filing of Amended Plan of Reorganization (Sept. 2, 2004) *available at* http://www.misschem.com/newpressreleases/Ammended PlanofReorg.html (included in source binder).
[101] Disclosure Statement for Debtor's Second Amended Joint Plan of Reorganization Art. 4.3.4.1, *In re Miss. Chem. Corp.*, No. 03-02984 WEE (Bankr. S.D. Miss. Apr. 15, 2004), *available at* http://docs.bmccorp.net/misschem/docs/1086.pdf [hereinafter *Second Disclosure Statement*].
[102] *Second Disclosure Statement*, *supra* note 98, at title page

organization and the Debtor's creditors.[103] The second plan called for: (1) a plan of reorganization, restructuring and rehabilitation for the Mississippi Chemical Corporation; (2) a plan of reorganization, restructuring and rehabilitation for the phosphates arm of the Mississippi Chemical Corporation;[104] and (3) separate and distinct groups of classes of claims and specific treatments for the holders of those various claims against and interests in the Debtor.[105] Because it is the catalyst and lynchpin of the Debtor's second amended plan, the Terra Transaction will be discussed in detail in a later section.

The second plan also contemplated another transaction in case the Terra Transaction failed to close. This alternative transaction (hereinafter "the Standalone Transaction") called for the creation of a new entity known as New MissChem, which would serve as the parent corporation. New MissChem would act as the umbrella under which all other Debtor corporations, partnerships and entities would operate, including the phosphates segment and the Trinidad and Tobago holdings. Under the Standalone Transaction, the potash segment would still be liquidated.

[§ 2.4.1—*Substantive Consolidation of Debtors' Creditors*]

Debtor's second plan was premised on the substantive consolidation, allowed by § 105(a), of three separate groups of sub-debtors within the Debtor.[106] Substantive consolidation allows the Court to treat the assets and liabilities of the substantively consolidated debtor-groups as if they were merged into a single estate solely for all purposes related to the confirmation and consummation of the second plan but not for any

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[103] *Id.* at Art. 1.1.
[104] This plan excluded a part of the phosphates arm of the Debtor which was to be sold in a transaction detailed in a later part of this section.
[105] *Second Disclosure Statement*, *supra* note 98, at Art. 1.1.
[106] *Id.* at Art. 4.3.2.

other purpose.[107] Under the second plan, the Debtor would substantively consolidate all of the Mississippi Chemical debtors (those debtors maintaining the nitrogen and ammonia operations), as one group, the phosphates debtors as another group and the potash debtors as a third group.[108] By substantively consolidating, the Debtor would be able to obtain confirmation of a plan of reorganization for all three groups without having to subject the plan to three separate ballotings.

[§ 2.4.2—*Claims and Interests Under the Second Plan*]

The claims and interests into which Debtor's creditors fall under the second plan of reorganization differ greatly from the classes proposed by the first plan. For instance, the claims are categorized according to the sub-debtor to which they pertain. Class "A" claims pertain only to the Mississippi Chemical Corporation, which implicates the nitrogen operations of the Company. Class "B" claims pertain only to the phosphates holdings of Mississippi Chemical. Class "C" claims pertain only to the potash holdings of the Company. As with the first plan, administrative claims have statutory priority over all other creditor claims and must be paid in full before any other claims can be paid. At the time of proposal for the second plan, administrative fees totaled $8 million.

[§ 2.4.3—*Mississippi Chemical Claims*]

The Mississippi Chemical creditors, denoted as the class A claimants, are separated into nine groups under the second plan. These claimants have claims against

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[107] *Id.*

[108] *Id.* It is interesting to note that the Debtor describes the plan as three sub-plans and includes the Phosphates group as a sub-debtor which, under the plan, it sought to reorganize. The plan and the way in which it treats the Phosphates segment creditors is decidedly written with a bias towards selling off the phosphates assets, not refurbishing or repositioning them.

the nitrogen and ammonia segments of the Debtor. The following table outlines the types of claims, their amounts and their impairment status.[109]

**Table 2.4.1**

| Class | Claim/ Interest | Treatment of Claim/Interest | Value | Impairment/ Voting Status |
|---|---|---|---|---|
| 1A | Allowed MCC Priority Claims | Each Class 1A Claim will be paid in full | $301,644.00 | Unimpaired/ Non-Voting |
| 2A | Allowed MCC Replacement DIP Claims | Each Class 2A Claim will receive a pro rata share of cash in an amount sufficient to reduce outstanding Class 2A claims to $125 million and a new guarantee of payment under new terms set forth in the Second Plan for the $125 million balance due if the Terra Transaction closes. If the Standalone Transaction occurs, Each Class 2A claim will receive the cash amount of their claim | $163,500,000.00 | Impaired/ Voting |
| 3A | Allowed MCC Other Secured Claims | On Confirmation or Allowance, Debtor will cure all defaults, reinstate maturity dates existing prior to any default and settle any damages accruing from Debtor's default | $0.00 | Unimpaired/ Non-Voting |
| 4A | Allowed Intercompany Claims | All Class 4A Claims will be set off against any Intercompany Claim owed by the holder and the balance, if any, shall be contributed to capital and cancelled, extinguished and discharged | $448,191,918.00 | Impaired/ Voting |
| 5A | Allowed MCC Convenience Unsecured Claims | Each Class 5A claim will be paid in full | $503,845, plus all Class 7A claims electing Class 5A treatment | Unimpaired/ Non-Voting |
| 6A | Allowed MCC Bonds Unsecured Claims | Each Class 6A claim will receive a pro rata share of some mix of Terra Common and Preferred stock equal to the value of each holder's claim if the Terra transaction closes. If the Standalone Transaction occurs, the holders will get one share of New MissChem Stock for every $22.00 worth of claims held. | $221,924,171.00 | Impaired/ Voting |
| 7A | Allowed MCC Other General Unsecured Claims | Each Class 7A claim will receive, at the holder's election, (i) cash equal to the lesser of 40.2% of its allowed claim or | $3,379,288.00 less Class 7A claims electing | Impaired/ Voting |

[109] Table 2.4.1 was compiled using data found in the Disclosure Statement for Debtor's Second Amended Joint Plan of Reorganization Arts. 1.4 and 4.2.2.

| | | | | |
|---|---|---|---|---|
| | | its pro rata share of cash paid to all allowed Class 7A claim holders or (ii) the holder's pro rata share of Terra Common and Preferred stock if the Terra Transaction closes or, if the Standalone Transaction occurs, one share of New MissChem Stock for every $22 of the holders allowed claim | Class 5A treatment | |
| 8A | Allowed MCC Subsidiary Interests | All Class 8A claims shall remain in full force and effect on and after Plan Confirmation | 100% of Outstanding Subsidiary Interests | Unimpaired/ Non-Voting |
| 9A | Allowed MCC Old Equity Interests | All Class 9A Interests will be cancelled, extinguished and discharged and each holder of such Interest will receive: (i) if the Terra Transaction closes, that holder's pro rata share of interests in 250,000 shares of Terra Common stock or (ii) if the Standalone Transaction occurs, the New MissChem Warrants | 24,250,100 Outstanding Shares | Impaired/ Voting |

The second plan called for alternative treatments for several Mississippi Chemical claims classes depending upon which of the two contemplated transactions closed. If the Terra Transaction closed, classes 6A, 7A and 9A would receive more for their claims. The second plan indicated that class 6A claim holders would receive approximately 60.3% of their claim's value under the Terra Transaction, while those holders would only receive 51.6% of their claim's value under the Standalone transaction. Class 9A claims holders would receive Terra Common stock worth approximately $1.9 million under the Terra Transaction, while those holders would receive New MissChem stock with no intrinsic value under the Standalone Transaction. Because Class 7A could elect a cash payout, it was uncertain how much more "bang for the buck" holders of that class of claims would receive. However, for the same reasons that Class 9A benefited more from the Terra Transaction, specifically, because Terra's stock has an intrinsic value and New MissChem stock does not, it was assumed that under the Terra Transaction, Class 7A holders electing to receive stock would be better off under the Terra Transaction.

[§ 2.4.4—*Phosphates Holdings' Claims*]

Creditors holding claims pertaining only to the phosphates holdings of Mississippi Chemical were parsed out from the creditors holding claims against the rest of the company under the second plan. The creditors holding claims, the values of those claims and there contemplated treatment under the second plan is outlined in the table below.[110]

Some of the class treatments mention a "Phosphates Transaction." The Phosphates Transaction refers to an attempted sale or auction of the phosphates holdings of Mississippi Chemical. It is apparent from the language of the second plan that, unlike the nitrogen and ammonia arms of the business, no buyer had been found for the phosphates holdings at the time the plan was proposed. Apparently, Debtor sought to sell off its phosphates holdings in order to focus its restructuring efforts on its primary business lines.

**Table 2.4.2**

| Class | Claim/ Interest | Treatment of Claim/Interest | Value | Impairment/ Voting Status |
|---|---|---|---|---|
| 1B | Allowed Phosphates Priority Claims | Each Class 1B Claim will be paid in full | $13,990.00 | Unimpaired/ Non-Voting |
| 2B | Allowed Phosphates Replacement DIP Claims | If a Phosphates Transaction has not closed, holders of Class 2B claims will receive their share of a cash amount equal to the amount of certain working capital assets in excess of $10 million, if any or such lesser amount as may be agreed to by the holders | $163,500,000.00 | Impaired/ Voting |
| 3B | Allowed Phosphates Other Secured Claims | Phosphates debtor will cure all defaults, reinstate maturity dates existing prior to defaults and compensate creditor for any damages caused by Debtor's defaults<br><br>If a Phosphates Transaction occurs, holders shall receive proceeds from sale of collateral or, if not sold in such | $0.00 | Unimpaired/ Non-Voting |

[110] Table 2.4.2 was compiled using data found in the Disclosure Statement for Debtor's Second Amended Joint Plan of Reorganization Arts. 1.4 and 4.2.2.

| | | | | |
|---|---|---|---|---|
| | | transaction, Phosphates-Debtor may abandon and surrender collateral in satisfaction of Class 3B claim | | |
| 4B | Allowed Phosphates General Unsecured Claims | Holders of Class 4B claims will receive (i) cash equal to 5% of their claim and (ii) their pro rata share of the Phosphates New Common Stock, subject to dilution | $1,549,558.00 | Impaired/ Voting |
| 5B | Allowed Phosphates IRB Unsecured Claims | Holders of Class 5B claims will receive their pro rata share of the Phosphates New Common Stock, subject to dilution | $14,673,331.00 | Impaired/ Voting |
| 6B | Allowed Phosphates Interests | All Class 6B interests will be cancelled, extinguished and discharged | 100% of Outstanding Phosphates Interests | Impaired/ Deemed to Reject all Proposals |

[§ 2.4.5—*Potash Holdings' Claims*]

Creditors holding claims against Mississippi Chemical's potash holdings were also segregated from other creditors holding claims. These claims, denoted as Class C claims, include all claims against or interests in Potash and Eddy. The following table summarizes the claims, treatment and value of the claims against and interests in the potash holdings.[111]

**Table 2.4.3**

| Class | Claim/ Interest | Treatment of Claim/Interest | Value | Impairment/ Voting Status |
|---|---|---|---|---|
| 1C | Allowed Potash/Eddy Priority Claims | On the later of 20 days after public sale of Potash/Eddy assets or the date on which a certain Class 1C Claim becomes an Allowed Claim, each class 1C claim will be paid in full | $0.00 | Unimpaired/ Non-Voting |
| 2C | Allowed Potash/Eddy General Unsecured Claims | On the later of 20 days after public sale of Potash/Eddy assets or the date on which a certain Class 2C Claim becomes an Allowed Claim, each Class 2C Claim will receive its pro rata share of the sale proceeds remaining after payment of all Class 1C claims, if any | $2,619,668.00 | Impaired/ Voting |
| 3C | Allowed Potash/Eddy Interests | All Class 3C Interests will be cancelled, extinguished and discharged. | 100% of outstanding Potash/Eddy Interests | Impaired/ Deemed to Reject all Proposals |

[111] Table 2.4.3 was compiled using data found in the Disclosure Statement for Debtor's Second Amended Joint Plan of Reorganization Arts. 1.4 and 4.2.2.

[§ 2.4.6—*Second Plan Analysis*]

It is apparent in reviewing the treatment of the phosphates and potash creditors that Mississippi Chemical made a decided attempt to salvage its nitrogen and ammonia businesses and sought to rid itself of its phosphates and potash holdings. Table 2.4.1 shows that Debtor attempted to give each class of Class A claims some form of retribution. This was not the case with the phosphates and potash creditors. Tables 2.4.2 and 2.4.3 make clear that the phosphates and potash businesses were to be sold, if possible, and their assets or the monies received from the sales of those assets were to be distributed amongst the creditors without further promise of payment. Since the second plan was subject to substantive consolidation, the Debtor could afford to give the phosphates and potash debtor's creditors short shrift. Because the plan was subject to substantive consolidation and cram-down, under § 1129(a)(10), the Debtor only needed obtain the affirmative vote of one class of impaired claims from any of the three sub-debtor classes of claims. Any impaired class of Class A claims would likely have voted to consummate the second plan because it represented their best opportunity to recover their invested monies.

Another point of note is that, under the first plan of reorganization, there were only four classes out of 16 total that were unimpaired. Under the second plan's classification and payout system, there were seven classes of unimpaired creditors and 11 impaired classes, making for a total of 18 classes of creditors. This suggests that the Debtor reclassified some creditors to ensure their payment in full or in part or to acknowledge the unlikelihood that certain creditors would receive full payment. It is likely that the intent of Debtor's management under the second plan was to attempt to maintain reasonably working relationships with its nitrogen and ammonia business creditors; those creditors that will be most important to the continuing business lines after the plan's confirmation. Since Debtor knew that it intended to cease business operations for its phosphates and potash business lines, it deemed the continuing goodwill of those creditors to be of lesser future importance and funneled the monies that might otherwise have been distributed to those creditors to the nitrogen and ammonia creditors. In short, the second plan legally cheated the creditors of the "dead-in-the-water" phosphates and potash debtors and favored the payment of nitrogen and ammonia creditors.

**[§ 3. The Terra Transaction]**

To facilitate Debtor's reorganization and bolster its own market share, Terra agreed to buy substantially all of Mississippi Chemical's nitrogen and ammonia businesses using one of its subsidiary organizations. The Terra Transaction was a stock purchase agreement, meaning that the Terra subsidiary would "purchase" 100 shares of the stock of the post-confirmation Debtor with stock of its own plus cash.[112] At the time of the proposal of the second plan of reorganization, the Terra Transaction was estimated to be worth $299 million in total. At the time it closed, the Terra Transaction was worth $268 million.

[Remainder of Page Intentionally Blank]

[112] Terra Industries Incorporated, Terra Stock Purchase Agreement Art. 2.1 (Aug. 6, 2004) *available at* http://docs.bmccorp.net/misschem/docs/0948.pdf.

## [§3.1—Transaction Prerequisites]

As conditions precedent to the closing of the Terra Transaction, the Terra Stock Purchase Agreement required:

(1) That the Bankruptcy Court have issued and entered a confirmation order for the second plan and no order staying, reversing, modifying or amending the confirmation order;[113]
(2) That the second plan be in full effect at the time of the closing of the Terra Transaction;[114]
(3) That all pertinent regulatory approvals have been obtained before the closing date;[115]
(4) That no preliminary or permanent injunctions be issued or ordered which affect or prohibit the proposed transaction;[116]
(5) That Mississippi Chemical have completely divested itself of all interests in its phosphates businesses without agreeing to answer for any of the phosphates' contingent liabilities

## [§ 3.2—Transaction Terms]

The basic terms of the Terra Transaction were that the Terra subsidiary used to purchase Debtor would give, in exchange for 100 shares of post-confirmation Debtor Company stock representing 100 percent of the vote and value of the company, the following:

(1) A cash payment in an amount equal to the Closing Senior Debt[117] less the Company's available cash as of the closing date;[118]
(2) A stock payment including:
    (i) 250,000 shares of Terra Industries, Inc. Common Stock to be distributed to Mississippi Chemical's pre-petition shareholders (Class 9A claims);[119]
    (ii) 14,750,000 shares of Terra Industries, Inc. Common Stock to be distributed to holders of Claims in Class 6A and electing holders of Class 7A Claims pursuant to the second plan of reorganization;[120]

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[113] *Id.* at Art. 10.1(a).
[114] *Id.* at Art. 10.1(b).
[115] *Id.* at Art. 10.1(c).
[116] *Id.* at Art. 10.1(d).
[117] The term "Closing Senior Debt" means all amounts owed by the Company with respect to its senior debt plus the claims and estimated post-closing expenses and disputed claims. Terra Stock Purchase Agreement Art. 2.6 *available at* http://docs.bmccorp.net/misschem/docs/0948.pdf.
[118] Terra Stock Purchase Agreement Art. 2.3(a)(i).
[119] *Id.* at Art. 2.3(a)(ii)(A).

(iii) some number of Terra Industries, Inc. Preferred Stock shares necessary to ensure that the holders of the Allowed Class 6A and electing holders of Class 7A Claims receive a sufficient amount of Terra Parent shares equal to a value of $120.2 million.[121]

The total value of the cash and stock was estimated at $299 million, subject to several adjustments.[122] The Terra Transaction gave Debtor's management some quick liquidity with which to placate its creditors. The promise of transferable stock with intrinsic value and immediate cash with which to service debt made the Terra Transaction the immediate frontrunner for the creditors' preferred method of reorganization.

**[§ 3.3—The Terra Transaction Closes]**

On December 21, 2004, the Terra Transaction contemplated and outlined in the second plan closed.[123] As noted above, in order to close the transaction, the second amended plan of reorganization had to be confirmed and carried out. That plan was confirmed and carried out substantially as is set forth in § 3.2 above. However, the total worth of the buyout at the time of closing was only $268 million. With the confirmation of the second amended plan and the closing of the Terra Transaction, Mississippi Chemical officially became a wholly owned subsidiary of Terra and officially exited bankruptcy.[124] With the assets of Mississippi Chemical, Terra now owns, in whole or in part, eight nitrogen and ammonia facilities: the three owned by virtue of the Terra Transaction (Yazoo City, Donaldsonville and Ponta Lisas in Trinidad) and the five it

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[120] *Id.* at Art. 2.3(a)(ii)(B).
[121] *Id.* at Art. 2.3.(a)(ii)(C).
[122] The total value of the transaction may have increased or decreased based on several factors including the amount of working capital in Debtor's possession on the closing date, the amount of net debt owing on the closing date and the prevailing rate of interest affecting the Debtor's senior debt. The final purchase price for the Terra Transaction was $268 million.
[123] Press Release, Terra Industries Incorporated, Terra Industries Inc. Completes Acquisition of Mississippi Chemical Corporation (Dec. 21, 2004) (included in source binder).
[124] *Id.*

already owned and operated (Sioux City, IA, Verdigris, OK, Woodward, OK, Courtright, Ont., Billingham, England, and Severnside, England).[125] The combined company is now the leading U.S. producer of urea ammonium nitrate solutions, anhydrous ammonia and ammonium nitrate and the leading U.K. producer of anhydrous ammonia and ammonium nitrate.[126] As noted above, the Phosphates segment of Mississippi Chemical was of little interest to Terra and, pursuant to the second amended plan, the phosphates arm was spun off in the transaction and all interests and assets were transferred to certain unsecured phosphates creditors.[127]

**[§ 4. Conclusion]**

The closing of the Terra Transaction signaled the end of the line for Mississippi Chemical as an independent company, but also signaled the end of the Company's bankruptcy woes. As noted above, the Company now uses its assets to focus primarily on the nitrogen and ammonia business segments and operates under the umbrella of what is now the single largest producer of nitrogen, ammonia and ammonium nitrate produces in the U.S. This particular reorganization worked for two reasons: (1) the Company was well-positioned enough, small enough and well-run enough to entice the capital markets to continue to fund it through its woes and (2) the company was well-positioned enough, small enough and well-run enough to entice bidders to buy it out of its current situation. Had the company been smaller, it might have folded because DIP financing might have become a problem without the company's large asset and client base and its market share. Had it been larger, lenders would have had to think twice before sucking the company

[125] *Id.*
[126] *Id.*
[127] *Id.*

coffers dry trying to fund one reorganizing giant and pinning the successes of their own companies to that client. It was its unique blend of size and market share that kept it afloat in the Chapter 11 process for long enough to find a willing buyer. Now that one is found, the Company appears to be back on track for profitability and growth.

[Exhibit A]

# Mississippi Chemical Company

Financial Overview of Company at the Time of Filing

## Assets

| Property Type | Description | | Value |
|---|---|---|---|
| Real | Corporate Headquarters Facility and Surrounding Acreage | $ | 2,649,158.00 |
| | **Total Value:** | **$** | **2,649,158.00** |
| Personal | Cash on Hand | $ | 1,000.00 |
| | Checking, Savings or Other Financial Accounts, COD's, etc | $ | 1,800,278.00 |
| | Security Deposits with Public Utilities, Telephone Companies, landlords and others | $ | 698,000.00 |
| | Stock and Interests in Incorporated Businesses | $ | 247,687,320.00 |
| | Accounts Receivable | $ | 275,313,770.00 |
| | Other Contingent or Unliquidated Claims | $ | 4,822,031.00 |
| | Licenses, Franchises and other general intangibles | $ | 4,263,069.30 |
| | Automobiles, trucks, trailers and other vehicles | $ | 28,422.87 |
| | Office Equipment, Furnishings and Supplies | $ | 1,186,433.00 |
| | Machinery, Fixtures, Equipment and Supplies used in Business | $ | 1,068,272.00 |
| | Other Personal Property of Any Kind | $ | 1,736,206.00 |
| | **Total Value:** | **$** | **538,604,802.17** |
| | **Total Assets:** | **$** | **541,253,960.17** |

## Liabilities

| Type | Description | | Value |
|---|---|---|---|
| Secured | Loan--ABN Amro Bank NV | $ | 7,994,711.00 |
| | Loan--AmSouth Bank | $ | 7,994,711.00 |
| | Loan--Avenue Special Situations Fund II LP | $ | 15,989,421.00 |
| | Loan--Bank of America | $ | 13,990,744.00 |
| | Loan--Bank of Nova Scotia | $ | 11,992,066.00 |
| | Loan--Credit Agricole Indosuez | $ | 17,988,099.00 |
| | Loan--Harris Trust and Savings Bank | $ | 27,981,488.00 |
| | Loan--Morgan Stanley Senior Funding | $ | 4,892,471.00 |
| | Loan--President and Fellows of Harvard College | $ | 9,545,831.00 |
| | Loan--SPCP Group LLC | $ | 9,545,831.00 |
| | Loan--Suntrust Bank | $ | 11,992,066.00 |
| | Loan--Trustmark National Bank | $ | 7,994,711.00 |
| | Loan--Wachovia National Bank | $ | 11,992,066.00 |
| | **Total Value:** | **$** | **159,894,216.00** |
| Unsecured Priority | Severance Pay--Andrew Joseph Hughes | $ | 4,650.00 |
| | Severance Pay--David M. Nicholas | $ | 4,650.00 |
| | Trade Payable--Dept of Finance and Admin | $ | 344.82 |
| | I.R.S. Employee Tax Trust--Wire Transfer Account | $ | 415,000.44 |
| | Trade Payable--LA Department of Revenue and Taxation | $ | 23,241.00 |
| | Trade Payable--Mary Sue Shipp | $ | 29.77 |
| | **Total Value:** | **$** | **447,916.03** |
| Unsecured Non-Priority | Various Claims | $ | 223,348,911.47 |
| | **Total Value:** | **$** | **223,348,911.47** |
| | **Total Liabilities:** | **$** | **383,691,043.50** |

[Exhibit B]
Mississippi Chemical Organizational Chart
at the time of Filing