

EMPLOYER STATUS DETERMINATION**The Railroad Company****The WV Southern Railway Co.**

This is the determination of the Railroad Retirement Board concerning the continuing status of The Railroad Company (TRC) (B.A. No. 9018) and the WV Southern Railway Company (WVSR) (B.A. No. 2416) as employers under the Railroad Retirement Act (45 U.S.C. § 231 et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351, et seq.) (RUIA). TRC and WVSR were found to be covered employers under the Acts with service creditable from August 18, 2003 (B.C.D. 04-26 and 04-26.1).

In a letter dated April 21, 2008, Mr. Roger S. Lipscomb, owner of TRC and WVSR, advised the agency that the railroad property of the two entities was sold to CSX Corporation, Inc. (CSX), who in turn sold portions of the property and operating rights to R.J. Corman – WV Line (R.J. Corman). Employees of TRC and WVSR were hired by this same entity.¹ Mr. Lipscomb further advised that TRC and WVSR offices were immediately closed upon completion of the sale, and TRC and WVSR were dissolved after all business and tax issues were concluded.

In a follow-up letter dated September 17, 2008, Mr. Lipscomb advised the agency that in accordance with a Purchase and Sale Agreement dated June 6, 2005, and a Final Settlement Agreement dated June 7, 2005, between CSX and TRC and WVSR, CSX agreed to purchase all real estate assets and all track related assets and other assets, with the exception of the portion of track related assets sold to R.J. Corman. The date of sale and closing was concluded on July 11, 2008. Mr. Lipscomb also submitted copies of the Certificates of Dissolution for TRC (dated July 11, 2007) and WVSR (dated February 9, 2007).

Section 202.11 of the Board's regulations provides that:

The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

Based on the information set forth above, it is clear that TRC's and WVSR's character as railroads no longer exists inasmuch as all of their railroad assets have been sold and their corporate entities have been dissolved. Therefore, it is the determination of the Railroad Retirement Board that the WV Southern Railway Co. ceased being an employer under the RRA and RUIA on

¹ In a letter dated August 13, 2008, Mr. Kenneth D. Adams, of RJ Corman Railroad Co/Pennsylvania Lines, Inc. advised the agency that there is no corporation named R.J. Corman – WV Line. The line in question is operated as a division of RJ Corman Railroad Co/Pennsylvania Lines, Inc., which is a covered employer under the Acts (B.A. No. 2367).

February 9, 2007, the date on which it was dissolved as a corporate entity. It is also the determination of the Railroad Retirement Board that The Railroad Company ceased being an employer under the RRA and RUIA on July 11, 2007, the date on which it was dissolved as a corporate entity.

Original signed by:

Michael S. Schwartz

V. M. Speakman

Jerome F. Kever