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FINANCE SECTION

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DEPARTMENT OF COMMERCE
Patent and Trademark Office

Form PTO-1594

(Rev. 03/01)

OMB No. 0651-0027 (exp. 5/31/2002)

Tab settings

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

The Honorable Linda Riegler

3-15-02

- Individual(s)
- Association
- General Partnership
- Limited Partnership
- Corporation-State
- Other U.S. Bankruptcy Judge
U.S. Bankruptcy Court
District of Nevada

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment
- Merger
- Security Agreement
- Change of Name
- Other Court Order releasing prior liens

Execution Date: July 25, 2000

2. Name and address of receiving party(ies)

Name: KRB Seed Company, LLC

Internal

Address: _____

Street Address: 199 Budd Boulevard

City: Winston-Salem State: NC Zip: 27103

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State
- Other Limited Liability Company - N. Carolina

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
(Designations must be a separate document from assignment)
Additional name(s) & address(es) attached? Yes No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s) 1968156

Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Mary Margaret Ogburn

Internal Address: Blanco Tackabery Combs & Matamoros, P.A.

Street Address: 110 South Stratford Road, 5th Floor
(Mailing address: P.O. Drawer 25008
Winston-Salem, NC 27114-5008)

City: Winston-Salem State: NC Zip: 27104

6. Total number of applications and registrations involved: _____

1

7. Total fee (37 CFR 3.41).....\$ 40.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number: _____

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Mary Margaret Ogburn

Name of Person Signing

Mary Margaret Ogburn
Signature

3/13/02
Date

17

Total number of pages including cover sheet, attachments, and document:

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patent & Trademarks, Box Assignments
Washington, D.C. 20231

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UNITED STATES BANKRUPTCY COURT DISTRICT OF NEVADA CLERK

ENTERED JUL 25 2000

JUL 21 2000

1 WILLIAM P. WEINTRAUB, ESQ. (SBN 108125)
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Attorneys for Debtors and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re) Bankruptcy Case No. BK-S-00-10533-LBR
) Chapter 11
AGRIBIOTECH, INC.,) Jointly Administered With:
a Nevada corporation,)
) No. BK-S-00-10534-LBR (AgriBioTech Canada, Inc.)
Debtor.) No. BK-S-00-10535-LBR (Las Vegas Fertilizer Co., Inc.)
) No. BK-S-00-10536-LBR (Garden West Distributors, Inc.)
Federal Tax I.D. #85-0325742) No. BK-S-00-10537-LBR (Geo. W. Hill & Co., Inc.)

[X] Affects All Debtors

[] Affects AGRIBIOTECH CANADA, INC., a Canadian corporation

[] Affects LAS VEGAS FERTILIZER CO., INC., a Nevada corporation

[] Affects GARDEN WEST DISTRIBUTORS, INC., an Arizona corporation.

[] Affects GEO. W. HILL & CO., INC., a Kentucky corporation.

ORDER GRANTING MOTION FOR ORDER APPROVING (1) SALES OF ASSETS FREE AND CLEAR OF LIENS, CLAIMS, AND INTERESTS OF OTHERS, (2) AND ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES TO BUDD-SIMPLOT

Sale Hearing:

Date: July 10, 2000
Time: 9:30 a.m.
Place: Courtroom 2
300 Las Vegas Blvd. South
Las Vegas, Nevada 89101

SCANNED

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3 On July 10, 2000 (the "Sale Hearing"), the Court conducted a hearing regarding the
4 Motion for Order Approving (1) Sales of Assets Free and Clear of Liens, Claims, and Interests
5 of Others, and (2) Assumption and Assignment of Certain Executory Contracts and Unexpired
6 Leases (the "Sale Motion"),¹ filed by AgriBioTech, Inc., a Nevada corporation, AgriBioTech
7 Canada, Inc., a Canadian corporation, Las Vegas Fertilizer Co., Inc., a Nevada corporation,
8 Garden West Distributors, Inc., an Arizona corporation and Geo. W. Hill & Co., Inc., a
9 Kentucky corporation, the debtors and debtors in possession in the above-captioned jointly
10 administered bankruptcy cases (collectively, the "Debtors"). William P. Weintraub, David M.
11 Bertenthal and Malhar S. Pagay of Pachulski, Stang, Ziehl, Young & Jones P.C., and James
12 Patrick Shea of Shea & Carlyon, Ltd., appeared on behalf of the Debtors. Other appearances
13 were as noted in the record.

14 Pursuant to the Sale Motion, the Debtors seek, among other things, authority to (i) sell a
15 substantial portion of the Debtors' assets free and clear of liens, claims and interests of others,
16 with such liens, claims, and interests to attach to the proceeds of sale with the same validity (or
17 invalidity) and priority as existed prior to the sale, all as more particularly described in that
18 certain Purchase Agreement, by and between the Debtors, on the one hand, and various
19 prospective purchasers, including KRB Seed Company, LLC ("KRB"), Proseeds Marketing,
20 Inc. ("Proseeds"), and J.R. Simplot Company ("Simplot") (collectively, the "Buyer"), on the
21 other hand; and (ii) the assumption by the Debtors and assignment to the Buyer of certain
22 executory contracts and unexpired leases (collectively, the "Contracts").

23 The Court, having received and considered the Sale Motion and annexed Memorandum
24 of Points and Authorities, the Declaration of William A. Brandt, Jr. (the "Brandt Declaration"),
25 and Purchase Agreement and exhibits and schedules thereto, the Notice of the Sale Hearing,
26

27 ¹ Capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Sale
28 Motion and Asset Purchase Agreement referenced therein.

1 the individual notices of Debtors' intent to assume and assign the Contracts (collectively, the
2 "Individual Notices of Intent to Assume and Assign") and all other papers filed in support of
3 the Sale Motion, the formal and informal objections to the Sale Motion (collectively, the
4 "Objections"), the replies to the Objections filed by the Debtors, the arguments of counsel and
5 all testimonial and documentary evidence presented at or prior to the Sale Hearing, all matters
6 of which the Court may take judicial notice and the record in Debtors' jointly administered
7 chapter 11 cases, hereby makes the following findings:

8 A. Notice of the Sale Motion, the Sale Hearing and of the Debtors' intent to
9 assume and assign the Contracts was proper, adequate and sufficient under the circumstances
10 and complied with all applicable statutes and rules as well as this Court's prior order approving
11 the form and manner of notice. To the extent that notice of the Sale Motion or the Sale
12 Hearing failed to comply with any applicable statute or rule, the requirements thereof are
13 hereby modified such that the notice that was given complies therewith. The requirements of
14 the Court's Order Approving Procedures For Sale of Assets Free and Clear of Liens, Claims
15 and Interests of Others and Assumption and Assignment of Certain Executory Contracts,
16 entered on June 15, 2000, have been satisfied.

17 B. Good cause exists for approving the transactions described in the Sale Motion in
18 that (i) the Purchase Price to be paid by the Buyer represents fair and adequate consideration
19 for the assets being sold by the Debtors, (ii) prompt sales are required given the distressed
20 nature of Debtors' business operations, (iii) the sale provides the possibility for transferring
21 certain of the Debtors' employees to the Buyer.

22 C. After extensive marketing efforts, the Buyer provided the highest and best offer
23 for the Property.

24 D. Sale of the Property free and clear of all liens, interests, encumbrances and
25 claims, other than those expressly assumed by the Buyer, to the extent described in the
26 Purchase Agreement, is appropriate pursuant to section 363(f) of the Bankruptcy Code.

27 E. The assumption and assignment to the Buyer of the Contracts is in the best

1 interests of Debtors' bankruptcy estates in that the assumption and assignment complies with
2 the requirements of section 365(f) of the Bankruptcy Code, the Buyer has demonstrated
3 adequate assurance of Buyer's future performance under the Contracts pursuant to section
4 365(b)(1)(C) of the Bankruptcy Code, and each of the non-Debtor parties has acknowledged or
5 not objected to the Buyer's adequate assurance of future performance and has consented to or
6 not objected to the Buyer's assumption and assignment of the Contracts and, in connection
7 therewith, has either (i) waived any prior defaults of the Debtors under or in connection with
8 the Contracts, (ii) entered into specific arrangements with Debtors and/or the Buyer, or (iii)
9 acknowledged or not objected to the cure amount proposed by the Debtors as set forth in the
10 Individual Notices of Intent to Assume and Assign. Except with respect to those cure amounts
11 for which the values thereof have been stipulated among the Debtors and the other party to the
12 relevant Contract or for which determination by the Court has been expressly reserved, the cure
13 amounts set forth in the Sale Motion are appropriate and adequate and payment thereof shall
14 constitute full satisfaction of the requirements of subsections 365(b)(1)(A) and 365(b)(1)(B) of
15 the Bankruptcy Code.

16 F. The negotiations which resulted in the Purchase Agreement at all times were
17 conducted in good faith and at arms length, with Debtors, on the one hand, and the Buyer, on
18 the other hand, being separately represented therein. In addition, at all times relevant thereto,
19 neither the Debtors, nor any officer, director, shareholder or employee was affiliated or in any
20 way connected with the Buyer, except as disclosed in the Sale Motion. Accordingly, the Buyer
21 is a good faith purchaser for value for all purposes, including, without limitation, within the
22 meaning of "good faith" purchaser as used in section 363(m) of the Bankruptcy Code.

23 Based on the foregoing, **IT IS HEREBY ORDERED** that:

- 24 1. The Sale Motion is granted and approved in its entirety;
- 25 2. The Debtors are authorized to sell the Property to the Buyer on substantially the
26 same terms and conditions set forth in the Purchase Agreement attached as Exhibit "A" to the
27 Notice of Submission of Final Version of Purchase Agreement and Exhibits Thereto Re: Sale

1 of Assets to Budd-Simplot Pursuant to Motion for Order Approving (1) Sales of Assets Free
2 and Clear of Liens, Claims, and Interests of Others, and (2) Assumption and Assignment of
3 Certain Executory Contracts and Unexpired Leases, filed with the Court on July 3, 2000, as
4 amended by that certain amendment dated June 15, 2000, and the sale of the Property is
5 authorized and approved pursuant to section 363 of the Bankruptcy Code and Rule 6004 of the
6 Federal Rules of Bankruptcy Procedure;

7 3. The Debtors are authorized to enter into and perform the Purchase Agreement
8 and take any actions reasonably necessary or appropriate to (a) consummate the proposed sale
9 to the Buyer in accordance with the terms and conditions set forth in the Purchase Agreement
10 and any amendments thereto, without limitation, to convey to the Buyer the Property which is
11 the subject of the Purchase Agreement; and (b) perform, implement and close fully the sale to
12 the Buyer together with all additional instruments and documents that may be reasonably
13 necessary or desirable to implement the sale. Pursuant to the Court's order entered February
14 15, 2000, William A. Brandt, Jr., is the Debtors' "Responsible Individual." Mr. Brandt is
15 hereby authorized and empowered to execute on behalf of the Debtors, or any one or more of
16 them, all instruments and documents that may be reasonable necessary or desirable to
17 implement the sales transactions contemplated herein. Mr. Brandt's execution of such
18 instruments and documents on behalf of the Debtors or any one or more of them shall be
19 effective against and binding upon the Debtors or any one or more of them, and shall be
20 binding upon and govern the acts of all entities, including filing agents, filing officers,
21 administrative agencies or units, governmental departments or units, secretaries of state,
22 federal, state, and local officials and all other persons and entities who may be required to
23 report or insure any title or state of title in or to the Property conveyed by the Buyer;

24 4. The sale of the Property is being consummated in accordance with the
25 Bankruptcy Code, including, without limitation, section 363(m) of the Bankruptcy Code, and
26 the Buyer is deemed a good faith purchaser entitled to the protections afforded such a
27 purchaser pursuant to section 363(m) of the Bankruptcy Code;

1 5. Pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, effective upon
2 the closing of the sale of the Property to the Buyer, the Property shall be transferred, sold and
3 delivered to the Buyer free and clear of liens, encumbrances, obligations, liabilities, contractual
4 commitments, and claims as defined in section 101(5) of the Bankruptcy Code, to the fullest
5 extent allowed by law whether based in law or equity (collectively, "Liens and Claims"),
6 including, without limitation, any security interest, mortgage, lien, charge against or interest in
7 property, adverse claim, claim of possession, license or restriction of any kind, including, but
8 not limited to, any restriction on the use, receipt of income or other exercise of any attributes of
9 ownership or any option to purchase, option, charge or retention agreement which is intended
10 as security or other matters of any person or entity that encumber or relate to, or purport to
11 encumber or relate to, the Property, except as specifically provided in the Purchase Agreement
12 or this Order. All such Liens and Claims shall attach to the proceeds of the Sale in the same
13 order of priority and shall have the same validity (or invalidity) as existed prior to the Sale.

14 6. This Order is and shall be effective as a determination that, upon transfer of the
15 Property to the Buyer, all Liens and Claims existing as to the Property conveyed to the Buyer
16 have been and hereby are terminated and declared to be unconditionally released, discharged
17 and terminated, and shall be binding upon and govern the acts of all entities, including all filing
18 agents, filing officers, administrative agencies or units, governmental departments or units,
19 secretaries of state, federal, state and local officials and all other persons and entities who may
20 be required to report or insure any title or state of title in or to the Property conveyed to the
21 Buyer. All Liens of record as of the date of this Order, except as otherwise provided in this
22 Order, shall be forthwith removed and stricken as against the Property. All entities described
23 in this paragraph are authorized and specifically directed to strike all such recorded liens
24 against the Property from their records, official or otherwise.

25 7. The Debtors are hereby authorized, pursuant to section 365 of the Bankruptcy
26 Code, to assume and assign to the Buyer, effective as of the Closing Date, those Contracts
27 identified by the Debtors and the Buyer in a closing statement and in accordance with the terms

1 and conditions set forth in the Purchase Agreement. The omission from the Sale Motion and
2 any exhibits or schedules thereto of any Contract between the Debtors and a grower shall not
3 preclude the assumption by the Debtors and assignment to the Buyer thereof. The Debtors
4 shall not be required to pay any cure amounts on account of grower Contracts. For each
5 Contract to be assumed and assigned by the Debtors to the Buyer, effective upon the Closing,
6 except as otherwise provided in this Order, or by separate stipulation, the cure amounts
7 ultimately determined by the Court to be due and owing shall be paid, subject to the Floor Price
8 and other provisions set forth in the Purchase Agreement. Pursuant to section 363(k) of the
9 Bankruptcy Code, upon such assignment, the Debtors and their estates are relieved from any
10 liability for any breach of such Contract occurring after such assignment.

11 8. The Contracts to be assumed and assigned herein shall include licenses of all
12 seed varieties (collectively, the "Seed Licenses") between the Debtors and Pure Seed Testing,
13 Inc. ("Pure Seed"), or Rutgers University ("Rutgers"), including any varieties inadvertently
14 omitted from the Sale Motion and any exhibits or schedules thereto. To the extent the cure
15 amounts payable on account of Seed Licenses exceeds the Prepetition Cure Amount Cap, such
16 cure amounts shall be payable by the Buyer. If Buyer refuses to pay some or all such cure
17 amounts on account of Seed Licenses in excess of the Prepetition Cure Amount Cap, the
18 relevant Seed Licenses shall be rejected. Promptly upon closing, the Buyer shall notify Pure
19 Seed and Rutgers which of KRB, Proseeds or Simplot has assumed Debtors' obligations under
20 Pure Seed's or Rutgers' Seed Licenses, as the case may be. The provisions of this paragraph
21 shall not affect the agreement of the parties as set forth in the Stipulation Re: Partial
22 Withdrawal of Objection of Rutgers University to Motion for Order Approving (1) Sales of
23 Assets Free and Clear of Liens, Claims, and Interests of Others, and (2) Assumption and
24 Assignment of Certain Executory Contracts and Unexpired Leases, or the Stipulation Re:
25 Withdrawal of Objection of Pure Seed Testing to Motion for Order Approving (1) Sales of
26 Assets Free and Clear of Liens, Claims, and Interests of Others, and (2) Assumption and
27 Assignment of Certain Executory Contracts and Unexpired Leases.

1 9. The Buyer shall not assign, transfer or sublicense any Seed License, or interest
2 therein without the applicable licensor's prior written consent, which shall not be unreasonably
3 withheld.

4 10. On or prior to the assignment of any Seed License to Proseeds, Richard Olsen
5 shall execute a personal guaranty, in form reasonably satisfactory to the applicable licensor,
6 guaranteeing full and timely payment of royalties and performance of all other obligations of
7 Proseeds under such Seed Licenses.

8 11. On or before September 1, 2000, KRB, Proseeds and Simplot shall submit a
9 business plan to the affected licensor containing at least the following information for each
10 Seed License:

- 11 a. Production acreage for 2000 crop year;
- 12 b. Planned production acreage for 2001 crop year;
- 13 c. Marketing plan;
- 14 d. Any other information required pursuant to the applicable Seed License.

15 12. KRB, Proseeds and Simplot shall use their best good faith efforts, consistent
16 with market conditions, to produce and market the seed of each variety licensed pursuant to a
17 Seed License.

18 13. The failure to identify in the Sale Motion, and any exhibits or schedules thereto,
19 any lien asserted by a grower shall not preclude such grower from receiving the benefits set
20 forth under the Final Order Authorizing Debtor to Obtain Secured Credit and Granting Senior
21 Liens and Related Relief, entered on March 22, 2000.

22 14. The Court retains jurisdiction to:

- 23 a. Interpret, implement and enforce the terms and provisions of this Order
24 and the terms of the Purchase Agreement, all amendments thereto and any waivers and
25 consents thereunder and each of the agreements executed in connection therewith;
- 26 b. Resolve any disputes arising under or related to the sale of the Property
27 to the Buyer;

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c. Adjudicate all issues concerning alleged liens and any other alleged interest in and to the Property or the proceeds of the sale;

15. The failure to specifically include any particular provision of the Purchase Agreement in this Order shall not diminish or impair the efficacy of such provision; it being the intent of the Court that the Purchase Agreement, and each and every provision, term and condition there be, and therefore is, authorized and approved in its entirety;

16. This Order shall be effective immediately upon entry pursuant to Rules 7062 and 9014 of the Federal Rules of Bankruptcy Procedure and shall not be subject to the stay provisions contained in Rules 6004(g) and 6006(d) of the Federal Rules of Bankruptcy Procedure;

1 17. Pursuant to Rule 58 of the Federal Rules of Civil Procedure, as made applicable
2 herein by Rule 9021 of the Federal Rules of Bankruptcy Procedure, this Order shall constitute
3 an order approving the notice of the Sale Motion and Sale Hearing, and the Sale Motion.

4 DATED: JUL 2 2000


HON. LINDA RIEGLE
UNITED STATES BANKRUPTCY JUDGE


7 Submitted by:
8 PACHULSKI, STANG, ZIEHL, YOUNG & JONES P.C.

9 AND

10 SHEA & CARLYON LTD.

I certify that this is a true copy:

11 Attest:  7-31-00
Deputy Clerk, Bankruptcy Court

12 By 
13 Malhar S. Pagay
14 California Bar No. 189289
15 Pachulski, Stang, Ziehl, Young & Jones P.C.
16 650 California Street, 15th Floor
17 San Francisco, California 94108

18 Candace Carlyon
19 Nevada Bar No. 02666
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21 233 S. Fourth Street, Suite 200
22 Las Vegas, Nevada 89101

23 Attorneys for Debtors and Debtors in Possession

24 **APPROVED AS TO FORM AND CONTENT:**

25 JENKENS & GILCHRIST

26 By _____
27 Linda D. Sartin
28 Attorneys for the Bank Group

[SIGNATURES CONTINUED ON NEXT PAGE]

17. Pursuant to Rule 58 of the Federal Rules of Civil Procedure, as made applicable herein by Rule 902i of the Federal Rules of Bankruptcy Procedure, this Order shall constitute an order approving the notice of the Sale Motion and Sale Hearing, and the Sale Motion.

DATED:

HON. LINDA RIEGLE
UNITED STATES BANKRUPTCY JUDGE

Submitted by:
PACHULSKI, STANG, ZIEHL, YOUNG & JONES P.C.

AND

SHEA & CARLYON LTD.

By

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JENKENS & GILCHRIST

By 

Linda D. Sartin
Attorneys for the Bank Group

[SIGNATURES CONTINUED ON NEXT PAGE]

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By Deborah Williamson
Deborah Williamson

Attorneys for the Committee

BLANCO TACKABERRY COMBS & MATAMOROS P.A.

By _____
Gene B. Tarr

Attorneys for KRB

J.R. SIMPLOT COMPANY

By _____
Christine Nicholas

Attorneys for Simplot

By _____
W. Wallace Ogdahl

Attorneys for Proseeds

[SIGNATURES CONTINUED ON NEXT PAGE]

COX & SMITH, INC.

By Deborah Williamson

Attorneys for the Committee

BLANCO TACKABERRY COMBS & MATAMOROS P.A.

By *[Signature]*
~~Gene B. Tarr~~ *Brian L. Hemdon*
~~Steven Garland~~

Attorneys for KRB

J.R. SIMPLOT COMPANY

By *[Signature]*
Christine Nicholas *Assistant General Counsel*

Attorneys for Simplot

By W. Wallace Ogdahl

Attorneys for Proseeds

[SIGNATURES CONTINUED ON NEXT PAGE]

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COX & SMITH, INC.

By _____
Deborah Williamson

Attorneys for the Committee

BLANCO TACKABERRY COMBS & MATAMOROS P.A.

By _____
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Steven Garland

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KOLESAR & LEATHAM, CHTD.

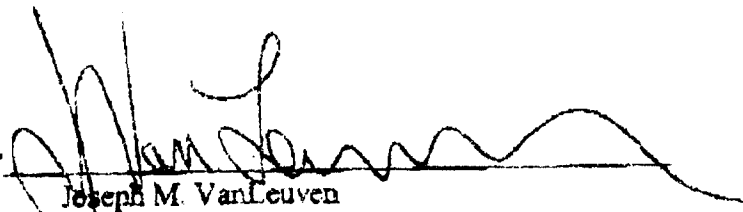
By Blaine F. Bates
Blaine F. Bates

Attorneys for Proseeds

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DAVIS WRIGHT TREMAINE LLP

By 

Joseph M. VanLeuven

Attorneys for Pure Seed

LOWENSTEIN SANDLER PC

By _____
John K. Sherwood

Attorneys for Rutgers

1 DAVIS WRIGHT TREMAINE LLP

2
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4 Joseph M. VanLeuven

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7 LOWENSTEIN SANDLER PC

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10 John K. Sherwood

11 Attorneys for Rutgers