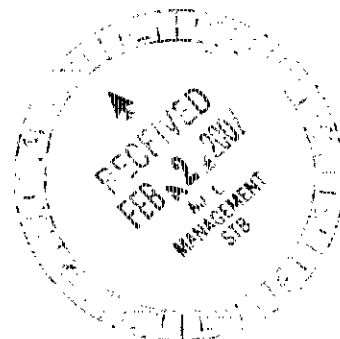




KAPLAN KIRSCH ROCKWELL

218567

February 2, 2007



Honorable Vernon A. Williams
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423

**Re: *James Riffin d/b/a The Northern Central Railroad –
Acquisition and Operation – In Baltimore City, MD
Finance Docket No. 34982***

Dear Sir:

I am enclosing an original and ten copies of each of the following documents:

1. Petition of the Maryland Transit Administration to Revoke the Exemption; and
2. Petition of the Maryland Transit Administration for a Stay

in the above referenced proceeding. Please date stamp the extra copies provided and return to our messenger. Please note that a 3.5 inch diskette is enclosed with these documents.

I am enclosing a check for the filing fee in the amount of \$200 for the Petition to Revoke. However, pursuant to 49 C.F.R. §1002.2(e), MTA is requesting a waiver of the filing fee because this Petition to Revoke is being filed on behalf of a state governmental entity. MTA is not a “quasi governmental corporation or government subsidized transportation company.”

Sincerely,

Charles A. Spittnik

Enclosure

cc: James Riffin
Louis Gitomer, Esquire

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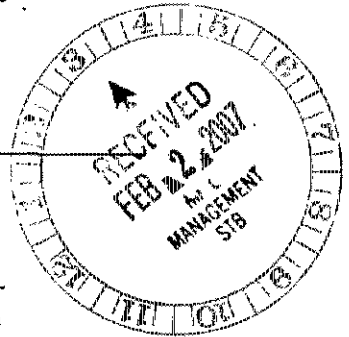
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Before the
Surface Transportation Board
Washington, D.C.

Finance Docket No. 34982

James Riffin d/b/a The Northern Central Railroad –
Acquisition and Operation – In Baltimore City, MD



PETITION OF THE MARYLAND TRANSIT ADMINISTRATION
TO REVOKE THE EXEMPTION

Communications with respect to this
document should be addressed to:

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Counsel for the Maryland Transit
Administration

Dated: February 2, 2007

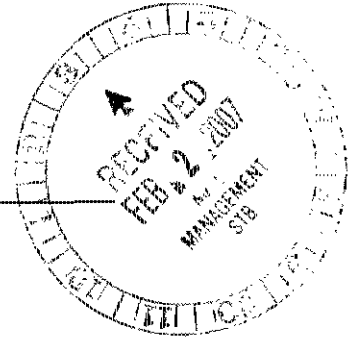
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Before the
Surface Transportation Board
Washington, D.C.

Finance Docket No. 34982

James Riffin d/b/a The Northern Central Railroad –
Acquisition and Operation – In Baltimore City, MD



**PETITION OF THE MARYLAND TRANSIT ADMINISTRATION
TO REVOKE THE EXEMPTION**

The Maryland Transit Administration ("MTA"), by counsel, hereby petitions this Board pursuant to 49 U.S.C. §10502(d) and 49 C.F.R. §§1121.4(f) and 1150.45(f) for Revocation of the Exemption filed by James Riffin, d/b/a the Northern Central Railroad (hereinafter, "Riffin") in this proceeding. The Notice of Exemption filed on January 12, 2007 (the "NOE") contains false or misleading information, and does not comply with the information requirements of the Board's regulations set forth in 49 C.F.R. Part 1150. As a result, the Notice is incomplete and misleading. In order to prevent Riffin from attempting to assert any rights he may claim as a result of publication of the Notice (which occurred on January 26, 2007), MTA is today filing a Petition for Stay of the exemption as well.

This Notice is not the first time Riffin has attempted unsuccessfully to claim the right to acquire rail property. The Board has twice revoked Notices of Exemption submitted by Riffin because of insufficiency in the data submitted and uncertainty over the accuracy of the information provided. See F.D. No. 34484, *James Riffin D/B/A The Northern Central R. – Acquisition and Operation Exemption – In York Co., PA, and Baltimore Co., MD, slip op.* (Service Date April 20, 2004) ("*Riffin I*"); F.D. No. 34501, *James Riffin D/B/A The Northern*

Central Railroad – Acquisition and Operation Exemption – In York Co., PA, slip op. (Service Date February 23, 2005) (“*Riffin II*”). This third attempt should meet the same fate.

ARGUMENT

THE PURPORTED NOTICE OF EXEMPTION IS INCOMPLETE, INCLUDES ERRONEOUS INFORMATION AND SHOULD BE REVOKED.

Riffin submitted a Notice of Exemption pursuant to a section of the code and regulations that do not apply in these circumstances. The Notice itself falls short of providing the information required by the regulations. The Notice does not provide a sufficiently detailed description of the target rail line(s), provides no identification of the current owners from whom Riffin hopes to acquire the line(s), and in general is more akin to his previous unsubstantiated filings that have been rejected by this Board than to a transaction that is appropriate for submission under the Board’s exemption procedures.

49 U.S.C. §10502(d) provides that the Board may revoke an exemption “when it finds that application in whole or in part of a provision if this person to the person, class or transportation is necessary to carry out the transportation policy of section 10101 of this title.” The “class exemption” procedure invoked by Riffin is appropriate in “non-controversial” cases, but not where a more detailed record is required than what has been provided in a Notice of Exemption. *Riffin II* at 6. The Board’s analysis of “whether revocation of an exemption is proper should be the same as the analysis for determining whether exemption is proper at the outset of a proceeding”, and focuses on whether regulation of the transaction is necessary to carry out the rail transportation policy articulated in 49 U.S.C. §10101a. ICC F.D. No. 31603, *Minnesota Commercial Ry., Inc. – Trackage Rights Exemption – Burlington N. R. Co.*, 8 I.C.C. 2d 31, 35-36 (1991). In this case, revocation is proper because, as has been the case with the Board’s prior cases involving Riffin, he did not provide the information required by the

regulations, nor did he provide enough information for either the Board or interested parties to make a determination whether the transaction is appropriate for handling under the expedited exemption procedures.

To begin with, the Notice is submitted under 49 U.S.C. 10902. By its terms, §10902 applies to transactions involving acquisition by a "Class II or Class III rail carrier providing transportation subject to the jurisdiction of the Board under this part to acquire or operate an extended or additional rail line...." 49 U.S.C. §10902(a). The NOE here was filed by "James Riffin D/B/A The Northern Central Railroad." Both previous attempts by Riffin to secure authorization to acquire and operate a line of railroad under the name of the Northern Central Railroad and to thus be treated as a carrier "providing transportation subject to the jurisdiction of the Board under this part" have been rejected. *See, Riffin I; Riffin II.* As a result, the entity/individual in this proceeding is not a "Class II or Class III rail carrier" and has misled this Board by submitting a Notice pursuant to the wrong section of the statute and regulations.¹

Moreover, the following listing of the information requirements of the regulations under which Riffin filed, 49 C.F.R. §1150.43, confirms that the Notice is sufficiently lacking in necessary data to constitute a misleading submission:

(a) The full name and address of the Class III rail carrier applicant;

The NOE identifies the entity/individual, but as noted previously, The Northern Central Railroad is not a Class III rail carrier.

(b) The name, address, and telephone number of the representative of the applicant who should receive correspondence;

The NOE includes this information.

¹ Even if Riffin were to submit a Notice of Exemption under the appropriate section of the statute and regulations that apply to non-carriers, the absence of crucial information required by the regulations would still render the Notice subject to revocation.

(c) A statement that an agreement has been reached or details about when an agreement will be reached;

Riffin acknowledges that no agreements are in place. However, the second part of the requirement remains unaddressed. That is, Riffin has not identified any party or parties with whom he is negotiating to acquire the purported lines of railroad, gives no data about the status of negotiations with such party/parties, and provides no statement of when he expects to reach such an agreement. Since no information about expected agreement or acquisition date is provided, it is not surprising that there is as well no explanation of the basis for the projected date. In view of the Board's experience with Riffin's lack of truthfulness about the status of negotiations in previous purported transactions (*see, Riffin II* at 3), the Notice can not be viewed as either accurate or complete.

(d) The operator of the property;

The NOE includes this information.

(e) A brief summary of the proposed transaction, including:

(1) The name and address of the railroad transferring the subject property to the Class III rail carrier applicant;

This information is not provided. The summary included in the NOE refers to the line "formerly known as the Maryland and Pennsylvania Railroad Line" but includes no identification of the current owner, no statement of whether Petitioner has actually begun talking with that owner, no indication of where on the "former Pennsylvania Railroad line near Pennsylvania Station" the purported line will connect, no indication of who owns that "former line of the former Pennsylvania Railroad", no indication of who owns the "switchback which connected the Maryland and Pennsylvania Railroad to the former

Baltimore and Ohio Railroad”, no indication of the milepost on that former B&O line where the connection (if it still exists) will occur, and no indication whether the current owner of that former B&O line (also unidentified) has consented to the acquisition or construction of the connection. Indeed, the NOE states that “the transferor will be whomever presently owns the right-of-way”. Does Riffin know who that is? Have negotiations with the owner(s) even begun? The absence of this information confirms that Riffin is misleading this Board and the public when stating at page 2, that “[a]greements are expected to be executed sometime after the date this Notice of Exemption has been filed.”

(2) The proposed time schedule for consummation of the transaction;

This information is not provided.

(3) The mileposts of the subject property, including any branch lines; and

This information is not provided.

(4) The total route miles being acquired;

This information is provided.

The lack of information required by the regulations, and the inability to provide specifics about the property, about its owners, about the status of negotiations (if any have in fact begun), the projected date for consummation of the transaction, suggest that, as has been the case with the transactions in *Riffin I* and *Riffin II*, “there’s no there, there.” The regulations require the information listed there so that the Board and others may make an initial determination as to whether the subject transaction meets the criteria of §10502(a) for exemption. The NOE does not fulfill that function.

Riffin misleads this Board and wastes its resources by bringing a highly speculative transaction that is not sufficiently formed to be worthy of consideration as a transaction that is appropriate for handling under the expedited exemption procedures. By stating that the transaction is being undertaken by a Class III railroad, Riffin is making a false statement. By failing to provide the information required by the regulations, and in view of the apparent absence of a real transaction, Petitioner is misleading this board. As a result, the Notice of Exemption should be revoked *ab initio*.

WHEREFORE, and in view of the foregoing, the MTA respectfully requests this Board to revoke the exemption in this proceeding.

Respectfully submitted,



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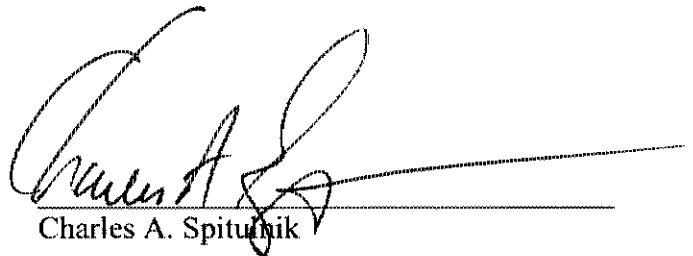
Counsel for the Maryland Transit
Administration

Date: February 2, 2007

Certificate of Service

I hereby certify that I have this 2nd day of February, 2007, caused to be served a copy of the foregoing Petition of the Maryland Transit Administration to Revoke the Exemption upon the following party of record by first class mail, with postage prepaid:

James Riffin d/b/a The Northern Central Railroad
1941 Greenspring Drive
Timonium, MD 21093.



Charles A. Spitulnik

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