

H. K. Porter Company, Inc.

H. K. Porter Company, Inc. (“Porter”) was originally organized in 1866 as Smith & Porter. In 1878 the name was changed to H. K. Porter & Company and in 1899 to H. K. Porter Company. Porter’s early business was primarily in the manufacture and repair of locomotives. In 1926 Porter claimed to be the largest manufacturer of locomotives in the United States.

As a result of decreased demand for locomotives and increased competition from pneumatic tired trucks, Porter filed a voluntary petition for bankruptcy on November 10, 1937. On January 12, 1939, a new H. K. Porter Company, Inc. was incorporated in Pennsylvania. The new corporation engaged in manufacture and sale of various industrial products.

In the 1950s Porter acquired the first of several companies that engaged in the manufacture, sale and/or distribution of asbestos-containing products. These companies included Thermoid Corporation, Southern Asbestos Company, Asbestos Manufacturing Company, Carolina Asbestos Company, LaCledde Christy Company, Russell Manufacturing Company and Southern Textile Company.

As a result of Porter’s involvement with asbestos products, it was named in lawsuits for wrongful death and personal injuries arising out of exposure to Porter’s or its predecessors’ asbestos-containing products. Porter was also named in asbestos property damage lawsuits. After paying over \$200 million in asbestos suit settlements, Porter eventually filed for bankruptcy protection on February 15, 1991.

In 1996, the bankruptcy court order authorized Porter to establish a Qualified Settlement Fund to pay Asbestos Claims. This fund was established per Treasury Regs. § 1.468B-3(e) with an initial transfer of \$800,000 on December 31, 1996. On June 25, 1998 the court confirmed a plan of reorganization for Porter with an effective date of July 28, 1998 (the “Plan”).

Among the most significant elements of this Plan were:

1. The establishment of the H. K. Porter Asbestos Trust (the “Trust”) as the successor to the Qualified Settlement Fund. In return for funding the Trust with over \$93 million (including the amounts which had already been transferred to the Qualified Settlement Fund), Porter was able to channel to the Trust all liabilities for all asbestos claims that otherwise could have been asserted against Porter.
2. The cancellation of all previous stock in Porter. New shares were issued to the Trust as the sole stockholder.
3. The requirement that Porter continue in business with a net worth of at least \$5 million for at least five years from the effective date of the Plan.

4. The requirement that the Trust use all of its assets to pay asbestos claims. This means that eventually the Trust must exchange the value of its holdings in Porter stock for cash with which to pay claimants.

5. The discharge of Porter's liabilities per section 11.2 of the Plan.

"The rights afforded in the Plan and the treatment of all Claims and Equity Interests herein shall be in exchange for and in complete satisfaction, discharge, and release of all Claims and Equity Interests of any nature whatsoever, including any interest accrued thereon from and after the Petition Date, against the Debtor and the Debtor in Possession, or any of their estates, assets, properties, or interests in property. Except as otherwise provided herein, on the Effective Date, all Claims against and Equity Interests in the Debtor and the Debtor in Possession shall be satisfied, discharged, and released in full. The Reorganized Debtor shall not be responsible for any obligations of the Debtor or the Debtor in Possession except those expressly assumed by the Reorganized Debtor in the Plan. All Entities shall be precluded and forever barred from asserting against the Debtor, the Reorganized Debtor, their respective successors or assigns, or their assets, properties, or interests in property any other or further Claims based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not the facts of or legal bases therefor were known or existed prior to the Effective Date."

This discharge protects Porter from past claims, with the possible exception of certain environmental claims.