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The Bank of New York Mellon Trust Company, N.A.
as Indenture Trustee for the Arco and Equistar Noteholders

REDACTED VERSION

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
LYONDELL CHEMICAL COMPANY, *et al.*,	Case No. 09-10023 (REG)
Debtors.	(Jointly Administered)
OFFICIAL COMMITTEE OF UNSECURED CREDITORS, on behalf of the Debtors' Estate,	Adversary Proceeding No. 09-01375
Plaintiff, vs.	**THE BANK OF NEW YORK MELLON AND THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.'S AMENDED COMPLAINT IN INTERVENTION AGAINST ABN AMRO INC., ABN AMRO BANK N.V., AND THE WILMINGTON TRUST COMPANY**
CITIBANK, N.A., *et al.*,	
Defendants.	
THE BANK OF NEW YORK MELLON AND THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. as Indenture Trustee for the Arco and Equistar Noteholders,	
Plaintiffs-Intervenors,	*Caption continued on next page*

vs.	)
	)
ABN AMRO INC., ABN AMRO BANK N.V., AND THE WILMINGTON TRUST COMPANY,	)
	)
	)
Defendants.	)
	)
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The Bank of New York Mellon and The Bank of New York Mellon Trust Company, N.A. (collectively, "BNY Mellon," the "Indenture Trustee," or "Plaintiff"), as Indenture Trustee for, and on behalf of, the holders of certain notes issued by subsidiary debtors Lyondell Chemical Company ("Lyondell") (formerly known as ARCO Chemical Company ("Arco")) and Equistar Chemicals, LP ("Equistar"), through its undersigned counsel, as and for its amended complaint in intervention against the defendants herein, alleges as follows upon knowledge as to itself and its acts and as to all other matters upon information and belief:[1]

NATURE OF THE ACTION

1. The Bank of New York Mellon is indenture trustee under the Indenture, dated as of June 15, 1988, between Arco, as issuer, and The Bank of New York Mellon, as indenture trustee for the holders of $100 million in aggregate principal amount of 10.25% Debentures due 2010 and $225 million in aggregate principal amount of 9.8% Debentures due 2020 issued thereunder (collectively, the "Arco Notes"). As successor by merger to Arco's obligations, Lyondell is the obligor on the Arco Notes.

2. The Bank of New York Mellon Trust Company, N.A. is indenture trustee under the Indenture, dated as of January 29, 1996, as supplemented, between Equistar, as issuer, and The Bank of New York Mellon Trust Company, N.A., as successor trustee for the holders of $150 million in aggregate principal amount of 7.55% Debentures due 2026 issued thereunder (the "Equistar Notes").

3. This action arises from the December 20, 2007 acquisition of Lyondell, formerly North America's third-largest independent, publicly traded chemical company, by Basell AF

[1] On October 30, 2009, Plaintiff filed an amended complaint against various other defendants asserting substantially similar claims to those asserted herein.

S.C.A., a Luxembourg entity, since renamed LyondellBasell Industries AF S.C.A. (prior to its acquisition of Lyondell, "Basell," and, thereafter, "LBI"). LBI operates under the ultimate control of the extremely wealthy industrialist Leonard Blavatnik. Blavatnik, in his quest to acquire a global petrochemical company entirely with borrowed money, used Basell, already highly leveraged, as a platform to acquire Lyondell in a cash-out merger (the "Merger") funded entirely with debt. Every dollar of the $21 billion used to acquire Lyondell and to fund the approximately $1 billion in transaction fees, paid out to affiliates, advisors, and professionals in connection with the acquisition, was borrowed money.

4. In the Merger, the defendants purported to saddle Lyondell and Equistar, together with many of Lyondell's direct and indirect subsidiaries and affiliates, with the burden of that $21 billion in debt, as obligors and/or guarantors, even though Lyondell, Equistar, and those other subsidiaries and affiliates did not receive reasonably equivalent value in exchange for such obligations. The imposition of those obligations rendered Lyondell, Equistar, and those other subsidiaries and affiliates insolvent, foisted upon them debts they were unable to repay, and left them with unreasonably small capital. Even though the Indentures for the Arco Notes and Equistar Notes provided that the Arco Notes and Equistar Notes would receive equal and ratable treatment with respect to property of Arco (now Lyondell) and Equistar, respectively, that also secured the Senior Secured Credit Facility and the Bridge Loan Facility that financed the Merger, the massive size of the new debt compared to the Arco Notes and Equistar Notes –$21 billion in Merger-related debt being added to these entities compared to $475 million in aggregate principal amount for the Arco Notes and Equistar Notes – completely undermined and dwarfed these protections.

5. On January 6, 2009, approximately one year after the Merger, Lyondell's corporate parent, LyondellBasell Finance Company ("LB Finance"), Lyondell, its major operating subsidiaries, and other of its direct and indirect subsidiaries and affiliates (the "Debtors")[2] filed for bankruptcy. On April 24, 2009, LBI was voluntarily added to the Debtors' Chapter 11 bankruptcy proceedings.

[2] The Debtors, including entities that filed voluntary petitions for relief on April 24, 2009 and May 8, 2009, are Basell Capital Corporation, Basell Finance USA Inc., Basell Germany Holdings GmbH, Basell Impact Holding Company, Basell North America Inc., Basell USA Inc., Circle Steel Corporation, Duke City Lumber Company, Equistar Bayport, LLC, Equistar Chemicals, LP, Equistar Funding Corporation, Equistar Polypropylene, LLC, Equistar Transportation Company, LLC, Glidco Leasing Inc., Glidden Latin America Holdings, HOISU Ltd., Houston Refining LP, HPT 28 Inc., HPT 29 Inc., H.W. Loud Co., IMWA Equities II, Co., L.P., ISB Liquidating Company, LBI Acquisition LLC, LBIH LLC, LeMean Property Holdings Corporation, LPC Partners Inc., Lyondell Asia Pacific, Ltd., LyondellBasell Industries AF S.C.A., LyondellBasell Industries AFGP S.à.r.l., Lyondell Bayport, LLC, Lyondell Chemical Company, Lyondell Chemical Delaware Company, Lyondell Chemical Espana Co., Lyondell Chemical Europe, Inc., Lyondell Chemical Holding Company, Lyondell Chemical International Co., Lyondell Chemical Nederland, Ltd., Lyondell Chemical Products Europe, LLC, Lyondell Chemical Properties, L.P., Lyondell Chemical Technology Management, Inc., Lyondell Chemical Technology 1, Inc., Lyondell Chemical Technology, L.P., Lyondell Chemical Wilmington, Inc., Lyondell Chimie France LLC, Lyondell-Equistar Holdings Partners, Lyondell Europe Holdings Inc., Lyondell General Methanol Company, Lyondell Greater China, Ltd., Lyondell Houston Refinery Inc., Lyondell Intermediate Holding Company, Lyondell LP3 GP, LLC, Lyondell LP3 Partners, LP, Lyondell LP4 Inc., Lyondell (Pelican) Petrochemical L.P. 1, Inc., Lyondell Petrochemical L.P. Inc., Lyondell Refining Company LLC, Lyondell Refining I LLC, LyondellBasell Advanced Polyolefins USA Inc., LyondellBasell Finance Company, MHC Inc., Millennium America Holdings Inc., Millennium America Inc., Millennium Chemicals Inc., Millennium Holdings, LLC, Millennium Petrochemicals GP LLC, Millennium Petrochemicals Inc. (Virginia), Millennium Petrochemicals LP LLC, Millennium Petrochemicals Partners, LP, Millennium Realty Inc., Millennium Specialty Chemicals Inc., Millennium US Op Co LLC, Millennium Worldwide Holdings I Inc., MWH South America LLC, National Distillers & Chemical Corporation, NDCC International II Inc., Nell Acquisition (US) LLC, Penn Export Company, Inc., Penn Navigation Company, Penn Shipping Company, Inc., Penntrans Company, PH Burbank Holdings, Inc., Power Liquidating Company, Inc., Quantum Acceptance Corporation, Quantum Pipeline Company, SCM Chemicals Inc., SCM Plants, Inc., Suburban Propane GP, Inc., Tiona, Ltd., UAR Liquidating Inc., USI Chemicals International, Inc., USI Credit Corp., USI Puerto Rico Properties, Inc., Walter Kidde & Company, Inc., and Wyatt Industries, Inc.

6. The Debtors' inability to fund their operations, which led to the Debtors' Chapter 11 filings, was the entirely foreseeable and direct consequence of the Merger having left the Debtors with unreasonably small capital for the continuation of their businesses, insolvent, and unable to pay their debts as they became due.

7. The $48 per share price paid to Lyondell shareholders pursuant to the Merger was understood, both within and without Blavatnik's inner circle of industry and finance advisors, to be a price so far beyond what anyone would reasonably think Lyondell was worth so as to all but foreclose the possibility of a competitive bid. Blavatnik was willing to pay this unreasonable price only because he had none or virtually none of his own money at stake. Moreover, Blavatnik himself was a very major beneficiary of this excessive price since, at the urging of Merrill, Lynch, Pierce, Fenner & Smith Incorporated ("Merrill" or "Merrill Lynch") and through a Delaware entity controlled by Blavatnik, he had acquired rights to nearly 10% of Lyondell's stock (the "Toe-Hold Position") shortly before Basell entered into an agreement to acquire Lyondell. Upon the Merger, using the proceeds of the acquisition financing with which he was saddling the Debtors, Blavatnik, through a complex series of transfers of the Toe-Hold Position (designed to attempt to avoid payment of taxes on his gains), netted a windfall profit in excess of $333 million, through a Blavatnik-controlled entity named Nell Limited, organized under the laws of Gibraltar, a tax haven. The same entity, Nell Limited, also received a $100 million "one time" transaction advisory fee upon the Merger plus a $25 million "management" fee – all purportedly tax-free. Thus, as a result of Basell's acquisition of Lyondell, through use of borrowed funds that became part of the debt heaped upon Lyondell and Equistar in the Merger, Blavatnik was over $458 million ahead on day one of the Merger.

8. The extremely leveraged capital structure created as a result of the Merger was flagrantly unreasonable for a company such as LBI, which is both a manufacturer of petrochemicals and a refiner of petroleum. One salient characteristic of both industries is their extreme capital intensiveness. The maintenance and operation of the enormous and enormously complex major assets of these industries, *i.e.*, the petroleum refineries and the "crackers" that break hydrocarbons into commercially useable petrochemicals, carry with them correspondingly enormous fixed costs.

9. Complicating the capital demands imposed by high fixed costs is the extreme cyclicality of both the petrochemical and refining industries, driven both by macroeconomic and other industry and non-industry factors. During the cycle "peaks," participants in these industries invest excess earnings in increasing capacity. Then, as inevitably occurs, when capacity exceeds demand, margins and profits are squeezed and the industry heads downward towards a "trough." When industry overcapacity coincides with declining demand, as in a recessionary economic environment, the industry downturn will be deeper and last longer. During a downturn, earnings and margins decline. The combination of high fixed costs and extreme cyclicality means that companies in these industries, if they hope to survive a cycle downturn, must be adequately capitalized to enable continued operations through a downturn. LBI was not. Given these well-known characteristics of the petrochemical and petroleum businesses, LBI's highly leveraged balance sheet and massive interest burdens were the inevitable aftermath of a reckless strategy that left LBI unable to make it through an industry cycle.

10. LBI's highly leveraged capital structure also was unreasonable from the perspective of liquidity. The working capital requirements of petrochemical producers and

refining companies are subject to extreme changes due to the volatility of the market for crude oil and the other "feedstocks" that constitute the raw materials of the industry. A single dollar upswing in the price of crude oil translates into the immediate need for additional millions of dollars of working capital. A petrochemical producer must have a sufficient liquidity cushion to fund volatile cash needs and to do so even as margins are squeezed by declining demand.

11. LBI's capital structure was additionally unreasonable because long before the Merger, leading industry analysts were forecasting that the ongoing petrochemical cycle peak and the high margins being enjoyed by refining would end sometime in 2008 or 2009 and these industries would then experience a downturn. Any divergence of opinion on the coming downturn was only with regard to exactly when the peaks in refining and petrochemicals would end, how long the downturn would last, and how deep the troughs would be. Lyondell and its operating subsidiaries, as well as Basell (and its subsidiaries), due to a variety of factors, were particularly disadvantaged, as compared with their competitors, to withstand the stress of a downturn. Yet, ignoring all reason, the highly leveraged capital structure created pursuant to the Merger was imposed on LBI even as all indicators showed that both industries were past the peak and were heading into the downturn.

12. As had been entirely foreseeable at the time of the Merger and indeed, while the transaction was being negotiated, LBI was insufficiently capitalized to continue operations through a downturn and had insufficient liquidity to manage its volatile operating expenses. Within three months of the closing of the Merger, LBI was in a full-blown liquidity crisis and was running out of money to fund its operations. By November 2008, less than a year after the Merger was consummated, LBI collapsed under the weight of the debt foisted upon it by the

Merger. Due to its overleveraged balance sheet and financial impairment, LBI was unable to fund its operations and to pay its debts when due, and had no access to further borrowings.

13. The investment banks that initially committed to provide the approximately $21 billion used to fund the acquisition did so with the expectation that, after being paid huge fees, they could, in accordance with the then prevailing practice, quickly syndicate virtually all of the "junk" obligations being incurred and unload them off their own books. This deal, however, turned out to be different. Within weeks of having signed loan commitments, the investment banks learned that Lyondell was materially off its projections for 2007, and it became clear that the syndication effort was in trouble. By mid-September 2007, the inflated projections of Lyondell and Basell earnings that had been developed to attempt to sell the loans already looked completely unattainable. The financing package was drastically re-priced, restructured, and re-sized in an effort to spruce it up for the syndication market. Notwithstanding these efforts and contrary to the plans of their internal credit committees, at the closing of the Merger, the banks that had originated the loans and undertaken to act as lead arrangers for their syndication were left holding most of the "junk." And while the re-pricing and restructuring of the financing package did not avail the arranging banks in their efforts to syndicate, it substantially increased the leverage and therefore the risk associated with the transaction.

14. Obligors on the debt incurred to finance Lyondell's acquisition included LBI, Lyondell, its operating companies (including Equistar), and certain LBI affiliates. Obligations to repay the acquisition financing were secured by, *inter alia*, first and second liens on substantially all of the assets of the obligors in favor of the lenders providing the merger financing. Although the obligor entities, including Lyondell, Equistar, and other Lyondell subsidiaries, and affiliates, became liable for the repayment of the merger financing, to the extent that the proceeds were

paid to Lyondell shareholders or to refinance the debt of affiliates, these entities did not receive reasonably equivalent value in consideration for the obligations incurred. Nor, to such extent, did these obligors receive value for the liens that they granted to secure the repayment of these obligations.

15. In addition, to the extent that Lyondell, Equistar, and other Lyondell subsidiaries and affiliates (hereinafter the "Nell Notes Guarantors") as a result of the Merger, took on obligations with respect to certain notes of Basell (formerly Nell AF S.à.r.l.), they also did not receive reasonably equivalent value. The Nell Notes Guarantors are: Lyondell; Equistar; various Lyondell subsidiaries, including specifically, Houston Refining LP, Lyondell (Pelican) Petrochemical L.P. 1, Inc., Lyondell Chemical Nederland, Ltd., Lyondell Chemical Products Europe, LLC, Lyondell Chemical Technology 1, Inc., Lyondell Chemical Technology Management, Inc., Lyondell Chimie France LLC, Lyondell Houston Refinery Inc., Lyondell LP3 Partners, LP, Lyondell LP4 Inc., Lyondell Petrochemical L.P. Inc., Lyondell Refining Company LLC, Lyondell Chemical Technology, L.P., Lyondell Europe Holdings Inc., Lyondell LP3 GP, LLC, Lyondell-Equistar Holdings Partners, and Lyondell Refining 1, LLC (collectively, the "Lyondell Subsidiary Guarantors")[3]; and certain affiliates of Lyondell, including specifically, Lyondell's corporate parent, LB Finance, and two other affiliates of Lyondell – LBIH LLC and LBI Acquisition LLC. Each of the Nell Notes Guarantors is a Debtor.

[3] There are additional Lyondell subsidiaries that also guaranteed the Nell Notes, but, for purposes of this Amended Complaint, are not included among the group defined as the Nell Notes Guarantors. These other subsidiaries are Millennium America Holdings Inc., Millennium Chemicals Inc., Millennium Petrochemicals GP LLC, Millennium Petrochemicals Inc. (Virginia), Millennium Petrochemicals Partners, LP, Millennium Specialty Chemicals Inc., Millennium US Op Co LLC, Millennium America Inc., and Millennium Worldwide Holdings 1 Inc. (collectively, the "Millennium Entities"). The Millennium Entities are not included in the definition of the "Nell Notes Guarantors" because another creditor (Law Debenture Trust Company) has already moved for authorization to assert claims to avoid the Millennium Entities' guarantees of the Nell Notes.

16. The Indenture Trustee hereby seeks relief pursuant to 11 U.S.C. §§ 544, 548, and 550, and applicable state fraudulent transfer law, from the fraudulent transfer of Lyondell's and Equistar's assets and property to shareholders and financing parties, and the fraudulent incurrence of massive debts, that occurred upon the Merger and resulted in Lyondell and Equistar being rendered insolvent, left with unreasonably small capital, and unable to pay their debts when they became due.

17. The relief sought hereby includes, *inter alia*,

(i) under 11 U.S.C. §§ 544 and 548, and under applicable state fraudulent transfer law, avoidance of any and all of the obligations to defendants under the Senior Credit Facility and the Bridge Loan Facility described below (the "Merger Financing Obligations") incurred or to be incurred by Lyondell, Equistar, and other Lyondell subsidiaries and affiliates;

(ii) under 11 U.S.C. §§ 544, 548, and 550, and under applicable state fraudulent transfer law, avoidance of the liens or pledges granted to defendants to secure repayment of the Merger Financing Obligations and, under 11 U.S.C. § 551, the preservation of such liens for the benefit of Lyondell's and Equistar's estates;

(iii) equitable subordination under 11 U.S.C. § 510, *inter alia*, of all claims of defendants against Lyondell, Equistar, and other Lyondell subsidiaries and affiliates for the repayment of the Merger Financing Obligations based on, *inter alia*, the gross and egregious conduct of the parties who were responsible for the financing of the Merger;

(iv) under 11 U.S.C. §§ 544 and 548, and under applicable state fraudulent transfer law, avoidance or reduction, to the maximum extent permitted by law, of all of

the obligations to defendants, including guarantees, incurred or to be incurred by Lyondell, Equistar, or other Lyondell subsidiaries and affiliates as a result of the Merger;

(v) a declaration that, in consequence of the foregoing, the guarantees given by Lyondell, Equistar, and other Lyondell subsidiaries and affiliates to the defendants in connection with the Merger must be avoided or reduced in an amount to the maximum extent permitted by law; and

(vi) under 11 U.S.C. §§ 544 and 548, and under applicable state fraudulent transfer law, avoidance, to the maximum extent permitted by law, of the Nell Notes Guarantors' obligations under their guarantees of the 8.375% Senior Notes due 2015 issued by Nell AF S.à.r.l (the "Nell Notes"), which guarantees were entered into as a result of the Merger.

JURISDICTION AND VENUE

18. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1409(a). This adversary proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

19. This adversary proceeding is commenced pursuant to 11 U.S.C. §§ 510, 544, 548, and 550, and applicable state fraudulent transfer laws, to avoid fraudulently incurred obligations and fraudulent transfers, to equitably subordinate certain secured claims, and to obtain declaratory relief.

PARTIES

I. The Plaintiffs

20. Plaintiff The Bank of New York Mellon is indenture trustee for the Arco Notes.

21. Plaintiff The Bank of New York Mellon Trust Company, N.A. is indenture trustee for the Equistar Notes.

22. The Indenture Trustee has been authorized to intervene in this action, which was brought by the Official Committee of Unsecured Creditors (the "Committee") duly appointed on January 16, 2009 in these Chapter 11 cases by the Office of the United States Trustee for the Southern District of New York.[4]

II. The Defendants

23. Defendant ABN AMRO Inc. ("ABN AMRO") is named in its capacity as (i) a joint lead arranger under the Senior Credit Facility; (ii) a joint lead arranger under the Bridge Loan Facility; and (iii) to the extent applicable, its capacity as a lender under one or both of those facilities.

24. Defendant ABN AMRO Bank N.V. ("ABN AMRO N.V.") is named in its capacity as (i) a lender under the Senior Credit Facility; (ii) a lender under the Bridge Loan Facility; and (iii) security agent under the Nell Notes. (ABN AMRO and ABN AMRO N.V. are collectively referred to herein as the "ABN Entities").

25. Defendant The Wilmington Trust Company ("Wilmington Trust") is named in its capacity as Successor Indenture Trustee for the holders of the Nell Notes.

FACTUAL BACKGROUND

I. Lyondell Shareholders Are Cashed Out in a Highly Leveraged Acquisition

A. Blavatnik Seeks to Acquire a Major Petrochemicals Producer

26. In 1986, Blavatnik founded Access Industries ("Access"), an international industrial group based in New York, of which he remains Chairman and President. Through

[4] The Indenture Trustee reserves the right to seek to amend this complaint, to the extent necessary or appropriate, to include additional allegations from the Committee's complaint.

Access and its affiliates and in conjunction with joint venturers, Blavatnik accumulated a portfolio of investments in a broad range of industries.

27. In 2005, Access, through its affiliate Nell Acquisition S.à.r.l. ("Nell") (yet another Blavatnik-controlled entity) acquired Netherlands-based Basell from Royal Dutch Shell plc and the BASF Group in a highly leveraged transaction. Basell, a Luxembourg limited partnership, is an international chemicals company, self-described as the world's largest manufacturer and marketer of polypropylene and advanced polyolefins, and a major European manufacturer and marketer of polyethylene. Eighty percent of the financing for the €4.4 billion price paid by Access for Basell was debt. Access's only contribution to Basell's equity was approximately €880 million in cash.

28. Once having acquired Basell, Blavatnik and his team at Access, including Philip Kassin, Senior Vice President and head of Mergers and Acquisitions and Financing, were on the lookout to leverage the investment in Basell by using it as an equity stake for much larger leveraged transactions. Blavatnik's strategy was to capitalize on the cheap money available in the non-investment grade credit markets to acquire, using maximum leverage and minimum equity, one or more major petrochemicals producers, thereby amassing a global petrochemical conglomerate. Counting on the spread between cheap long-term money and return on assets acquired, Blavatnik's strategy was to be able to use earnings to reduce the debt load, freeing up cash to be distributed to him in the form of dividends or management fees.

29. While the overall strategy was simple, the pronounced cyclicality of the petrochemical industry and the refinery industry heightened the risk involved in a highly leveraged acquisition. Rather than enjoying stable cash flows that can be counted upon to cover fixed costs and charges (such as the costs of plant operation and maintenance as well as interest

payments on mountains of acquisition financing), petrochemicals and refining had long been defined by peaks and troughs in earnings.

30. The petroleum refining industry is also subject to pronounced business cycles, experienced by industry participants in the form of extreme changes in the "crack spread" – the price differential between refined petroleum products (such as gasoline) and the crude oil from which they are derived. The refinery industry is also subject to disruptions in the market due to geopolitical developments and natural disasters.

31. A company that has both petrochemical assets and refinery assets is subject to both cycles. Historically, petrochemical cycles occur over a five- to seven-year period; petroleum refining cycles have been longer. If both industries are in a downturn at the same time, the financial performance of a company with both petrochemical and refining assets will be doubly impacted.

32. Notwithstanding that cash flows from a petrochemicals company could not reasonably be expected to be stable or predictable, Blavatnik was intent on acquiring major petrochemical assets in one or more highly leveraged transactions. This was essentially a gamble that earnings of the acquired company would be sufficient to fund operations and allow debt to be paid down. If, as it turned out, he overleveraged and could not finance his business through a downturn, because of his minimal equity investment, the pain would largely be felt by others, namely the creditors of the Debtors' estates.

B. Access Targets Lyondell for Acquisition

33. By the spring of 2006, Access had identified Lyondell among several other possible acquisition targets, including Huntsman International, LLC ("Huntsman"), a Houston-based petrochemical company.

34. Incorporated in 1985 as a subsidiary of the Atlantic Richfield Company, Lyondell, a widely-held public company traded on the New York Stock Exchange, was much larger than Basell, with revenues for fiscal year 2005 of approximately $18.6 billion, compared to Basell's approximately €8.6 billion in revenues.

35. By the time it went public in 1989, Lyondell had embarked on a series of acquisitions, and during the ten-year period from 1996 through 2006, revenues grew from $5.1 billion to $22.2 billion. By 2007, Lyondell was the third-largest independent, publicly traded chemical company in North America with facilities in several states, and a minor presence in Japan and France, although its high cost structure, older facilities, and strategically poorly located operations put it at a competitive disadvantage to its global competitors. All this growth came at a cost. As a result of these acquisitions, Lyondell became highly leveraged. Lyondell's profits and earnings had historically been very volatile. Heavily concentrated in commodity petrochemicals, Lyondell's EBITDA (*i.e.*, earnings before interest, taxes, depreciation, and amortization) for 2003, a "trough" year, was only approximately 27% of what it had been in 1995, a "peak" year.

36. In 2006, industry analysts were consistently forecasting that the current "peak" in the petrochemicals cycle would occur by the end of 2007, whereupon analysts predicted the industry would head into a downturn, bottoming out to a "trough" during 2010-2011, with earnings then heading back up for the next peak. Lyondell was by no means ideally positioned to withstand a squeeze on its earnings: its consolidated balance sheet for the year ended December 31, 2006 included approximately $8 billion of long-term debt, and Lyondell's debt-to-EBITDA ratio, a key credit metric, was at 3.4x for the year-end, one of the highest among its peers (with the exception of a handful of companies that had already become targets of the buy-

out boom). Understandably, Lyondell's publicly stated financial goal for 2007 was "to enhance its financial flexibility by improving its balance sheet through debt reduction and by maintaining a strong liquidity position, with an ultimate goal of achieving an investment-grade credit rating." An investment grade credit rating would further enhance Lyondell's flexibility and liquidity, critical to maintaining a sound financial condition through a downturn.

37. On April 10, 2006, Blavatnik and Kassin arranged an introductory meeting in New York with Dan F. Smith, Lyondell's Chairman, President, and Chief Executive Officer. After the meeting, Blavatnik e-mailed Kassin and Ross Lukatsevich, a Director at Access, asking them to prepare leveraged buyout models for Lyondell "with non-stupid prices (*i.e.* not 30 [per share])."

38. Although Smith indicated that Lyondell was not for sale, on or about April 26, 2006, Kassin, acting on Blavatnik's instructions, contacted Smith to make an offer to purchase Lyondell for $24 to $27 per share. Smith duly brought Blavatnik's offer to the attention of the Lyondell board at a regular meeting held on May 4, 2006. The board determined that the proposed price range, which was approximately 10% above the range at which Lyondell shares had recently been trading, was too low to warrant a formal response.

39. In early June 2006, Smith told Kassin that if Access wanted to negotiate, it would have to offer at least a 20% premium over the most recent closing price of Lyondell's stock, then approximately $24 per share. Access then asked an investment banking group at Merrill, which had previously forwarded to Access an analysis of a Lyondell acquisition, to model various alternative structures for acquiring Lyondell at $28 per share.

40. On July 17, 2006, Merrill submitted an analysis to Access in which it urged Access to move immediately with an all-cash offer to purchase Lyondell, which it referred to by

its code name, "Hugo." The report stated that the "valuation is attractive now for Access and other critical deal factors appear aligned (*i.e.* Hugo CEO, key Hugo shareholders, constructive Hugo board, strong leveraged finance market); that may not be the case and a deal may no longer be possible if we wait 6-12 months to try to further 'optimize' the acquisition price."

41. On July 18, 2006, Lincoln Benet, the CEO of Access, e-mailed Blavatnik his "current thoughts" on an acquisition by Basell of Lyondell, based on an acquisition price in the $28 range. According to Benet, an acquisition was risky since it could succeed only if earnings held up for three years before the expected trough in the petrochemical and petroleum refining industries deepened.

42. On July 24, 2006, Benet e-mailed Kassin and others expressing his concern that while the latest Merrill Lynch financial models for a leveraged acquisition of Lyondell seemed to show that the two companies could survive the coming downturn, Wall Street was not buying that scenario. Specifically, according to Benet, the equity option market reflected the assessment that there was "some overriding risk out there that we're not considering. Litigation? Earnings? Plant failure? I don't know – but the point just highlight[s] that it is no[t] just academic – our 'Extreme Downside' case doesn't even start to capture at least what the market implies is over 30% probability within 18 months."

43. On August 4, 2006, Benet e-mailed Nancy Zimmerman, a hedge fund manager and a close advisor to Blavatnik, and a member of the Investment Committee of Access, to express his suspicions about the Merrill Lynch financial models of the proposed acquisition. Although these models were supposed to illustrate how the merged company would hold up under the stress of an industry downturn, even the downside models optimistically showed the company sailing through unscathed. Benet was concerned that the modeling was failing to

realistically take into account the full range of adverse possibilities. He remarked to Zimmerman: "As another sceptic [*sic*], you'll also find this scenario analysis frustrating – given that it is supposed to help us understand our key risk areas." Benet observed that based on the financial modeling done, "[b]asically, no matter what scenario we run, we somehow always have plenty of room."

44. Despite Benet's reservations that the potential downside to the transaction had not been realistically assessed, on August 10, 2006, Access made its first formal bid to purchase Lyondell, proposing in a written offer to acquire all of the outstanding shares of Lyondell for a cash price of $26.50 to $28.50 per share. The letter attached a "highly confident letter" in which Merrill expressed its opinion that it could procure adequate financing to finance the Merger and indicated that Access itself would provide up to $1 billion of cash as part of the financing of the proposed transaction. Access's offer letter, which was signed by Volker Trautz (Basell's President and Chief Executive Officer) and Blavatnik (on behalf of Access) indicated that Access and Basell would need 30-45 days of due diligence "[w]ith the cooperation of Lyondell's management team" before signing a definite merger agreement.

45. On August 14, 2006, a special meeting of the Lyondell board of directors was held to discuss the Access offer. After discussion, the board instructed Smith to advise Access and Basell that the proposal was not in the best interests of Lyondell's shareholders and that it did not wish to explore the proposal further. The rejection was duly communicated in writing to Access. Access, while continuing to monitor Lyondell, turned its acquisition efforts elsewhere for the next several months.

46. In February 2007, the price of Lyondell shares climbed past $30 per share and began trading in ranges not seen since mid-2005. Rather than discouraging Blavatnik's interest

in Lyondell, its rising stock price apparently resulted in a concern that an opportunity was being lost. Abandoning his previous position that a $30 per share offering price for Lyondell would be "stupid," on February 28, 2007, Blavatnik e-mailed Kassin and Ajay Patel, a Vice President of Mergers and Acquisitions at Access, asking them to prepare models based on an acquisition of Lyondell at $35 to $38 per share. Kassin responded, "Any magic in the 35-38? Everybody screamed at me when I wanted to go above 28 . . . is there new info I don't know about??"

47. Merrill, ever eager to serve as investment advisor on a Blavatnik deal, was requested to assist Access by updating its June 2006 financial models for the proposed acquisition, which had assumed a price per share for Lyondell of $28, with revised models based on a price per share of $38. Presentation materials, dated March 27, 2007, were prepared by Merrill Global Markets. The March 27, 2007 presentation materials included "Base Case" projections and valuations for the combined Lyondell/Basel enterprise. With respect to Basell, Merrill drew from Basell management forecasts. The materials also included a "Downside Case," which, without explanation, was calculated by decreasing "Base Case" assumptions by 15% with respect to Basell. [REDACTED]

Access and Blavatnik knew that Merrill's valuation of Basell was without credible basis.

48. In its "Executive Summary," Merrill stated that "given . . . [t]he historically high aggressiveness in the financing markets at the current time, we believe an acquisition of Hugo could be accomplished with no incremental cash equity from [Access] at prices in the upper $30s." According to Merrill, without any "incremental cash equity" from Access other than its investment in Basell, five years out from an acquisition of Lyondell, Access's incremental equity

would be in the range of $4 billion to $8 billion. Thus, according to Merrill, while the transaction would result in "a meaningfully higher equity risk," the upside potential was enormous. Furthermore, acknowledging that "any strategic benefits" of the merger would be "more than offset" by the higher level of risk to equity, Merrill, pointing to other recent transactions, none of which had been tested through a petrochemical industry downturn, claimed, inaccurately, that the combined company would be "generally in line with leveraged chemicals peers." Merrill looked at an acquisition of Lyondell as a gamble that offered a big payout if Lyondell could survive a "downside scenario."

49. Inside Access, the Merrill models for acquisition of Lyondell at $38 a share were met with a chorus of concern and skepticism. Patel commented regarding the proposed acquisition: "[W]e are putting a lot of debt on to the combined entity just because the financial markets will let us. This may not be prudent in the long term." Alan Bigman, Chief Financial Officer of Basell, confessed he could not understand how the transaction models showed that, notwithstanding the increase in the acquisition price, the combined entity would not only have cash to service its debt but also to pay it down. Bigman observed, "[T]he leverage is aggressive. In the downside case, we would barely have cash to cover interest in the trough, and if working capital needs went up (e.g. because of an increase in oil prices) we would be in financial distress."

50. Seeking to gain insight on Blavatnik's apparent reinvigorated interest in Lyondell, Kassin sought out Trautz: "[S]orry to bug you with this . . . I am puzzled why Len likes [Lyondell] at $38??" Trautz had, however, nothing to contribute to Kassin's understanding, responding: "[I]t is not easy to explain Len's love for Hugo."

51. Trautz, like other Basell and Access insiders, analyzed the acquisition of Lyondell as a bet on the timing and severity of the forecasted petrochemical and refining downturns. He noted that Lyondell, which had both petrochemical and refinery operations, was subject to both industries' cycles. If the troughs for both industries coincided, there would be disaster. Trautz bluntly laid it out for Blavatnik in a March 26, 2007 e-mail:

> In my opinion, it comes down to the following. Will the peak in the refining cycle coincide with the peak in petrochemicals or with the trough in petrochemicals? Remember, we expect now the petrochemical cycle to turn by the end of 2008 and be in a trough during 2009-2011. If you assume Hugo is worth $38/share you "bet" that the refining cycle will smoothen the trough in petrochemicals, or in other words when petrochemicals does not generate enough Ebitda, refining does and vice versa. If both petrochemicals and refining generate good Ebitda (as they do at the moment), great. If the trough in both markets coincides (which according to current forecasts could be in 2011-2012), we will be against the wall.

52. Trautz concluded with a plea to Blavatnik. If Blavatnik was intent on risking his equity in Basell to acquire Lyondell, would he at least please give others with equity in Basell the opportunity to bail out before going forward? Trautz wrote: "Plea: if we buy Hugo for $38-40, give my Basell team the chance to reduce our exposure because most of them have many of their eggs in this one basket."

53. Patel mocked Merrill's inflated valuation of Basell, stating in an e-mail to Kassin and others at Access, that if Access "were asked to put in $4 billion to buy Basell today, we would roll over in laughter." Kassin, in an e-mail response, agreed. Patel understood, as did other Access insiders, that Merrill was showing that it was willing, as Access's investment banker on the deal, to overstate the value of Basell in order to manipulate the valuation of the combined company to support the proposed highly leveraged structure.

C. Blavatnik Acquires the Toe-Hold Position in Lyondell

54. Merrill's March 27, 2007 materials and their supplements also included tactical advice on the acquisition, including the suggestion that Access proceed with the acquisition of Lyondell by first establishing a toe-hold of up to 14.9% in Lyondell. On May 11, 2007, Blavatnik and AI Chemical Investments LLC ("AI Chemical"), a Delaware limited liability company controlled by Blavatnik, filed a Schedule 13D reporting that it had entered into a transaction to acquire 20,990,070 shares of Lyondell at $32.113 per share through an agreement with Merrill.

55. Blavatnik had, as among potential acquisition targets, for some time also been actively pursuing Huntsman. On June 26, 2007, after extensive negotiations and due diligence by Basell, Basell and Huntsman entered into a definitive agreement pursuant to which Basell committed to acquire Huntsman in a transaction valued at approximately $9.6 billion. However, on July 4, 2007, Huntsman advised Access and Basell that Hexion Specialty Chemicals, Inc. ("Hexion"), an Apollo affiliate, had made a superior bid.

56. The very day that Access learned it was outbid on the Huntsman deal by Apollo, Blavatnik contacted Smith to request a meeting about the Lyondell acquisition. The two men met privately in New York at Access's offices in Manhattan on July 9, 2007, right before Smith flew to The Netherlands for a regularly scheduled Lyondell board meeting. According to Lyondell's proxy statement soliciting shareholder consent to the Merger, on this occasion, Blavatnik initially suggested a price of $40 per share for Lyondell, which was then trading at $39.21 per share. Smith suggested that if Blavatnik was serious, he needed to make his best offer. Smith had on a previous occasion indicated that the Lyondell board would be looking for a 20% premium over market price, and had already privately told Trautz in London on June 9,

2007 that $48 per share was an appropriate price to purchase Lyondell. Blavatnik requested that Smith contact him later that same day to further discuss the matter.

57. Later that same day, Smith called Blavatnik from the airport. After some discussion, Blavatnik indicated to Smith that Basell could pay $48 per share if Lyondell could sign an agreement by Monday, July 16, 2007 and agree to a $400 million break-up fee. Blavatnik said the transaction would have fully committed financing and that consummation of the transaction would not be conditioned on obtaining financing. He gave Smith until July 11, 2007 to respond.

58. When word of Blavatnik's offer to acquire Lyondell at $48 per share reached his top executives, they were both incredulous and frightened. On July 9, 2007, Kassin informed Patel by e-mail that Blavatnik intended to sign an agreement with Lyondell by July 16. Patel asked if Kassin was joking. Kassin responded by e-mail: "No I aint [*sic*] – last hour most bizarre in my carrer [*sic*]."

59. In an e-mail dated July 10, 2007, Kassin commented on the transaction to Bigman, "Not my idea . . . I can't sleep thinking of this at $48." Bigman replied: "Me neither, woke up at 4:30." Bigman e-mailed his concerns to Blavatnik, even knowing it would be no use: "I know you've already made up your mind, but I am uncomfortable with the valuation – it's almost $5 billion more than we were offering a year ago and over $2 billion more than we were discussing just a few weeks ago."

60. Merrill, which stood, as advisor to Huntsman, to make a $25 million transaction fee on the Hexion acquisition and sensing it was on the verge of snagging a second major transaction fee, was requested to update its June 12, 2007 analysis (which had assumed a per share price of between $38 and $42) to reflect an acquisition at between $45 and $50 per share.

Modeling the deal at these price ranges, based on its prior projections for earnings, showed the combined enterprise with ratios of debt to EBITDA in excess of 5x as it headed into the trough years.

61. As eager as it was to do the deal, Merrill was concerned that this level of leverage would interfere with the syndication of the loans. On July 10, 2007, Merrill raised the idea of including a "market flex" provision into the financing commitment that would permit Merrill to require that Access provide an incremental equity contribution to the merged entities of $1 billion to $2 billion if such a feature was necessary to syndicate the loan. Merrill also proposed issuance of "payment in kind" or "PIK" financing at the holding company level in order to lower the debt levels at the operating company level. Although Access had proposed including up to $1 billion of cash as part of its unsuccessful August 2006 offer for Lyondell, Patel promptly informed Merrill that such proposed financial structures were unnecessary and "wholly unacceptable." Access and Blavatnik no longer had any intention of putting their own cash or capital at risk in the deal.

62. Writing to Blavatnik, Bigman acknowledged that Merrill having raised the need for a market flex provision was "another indication that we're on the edge here."

63. As Benet crunched the numbers, only if Lyondell materially outperformed Merrill's "Base Case" projections would the transaction make any sense: "For the next three years, the Base Case assumed average EBITDA of $2.3bn. That's not enough for$48/share."

64. On July 11, 2007, Smith called a special meeting of the Lyondell board in The Hague to report his discussions with Blavatnik. Predictably, given the excessive price being offered, the Lyondell board authorized Smith to continue discussions with Access.

65. On July 12, 2007, in anticipation of Lyondell's board accepting the $48 per share price, Access quickly lined up the lead bankers – in addition to Merrill, that included Citibank and Goldman Sachs Credit Partners, L.P. ("Goldman").

66. On or about July 12, 2007, Lyondell commenced providing materials to Basell and Access in response to the preliminary due diligence request of Basell and Access. Meetings between representatives of Lyondell and representatives of Basell and Access took place on July 13, 2007 through July 15, 2007 in New York and Houston to enable Basell and Access to conduct a due diligence review of certain business, financial, and legal matters. The sole due diligence meeting between Lyondell's management and the banks (*i.e.*, Merrill, Citibank, and Goldman) occurred at the offices of Skadden, Arps, Slate, Meagher & Flom LLP in New York on Saturday, July 14, 2007. Either at or just prior to such due diligence meeting, Lyondell's management provided for the first time its internal EBITDA projections for 2007 and for succeeding years through 2011. Lyondell's internal projections were even more unrealistic than Merrill Lynch's base case. Trautz, who attended the July 14, 2007 presentation by Lyondell management at Skadden Arps, and was the most experienced and expert senior Basell representative present, thought "it was clear" that Lyondell would not have the EBITDA that Lyondell management was projecting. He understood that Lyondell management, who would enrich themselves and their shareholders if the deal went through, were highly motivated to pitch Lyondell as worth the $48 per share price.

67. Although in August 2006 Access/Basell had advised Lyondell that it would require 30 to 45 days of due diligence, the due diligence done in July 2007 by Access and the lead bankers was perfunctory at best. Blavatnik had made up his mind – he wanted the deal. And Lyondell management, having been offered an exorbitant price of $48 per share, were

willing to oblige. Smith, who a year earlier had sold some of his Lyondell stock at approximately $25 per share, stood to receive, if the Merger was consummated, approximately $56.8 million pursuant to "change of control" provisions in various executive incentive plans. And the three lead banks (Merrill Lynch, Citibank, and Goldman), which stood collectively to make approximately $281 million in syndication fees along with hefty merger and acquisition fees, were so eager to do business with Blavatnik that they elected not to do any basic due diligence on Lyondell's internal management projections, which they had essentially one day to digest.

68. By July 12, 2007, even Kassin, who remained opposed to the deal, was resigned to the inevitability of the transaction going forward.

> My job is to sign this up . . . I will make it happen if I have to kill myself . . . the real problem is – I hate the deal at $48 and am scared to death that the banks will ALL want new cash equity . . . I am trying to separate my two roles – one deal weasel who will get this signed up in record time . . . vs. Board member with fiduciary role for the shareholder . . . this one will be tough.

69. From July 12, 2007 through July 16, 2007, the parties and their external and internal legal counsel prepared and negotiated the form of a definitive agreement for the transaction and related documentation.

70. By Sunday, July 15, 2007, Merrill Lynch, armed with Basell's and Lyondell's own internal projections, had crunched the numbers yet again, this time apparently incorporating the Lyondell management projections, received by Merrill Lynch just the day before, into its projections. Merrill's new "Base Case" consolidated pro forma adjusted EBITDA projections, set forth in the table below side by side with Merrill's "Base Case" consolidated pro forma adjusted EBITDA projections of only a few days before, were markedly higher (dollars in millions):

Fiscal Year	*July 10, 2007 "Base Case"*	*July 15, 2007 "Base Case"*	*Percentage Change from July 10 to July 15*
2007	4,839	5,375	11.1%
2008	4,435	5,221	17.7%
2009	3,878	4,281	10.4%
2010	3,434	4,005	16.6%
2011	3,538	3,906	10.4%
2012	3,878	3,928	1.3%
2013	4,144	4,090	(1.3%)

71. All too conveniently, the new July 15, 2007 projections, unlike the old July 10, 2007 projections, showed the enterprise's total debt-to-EBITDA ratios would stay comfortably below the "too risky" 5x levels which had prompted Merrill to raise the issue of requiring additional equity from Access. Moreover, Lyondell's "Management Case" was materially inaccurate, as Access would discover very shortly and as Trautz already understood. But there was no time for Access to engage in further due diligence or reasoned analysis, since Blavatnik had committed to signing the Merger agreement by Monday, July 16, 2007. Instead, Access and Merrill recklessly accepted Lyondell's internal "management projections" and used them to inflate the purported valuation of Lyondell.

72. The same day, Merrill's Debt Markets Commitment Committee (or credit committee) met at noon to "evaluate" its role in co-financing the transaction. An internal presentation noted that Merrill Lynch stood to make at least $86.2 million in net financing fees on the deal, assuming syndication of the loans. When combined with Merrill's anticipated fee as lead advisor on the deal (which in the end was over $31 million), Merrill stood to make well over $100 million on this deal. Merrill Lynch assumed, in its internal July 15 report, that it would be

able to quickly "dump" virtually all its exposure through syndication, and planned to keep only $100 million of debt.

73. The other committing banks were no less heedless of the obvious risks. Citibank, which had been first contacted by Access no earlier than July 12, 2007 to co-finance the transaction at $48 per share, approved its participation in the financing on Sunday evening, July 15, 2007, noting in its Commitment Committee Approval Memorandum the risks (*i.e.*, "industry cyclicality," "rising raw materials and energy prices," and "lack of full backward integration") that made the extreme leverage so inappropriate to the needs of the combined entities. Citibank's credit committee memo also modeled a potential downside scenario, which in fact closely tracked what actually occurred for Lyondell during the balance of 2007. Instead of reflecting any deliberation concerning the viability of the resulting obligors, Citibank's Commitment Committee Approval Memorandum underscored the huge fees Citibank had made and was scheduled to make on other Access/Basell deals.

74. Goldman's approach was similar. Eager to get a role in financing the Lyondell transaction, the Goldman Capital Credit Committee approved Goldman's participation in financing the Lyondell transaction even though Goldman's initial July 16, 2007 Credit Committee memorandum noted that the Goldman team had only a single day to meet with Lyondell management with the "updated business plan and access to legal and full business diligence." Even in its haste, the Goldman Credit Committee described the very same risk factors that management would later falsely assert unforeseeably converged to drive the combined companies aground only months later: *i.e.*, an anticipated industry downturn, dependence on volatile commodities markets, declining demand, and the exposure of Lyondell's Houston petroleum refinery to disruption. As explained by the Goldman Credit Committee:

> Basell's high (and sometimes severe) cyclicality, an expected downturn-to-trough from 2009 to 2011, limited backward integration with exposure to raw material volatility (64% of costs), supply concentrations, . . . high production costs in Europe and North America, competitive end-markets, emergence of significant Middle Eastern capacity . . . and some dependence on continued high demand from Asia (China, specifically). Further, Lyondell's non-refining business is also highly cyclical and exposed to volatile input costs with downturn expected at the same time as for Basell, thus making pro-forma trough even more pronounced. Also, [Lyondell's] refinery business's diversification benefits are limited by the risk of reliance on a single large asset, exposure to the cycles inherent in the refining business, and potential disruptions in crude availability due to political instability in Venezuela.

Goldman's Credit Committee also had reservations concerning, *inter alia*, Lyondell's low EBITDA margins relative to its other chemical peers and the concentration of Lyondell and Basell in North America and Europe respectively.

75. Goldman's analysts foresaw that the acquisition would result in Basell's credit rating being downgraded at least one, if not two "notches," reflecting the very real risks associated with the financing structure. Goldman nonetheless leaped at the opportunity to be one of the three original lead banks on the deal. Like the other lead banks, Goldman thought that its participation would generate enormous fees at little risk. This notion was based on Goldman's belief that it could offload substantially all of its funding commitment either through syndication prior to the closing of the Merger or shortly afterwards. Assessing whether Goldman should hold onto any part of the debt obligations of LBI, the verdict of the Credit Committee was clear: based on "fundamental credit considerations," Goldman should retain only a "strategic hold" of "up to" €10 million in principal amount of the most secure part of the loans (*i.e.*, the first-lien loans) and should eliminate all other holdings "to zero within six months."

76. On July 16, 2007, Lyondell received a letter from Access, along with a financing commitment letter (the "Commitment Letter") from Merrill, Citibank, and Goldman, that set forth a proposal to acquire all of the common stock of Lyondell for a cash purchase price of $48 per share and outlined the other terms of Basell's offer, as reflected in the proposed form of merger agreement and the Commitment Letter. Later in the day on July 16, 2007, at a special meeting of the Lyondell board, the proposed transaction was unanimously approved.

77. Funds necessary to complete the transaction were estimated by Access to be approximately $21 billion, which amount included approximately $12.2 billion to be paid to holders of outstanding shares of Lyondell's common stock (of which Blavatnik-controlled AI Chemical now owned nearly 10%), with the remaining funds being used to pay amounts pursuant to change-in-control arrangements and to refinance certain existing indebtedness of both the Basell group of companies and the Lyondell group of companies, to pay fees and expenses in connection with the transaction and the financing arrangements, and to fund ongoing working capital requirements of the combined group.

78. Pursuant to the Commitment Letter, the three co-lead banks committed to fund up to $14 billion of first-lien secured credit facilities, including a $13 billion Term Loan, and up to $7 billion of second-lien loans pursuant to a bridge facility. Basell, at its option and in lieu of the bridge facility, could issue up to $7 billion in principal amount of second-lien notes and/or senior unsecured notes (at the option of the banks) in a private debt offering. Merrill, Citibank, and Goldman were appointed as joint lead arrangers, bookrunners, and global coordinators for the first-lien credit facilities. Defendant ABN AMRO joined as a fourth lead arranger on August 8, 2007.

79. On the same day as the three banks agreed to provide $21 billion of financing to enable Blavatnik to amass his global petrochemical company, Blavatnik caused Basell to issue a shareholder dividend in the amount of €75 million, draining Basell of the capital that it shortly would desperately need. This was the second Basell cash dividend of 2007, the prior being a dividend on or about May 29, 2007 for €140 million.

80. On or about July 16, 2007, the Supervisory Board of Basell (the equivalent to a board of directors) voted to approve the proposed acquisition. At a deposition conducted in a Lyondell shareholder litigation following the signing of the merger agreement, Kassin, who served on Basell's Supervisory Board, claimed he voted against the transaction, explaining that he found the $48 per share price "ludicrous," and could not, consistent with his fiduciary responsibility as a member of Basell's Supervisory Board, vote in favor of it. According to Kassin, Trautz, Basell's Chief Executive Officer, was also opposed to acquiring Lyondell at $48 per share.

81. On or as of July 16, 2007, the parties executed and delivered the Agreement and Plan of Merger, dated as of July 16, 2007 among Basell, BIL Acquisition Holdings Limited, a wholly owned Delaware subsidiary of Basell, and Lyondell (the "Merger Agreement").

82. On August 20, 2007, through AI Chemical, Blavatnik filed an amendment to the Schedule 13D that he had filed May 11, 2007, disclosing that he had that day exercised his rights to acquire the 20,990,070 Lyondell shares from Merrill Lynch pursuant to the agreement between them. That same day, Blavatnik increased his holdings of Lyondell stock by purchasing an additional 3,971,900 shares of Lyondell on the open market. Blavatnik thus now held beneficial ownership of 24,961,970 shares representing 9.8% of all shares of Lyondell outstanding. Upon the closing of the Merger, such shares would convert into the right to receive

approximately $1.2 billion of merger consideration, netting Blavatnik a profit of in excess of $333 million.

83. On or about August 2, 2007, Basell made an irrevocable offer to purchase the Berre L'Etang Refinery ("Berre") from Royal Dutch Shell plc for a transaction value of approximately $700 million. Basell made the commitment, which like the Merger, had no financing contingency, without funding in place to pay for this asset, and without a plan on how to finance the purchase. Of course, Basell intended to fund the purchase of Berre with further borrowings. In October, when UBS Securities LLC ("UBS") agreed to join Merrill, Citibank, Goldman, and ABN AMRO (collectively, the "Lead Arrangers"), they agreed to increase the size of the commitment from $21 billion to $22 billion in exchange for various pricing concessions. As the Lead Arrangers duly noted at the time, the additional $1 billion of funding, earmarked to pay for Berre and other assets Basell hoped to snap up, further increased the leverage at which the company would be forced to operate.

II. The Merger Occurs Amid Signs of Deteriorating Economic and Industry Conditions

84. In mid-July 2007, when Basell entered into the Merger Agreement and contractually bound itself to buy Lyondell for $48 a share and when, at the same time, Merrill, Citibank, and Goldman legally bound themselves to fund the transaction, Access, the parties to the Merger Agreement, and the Lead Arrangers knew the Merger was a gamble on whether the combined companies would be able to generate sufficient earnings through a downturn in the industry cycle to fund operations and service the mountain of debt it was taking on. They also knew that the highly leveraged company would face significant barriers in obtaining additional financing in the highly foreseeable event that the liquidity available through the financing put in place upon the Merger was insufficient.

85. Thus it was clear, at the time of the signing of the Merger Agreement, that the economic enterprise created by combining Basell and Lyondell was severely disadvantaged by its proposed capital structure. To the extent that, in mid-July 2007, it was possible, *arguendo*, for a business person to believe that Basell's acquisition of Lyondell at $48 per share using 100% debt financing would leave LBI with sufficient capital to operate its businesses through the projected period (2008 through 2011), such a belief depended upon the combined companies meeting the July 15, 2007 "Base Case" EBITDA projections. This Base Case projected the robust earnings that the industry (including Lyondell and Basell) had enjoyed in the first quarter of 2007 would continue through 2007 and beyond. Only if the Base Case turned out to be an accurate forecast would the combined company – LBI – have sufficient liquidity to have even a chance to survive a downturn.

86. Any basis for believing in the Base Case projections for 2008 and beyond vanished in the months between the signing of the Merger Agreement on July 16, 2007 and the closing of the Merger on December 20, 2007. As emerging operating results for Lyondell and other information would unmistakably indicate long prior to the closing of the Merger, the petrochemical cycle peak ended by mid-2007. Data available to the capital markets and to the managements of Lyondell, Access, and Basell, pointed forcefully to the conclusion that the cycle peak had occurred, and passed, and that the industry was headed into the downturn. This sobering reality was repeatedly confirmed and reconfirmed in the weeks and months leading to the December 20, 2007 closing. Lyondell's final numbers for the second quarter were somewhat below its projections. Lyondell's performance for the third quarter of 2007, however, rather than tracking management's "Base Case," looked remarkably like the "Downside Case" that analysts at Merrill and Citibank had included in their reports to their credit committees. As the year

moved into the fourth quarter, even the “Downside Case” was looking unduly optimistic. Clouding the picture, crude oil prices, which had been rising steadily all year, were continuing to rise and there were growing concerns that increasing energy costs, among other factors, would trigger a recession.

87. As the management teams for Lyondell, Basell, and Access prepared in late September 2007 to present updated pro forma financials to the banks financing the Merger, Bigman was gravely concerned. E-mailing Kassin and Patel on September 24, Bigman stated that “Lyondell’s shortfall is the number one problem we face – by a big margin.” Patel responded, “[T]he banks will be very, very troubled by the updated projections when they hear them on Wed.” Watching the process of Lyondell scurrying to get ready to explain the status of the deal to the banks, commented Patel, was “like witnessing a slow motion wreck.” Kassin anticipated that banks that were planning to participate in the syndication would be “screaming bloody murder.”

88. [REDACTED]

89. [REDACTED]

The September 26, 2007 projections also dramatically increased the projected “synergies” from the Merger, to $420 million per year. The net effect was to make overall projected performance appear better than before.

90. [REDACTED]

91. The 2008 earnings spike in the September projections was achieved by, among other means, disregarding industry forecasts. For anyone to have projected future performance based on Lyondell materially outperforming its industry peers in 2008, as is implied by the 23% spike, was manifestly unreasonable, if not fraudulent.

92. The September projections for the combined Lyondell and Basell entities were even more fanciful than the standalone projections for Lyondell. In addition to the baseless projection of a spike in earnings for both its petrochemicals and refinery operations that Lyondell would supposedly enjoy in 2008, the September projections for the combined companies likewise ignored currently available information indicating the onset of a downturn and were inflated by incorporation of billions of dollars of projected earnings over the five-year projection period based on purported "synergies." Combined projected earnings for 2008 included $75 million of "synergies." Projected earnings for 2009 included $280 million in "synergies." Each subsequent year included $420 million in "synergies."

93. The new projections actually showed combined EBITDA for 2008 to be 13% higher than for 2007, even though, as reflected by all prior projections, Wall Street and industry analysts were all projecting that earnings for petrochemicals and refining would trend

downwards or remain flat during this period. Even the highly optimistic management projections incorporated into Merrill's July 15 Lyondell Base Case showed a 3% decrease during this same period.

94. The projected spike in Lyondell earnings for 2008 and inflated earnings for years 2009 through 2011, were entirely unreasonable, if not fraudulent, and were unsupported by factors intrinsic to Lyondell or Basell, conditions with respect to the industries in which they operated, or the overall economic outlook as forecasted at the time. The synergies were pure speculation, added to bring earnings to where they needed to be rather than based on any expected cost savings from the Merger.

95. Lyondell's official third-quarter results confirmed a material downward earnings trend. In order to have remained on target to meet the 2007 "Base Case" EBITDA projections of $3.4 billion prepared by Merrill on July 15, 2007, EBITDA for the third quarter of 2007 should have been at least as high as for the preceding quarter. Instead, the third quarter's $649 million EBITDA was a 22% drop from second-quarter EBITDA. The outlook for the fourth quarter of 2007 was equally grim.

96. At the presentation to lenders that took place on or around September 26, 2007, mid-year operating results for Lyondell and Lyondell management's projections for the second half of the year were disclosed to the Lead Arrangers, including defendant ABN AMRO. According to Kassin, when Citibank and Merrill learned of Lyondell's mid-year results, they were shocked over how much Lyondell "missed [its] numbers." Not surprisingly, despite the parties' efforts to market the loan syndication, the banks that had been counted upon to participate in the first phase of the syndication, were backing away. In an e-mail from Patel to Bigman and others, Patel recalls that several banks whom they had counted on to significantly

participate in the loan syndication, including HSBC, JPMorgan, Credit Suisse, and Morgan Stanley, "ran for the hills."

97. Responding to the failed syndication effort, the Lead Arrangers presented Access with proposed modifications to the terms of the financing as it had been outlined in the Commitment Letter. Whereas the Commitment Letter had consisted entirely of term loans and revolving loans, the Lead Arrangers now proposed to substitute $2.15 billion of receivables and inventory asset-based financing for some of the senior lien financing. Such asset-based financing provides a less flexible source of liquidity for the borrower than a committed term loan since borrowings thereunder are tied to a borrowing base of inventory and receivables. In addition to structural changes made to the financing package, pricing modifications were also made to enhance the potential salability of the loans.

98. Notwithstanding these modifications and efforts to syndicate the loans, most of the $22 billion commitment was not "launched" for syndication, and the Lead Arrangers were forced to hold onto most of the loans.

99. Margins continued to tighten during the fourth quarter. Rather than making up for prior lost earnings, Lyondell operated at a loss during the last quarter of 2007 [REDACTED]

100. Against the background of Lyondell's deteriorating third- and fourth-quarter performance and industry forecasts of a more severe downturn, it became increasingly obvious as the scheduled date for the Merger approached that the earnings projections prepared for use in connection with the Merger financing were unreasonable.

III. The Merger Closes

101. On December 20, 2007, pursuant to the Merger Agreement, an indirect merger subsidiary of Basell was merged into Lyondell, all of Lyondell's 253,625,523 outstanding shares of common stock, including restricted stock, were converted into the right to receive $48 in cash, and Basell, which thereupon changed its name to LyondellBasell Industries A.F. S.C.A., became, through an intermediate holding company, the corporate parent of Lyondell.

102. Also on December 20, 2007, Lyondell and certain affiliates entered into debt facilities (the "Facilities") representing a maximum of $22.6 billion of borrowings of which approximately $2 billion was unfunded at the closing.

103. The Facilities included:

a. The Senior Credit Facility among Citibank, as administrative agent; Citibank International plc, as European administrative agent; Citigroup Global Markets Inc., Goldman, Goldman Sachs International, Merrill Lynch, Merrill Lynch Capital Corporation, UBS, ABN AMRO N.V., and ABN AMRO (collectively, the "Senior Credit Facility Lender Parties")[5]; Lyondell, Basell Holdings B.V. ("Basell Holdings"), Basell Finance Company B.V. ("Basell Finance"), and Basell Germany Holdings GmbH ("Basell Germany") as borrowers (the "Borrowers"); and certain Borrowers and direct and indirect subsidiaries of Borrowers (including Lyondell and Equistar) as guarantors

[5] ABN AMRO N.V. was a lender under the Senior Credit Facility, and ABN AMRO was a joint lead arranger under the Senior Credit Facility.

(the "Subsidiary Guarantors,"[6] and the Borrowers and the Subsidiary Guarantors, collectively, the "Senior Credit Facility Obligors"), providing for:

(i) an $800 million, 6- to 7-year U.S. Revolving Credit Facility, $130 million of which was funded at closing;

(ii) a $200 million, 6-year Dutch Revolving Credit Facility;

(iii) a $1.5 billion, 6-year Senior Secured U.S. Term Loan A;

(iv) a $500 million, 6-year Senior Secured Dutch Term Loan A;

(v) a $7.55 billion 7-year Senior Secured U.S. Term Loan B; and

(vi) a €1.3 billion, 7-year Senior Secured German Term Loan B.

Each of the Subsidiary Guarantors irrevocably and unconditionally guaranteed the prompt payment in full when due of all the obligations under the Senior Credit Facility (the "Senior Guarantee").

b. The Bridge Loan Facility with Merrill Lynch Capital Corporation as administrative agent; Citibank as collateral agent; and Merrill Lynch, Goldman, Citigroup Global Markets Inc., UBS, ABN AMRO N.V., and ABN AMRO (collectively, the "Bridge Loan Lender Parties")[7]; LB Finance, as borrower (the "Bridge Borrower"); and the Subsidiary Guarantors that guaranteed the Senior Credit Facility Obligations (as defined below), as guarantors thereunder (the "Bridge Guarantors," and together with the Bridge Borrower, the "Bridge Loan Obligors"), providing for an $8 billion, 1-year Second Lien Bridge Loan (the "Bridge Loan"). Each of the Subsidiary Guarantors

[6] In addition to Lyondell and Equistar, the Subsidiary Guarantors include, among other entities, the Lyondell Subsidiary Guarantors and the Millennium Entities.

[7] ABN AMRO N.V. was a lender under the Bridge Loan Facility, and ABN AMRO was a joint lead arranger thereunder.

irrevocably and unconditionally guaranteed the prompt payment in full when due of all the obligations under the Bridge Loan (the "Bridge Guarantee," and together with the Senior Guarantee, the "Subsidiary Guarantees").

c. An Asset Backed Credit Agreement (the "ABL Inventory Facility") with Citibank, Citigroup Global Markets Inc., Goldman, Merrill Lynch Capital Corporation, ABN AMRO, and UBS, as arrangers; Citibank, JPMorgan Chase Bank, N.A., and other banks, as issuers of letters of credit; Citibank and General Electric Capital Corporation, as co-collateral agents (in such capacities, the "ABL Collateral Agents"); and Lyondell, Houston Refining LP, Equistar, and Basell USA Inc. (the "ABL Obligors"), as borrowers thereunder, providing for a $1 billion, 5-year Asset Based Inventory Revolving Credit Facility.

d. A receivables securitization facility (the "ABL Receivables Facility" and, together with the ABL Inventory Facility, the "Asset-Based Facilities" or the "ABL") established pursuant to a receivables purchase agreement by and among LyondellBasell Receivables I, LLC ("LB Receivables I"), Lyondell, as servicer, Citigroup Global Markets Inc., Goldman, Merrill Lynch Capital Corporation, ABN AMRO, UBS, Citicorp USA, Inc. or an affiliate, and certain other purchasers party thereto, and accompanying receivables sale and undertaking documents entered into by Lyondell, Equistar, Houston Refining LP, and any other subsidiary of Lyondell or LBI designated from time to time thereunder, providing for a $1.15 billion, 5-year Receivables Securitization Facility. In connection with the Merger, approximately $1 billion of receivables interests were sold under the ABL Receivables Facility, a portion of the proceeds of which sale were applied

to terminate obligations under pre-Merger receivables securitization facilities of Lyondell, Equistar, Basell USA Inc., and Basell Canada Inc.

104. The repayment of obligations incurred under the Senior Credit Facility, including the Senior Guaranty obligations (the "Senior Credit Facility Obligations") are secured by the grant of security interests by the Senior Credit Facility Obligors to Citibank, as collateral agent (in such capacity, the "Senior Collateral Agent"), in certain of their real and personal property. The Senior Credit Facility Obligors that are U.S. entities granted security interests in certain of their real and personal property, including: (a) all stock owned by each such Senior Credit Facility Obligor in any wholly owned subsidiary of LBI; (b) all debt securities held by each such Senior Credit Facility Obligor; (c) all payments, rights, privileges and proceeds of (a) and (b); and (d) substantially all of each such Senior Credit Facility Obligor's personal property, including equipment but not including accounts receivable, inventory, and interests in any joint ventures. LBI, Basell Holdings, Basell Finance, Basell Germany, and certain affiliates (the "European Obligors"), granted security interests to Citibank, as Senior Collateral Agent, in certain equity and debt securities owned by the European Obligors and all rights related thereto, and in certain other personal property (all of the foregoing described security interests and liens, the "Senior Liens").

105. To secure the repayment of all obligations incurred under the Bridge Loan Facility, including the Bridge Guaranty obligations (the "Bridge Loan Obligations"), LB Finance, and each of the Bridge Guarantors, including the European Obligors, granted to Citibank, as collateral agent (in such capacity, the "Bridge Collateral Agent"), a second-priority (or third-priority) security interest in substantially the same real and personal property that secured the Senior Credit Facility Obligations (the "Bridge Loan Liens").

106. To secure obligations under the ABL, the ABL Obligors granted to the ABL Collateral Agents for the benefit of the ABL Lenders (i) a first-priority pledge of all equity interests owned by each ABL Obligor in, and all indebtedness owed to each ABL Obligor by, LB Receivables I and Basell Capital Corporation and (ii) a first-priority security interest in certain deposit accounts, all receivables and inventory, and related assets owned by each ABL Obligor (together, the "ABL Lien Transfers"). Further, the ABL was guaranteed on an unsecured basis by each U.S. subsidiary (the "ABL Guarantors") of each ABL Obligor (the "ABL Obligations").

107. Pursuant to the terms of an Indenture (the "Nell Indenture") dated as of August 10, 2005 (as supplemented by supplemental indentures dated February 2, 2006, May 11 , 2007, July 26, 2007, and December 20, 2007), Basell (formerly known as Nell AF S.à.r.l. and since renamed LBI) was required to cause any "Restricted Subsidiary" of Basell that guarantees "Senior Secured Credit Facilities" to execute a supplemental indenture providing that such Restricted Subsidiaries guarantee payment of the Nell Notes.

108. By reason of the Merger, and the requirement that the Nell Notes Guarantors become guarantors of the Senior Credit Facility and the Bridge Loan Facility, the Nell Notes Guarantors became "Restricted Subsidiaries" of Basell within the meaning of the Nell Indenture.

109. Accordingly, pursuant to the terms of the Nell Indenture, and as a consequence of the Nell Notes Guarantors' Guarantees of the Senior Credit Facility and the Bridge Loan Facility, on or about December 20, 2007, the date that the Merger closed, Basell and/or Lyondell caused the Nell Notes Guarantors to become joint and several guarantors of the payment of the Nell Notes. The guarantor obligations incurred by the Nell Notes Guarantors with respect to the Nell Notes are referred to herein as the "Nell Guarantees."

110. Specifically, the Nell Guarantees obligate the Nell Notes Guarantors, jointly and severally with other obligors, to guaranty payment of the principal, premium and interest on the Nell Notes. The Nell Guarantees are limited to amounts permitted to be incurred under the Nell Indenture.

111. The Nell Guarantees are memorialized in the Fourth Supplemental Indenture, which supplements the Nell Indenture under which Basell (then known as Nell) issued the Nell Notes. The Fourth Supplemental Indenture was entered into by, among other parties, Lyondell, Lyondell's parent company, and other Lyondell subsidiaries and affiliates, including the Nell Notes Guarantors.

112. Defendant Wilmington Trust was appointed the "Successor Indenture Trustee" for the Nell Notes effective February 5, 2009 pursuant to an Agreement of Resignation, Appointment and Acceptance dated February 4, 2009, by and among LBI, the Indenture Trustee, and the Successor Indenture Trustee.

113. The Nell Notes Guarantors received no value for incurring obligations under the Nell Guarantees, under which each of the Nell Notes Guarantors, jointly and severally, guaranteed the payment of notes in the aggregate principal amounts of $615 million and 500 million Euros, respectively.

114. Lyondell and Equistar are two of the Nell Notes Guarantors, and Lyondell was also a creditor of most of the other Nell Notes Guarantors at the time the bankruptcy proceedings were commenced.

115. On the closing of the Merger Agreement, approximately $11.3 billion of the $20.7 billion in proceeds from the funding of the Facilities was held for payment of the Merger Consideration to former shareholders of Lyondell who, in accordance with the Merger

Agreement, surrendered their shares, and approximately $7.1 billion was used to refinance pre-existing debt of Lyondell, Basell, and certain of their respective consolidated subsidiaries.

116. The proceeds of the Facilities were also used to fund extensive payments under various Lyondell benefit and incentive plans, stock option plans, and other equity-based incentive programs. Of such amounts, a total of approximately $191.3 million was paid out to officers and directors as a group (the "Change of Control Payments") and, of the Change of Control Payments, approximately $71.4 million was paid out to members of the board of directors who approved the Merger, including $56.8 million to Smith.

117. At the Merger Closing, the proceeds of the Financings were also used to fund Transactional Fees, including the following:

(i) $127.6 million to Nell Limited by Basell as payment for (a) a purported one-time transaction advisory fee ($100 million), (b) an annual management fee of $25 million, and (c) $2.6 million for reimbursement of claimed expenses;

(ii) $31 million to Merrill Lynch for its fees for the Merger;

(iii) $6 million to Citibank for its fee for the Merger;

(iv) $3 million to Citibank for underwriters expenses; and

(v) $500,000 to Perella Weinberg for its fee for the Merger.

118. The proceeds of the Facilities were also used to pay the approximately $1.2 billion of merger consideration due in respect of Blavatnik's Toe-Hold Position in Lyondell stock.

119. Also upon the Merger, the Subsidiary Guarantors, including Lyondell and Equistar (and Lyondell's wholly owned subsidiary Houston Refining LP) and other Lyondell

subsidiaries, became jointly and severally liable as guarantors of the repayment of all of the Merger Financing Obligations.

120. The Borrowers and Subsidiary Guarantors, including Lyondell and Equistar, did not receive reasonably equivalent value or fair consideration for the (i) incurrence by them, or any of them, of the obligations represented by the Merger Financing Obligations or Subsidiary Guarantees, as applicable, under the Senior Credit Facility or the Bridge Loan Facility or (ii) the grant by them, or any of them, of security interests, pledges, and liens to secure such Obligations or Subsidiary Guarantees, as applicable.

121. Before the Merger, Lyondell had approximately $4.8 billion of debt and guarantee obligations, as follows (in millions of dollars):

Senior Secured Term Loan Due 2013	1,753
10.5% Senior Secured Notes Due 2013	324
8% Senior Unsecured Notes Due 2014	875
8.25% Senior Unsecured Notes Due 2016	900
6.875% Senior Unsecured Notes Due 2017	510
10.25% Debentures Due 2010 (Arco Notes)	100
9.8% Debentures Due 2020 (Arco Notes)	225
Guarantee of Equistar 7.55% Debentures Due 2026	150
	4,837

122. As a consequence of the Merger, approximately $4.4 billion of this debt was repaid, but in the process, Lyondell was saddled with approximately $21 billion of debt and guarantee obligations that it did not have previously, as follows (in millions of dollars):

Senior Secured Tranche A Loan Due 2013	1,500
Senior Secured Tranche B Loan Due 2014	7,550
Senior Secured Revolving Credit Facility (drawn)	130
Senior Secured Asset-Based Inventory Facility (drawn)	100
Guarantee of Bridge Loan	8,000
Guarantee of LBI 8.375% High Yield Notes Due 2015 (dollars) (Nell Notes)	615
Guarantee of LBI 8.375% HY Notes Due 2015 (euros - converted[8]) (Nell Notes)	716

[8] €500 million, converted at the rate of 1.4327 U.S. dollars per euro as of December 20, 2007.

Guarantee of Dutch Tranche A Dollar Term Loan	500
Guarantee of German Tranche B Euro Term Loans (converted[9])	1,844
Total	20,955

123. Although approximately $4.4 billion of the Merger Financing was used to repay Lyondell's debts as listed above, upon the Merger, Lyondell became liable as a guarantor of the repayment of all of the Merger Financing Obligations, in the approximate amount of $21 billion. The disparity between the obligations incurred and any semblance of benefit to Lyondell was enormous.

124. Pursuant to the terms of the Merger Financing, Lyondell also granted to Citibank, as collateral agent, first- and second-priority security interests, as applicable, in substantially all its real and personal property to secure the repayment and performance of the Merger Financing Obligations.

125. In addition, none of the Nell Notes Guarantors received any value, let alone reasonably equivalent value or fair consideration, for their guarantees of the more than $1 billion of Nell Notes.

126. Before the Merger, Equistar had approximately $2.45 billion of debt, as follows (in millions of dollars):

Inventory-Based Revolving Credit Facility	300
Receivables-Based Revolving Credit Facility	600
10.125% Senior Unsecured Notes Due 2008	400
10.625% Senior Unsecured Notes Due 2009	400
8.75% Senior Unsecured Notes Due 2011	600
7.55% Debentures Due 2026 (Equistar Notes)	150
Total	2,450

[9] €1,287 million, converted at the rate of 1.4327 U.S. dollars per euro as of December 20, 2007.

127. As a consequence of the Merger, approximately $1.4 billion of this debt was repaid, but in the process, Equistar, like Lyondell, was saddled with approximately $21 billion of debt and guarantee obligations that it did not have previously.

128. Although approximately $1.4 billion of the Merger Financing was used to repay Equistar's debts as listed above, upon the Merger, Equistar became liable as a guarantor of the repayment of all of the Merger Financing Obligations, in the approximate amount of $21 billion. The disparity between the obligations incurred and any semblance of benefit to Equistar was enormous. Pursuant to the terms of the Merger Financing, Equistar also granted to Citibank, as collateral agent, first- and second-priority security interests, as applicable, in substantially all its real and personal property to secure the repayment and performance of the Merger Financing Obligations.

129. The guarantees by the Subsidiary Guarantors of the Merger Financing Obligations harmed the Arco Noteholders and Equistar Noteholders by jeopardizing the ability of many of those Subsidiary Guarantors to repay their indebtedness to Lyondell and Equistar, repayments that would provide a source of funds to make payments on the Arco Notes and Equistar Notes.

130. In particular, at the time of the Debtors' bankruptcy filing, the following Subsidiary Guarantors (among others) had net indebtedness to Lyondell in the following amounts:

Lyondell Houston Refinery Inc.	$1,865,172,362
Lyondell LP3 Partners, LP	733,838,855
Houston Refining LP	620,864,169
Lyondell Petrochemical L.P. Inc.	591,959,739
Lyondell Refining Company LLC	252,869,668
Basell USA Inc.	187,107,850
Lyondell (Pelican) Petrochemical L.P. 1, Inc.	61,797,877
LBIH LLC	50,209,377
Lyondell LP4 Inc.	15,222,570

In addition, Houston Refining LP had net indebtedness to Equistar in the amount of $48,941,412.

131. The guarantees by Lyondell's subsidiaries of the Merger Financing Obligations also reduced the value of those subsidiaries as assets of Lyondell and Equistar, thereby inflicting additional harm on the Arco Noteholders and the Equistar Noteholders.

132. Similarly, the Nell Guarantees given by the Nell Notes Guarantors other than Lyondell and Equistar harmed the Arco Noteholders and the Equistar Noteholders by jeopardizing the ability of many of those entities to repay their indebtedness to Lyondell and Equistar, repayments that would provide a source of funds to make payments on the Arco Notes and Equistar Notes.

133. The Nell Guarantees given by the Lyondell Subsidiary Guarantors also reduced the value of those subsidiaries as assets of Lyondell, as well as the value of Lyondell's affiliates, thereby inflicting additional harm on the Arco and Equistar Noteholders.

IV. As a Result of the Merger, the Debtors Were Left With Unreasonably Small Capital

134. Lyondell needed a capital structure that would provide the necessary flexibility, including access to the credit markets, to keep the company afloat during the downturns that were characteristic of its demonstrably cyclical business and its demonstrably cyclical industry. According to Smith, Lyondell needed between $2 billion and $2.5 billion of "room" just to meet its working capital needs. Testifying at a deposition held on October 25, 2007, a little less than two months before the Merger would be consummated on December 20, 2007, Smith explained Lyondell's need for over $2 billion in available liquidity as a simple lesson learned from the commodities markets over the prior two years:

> That's about how much room you need with the crazy market that we deal in with crude oil and natural gas, et cetera, that we literally have seen cost of inputs rise more than $2 billion in each of the last two years. So our working capital has gone way higher. You've

> got to be able to finance the business. And then suddenly, if the earnings fall off, you're just stuck.

135. Taking into appropriate account actual performance of Lyondell and Basell for 2007 and all available data which was known or should have been known by LBI management, Access, and the Lead Arrangers, LBI was insufficiently capitalized to provide it with the necessary liquidity to fund its operations through a downturn. When the cost of hydrocarbon inputs continued to rise after the Merger, as they had for the prior two years, LBI had to exhaust all available sources of liquidity to finance its working capital needs. And, when as had been widely forecasted, earnings did indeed fall off, LBI, unable to fund its operations or meet its obligations as they became due, was forced into bankruptcy.

136. In failing to adequately capitalize LBI while incurring $21 billion of indebtedness to fund the Merger, and in burdening Lyondell and Equistar with huge debt and guarantee obligations from the Merger, in order to enrich themselves and Lyondell shareholders and management, the defendants and the parties to the Merger acted willfully or recklessly, and in bad faith.

137. LBI's collapse started early. Very predictably, the spike in 2008 EBITDA, forecasted in response to Lyondell's disappointing results for 2007, did not materialize. Instead, again predictably, the same factors that had adversely impacted Lyondell's earnings in each of the last three quarters of 2007, continued to squeeze the margins of LBI's chemicals business. Similarly, LBI's forecasts (unsupported by industry analysts) of improved refining margins proved to be unfounded: margins on refining, a key profit driver for LBI, remained at the rates seen in 2007. Earnings through the first quarter of 2008 fell behind the projections by $326 million. [REDACTED]

138. Moreover, from the effective time of the Merger until filing for Chapter 11, LBI was in an ongoing liquidity crisis from which it was unable to emerge. While as of the Merger closing, LBI's cash balances combined with the unfunded portions of its facilities was $2.3 billion, [REDACTED]

In a single day, cash outflows could reach $500 million, a reality that Karen Twitchell, LBI's treasurer, had to deal with on a day-by-day basis. Twitchell's concerns regarding LBI's liquidity, however, fell on deaf ears. This reality was known to Access, and the banks as well, prior to the Merger.

139. Within weeks after the Merger, LBI management was involved in negotiating with lenders to "upsize" LBI's borrowing capacity by $600 million by finding funding for the "accordion" feature included in the ABL Facility. Also near the end of March 2008, the company sought to upsize its European accounts receivable asset-backed facility by $170 million. With LBI's daily liquidity hovering around $1.5 billion at the end of February 2008, it was fighting for its life, according to Kassin. Conditions worsened in March 2008; by March 13, 2008, there were concerns at LBI that by the end of March 2008, LBI's projected liquidity would be $153 million, well below the minimum liquidity needed to fund LBI's daily operations. While waiting for additional funds to become available through the upsizing of the revolvers,

Access, battling with LBI's lenders, was forced to make a credit line (the "Access Revolver") available to meet LBI's immediate needs for liquidity.

140. From January to April 2008, LBI's free cash flow was negative $1.3 billion, representing a $1.6 billion decline from the projected positive free cash flow of $300 million.

141. In an April 10, 2008 e-mail to Kassin, Twitchell wrote: "No one is truly listening. This company needs more liquidity. The company's daily/monthly/quarterly cash flows are VERY volatile . . . bottom line is that this company needs more liquidity."

142. LBI's persistent problems forced it to revise its debt reduction plan for 2008 from $1.3 billion to $300 million. With an industry-wide trough already underway, LBI's inability to pay down debt caused both Standard & Poor's and Moody's to downgrade their outlooks on all ratings of LBI from stable to negative.

143. [REDACTED]

Without the Access Revolver or the upsizing of the ABL Facility, by mid-October 2008, LBI's available cash was near zero.

144. In the second half of 2008, EBITDA in LBI's chemicals businesses continued to decline, and its fuels business plunged over the precipice, down $938 million from the previous quarter by October 2008, and $1.4 billion below LBI's business plan projections by December 2008.

145. By the end of November 2008, LBI's earnings were significantly off in every division except Technology. [REDACTED]

146. LBI began negotiating forbearance agreements with its lenders, eventually obtaining a forbearance of $281 million in principal, interest, and fees.

147. On December 12, 2008, Twitchell e-mailed Richard Storey, Finance Director of Access, informing him that LBI would require funding under the Access Revolver in the amount of $100 million on December 29, and in the amount of $300 million to $350 million on December 30 or 31 early in the morning. She stated that LBI would be unable to repay the $300 million draw for several months. Storey forwarded the e-mail to Benet and wrote, "This is a problem."

148. On December 17, 2008, Access assigned the Access Revolver to AI International S.à.r.l., a Luxembourg entity, so that it could fund any draws on the Access Revolver with offshore funds. By this point in time, however, Blavatnik had already consulted with restructuring advisors and been told a far greater infusion of funds than was potentially available under the Access Revolver was necessary to fund LBI's operations and allow it to meet its obligations.

149. By mid-December 2008, LBI management was involved in emergency discussions with LBI's lenders to prepare for a Chapter 11 filing.

150. On December 30, 2008, even though LBI managers knew that AI International S.à.r.l. would reject the request, they went through the charade of requesting a draw-down of the entire $750 million balance of the Access Revolver. AI International S.à.r.l. promptly denied the request, and the Debtors thereafter filed a Chapter 11 proceeding.

151. None of the difficulties that LBI faced in its first year should have been unanticipated. Each should and could have been dealt with had LBI been adequately capitalized with a capital structure that reasonably provided for LBI's foreseeable needs to finance its businesses through a downturn. Economists and industry analysts had been handicapping the possibility of a recession which foreseeably would depress demand and exacerbate the forecasted

chemicals industry downturn. As put by Bigman in his First Day Affidavit, "[t]he petrochemical industry historically has been defined by its cyclical nature." Before Lyondell became an acquisition target, Lyondell's strategy was to leverage down in anticipation of the downturn. Instead, indifferent to anything but taking the gamble on surviving a trough to benefit on the upside, Access chose to leverage up, imposing a staggering debt burden just as the peaks in both industries had passed. It was clear, moreover, by the fall of 2007, that the fact that LBI was operating in two major industries, petrochemicals and refining, would not operate as a hedge on risk. Both industries would head into the downturn at the same time. By the time the Merger closed, and indeed well before, it was known that the LBI was in a highly precarious position.

152. Overleveraged as it was, LBI was absolutely barred from accessing financing needed to survive even a short-term drop-off in earnings. As the capital markets that recoiled from holding its debt understood even before the Merger closed, LBI's capital structure made its failure during the downturn inevitable. Once the Merger closed, the only question remaining was the precise point along the path to the trough at which complete and irretrievable failure would occur. LBI failed because it was inadequately capitalized and grossly overleveraged and, accordingly, unable to deal with the stresses inherent in the industries in which it was operating.

V. Upon the Merger, the Debtors Were Insolvent

153. Upon the closing of the Merger, LBI, considered on a consolidated basis with its subsidiaries (the "LBI Group"), had liabilities in the amount of approximately $26 billion. Of such amount, approximately $21 billion represented obligations under the Facilities and the balance was other debt. On and as of the date of the Merger, December 20, 2007, the fair value of the assets of the LBI Group ranged from, at best, $22 billion to $25 billion, and most likely

was even materially less than this range of fair value. Accordingly, from and after the closing of the Merger, the LBI Group was insolvent. This insolvency deepened over the course of 2008.

154. Prior to the Merger, Lyondell was solvent, with stockholders' equity of approximately $3.5 billion. [REDACTED]

Although the amount of these assets and investments far exceeded Lyondell's pre-merger debt, it was far less than the $21 billion of debt and guarantee obligations placed on Lyondell in the Merger. The debts created to finance the Merger and related transactions thus rendered Lyondell insolvent and left it with unreasonably small capital.

155. Although Lyondell's December 31, 2007 consolidated balance sheet showed total stockholders' equity of $373 million, this amount did not take into account $3.745 billion of guarantee obligations Lyondell incurred as a result of the Merger relating to the Nell Notes and amounts borrowed by non-Lyondell subsidiaries of LBI under the Senior Secured Credit Facility, as described in a footnote to Lyondell's financial statements. In addition, the $373 million of reported stockholders' equity was calculated by including $5.247 billion of goodwill, which was clearly questionable given the rapid deterioration of the business.

156. Prior to the Merger, Equistar was solvent, with stockholders' equity of approximately $1.5 billion. Inasmuch as Equistar is a subsidiary of Lyondell and much smaller, the debts created to finance the Merger and related transactions, which also placed $21 billion of debt and guarantee obligations on Equistar, rendered Equistar insolvent and left it with unreasonably small capital. Indeed, Equistar's December 31, 2007 consolidated balance sheet showed a total partners' deficit of $9.6 billion.

157. Similarly, inasmuch as each of the Lyondell Subsidiary Guarantors is a direct or indirect subsidiary of Lyondell and much smaller, the debts created to finance the Merger and related transactions, which also placed $21 billion of debt and guarantee obligations on each of the Lyondell Subsidiary Guarantors, rendered each Lyondell Subsidiary Guarantor insolvent.

158. The debts created to finance the Merger and related transactions also rendered the other Subsidiary Guarantors insolvent and left them with unreasonably small capital.

VI. Upon the Merger, the Debtors Incurred Debts That Were Beyond Their Ability to Repay

159. Upon the Merger, LBI incurred obligations which, combined with its pre-existing obligations, constrained its further access to the capital markets. As financed pursuant to the Merger, LBI was left with insufficient funds available to meet short- and medium-term needs, including: (i) funding the post-Merger payment of the purchase price for Berre that it had committed to purchase prior to the Merger, as well as other planned acquisitions and capital expenditures; (ii) the payment of millions of dollars of interest and fees due to the Lead Arrangers, including approximately $250 million of incremental fees due as a result of the exercise by the Lead Arrangers of the "flex provisions" included in the Merger financing; and (iii) other costs, expenses, and obligations that foreseeably would become due and payable within the weeks and months following the Merger. As a means to extricate itself from the resulting liquidity crisis that arose shortly after the closing of the Merger, LBI "upsized" its existing working capital facilities, effectively exhausting all remaining available sources of liquidity.

160. Thereafter, when, as had been fully foreseeable, under the stress of a forecasted industry downturn that reduced its earnings and margins, LBI's borrowing base contracted, and LBI was required to pay down its asset-based credit facilities, it was left with insufficient funds

to operate, fell into financial distress, and was unable to pay other obligations as they became due, including payment of principal and interest due on its debts.

161. Upon the Merger, each of LBI, Lyondell, Equistar, and the other Subsidiary Guarantors had incurred, or believed or reasonably should have believed that it would incur, debts beyond its ability to pay as they became due.

COUNT I
FRAUDULENT TRANSFER
(11 U.S.C. §§ 544, 548(a), and 550, and Applicable State Fraudulent Transfer Law)

(Against the ABN Entities as Senior Credit Facility Lender Parties)

162. The Indenture Trustee repeats and realleges the allegations contained in all prior paragraphs, which are incorporated by reference as if set forth fully herein.

163. On or about December 20, 2007, the Senior Credit Facility Obligors incurred the Senior Credit Facility Obligations under the Senior Credit Facility.

164. On or about December 20, 2007, the Senior Credit Facility Obligors granted the Senior Liens to Citibank, as Collateral Agent under the Senior Credit Facility, to secure the repayment of the Senior Obligations.

165. The Senior Credit Facility Obligors, including Lyondell, did not receive reasonably equivalent value or fair consideration in exchange for the incurrence of the Senior Credit Facility Obligations.

166. At the time of the Merger, each of the Senior Credit Facility Obligors: (i) was insolvent, or became insolvent as a result of the incurrence of the Senior Obligations; (ii) was engaged or was about to engage in a business or transaction for which the remaining assets were unreasonably small capital; and/or (iii) intended, believed, or reasonably should have believed that it would incur debts beyond its ability to pay such debts as they became due.

167. Upon information and belief, at all times relevant hereto, there were actual creditors of each of the Senior Credit Facility Obligors holding unsecured claims allowable within the meaning of 11 U.S.C. §§ 502 and 544(b).

168. The incurrence of the Senior Credit Facility Obligations was fraudulent as to creditors and should be avoided to the fullest extent permitted under 11 U.S.C. §§ 544(b), 548(a), and 550(a), and under applicable state fraudulent transfer law.

169. The grant of the Senior Liens to secure repayment of the Senior Credit Facility Obligations was fraudulent as to creditors and should be avoided to the fullest extent provided under 11 U.S.C. §§ 544(b), 548(a), and 550(a), and under applicable state fraudulent transfer law, and automatically preserved for the benefit of the estates under 11 U.S.C. § 551.

170. Any payments made, whether before or after the commencement of the Debtors' Chapter 11 cases, in respect of the Senior Credit Facility Obligations, whether consisting of payments of principal, interest, or penalties, or underwriting, commitment, administrative, or other fees, and including payments for adequate protection and payments of professional fees or expenses incurred in connection with the enforcement of the Senior Credit Facility Obligations or in defending this action, should be avoided and recovered to the fullest extent provided under 11 U.S.C. §§ 544(b), 548(a), and 550(a), and under applicable state fraudulent transfer law.

COUNT II
FRAUDULENT TRANSFER
(11 U.S.C. §§ 544, 548(a), and 550, and Applicable State Fraudulent Transfer Law)

(Against the ABN Entities as Bridge Loan Lender Parties)

171. The Indenture Trustee repeats and realleges the allegations contained in all prior paragraphs, which are incorporated by reference as if set forth fully herein.

172. On or about December 20, 2007 the Bridge Loan Obligors incurred the Bridge Loan Obligations under the Bridge Loan Agreement.

173. On or about December 20, 2007 the Bridge Loan Obligors granted the Bridge Loan Liens to secure the repayment of the Bridge Loan Obligations.

174. The Bridge Loan Obligors did not receive reasonably equivalent value or fair consideration in exchange for the incurrence of the Bridge Loan Obligations.

175. At the time of the Merger, each of the Bridge Loan Obligors: (i) was insolvent, or became insolvent as a result of the incurrence of the Bridge Loan Obligations; (ii) was engaged or was about to engage in a business or transaction for which the remaining assets were unreasonably small capital; and/or (iii) intended, believed, or reasonably should have believed that it would incur debts beyond its ability to pay such debts as they became due.

176. Upon information and belief, at all times relevant hereto, there were actual creditors of each of the Bridge Loan Obligors holding unsecured claims allowable within the meaning of 11 U.S.C. §§ 502 and 544(b).

177. The incurrence of the Bridge Loan Obligations was fraudulent as to creditors and should be avoided to the fullest extent provided under 11 U.S.C. §§ 544(b), 548(a), and 550(a), and under applicable state fraudulent transfer law.

178. The grant of the Bridge Loan Liens to secure repayment of the Bridge Loan Obligations was fraudulent as to creditors and should be avoided to the fullest extent provided under 11 U.S.C. §§ 544(b), 548(a), and 550(a), and under applicable state fraudulent transfer law, and automatically preserved for the benefit of the estates pursuant to 11 U.S.C. § 551.

179. Any payments made, whether before or after the commencement of the Debtors' Chapter 11 cases, in respect of the Bridge Loan Obligation, whether consisting of payments of

principal, interest, or penalties, or underwriting, commitment, administrative, or other fees, including payments for adequate protection and for professional fees or expenses incurred in connection with the enforcement of the Bridge Loan Obligations or in defending this action, should be avoided and recovered to the fullest extent provided under 11 U.S.C. §§ 544(b), 548(a), and 550(a), and under applicable state fraudulent transfer law.

COUNT III
EQUITABLE SUBORDINATION (11 U.S.C. § 510)

(Against the ABN Entities as Senior Credit Facility Lender Parties)

180. The Indenture Trustee repeats and realleges the allegations contained in all prior paragraphs, which are incorporated by reference as if set forth fully herein.

181. The conduct of the Senior Credit Facility Lender Parties, including the ABN Entities, as alleged above, constitutes inequitable conduct.

182. By reason of the conduct of the Senior Credit Facility Lender Parties, Lyondell and Equistar became insolvent, undercapitalized, and were unable to satisfy their obligations to their general creditors, thereby harming the Lyondell Noteholders and Equistar Noteholders.

183. Allowing the Senior Credit Facility Lender Parties to receive payment on their claims or any claims which they purport to assert prior to the Lyondell Noteholders and Equistar Noteholders would be unfair and inequitable.

184. Equitable subordination of the claims of the Senior Credit Facility Lender Parties is consistent with the Bankruptcy Code.

185. Because of the transactions and actions described herein, the claims of the Senior Credit Facility Lender Parties should be equitably subordinated to all the claims of the Lyondell Noteholders and Equistar Noteholders pursuant to section 11 U.S.C. § 510.

186. In addition, because the Senior Credit Facility Lender Parties' claims should be equitably subordinated, all of the consideration paid, including all of the liens granted, to the Senior Credit Facility Lender Parties and their agents on account of such claims, or the value of such consideration, should be recovered or transferred for the benefit of the estates and their creditors.

COUNT IV
EQUITABLE SUBORDINATION (11 U.S.C. § 510)

(Against the ABN Entities as Bridge Loan Lender Parties)

187. The Indenture Trustee repeats and realleges the allegations contained in all prior paragraphs, which are incorporated by reference as if set forth fully herein.

188. The conduct of the Bridge Loan Lender Parties, including the ABN Entities, as alleged above, constitutes inequitable conduct.

189. By reason of the conduct of the Bridge Loan Lender Parties, Lyondell and Equistar became insolvent, undercapitalized, and were unable to satisfy their obligations to their general creditors, thereby harming the Lyondell Noteholders and Equistar Noteholders.

190. Allowing the Bridge Loan Lender Parties to receive payment on their claims or any claims which they purport to assert prior to the Lyondell Noteholders and Equistar Noteholders would be unfair and inequitable.

191. Equitable subordination of the claims of the Bridge Loan Lender Parties is consistent with the Bankruptcy Code.

192. Because of the transactions and actions described herein, the claims of the Bridge Loan Lender Parties should be equitably subordinated to all the claims of the Lyondell Noteholders and Equistar Noteholders pursuant to section 11 U.S.C. § 510.

193. In addition, because the Bridge Loan Lender Parties' claims should be equitably subordinated, all of the consideration paid, including all of the liens granted, to the Bridge Loan Lender Parties and their agents on account of such claims, or the value of such consideration, should be recovered or transferred for the benefit of the estates and their creditors.

COUNT V
FRAUDULENT TRANSFER
(11 U.S.C. §§ 544, 548(a), and 550, and Applicable State Fraudulent Transfer Law)

(Against the ABN Entities as Senior Credit Facility Lender Parties and the ABN Entities as Bridge Loan Lender Parties)

194. The Indenture Trustee repeats and realleges the allegations contained in all prior paragraphs, which are incorporated by reference as if set forth fully herein.

195. On or about December 20, 2007, Lyondell became an obligor on, and Lyondell, Equistar, and the other Subsidiary Guarantors guaranteed, the Senior Credit Facility Obligations under the Senior Credit Facility.

196. On or about December 20, 2007, Lyondell, Equistar, and the other Subsidiary Guarantors also guaranteed the Bridge Loan Obligations under the Bridge Loan Facility.

197. Lyondell, Equistar, and the other Subsidiary Guarantors did not receive reasonably equivalent value or fair consideration in exchange for the incurrence of these obligations and guarantees.

198. At the time of the Merger, each of Lyondell, Equistar, and the other Subsidiary Guarantors: (i) was insolvent, or became insolvent as a result of the incurrence of the obligations and guarantees; (ii) was engaged or was about to engage in a business or transaction for which the remaining assets were unreasonably small capital; and/or (iii) intended, believed, or reasonably should have believed that it would incur debts beyond its ability to pay such debts as they became due.

199. Upon information and belief, at all times relevant hereto, there were actual creditors of each of Lyondell, Equistar, and the other Subsidiary Guarantors holding unsecured claims allowable within the meaning of 11 U.S.C. §§ 502 and 544(b).

200. The obligations and guarantees imposed upon Lyondell, Equistar, and the other Subsidiary Guarantors were fraudulent as to creditors and should be avoided to the fullest extent provided under 11 U.S.C. §§ 544(b), 548(a), 550(a), and under applicable state fraudulent transfer law.

201. Any and all security interests, pledges, liens, or other property of Lyondell, Equistar, and the other Subsidiary Guarantors transferred to or for the benefit of the Senior Credit Facility Lender Parties, including the ABN Entities and/or the Bridge Loan Lender Parties, including the ABN Entities, to secure the obligations and guarantees should be avoided and recovered or preserved for the benefit of the estates to the fullest extent provided under 11 U.S.C. §§ 544(b), 548, 550, and 551, and under applicable state fraudulent transfer law.

COUNT VI
FRAUDULENT TRANSFER
(11 U.S.C. §§ 544, 548(a), and Applicable State Fraudulent Transfer Law)

(Against ABN AMRO N.V., as security agent, and Wilmington Trust, as Successor Indenture Trustee, on the Nell Notes)

202. The Indenture Trustee repeats and realleges the allegations contained in all prior paragraphs, which are incorporated by reference as if set forth fully herein.

203. In connection with the Merger, Lyondell, Equistar, and the other Nell Notes Guarantors also became guarantors under the Nell Indenture.

204. Lyondell's, Equistar's, and the other Nell Notes Guarantors' guarantees under the Nell Indenture were predicated on their guarantees of the Senior Credit Facility – guarantees that were fraudulent conveyances and obligations.

205. The Nell Notes Guarantors' guarantees under the Nell Indenture were also fraudulent conveyances and obligations, and there was no legitimate basis for the granting of the Nell Guarantees.

206. The Nell Notes Guarantors did not receive reasonably equivalent value or fair consideration in exchange for the incurrence of the Nell Guarantees.

207. At the time of the Merger, each of the Nell Notes Guarantors: (i) was insolvent, or became insolvent as a result of the incurrence of obligations at the time of the Merger, including the Nell Guarantees; (ii) was engaged or was about to engage in a business or transaction for which the remaining assets were unreasonably small capital; and/or (iii) intended, believed, or reasonably should have believed that it would incur debts beyond its ability to pay such debts as they became due.

208. Upon information and belief, at all times relevant hereto, there were actual creditors of each of the Nell Notes Guarantors holding unsecured claims allowable within the meaning of 11 U.S.C. §§ 502 and 544(b).

209. The obligations incurred by the Nell Notes Guarantors under the Nell Guarantees were fraudulent as to creditors and should be avoided to the fullest extent provided under 11 U.S.C. §§ 544(b), 548(a), and under applicable state fraudulent transfer law.

PRAYER FOR RELIEF

WHEREFORE, by reason of the foregoing, Plaintiff requests that the Court grant the following relief:

(1) On Count I:

a. entering a judgment against the ABN Entities as Senior Credit Facility Lender Parties, finding that the Senior Credit Facility Obligations and the

Senior Liens constitute fraudulent transfers and/or fraudulently incurred obligations pursuant to 11 U.S.C. §§ 544 and 548, and under applicable state fraudulent transfer law;

b. pursuant to 11 U.S.C. §§ 544 and 548, and under applicable state fraudulent transfer law, avoiding the Senior Credit Facility Obligations to the maximum extent permitted by law;

c. pursuant to 11 U.S.C. §§ 544 and 548, and under applicable state fraudulent transfer law, avoiding the Senior Liens to the maximum extent permitted by law, and, under 11 U.S.C. § 551, preserving the avoided Senior Liens for the benefit of the estates; and

d. pursuant to 11 U.S.C. § 550 and under applicable state fraudulent transfer law, avoiding all other pre-Petition and post-Petition transfers in respect of avoided Senior Credit Facility Obligations, and entering judgment against the ABN Entities as Senior Credit Facility Lender Parties in the amount of such avoided transfers.

(2) On Count II:

a. entering a judgment against the ABN Entities as Bridge Loan Lender Parties, finding that the Bridge Loan Obligations and the Bridge Loan Liens constitute fraudulent transfers and/or fraudulently incurred obligations pursuant to 11 U.S.C. §§ 544 and 548, and under applicable state fraudulent transfer law;

b. pursuant to 11 U.S.C. §§ 544 and 548, and under applicable state fraudulent transfer law, avoiding the Bridge Loan Obligations to the maximum extent permitted by law;

c. pursuant to 11 U.S.C. §§ 544 and 548, and under applicable state fraudulent transfer law, avoiding the Bridge Loan Liens to the maximum extent permitted by law and, under 11 U.S.C. § 551, preserving the avoided Bridge Loan Liens for the benefit of the estates; and

d. pursuant to 11 U.S.C. § 550 and under applicable state fraudulent transfer law, avoiding all other pre-Petition and post-Petition transfers in respect of avoided Bridge Loan Obligations, and entering judgment against the ABN Entities as Bridge Loan Lender Parties in the amount of such avoided transfers.

(3) On Count III:

a. entering a judgment against the ABN Entities as Senior Credit Facility Lender Parties, finding that they engaged in inequitable conduct pursuant to 11 U.S.C. § 510;

b. subordinating the claims of the ABN Entities as Senior Credit Facility Lender Parties, arising out of the Senior Credit Facility Obligations; and

c. pursuant to 11 U.S.C. §§ 550 and 510 entering judgment against the ABN Entities as Senior Credit Facility Lender Parties for any payments made by the Senior Credit Facility Obligors on account of the Senior Credit Facility Obligations, and transferring the liens securing the subordinated Senior Credit Facility Obligations to the estates.

(4) On Count IV:

a. entering a judgment against the ABN Entities as Bridge Loan Lender Parties finding that they engaged in inequitable conduct pursuant to 11 U.S.C. § 510;

b. subordinating the claims of the ABN Entities as the Bridge Loan Lender Parties arising out of the Bridge Loan Obligations; and

c. pursuant to 11 U.S.C. §§ 550 and 510 entering judgment against the ABN Entities as the Bridge Loan Lender Parties for any payments made by the Bridge Loan Obligors on account of the Bridge Loan Obligations, and transferring the liens securing the subordinated Bridge Loan Obligations to the estates.

(5) On Count V:

a. entering a judgment against the ABN Entities as Senior Credit Facility Lender Parties and the ABN Entities as the Bridge Loan Lender Parties, finding that Lyondell's obligations on the Senior Credit Facility Obligations, as well as the Subsidiary Guarantees by Lyondell, Equistar, and the other Subsidiary Guarantors constitute fraudulently incurred obligations and that any liens securing such obligations or guarantees constitute fraudulent transfers pursuant to 11 U.S.C. §§ 544 and 548, and under applicable state fraudulent transfer law;

b. pursuant to 11 U.S.C. §§ 544 and 548, and under applicable state fraudulent transfer law, avoiding Lyondell's obligations on the Senior Credit Facility Obligations, as well as the obligations of the Subsidiary

Guarantees by Lyondell, Equistar, and the other Subsidiary Guarantors, and any liens securing such obligations or guarantees, to the maximum extent permitted by law;

c. pursuant to 11 U.S.C. §§ 550 and 551, and under applicable state fraudulent transfer law, preserving any such avoided liens for the benefit of the estates and entering judgment against the ABN Entities as Senior Credit Facility Lender Parties and against the ABN Entities as the Bridge Loan Lender Parties for any other property, or the value thereof, transferred by Lyondell, Equistar, or the other Subsidiary Guarantors on account of the Subsidiary Guarantees; and

d. declaring that, in consequence of the foregoing, the guarantees given by Lyondell, Equistar, and the other Subsidiary Guarantors in connection with the Merger must be avoided or reduced in amount to the maximum extent permitted by law.

(6) On Count VI:

a. entering a judgment against ABN AMRO N.V., as security agent, and Wilmington Trust, as Successor Indenture Trustee, finding that the Nell Guarantees constitute fraudulently incurred obligations pursuant to 11 U.S.C. §§ 544 and 548, and under applicable state fraudulent transfer law;

b. pursuant to 11 U.S.C. §§ 544 and 548, and under applicable state fraudulent transfer law, avoiding the obligations of the Nell Notes Guarantors under the Nell Guarantees to the maximum extent permitted by law;

c. entering judgment against ABN AMRO N.V., as security agent, and Wilmington Trust, as Successor Indenture Trustee for any property, or the value thereof, transferred by the Nell Notes Guarantors on account of the Nell Guarantees; and

d. declaring that, in consequence of the foregoing, the Nell Guarantees must be avoided or reduced in amount to the maximum extent permitted by law.

(7) Interest, costs, attorneys' fees, and such other and further relief as the Court deems just and proper.

THE INDENTURE TRUSTEE DEMANDS A JURY TRIAL

ON ALL ISSUES SO TRIABLE.

Dated: New York, New York
November 9, 2009

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