

EMPLOYER STATUS DETERMINATION**Brandon Corporation**

This is a determination of the Railroad Retirement Board concerning the status of Brandon Corporation (BC) as an employer under the Railroad Retirement Act (45 U.S.C. § 231 et seq.)(RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.)(RUIA).

BC (BA 4775) has been an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts since April 3, 1978 (See Legal Opinion L-79-134). A review of the covered status of BC began when the Board's Audit and Compliance Division received information that BC's assets were sold to Brandon Railroad, LLC. In Finance Docket No. 34930, decided September 19, 2006, Brandon Railroad, LLC, filed with the Surface Transportation Board (STB) a verified notice of exemption under 49 CFR 1150.31 for the acquisition of approximately 17.3 miles of rail line from BC in the former Omaha-South Omaha switching district in Omaha, Nebraska¹. The sale of BC's assets, including 17.3 miles of rail line, was closed on September 8, 2006. On February 29, 2008, the President of Brandon Corporation signed Articles of Dissolution which stated that they would become effective as of the date they were filed. The copy provided to the Board indicates that the Articles of Dissolution were filed with the Secretary of the State of Nebraska on November 20, 2008.

Section 202.11 (20 CFR 202.11) of the Board's regulations states that:

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

The evidence of record establishes that BC no longer possesses the characteristics of a railroad carrier employer with the United States. The Board therefore finds that effective November 20, 2008, the date BC filed Articles of Dissolution with the Secretary of State of Nebraska, Brandon Corporation

¹ Although Brandon Railroad, LLC, obtained the rail line and assets from BC, it had not yet started rail operations as of February 2009. In a letter dated February 3, 2009, attorney Kevin C. Maughan, Associate General Counsel of the Greenbrier Companies, Inc., and counsel to Brandon Railroad, LLC, advised that if Brandon Railroad, LLC (BRR) "is not able to attract any traffic and determines that there is no likelihood of any traffic developing in the foreseeable future, BRR may abandon its operations and go out of business."

ceased being a covered employer under the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

Original signed by:

FOR THE BOARD
Beatrice Ezerski
Secretary to the Board