WEST VIRGINIA CODE: §40-1A-1

§40-1A-1. Definitions.

As used in this article:

(a) “Affiliate” means:

(1) A person that directly or indirectly owns, controls or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities;

(i) As a fiduciary or agent without sole discretionary power to vote the securities; or

(ii) Solely to secure a debt, if the person has not exercised the power to vote;

(2) A corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls or holds, with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities:

(i) As a fiduciary or agent without sole power to vote the securities; or

(ii) Solely to secure a debt, if the person has not in fact exercised the power to vote;

(3) A person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

(4) A person who operates the debtor’s business under a lease or other agreement or controls substantially all of the debtor’s assets.

(b) “Asset” means property of a debtor, but the term does not include:

(1) Property to the extent it is encumbered by a valid lien;

(2) Property to the extent it is generally exempt under nonbankruptcy law; or

(3) An interest in property held in tenancy by the entireties to the extent it is not subject to process by a creditor holding a claim against only one tenant.

(c) “Claim,” except as used in “claim for relief,” means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured.

(d) “Creditor” means a person who has a claim.

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(e) “Debt” means liability on a claim.

(f) “Debtor” means a person who is liable on a claim.

(g) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(h) “Insider” includes:

(1) If the debtor is an individual:

(i) A relative of the debtor or of a general partner of the debtor;

(ii) A partnership in which the debtor is a general partner;

(iii) A general partner in a partnership described in subparagraph (ii) of this paragraph; or

(iv) A corporation of which the debtor is a director, officer or person in control;

(2) If the debtor is a corporation:

(i) A director of the debtor;

(ii) An officer of the debtor;

(iii) A person in control of the debtor;

(iv) A partnership in which the debtor is a general partner;

(v) A general partner in a partnership described in subparagraph (iv) of this paragraph; or

(vi) A relative of a general partner, director, officer or person in control of the debtor;

(3) If the debtor is a partnership:

(i) A general partner in the debtor;

(ii) A relative of a general partner in, a general partner of, or a person in control of the debtor;

(iii) Another partnership in which the debtor is a general partner;

(iv) A general partner in a partnership described in subparagraph (iii) of this paragraph; or

(v) A person in control of the debtor;

(4) An affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

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(5) A managing agent of the debtor.

(i) "Lien" means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial

lien obtained by legal or equitable process or proceedings, a common-law lien or a statutory lien.

(j) "Organization" means a person other than an individual.

(k) "Person" means an individual, partnership, association, trust, business or nonprofit entity, public corporation, government or governmental subdivision or agency, business trust, estate, trust or any other legal or commercial entity.

(l) "Property" means anything that may be the subject of ownership.

(m) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(n) "Relative" means an individual related by consanguinity within the third degree as determined by the common law, a spouse or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

(o) "Sign" means, with present intent to authenticate or adopt a record:

(1) To execute or adopt a tangible symbol; or

(2) To attach to or logically associate with the record an electronic symbol, sound, or process.

(p) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, license, and creation of a lien or other encumbrance.

(q) "Valid lien" means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

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