

LAW OFFICES

**JACKSON & CAMPBELL, P.C.**

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DIRECT DIAL NUMBER

457-1634

June 9, 1987

**HAND-DELIVERED** 7-160A016

RECORDATION NO. 13396-K Filed 142b

No.

Date JUN 9 1987

Fee \$ 10.00

ICC Washington, D.C.

JUN 9 1987 - 12 25 PM

INTERSTATE COMMERCE COMMISSION

MOTOR OPERATING UNIT  
JUN 9 12 08 PM '87  
TOC OFFICE OF THE SECRETARY

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- KENNETH WELLS PARKINSON
- DANIEL WEBSTER COON\*
- ARTHUR C. ELGIN, JR.\*
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- ANTOINETTE A. LABEL
- RICHARD J. DEFEQ, JR.
- MARY LYNN REED\*
- SUSAN E. HAWES
- WARREN C. LUTZ\*

\* ALSO ADMITTED IN MARYLAND  
\* ALSO ADMITTED IN VIRGINIA

Ms. Noreta R. McGee  
Office of the Secretary  
Recordation Office  
Interstate Commerce Commission  
12th Street and Constitution Avenue, N.W.  
Washington, D.C. 20423

Re: Equifund L.P.; Citibank, N.A.;  
United States Rail Services, Inc.;  
ICC Recordation No. 13396-K

Dear Ms. McGee:

In accordance with the provisions of Section 11303 of the Revised Interstate Commerce Act, 49 U.S.C. 11303, and Part 1177 of Title 49 of the Code of Federal Regulations, we request, as special counsel for Citibank, N.A., that the enclosed document be recorded and filed with the Interstate Commerce Commission.

You will find enclosed herewith executed originals of the following document:

Management Agreement, dated February 4, 1987, by and between United States Rail Services, Inc., as Managing Agent, and Equifund L.P., as Owner.

*Amsterputt-Schwend*

*h/le*

Ms. Noreta R. McGee  
June 9, 1987  
Page two

The Management Agreement is intended to reflect the engagement by Equifund L.P. of United States Rail Services to manage certain railcars. These railcars are more specifically identified in Exhibit A to the Management Agreement.

The parties to the aforesaid document are as follows:

United States Rail Services, Inc.  
P.O. Box 3985  
San Francisco, California 94119

Attention: Mr. Quenton Yeung

Equifund L.P.  
c/o Equilease Management Corporation  
750 Third Avenue  
New York, New York 10017

Attention: President

You will also find enclosed herewith a check made payable to the Interstate Commerce Commission in the amount of Ten Dollars (\$10.00), which amount is intended as full and final payment of the filing fee to be incurred in connection herewith.

Would you please stamp, as filed, each of the duplicate originals enclosed herewith and return the stamped duplicate original not used by your office to our office at your earliest possible convenience? This document should be assigned Recordation No. 13396-K.

If you have any questions in this regard, please do not hesitate to contact us.

Sincerely yours,

JACKSON & CAMPBELL, P.C.

By:   
David H. Cox

DHC/lg

Enclosures As Stated

cc: Mr. Gary J. Groot

# Interstate Commerce Commission

Washington, D.C. 20423

6-9-87

OFFICE OF THE SECRETARY

Jackson & Campbell, P.C.  
One Lafayette Centre  
Suite 300 South  
1120 20th Street, N. W.  
Washington, D.C. 20036-3437

Dear

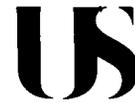
The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 6-9-87 at 12:25 PM, and assigned re-  
recording number(s). I3396-K

Sincerely yours,

*Norita R. McGee*  
Secretary

Enclosure(s)

SE-30  
(7/79)



A. U.S. Leasing Company  
615 Battery Street, 5th Floor  
Mailing Address:  
P.O. Box 3985  
San Francisco, California 94119  
(415) 627-9250

THIS WRITING IS NON-NEGOTIABLE. THIS WRITING AND THE OBLIGATIONS EVIDENCED HEREBY ARE OWNED BY, OR SUBJECT TO THE SECURITY INTERESTS OF OTHER PERSONS. ALL INQUIRES REGARDING SUCH OWNERSHIP OR SECURITY INTEREST SHOULD BE DIRECTED TO THE CONNECTICUT NATIONAL BANK, AS TRUSTEE.

MANAGEMENT AGREEMENT

RECORDATION NO. 13396-15 Filed 1420

JUN 9 1987 - 12 25 PM

Date: February 4, 1987

INTERSTATE COMMERCE COMMISSION

Parties: United States Rail Services, Inc., A California Corporation ("USRS") and

Equifund, L.P., a Delaware Limited Partnership ("Owner")

Recitals: A. Owner owns the railroad cars (the "Cars") listed and described in Exhibit A attached hereto.

B. USRS engages in the business of managing railcars for railcar owners, and Owner desires to retain USRS as its agent for the purpose of managing the Cars on Owner's behalf. This Management Agreement is not intended as a partnership or a joint venture between USRS and the Owner and, in that respect USRS has no authority to bind Owner without Owner's written consent.

C. The Cars are to be put under lease to CSX Transportation, Inc., ("Lessee"), successor to Seaboard System Railroad, Inc., under and pursuant to that Master Car Lease Agreement dated as of December 13, 1985 ("Lease"), between USRS and Lessee.

Agreements:

1. Engagement of USRS (MANAGING AGENT)

Owner hereby engages USRS as its exclusive agent to manage the Cars, put the Cars under lease to Lessee pursuant to the Lease, collect amounts due to or on behalf of Owner with respect to the Cars and disburse funds to pay costs, expenses and obligations of Owner with respect to the Cars, all on the terms and conditions set forth herein, and USRS accepts such engagement and agrees to act as the exclusive agent for Owner and perform in accordance with the terms and conditions hereof.

2. Term

The term of this Agreement and the agency created hereby shall commence as of the date hereof, and shall continue through the end of the Lease.

Notwithstanding the expiration or any earlier termination of this Agreement, USRS and Owner shall continue to be obligated to fulfill all obligations arising out of events occurring prior to such expiration or termination. Anything herein to the contrary notwithstanding, this Agreement shall terminate with respect to any Car which is sold, foreclosed upon, lost or totally destroyed as of thirty (30) days from the date that such sale or foreclosure is consummated or such Car is lost or destroyed and settlement made therefore.

### 3. Duties of USRS (MANAGING AGENT)

USRS shall provide and perform the following services on behalf of Owner as Managing Agent during the term of this Agreement:

(a) Accept delivery of Owner's Cars, operate and account for them and place them under lease to Lessee pursuant to the Lease.

(b) At Owner's expense, not to exceed \$50.00 per car, promptly cause Lessee to place Lessee's reporting marks along with the serial number assigned to each Car upon the Cars and register such Cars in such tariffs as required for their operation in railroad service. Promptly after marks are assigned to each car by CSX, USRS will advise Owner of such marks and record them with the ICC.

(c) Acting on behalf of the Owner, execute in its name, if it deems it advisable (1) all required Association of American Railroads, Interstate Commerce Commission, local Public Utility Commission and all other governmental or industry agreements it deems necessary, appropriate or required in order to operate Owner's Cars in railroad service under this Agreement and the Lease; and (2) all ad valorem and other tax filings, make such filings and pay in accordance with the Lease any such taxes with respect to such Cars. USRS will file this Agreement with the ICC.

(d) Perform, on behalf of Owner, all of Owner's obligations under the Lease; provided, however, that any such obligations which require payments by Owner shall be performed by USRS and be reimbursed by Owner as hereinafter provided in Sections 5 and 6 hereof. USRS will not agree to any extension, amendment or modification of the Lease without Owner's prior written approval.

(e) Perform all managerial and administrative functions incident to the operation of Owner's Cars, including (but not limited to) collecting of all revenue, and distribution of the same to Owner.

(f) At the end of the Lease, arrange for any Cars to be stored, at Owner's expense, as economically as possible, subject to USRS reasonable judgment, until and as Owner directs otherwise.

(g) At the commencement of USRS management under this Agreement, inspect all the Cars at Owner's expense to determine the condition and state of the Cars, and thereafter inspect such number of the Cars as USRS, in its reasonable opinion, deems necessary in order to determine whether the Cars are being properly used and repaired. USRS shall inform Owner in writing in reasonable detail of the results of such inspections.

(h) Use reasonable commercial efforts to place in Owner's name, subject to Owner's prior approval, which approval shall not be unreasonably withheld, and at Owner's expense, such insurance in such amounts and against such risks as may be necessary and customary in the industry and approved in advance by Owner in order to protect the interest of Owner in the Cars including, without limitation, insurance against (i) personal liability, including property damage and personal injury, and (ii) loss of or damage to the Cars. Such insurance shall name Owner, Citibank, N.A., and USRS as co-insureds. Such loss or damage insurance shall name Citibank, N.A. as loss payee. The current annual premium for all such insurance is \$250 per car, per year which will be pro rated on a monthly basis at \$20.83 per car.

(i) Maintain complete and accurate records relating to the Cars in the same form and to the same extent as USRS customarily maintains records of its own cars, and in such a manner that information relating to the cars can be readily ascertained, and make such records available for inspection by Owner or any of Owner's representatives or designees during reasonable business hours.

(j) Upon the termination or expiration of the Lease, USRS will arrange, at Owner's expense (except to the extent such expenses are to be paid by Lessee), for the transportation (at the lowest possible transportation cost to Owner), gathering, storage and remarking of the Cars to the extent required subject to the agreement of Owner. If possible, USRS will cause all Cars to be loaded and moved as revenue earning equipment to their destinations. Following the termination of the Lease, USRS will use reasonable efforts to secure new leases or other uses for the Cars subject to the approval of the Owner.

(k) Use best reasonable efforts to collect all sums due Owner, including, without limitation, insurance benefits or railroad indemnity payments, in the event of damage to, or loss or total destruction of, a Car during the term of this Agreement and to remit all sums due Owner as hereinafter provided. If, in order to collect sums due Owner, USRS deems it necessary to retain the services of outside counsel, the expense of such counsel shall be borne by Owner, provided that USRS has secured prior approval of the designation and retention of such counsel for such purpose from Owner.

(l) Use reasonable efforts to assure that the Cars are not used outside the United States.

#### 4. Revenues, Expenses and Net Earnings

All revenue received by USRS in connection with the Cars from whatever source and for whatever reason, including, but not limited to; lease rental, per diem, mileage, penalties, and demurrage ("Gross Revenue") shall be deposited in an account in the name of Owner maintained by USRS exclusively for such revenue on Owner's behalf and shall be remitted to Owner by USRS on a monthly basis net of both expenses and management fees to which USRS is entitled under Sections 5 and 6 hereof. USRS shall remit indemnity payments and insurance proceeds to Owner promptly, but in any event, within 15 days of receipt thereof, and such monies shall not be included in Gross Revenue for purposes of this Agreement.

## 5. Expenses

USRS shall be entitled to reimbursement for all disbursements to third parties that it has properly made in the performance of its duties as provided in Section 3 hereof and which are specifically stated as being at the expense of Owner. If, at the time that any expense is incurred by USRS in the performance of its duties, the amount of Gross Revenue is insufficient to fully cover such expense, other than and not taking into account the Management Fee as provided in Section 6 hereof, USRS shall immediately notify Owner, and Owner shall, within 10 days of receipt of such notice, remit to USRS an amount equal to the difference between such expense and Gross Revenue.

## 6. Compensation

USRS will undertake the complete management of the Cars in accordance with the terms of this Agreement for a management fee equal to \$15.00 per Car, per month.

## 7. Right of Sale

Owner shall have the right, upon 30 days written notice to USRS, to sell any Car or Cars, provided, however, at USRS's option that notwithstanding any sale, such Car or Cars shall remain subject to the terms of the Lease. USRS shall have no authority to sell any of the Cars unless such authority is granted in writing by Owner.

## 8. Representations, Warranties and Covenants

(a) USRS represents, warrants and covenants that:

(i) USRS has full power and authority to execute, deliver, and comply with this Agreement.

(ii) All required proceedings, corporate or otherwise, in respect of the execution, delivery and performance under this Agreement have been complied with by USRS properly and in a timely manner.

(iii) The entering into and performance of this Agreement by USRS will not violate any judgement, order, law or regulation applicable to USRS, or result in any breach of, or constitute a default under or result in the creation of, any lien, charge, security interest or other encumbrance upon any assets of USRS or on the Cars pursuant to any instrument to which USRS is a party or by which it or its assets may be bound.

(iv) There is no action or proceeding pending or threatened against USRS before any court or administrative agency or other governmental body which might result in any material adverse effect on the business, properties and assets, or conditions, financial or otherwise, of USRS.

(iii) There is no fact which USRS has not disclosed to Owner in writing which, nor is USRS a party to any agreement or instrument which, so far as USRS can now reasonably foresee, will individually or in the aggregate materially adversely affect the ability of USRS to perform its obligations under this Agreement.

(b) Owner represents, warrants and covenants that:

(i) The entering into and performance of this Agreement by Owner will not violate any judgment, order, law or regulation applicable to Owner, or result in any breach of, or constitute a default under or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of Owner or on the Cars pursuant to any instrument to which Owner is a party or by which it or its assets may be bound.

(ii) All required proceedings, corporate or otherwise, in respect of the execution, delivery and performance under this Agreement have been complied with by Owner properly and in a timely manner.

(iii) There is no fact which Owner has not disclosed to USRS in writing which, nor is Owner a party to any agreement or instrument which, so far as the Owner can now reasonably foresee, will individually or in the aggregate materially adversely affect the ability of Owner to perform its obligations under this Agreement.

(iv) There is no action or proceeding pending or threatened against Owner before any court or administrative agency or other governmental body which might result in any material adverse effect on the business, properties and assets, or conditions, financial or otherwise, of Owner.

## 9. Default

(a) The occurrence of any of the following events shall be an event of default:

(i) The non-payment by USRS or Owner of any sum required herein to be paid within ten (10) days after written notice that any such payment is overdue.

(ii) The breach by either party of any other term, covenant, or condition of this Agreement, which is not cured within thirty (30) days after written notification of breach.

(iii) Any act of insolvency by either party or the filing of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors.

(iv) The filing of any involuntary petition under any bankruptcy, reorganization, insolvency or moratorium law against either party that is not dismissed within sixty (60) days from the date of said filing or appointment.

(v) Fraud, gross negligence, or intentional misconduct on the part of either party hereto with respect to any of its obligations as set forth in this Agreement.

(vi) Any assignment of this Agreement not in accordance with Section 14(d) of this Agreement.

(b) Upon the occurrence of any event of default and in addition to any other remedies provided under applicable law, the party not in default may, at its option, terminate this Agreement or proceed by any lawful means to enforce performance of this Agreement.

#### 10. Termination

Upon termination or expiration of this Agreement, USRS shall, at Owner's expense, take control of the Cars, store or transport (or arrange to store or transport) the Cars to a location designated by Owner, and thereafter Owner shall assume responsibility for and control of the Cars, provided, however, that if termination occurs as a result of a default by USRS as set forth in Section 9, Owner may take control of the Cars and USRS will pay the reasonable costs incurred by Owner in connection with the return of the Cars to Owner's control.

If the Lease is still in effect with respect to any of the Cars, USRS shall notify Lessee to deal directly with Owner, and thereafter, USRS shall have no further rights or obligations with respect to the Cars. However, Owner shall at USRS's option and direction assign Owner's rights in the Lease to USRS.

#### 11. Indemnification

Owner shall defend (if such defense is requested by USRS) indemnify and hold USRS harmless from and against any and all third-party claims, actions, damages, expenses (including reasonable attorneys' fees and reasonable cost of investigation), losses or liabilities including those based on the principle of "Strict Liability in Tort" incurred by or asserted against USRS as a result of the use, operation, possession, control, maintenance, repair or storage of the Cars including, claims for injury to or death of persons, loss of or damage to property (including the Cars), and economic loss due to the unavailability for use of the Cars; provided, however, that (a) Owner shall not defend, indemnify or hold USRS harmless from and against, and USRS shall not be exculpated from any claim, action, damage, expense, loss or liability caused by or arising from the negligence, bad faith, recklessness, or wilful misconduct of USRS or its employees.

and b) USRS shall have given Owner prompt written notice of the institution against USRS of any legal proceeding by any third party and shall have afforded Owner the opportunity to defend such legal proceeding in the name of USRS or Owner, with counsel of Owner's choosing but at the sole cost and expense of Owner.

12. Notices

Any notice required or permitted hereunder shall be in writing and shall be valid and sufficient if delivered personally or dispatched in any post office of the United States by registered or certified mail, postage prepaid, addressed to the other party as follows:

If to Owner: EQUIFUND L.P.  
c/o Equilease Management Corporation  
750 Third Avenue  
New York, NY 10017  
Attention: President

If to Agent: U S Rail Services, Inc.  
P.O. Box 3985  
San Francisco, CA 94119  
Attn: Quenton Yeung / Controller

and any party may change such address by notice given to the other party in the manner set forth above.

13. Dealings with Lessee; withdrawal of Cars from the Lease; Manager's Remedies Against Defaulting Owner

(a) The terms and conditions of this Agreement shall inure to the benefit of and be binding upon, any purchaser, foreclosing mortgagee, donee or other transferee of the Cars, and any such purchaser, foreclosing mortgagee, donee or transferee shall acknowledge USRS as such purchaser's, foreclosing mortgagee's, donee's or other transferee's agent for the purpose of receiving rentals under the Lease.

(b) USRS on behalf of Owner, shall exercise all of Owner's rights with respect to the Cars under the Lease without being required to seek or receive the consent of or instructions from Owner, except as expressly required under the terms of this Agreement.

(c) If Owner shall at any time be in default hereunder and USRS shall terminate this Agreement, then USRS may require the transfer to USRS of all of Owner's interest in the Lease, and substitute thereunder cars substantially identical in all material respects to the Cars so withdrawn.

14. Miscellaneous

(a) Governing Law. This Agreement shall be governed by and construed under the laws of the state of California.

(b) Headings. Titles and headings of the Sections and Subsections of this Agreement are for the convenience of reference only and do not form a part of this Agreement and shall not in any way affect the interpretation hereof.

(c) Amendment. No modification or amendment to this Agreement shall be valid unless in writing and executed by both parties hereto.

(d) Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto; provided, however, that no assignment hereof by Owner or USRS or transfer of any of the Owner's or USRS respective rights hereunder, whether by operation of law or otherwise, shall be valid and effective as against USRS or Owner without the prior written consent of both USRS and Owner, which consent shall not be unreasonably withheld.

(e) Force Majeure. Neither party hereto shall be deemed to be in breach or in violation of this Agreement if either is prevented from performing any of its obligations hereunder for any reason beyond its reasonable control including, without limitation, acts of God, riots, strikes, fires, storms, public disturbances, or any regulation of any Federal, State or local government or any agency thereof.

(f) Waiver. The Waiver of any breach of any term or condition hereof shall not be deemed a waiver or any other or subsequent breach, whether of like or different nature.

(g) Severability. If any term or provision of this Agreement or the performance thereof shall to any extent be invalid or unenforceable, such invalidity or unenforceability shall not affect or render invalid or unenforceable any other provision of this Agreement, and this Agreement shall be valid and enforced to the fullest extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written:

EQUIFUND L.P., by its General Partner:  
Equilease Management Corporation  
750 Third Avenue  
New York, NY 10017

UNITED STATES RAIL SERVICES, INC.  
P. O. BOX 3985  
San Francisco, California 94119

By:   
Title Pres.

By:   
Title President

*WJM*  
*2/12/81*

EXHIBIT A  
DESCRIPTION OF EQUIPMENT

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QUANTITY: One hundred and eighteen (118)

TYPE OF CAR: 50' - 70-Ton, RBL Boxcars

CAR MARKS  
and

NUMBERS:

Former Southern Numbers

New CSX Numbers

SOU 780000	SOU 780044	SOU 780086
SOU 780001	SOU 780045	SOU 780087
SOU 780002	SOU 780046	SOU 780088
SOU 780003	SOU 780047	SOU 780089
SOU 780004	SOU 780048	SOU 780090
SOU 780005	SOU 780049	SOU 780091
SOU 780006	SOU 780050	SOU 780092
SOU 780007	SOU 780051	SOU 780093
SOU 780008	SOU 780052	SOU 780094
SOU 780009	SOU 780053	SOU 780095
SOU 780010	SOU 780054	SOU 780096
SOU 780011	SOU 780055	SOU 780097
SOU 780012	SOU 780056	SOU 780098
SOU 780013	SOU 780057	SOU 780099
SOU 780014	SOU 780058	SOU 780100
SOU 780016	SOU 780059	SOU 780101
SOU 780017	SOU 780060	SOU 780102
SOU 780018	SOU 780061	SOU 780103
SOU 780019	SOU 780062	SOU 780104
SOU 780020	SOU 780063	SOU 780105
SOU 780021	SOU 780064	SOU 780106
SOU 780022	SOU 780065	SOU 780107
SOU 780023	SOU 780066	SOU 780108
SOU 780024	SOU 780067	SOU 780109
SOU 780025	SOU 780068	SOU 780110
SOU 780026	SOU 780069	SOU 780111
SOU 780027	SOU 780070	SOU 780112
SOU 780028	SOU 780071	SOU 780113
SOU 780029	SOU 780072	SOU 780114
SOU 780030	SOU 780073	SOU 780115
SOU 780031	SOU 780074	SOU 780116
SOU 780032	SOU 780075	SOU 780117
SOU 780033	SOU 780076	SOU 780118
SOU 780034	SOU 780077	SOU 780119
SOU 780035	SOU 780078	
SOU 780036	SOU 780079	
SOU 780037	SOU 780080	
SOU 780038	SOU 780081	
SOU 780039	SOU 780082	
SOU 780040	SOU 780083	
SOU 780041	SOU 780084	
SOU 780043	SOU 780085	

NOTE: The same Southern car numbers to be used for CSX reporting marks.

-END-

CORPORATE FORM OF ACKNOWLEDGMENT

State of California )

ss:

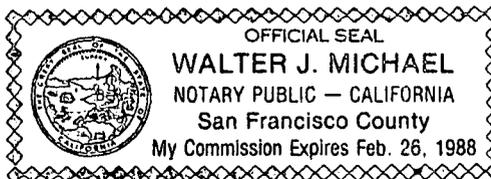
County of San Francisco )

On this 26th day of May, 1987, before me personally appeared DAVID SUMMERS, to me personally known, who being sworn by me, says that he is the President of United States Rail Services, Inc., that the seal affixed to the foregoing instrument is the seal of said entity, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Walter J. Michael  
Notary Public

(SEAL)

My commission expires:



CORPORATE FORM OF ACKNOWLEDGMENT

State of New York )  
County of New York ) ss:

On this \_\_\_\_\_ day of May, 1987, before me personally appeared James M. Manning to me personally known, who being by me sworn, says that he is the President of Eauclase Management Corp. that the seal affixed to the foregoing instrument is the seal of said entity, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Patricia Riehl  
Notary Public

**PATRICIA RIEHL**  
NOTARY PUBLIC State of New York  
No. 01R14769589  
Qualified in Nassau County  
Cert. filed in New York County  
Commission Expires Sept. 30, 1988

(SEAL)

My commission expires: