

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**In re:** : **Chapter 11**  
**T H AGRICULTURE & NUTRITION, L.L.C.,** :  
**Debtor.** : **Case No. 08-14692 (REG)**

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**ANNUAL REPORT, FINANCIAL STATEMENTS AND RESULTS OF OPERATIONS  
OF THE T H AGRICULTURE & NUTRITION, L.L.C. ASBESTOS PERSONAL  
INJURY TRUST FOR FISCAL YEAR ENDED DECEMBER 31, 2023**

David F. Levi, as Trustee of the T H Agriculture & Nutrition, L.L.C. Asbestos Personal Injury Trust (the “**Trust**”), respectfully files this Annual Report, Financial Statements and Results of Operations for Fiscal Year Ended December 31, 2023 (the “**Report**”), pursuant to the First Amended Prepackaged Plan of Reorganization of T H Agriculture & Nutrition, L.L.C., Under Chapter 11 of the Bankruptcy Code (the “**Plan**”) and the T H Agriculture & Nutrition, L.L.C. Asbestos Personal Injury Trust Agreement (the “**Trust Agreement**”).

## **I. General**

On November 24, 2008, T H Agriculture & Nutrition, L.L.C. (“**THAN**” or the “**Debtor**”) filed a petition for relief under Chapter 11 of the United States Bankruptcy Code. THAN’s bankruptcy case is being administered under Case No. 08-14692. On May 28, 2009, the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”) confirmed the Plan, and on October 26, 2009, the United States District Court for the Southern District of New York affirmed the Bankruptcy Court’s decision (the “**Confirmation Order**”).

To address the substantial asbestos-related liabilities of the Debtor, the Plan established the Trust in accordance with the Trust Agreement. On November 30, 2009, the Effective Date<sup>1</sup> of the Plan, the Trust was created and funded with \$900 million in assets. *See* Plan, § 9.4(f). David F. Levi is now the sole Trustee of the Trust.

Under the Trust Agreement, the Trust Advisory Committee (“**TAC**”) represents all holders of present Asbestos PI Claims, and the Future Claimants’ Representative (“**FCR**”) represents the holders of future Asbestos PI Claims. *See* Trust Agreement, §§ 6.2 and 7.2. The TAC members in 2023 were Steven Kazan, Alan R. Brayton, Robert Cooney, Peter A. Kraus,

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Plan.

Matthew Bergman, Steven T. Baron, Perry Weitz, and Perry J. Browder. The FCR is Samuel Issacharoff.

The Trust Agreement, at section 2.2(g), requires that the Trustee meet with the TAC and FCR no less often than quarterly. During 2023, the Trustee held quarterly meetings with the TAC and the FCR on February 22, 2023, June 7, 2023, September 19, 2023, and November 14, 2023.

The Trustee generally held weekly Trust meetings throughout 2022 by telephone, beginning on January 2, 2023.

The principal office of the Trust is 1100 N. Market Street, Wilmington, DE 19890. The administrative office of the Trust is: Attention David F. Levi, Trustee, c/o Stutzman, Bromberg, Esserman & Plifka, A Professional Corporation, 2323 Bryan Street, Suite 2200, Dallas, TX 75201.

In 2023, the Trust continued its retention of the following: Stutzman, Bromberg, Esserman & Plifka, A Professional Corporation (general counsel); CBIZ (accountants, budget advisor and tax advisors); Verus Claims Services LLC (“**Verus**”) (asbestos personal injury claims processing facility and claims administrator); Citi Private Bank and Bank of America Private Bank (financial consultants, money managers, custodian bank, and other banking functions), which in turn engages Blackrock for fixed income securities; BDO USA, LLP (independent auditor); AON Risk Services Central, Inc. (insurance broker); Ankura Consulting Group LLC (claims forecasting, consulting and analytic services); and Morgan Stanley (asset manager and advisor). The Trust retained local counsel and other consultants, as needed.

The TAC continued its retention of FrankGecker LLP as its counsel and Legal Analysis Systems as its claims forecasting advisor. The FCR continued his retention of Sher Tremonte LLP as his counsel and Gnarus Advisors LLC as his claims forecasting advisor and consultant.

In 2023, the Trust: (i) invested and managed its assets; (ii) continued paying approved Qualified Asbestos PI Claims, if any, as set forth in more detail in Article II below; (iii) paid Asbestos PI Claims with the Trustee providing directions to the claims facility for the liquidation of the Asbestos PI Claims; (iv) monitored the methodology for liquidating Asbestos PI Claims under the Individual Review procedures of the Trust Distribution Procedures (“TDP”); (v) maintained the Trust’s website, [www.thanasbestostrust.com](http://www.thanasbestostrust.com), and posted notices to the website as appropriate; (vi) reviewed issues relating to the processing of claims in the queue and the payment percentage; (vii) conducted audits of certain claims under the Trust’s claims audit program; (viii) conducted due diligence reviews of operations regarding Trust business at Verus, Bank of America Private Bank and Citi Private Bank; (ix) reviewed the maximum annual payment under the TDP; (x) worked on and adopted the budget for 2024; (xi) monitored Reorganized THAN’s financial health and performance and monitored the T H Agriculture & Nutrition, L.L.C. Parent Trust and the receipt of funds from that trust; (xii) purchased liability insurance policies from Ironshore Indemnity Inc., XL Specialty Insurance Company, and Sompo International (Endurance Assurance Corporation), and renewed cyber security insurance; (xiii) oversaw any litigation affecting the Trust; (xiv) performed all functions required for Trust governance, including maintaining the Trust’s books and records and responding to subpoenas for information and other processes; (xv) addressed any subpoenas and discovery requests to

produce information as appropriate; and (xvi) managed and oversaw any yearly audit conducted by AIG of certain Trust files.<sup>2</sup>

The process for reviewing and liquidating Asbestos PI Claims is governed by the TDP, a Plan Document adopted pursuant to the Confirmation Order. *See* T H Agriculture & Nutrition, L.L.C. Asbestos Personal Injury Trust Distribution Procedures, Docket No. 425. The TDP recognizes that estimates of liabilities and the value of assets fluctuate over time and, accordingly, applies a “Payment Percentage” to the liquidated value of allowed Asbestos PI Claims. *See* TDP, § 2.3. The TDP directs the Trustee to periodically “reconsider the then-applicable Payment Percentage to assure that it is based on accurate, current information,” and to adjust the Payment Percentage upward or downward, if necessary, with the consent of the TAC and the FCR. *Id.* at § 4.2. In making this determination, the Trustee is directed to “base their determination of the Payment Percentage on current estimates of the number, types, and values of present and future Asbestos PI Claims, the value of the assets then available to the Asbestos PI Trust for their payment, all anticipated administrative and legal expenses, and any other material matters that are reasonably likely to affect the sufficiency of funds to pay a comparable percentage of full value to all present and future holders of Asbestos PI Claims.” *Id.* The Trustee is further directed to “exercise common sense and flexibly evaluate all relevant factors.” *Id.* The Trust, the TAC, and the FCR each retained their own experts to assist in the evaluation of the relevant factors relating to determination of the Payment Percentage, and each relied on their respective expert’s analysis and advice. The Payment Percentage in 2023 was 15%.

The Trust designated its counsel, Stutzman, Bromberg, Esserman & Plifka, P.C., as the custodian of Trust records.

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<sup>2</sup> AIG opted to not conduct an audit in 2023 but reserved its right to conduct audits in the future.

**II. Asbestos PI Claims**

Pursuant to the Plan, the Trust is to pay Qualified Asbestos PI Claims, in the aggregate amount of \$395,239,530, as soon as practicable. In prior years, the Trust paid \$392,762,530 in Qualified Asbestos PI Claims. In 2023, pursuant to the Trust’s review process for payment of remaining Qualified Asbestos PI Claims, the Trust paid 10 Qualified Asbestos PI Claims totaling \$42,200.

The Trust, through Verus, its claims processing facility, accepted unliquidated Asbestos PI Claims throughout 2023. Specifically, 300,578 Asbestos PI Claims have been submitted to the Trust to date, including 7,781 Asbestos PI Claims submitted in 2023, as follows:

Disease Level	Claims to date	Claims in 2023
Other Asbestos Disease (Level I)	10,609	201
Asbestosis/Pleural Disease (Level II)	119,900	1,463
Asbestosis/Pleural Disease (Level III)	68,641	1,626
Severe Asbestosis (Level IV)	5,701	106
Other Cancer (Level V)	10,659	361
Lung Cancer 2 (Level VI)	7,593	268
Lung Cancer 1 (Level VII)	41,345	2,259
Mesothelioma (Level VIII)	26,599	1,267
Unknown	9,531	230
<b>Total:</b>	<b>300,578</b>	<b>7,781</b>

Of the 7,781 Asbestos PI Claims submitted to the Trust in 2023, 578 have been withdrawn, 5,543 have been deferred, and 241 have been approved for payment, with the remainder in process with the Trust. In 2023, the Trust paid 1,238 Asbestos PI Claims, totaling \$16,006,418 after application of the Payment Percentage. From inception through December 31, 2023, the Trust has paid a total of \$392,804,730 on account of Qualified Asbestos PI Claims pursuant to section 5.2 of the TDP, and \$419,787,266 on account of Asbestos PI Claims liquidated pursuant to section 5.3 of the TDP.

Under section 4.3 of the Trust Agreement, the Trust reports payments for Asbestos PI Trust Expenses. The Trust's operating expenses are listed in the Supplemental Information to the attached audited financial statements as addressed below.

**III. Compensation and Expenses of Trustee, TAC, and FCR**

Under section 5.5(c) of the Trust Agreement, the Trust reports the amount of compensation and expenses paid to the Trustee. The Trustee has received, on an accrual basis, compensation and reimbursement for out-of-pocket costs and expenses from January 1, 2023, through the end of the fiscal year on December 31, 2023, as follows:

Trustee	\$372,529.28
Delaware Trustee	\$3,000.00

Under section 6.6 of the Trust Agreement, the Trust reports to the Bankruptcy Court the amount of compensation and expenses paid to the TAC. The TAC has received, on an accrual basis, compensation and reimbursement for fees and expenses, including counsel, during the fiscal year ending December 31, 2023, as follows:

TAC	\$47,064.77
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Under section 7.6 of the Trust Agreement, the Trust reports to the Bankruptcy Court the amount of compensation and expenses paid to the FCR. The FCR has received, on an accrual basis, compensation and reimbursement for fees and expenses, including counsel and consultants, during the fiscal year ending December 31, 2023, as follows:

FCR	\$10,180.00
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**IV. Financial Statements**

A copy of the Trust's audited financial statements for the year ending December 31, 2023, including a balance sheet as of December 31, 2023, and a statement of operations for 2023,

is attached hereto as Exhibit A. Exhibit A also includes BDO USA, LLP's opinion as to the fairness of the financial statements' presentation of the cash and investments available for the payment of claims and as to the conformity of the financial statements with special purpose accounting methods.

The Asbestos Trust provided copies of this Report to the TAC and FCR on April 26, 2024.

**V. Certification**

The Trustee certifies that he has performed pursuant to and in compliance with the Plan, the Trust Agreement, the Trust Distribution Procedures, the Confirmation Order, and such other Plan documents and Bankruptcy Court orders pertaining to the operation of the Trust during the fiscal year ended December 31, 2023.

**TRUSTEE:**

*/s/ David F. Levi*  
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DAVID F. LEVI



Respectfully submitted this 30th day of April 2024,

**STUTZMAN, BROMBERG,  
ESSERMAN & PLIFKA,**

**A PROFESSIONAL CORPORATION**

By: Peter D'Apice  
Sander L. Esserman (Admitted *pro hac vice*)  
Texas Bar No. 06671500  
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**ATTORNEYS FOR THE T H AGRICULTURE &  
NUTRITION, L.L.C. ASBESTOS PERSONAL  
INJURY TRUST**

**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 30th day of April 2024, the foregoing ANNUAL REPORT, FINANCIAL STATEMENTS AND RESULTS OF OPERATIONS OF THE T H AGRICULTURE & NUTRITION, L.L.C. ASBESTOS PERSONAL INJURY TRUST FOR FISCAL YEAR ENDED DECEMBER 31, 2023, was served via ECF on all those parties receiving such notice through the Court's CM/ECF system.

/s/ Peter D'Apice  
Peter C. D'Apice