Chart 1 of 2 <u>Adapted from the Chart Prepared by the District Court</u>

SUN CAPITAL: THE DOCUMENTED FORM OF ORGANIZATION

MANAGEMENT AND **ADVISORY SERVICES OWNERSHIP** (to funds and portfolio companies) Co-CEOs: Leder Limited Partner Limited Partner and Krouse Committee: Leder Committee: Leder and Krouse and Krouse **Sun Capital** General Partner: Advisors, Inc. **General Partner: Sun Capital Sun Capital** Advisors III, LP Advisors IV, LP **Sun Capital** Partners III QP, LP **Sun Fund IV** 0.5% Sun Capital Partners III, LP 70% 29.5% Sun Scott Brass, **LLC** 100% **Scott Brass Holding Corp.** 100% Scott Brass, Inc. (bankrupt)

Solid line: Ownership

Dotted Line: Managerial control

+ ERISA Affiliate: owns at least 80% and engaged in a trade or business.

* Cannot be an ERISA affiliate (<80%) and so no controlled group liability.

Chart 2 of 2 Adapted from the Chart Prepared by the District Court

SUN CAPITAL: WHAT THE COURT SAW MANAGEMENT AND **ADVISORY SERVICES OWNERSHIP** (to funds and portfolio companies) Limited Partner Limited Partner Co-CEOs: Leder Committee: Leder Committee: Leder and Krouse and Krouse and Krouse Sun Capital Advisors, Inc. General Partner: General Partner: Sun Capital **Sun Capital** Advisors III, LP Advisors IV, LP **Sun Capital**

* Sun Capital Partners III QP, LP

Sun Capital Partners III, LP

> Undocumented Entity: Court treated Funds III & III QP as one entity that was deemed to be a trade or business and to own the

0.5%

29.5%

a trade or business and to own the combined 30% stake

Sun So

Sun Fund III

30%

Sun Scott Brass, LLC

THE

"PARTNERSHIP

IN FACT"

100%

100%

Sun Fund IV

70%

Scott Brass Holding Corp.

100%

Scott Brass, Inc. (bankrupt)

Undocumented Entity:
Court concluded that
Funds III & IV were
partners in a common
law partnership that
was deemed to be a
trade or business and
to own the LLC equity
which Funds III & IV in
form owned separately

COURT'S CONCLUSIONS:

- The Partnership-in-Fact has controlled group liability (≥ 80% and is a trade or business).
- Funds III and IV do not have controlled group liability (each < 80%).
 But, as partners in the Partnership-in-Fact (a common law partnership, not a limited liability vehicle) they are responsible for the Partnership-in-Fact's liabilities.
- + ERISA Affiliate with controlled group liability: owns at least 80% and is engaged in a trade or business.
- Not an ERISA affiliate (< 80%) and so no controlled group liability.</p>

Solid line: Ownership
Dotted Line: Managerial control