ICAHN ENTERPRISES L.P.
Form S-3/A
December 26, 2007

As filed with the Securities and Exchange Commission on December 26, 2007

Registration No. 333-143930

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Amendment No. 2
to
FORM S-3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

ICAHN ENTERPRISES L.P.
f/k/a
AMERICAN REAL ESTATE PARTNERS, L.P.

(Exact Name of Registrant as Specified in Its Charter)

Delaware	13-3398766
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification Numbers)

767 Fifth Avenue, Suite 4700
New York, New York 10153
(212) 702-4300

(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant s Principal Executive Offices)

Keith A. Meister
Principal Executive Officer and Vice Chairman of the Board
767 Fifth Avenue, Suite 4700
New York, New York 10153
(212) 702-4300

(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

With copies to:

Julie M. Allen, Esq.
Ian B. Blumenstein, Esq.
Proskauer Rose LLP
1585 Broadway
New York, New York 10036
(212) 969-3000

Approximate date of commencement of proposed sale of the securities to the public: From time to time after the effective date of this Registration Statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. o

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, as amended, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. x

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a registration statement pursuant to General Instruction 1.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. o

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction 1.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. o

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment that specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until this Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

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SUBJECT TO COMPLETION, DATED DECEMBER 26, 2007

PROSPECTUS

4,525,058 Depositary Units

ICAHN ENTERPRISES L.P.
f/k/a
AMERICAN REAL ESTATE PARTNERS, L.P.

This prospectus relates to the resale of up to 4,525,058 depositary units of Icahn Enterprises L.P., which was formerly known as American Real Estate Partners, L.P., that may be offered and sold from time to time by the selling securityholders named in this prospectus and the persons to whom such selling securityholders may transfer their depositary units. These depositary units are initially issuable upon conversion of Icahn Enterprises L.P. s Variable Rate Senior Convertible Notes due 2013, or the convertible notes. The convertible notes were issued under the indenture, dated April 5, 2007, by and among Icahn Enterprises L.P., Icahn Enterprises Finance Corp., or IEF, which was formerly known as American Real Estate Finance Corp., Icahn Enterprises Holdings L.P., or IEH, which was formerly known as American Real Estate Holdings Limited Partnership, and Wilmington Trust Company, as Trustee. This prospectus also relates to any additional depositary units issuable upon conversion of the convertible notes in the event of a stock split, stock dividend or similar transaction involving the depositary units of the Registrant.

We will not receive any proceeds from the sale of the depositary units covered by this prospectus.

Our depositary units are listed on the New York Stock Exchange under the new symbol IEP.

Investing in our depositary units involves some risk. See Risk Factors beginning on page 7.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these depositary units or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is , 2007

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You should rely only on the information contained in this document or to which we have referred you. We have not authorized anyone to provide you with information that is different. This document may only be used where it is legal to sell securities. The information in this document may only be accurate on the date of this document.

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FORWARD-LOOKING STATEMENTS

This prospectus and the information incorporated herein by reference contain forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act; Section 27A of the Securities Act of 1933, as amended, or the Securities Act; and pursuant to the Private Securities Litigation Reform Act. These forward-looking statements are not historical facts, but rather are our beliefs and expectations based on our

current expectations, estimates, projections, beliefs and assumptions about our company and businesses. Words such as anticipates, expects, intends, plans, believes, seeks, estimates and similar expressions are intended to forward-looking statements. There statements are not guarantees of future performance and are subject to risks, uncertainties and other factors, some of which are beyond our control, are difficult to predict and could cause actual results to differ materially from those expressed or forecasted in the forward-looking statements. These risks include those set forth in the section of this prospectus called Risk Factors.

Those risks are representative of factors that could affect the outcome of the forward-looking statements. These and the other factors discussed elsewhere in this prospectus and the documents incorporated by reference herein are not necessarily all of the important factors that may cause our results to differ materially from those expressed in our forward-looking statements. We caution you not to place undue reliance on these forward-looking statements, which reflect our view only as of the respective dates of this prospectus and the documents incorporated herein by reference or other dates that are specified in those documents.

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OUR COMPANY

Icahn Enterprises L.P., or Icahn Enterprises, which was formerly known as American Real Estate Partners, L.P., is a master limited partnership formed in Delaware on February 17, 1987. We are a diversified holding company owning subsidiaries engaged in the following continuing operating businesses: Investment Management, Metals, Real Estate and Home Fashion.

On April 22, 2007, American Entertainment Properties Corp., or AEP, a wholly owned indirect subsidiary of Icahn Enterprises, entered into a purchase agreement with W2007/ACEP Holdings, LLC, an affiliate of Whitehall Street Real Estate Funds, a series of real estate investment funds affiliated with Goldman, Sachs & Co., or Whitehall Street Real Estate Funds, to sell all of the issued and outstanding membership interests of American Casino & Entertainment Properties, LLC, or ACEP, which comprise our remaining gaming operations. The parties expect to close the transaction by the end of the first quarter of 2008. As a result, our gaming properties are now classified as discontinued operations and thus are not considered a reportable segment of our continuing operations. For the quarter ended September 30, 2007, the three related operating lines of our Real Estate segment were aggregated into one segment, since they were each individually immaterial. On August 8, 2007, we acquired the general partnership interests in the general partners of certain private investment funds managed and controlled by Carl C. Icahn and the general partnership interests in a newly formed management company. In addition, on November 5, 2007, we acquired 100% of the issued and outstanding capital stock of PSC Metals, Inc., a subsidiary of Philip Services Corporation. PSC Metals, Inc. is engaged in transporting, recycling and processing metals. For a further discussion of these and other transactions, please see our Quarterly Reports on Form 10-Q for the quarters ended June 30, 2007 and September 30, 2007, filed with the Securities and Exchange Commission, or the SEC, on August 9, 2007 and November 9, 2007, respectively, and our Current Reports on Form 8-K filed with the SEC on December 5, 2007, as each Report is incorporated by reference herein.

Our primary business strategy is to continually evaluate our existing operating businesses with a view to maximizing value for our depositary unitholders. We may also seek to acquire additional businesses that are distressed or in out-of-favor industries and will consider the divestiture of businesses. In addition, we invest our available liquidity in debt and equity securities with a view to enhancing returns as we continue to assess further acquisitions of operating businesses.

Our general partner is Icahn Enterprises G.P. Inc., or IEGP, which was formerly known as American Property Investors, Inc., a Delaware corporation, which is indirectly wholly owned by Carl C. Icahn. We own our businesses and conduct our investment activities through a subsidiary limited partnership, Icahn Enterprises Holdings L.P., or IEH, which was formerly known as American Real Estate Holdings Limited Partnership, in which we own a 99% limited partnership interest, and its subsidiaries. IEGP also acts as the general partner for IEH. IEGP has a 1% general partnership interest in each of us and IEH. As of September 30, 2007, affiliates of Mr. Icahn beneficially owned 64,288,061 units representing Icahn Enterprises limited partner interests, or the depositary units, representing approximately 91.2% of our outstanding depositary units, and 10,304,013 cumulative pay-in-kind redeemable preferred units, representing Icahn Enterprises limited partner interests, or the preferred units, representing approximately 86.5% of our outstanding preferred units.

Our depositary units trade on the New York Stock Exchange under the new symbol IEP.

As used in this prospectus, we, us, our, company and Icahn Enterprises mean Icahn Enterprises L.P., and, unles context indicates otherwise, include our subsidiaries.

Our principal executive offices are located at 767 Fifth Avenue, Suite 4700, New York, New York 10153. Our phone number is (212) 702-4300. Our website address is *http://www.icahnenterprises.com*. Information on our website is not part of this prospectus.

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ABOUT THIS PROSPECTUS

We are registering for resale by the selling securityholders up to 4,525,058 depositary units issuable upon conversion of the convertible notes, and any additional depositary units issuable upon conversion of the convertible notes in the event of a stock split, stock dividend or similar transaction involving the depositary units of the Registrant. This prospectus is part of a Registration Statement that we filed on behalf of the selling securityholders with the SEC using a shelf registration process. Under this shelf process, the selling securityholders may offer, from time to time, depositary units. This prospectus does not contain all of the information included in the Registration Statement. The registration statement filed with the SEC includes exhibits that provide more details about the matters discussed in this prospectus.

We will not receive any of the proceeds from the sale by the selling securityholders of the depositary units. We will bear all fees and expenses incident to our obligation to register the depositary units. We may suspend the use of this prospectus for a period not to exceed 60 days in the aggregate during any 12-month period, in each case, for valid business reasons to be determined in good faith by Icahn Enterprises in its reasonable judgment, including, without limitation, the acquisition or divestiture of assets, pending corporate developments, public filings with the SEC and similar events.

You should carefully read this prospectus, the related exhibits filed with the SEC and any prospectus supplement, together with the additional information described below under the headings Where You Can Find More Information and Incorporation by Reference. This prospectus incorporates certain important business and financial information about us that is not included in or delivered with this prospectus. We will provide without charge to each person to whom a copy of this prospectus is delivered, upon written or oral request of that person, a copy of any and all of this information. Requests for copies should be directed to Investor Relations Department, Icahn Enterprises L.P., 767 Fifth Avenue, Suite 4700, New York, New York 10153; (212) 702-4300. You should request this information at least five business days in advance of the date on which you expect to make your decision with respect to the exchange

offer.

You should rely only on the information contained or incorporated by reference in this prospectus and in any accompanying prospectus supplement. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. You should assume that the information appearing in this prospectus, any prospectus supplement and any other document incorporated by reference is accurate only as of the date on the front cover of those documents. We do not imply that there has been no change in the information contained in this prospectus or in our affairs since that date by delivering this prospectus.

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CONVERTIBLE NOTES

In April 2007, we issued an aggregate of $600,000,000 of variable rate senior convertible notes due 2013, or the convertible notes, convertible into our depositary units at an initial conversion price of $132.595. Consequently 4,525,058 depositary units, or the registered units, are being registered for resale on the S-3 Registration Statement, of which this prospectus forms a part. The total dollar value of the registered units as of April 4, 2007 (the date on which the purchase agreement relating to the sale of the convertible notes was entered into, or the Sale Date) was $521,739,187, calculated by multiplying the number of registered units by $115.30, the market price of the depositary units on the Sale Date. We intend, and have a reasonable basis to believe that we will have the financial ability, to make all payments required on the convertible notes and underlying securities.

The table below sets forth the dollar amount of the (i) aggregate payments that we have currently made to selling securityholders in the form of (x) cash interest payments and (y) special distributions; and (ii) aggregate payments that we may be required to make to selling securityholders in the form of (a) cash interest payments, (b) special distributions, (c) liquidated damages and (d) a Make-Whole Premium payable following a Fundamental Change (as each term is defined in the indenture governing the convertible notes, or the Indenture).

Payments Made Through Present		Potential Required Payments			
Cash Interest Payments[1]	Special Distributions[2]	Cash Interest Payments[3]	Special Distributions[4]	Additional Interest[5]	Make-Whole Premium[6]
$6,833,333.33	$666,000	$8,250,000 per quarter	$222,000 per quarter	$1,980,000 per month	Not presently determinable

(1) Represents quarterly cash interest payments paid to date by us to holders of the convertible notes. Interest on the convertible notes accrues at a rate equal to LIBOR minus 1.25%, but not less than 4% nor more than 5.5%.

(2) Represents special distributions paid by us to date to holders of the convertible notes representing payments in the aggregate on each of June 1, 2007, September 7, 2007 and December 3, 2007. Pursuant to §4.07 of the Indenture, if we declare a dividend payable to holders of the depositary units in excess of $0.10 per unit, then we are required to pay a dividend to the holders of the convertible notes equal to such excess. On each of May 4, 2007, August 3, 2007 and November 2, 2007, our board of directors declared a $0.15 per unit dividend on the depositary units, resulting in these special distributions to holders of the convertible notes, which was based upon the number of depositary units into which the convertible notes are convertible.

(3) Represents cash interest payable on the convertible notes per quarter assuming that cash interest is paid at the rate of 5.5% per annum, the maximum rate payable under the Indenture. Interest on the convertible notes accrues at a rate equal to LIBOR minus 1.25%, but not less than 4% nor more than 5.5%.

(4) See Note 2 above. Represents a special distribution payable by us to the holders of the convertible notes per quarter, assuming that we continue to pay a dividend to the holders of depositary units equal to $0.15 per unit per quarter. We currently contemplate maintaining a quarterly dividend at this level. However, this special distribution payable to the holders of the convertible notes would proportionally be decreased or increased to the extent that we decreased or increased the quarterly dividend paid to holders of the depositary units.

(5) Represents additional interest we would be obligated to pay per month to holders in the aggregate in the event of a Registration Default (as defined in the registration rights agreement dated April 4, 2007, to which we are a party). Pursuant to the registration rights agreement, we are required to pay additional interest in an amount equal to 0.33% per $1,000 principal amount of convertible notes, or an aggregate of $1,980,000, for each month that a Registration Default continues up to a maximum of $24,000,000 in the aggregate. We do not currently anticipate that we will be required to pay any additional interest on the convertible notes.

(6) Pursuant to §15.01(a) of the Indenture, if a holder of convertible notes converts its convertible notes into depositary units during a specified period following the announcement of a Fundamental Change (as defined in the Indenture to include certain changes in control of the company or the failure of the depositary units to be listed for trading on an Eligible Market (as defined in the Indenture)), we will be required

to pay a Make-Whole Premium, in the form of additional depositary units, to such holder. The amount of such Make-Whole Premium would be determined as set forth in §15.01 of the Indenture and is a function of the effective date of such Fundamental Change and the price per depositary unit in the transaction constituting such Fundamental Change.

The net proceeds to us from the sale of the convertible notes were $600,000,000, less $275,000 of legal fees paid by us on behalf of the initial purchasers of the convertible notes, resulting in net proceeds of $599,725,000 (before deducting expenses, comprised principally of legal and accounting fees, incurred by us). It is anticipated that the total payments to holders of the convertible notes in the year following the sale of the convertible notes will not exceed $56.508 per $1,000 convertible note, or $33.9 million in the aggregate, representing cash interest payments at an assumed annual rate of 5.5% (the maximum rate payable under the Indenture governing the convertible notes) and special distributions of $0.377 per convertible note per quarter. Actual payments are expected to be lower due to lower interest rates; however, although not currently anticipated, actual payments could be higher as a result of (a) payments of additional interest as a result of a Registration Default, (b) payments of additional special distributions as a result of the payment of dividends on the depositary units in excess of $0.15 per unit per quarter or (c) the payment of a Make-Whole Premium following a Fundamental Change. The total maximum possible profit realizable by holders upon conversion of the convertible notes is $46,608,097. Please refer to our tabular disclosure presented below.

Pursuant to the Indenture, we are obligated to make cash interest payments on the convertible notes at a floating rate, with a maximum interest rate of 5.5%. All interest payments by us are payable solely in cash and we do not have a payment-in-kind option. Therefore, the total possible number of depositary units underlying the convertible notes is the 4,525,058 depositary units being registered in the S-3 Registration Statement of which this prospectus forms a part (subject to adjustment as discussed below).

Pursuant to §12.11(a) of the Indenture, if we complete an underwritten Public Offering (as defined in the Indenture) of depositary units at a price per unit that is less than $115.30, then the conversion price of the convertible notes will be reduced to an amount equal to 115% of such offering price. In addition, if no offering occurs within 18 months of the initial sale of the convertible notes, the conversion price will be adjusted (downward but not upward) so that it equals 115% of the dollar volume-weighted average price, or VWAP (as defined in the Indenture), per depositary unit for the 30 Trading Days (as defined in the Indenture) ending on October 5, 2008. In each case, the conversion price of the convertible notes cannot be adjusted to less than $105.00. Adjustment of the conversion price to $105.00 (the lowest permissible level) pursuant to either of these events would represent a maximum potential profit of $10.30 per depositary unit, or $46.6 million in the aggregate, to holders of the convertible notes compared to the $115.30 market

price of the depositary units on the Sale Date. The Indenture also includes other anti-dilution adjustments that are customary for convertible notes.

The table below sets forth the net proceeds to us from the sale of the convertible notes and the total possible profit realized by the holders of the convertible notes upon conversion of the convertible notes.

Gross proceeds from sale of convertible notes	$600,000,000
Less:	
Reimbursement of legal fees of initial purchasers	275,000
Cash interest[1]	198,000,000
Special distributions[2]	5,430,069
Additional interest[3]	24,000,000
Make-Whole Premium[4]	
Assumed net proceeds to the company	$372,294,931
Total maximum possible profit realizable by holders upon conversion of the convertible notes[5]	$46,608,097

(1) Assumes cash interest is paid at the rate of 5.5% per annum, the maximum rate payable under the Indenture.

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(2) Assumes that we maintain our current dividend rate of $0.15 per depositary unit per quarter. The amount of these special distributions is subject to increase or decrease if we increase or decrease the dividend rate on the depositary units.

(3) Assumes that we pay additional interest of 4% relating to a Registration Default, the maximum amount payable under the registration rights agreement.

(4) As discussed above, the amount of any Make-Whole Premium is not currently determinable.

(5) Assumes that the conversion price of the convertible notes is adjusted to $105.00, the lowest conversion price possible pursuant to §12.11(a) of the Indenture.

Assuming (a) the payment of cash interest on the convertible notes at a rate of 5.5%, the maximum rate payable under the Indenture, (b) the payment of special distributions to holders of the convertible notes as a result of our paying a constant dividend to holders of depositary units of $0.15 per unit per quarter, (c) the payment of 4% of additional interest on the convertible notes relating to a Registration Default, the maximum payable under the registration rights agreement, (d) the payment of no Make-Whole Premiums in connection with a Fundamental Change and (e) an adjustment of the conversion price to $105.00, the lowest possible level pursuant to §12.11(a) of the Indenture, holders of the convertible notes would realize $227,430,069 of combined value, representing 37.9% of the net proceeds to us from the sale of the convertible notes (after deducting the legal fees of the initial purchasers paid by us but before deducting the items described in items (a) (e) of this paragraph). Spread over the six-year life of the convertible notes, this amount would be the equivalent of a 6.32% annual interest rate on the convertible notes.

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RISK FACTORS

Investing in our depositary units involves risks that could affect us and our business as well as the industries in which we operate and invest. Before purchasing our depositary units, you should carefully consider the following risks and

the other information in this prospectus and any applicable prospectus supplement, as well as the documents incorporated by reference herein. Each of the risks described could result in a decrease in the value of our depositary units and your investment in them.

Risks Relating to Our Structure

Our general partner and its control person could exercise their influence over us to your detriment.

Mr. Icahn, through affiliates, currently owns 100% of IEGP, our general partner, and approximately 86.5% of our outstanding preferred units and approximately 91.2% of our depositary units, and, as a result, has the ability to influence many aspects of our operations and affairs, including the timing and amount of any distribution to unitholders. IEGP also is the general partner of IEH.

The interests of Mr. Icahn, including his interests in entities in which he and we have invested or may invest in the future, may differ from your interests as a unitholder and, as such, he may take actions that may not be in your interest. For example, if we encounter financial difficulties or are unable to pay our debts as they mature, Mr. Icahn s interests might conflict with your interests.

In addition, if Mr. Icahn were to sell, or otherwise transfer, some or all of his interests in us to an unrelated party or group, a change of control could be deemed to have occurred under the terms of the indentures governing certain of our notes, including the indenture governing the convertible notes, which would require us to offer to repurchase all such outstanding notes at 101% of their principal amount plus accrued and unpaid interest and liquidated damages, if any, to the date of repurchase. In the case of the convertible notes, we also would be obligated to make a make whole payment in the form of additional depositary units to any holder of convertible notes who converts such notes following a change of control. However, it is possible that we will not have sufficient funds at the time of the change of control to make the required repurchase of such notes.

We have engaged, and in the future may engage, in transactions with our affiliates.

We have invested and may in the future invest in entities in which Mr. Icahn also invests. We also have purchased and may in the future purchase entities or investments from him or his affiliates. Although IEGP has never received fees in connection with our investments, our partnership agreement allows for the payment of these fees. Mr. Icahn may pursue other business opportunities in industries in which we compete and there is no requirement that any additional business opportunities be presented to us. We continuously identify, evaluate and engage in discussions concerning potential investments and acquisitions, including potential investments in and acquisitions of affiliates of Mr. Icahn. There cannot be any assurance that any potential transactions that we consider will be completed.

To service our indebtedness and pay distributions with respect to our depositary units, we will require a significant amount of cash. Our ability to maintain our current cash position or generate cash depends on many factors beyond our control.

Our ability to make payments on and to refinance our indebtedness, to pay distributions with respect to our depositary units and to fund operations will depend on existing cash balances and our ability to generate cash in the future. This, to a certain extent, is subject to general economic, financial, competitive, regulatory and other factors that are beyond our control.

Our current businesses and businesses that we acquire may not generate sufficient cash to service our debt. In addition, we may not generate sufficient cash flow from operations or investments and future borrowings may not be available to us in an amount sufficient to enable us to service our indebtedness or to fund our other liquidity needs. Based on our current level of indebtedness, approximately $40 million of indebtedness will come due in the two-year period ending December 31, 2009. We may need to refinance all or a portion of our indebtedness on or before maturity. We cannot assure you that we will be able to refinance any of our indebtedness on commercially reasonable terms or at all.

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We are a holding company and will depend on the businesses of our subsidiaries to satisfy our obligations.

We are a holding company. In addition to cash and cash equivalents, U.S. government and agency obligations, marketable equity and debt securities and other short-term investments, our assets consist primarily of investments in our subsidiaries. Moreover, if we make significant investments in operating businesses, it is likely that we will reduce the liquid assets at Icahn Enterprises and IEH in order to fund those investments and the ongoing operations of our subsidiaries. Consequently, our cash flow and our ability to meet our debt service obligations and make distributions with respect to depositary units and preferred units may depend on the cash flow of our subsidiaries and the payment of funds to us by our subsidiaries in the form of dividends, distributions, loans or otherwise.

The operating results of our subsidiaries may not be sufficient to make distributions to us. In addition, our subsidiaries are not obligated to make funds available to us, and distributions and intercompany transfers from our subsidiaries to us may be restricted by applicable law or covenants contained in debt agreements and other agreements to which these subsidiaries may be subject or enter into in the future. The terms of any borrowings of our subsidiaries or other entities in which we own equity may restrict dividends, distributions or loans to us. For example, we have credit facilities for WestPoint International, Inc., or WPI, our majority owned subsidiary, and our real estate development properties that also restrict dividends, distributions and other transactions with us. To the degree any distributions and transfers are impaired or prohibited, our ability to make payments on our debt will be limited.

We or our subsidiaries may be able to incur substantially more debt.

We or our subsidiaries may be able to incur substantial additional indebtedness in the future. The terms of our 8.125% senior notes due 2012, our 7.125% senior notes due 2013 and our convertible notes due 2013 do not prohibit us or our subsidiaries from doing so. We and IEH may incur additional indebtedness if we comply with certain financial tests contained in the indentures that govern these notes. As of September 30, 2007, based on these tests, we and IEH could have incurred up to approximately $1.2 billion of additional indebtedness. However, our subsidiaries, other than IEH, are not subject to any of the covenants contained in the indentures with respect to our senior notes, including the covenant restricting debt incurrence. If new debt is added to our and our subsidiaries current debt levels, the related risks that we, and they, now face could intensify.

Our failure to comply with the covenants contained under any of our debt instruments, including the indentures governing our outstanding notes, including our failure as a result of events beyond our control, could result in an event of default which would materially and adversely affect our financial condition.

To service our indebtedness and pay distributions with respect to ourdepositary units, we will require a significant a

If there were an event of default under one of our debt instruments, the holders of the defaulted debt could cause all amounts outstanding with respect to that debt to be due and payable immediately. In addition, any event of default or declaration of acceleration under one debt instrument could result in an event of default under one or more of our other debt instruments. It is possible that, if the defaulted debt is accelerated, our assets and cash flow may not be sufficient to fully repay borrowings under our outstanding debt instruments and we cannot assure you that we would be able to refinance or restructure the payments on those debt securities.

The market for our securities may be volatile.

The market for our equity securities may be subject to disruptions that could cause substantial volatility in their prices. Any such disruptions may adversely affect the value of your securities.

Future cash distributions to our unitholders, if any, can be affected by numerous factors.

While we made (or will make) cash distributions with respect to the first quarter of 2007 in the amount of $0.10 per depositary unit, and the second, third and fourth quarters of 2007 in the amount of $0.15 per depositary unit, the payment of future distributions will be determined by the board of directors of our general partner quarterly, based on a review of a number of factors, including those described below and other factors that it deems relevant at the time that declaration of a distribution is considered. Our ability to pay distributions will depend on numerous factors, including the availability of adequate cash flow from operations; the

proceeds, if any, from divestitures; our capital requirements and other obligations; restrictions contained in our financing arrangements; and our issuances of additional equity and debt securities. The availability of cash flow in the future depends as well upon events and circumstances outside our control, including prevailing economic and industry conditions and financial, business and similar factors. No assurance can be given that we will be able to make distributions or as to the timing of any distribution. If distributions are made, there can be no assurance that holders of depositary units may not be required to recognize taxable income in excess of cash distributions made in respect of the period in which a distribution is made.

Holders of our depositary units have limited voting rights, and limited rights to participate in our management and control of us.

Our general partner manages and operates Icahn Enterprises. Unlike the holders of common stock in a corporation, holders of our outstanding depositary units have only limited voting rights on matters affecting our business. Holders of depositary units have no right to elect the general partner on an annual or other continuing basis, and our general partner generally may not be removed except pursuant to the vote of the holders of not less than 75% of the outstanding depositary units. In addition, removal of the general partner may result in a default under our debt securities. As a result, holders of depositary units have limited say in matters affecting our operations and others may find it difficult to attempt to gain control of us or influence our activities.

Holders of depositary units may not have limited liability in certain circumstances and may be liable for the return of distributions that cause our liabilities to exceed our assets.

Our failure to comply with the covenants contained under any of our debtinstruments, including the indentures gove

We conduct our businesses through IEH in several states. Maintenance of limited liability will require compliance with legal requirements of those states. We are the sole limited partner of IEH. Limitations on the liability of a limited partner for the obligations of a limited partnership have not clearly been established in several states. If it were determined that IEH has been conducting business in any state without compliance with the applicable limited partnership statute or the possession or exercise of the right by the partnership, as limited partner of IEH, to remove its general partner, to approve certain amendments to the IEH partnership agreement or to take other action pursuant to the IEH partnership agreement constituted control of IEH s business for the purposes of the statutes of any relevant state, Icahn Enterprises and/or unitholders, under certain circumstances, might be held personally liable for IEH s obligations to the same extent as our general partner. Further, under the laws of certain states, Icahn Enterprises might be liable for the amount of distributions made to Icahn Enterprises by IEH.

Holders of our depositary units may also have to repay Icahn Enterprises amounts wrongfully distributed to them. Under Delaware law, we may not make a distribution to holders of common units if the distribution causes our liabilities to exceed the fair value of our assets. Liabilities to partners on account of their partnership interests and nonrecourse liabilities are not counted for purposes of determining whether a distribution is permitted. Delaware law provides that a limited partner who receives such a distribution and knew at the time of the distribution that the distribution violated Delaware law will be liable to the limited partnership for the distribution amount for three years from the distribution date.

Additionally, under Delaware law an assignee who becomes a substituted limited partner of a limited partnership is liable for the obligations, if any, of the assignor to make contributions to the partnership. However, such an assignee is not obligated for liabilities unknown to him or her at the time he or she became a limited partner if the liabilities could not be determined from the partnership agreement.

We may be subject to the pension liabilities of our affiliates.

Mr. Icahn, through certain affiliates, currently owns 100% of IEGP and approximately 91.2% of our outstanding depositary units and 86.5% of our outstanding preferred units. Applicable pension and tax laws make each member of a controlled group of entities, generally defined as entities in which there are at least an 80% common ownership interest, jointly and severally liable for certain pension plan obligations of any member of the controlled group. These pension obligations include ongoing contributions to fund the plan, as well as liability for any unfunded liabilities that may exist at the time the plan is terminated. In addition, the

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failure to pay these pension obligations when due may result in the creation of liens in favor of the pension plan or the Pension Benefit Guaranty Corporation, or the PBGC, against the assets of each member of the controlled group.

As a result of the more than 80% ownership interest in us by Mr. Icahn s affiliates, we and our subsidiaries are subject to the pension liabilities of all entities in which Mr. Icahn has a direct or indirect ownership interest of at least 80%. One such entity, ACF Industries LLC, or ACF, is the sponsor of several pension plans which, as of December 31, 2006, were not underfunded on an ongoing actuarial basis but would be underfunded by approximately $87.2 million if those plans were terminated, as most recently reported by the plans actuaries. These liabilities could increase or decrease, depending on a number of factors, including future changes in promised benefits, investment returns and the assumptions used to calculate the liability. As members of the controlled group, we would be liable for any failure of ACF to make ongoing pension contributions or to pay the unfunded liabilities upon a termination of the ACF pension plans. In addition, other entities now or in the future within the controlled group that includes us may have pension plan obligations that are, or may become, underfunded and we would be liable for any failure of such entities to make

ongoing pension contributions or to pay the unfunded liabilities upon a termination of such plans.

The current underfunded status of the ACF pension plans requires ACF to notify the PBGC of certain reportable events, such as if we cease to be a member of the ACF controlled group, or if we make certain extraordinary dividends or stock redemptions. The obligation to report could cause us to seek to delay or reconsider the occurrence of such reportable events.

Starfire Holding Corporation, or Starfire, which is 100% owned by Mr. Icahn, has undertaken to indemnify us and our subsidiaries from losses resulting from any imposition of certain pension funding or termination liabilities that may be imposed on us and our subsidiaries or our assets as a result of being a member of the Icahn controlled group. The Starfire indemnity (which does not extend to pension liabilities of our subsidiaries that would be imposed on us as a result of our interest in these subsidiaries and not as a result of Mr. Icahn s and his affiliates more than 80% ownership interest in us) provides, among other things, that so long as such contingent liabilities exist and could be imposed on us, Starfire will not make any distributions to its stockholders that would reduce its net worth to below $250.0 million. Nonetheless, Starfire may not be able to fund its indemnification obligations to us.

We are subject to the risk of possibly becoming an investment company.

Because we are a holding company and a significant portion of our assets may, from time to time, consist of investments in companies in which we own less than a 50% interest, we run the risk of inadvertently becoming an investment company that is required to register under the Investment Company Act of 1940, as amended, or the Investment Company Act. Registered investment companies are subject to extensive, restrictive and potentially adverse regulation relating to, among other things, operating methods, management, capital structure, dividends and transactions with affiliates. Registered investment companies are not permitted to operate their business in the manner in which we operate our business, nor are registered investment companies permitted to have many of the relationships that we have with our affiliated companies.

In order not to become an investment company required to register under the Investment Company Act, we monitor the value of our investments and structure transactions with an eye toward the Investment Company Act. As a result, we may structure transactions in a less advantageous manner than if we did not have Investment Company Act concerns, or we may avoid otherwise economically desirable transactions due to those concerns. In addition, events beyond our control, including significant appreciation or depreciation in the market value of certain of our publicly traded holdings or adverse developments with respect to our ownership of certain of our subsidiaries, such as our potential loss of control of WPI, could result in our inadvertently becoming an investment company.

If it were established that we were an investment company, there would be a risk, among other material adverse consequences, that we could become subject to monetary penalties or injunctive relief, or both, in an action brought by the SEC, that we would be unable to enforce contracts with third parties or that third parties could seek to obtain rescission of transactions with us undertaken during the period it was established that we were an unregistered investment company.

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We may become taxable as a corporation.

We believe that we have been and are properly treated as a partnership for federal income tax purposes. This allows us to pass through our income and deductions to our partners. However, the Internal Revenue Service, or IRS, could challenge our partnership status and we could fail to qualify as a partnership for past years as well as future years.

We may be subject to the pension liabilities of our affiliates. 14

Qualification as a partnership involves the application of highly technical and complex provisions of the Internal Revenue Code of 1986, as amended. For example, a publicly traded partnership is generally taxable as a corporation unless 90% or more of its gross income is qualifying income, which includes interest, dividends, oil and gas revenues, real property rents, gains from the sale or other disposition of real property, gain from the sale or other disposition of capital assets held for the production of interest or dividends, and certain other items. We believe that in all prior years of our existence at least 90% of our gross income was qualifying income and we intend to structure our business in a manner such that at least 90% of our gross income will constitute qualifying income this year and in the future. However, there can be no assurance that such structuring will be effective in all events to avoid the receipt of more than 10% of non-qualifying income. If less than 90% of our gross income constitutes qualifying income, we may be subject to corporate tax on our net income, at a federal rate of up to 35% plus possible state taxes. Further, if less than 90% of our gross income constituted qualifying income for past years, we may be subject to corporate-level tax plus interest and possibly penalties. In addition, if we register under the Investment Company Act, it is likely that we would be treated as a corporation for U.S. federal income tax purposes. The cost of paying federal and possibly state income tax, either for past years or going forward, could be a significant liability and would reduce our funds available to make distributions to holders of units, and to make interest and principal payments on our debt securities. To meet the qualifying income test, we may structure transactions in a manner that is less advantageous than if this were not a consideration, or we may avoid otherwise economically desirable transactions.

Legislation has been introduced into Congress which, if enacted, could have a material and adverse effect on us. These proposals include legislation which would tax publicly traded partnerships engage