

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE: ) CHAPTER 11  
)  
SCHWAB INDUSTRIES, INC., et al., ) CASE NO. 10-60702  
)  
Debtors. ) Jointly Administered  
)  
) JUDGE RUSS KENDIG  
)

**OBJECTION OF HOLCIM (US) INC. TO DEBTORS' MOTION FOR A REVISED BIDDING PROCEDURES ORDER APPROVING (1) EXECUTED STALKING HORSE ASSET PURCHASE AGREEMENT; (2) PROPOSED BREAK-UP FEE AND EXPENSE REIMBURSEMENT; (3) REVISED BIDDING PROCEDURES; (4) THE FORM AND MANNER OF SERVICE OF NOTICE OF THE SALE HEARING AND AUCTION; AND (5) THE FORM AND MANNER OF SERVICE OF NOTICE OF THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

Now comes Holcim (US) Inc. ("Holcim"), by and through its undersigned counsel, and hereby objects to *Debtors' Motion for a Revised Bidding Procedures Order Approving (1) Executed Stalking Horse Asset Purchase Agreement; (2) Proposed Break-Up Fee and Expense Reimbursement; (3) Revised Bidding Procedures; (4) The Form and Manner of Service of Notice of the Sale Hearing and Auction; and (5) The Form and Manner of Service of Notice of the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases* [Docket No. 344] ("The Revised Procedures Motion").

For its Objection, Holcim states as follows:

1. As part of the Revised Procedures Motion, Cement Resources LLC (the "Buyer") has agreed to assume certain liabilities of the Debtor under Article 2, § 2.4(b) of the Asset Purchase Agreement.

2. Among the assumed liabilities are any allowed Administrative Claims under Section 503(b)(9) of the Bankruptcy Code, but only up to the amounts identified on Schedule 2.4(b)(4).

3. Schedule 2.4(b)(4) lists Holcim's allowed Administrative Claim as \$148,866.86.

4. Upon information and belief, Holcim's allowed Administrative Claim is significantly higher than the amount asserted in Schedule 2.4(b)(4).

5. At all times relevant, Holcim stored and retained title to Type I Portland cement inventory (the "Property") in ECC's silos located at 13250 Eastern Avenue, Palmetto, Florida (the "Silos") pursuant to a supplier managed inventory program (the "SMIP").

6. Under the SMIP, one of the affiliated Debtors, Eastern Cement Corporation ("ECC"), would remove the Property from the Silos as needed and notify Holcim of the amount removed on a periodic basis. Title to the Property passed once ECC removed the Property from the Silos.

7. ECC reported to Holcim that there were 9,737.47 short tons of Property in the Silos as of January 30, 2010. Please see ECC letter dated February 19, 2010 attached hereto as Exhibit A.

8. Upon information and belief, ECC removed and took title to 562.76 short tons of Property from the Silos between January 30, 2010 and February 8, 2010, leaving 9,174.71 short tons of Property in the Silos as of February 8, 2010.

9. Upon knowledge and belief, ECC removed all 9,174.71 remaining tons of Property from the Silos subsequent to February 8, 2010 and the Silos are now empty.

10. Because the value of the Property remaining in the Silos after February 8, 2010 is \$588,832.89 based upon a selling price of \$64.18/short ton, Holcim's allowed Administrative Claim should be scheduled at this amount.

WHEREFORE, Holcim respectfully requests that this Court allow for the amendment of Schedule 2.4(b)(4) of the Asset Purchase Agreement to represent Holcim's entire allowed administrative claim of \$588,832.89 and for such other relief as this Court deems appropriate, just and equitable.

Respectfully submitted,

CAVITCH, FAMILO & DURKIN CO.,  
LPA

By: /s/ David D. Black

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**CERTIFICATE OF SERVICE**

A copy of the foregoing Objection was filed electronically with the Court on this  
10<sup>th</sup> day of May, 2010 and served to all parties listed on the Court's Electronic Mail

Notice list, including the following:

Lawrence E. Oscar, Esq.  
Daniel A. DeMarco, Esq.  
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/s/ David D. Black  
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