

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

IN RE:)	Case No. 10-60702
)	(Jointly Administered)
SCHWAB INDUSTRIES, INC., et al.,)	Chapter 11
Debtors.)	Judge Russ Kendig
)	UNITED STATES' OBJECTION TO
)	CONFIRMATION OF DEBTORS' FIRST
)	AMENDED JOINT PLAN OF
)	LIQUIDATION DATED OCTOBER 26,
)	<u>2010</u>

NOW COMES the United States of America, on behalf of its agency, the Internal Revenue Service, by its attorney, Steven M. Dettelbach, United States Attorney for the Northern District of Ohio, through James L. Bickett, Assistant U.S. Attorney, and hereby objects to the debtors' First Amended Joint Plan of Liquidation Dated October 26, 2010.

IN SUPPORT of its objection, the United States represents as follows:

1. As of December 1, 2010, the debtors had outstanding federal tax liabilities in the amount of \$10,564,469.45. The majority of these liabilities stem from audit deficiencies and/or unfiled federal tax returns.

2. The plan is objectionable because it appears that the provisions of Article V provide for the payment of unsecured general claims ahead of the unsecured priority claim of the Internal Revenue Service. The order governing the sale of assets entered on May 28, 2010 provided in section KK (1) that monies would be set aside for "Debtors' unsecured creditors". It does not permit the rules of distribution among unsecured creditors to be changed.

3. This is a liquidating plan, but the plan fails to provide a date certain by which the unsecured priority claim of the Internal Revenue Service will be paid. In addition, the payment of the Internal Revenue Service's claims should be on a set schedule to enable the Internal Revenue Service to determine if the Trustee is in compliance.

4. The plan fails to provide for full payment of the Internal Revenue Service's unsecured priority claim, plus interest, within five years from the date the order for relief was granted, as required under 11 U.S.C. § 1129(a)(9)(C).

5. The plan is objectionable insofar as it does not clearly define an effective date for the plan.

6. The plan is objectionable because it fails to adequately describe the nature of "set aside funds," specifically the 503(b)(9) fund and the "Administrative Fund."

WHEREFORE the United States, on behalf of the Internal Revenue Service, prays that confirmation of the debtors' First Amended Joint Plan of Liquidation Dated October 26, 2010 be denied.

Respectfully submitted,

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United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that, on or about **December 2, 2010**, the foregoing *United States' Objection to Confirmation of Debtors' First Amended Joint Plan of Liquidation Dated October 26, 2010* was electronically transmitted via the Court's CM/ECF system to the following, who are listed on the Court's Electronic Mail Notice List:

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I further certify that a copy of the foregoing *United States' Objection to Confirmation of Debtors' First Amended Joint Plan of Liquidation Dated October 26, 2010* was mailed to the following, at the address specified, on the date indicated above or on the next business day:

Schwab Industries, Inc.
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/s/ James L. Bickett
James L. Bickett
Assistant U.S. Attorney