

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:)	Chapter 11
)	
SCHWAB INDUSTRIES)	JUDGE RUSS KENDIG
)	
Debtors)	Case No. 10-60702-rk
)	
)	<u>CREDITOR TIMOTHY TAYLOR'S</u>
)	<u>OBJECTION TO THE DISCLOSURE</u>
)	<u>STATEMENT OF SCHWAB INDUSTRIES</u>

I. Introduction

Timothy Taylor, by and through counsel, Margolius, Margolius and Associates, hereby objects to the adequacy of the Disclosure Statement. Specifically, the Disclosure fails to account for Timothy Taylor's rights as a creditor of Schwab Industries (hereinafter Schwab). Mr. Taylor is a former employee of Schwab, who had a disability pension claim with Schwab at the time it filed for Bankruptcy. Schwab had knowledge and notice of Taylor's claims as a creditor. Schwab failed to include Taylor's claim in their notice or acknowledge him as an interested party and also failed to acknowledge undersigned counsel as an interested party; and therefore objects to the disclosure statement as being incomplete.

II. Facts

As an employee of Schwab, Taylor was enrolled in a disability retirement pension plan. On or around June 18, 2008, Taylor became disabled and unable to continue working. At that time, Taylor made a claim for disability retirement pension benefits. In a letter dated September 4, 2009, Schwab denied his claim for these benefits. (Ex.1)

On or around October 7, 2009, Taylor enlisted Margolius, Margolius, and Associates in

connection with his claim for disability retirement and made demand for payment of benefits (Ex.2).

On January 14, 2010, Darrell Markijohn, Esq., an attorney representing Schwab industries, notified undersigned counsel that he was retained by Schwab in regard to Taylor's disability retirement claim (Ex.3). On March 9, 2010, the undersigned counsel notified Schwab that they would be representing Mr. Taylor and pursuing this claim for benefits (Ex.4). Schwab responded on March 26, 2010 and acknowledged the claim for benefits as well as Taylor's representatives in their capacity (Ex.5).

On September 8, 2010, Taylor notified Schwab that following the sale of the company, Taylor intended to continue pursuing his disability retirement claim (Ex.6). Following this letter, Taylor received no response from Schwab Industries. On October 13, 2010, Taylor issued correspondence seeking clarification as to why no response was given to the September 8 correspondence (Ex.7). Only then was a response received notifying Taylor that he could have sought to be added as a creditor to the bankruptcy, and that such action would have had to have been filed prior to August 2010 (Ex.8). Schwab had an obligation to include all known creditors in this action; yet, failed to include Mr. Taylor. Schwab had notice of Mr. Taylor's rights as a creditor and failed to include him on its Disclosure Statement.

In the ensuing bankruptcy proceedings, neither Taylor nor his counsel were named creditors on the Disclosure Statement or the Plan. Given the nature of Taylor's claim against Schwab, he and counsel were wrongfully excluded as interested parties. Schwab Industries was given timely notice, acknowledged the viability of Taylor's claim, and failed to properly protect his credit interest in this proceeding.

III. Conclusion

Therefore, Taylor and the undersigned counsel respectfully submit that this Honorable Court order their inclusion as interested parties and creditor in regard to the pending Disclosure Statement and Plan.

Respectfully submitted,

s/ Andrew L. Margolius _____
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