

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

In re:)	Chapter 11
)	
SCHWAB INDUSTRIES, INC., <i>et al.</i> , ¹)	Case No. 10-60702-rk
)	(Jointly Administered)
Debtors.)	
)	Judge Russ Kendig
_____)	

**DECLARATION OF PATRICK M. LEATHEM OF
THE GARDEN CITY GROUP, INC. REGARDING THE
METHODOLOGY FOR THE TABULATION OF BALLOTS
ACCEPTING OR REJECTING THE FIRST AMENDED JOINT
PLAN OF LIQUIDATION DATED OCTOBER 26, 2010**

I, Patrick M. Leathem, under penalty of perjury, hereby declare as follows:

INTRODUCTION

1. I am an Assistant Director, Bankruptcy Operations of The Garden City Group, Inc. (“**GCG**”), a class action settlement and chapter 11 bankruptcy administration firm with headquarters at 105 Maxess Road, Melville, NY 11747.

2. Pursuant to an Order of this Court (the “**Court**”) entered March 5, 2010 (see Docket No. 56), the debtors and debtors-in-possession (the “**Debtors**”) retained GCG as their claims, noticing and balloting agent to, among other things, assist with the solicitation and tabulation of ballots accepting or rejecting the First Amended Joint Plan of Liquidation Dated October 26, 2010 (the “**Plan**”). I submit this declaration with respect to the final tabulation of votes accepting or rejecting the Plan as of December 3, 2010 at 5:00 p.m. (prevailing Eastern Time) (the “**Voting Deadline**”).

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s tax identification number are: Schwab Industries, Inc. (2467); Medina Cartage Co. (9373); Medina Supply Company (3995); Quality Block & Supply, Inc. (2186); O.I.S. Tire, Inc. (7525); Twin Cities Concrete Company (9196); Schwab Ready-Mix, Inc. (8801); Schwab Materials, Inc. (8957); and Eastern Cement Corp. (7232).

3. On October 27, 2010, the Court entered that certain Order: (A) Approving Solicitation and Notice Procedures with Respect to Approval of Disclosure Statement and Confirmation of Proposed Plan of Liquidation; (B) Approving Form of Ballots and Notices in Connection Therewith; (C) Conditionally Approving the Disclosure Statement; and (D) Scheduling Dates and Deadlines with Respect Thereto (the “**Solicitation Procedures Order**”) (see Docket No. 659).

4. Pursuant to the Plan, holders of Claims² in the following Classes were entitled to vote to accept or reject the Plan:

CLASS	DESCRIPTION
2a	Secured Claims of the Prepetition Lenders
3	General Unsecured Claims

MAILING OF SOLICITATION PACKAGES

5. In accordance with the Solicitation Procedures Order, on November 4, 2010, at the direction of Hahn Loeser & Parks LLP, counsel for the Debtors, GCG caused true and correct copies of the following documents to be served via first class mail:

(a) on the parties comprising Class 1 (Priority Non-Tax Claims) and Class 2b (Allowed Other Secured Claims), and the holders of unclassified Administrative Claims and Priority Tax Claims: (i) the Notice of (A) Objection and Voting Deadlines; (B) Solicitation and Voting Procedures; and (C) Joint Hearing on the Adequacy of the Disclosure Statement and Confirmation of the Joint Plan of Liquidation (the “**Joint Hearing Notice**”); (ii) a CD-ROM (the “**Disclosure Statement and Order CD**”) containing: (A) the First Amended Disclosure

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Plan and/or the Solicitation Procedures Order.

Statement With Respect to First Amended Joint Plan of Liquidation of Schwab Industries, Inc., *et al.*, Pursuant to 11 U.S.C. § 1125 dated October 26, 2010, with all exhibits thereto, including the Plan; and (B) the Solicitation Procedures Order, excluding Exhibits B through F; and (iii) a Notice of Non-Voting Status with Respect to Unimpaired Classes Deemed to Accept the Plan and Unclassified Classes;

(b) on the one party comprising Class 2a (Secured Claims of the Prepetition Lenders): (i) the Joint Hearing Notice; (ii) the Disclosure Statement and Order CD; and (iii) a customized Class 2a ballot together with a postage prepaid return envelope;

(c) on the parties comprising Class 3 (General Unsecured Claims): (i) the Joint Hearing Notice; (ii) the Disclosure Statement and Order CD; and (iii) a customized Class 3 ballot together with a postage prepaid return envelope;

(d) on the parties comprising Class 4 (Equity Security Interests): (i) the Joint Hearing Notice; (ii) the Disclosure Statement and Order CD; and (iii) a Notice of Non-Voting Status with Respect to Impaired Classes Deemed to Reject the Plan; and

(e) on all parties in GCG's database of the Debtors' matrix of creditors and other interested parties that did not fall into the categories set forth in subparagraphs "(a)" through "(d)" above, including, but not limited to, counterparties to executory contracts or unexpired leases that would otherwise not be entitled to receive a Solicitation Package, claimants with late-filed claims, the Master Service List and all parties requesting notice and pleadings in these cases: (i) the Joint Hearing Notice; and (ii) the Disclosure Statement and Order CD.

6. GCG promptly complied with all requests for additional or replacement solicitation materials, including ballots in the case of parties entitled to vote.

TABULATION PROCEDURES

7. The Solicitation Procedures Order and each of the ballots provided notice of the manner in which, and the time within which, acceptances and rejections of the Plan were required to be received. Specifically, December 3, 2010 at 5:00 p.m. (prevailing Eastern Time) was established as the Voting Deadline by which completed and executed ballots needed to be received by GCG in order to be deemed valid. Pursuant to the Solicitation Procedures Order and the voting instructions set forth in the ballots, completed and executed ballots were to be submitted to GCG via: (a) first class mail to The Garden City Group, Inc., Attn: Schwab Industries Ballot Processing, P.O. Box 9402, Dublin, OH 43017-4502; or (b) overnight courier or personal delivery to The Garden City Group, Inc., Attn: Schwab Industries Ballot Processing, 5151 Blazer Parkway, Suite A, Dublin, OH 43017.

8. Upon receipt of the ballots, GCG adhered to the following procedures:

(a) Each envelope containing a returned ballot was opened and the ballot was inspected. GCG personnel stamped the ballot with the date and time received and assigned a sequential number to the ballot (the “**Sequence Number**”). GCG personnel then scanned the ballot into GCG’s system.

(b) GCG personnel then entered all pertinent information from the ballot into a computer database, reserved exclusively for recording votes in the above-captioned case, including the Sequence Number, the date of receipt, the voting dollar amount, and whether the ballot was cast to accept or reject the Plan.

(c) All ballots received by GCG as of the Voting Deadline were tabulated in accordance with the voting procedures contained in the Solicitation Procedures Order and the voting instructions printed in each ballot.

9. In accordance with the Solicitation Procedures Order, for purposes of voting on the Plan, the amount of a Claim used to tabulate acceptance or rejection of the Plan was calculated pursuant to the following hierarchy:

(a) the Claim amount settled and/or agreed upon by the Plan Proponents prior to the Record Date, as reflected in a court pleading, stipulation, term sheet, agreement or other document filed with the Court, in an order entered by the Court or in a document executed by the Plan Proponents pursuant to authority granted by the Court;

(b) the Claim amount allowed (temporarily or otherwise) pursuant to a Resolution Event under the procedures set forth in paragraph 9 of the Solicitation Procedures Order;

(c) the Claim amount contained on a proof of claim that had been timely filed by the relevant claims bar date (or deemed timely filed by the Court under applicable law); provided, however, that ballots cast by Creditors whose Claims were not listed on the Schedules, but who had timely filed proofs of claim in partially liquidated amounts and partially unliquidated amounts that were not the subject of an objection filed before the Voting Deadline, were counted as ballots for Claims in the amount of the liquidated amounts stated in the proofs of claim; provided further, however, that ballots cast by Creditors whose Claims were not listed on the Schedules, but who had timely filed proofs of claim in wholly unliquidated or unknown amounts that were not the subject of an objection filed before the Voting Deadline, were counted as ballots for Claims in the amount of \$1.00;

(d) the claim amount listed in the Schedules, provided that such Claim was not scheduled as contingent, disputed or unliquidated; and

(e) in the absence of any of the foregoing, the Claim was not counted for voting purposes.

Additionally, if a party entitled to vote had more than one Claim against one or more of the Debtors based upon different transactions, said party was entitled to one vote for numerosity purposes in the aggregate dollar amount of all of said Claims. If a party entitled to vote had Claims (either scheduled or filed or both) against more than one of the Debtors based on the same transaction, said party was entitled to one vote for numerosity purposes in a dollar amount based upon its Claim against one of the Debtors.

10. In accordance with the Solicitation Procedures Order, the following procedures were used in tabulating the ballots:

(a) if multiple ballots were received from the same Creditor with respect to the same Claim(s) prior to the Voting Deadline, the last valid ballot timely received was deemed to reflect that voter's intent and superseded and revoked any prior ballot;

(b) if a Claim was estimated or otherwise allowed for voting purposes by order of the Court, such Claim was to be temporarily allowed in the amount so estimated or allowed by the Court;

(c) if an objection to a Claim was filed prior to the Record Date, such Claim was to be treated in accordance with the procedures set forth in paragraph 9 of the Solicitation Procedures Order for resolving claim disputes. If such an objection was filed after the Record Date, the related Claim was to be deemed temporarily allowed for voting purposes only, without further action by the holder of such Claim and without further order of the Court;

(d) the following ballots were not to be counted in determining the acceptance or rejection of the Plan: (i) any ballot received by GCG after the Voting Deadline; (ii) any ballot that was illegible or contained insufficient information to permit the identification of the Creditor; (iii) any ballot cast by a person or entity that did not hold a Claim in a Class that was entitled to vote on the Plan; (iv) any ballot cast for a Claim scheduled as unliquidated, contingent

or disputed for which no proof of claim was timely filed; (v) any unsigned ballot; (vi) any ballot delivered to GCG by facsimile, electronic mail or any other electronic means; and (vii) any ballot delivered to the Plan Proponents, their agents (other than GCG), or the Plan Proponents' financial or legal advisors; and

(e) the following ballots were to be counted as an acceptance of the Plan: (i) any ballot indicating that the Creditor both accepts and rejects the Plan; and (ii) any ballot indicating that the Creditor neither accepts nor rejects the Plan.

11. GCG complied in all respects with the provisions of the Solicitation Procedures Order, including as to provisions thereof not explicitly set forth herein. GCG did not seek to cure any deficient ballots.

TABULATION RESULTS

12. The results of the aforesaid tabulation of properly executed ballots received prior to the applicable Voting Deadline are set forth below:

<u>CLASS</u>	<u>ACCEPT THE PLAN</u>		<u>REJECT THE PLAN</u>	
	Dollar Amount Voted/ Percentage of Total Dollar Amount	Number of Votes/ Percentage of Number of Votes	Dollar Amount Voted/ Percentage of Total Dollar Amount	Number of Votes/ Percentage of Number of Votes
2a	\$59,193,001.20 100.00%	1 100.00%	\$0.00 0.00%	0 0.00%
3	\$29,663,976.30 99.97%	99 96.12%	\$7,494.91 0.03%	4 3.88%

13. A detailed accounting of the aforesaid tabulation is annexed hereto as Exhibit A.

14. A detailed accounting of the invalid ballots GCG processed, including the reasons they were invalidated, is annexed hereto as Exhibit B. In connection therewith, the "Late"

entries under the “Reasons for Invalid Status” column heading indicates the ballots were not received by the Voting Deadline.

15. GCG is in possession of the ballots received by it, and copies of same are available for review during GCG’s regular business hours at 5151 Blazer Parkway, Suite A, Dublin, OH 43017.

16. In accordance with 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing information concerning the tabulation of ballots in connection with the Plan is true and correct to the best of my knowledge and belief.

Dated: Melville, New York
December 6, 2010

/s/ Patrick M. Leathem
Patrick M. Leathem

EXHIBIT A

Class 2A

<u>Ballot ID & Record Holder Name</u>	<u>\$ Value Accepting</u>	<u>\$ Value Rejecting</u>
#104: KEYBANK NATIONAL ASSOCIATION	\$59,193,001.20	\$.00
Total for Class 2A		
Total # of Votes Reported:	1	
Total # of Votes Accepting:	1 (100.00%)	
Total # of Votes Rejecting:	0 (0.00%)	
Total Value in Dollars of Votes Reported:	\$59,193,001.20	
Total Value in Dollars Voting to Accept:	\$59,193,001.20 (100.00%)	
Total Value in Dollars Voting to Reject:	\$.00 (0.00%)	

Class 3

<u>Ballot ID & Record Holder Name</u>	<u>\$ Value Accepting</u>	<u>\$ Value Rejecting</u>
#18: AIRGAS GREAT LAKES, INC	\$465.05	\$.00
#10: ALL AMERICAN SCALES INC.	\$552.50	\$.00
#27: ARMCHEM INTERNATIONAL CORP	\$766.05	\$.00
#1: ASHLAND SCALE CO	\$3,344.00	\$.00
#52: AUSTINASH CORP	\$45.06	\$.00
#63: AZTEC STEEL CORP.	\$723.91	\$.00
#33: BASF CORPORATION	\$2,649.50	\$.00
#51: BEAN WHITAKER LUTZ & KAREH INC	\$1,232.75	\$.00
#53: BEITZEL TRUCKING MARK	\$1,922.41	\$.00
#26: BLOOM'S PRINTING INC.	\$3,346.26	\$.00
#39: BON TOOL CO	\$624.54	\$.00
#21: BOULEVARD TIRE CENTER	\$2,795.70	\$.00
#83: BRIDGEFIELD EMPLOYERS INSURANCE CO	\$30,880.17	\$.00
#44: BURKE, THOMAS J.	\$700.00	\$.00
#40: CALLOOSAHATCHEE MANAGEMENT	\$4,815.00	\$.00
#77: CARSON'S AUTO PARTS	\$168.42	\$.00
#19: CEMEX INC	\$2,045,442.67	\$.00
#92: COMMERCIAL CARRIER LOGISTICS, LLC	\$16,555.80	\$.00
#58: COOKSON COMPANY	\$.00	\$2,411.72
#103: CRAMBLETT TRUCKING INC	\$32,382.12	\$.00
#22: CREATIVE ENVIRON SOLUTIONS I	\$8,453.03	\$.00
#69: CROP PRODUCTION SERVICES INC	\$44,401.87	\$.00
#85: CROWL LUMBER CO., INC	\$1,839.88	\$.00
#20: CULLIGAN WATER	\$1,343.90	\$.00
#72: DARRELL N. MARKIJOHN, ESQ, LLC	\$13,587.15	\$.00
#70: DAVERE, LLC DBA ROYAL SUPPLY	\$4,328.64	\$.00
#87: DAY & NIGHT TIRE	\$3,908.72	\$.00
#68: DE LAGE LANDEN FINANCIAL	\$650.68	\$.00
#86: DOVER BRAKE INC.	\$14,088.22	\$.00
#15: DOVER-PHILA ELECTRIC, INC	\$17.89	\$.00
#54: ENVIRONMENTAL SAFETY CONSULTS	\$4,775.00	\$.00
#34: FENTON BROS ELECTRIC CO INC	\$988.79	\$.00
#82: FILTER FACTORY, THE	\$1,459.50	\$.00
#78: FLYNN'S OF OHIO DBA FLYNN'S TIRE	\$38,095.96	\$.00
#46: FPC FINANCIAL, FSB	\$841.63	\$.00
#3: GERALD H. GWINN	\$2,007.80	\$.00

Class 3

<u>Ballot ID & Record Holder Name</u>	<u>\$ Value Accepting</u>	<u>\$ Value Rejecting</u>
#93: GOLDSTEIN BUCKLEY CECHMAN RICE PURTZ PA	\$13,534.16	\$0.00
#74: GRIZZLY AUTO & TIRE	\$2,289.78	\$0.00
#37: HANSON AGGREGATES	\$83,427.58	\$0.00
#76: HIMROD CITRUS NURSERY	\$0.00	\$2,000.00
#60: HOHMANN & BARNARD INC	\$14,166.95	\$0.00
#73: HOLCIM (US) INC.	\$25,150,718.88	\$0.00
#17: HUMPHRIES AUTO CITY	\$261.30	\$0.00
#99: ICARD MERRILL CULLIS TIMM FUREN & GINSBU	\$186,210.09	\$0.00
#45: IMMOKALEE TIRES INC	\$846.30	\$0.00
#57: INTERSTATE BATTERY	\$257.90	\$0.00
#8: IRISH CREEK INDUS.	\$1,299.82	\$0.00
#96: J & J REFUSE INC.	\$542.94	\$0.00
#29: J & P SWINGLE MECHANICAL CONTRACTORS	\$9,550.29	\$0.00
#67: J & T AUTOBODY	\$925.00	\$0.00
#24: JACK AND ANN'S FEED & SUPPLY INC	\$0.00	\$80.88
#100: JODWAY HEATING & COOLING, SERVICE & REPA	\$5,350.00	\$0.00
#95: KIMBLE CLAY & LIMESTONE	\$2,182.09	\$0.00
#43: KRAFT FLUID SYSTEMS INC.	\$327.00	\$0.00
#79: L EUGENE AND JOAN C EDENFIELD	\$360,000.00	\$0.00
#84: L H TRAVIS INC.	\$61.20	\$0.00
#23: LEE COUNTY SOLID WASTE	\$297.90	\$0.00
#47: MAVERICK INDUSTRIES INC	\$215.00	\$0.00
#9: MCINTIRE PLUMBING, INC	\$50.00	\$0.00
#14: MEDINA AUTO PARTS	\$9,154.79	\$0.00
#7: MEDINA HARDWARE CO	\$259.82	\$0.00
#102: MILLER ROUSTABOUT SERVICE, INC.	\$618.00	\$0.00
#5: NEW COMPANY, THE	\$2,406.45	\$0.00
#31: NEW COOL	\$541.06	\$0.00
#13: OBERFIELD'S, INC.	\$27,565.98	\$0.00
#38: OHIO INDUSTRIAL SUPPLY INC.	\$27.60	\$0.00
#59: ORLO AUTO PARTS INC	\$110.96	\$0.00
#80: PARADYME (INSINC.)	\$8,015.43	\$0.00
#6: PARTS ASSOCIATES INC.	\$4,936.79	\$0.00
#12: PFAFF ELECTRIC INC., RON	\$9,658.42	\$0.00
#75: PHILPOTT RUBBER CO	\$1,752.50	\$0.00
#49: PREMIERE PROMOTIONS INC.	\$4,276.13	\$0.00
#97: PROFESSIONAL BULK TRANSFER	\$51,298.26	\$0.00
#48: REX PIPE & SUPPLY CO	\$1,961.92	\$0.00
#11: RICK A. EDWARDS	\$2,886.53	\$0.00
#41: RIVIERA BRUSH CO	\$774.09	\$0.00
#50: SECTION 20 PROPERTY OWNER'S ASSN	\$125.00	\$0.00
#91: SILVER BROTHERS CO INC.	\$39,140.54	\$0.00
#56: SMITH TRUCK CRANES & EQUIP CO INC	\$822.67	\$0.00
#2: SOUTHEASTERN EQUIPMENT CO INC	\$751.51	\$0.00
#101: SPARTA STEEL & EQUIPMENT CORP.	\$70.56	\$0.00
#30: SPECIALTY PARTS INC	\$1,163.99	\$0.00
#64: SPEEDWAY SUPERAMERICA LLC	\$7,875.93	\$0.00
#42: SPERO'S SALES & TRK SERVICE	\$569.78	\$0.00
#88: ST MARYS CEMENT CO	\$1,298,831.72	\$0.00

Class 3

<u>Ballot ID & Record Holder Name</u>	<u>\$ Value Accepting</u>	<u>\$ Value Rejecting</u>
#90: STANDING STONE	\$73.44	\$0.00
#16: STARK GLASS BLOCK	\$961.53	\$0.00
#98: SW FLORIDA VEHICLE MAINT	\$18,960.96	\$0.00
#81: TERMINAL SUPPLY CO	\$6,932.83	\$0.00
#4: THE NEW COMPANY	\$2,045.85	\$0.00
#28: THE SAND ROCK MINERAL WATER CO,T	\$176.74	\$0.00
#71: TIME MANAGEMENT SYSTEMS	\$3,326.28	\$0.00
#55: TIRES PLUS TOTAL CAR CARE	\$1,428.16	\$0.00
#66: TOWLIFT, INC.	\$54.50	\$0.00
#89: TRI-SON CONCRETE	\$278.37	\$0.00
#25: TRIDENT TRUCKING	\$0.00	\$3,002.31
#61: UNITED PARCEL SERVICE	\$854.75	\$0.00
#62: UNITED PARCEL SERVICE	\$57.74	\$0.00
#36: VENEZIA	\$11,309.80	\$0.00
#65: WAYNE GARAGE DOOR	\$906.51	\$0.00
#32: WEST GATE FORD TRUCK SALES INC	\$4,379.89	\$0.00
#94: WOOSTER GLASS CO INC.	\$125.40	\$0.00
#35: YOUNG TRUCK SALES, INC	\$13,792.37	\$0.00

Total for Class 3

Total # of Votes Reported:	103
Total # of Votes Accepting:	99 (96.12%)
Total # of Votes Rejecting:	4 (3.88%)
Total Value in Dollars of Votes Reported:	\$29,671,471.21
Total Value in Dollars Voting to Accept:	\$29,663,976.30 (99.97%)
Total Value in Dollars Voting to Reject:	\$7,494.91 (0.03%)

EXHIBIT B

Class 3

Ballot ID & Voter Name	Reason for Invalid Status	Ballot Value	Vote
# 106 : POWER KLEEN CORP	Late	\$2,879.51	Accept
# 105 : SW FLORIDA VEHICLE MAINT	Late	\$18,960.96	Accept
Total for Class 3		<u>\$21,840.47</u>	