

**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

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER: (I) APPROVING
FIRST AMENDED DISCLOSURE STATEMENT WITH RESPECT TO
FIRST AMENDED JOINT PLAN OF LIQUIDATION OF SCHWAB INDUSTRIES,
INC. ET AL. PURSUANT TO 11 U.S.C. § 1125; AND (II) CONFIRMING
FIRST AMENDED JOINT PLAN OF LIQUIDATION DATED OCTOBER 26, 2010**

Schwab Industries, Inc. and its affiliated debtors and debtors-in-possession (collectively, the “*Debtors*”),² having each filed with this Court their voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “*Bankruptcy Code*”) on February 28, 2010 (the “*Petition Date*”); and the Debtors and the Official Committee of Unsecured Creditors (the

¹ The Debtors in these 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).

² Terms not otherwise defined herein shall have the meanings ascribed to such terms in the Plan or the Disclosure Statement.

“Committee,” and collectively with the Debtors, the “Plan Proponents”), having filed with this Court their First Amended Joint Plan of Liquidation dated October 26, 2010 (the “Plan”); and the Plan Proponents, having filed with this Court the Disclosure Statement pursuant to section 1125 of the Bankruptcy Code (the “Disclosure Statement”); and the Plan Proponents seeking approval of the Disclosure Statement simultaneously with confirmation of the Plan, as allowed by this Court’s order on October 27, 2010 (the “Solicitation Procedures Order”); and which Solicitation Procedures Order also (1) authorized the Plan Proponents to solicit acceptances or rejections of the Plan, (2) approved the form of ballots to be transmitted with the Plan and Disclosure Statement for voting purposes, (3) fixed 5:00 p.m. (prevailing Eastern time) on December 3, 2010 as the deadline for submitting acceptances or rejections to the Plan (the “Voting Deadline”), (4) set December 3, 2010 as the deadline for filing objections to the Disclosure Statement or to confirmation of the Plan (the “Objection Deadline”), (5) fixed December 9, 2010, at 2:00 p.m. (prevailing Eastern time) for the hearing to consider confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code and adequacy of the Disclosure Statement pursuant to section 1125 of the Bankruptcy Code (the “Joint Hearing”) and (6) approved the form and manner of notice of the Joint Hearing, the Voting Deadline and Objection Deadline; and the Plan Proponents, having solicited votes on the Plan and having provided notice of the Joint Hearing in accordance with the Solicitation Procedures Order; and the Court having considered the 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, filed with this Court on December 6, 2010, (the “Ballot Report”); and due notice of the Voting Deadline, the Joint Hearing and the Objection Deadline having been given by the Plan Proponents to all creditors, equity security

holders and other parties-in-interest in accordance with the Solicitation Procedures Order, the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”); and the Plan Proponents having filed with this Court the Memorandum of Law in Support of: (I) Approval of First Amended Disclosure Statement with Respect to First Amended Joint Plan of Liquidation of Schwab Industries, Inc. et al. Pursuant to 11 U.S.C. § 1125; and (II) Confirmation of First Amended Joint Plan of Liquidation Dated October 26, 2010, dated December 6, 2010 (the “*Confirmation Brief*”) and their Omnibus Reply to Objections to: (I) Approval of First Amended Disclosure Statement with Respect to First Amended Joint Plan of Liquidation of Schwab Industries, Inc. et al. Pursuant to 11 U.S.C. § 1125; and (II) Confirmation of First Amended Joint Plan of Liquidation Dated October 26, 2010, on December 6, 2010 (the “*Omnibus Reply*”); and upon all the documents and the evidence of record adduced at the Joint Hearing and the statements of the parties appearing at such hearing; and upon all the pleadings and proceedings heretofore in this matter; and after due deliberation and consideration; and good and sufficient cause appearing therefore:

FINDINGS OF FACT AND CONCLUSIONS OF LAW³

IT IS HEREBY FOUND AND DETERMINED that:

A. Exclusive Jurisdiction, Venue and Core Proceeding

This Court has jurisdiction over these chapter 11 cases (the “*Cases*”) pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. Confirmation of the Plan is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(L), and this Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed.

³ Pursuant to Bankruptcy Rule 7050, findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate.

B. Judicial Notice

This Court takes judicial notice of the docket of these Cases maintained by the Clerk of the Court and/or its duly appointed agent, including, without limitation, all pleadings and documents filed, all orders entered and all evidence and arguments made, proffered or adduced at, the hearings held before the Court during the pendency of these Cases.

C. Burden of Proof

The proponents of the Plan have met their burden of proving the elements of sections 1129(a) and 1129(b) of the Bankruptcy Code by a preponderance of the evidence.

D. Transmittal, Mailing Materials and Notice

In accordance with the Solicitation Procedures Order, the Plan Proponents timely mailed the Solicitation Package to holders of Claims entitled to vote on the Plan, which contained the following materials: (1) a copy of the Solicitation Procedures Order; (2) a copy of the Plan and Disclosure Statement; (3) a Class 2a or Class 3 Ballot, as appropriate; and (4) a copy of the Joint Hearing Notice. As to those holders of Claims or Interests not entitled to vote on the Plan, the Office of the United States Trustee and all other parties requesting service of notices in the Debtors' Cases, the Plan Proponents timely mailed copies of: (1) the Joint Hearing Notice; (2) the Solicitation Procedures Order; and (3) the Plan and Disclosure Statement. Adequate and sufficient notice of the Joint Hearing, the Voting Deadline, the Objection Deadline and other requirements, deadlines, hearings and matters described in the Solicitation Procedures Order was provided in compliance with the Solicitation Procedures Order and the Bankruptcy Rules, and no further notice is required. All parties-in-interest had the opportunity to appear and be heard at the Joint Hearing.

E. Impaired Classes that Have Voted To Accept the Plan

As evidenced by the Ballot Report, which certified both the method and results of the voting by Impaired Classes of Claims with respect to the Plan, Classes 2a and 3 are Impaired and have voted to accept the Plan pursuant to the requirements of sections 1124 and 1126 of the Bankruptcy Code. Thus, at least one Impaired Class of Claims has voted to accept the Plan.

F. Classes Deemed To Have Accepted the Plan

Classes 1 and 2b are not Impaired under the Plan and are deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

G. Classes Deemed To Have Rejected the Plan

Class 4 is impaired under the Plan and is deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code.

H. Compliance with Requirements of Section 1129 of the Bankruptcy Code

1. Section 1129(a)(1) of the Bankruptcy Code – Plan Compliance With Provisions of the Bankruptcy Code

The Plan complies with all applicable provisions of the Bankruptcy Code, including, without limitation, sections 1122 and 1123 of the Bankruptcy Code, thereby satisfying section 1129(a)(1) of the Bankruptcy Code.

a. Proper Classification (11 U.S.C. §§ 1122 and 1123(a)(1))

Pursuant to sections 1122(a) and 1123(a)(1) of the Bankruptcy Code, Article III of the Plan designates Classes of Claims and Interests, other than Administrative Claims and Priority Tax Claims against the Debtors, which are not required to be classified. As required by section 1122(a) of the Bankruptcy Code, each Class of Claims and Interests contains only Claims or Interests that are substantially similar to the other Claims or Interests within that Class, and

therefore the Plan satisfies the requirement of sections 1122(a) and 1123(a)(1) of the Bankruptcy Code.

b. Specification of Impaired and Unimpaired Claims and Interests and Treatment Thereof

Pursuant to sections 1123(a)(2) and 1123(a)(3) of the Bankruptcy Code, Article IV of the Plan specifies which Claims and Interests are not Impaired and which Claims and Interests are Impaired. Pursuant to section 1123(a)(4) of the Bankruptcy Code, Article V of the Plan also provides the same treatment for each Claim or Interest within a particular Class. Therefore, the Plan complies with sections 1123(a)(2)-(4) of the Bankruptcy Code.

c. Means of Implementation (11 U.S.C. § 1123(a)(5))

The Plan provides adequate means for its implementation, thereby satisfying section 1123(a)(5) of the Bankruptcy Code.

d. Non-Voting Equity Securities (11 U.S.C. § 1123(a)(6))

The Plan contemplates and mandates liquidation of the Debtors' Estates and remaining assets and, therefore, no securities will be issued. Therefore, the Plan complies with section 1123(a)(6) of the Bankruptcy Code.

e. Selection of Directors and Officers (11 U.S.C. § 1123(a)(7))

The Plan contemplates and mandates liquidation of the Debtors' Estates and remaining assets, and therefore, no directors or officers will be appointed under the Plan. The Plan, however, appoints the Creditor Trustee to administer the Creditor Trust after confirmation of the Plan, with such Creditor Trustee being named by the Plan Proponents by that certain notice filed with the Court on December 6, 2010.

f. Compliance with Bankruptcy Rule 3016

The Plan is dated and identifies the entities submitting it, thereby satisfying Bankruptcy Rule 3016(a). The filing of the Disclosure Statement with the Court satisfies Bankruptcy Rule 3016(b).

g. Compliance with Bankruptcy Rule 3018

The solicitation of votes to accept or reject the Plan was conducted in accordance with the Solicitation Procedures Order and otherwise satisfies Bankruptcy Rule 3018. The Plan was transmitted to all Creditors entitled to vote on the Plan and those other parties entitled to notice under applicable law. Sufficient time was prescribed for such Creditors to accept or reject the Plan, and the solicitation materials and procedures comply with section 1126 of the Bankruptcy Code. The requirements of Bankruptcy Rule 3018 are thereby satisfied.

2. Section 1129(a)(2) of the Bankruptcy Code – Plan Proponents’ Compliance with Provisions of the Bankruptcy Code

The Plan Proponents have complied with the applicable provisions of the Bankruptcy Code, including, without limitation, sections 1125 and 1126 of the Bankruptcy Code and Bankruptcy Rules 3013, 3018 and 3019 and all applicable orders of this Court. The solicitation of acceptances or rejections of the Plan was (a) in compliance with the solicitation procedures set forth in the Solicitation Procedures Order, and (b) solicited after disclosure of adequate information as defined in section 1125(a) of the Bankruptcy Code to holders of Claims and Interests, and, therefore, the Plan satisfies the requirements of section 1129(a)(2) of the Bankruptcy Code.

3. Section 1128(a)(3) of the Bankruptcy Code – Plan Proposed in Good Faith and Not by Means Forbidden by Law

The Plan has been proposed in good faith and not by any means forbidden by law. In determining that the Plan has been proposed in good faith, the Court has examined the totality of the circumstances surrounding the formulation of the Plan. The Plan Proponents proposed the Plan with legitimate and honest purposes to preserve and protect the rights and interests of Creditors and all other parties in interest. Consistent with the overriding purpose of chapter 11 of the Bankruptcy Code, the Plan is designed to effectuate the liquidation of the Debtors' Estates and remaining assets and distribute those assets to holders of Allowed Claims, in accordance with the priority scheme set forth in the Bankruptcy Code and pursuant to the mechanic set forth in Article V of the Plan and the Creditor Trust Agreement, by a Creditor Trust formed pursuant to the Plan and this Confirmation Order. Moreover, the Plan itself and the process leading to its formulation provide independent evidence that the Plan has been proposed in good faith, including, without limitation, the Committee's and the Debtors' collaborative effort in formulating and soliciting the Plan and the consent of the Pre-Petition Lenders thereto.

4. Section 1129(a)(4) of the Bankruptcy Code – Payment of Costs and Expenses

All payments made, or to be made, by the Debtors' Estates, for services or for costs and expenses in connection with these Cases or in connection with the Plan and incident to the Cases are reasonable and by this Confirmation Order hereby are approved as appropriate under the circumstances. The Court further finds that any fees and expenses payable to any Professional Persons retained in these Cases are subject to approval of this Court in accordance with applicable law. Therefore, the Plan satisfies the requirements of section 1129(a)(4) of the Bankruptcy Code.

5. Section 1129(a)(5) of the Bankruptcy Code – Disclosure of Identities of Officers, Directors and Insiders

Under the Plan, all of the Debtors' remaining assets (other than the Tax Refund) will be transferred to the Creditor Trust, and the Debtors will cease to exist. Thus, the Plan, having not identified anyone as successor, still meets the requirements of section 1129(a)(5) of the Bankruptcy Code because no one will be serving in any capacity of the Debtors.

6. Section 1129(a)(6) of the Bankruptcy Code – Rate Changes

Section 1129(a)(6) of the Bankruptcy Code is inapplicable to confirmation of the Plan because there are no rate changes provided for in the Plan over which a governmental regulatory commission will have jurisdiction.

7. Section 1129(a)(7) of the Bankruptcy Code – Best Interests of Creditors

With respect to each Impaired Class of Claims and Interests, each holder of a Claim or Interest of such Class has accepted the Plan, or will receive or retain under the Plan on account of such Claim or Interest, property of a value, as of the Effective Date of the Plan, that is not less than the amount that such holder would so receive or retain if each of the Debtors were liquidated under chapter 7 of the Bankruptcy Code on such date. Therefore, the Plan satisfies the requirements of section 1129(a)(7) of the Bankruptcy Code.

8. Section 1129(a)(8) of the Bankruptcy Code – Acceptance of the Plan or Non-Impairment

Due to the Plan meeting the requirements set forth in section 1129(b) of the Bankruptcy Code, section 1129(a)(8) of the Bankruptcy Code does not have to be satisfied.

9. Section 1129(a)(9) of the Bankruptcy Code – Treatment of Claims Entitled to Priority

Except to the extent that the holder of a Claim agrees to different treatment of such Claim, the Plan provides that Administrative Claims will be paid in accordance with the

Bankruptcy Code, the Plan and the Creditor Trust Agreement. Therefore, the Plan satisfies the requirements of section 1129(a)(9) of the Bankruptcy Code.

10. Section 1129(a)(10) of the Bankruptcy Code – Acceptance by at Least One Impaired Class

Classes 2a and 3 are Impaired under the Plan. Pursuant to section 1129(a)(10) of the Bankruptcy Code, if a class of claims is impaired under the plan, at least one class of claims that is impaired under the plan must accept the plan, determined without including any acceptance of the plan by any insider. This requirement has been satisfied because Classes 2a and 3 have overwhelmingly voted to accept the Plan.

11. Section 1129(a)(11) of the Bankruptcy Code – Feasibility

Normally the feasibility test, used to determine if section 1129(a)(11) of the Bankruptcy Code has been satisfied, determines whether a reorganization plan can be successfully implemented. Because the Plan contemplates liquidation and transfer of all remaining assets of the Debtors' Estates to the Creditor Trust, and reorganization is not required, the feasibility test is satisfied based on the Plan Proponents' showing that there is a "reasonable probability" that the provisions of the Plan can be performed. Therefore, section 1129(a)(11) of the Bankruptcy Code is satisfied.

12. Section 1129(a)(12) of the Bankruptcy Code – Payment of Fees

The Debtors have paid or, pursuant to Section 9.2 of the Plan, shall pay, on or prior to the Effective Date, all amounts due under 28 U.S.C. § 1930, and therefore, the Plan satisfies the requirements of section 1129(a)(12) of the Bankruptcy Code.

13. Sections 1129(a)(13)-1129(a)(16) of the Bankruptcy Code

There are no retirement benefits owed by the Debtors, the Debtors are not required to pay domestic support obligations, the Debtors are not individuals and transfers of property of the

Plan will be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a trust that is not a moneyed, business or commercial corporation or trust. Therefore, the final four subsections of section 1129(a) of the Bankruptcy Code are inapplicable to the Debtors.

14. Section 1129(b) of the Bankruptcy Code – Cramdown

Section 1129(b) of the Bankruptcy Code allows for the Plan to be confirmed, notwithstanding an Impaired Class rejecting the Plan, if “the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interest that is impaired, under, and has not accepted the plan.” 11 U.S.C. § 1129(b)(1). But, one Impaired Class must nevertheless accept the Plan for this Court to approve the Plan under section 1129 of the Bankruptcy Code. Here, two impaired Classes – Class 2a and Class 3 – have accepted the Plan, and the remaining Classes, which are subject to cramdown under section 1129(b) of the Bankruptcy Code, have been treated fairly and equitably and without unfair discrimination according to the standards set forth in section 1129(b) of the Bankruptcy Code.

15. Section 1129(c) of the Bankruptcy Code – No Other Plan

The Plan Proponents seek confirmation of the Plan, as modified, a copy of which is attached to this Confirmation Order as Exhibit A.⁴ No other entity has proposed a plan contradicting the current Plan. Therefore, section 1129(c) of the Bankruptcy Code has been satisfied.

16. Section 1129(d) of the Bankruptcy Code – Avoidance of Taxes

The principal purpose of this Plan is not the avoidance of taxes or the avoidance of the Securities Act of 1933, but for the liquidation and distribution of the remaining assets of the

⁴ A redline of the Plan, reflecting those non-material modifications made since the date of the filing of the Plan, is attached to this Confirmation Order as Exhibit B.

Debtors and their Estates. The Plan, therefore, satisfies the requirements of section 1129(d) of the Bankruptcy Code.

H. Compliance with Section 1125(e) of the Bankruptcy Code

Based on the record before the Court in these Cases, the Plan Proponents have acted in good faith within the meaning of section 1125(e) of the Bankruptcy Code and in compliance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all of their respective activities relating to the solicitation of acceptances to the Plan and their participation in the activities described in section 1125 of the Bankruptcy Code, and are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code and as otherwise provided herein.

I. Retention of Causes of Action/Reservation of Rights.

As disclosed in the Disclosure Statement and as provided in the Plan, it is anticipated that a source of funds for payments to Creditors under the Plan will be recoveries from existing or potential Causes of Action commenced by or on behalf of the Debtors, their Estates and/or the Creditor Trust, which Causes of Action may include: (i) any and all Causes of Action pursuant to any applicable section of the Bankruptcy Code, including Avoidance Actions; (ii) objections to Claims; and (iii) claims against the Potential Insider Defendants based on: (a) breaches of fiduciary duties (both prior to and after the Petition Date); (b) aiding and abetting breaches of fiduciary duties; (c) piercing the corporate veil; (d) conversion; (e) fraud; (f) negligence; (g) negligent misrepresentation; (h) waste of corporate assets; and (i) equitable subordination of Claims. The above list of potential claims against the Potential Insider Defendants is not exhaustive, and if a specific Cause of Action or defendant is not identified thereon, it is because such Cause of Action or defendant is not known to the Debtors or the Creditor Trustee at this

time. On behalf of the Debtors and their Estates, the Debtors preserve for the Creditor Trust the rights to any Causes of Action that may be identified on or after the Confirmation Date. The recoveries, if any, from any litigation brought by the Creditor Trust will depend on many factors, which cannot be predicted at this time. The Creditor Trustee may in his sole discretion elect not to pursue any Causes of Action (including Avoidance Actions) the pursuit of which the Creditor Trustee deems not to be in the best interest of the Estates or the Creditor Trust.

This Court hereby finds that provisions in the Disclosure Statement, Plan and this Confirmation Order relating to retention of Causes of Action/reservation of rights shall be sufficient for all purposes to satisfy the requirements of the standard set forth in *Browning v. Levy*, 283 F.3d 761 (6th Cir. 2002).

J. Objections to Confirmation of the Plan and/or Approval of the Disclosure Statement

The following creditors or parties-in-interest (collectively, the “*Objecting Parties*”) filed objections to the confirmation of the Plan and/or approval of the Disclosure Statement (collectively, the “*Objections*”): (1) Oldcastle Materials, Inc. (“*Oldcastle*”); (2) Department of the Treasury, Internal Revenue Service (the “*IRS*”); (3) Ohio Department of Taxation and Bureau of Workers’ Compensation; (4) Allen Concrete & Masonry, Inc. and Allen Concrete Pumping; and (5) Timothy Taylor.

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

Approval of the Disclosure Statement and Confirmation of the Plan

1. The Disclosure Statement contains adequate information pursuant to section 1125 of the Bankruptcy Court and is hereby approved.

2. The Plan shall be, and hereby is, confirmed in each and every respect pursuant to section 1129 of the Bankruptcy Code. Any modifications to the Plan shall be, and hereby are, approved and are incorporated into and made part of the Plan. Each and every provision of the Plan is incorporated by reference into, and is made an integral part of, this Confirmation Order as if the Plan were set forth in its entirety in this paragraph. Further, the provisions of the Plan and this Confirmation Order, including the findings of fact and conclusions of law set forth herein, are non-severable and mutually dependent.

Objections to Confirmation of the Plan or Approval of the Disclosure Statement

3. All Objections to confirmation of the Plan or approval of the Disclosure Statement, other than those withdrawn with prejudice in their entirety prior to, or on the record at, the Joint Hearing, or resolved pursuant to this Confirmation Order, are hereby expressly overruled.

4. In settlement of the Objection filed by the IRS, the Creditor Trustee will make quarterly distributions to the IRS, with respect to its Allowed Priority Tax Claim, in equal installments in Cash, beginning on the Effective Date (or as soon as practicable following the date the IRS's Claim becomes an Allowed Priority Tax Claim) and through the fifth year following the Petition Date, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code. Further, approval of this Confirmation Order shall not be deemed consent by the United States to any actions or jurisdiction of any Court nor a waiver of any rights it may have if these Cases are dismissed.

5. In full settlement of the Objection filed by Oldcastle, Oldcastle shall have an Allowed Agreed Administrative Claim in the amount of \$75,000 (the "*Oldcastle AAA Claim*"), constituting an Allowed Administrative Claim not subject to further challenge, review, objection,

offset (other than as provided in this paragraph) or otherwise; provided, however, that Oldcastle's \$9,000 contribution obligation owed to the Debtors pursuant to the Agreed Order (Docket No. 674) regarding the Settlement Agreement and Release attached thereto shall be satisfied by an offset against the Oldcastle AAA Claim. Notwithstanding anything in this Confirmation Order, the Plan or the Creditor Trust Agreement to the contrary, the Oldcastle AAA Claim (in the net amount of \$66,000) shall be paid to Oldcastle in Cash no later than the Effective Date. In exchange for the foregoing, Oldcastle hereby agrees to withdraw, with prejudice, its Objection and its Motion of Oldcastle Materials, Inc. for Allowance of Administrative Expense Claims (Docket No. 680).

6. Mr. Taylor's objection to approval of the Disclosure Statement has been resolved. No later than December 30, 2010, Mr. Taylor shall file a proof of claim (the "*Taylor Claim*") by submitting the same to The Garden City Group, Inc. ("*Garden City*") by first class mail at The Garden City Group, Inc., Attn: Schwab Industries Claims Processing, P.O. Box 9402, Dublin, Ohio 43017-4502, setting forth his claims against the Debtors' Estates or be forever barred. So long as the Taylor Claim is received by Garden City not later than December 30, 2010, the Plan Proponents and the Creditor Trustee hereby agree not to object to the Taylor Claim on timeliness grounds, but reserve all rights to object to the Taylor Claim on substantive grounds in accordance with the Plan and the Creditor Trust Agreement. In consideration for the foregoing, Mr. Taylor has agreed to withdraw his objection to the Disclosure Statement.

Effects of Confirmation

7. Binding Effect. In accordance with the provision of section 1141 of the Bankruptcy Code and immediately upon entry of the Confirmation Order, the Plan and all of its provisions shall be, and hereby are, binding upon the Debtors, any Person acquiring or receiving

property or a distribution under the Plan, any lessor or lessee of property to or from the Debtors, any past, present, or future Creditor of the Debtors and any holder of a Claim against or Interest in the Debtors, whether or not such Claim or Interest of such holder is Impaired under the Plan, whether known or unknown, and whether or not such holder has accepted or rejected the Plan or will or will not receive a distribution under the Plan.

8. Subject to the terms of the Plan and this Confirmation Order, all prior orders of this Court entered in these Cases, all documents and agreements executed by the Debtors as authorized and directed thereunder, and all motions or requests for relief by the Debtors pending before the Court as of the Effective Date shall be, and hereby are, binding upon and shall inure to the benefit of the Creditor Trust.

9. The form, terms and provisions of the Creditor Trust Agreement, a copy of which is attached as Exhibit C, and any other documents executed and delivered in connection therewith (collectively, the “*Plan Related Documents*”) are hereby approved and each of the Plan Related Documents shall constitute legal, valid, binding and authorized obligations of the respective parties thereto, enforceable in accordance with its terms (except as enforceability may be limited by any bankruptcy or insolvency proceeding filed by any party thereto subsequent to the date of the execution of such document). The appointment of John B. Pidcock as the initial Creditor Trustee is hereby approved.

10. Pursuant to sections 1123(a) and 1142(a) of the Bankruptcy Code, the provisions of this Confirmation Order, the Plan and the Plan Related Documents shall apply and be enforceable notwithstanding any otherwise applicable non-bankruptcy law.

11. Executory Contracts and Unexpired Leases. The executory contract and unexpired lease provisions of Article VI of the Plan shall be, and hereby are, approved. Each

executory contract or unexpired lease of the Debtors that has not expired by its own terms or been assumed prior to the Confirmation Date shall be deemed rejected pursuant to section 365 of the Bankruptcy Code on the Confirmation Date.

12. All proofs of claim with respect to Claims arising from the rejection of executory contracts or unexpired leases pursuant to Section 6.1 of the Plan shall, unless another order of the Bankruptcy Court provides for a different date, be filed with the Bankruptcy Court by the Bar Date, or if an executory contract or unexpired lease is rejected after the Bar Date, by no later than thirty (30) days after the Confirmation Date. The Claims of any Creditor arising from the rejection of executory contracts or unexpired leases pursuant to Section 6.1 of the Plan that fails to timely file a proof of claim shall be released, discharged and forever barred from assertion against the Debtors, their Estates or their property.

13. Termination of Pension Plan; PBGC Claims. From and after the Confirmation Date, the Creditor Trustee will oversee the termination of the Pension Plan according to the terms and conditions of the Pension Plan and effected in conformity with all statutory and regulatory requirements, including any applicable notice provisions. Alternatively, to the extent permitted by the Bankruptcy Code, the Pension Plan will be deemed rejected as of the Confirmation Date. Any undistributed, vested benefits of the terminated Pension Plan will be distributed to the participants of the Pension Plan, as provided by statute, the applicable regulations and the Pension Plan's provisions. In order to ensure that the Pension Plan's termination complies with the terms of the Pension Plan, applicable statutes and regulations, the Debtors, the Creditor Trustee or the Plan Administrator (as defined in the Pension Plan) will obtain any necessary approvals of the relevant regulatory agencies, such as the PBGC, the Internal Revenue Service and the U.S. Department of Labor, in respect of such terminations. To

the extent that such processes require additional time or expense to complete after the Confirmation Date, the Plan Administrator shall be responsible for completing such process and such costs will be paid from the assets of the Pension Plan. The Debtors and the Creditor Trustee do not waive any objections they may have to any of the PBGC's Claims. The Bankruptcy Court shall retain jurisdiction over any disputes relating to the termination of the Pension Plan and the Creditor Trustee shall have standing to object to any Claim filed by the PBGC with respect to the Pension Plan.

14. Unimpaired Claims. All Class 1 and 2b Claims are not Impaired by the Plan in accordance with section 1124 of the Bankruptcy Code and shall survive confirmation of the Plan. All Professional Persons requesting payment of Professional Fee Claims and all other persons requesting payments of Other Administrative Expense Claims arising after July 12, 2010 shall be entitled to file an application for allowance of such Claims until not later than thirty (30) days after the Confirmation Date. In conjunction therewith, the Plan Proponents shall serve a notice of entry of this Confirmation Order and Administrative Claims bar date to all known or anticipated holders of Administrative Claims by U.S. mail within three (3) days following the Confirmation Date. Objections to any applications from holders of Professional Fee Claims or Other Administrative Expense Claims arising after July 12, 2010 must be written, filed with the Bankruptcy Court, and served on the applicable parties within forty-five (45) days after such application is filed. Any dispute with respect to any other unimpaired Claim may be determined, resolved or adjudicated, as the case may be, with respect to the Creditor Trust in the manner in which such dispute would have been determined, resolved or adjudicated if these Cases had not been commenced, with this Court expressly retaining jurisdiction to adjudicate any such dispute. Except as otherwise provided in the Plan, nothing under the Plan or this Confirmation Order

shall affect the Creditor Trust's rights in respect of any unimpaired Claims, including, but not limited to, all rights in respect of legal and equitable defenses to or setoff, or recoupments against such unimpaired Claims.

15. Injunctions and Stays Remain in Effect until Effective Date. All injunctions and stays pursuant to sections 105 and 362 of the Bankruptcy Code or otherwise shall remain in full force and effect through the termination of the Creditor Trust and the imposition of the injunction set forth in Section 7.16 of the Plan; provided, however, that no Person will be stayed or enjoined from exercising or enforcing their rights, remedies and interests with respect to: (i) that certain adversary case pending in the Bankruptcy Court as Adversary Case No. 10-06097 or any of the claims, demands, causes of action or remedies asserted therein; (ii) any rights under that certain Assignment of Rights in Agreement Regarding Earnout Payments, dated June 2, 2010, between SMI and KeyBank; and (iii) the Tax Refund.

Matters Relating to Implementation of the Plan

16. Vesting of Assets. Within seven (7) days of the Confirmation Date, all assets of the Debtors and their Estates, other than the Tax Refund (collectively, the "*Creditor Trust Assets*") shall be transferred to and vest in the Creditor Trust and be deemed contributed thereto, subject to the terms of the Plan. In the event KeyBank, on behalf of the Pre-Petition Lenders, provides written direction to the Creditor Trustee (on behalf of the Debtors or the Creditor Trust) to incur any fees and expenses necessary and appropriate in KeyBank's sole discretion to prosecute the Tax Refund and respond to any related issues (the "*Authorized Fees and Expenses*"), pursuant to KeyBank's and the Pre-Petition Lenders' rights under the Core Sale Order, any such Authorized Fees and Expenses shall be satisfied by KeyBank, in its capacity as agent for the Pre-Petition Lenders, and shall be reimbursed to KeyBank through the Tax Refund

prior to calculating the actual amount of recovery realized upon the Tax Refund for purposes of the sharing agreement set forth in the Core Sale Order. Neither KeyBank nor the Pre-Petition Lenders shall have any obligation to direct the Creditor Trustee (on behalf of the Debtors or the Creditor Trust, as the case may be) to prosecute the Tax Refund or otherwise respond to any related issues or matters, including, but not limited to, responding to any audit. KeyBank shall be authorized to abandon the Pre-Petition Lenders' rights, claims, interests and Liens on the Tax Refund in its sole discretion by formal written notice to the Creditor Trustee (on behalf of the Debtors or the Creditor Trust), in which case, the Creditor Trustee shall have all of the rights of KeyBank and the Pre-Petition Lenders solely with respect to the Tax Refund as set forth herein. The Creditor Trust Assets include, without limitation, all Cash in the possession of the Debtors (less any Cash paid or to be paid on account of unpaid Allowed Professional Fee Claims), the Settlement Amount, all Avoidance Actions and Miscellaneous Causes of Action, the 503(b)(9) Fund, the Administrative Expense Fund, all rights of the Debtors under the Plan, the Confirmation Order and all other orders entered by the Bankruptcy Court in these Cases on or prior to the Confirmation Date, and all books and records related to the Estates. The Creditor Trust Assets shall also include all remaining real property and personal property of the Debtors.

17. For the avoidance of doubt, all property held for distribution pursuant to the Plan shall be held by the Creditor Trust solely in trust for the holders of Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Priority Claims, Allowed Class 2a Secured Claims and Allowed Class 3 Claims and shall not be deemed property of the Debtors. Additionally, proceeds of the Settlement Amount obtained for General Unsecured Creditors from the Pre-Petition Lenders shall be distributed only to the holders of Allowed Class 3 General Unsecured Claims, proceeds of collateral subject to the Pre-Petition Lenders' Liens shall be

distributed only to the holders of Allowed Class 2a Secured Claims until the Pre-Petition Lenders have received distributions on their Allowed Secured Claims totaling \$51,000,000 and, thereafter, all further distributions to the Pre-Petition Lenders of Net Proceeds from the Creditor Trust shall be subject to the sharing formula appended to the Core Sale Order, the 503(b)(9) Fund shall be distributed only to the holders of Allowed 503(b)(9) Claims and the Administrative Expense Fund shall be distributed only to the holders of Allowed Administrative Claims; provided, however, that the Settlement Amount may be used to pay Allowed Administrative Claims or satisfy the Trustee's Expenses pursuant to any budget approved by the Oversight Committee.

18. Nothing in the Plan shall preclude payment of: (i) statutory fees under 28 U.S.C. § 1930 to the extent unpaid on the Confirmation Date; and (ii) the Trustee's Expenses in accordance with the Plan and the Creditor Trust Agreement from any other assets held by the Creditor Trust. The Debtors are hereby authorized and directed to take such steps as may be necessary or appropriate to confirm such transfer and contribution of their property to the Creditor Trust, subject to oversight from the Oversight Committee or the Creditor Trustee, as applicable.

19. Substantive Consolidation of Debtors' Estates. Effective as of the date of this Confirmation Order, each of the Debtors' Estates shall be substantively consolidated into the Estate of SII. On the Confirmation Date, and except as otherwise provided in the Plan: (i) all guaranties of any Debtor of the payment, performance or collection of another Debtor shall be deemed eliminated and cancelled; (ii) any obligation of any Debtor and all guaranties thereof executed by another Debtor or Debtors shall be treated as a single obligation and any obligation of two or more Debtors, and all multiple Claims against such entities on account of such joint

obligations, shall be treated and allowed only as a single Claim against the consolidated Debtors; and (iii) each Claim filed or to be filed against any Debtor shall be deemed filed against the consolidated Debtors and shall be deemed a single Claim against and a single obligation of the consolidated Debtors. On the Confirmation Date, and in accordance with the terms of the Plan and the consolidation of the assets and liabilities of the Debtors, all Claims based upon guaranties of collection, payment or performance made by the Debtors as to the obligations of another Debtor shall be released and of no further force and effect. Except as set forth in Section 7.1.1 of the Plan, such substantive consolidation shall not (other than for purposes related to the Plan) cause any Debtor to be liable under the Plan for any Claim for which it otherwise is not liable, and the liability for any such Claim shall not be affected by such substantive consolidation. On the Confirmation Date, the Intercompany Claims of Debtors against any other Debtors shall be extinguished and cancelled.

20. Creditor Trust Administration. The Creditor Trustee shall administer the Creditor Trust's assets pursuant to the Plan and the Creditor Trust Agreement from and after the Confirmation Date. The Creditor Trustee shall be responsible for liquidating the Creditor Trust Assets and distributing the Net Proceeds to the beneficiaries of the Creditor Trust pursuant to the Plan and the Creditor Trust Agreement.

21. Chapter 11 Case Administration. From and after the Confirmation Date and continuing through the date that a final decree closing these Cases is entered pursuant to section 350 of the Bankruptcy Code and Bankruptcy Rule 3022, the Creditor Trustee shall possess the rights of a party in interest pursuant to section 1109(b) of the Bankruptcy Code for all matters arising in, arising under or related to the Cases. In addition to the foregoing, for all matters arising in, arising under or related to the Debtors or these Cases, the Creditor Trustee shall:

(i) have the right to appear and be heard on matters brought before the Bankruptcy Court or other courts of competent jurisdiction; (ii) have the right to obtain records of, or related to, the Debtors (including, without limitation, bank statements and cancelled checks); (iii) have the right to sign or otherwise execute documents, receive funds and direct transfers to third parties (including without limitation, with respect to the Tax Refund) on behalf of the Debtors; (iv) be entitled to notice and opportunity for hearing; (v) be entitled to participate in all matters brought before the Bankruptcy Court, including, but not limited to, adversary proceedings; (vi) have exclusive standing (including derivative standing to pursue Causes of Action on behalf of the Debtors) to commence Avoidance Actions and Miscellaneous Causes of Action; (vii) be entitled to request the Bankruptcy Court to enter a final decree closing the Cases; (viii) be entitled to receive notice of all applications, motions and other papers and pleadings set before the Bankruptcy Court in these Cases; and (ix) be authorized to designate the allocation of the funds remaining in the 503(b)(9) Fund and the Administrative Expense Fund as of the Confirmation Date, following consultation with, and subject to the approval of, the Oversight Committee.

22. Dissolution of the Debtors. Promptly after: (i) the Creditor Trustee completes the Debtors' wind-down (including, without limitation, closing any pending sale(s) of real estate); (ii) ACP is dissolved; and (iii) a final determination is made with respect to the Tax Refund, the Creditor Trustee is hereby authorized to allow the applicable Secretary of State to involuntarily dissolve each of the Debtors. The Creditor Trustee shall thereafter have standing to assert claims or pursue matters on behalf of the Debtors to the extent necessary to preserve, protect and liquidate the Creditor Trust Assets or otherwise necessary to administer the Creditor Trust or any matter related to the Tax Refund.

23. Closing of Debtors' Cases Other Than the SII Case. The Cases of MCC, MSC, QBS, TCC, SRM, SMI, OIS and ECC shall be deemed closed as of the entry of this Confirmation Order and the substantive consolidation of the foregoing Estates into the Estate of SII, and the Clerk of Court shall take all necessary actions to effectuate the closing of such Cases. Upon such event, the Creditor Trustee may file all Causes of Action and objections to Claims in the SII Case, and not in any other individual Debtor Case, notwithstanding the fact that the transferring Debtor (in an Avoidance Action) or the Debtor against whom the Claim was filed (in a Claim objection proceeding) may be a Debtor other than SII.

24. Name Change; Transfer of Remaining Trade Names to Oldcastle. Upon the Confirmation Date, the Debtors shall thereafter be referred to, collectively, as "SII Liquidation Company." The Debtors shall take any actions as necessary, including, without limitation, registering such name change with the appropriate secretary of state, to effect such name change.

25. From and after the Confirmation Date, the caption of these Cases shall be modified as follows:

In re:)	Chapter 11
)	
SII LIQUIDATION COMPANY,)	Case No. 10-60702-rk
)	
Debtor.)	
)	Judge Russ Kendig

All parties filing pleadings, notices or other documents in these Cases shall use the forgoing case caption, and the Clerk of the Court is hereby ordered to modify the docket maintained for these Cases on the Court's PACER system to reflect the modified caption.

26. Effective upon the Confirmation Date, all trade names of the Debtors, including without limitation, the trade names associated with SII, MCC, MSC, QBS, TCC, SRM, SMI, OIS and ECC shall be indefeasibly and permanently transferred to Oldcastle.

27. Dissolution of Committee. The Committee shall terminate automatically upon the acceptance by the Creditor Trustee of its appointment in accordance with this Plan and the Creditor Trust Agreement following the Confirmation Date. Upon termination of the Committee, the Committee shall be dissolved and its members shall be deemed released of their duties and responsibilities in connection with the Cases or the Plan and its implementation, and the retention or employment of the Committee's counsel shall terminate, except for ministerial duties or any duties imposed pursuant to the Plan (including, without limitation, filing applications for allowance and payment of Professional Fee Claims).

Injunctions and Related Provisions

28. Preservation of Rights of Action. Except as otherwise provided in the Plan, in this Confirmation Order or in any contract, instrument, release, indenture or other agreement entered into in connection with the Plan, in accordance with section 1123(b) of the Bankruptcy Code, the Creditor Trust shall retain and may exclusively enforce any Avoidance Actions, the Miscellaneous Causes of Action or other causes of action or rights to payment of claims that the Debtors or their estates may hold against any Person or entity. The Creditor Trust may pursue such retained Avoidance Actions, the Miscellaneous Causes of Action, other causes of action and rights to payment of claims, as appropriate, in accordance with the best interests of the Creditor Trust and its beneficiaries. The Creditor Trust shall retain and may enforce all defenses, counterclaims and rights against all Claims and Interests asserted against the Debtors or their estates.

29. Permanent Injunction. Except as otherwise provided in the Plan or the Confirmation Order, on and after the Confirmation Date, all Persons and entities who have held, hold or may hold Liens, Claims or Interests in or against the Debtors are, with respect to any

such Liens, Claims or Interests, permanently enjoined from: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtors or the Creditor Trust or any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, the Debtors or the foregoing Creditor Trust, or any property of any such transferee or successor; (ii) enforcing against, levying upon or attaching (including, without limitation, any pre-judgment attachment) the Debtors or the Creditor Trust, or any property of any such transferee or successor; (iii) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means whether directly or indirectly, of any judgment, award, decree, claim or order against the Debtors or the Creditor Trust, any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to the Debtors or the Creditor Trust; (iv) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any Liens, Claims or Interests of any kind against or in the Debtors or the Creditor Trust, any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, the Debtors or the Creditor Trust; (v) other than as otherwise expressly provided for in this Plan, asserting any right of setoff, subordination or recoupment of any kind, directly or indirectly, against any obligation due the Debtors, the Creditor Trust, any of their property, or any direct or indirect transferee of any property of, or successor in interest to, the Debtors or the Creditor Trust; and (vi) taking any actions in any place and in any manner whatsoever that do not conform to or comply with the provisions of this Plan.

30. Notwithstanding the injunction set forth in Paragraph 29 of this Confirmation Order, nothing contained herein or in the Plan shall prohibit, preclude, limit or otherwise impair the rights of (i) any Person to enforce their rights, remedies and interests with respect to: (a) that certain adversary case pending in the Bankruptcy Court as Adversary Case No. 10-06097 or any of the claims, demands, causes of action or remedies asserted therein; (b) any rights under that certain Assignment of Rights in Agreement Regarding Earnout Payments, dated June 2, 2010, between SMI and KeyBank; and (c) the Tax Refund; or (ii) KeyBank or any of the Pre-Petition Lenders to file a motion with the Bankruptcy Court seeking relief from the injunction and stay provisions of the Plan, including, without limitation, Sections 7.16 and 7.17 thereof, with respect to matters concerning the administration or liquidation of the Creditor Trust Assets subject to the Liens of the Pre-Petition Lenders.

31. Exculpation and Limitation of Liability. Neither the Committee, the Pre-Petition Lenders, the Creditor Trustee, the Debtors (excluding the Schwab Family Members) nor any of their respective present and former members, officers, directors, shareholders, subsidiaries, affiliates, employees, advisors, attorneys or agents acting in such capacity or any of their successors or assigns (but in all cases, excluding the Schwab Family Members), shall have or incur any liability to, or be subject to any right of action by, any person or entity, for any act or omission in connection with, relating to or arising out of, the Cases, the pursuit of confirmation of the Plan or the Plan's implementation, except for their fraud, willful misconduct or gross negligence, and in all respects shall be entitled to rely reasonably upon the advice of counsel with respect to their duties and responsibilities under the Plan.

32. Closing of the SII Case; Structured Dismissal. The SII Case shall not be closed, or if closed shall remain subject to re-opening pursuant to section 350 of the Bankruptcy Code,

until the Creditor Trust Assets have been fully administered and any Tax Refund is fully adjudicated. If, prior to the Effective Date, the Creditor Trustee determines, following consultation with the Oversight Committee, that the Creditor Trust will be unable to generate sufficient cash proceeds from the liquidation of Creditor Trust Assets to pay Allowed Administrative Claims, Allowed Priority Tax Claims and Allowed Priority Claims in full, it may, upon approval by the Oversight Committee, file a notice of dismissal of the SII Case pursuant to section 1112(b) of the Bankruptcy Code, which shall be deemed immediately effective and which shall not require further approval of this Court.

33. Following such dismissal, the Creditor Trustee shall, following consultation with, and approval by, the Oversight Committee: (i) oversee the liquidation of the Creditor Trust Assets and distribution of the Net Proceeds through the commencement of dissolution proceedings in the Common Pleas Courts of Cuyahoga County, Ohio, including, without limitation, conducting a Claims reconciliation process and distributing Net Proceeds (not including the Settlement Amount, collateral subject to the Liens of the Pre-Petition Lenders, the 503(b)(9) Fund or the Administrative Expense Fund other than as directed below) to holders of Allowed Claims according to the priority scheme set forth in the Bankruptcy Code, Pro Rata; (ii) distribute the Settlement Amount to the holders of Allowed Class 3 General Unsecured Claims, Pro Rata; (iii) distribute Net Proceeds of Creditor Trust Assets subject to the Liens of the Pre-Petition Lenders to holders of Allowed Class 2a Secured Claims, Pro Rata, until the Pre-Petition Lenders have received \$51,000,000 with respect to their Allowed Secured Claims, at which point any future Net Proceeds of such collateral shall be distributed to holders of Allowed Class 2a Secured Claims and Allowed Class 3 General Unsecured Claims pursuant to the sharing formula appended to the Core Sale Order; (iv) distribute the 503(b)(9) Fund to holders of

Allowed 503(b)(9) Claims, Pro Rata; and (v) distribute the Administrative Expense Fund to holders of Allowed Administrative Claims, Pro Rata. The Debtors, their Creditors and all other parties-in interest hereby consent to the substantive consolidation of the Debtors into SII, the dismissal of the SII Case and the jurisdiction of the Common Pleas Courts of Cuyahoga County, Ohio to supervise its dissolution.

34. In the event of a dismissal of the SII Case pursuant to Paragraphs 32 and 33 of this Confirmation Order, the Creditor Trustee shall have standing to commence, prosecute and settle Avoidance Actions and Miscellaneous Causes of Action in the Bankruptcy Court, with all Net Proceeds of such Causes of Action to be distributed to holders of Allowed Claims according to the priority scheme set forth in the Bankruptcy Code, Pro Rata, and the Bankruptcy Court shall retain jurisdiction over the Avoidance Actions and Miscellaneous Causes of Action notwithstanding the dismissal of the Cases.

Retention of Jurisdiction

35. Notwithstanding the entry of this Confirmation Order or the occurrence of the Effective Date, the Bankruptcy Court shall retain jurisdiction over these Cases and related matters after the Confirmation Date and after the Effective Date, as legally permissible, as and to the extent provided in Article X of the Plan.

Payment of Statutory And Other Fees

36. The Creditor Trustee shall pay: (i) statutory fees under 28 U.S.C. § 1930 to the extent unpaid on the Confirmation Date; and (ii) the Trustee Expenses in accordance with the Plan and the Creditor Trust Agreement.

Creditor Trust Professional Fees

37. All reasonable professional fees for services rendered following the Confirmation Date shall be paid by the Creditor Trust in accordance with the Plan and the Creditor Trust Agreement, without the need for further Court authorization or entry of a Final Order. If the Creditor Trust and any of its professionals cannot agree on the amount of post-Effective Date fees and expenses to be paid to such professional, such amount shall be determined by this Court pursuant to the dispute resolution procedures set forth in the Creditor Trust Agreement.

Notice of Entry of Confirmation Order

38. Pursuant to Bankruptcy Rules 2002(f)(7) and 3020(c), the Plan Proponents shall be, and hereby are, directed to serve a notice of entry of this Confirmation Order on all holders of Claims and Interests to whom the Joint Hearing Notice was mailed and the United States Trustee no later than three (3) business days after the Confirmation Date. Notwithstanding the foregoing, the Plan Proponents shall be, and hereby are, directed to serve copies of the Confirmation Order on each party that has filed a notice of appearance in these Cases and on each Objecting Party, no later than fourteen (14) days after the Confirmation Date. No further notice of the entry of this Confirmation Order shall be required.

Effect of Reference to the Plan in this Confirmation Order

39. The failure to include or specifically reference any particular provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Plan be confirmed in its entirety. The provisions of the Plan and of this Confirmation Order shall be construed in a manner consistent with each other so as to effect the purposes of each; provided, however, that if there is determined to be any inconsistency between any Plan provision and any provision of this Confirmation Order that

cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of this Confirmation Order shall govern and any such provision of this Confirmation Order shall be deemed a modification of the Plan and shall control and take precedence.

Retention of Causes of Action/Reservation of Rights.

40. Except as specifically provided in the Plan or this Confirmation Order, nothing contained in the Plan or this Confirmation Order shall be deemed to be a waiver or the relinquishment of any rights, claims, or Causes of Action (including any Avoidance Actions) that the Debtors or the Creditor Trust, as the case may be, may have or which the Creditor Trustee may choose to assert on behalf of the Estates or the Creditor Trust in accordance with any provision of the Bankruptcy Code or any applicable nonbankruptcy law, including, without limitation, (i) the avoidance of any transfer by or obligation of any of the Estates or the Debtors under chapter 5 of the Bankruptcy Code or the recovery of the value of such transfer, (ii) the turnover of any property of the Estate, or (iii) any other Cause of Action not specifically released pursuant to the Plan.

41. Except as specifically provided in the Plan or in this Confirmation Order, nothing contained in the Plan or this Confirmation Order shall be deemed to be a waiver or relinquishment of any Claim, Cause of Action (including Avoidance Actions) or other legal or equitable defense that the Debtors had immediately prior to the Petition Date, against or with respect to any Claim left unimpaired by the Plan. The Creditor Trust or the Creditor Trustee, as the case may be, shall have, retain, reserve and be entitled to assert all such Claims, Causes of Action (including Avoidance Actions) or other legal or equitable defenses which the Debtors, the Estates, the Creditor Trust or the Creditor Trustee or any of them had immediately prior to the Petition Date fully as if the Cases had not been commenced, and all legal and equitable rights of

the Debtors respecting any Claim, Cause of Action (including Avoidance Actions) or other legal or equitable defense left unimpaired by the Plan may be asserted after the Confirmation Date by the Creditor Trust or the Creditor Trustee to the same extent as if the Cases had not been commenced.

42. ALL CAUSES OF ACTION SHALL SURVIVE CONFIRMATION AND THE COMMENCEMENT OR PROSECUTION OF CAUSES OF ACTION SHALL NOT BE BARRED OR LIMITED BY ANY ESTOPPEL, WHETHER JUDICIAL, EQUITABLE, OR OTHERWISE. The Creditor Trustee's right to commence and prosecute Causes of Action (including Avoidance Actions) shall not be abridged or materially altered in any manner by reason of confirmation of the Plan. No defendant party to any Cause of Action (including an Avoidance Action) shall be entitled to assert any defense based, in whole or in part, upon confirmation of the Plan, and confirmation of the Plan shall not have any *res judicata* or collateral estoppel effect upon the commencement and prosecution of Causes of Action (including Avoidance Actions).

Reversal

43. If any or all of the provisions of this Confirmation Order are hereafter reversed, modified or vacated by subsequent order of this Court or any other court, such reversal, modification or vacatur shall not affect the validity of the acts or obligations incurred or undertaken under, or in connection with, the Plan prior to the Creditor Trust's receipt of written notice of any such order; nor shall such reversal, modification or vacatur of this Confirmation Order affect the validity or enforceability of such act or obligation. Notwithstanding any such reversal, modification or vacatur of this Confirmation Order, any such act or obligation incurred or undertaken pursuant to, and in reliance on, this Confirmation Order prior to the effective date

of such reversal, modification or vacatur shall be governed in all respects by the provisions of this Confirmation Order, the Plan and the Plan Related Documents or any amendments or modifications thereto.

Headings

44. Headings utilized herein are for the convenience of reference only, and shall not constitute a part of the Plan or this Confirmation Order for any other purpose.

Post-Confirmation Date Status Conference

45. A status hearing on post-confirmation issues is hereby scheduled for _____, 2011.

IT IS SO ORDERED.

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Submitted by:

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