

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below. This document was signed electronically at the time and date indicated, which may be materially different from its entry on the record.



ENTERED PURSUANT TO ADMINISTRATIVE
ORDER NO. 08-08,
KENNETH J. HIRZ, CLERK OF COURT

BY: /s/LINDA WINN
DEPUTY CLERK

Dated: 11:12 AM July 07, 2010

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

In re:)	
)	CHAPTER 11
SCHWAB INDUSTRIES, INC.)	
)	CASE NO. 10-60702
Debtor.)	
)	JUDGE RUSS KENDIG
)	
)	AMENDED ORDER
)	SCHEDULING EVIDENTIARY
)	HEARING AND CONTINUING
)	EVIDENTIARY HEARING¹

On May 21, 2010, Allen Concrete and Masonry, Inc. and Allen Concrete Pumping (collectively “Allen Concrete”) filed an application for administrative expenses and a motion to compel assumption or rejection of partnership agreement. A hearing was held on June 15, 2010. Christopher W. Peer appeared for the debtors and Rebecca Fischer

¹This order supercedes the scheduling order entered by the Court on June 30, 2010. This order reserves the entire day of October 5, 2010 for the evidentiary hearing but is the same as the original order in all other respects.

appeared for Allen Concrete. A hearing regarding the application on administrative expenses was scheduled for August 5, 2010. The Court now continues the evidentiary hearing with regard to the application for administrative expenses and schedules an evidentiary hearing with regard to the motion to compel assumption or rejection of the partnership agreement:

EVIDENTIARY HEARING

Hearing on the application for administrative expenses and motion to compel assumption or rejection of the partnership agreement is now set for **October 5, 2010** at **10 am.** (hereafter “Trial Date”) at the United States Bankruptcy Court, Ralph Regula U.S. Courthouse, 401 McKinley Ave. SW, Canton, OH 44702. The entire day will be reserved for the hearing.

The term “filing” means electronic filing with a copy to be delivered to the clerk’s office with an indication that they are for use in the specified trial. Please call chambers if you are concerned that the volume of documents renders electronic filing unwise.

The following are required in order to proceed to trial in this matter:

- A. Each party shall serve a list of the names and addresses of all witnesses who will testify at trial together with a brief summary of the area of testimony the witness will present by September 28, 2010. The names and addresses of all witnesses are to be filed with the court no later than September 28, 2010. Counsel shall attach a copy of each expert witness curriculum vitae to their witness list.
- B. Counsel shall jointly file with the court, by not later September 30, 2010, all facts and documentary evidence not in dispute that can be stipulated to in this matter.
- C. Counsel may, but are not required to, furnish to each other and file with the court proposed findings of fact and conclusions of law, by not later than September 30, 2010. Such conclusions of law must include, at a minimum, citations to Supreme Court and Sixth Circuit

case law, if any, that may be binding upon this court. Further, as to any non-bankruptcy issues that counsel address, the conclusions of law must also include citations to law from the applicable jurisdiction.

D. Counsel may, but are not required to, furnish to each other additional trial briefs of not longer than five pages in length in support of their positions, and file the same with the court by not later than Septemebr 30, 2010.

E. Counsel shall exchange all documents which are not the subject of the above stipulations and which they intend to introduce into evidence, and file the same with the court, by not later than September 30, 2010. While these documents may be filed as joint exhibits, if not, plaintiff's exhibits are to be marked "Plaintiff's Exhibits" and identified by letters, and defendant's exhibits are to be marked "Defendant's Exhibits" and identified by number.

ONLY EXHIBITS SO LISTED SHALL BE OFFERED AS EVIDENCE AT THE TRIAL, EXCEPT FOR GOOD CAUSE SHOWN. (An example is impeachment in certain circumstances.)

Any party who intends to introduce photographs on the exhibit list shall provide a complete set of photographs, made from the negatives, to each party and the court. The photographs should be placed in a marked envelope or envelopes as appropriate for the exhibit. Photographs may be placed in a single envelope and marked as an exhibit. However, each photograph should also be separately marked in some manner for record purposes. Copies made on photocopy machines are not acceptable.

Any party who lists recordings of any nature in any form shall provide a true copy of the recording in a marked envelope. The parties are advised that they are responsible for ensuring that there is equipment available in the courtroom for any recordings, if admitted

into evidence, to be played in the courtroom. This applies whether it is audio, video, or any other type of recording.

F. Opening and closing statements, if any, shall be brief except in unusual circumstances.

Pursuant to Fed. R. Bankr. P. 7016(f), if a party or counsel fails to obey a scheduling or pretrial order, or if no appearance is made on behalf of a party at a scheduling or pretrial conference, or if a party or party's attorney fails to participate in good faith, the court may impose sanctions on either the party or counsel, as provided in Fed. R. Bankr. P. 7037(b)(2)(B),(C),(D).

FAILURE OF COUNSEL TO COMPLY WITH THIS ORDER MAY RESULT IN SUMMARY DISPOSITION OF THE CASE OR THE INVOCATION OF OTHER APPROPRIATE ACTION.

IT IS SO ORDERED.

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