

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

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 In re: : Chapter 11  
 :  
 SCHWAB INDUSTRIES, INC., *et al.*,<sup>1</sup> : Case No. 10-60702  
 : (Jointly Administered)  
 Confirmed Debtors. :  
 : Judge Russ Kendig  
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**SUMMARY OF SECOND INTERIM AND FINAL APPLICATION OF HAHN LOESER &  
PARKS LLP FOR COMPENSATION FOR SERVICES RENDERED AND REIMBURSEMENT  
OF EXPENSES INCURRED AS COUNSEL FOR DEBTORS**

Name of Applicant: Hahn Loeser & Parks LLP  
 Authorized to Provide Counsel to the Debtors  
 Professional Services as:  
 Date of Application: January 13, 2011  
 Date of Order Approving Appointment: March 24, 2010 effective *nunc pro tunc* February 28, 2010  
 Period for which Fees and Reimbursement are Sought: 7/1/10 – 12/15/10  
 Amount of Fees Sought as Actual, Reasonable and Necessary: \$225,571.50  
 Amount of Expense Reimbursement Sought as Actual, Reasonable and Necessary: \$5,603.57

This application is:        interim   x   final. If this is not the first application filed, please state the following for each other application:

<u>Date Filed</u>	<u>Period Covered</u>	<u>Requested Fees/Expenses</u>	<u>Approved Fees Expenses &amp; Date</u>
7/10/10	2/28/10 – 6/30/10	\$917,254.95/\$39,966.77	\$917,254.95/\$39,966.77

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<sup>1</sup> 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).

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**SECOND INTERIM AND FINAL APPLICATION OF HAHN LOESER & PARKS LLP  
FOR COMPENSATION FOR SERVICES RENDERED AND REIMBURSEMENT OF  
EXPENSES INCURRED AS COUNSEL FOR DEBTORS**

Hahn Loeser & Parks LLP (“Hahn Loeser”), counsel for Schwab Industries, Inc (“SII”), Medina Cartage Co. (“MCC”), Medina Supply Company (“MSC”), Quality Block & Supply, Inc. (“QBS”), O.I.S. Tire, Inc. (“OIS”) Twin Cities Concrete Company (“TCC”), Schwab Ready-Mix, Inc. (“SRM”), Schwab Materials, Inc. (“SMI”) and Eastern Cement Corp. (“ECC”, and together with SII, MCC, MSC, QBS, OIS, TCC, SRM and SMI, the “Debtors”), the debtors and debtors in possession in the above-captioned Chapter 11 cases (the “Chapter 11 Cases”), applies to this Court (the “Application”) for allowance of (a) interim compensation and reimbursement of expenses as counsel for Debtors for the period commencing July 1, 2010 and extending through and including December 15, 2010 (the “Interim Application Period”), and (b) final compensation and reimbursement of expenses for the period commencing February 28, 2010 and extending through and including the Confirmation Date, December 15, 2010<sup>2</sup> (the “Final Application Period”) pursuant to sections 330(a) and 331 of the United States Bankruptcy Code,

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<sup>1</sup> 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).

<sup>2</sup> In addition to compensation and reimbursement of expenses for the Final Application Period, as part of the Application, Hahn Loeser seeks approval for certain estimated fees and expenses occurring after December 15, 2010.

11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), rule 2016(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and the *Order Granting Motion of Debtors and Debtors in Possession for an Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals* [Docket No. 201] and as amended on July 9, 2010 [Docket No. 530] (the “Interim Compensation Order”). Specifically, Hahn Loeser requests the following:

- (a) interim allowance of compensation for necessary and valuable services rendered to and on behalf of Debtors during the Interim Application Period in the amount of \$225,571.50;
- (b) interim reimbursement of actual and necessary expenses incurred in connection with rendering those services during the Interim Application Period in the amount of \$5,603.57;
- (c) final allowance of compensation for necessary and valuable services rendered to and on behalf of the Debtors during the Final Application Period in the amount of \$1,142,826.45;
- (d) final allowance of actual and necessary expenses incurred in connection with rendering those services during the Final Application Period in the amount of \$45,570.34;
- (e) final allowance for such estimated compensation for necessary and valuable services rendered to and on behalf of Debtors’ estates and such other and necessary expenses incurred in connection with the rendering of such services after the Final Application Period in the estimated amount of \$25,000.00, to the extent such services are actually provided and expenses actually incurred;
- (f) authority for Hahn Loeser to apply the full amount of the Chapter 11 Retainer currently held in its client trust account to the Fees and Expenses; and
- (g) authority for Debtors to disburse to Hahn Loeser all sums awarded to Hahn Loeser in accordance herewith to the extent they have not been paid.

## I. INTRODUCTION

### A. Background

#### *Case Commencement and Status*

2. On February 28, 2010 (the “Petition Date”), Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. Through the Confirmation Date (as defined herein), Debtors conducted their businesses and affairs as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. On March 9, 2010, the United States Trustee (the “UST”) appointed an Official Committee of Unsecured Creditors (the “Committee”).

#### *Retention of Hahn Loeser*

3. On the Petition Date, Debtors filed an application requesting the entry of an order by this Court authorizing it to employ Hahn Loeser as the Debtors’ counsel. On March 24, 2010, this Court entered an *Order Approving Application of Debtors and Debtors in Possession, Pursuant to Sections 327(A) and 329(A) of the Bankruptcy Code and Bankruptcy Rules 2014(A), 2016(B) and 6003(A), for Entry of an Order Authorizing Debtors to Retain and Employ Hahn Loeser & Parks LLP as Counsel, Nunc Pro Tunc as of the Petition Date* [Docket No. 200] (the “Retention Order”) *nunc pro tunc* as of the Petition Date. A copy of the Retention Order is attached hereto as Exhibit A.

4. Hahn Loeser received retainer payments from Debtors in the total amount of \$180,000.00 (the “Initial Retainer”) (\$25,000.00 received on January 25, 2010; \$30,000.00 received on February 3, 2010; \$40,000.00 received on February 10, 2010; \$30,000.00 received on February 12, 2010; and \$55,000.00 received on February 26, 2010), which Initial Retainer was intended for preparation of debtors for Chapter 11 and other restructuring and related services has been paid to Hahn Loeser for work completed in preparation of the Chapter 11. On

February 12, 2010, Hahn Loeser received a further retainer in the amount of \$100,000.00<sup>3</sup> (the “Chapter 11 Retainer,”) and together with the Initial Retainer, the “Retainers”) which is intended as a retainer for a portion of the expected fees and expenses incurred in Debtors’ cases.

***Confirmation of the First Amended  
Joint Plan of Liquidation Dated October 26, 2010***

5. On October 26, 2010, Debtors and the Committee (collectively, the “Plan Participants”) filed their First Amended Joint Plan of Liquidation Dated October 26, 2010 [Docket No. 655] (the “Plan”).

6. On December 9, 2010, the Court held a hearing to consider confirmation of the Plan (the “Confirmation Hearing”).

7. At the Confirmation Hearing, the Court ruled that it would confirm the Plan.

8. On December 15, 2010 (the “Confirmation Date”), the Court entered the *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* (the “Confirmation Order”) [Docket No. 698].

9. Among other things, the Confirmation Order stated that professionals were directed to file final fee applications no later than thirty (30) days following entry of the Confirmation Order.

***Hahn Loeser Representation***

10. Drawing on its experience from other bankruptcy matters in which it has acted as counsel for the Debtor, Hahn Loeser has served the Debtors’ and the estates’ needs successfully.

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<sup>3</sup> With Debtors’ consent, and with Debtors’ agreement to compensate Hahn Loeser fully for prepetition work, Hahn Loeser applied \$33,020.46 of the Chapter 11 Retainer to prepetition work performed following February 12, 2010. As of the Petition Date, the Chapter 11 Retainer equals \$66,979.54.

11. During the Interim Application Period, Lawrence E. Oscar, Daniel A. DeMarco and Christopher W. Peer have been primarily involved in performing and supervising all phases of Hahn Loeser's representation of Debtors. Due to the size and complexity of several of the issues raised during the course of its representation of Debtors, Hahn Loeser has also utilized other attorneys and paraprofessionals based on their expertise and availability. In order to maximize efficiency and minimize costs, Hahn Loeser takes into account the experience and hourly rate of the professional, and the complexity and size of the task at hand in determining which professional is best suited to accomplish the task at hand.

**B. Compensation and Reimbursement of Expenses Requested**

***OVERVIEW***

12. In accordance with sections 330(a) and 331 of the Bankruptcy Code and Bankruptcy Rule 2016, Hahn Loeser makes this Application with respect to the Interim Application Period and requests the following:

- (a) interim allowance of compensation for necessary and valuable services rendered to and on behalf of Debtors during the Interim Application Period in the amount of \$225,571.50 (the "Fees");
- (b) interim reimbursement of actual and necessary expenses incurred in connection with rendering those services during the Interim Application Period in the amount of \$5,603.57 (the "Expenses");
- (c) final allowance of compensation for necessary and valuable services rendered to and on behalf of the Debtors during the Final Application Period in the amount of \$1,142,826.45 (the "Final Fees");
- (d) final allowance of actual and necessary expenses incurred in connection with rendering those services during the Final Application Period in the amount of \$45,570.34 (the "Final Expenses");
- (e) final allowance for such estimated compensation for necessary and valuable services rendered to and on behalf of Debtors' estates and such other and necessary expenses incurred in connection with the rendering of such services after the Final Application Period in the estimated amount of

\$25,000.00, to the extent such services are actually provided and expenses actually incurred;

- (f) authority for Hahn Loeser to apply the full amount of the Chapter 11 Retainer currently held in its client trust account to the Fees and Expenses; and
- (g) authority for Debtors to disburse to Hahn Loeser all sums awarded to Hahn Loeser in accordance herewith to the extent they have not been paid.

### *Postpetition Payments*

13. On July 22, 2010 Hahn Loeser filed its *First Application of Hahn Loeser & Parks LLP for Interim Compensation for Services Rendered and Reimbursement of Expenses Incurred as Counsel for Debtors* (the “First Application”) [Docket No. 549]. On August 9, 2010 the Court entered an Order granting the First Application [Docket No. 584].

14. Hahn Loeser was awarded interim compensation in respect of its First Application as Debtors’ counsel for the period February 28, 2010 through June 30, 2010 (the “First Application Period”) in the amount of \$957,221.72 (the “Initial Award”), with \$917,254.95 allocable to Fees and \$39,966.77 allocable to Expenses. Payments have been received by Hahn Loeser for the First Application in the amount of \$773,216.33.<sup>4</sup> There remains an outstanding balance for Fees for the First Application Period in the amount of \$184,005.39 (the “Allowed Remainder”). For avoidance of doubt or confusion, the Allowed Remainder has been allowed by this Court in the Initial Award, but remains unpaid to Hahn Loeser.

15. In accordance with the Interim Compensation Order, Hahn Loeser has received through December 31, 2010, \$158,529.60 in Fees and \$4,985.55 in Expenses for the Interim Application Period. Attached hereto as Exhibit B is a schedule of monthly fees and expenses and compensation received by Hahn Loeser. There remains owing to Hahn Loeser \$67,344.30

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<sup>4</sup> In consultation with Debtors’ other professionals, Hahn Loeser, along with other retained professionals, agreed to be paid only 80% of Allowed Fees from the Initial Award, deferring payment for 20% of Allowed Fees (a sum of \$733,249.56) from the Initial Award until after the Confirmation Date. Attached hereto as Exhibit B is a schedule of all payment received by Hahn Loeser from Debtors, along with all amounts remaining due.

in Fees and \$1,291.10 in Expenses for the Interim Application Period. In accordance with Bankruptcy Rule 2016, Hahn Loeser has not entered into any agreement or understanding with any other person or entity for the sharing of compensation received or to be received, for services rendered in or in connection with this case; nor has Hahn Loeser entered into any agreement prohibited by Bankruptcy Code Section 504(a).

## **II. SERVICES RENDERED BY HAHN LOESER**

### **A. Overview of Maintenance of Time Records**

#### ***TIME MAINTENANCE***

16. Hahn Loeser maintains daily time records in the ordinary course of its legal practice, which are prepared by attorneys and paraprofessionals contemporaneously with the rendition of services to clients. For each attorney and paraprofessional, these time records set forth the specific dates that services were rendered, a detailed description of such services and the time spent delivering such services. Hahn Loeser's normal practice is to record and maintain these time records in units of one-tenth of an hour, which is customary for attorneys and paraprofessionals providing services to debtors and debtors-in-possession.

#### ***SERVICES ORGANIZED BY PROJECT CATEGORIES***

17. Hahn Loeser has categorized the services rendered to the Debtors into separate project categories. The services provided in connection with each project category are summarized below. A complete description of all of Hahn Loeser's services during the Interim Application Period is set forth in the time detail contained in the attached Exhibit C.

### **B. Summary of Services Performed**

#### ***OVERVIEW – INTERIM APPLICATION PERIOD***

18. During the Interim Application Period, Hahn Loeser's lawyers and paraprofessionals provided 732.80 hours of service on behalf of the Debtors. The combined

average hourly rate for all professional services rendered during the Interim Application Period was \$307.82. A summary of time expended which indicates (a) the total compensation for Fees requested for the Interim Application Period, (b) the name of each attorney and paraprofessional who billed time during the Interim Application Period and his or her hourly rate, and (c) the total hours billed and the total amount of billing for each attorney and paraprofessional who billed time during the Interim Application Period organized by project category is attached hereto as part of Exhibit D. Exhibit E, attached hereto, contains such information on an overall basis.

#### ***OVERVIEW – FINAL APPLICATION PERIOD***

19. During the Final Application Period, Hahn Loeser lawyers and paraprofessionals provided 3,821.60 hours of service on behalf of the Debtors. The combined average hourly rate for all professionals rendering services during the Final Application Period is \$299.04. The Final Fees for the Final Application Period are summarized by professional in Exhibit F attached hereto. The Final Expenses for the Final Application Period are itemized in Exhibit G attached hereto. The Final Fees are itemized by project matter attached hereto as Exhibit H.

#### ***CATEGORY DESCRIPTIONS***

20. In order to provide a better understanding of Hahn Loeser's services in these cases, the following is a detailed narrative description of Hahn Loeser's principal activities on behalf of Debtors during the Chapter 11 Cases with an emphasis on the Interim Application Period. This narrative is not intended, however, to be an exhaustive description of all of Hahn Loeser's services during the Final Application Period or the Interim Application Period. A complete description of all of Hahn Loeser's services during the Interim Application Period is set

forth in the time detail contained in the attached Exhibit C.<sup>5</sup> Project categories with no activity during the Interim Application Period are not discussed.

***General Administration (207347.00002)***  
**(Aggregate Hours 307.60: Aggregate Fees Requested \$82,560.00)<sup>6</sup>**

21. Services provided by Hahn Loeser in connection with this project category include, without limitation, the continued maintenance of electronic bibles concerning the Debtors' cases and preparation of working binders of matters scheduled for hearing.

22. Hahn Loeser also provided services relating to wrapping up Debtors' operations following the sale of substantially all of their assets. Among other things, Hahn Loeser assisted the Debtors in filing the monthly operating reports and making payments to the UST, addressed various issues related to administrative claims, conducted legal research related to pending disputes, including the Florida partnership law impacting the Allen Concrete matters, and filed various pleadings, including but not limited to professional fee applications, notice of determination of contracts and leases with regard to assumption and assignment and rejection and a motion to amend sale order.

23. Hahn Loeser paraprofessionals also routinely reviewed the docket in the Debtors' cases, in order to address timely various third-party filings; prepared work plans summarizing critical dates, tasks, and deadlines; and managed information internally and externally to the Debtors and other estate professionals, in order to help ensure all pertinent parties were informed of salient developments and tasks.

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<sup>5</sup> The Fee invoices list in detail, on a day-to-day and attorney-by-attorney basis, all services rendered and Expenses incurred by Hahn Loeser. Separate Fee invoices are provided for each project category. The total hours and charges related to each attorney, paraprofessional and other personnel are summarized at the end of each Fee invoice for each project category.

<sup>6</sup> Aggregate Hours and Aggregate Fees Requested for Project Matter 207347.00002 include hours and fees for services rendered immediately prior to or on the Petition Date identified in Project Matter 207347.00001.

***Court Appearances/Hearings (207347.00003)***  
**(Aggregate Hours 48.40: Aggregate Fees Requested \$15,788.00)**

24. Hahn Loeser assisted Debtors in connection with several hearings during the Interim Application Period. Time spent in this project category included preparation of agendas with respect to omnibus hearings and communications with Court personnel regarding hearing dates. Time spent in actual Court appearances and related preparation and follow-up is described under the corresponding project category.

***Cash Collateral/DIP Financing (207347.00004)***  
**(Aggregate Hours 68.50: Aggregate Fees Requested \$29,068.00)**

25. During the Interim Application Period, Hahn Loeser focused its efforts on continuing the Debtors' use of cash collateral to address the estates' post-sale cash needs. Hahn Loeser worked closely with Debtors' other professionals, including The Parkland Group, Inc. ("Parkland") in managing Debtors' use of cash.

***Automatic Stay-Adequate Protection (207347.00005)***  
**(Aggregate Hours 4.70: Aggregate Fees Requested \$1,061.00)**

26. No services were rendered during the Interim Application Period.

***Use/Sale/Lease of Assets (207347.00006)***  
**(Aggregate Hours 2,442.50: Aggregate Fees Requested \$737,704.00)**

27. During the Interim Application Period, Hahn Loeser provided substantial services relating to items required after Debtors' sale of substantially all of their assets. Hahn Loeser also recorded time in this category relating to the disposition of certain Non-Core Assets. Hahn Loeser attended to various sale issues, including but not limited to recording of deeds, assignment of workers compensation insurance, finalizing rolling stock titles for transfer, compilation of exhibits describing the inclusion and exclusion of executory contracts and unexpired leases, attention to corporate name changes, addressing remaining real estate issues and compilation of transaction closing bibles.

28. Hahn Loeser also attended to amending the acquired contract schedule, assembling the final asset purchase agreement schedules, communicated with various parties relating to the purchase of the agricultural property in Southwest Florida, negotiated with KeyBank regarding the use of sale proceeds and administrative expense carve-outs, and negotiated with Holcim (US) Inc. (“Holcim”) regarding modification of the sale order.

***Miscellaneous Motions (207347.00007)***  
**(Aggregate Hours 16.60: Aggregate Fees Requested \$4,110.00)**

29. This project category encompasses Hahn Loeser’s services with respect to miscellaneous motions that do not necessarily fall into any other well-defined project category. Services rendered in this project category include attention to notice and service of documents and filing of the Chartwell Report of Non-Core Real Estate Assets Sold.

***Litigation/Adversary Proceeding (207347.00008)***  
**(Aggregate Hours 11.10: Aggregate Fees Requested \$3,201.00)**

30. Services rendered in this project category were limited to review of the lift stay motion filed with respect to the complaint filed by Joseph Repic and review of schedules to identify if Joseph Repic was listed as a creditor on the Debtors’ schedules. Hahn Loeser also reviewed KeyBank’s complaint against Huntington Trust to assess its impact on the plan and Debtors’ estates.

***HLP Retention/Fee Application (207347.00009)***  
**(Aggregate Hours 40.80: Aggregate Fees Requested \$9,657.00)**

31. Services rendered in this project category pertain to compensation of Hahn Loeser. Such services included, without limitation, review of pre-bills in order to ensure complete and accurate disclosure of time and expense detail for review by the Court, Committee, UST, and all other parties in interest and submission of monthly statement for interim payment pursuant to the Interim Compensation Order. In addition, Hahn Loeser prepared and filed its

First Application for Compensation and Reimbursement of Expenses and its Second Supplemental Declaration of Lawrence E. Oscar.

32. Hahn Loeser also held and disbursed funds carved out from KeyBank's collateral for the benefit of Debtors' professionals.

***Other Professional Retention Fee Application (207347.00010)***  
**(Aggregate Hours 60.70: Aggregate Fees Requested \$17,351.00)**

33. In this project category, Hahn Loeser addressed issues with the UST related to the Debtors' proposed retention of Richard W. Hinig as corporate counsel for the Debtors. In that regard, Hahn Loeser eventually withdrew the Debtors' request for said retention.

34. During the Interim Application Period, Hahn Loeser prepared and filed an amendment to the Interim Compensation Order; reviewed, finalized and filed the first interim request for compensation for Parkland, along with the Second Supplemental Declaration of Laurence Goddard, as Debtors' financial advisor; responded to the limited objections to professional fees filed by Holcim; prepared and filed the first interim fee application for Atwell, LLC ("Atwell"), the Debtors' environmental professionals; prepared a schedule of the professional fee account and attended to fee escrow.

***Schedule and Statement of Financial Affairs(207347.00011)***  
**(Aggregate Hours 202.60: Aggregate Fees Requested \$45,133.50)**

35. During the Interim Application Period, Hahn Loeser evaluated and prepared and filed amendments to the Debtors' schedules of assets and liabilities and statements of financial affairs. As information became available and known to Debtors, Hahn Loeser also amended Debtors' schedules of assets and liabilities and statements of financial affairs.

***Corporate and Tax Matters (207347.00012)***  
**(Aggregate Hours 5.20: Aggregate Fees Requested \$2,435.00)**

36. During the Interim Application Period, Hahn Loeser was not asked or required to provide significant services in this project category. To address various Plan issues, however, Hahn Loeser reviewed filed tax returns and responded to a tax proposal.

***Employee Matters (207347.00013)***  
**(Aggregate Hours 15.90: Aggregate Fees Requested \$4,205.00)**

37. Hahn Loeser provided limited services in this project category, related to responding to inquiry related to administrative claims bar date order.

***Creditor Inquiries (207347-00014)***  
**(Aggregate Hours 16.30: Aggregate Fees Requested \$4,171.50)**

38. Services provided under this project category during the Interim Application Period involved Hahn Loeser addressing issues and inquiries by individual creditors (typically general unsecured creditors) regarding the status of their pre-petition claims, general case status, inquiries as to why a creditor is being noticed, and requests for copies of filings.

***Claims Reconciliation & Administration (207347.00015)***  
**(Aggregate Hours 44.10: Aggregate Fees Requested \$15,217.00)**

39. Hahn Loeser provided services under this project category during the Interim Application Period. Services provided included preparing charts of administrative expense claims, preparation and filing of Claims Bar Date Order and Notice of Claims Bar Date, communications with Debtors' claims and noticing agent related to service of Notice of Claims Bar Date and claim reconciliation issues, attention to review and research related to PBGC claims, and communications with Parkland regarding waterfall analysis and responded to claim holder inquiries.

***Executory Contracts/Unexpired Leases (207347.00016)***  
**(Aggregate Hours 63.50: Aggregate Fees Requested \$16,905.00)**

40. Services rendered in this project category pertained to preparation of notice of determination of contracts and leases to be assumed, negotiations regarding Debtors' partnership with Allen Concrete Masonry, Inc. and Allen Concrete Pumping, review of FL Smidth, Inc. ("FL Smidth") documents and motion, conducting research regarding FL Smidth claims, negotiating a resolution to FL Smidth's alleged claims, attention to matters relating to BWC claims and hearing, and negotiations regarding Everest insurance policies and contracts.

***Reorganization/Disclosure Statement (207347.00017)***  
**(Aggregate Hours 118.00: Aggregate Fees Requested \$42,718.50)**

41. During the Interim Application Period, Hahn Loeser rendered significant services in connection with the Debtors' chapter 11 plan of liquidation. Among other things Hahn Loeser worked closely with Debtors' management, chief restructuring officer, Debtors' accountants, counsel for the Committee, the Committee's financial advisors and counsel for Key Bank to evaluate plan proposals as well as incorporate such proposals into a potential plan structure.

42. During the process, Hahn Loeser participated in numerous telephone conferences among the Debtors' management, the lenders, and representatives of the Committee regarding the Plan. Similarly, Hahn Loeser participated in extensive meetings among the Debtors' management and professionals, Debtors' lenders and professionals and Committee professionals in an effort to begin building the framework of the Plan that was mutually agreeable to all parties in interest.

43. Hahn Loeser also devoted time to seeking further extensions, on a joint basis with the Committee, of the period in which the Debtors retain the exclusive right to file and solicit acceptances of a plan of liquidation. Such efforts included the preparation of joint motions, notices and proposed orders.

44. Finally, Hahn Loeser, with the assistance of the Debtors and other professionals, obtained Court approval of the Disclosure Statement simultaneously with confirmation of the Plan. On December 15, 2010, the Plan went effective, memorialized by the Confirmation Order.

***Travel (207347.00018)***  
**(Aggregate Hours 27.70: Aggregate Fees Requested \$3,237.45)**

45. No services were rendered during the Interim Application Period.

### **III. SUMMARY OF REQUESTED INTERIM COMPENSATION**

#### ***Overview***

46. Pursuant to Bankruptcy Code Sections 330 and 331 and Bankruptcy Rule 2016(a), Hahn Loeser applies for the allowance and approval of interim compensation for legal services rendered for and on behalf of the Debtors during the Interim Application Period in the amount of the Fees. Hahn Loeser also seeks reimbursement for actual and necessary expenses incurred during the Interim Application Period in the amount of the Expenses.

47. Pursuant to Bankruptcy Code Section 330 and Rule 2016(a), Hahn Loeser also applies for final allowance and approval of final compensation for legal services rendered for and on behalf of the Debtors during the Final Application Period in the amount of the Final Fees. Hahn Loeser also seeks final approval for reimbursement for actual and necessary expenses incurred during the Final Application Period in the amount of Final Expenses.

### **IV. COMPENSATION REQUESTED AND RELEVANT LEGAL STANDARDS**

#### ***Reasonableness of Compensation Reviewed Under Lodestar Method***

48. To grant a request for compensation pursuant to Bankruptcy Code Section 330, the Court must find that such request is reasonable. 11 U.S.C. §330(a). The reasonableness of a compensation request is typically determined by the so-called “lodestar” method:

It is now settled that the “lodestar” method of fee calculation developed by the Third Circuit, see *Lindy Bros. Builders, Inc. v.*

*American Radiator & Standard Sanitary Corp.*, 487 F.2d 161, 167 (3rd Cir. 1973), is the method to be used to determine a “reasonable” attorney fee in all the federal courts, including the bankruptcy courts. See *Pennsylvania v. Delaware Valley Citizens’ Council for Clean Air*, 483 U.S. 711 (1987) [.]

*In re Cena’s Fine Furniture, Inc.*, 109 B.R. 575, 581 (E.D.N.Y.) (parallel citations omitted). The lodestar amount is calculated by multiplying the number of hours reasonably expended by the hourly rate of that professional. There is a strong presumption that the lodestar product is reasonable under Bankruptcy Code Section 330. See *In re Drexel Burnham Lambert Group, Inc.* 133 B.R. 13, 22 (Bankr. S.D.N.Y. 1991).

49. Bankruptcy Code Section 330(a) lists the factors to be used by the Court in determining the amount of reasonable compensation:

In determining the amount of reasonable compensation to be awarded to [a] . . . professional person, the court shall consider the nature, the extent and the value of such services, taking into account all relevant factors, including –

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time, commensurate with the complexity, importance, and nature of the problem, issue or task addressed; and
- (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and expertise in the bankruptcy field; and
- (F) whether the compensation is reasonable based on the customary compensation charged by comparable skilled practitioners in cases other than cases under this title.

11 U.S.C. § 330(a)(3).

***The Compensation Requested by Hahn Loeser is Reasonable***

50. Under Bankruptcy Code Sections 330 and 331, Bankruptcy Rule 2016(a), Hahn Loeser applies for the allowance and approval of compensation for legal services rendered for and on behalf of the Debtors during the Interim Application Period and the Final Application Period. Hahn Loeser submits that the requested Fees and Final Fees are reasonable in view of, among other things, the time, the nature, the extent, and the value of the services rendered, and the cost of comparable services if provided other than in a case under the Bankruptcy Code.

51. Hahn Loeser's Fees and Final Fees are not unusual, given the complexity and size of these Chapter 11 Cases. Throughout the course of its representation, Hahn Loeser has made every effort to provide services in the most cost-effective manner possible. Hahn Loeser's rates are also commensurate with the rates that Hahn Loeser has been compensated in other chapter 11 cases and that of attorneys of comparable experience and expertise charge on a regular basis in comparable chapter 11 cases. Accordingly, Hahn Loeser's lodestar calculation is reasonable under Bankruptcy Code Section 330(a)(3). *See Drexel*, 133 B.R. at 22.

52. Hahn Loeser further submits that the compensation requested herein is reasonable under the other factors set forth in section 330(a) of the Bankruptcy Code:

- (a) Time. Hahn Loeser was called upon to respond to, counsel and advise Debtors with respect to myriad issues which arose, often very rapidly, during both the Interim Application Period and the Final Application Period. Hahn Loeser continuously focused its efforts on the Debtors' Chapter 11 Cases in order to enable Debtors to effectively discharge their statutory duties while keeping an eye toward a speedy resolution of Debtors' estates. As a result, Hahn Loeser's efforts during the Interim Application Period and the Final Application Period frequently were labor intensive.
- (b) Rates. Hahn Loeser's billing rates have been developed over a long period of careful study and experience. Hourly rates are periodically set by Hahn Loeser based on a variety of merit and experience-type factors. These factors include professional experience, ability, judgment and

maturity; leadership; and creativity. Hahn Loeser's billing rates are comparable to other firms of Hahn Loeser's size and geographic reach.

- (c) Necessity of Services and Reasonableness of Time. As set forth hereinabove, the services rendered by Hahn Loeser were both necessary and reasonable and provided benefit to Debtors' estates.
- (d) Board Certification/Special Bankruptcy Skill. Hahn Loeser submits that, subject to very limited exceptions when particularized non-bankruptcy expertise was necessary, all professionals and paraprofessionals rendering services during the Interim Application Period and the Final Application Period focus their practices primarily on bankruptcy, creditors' rights, and reorganization. Furthermore, Daniel A. DeMarco, Esq., is certified in the practice of business bankruptcy by the American Board of Certification which is sponsored by the American Bankruptcy Institute and the Commercial Law League of America.
- (e) Compensation Reasonably Comparable. Hahn Loeser respectfully submits that the Fees and Final Fees sought herein are not unusual given the size and complexity of the chapter 11 cases, the time expended, and is commensurate with fees Hahn Loeser has been awarded in other chapter 11 cases and with what other attorneys of comparable experience and expertise charge on a regular basis.

**V. REASONABLE AND NECESSARY EXPENSES INCURRED AND RELEVANT LEGAL STANDARD**

53. Bankruptcy Code Section 330 authorizes "reimbursement for actual, necessary expenses" incurred by a retained professional. 11 U.S.C. § 330(a)(1)(B) "Once documented, 'actual and necessary expenses' are automatically reimbursable." *In re Liberal Market, Inc.*, 24 B.R. 653, 658 (Bankr. S.D. Ohio 1982). Hahn Loeser seeks reimbursement for Expenses incurred in rendering services during the Interim Application Period in the amount of \$5,603.57 and the Final Expenses incurred in rendering services during the Final Application Period in the amount of \$45,570.34. A summary of these Expenses by type of expense is included in the account detail attached as Exhibit I for the Interim Application Period and Exhibit G for the Final Application Period.

54. Hahn Loeser bills for Expenses incurred in connection with the Chapter 11 Cases in the same manner it bills its non-bankruptcy clients. Such expenses include, without limitation, copy/document replication service, express mail, special or hand deliveries, electronic legal research, telephone conferencing, lien searches, court fees, transcript costs and, in general, all identifiable expenses that would not have been incurred except for representation of a particular client, such as the Debtors. Hahn Loeser believes that charging such expenses directly to the clients incurring them is more efficient and less costly for its clients than other means to capture or recover such expenses.

55. Hahn Loeser's photocopy charges reflect internal costs for the equipment, personnel and supplies required to perform the work. The \$.18 per-page imaging rate is uniform for all of Hahn Loeser's clients, and is fair, reasonable and well below the \$.50 per-page rate authorized by statute for copies made by the clerks of the United States Courts. *See* 28 U.S.C. §1914(b); Judicial Conference Schedule of Fees, n. 4. Hahn Loeser currently does not bill for long distance telephone calls (including international, but excluding conference calls).

56. Other disbursements and expenses have been incurred in accordance with Hahn Loeser's normal practice of charging clients for expenses clearly related to and required by particular matters. Hahn Loeser has endeavored to minimize these expenses to the fullest extent possible. Copies of supporting documentation for Expenses requested in the Application will be provided to the UST upon request

## **VI. NO FEE SHARING/DISINTERESTED PERSON**

57. Except as set forth above, Hahn Loeser has neither received nor been promised any payments for services rendered or to be rendered in any capacity whatsoever in connection with the Debtors' Chapter 11 Cases. Also, Hahn Loeser has not entered into any agreement, express or implied, with any party-in-interest, including any creditor or any representative of any

creditor, or with any attorney for any such party-in-interest, for the purpose of fixing the fees or other compensation to be paid to any party-in-interest or to any attorney for any party-in-interest for services rendered in connection with this case from the assets of the estate.

58. During all Application Periods and throughout the course of Hahn Loeser's employment as counsel for the Debtors, Hahn Loeser has been a disinterested person and has not represented or held an interest adverse to the interests of the Debtors or its estates with respect to the matters for which Hahn Loeser was employed.

59. The compensation and expense reimbursement sought in this Application conforms substantially with the UST's *Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. §330*. See *Certification of Second Interim and Final Application of Hahn Loeser & Parks LLP for Compensation for Services Rendered and Reimbursement of Expenses Incurred as Counsel for Debtors*, attached hereto as Exhibit J.

## **VII. SERVICE OF FEE APPLICATION AND REQUEST FOR HEARING**

60. In accordance with the Interim Compensation Order, Hahn Loeser has served notice of this Application on (a) the UST, (b) each of the Debtors' secured lenders; (c) counsel for the Agent for Debtors' secured lenders; (d) the additional list of thirty (30) largest unsecured creditors; (e) counsel for EFO Financial Group, LLC, (f) other known claimants having liens or security interests in property of Debtors; (g) the Internal Revenue Service; (h) the United States Department of Justice; and (i) all parties in interest filing notices of appearance and requests for notices in these chapter 11 cases. (Int. Comp. Or., at 5.) Any party in interest that makes a written request to Hahn Loeser a copy of this Application shall be provided with such copy of the actual application.

## **VIII. RESERVATION OF RIGHTS**

61. Hahn Loeser reserves the right to amend, supplement or otherwise modify the Application and all attachments and exhibits thereto as it deems necessary and/or proper.

## **IX. CONCLUSION**

62. Hahn Loeser respectfully submits that it is entitled to receive reasonable interim compensation and reimbursement in the amount of the Fees and Expenses requested herein, as such Fees and Expenses are related to services that were valuable to the Debtors' estates, and are reasonable and commensurate with the rates and charges for professional services prevailing in the community for attorneys of like standing and experience.

63. Hahn Loeser respectfully submits that it is entitled to receive reasonable final compensation and reimbursement in the amount of the Final Fees and the Final Expenses requested herein as such Final Fees and Final Expenses are related to services that were valuable to the Debtors' estates, and are reasonable and commensurate with the rates and charges for professional services prevailing in the community for attorneys of like standing and experience.

WHEREFORE, Hahn Loeser respectfully requests that the Court (a) enter an order (1) awarding Hahn Loeser interim compensation for legal services rendered to and on behalf of the Debtors during the Interim Application Period in the amount of Fees (i.e. \$225,571.50) and reimbursement of actual and necessary expenses incurred in the amount of the Expenses (i.e., \$5,603.57; (2) awarding Hahn Loeser final compensation for legal services rendered on behalf of the Debtors during the Final Application Period in the amount of the Final Fees (i.e., \$1,142,826.45) and reimbursement of actual and necessary expenses incurred in the amount of the final Expenses (i.e. \$45,570.34); (3) authorizing Hahn Loeser to apply the full amount of the Chapter 11 Retainer currently held in its client trust account to the Fees and Expenses; and (4) authorizing and directing the Debtors and Debtors' estates to pay to Hahn Loeser all sums

awarded to Hahn Loeser in accordance herewith to the extent that they have not been paid; and  
(5) grant such other and further relief as is just and proper.

Dated: January 13, 2011  
Cleveland, Ohio

Respectfully Submitted,

/s/ Daniel A. DeMarco

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