

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:) CHAPTER 11
)
SII LIQUIDATION COMPANY,) CASE NO. 10-60702
)
Debtor.) Jointly Administered
)
) JUDGE RUSS KENDIG
)

**LIMITED OBJECTION OF HOLCIM (US) INC. TO BEST AGGREGATE
CARRIERS, INC., P.G. BULK, INC. AND FAST FLORIDA FREIGHT, INC.’S
MOTION FOR ALLOWANCE AND PAYMENT OF ADMINISTRATIVE
EXPENSE CLAIMS INSTANTER**

Now comes Holcim (US) Inc. (“Holcim”), by and through its undersigned counsel, and hereby objects to *Best Aggregate Carriers, Inc., P.G. Bulk, Inc. and Fast Florida Freight, Inc.’s Motion for Allowance and Payment of Administrative Expense Claims Instanter* [Docket No. 788] (“The Motion”). For its Objection, Holcim states as follows:

1. The Motion seeks an Order from this Court allowing Best Aggregate Carriers, Inc., P.G. Bulk, Inc., and Fast Florida Freight, Inc. administrative claims in the respective amounts of \$32,506.20, \$70,027.90 and \$250.00, as well as payment of these claims within ten days of said Order.

2. Pursuant to ¶¶ 30 and G of the *Order (1) Authorizing the Sale of Substantially All of the Debtors’ Assets, Free and Clear of Liens, Claims, Interests and Encumbrances, Subject to Higher or Better Offers Pursuant to Bankruptcy Code §§ 363 and 365; (2) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection with Such Sale and Determining and Adjudicating Cure Amounts with Respect to Such Contracts and Leases; (3) Waiving the Fourteen-Day*

Period Provided by Bankruptcy Rule 6004(h); and Granting Related Relief [Docket No. 455] (The “Sale Order”), entered by the Court on May 28, 2010, the Debtor agreed that “no administrative expenses shall be paid outside of the ordinary course (other than pursuant to a carve-out) . . .”

3. There is no indication that the assets of the Debtor’s estate will be sufficient to pay all administrative expenses.

4. Bankruptcy Courts generally are “unwilling to allow full payment of administrative claims where there is a likelihood that there will be insufficient funds to pay all claimants in full and proration is necessary.” *In re IML Freight, Inc.* 52 B.R. 124, 139 (Bankr.D.Utah 1985). See also *In re Vernon Sand & Gravel, Inc.* 109 B.R. 255, 257 (Bankr.N.D.Ohio 1989)(“[t]he apparent intent of Congress is that all administrative claims should be treated equally.”); *Specker Motor Sales Co. v. Eisen* 300 B.R. 687, 691 (Bankr.W.D.Mich 2003)(“[c]ourts cannot prefer one creditor over another unless specifically directed to do so by statute.”).

5. Payment of these claims would be in contravention of the negotiated and agreed terms of the Sale Order and would be reasonably likely to give preference to these administrative claimants over other similarly situated administrative claimants given that no indication that the Debtor’s estate will be administratively solvent exists.

WHEREFORE, Holcim requests that this honorable Court deny the Motion to the limited extent that the Debtor not be authorized to pay Best Aggregate Carriers, Inc., P.G. Bulk, Inc., and Fast Florida Freight, Inc. any allowed administrative claim pending final litigation and determination of all administrative claims.

Respectfully submitted,

CAVITCH, FAMILO & DURKIN CO.,
LPA

By: /s/ Daniel C. Wolters

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CERTIFICATE OF SERVICE

I, Daniel C. Wolters, hereby certify that the foregoing *Limited Objection of Holcim (US) Inc. to Best Aggregate Carriers, Inc., P.G. Bulk, Inc. and Fast Florida Freight, Inc.'s Motion for Allowance and Payment of Administrative Expense Claims Instanter* was electronically transmitted on or about March 16, 2011 via the Court's CM/ECF system to the following who are listed on the Court's Electronic Mail Notice List:

Notice will be electronically mailed to:

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