

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:	:	Chapter 11
	:	
EXIDE TECHNOLOGIES, et al.,	:	Case No. 02-11125 (JCA)
	:	
Debtors.	:	(Jointly Administered)
	:	HEARING DATE: SEPTEMBER 18, 2002 @ 4:00 p.m..
	:	OBJECTION DEADLINE: SEPTEMBER 13, 2002 4:00 p.m.

**MOTION BY BERNARD F. STEWART FOR ALLOWANCE AND PAYMENT OF  
ADMINISTRATIVE EXPENSE CLAIMS**

Bernard F. Stewart, (“Stewart”), by and through the undersigned counsel, hereby requests entry of an order awarding an administrative expense claim and compelling immediate payment of same, and in support thereof respectfully represents the following:

**Preliminary Statement**

1. Stewart hereby request entry of an order: (i) granting him an allowed administrative claim in an amount not less than \$44,125.18, or such other amount determined by the Court, pursuant to §§ 503(b)(1)(A) and 507(a)(1) of Chapter 11, title 11 of the United States Code (the “Bankruptcy Code”); (ii) directing the above captioned debtors (the “Debtor”) to immediately pay such administrative claim; (iii) granting Stewart an award of his reasonable costs and expenses incurred in preparing and prosecuting this Motion; and (iv) for such other and further relief as this Court deems appropriate.

**Jurisdiction**

2. This Court has jurisdiction of this matter pursuant to 28 U.S.C. §§157 and 1334. Venue of this Motion in this district is proper pursuant to 28 U.S.C. §1408 *et seq.* This is a core proceeding under 28 U.S.C. §§503(b)(1)(A) and 507(a)(1) of the Bankruptcy Code; and Bankruptcy Rules 2002

and 9014.

### **Procedural Background**

3. On April 15, 2002 (the “Petition Date”), the above-captioned debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code (the “Debtors”).

4. On April 15, 2002, the Debtors filed a motion seeking to reject certain identified contracts and leases as of the Petition Date. The Court granted the relief sought in the motion by order dated April 18, 2002 (the “Order”). The Order rejected the identified contracts and leases as of the Petition Date unless a party to a rejected lease or contract filed a written objection.

5. Beginning in January, 1992, and continuing through July, 1999, Stewart served as a Chief Legal Officer of the Debtors. On July 23, 1999, Stewart entered into a written agreement with the Debtors (the “Agreement”) whereby Stewart’s relationship with the Debtors would change as of July 31, 1999. The Debtors by the motion referenced in paragraph 4 are seeking to reject the Agreement as of the Petition Date.

6. On July 19, 2002, Stewart filed an Objection to the Debtors’ Motion referenced in paragraph 4 (Docket #483) (the “Objection”) which is incorporated herein by reference.

7. A motion was filed on August 20, 2002 requesting a continuance of the Objection’s August 21, 2002 hearing date. On August 21, 2002, the Court granted a continuance of the hearing on the Objection so that it may be heard simultaneously with this present Motion for Allowance and Payment of an Administrative Expense.

### **Factual Background**

8. Stewart is the former Executive Vice President of Legal and Governmental Affairs of the Debtors. *See* Affidavit of Bernard F. Stewart filed simultaneously herewith (“Stewart Aff.”) at ¶ 3.

Pursuant to the Agreement, Stewart's active employment with the Debtors terminated on July 31, 1999, whereupon he became a consultant of the Debtors for a term to expire on April 30, 2002. A true and correct copy of the Agreement is attached hereto as Exhibit "A".

9. In 1994, the Debtors entered a contract with Sears, Roebuck & Co. ("Sears") to supply battery product lines (the "Supply Agreement"). Stewart Aff. ¶ 5.

10. In 1997, the Attorney General's Office for the State of Florida began an investigation of alleged wrongdoings by the Debtors and their senior officers in the procurement and fulfillment of the Supply Agreement (the "Florida Criminal Proceeding"). Stewart Aff. ¶ 6. Stewart successfully concluded the Florida Criminal Proceeding on behalf of the Debtors. *Id.* In the course of doing so, Stewart learned of serious allegations made to the State of Florida by a former employee of Debtors. *Id.* Stewart, upon investigating those allegations, uncovered facts which he disclosed to appropriate authorities and which led the United States Attorney for the Southern District of Illinois to institute criminal proceedings against the Debtors and the aforementioned senior officers (the "Illinois Criminal Proceeding"). *Id.*

11. The Illinois Criminal Proceeding is addressed in the Agreement. Specifically, the Agreement altered Stewart's duties insofar as his main focus would regard the Florida Attorney General matter and exit from the Sears Roebuck supply agreement and give his attention to corporate secretarial functions of Exide. *See* Exhibit "A" at Page 1.

12. Further, paragraph 23 of the Agreement states, "Stewart further agrees that during the Active Employment Period and Consulting Period he shall cooperate with Exide in any legal or quasi-legal matter, and Exide shall recognize that Stewart's assertion of any valid legal, professional or constitutional right or obligation shall not constitute a breach of this Agreement". *See* Exhibit "A" at

Page 9.

13. Pursuant to the Agreement, Stewart cooperated with the United States Attorney's Office in the Illinois Criminal Proceeding. In connection with this cooperation, the Debtors authorized Stewart to retain individual counsel, Alan C. Harnisch, Esquire of Harnisch & Gadd, P.C. ("Harnisch & Gadd") and the Debtors were to be responsible for any and all legal fees and expenses incurred by Harnisch & Gadd. Stewart Aff. ¶ 7.

14. In connection with the Illinois Criminal Proceeding, Stewart accepted a subpoena issued by the United States Attorney's Office. Stewart Aff. ¶ 8. Via letter to the Debtors dated April 20, 2001, Harnisch & Gadd confirmed with the Debtors the existence of valid objections to the subpoena's validity. A true and correct copy of this correspondence is attached hereto as Exhibit "B". Stewart's acceptance of the subpoena, despite possible objections thereto, was induced by Debtors' promises and representations. Stewart Aff. ¶ 8; *See also* Exhibit B. The subpoena's acceptance by Stewart bound his participation and testimony in the Illinois Criminal Proceeding until its conclusion in June, 2002. Stewart Aff. ¶ 8.

15. During the course of the Illinois Criminal Proceeding, on March 23, 2001, a plea agreement was entered between the United States Attorneys Office and the Debtors (the "Plea Agreement"). A copy of the Plea Agreement is attached hereto as Exhibit "C". The Plea Agreement states that the Debtors will cooperate fully with the United States Attorney's Office. Such cooperation specifically includes: 1) providing testimony in any Grand Jury or trial proceeding; 2) disclosing information concerning any criminal activity by Exide or others; and 3) assisting law enforcement agencies in any related criminal investigation. *See* Exhibit "C" at Page 4-5, ¶¶ 7-11.

16. Debtors failure to cooperate with the terms of the Plea Agreement as summarized in

paragraph 15 of this motion would result in a withdrawal of the Plea Agreement and subject the Debtors to full prosecution and punishment by the United States Attorney's Office. *See* Exhibit "C", Page 5, ¶ 13.

17. Subsequent to the Plea Agreement, the Illinois Criminal Proceeding continued, mainly against the Debtors' former senior officers. Stewart Aff. ¶ 11. Stewart's participation in the Illinois Criminal Proceeding continued after the Plea Agreement, beyond the Petition Date, and beyond the expiration of the Consulting Period (April 30, 2002) including, but not limited to, preparation for and testimony on May 23, 2002, May 24, 2002, May 28, 2002, May 29, 2002, and June 12, 2002. *Id.*

18. Stewart's participation as detailed in paragraph 17 was induced by representations and promises made to him by the Debtors. These representations include, but are not limited to, an April 17, 2002 email from the Debtors. A true and correct copy of the aforementioned email is attached hereto as Exhibit "D".

19. Pursuant to paragraph 7 of the Agreement, Stewart was to receive an annualized salary. *See* Exhibit "A" at Page 3. Stewart's salary pursuant to the Agreement was \$9,166.67 paid biweekly. A true and correct copy of Stewart's paycheck and stub is attached hereto as Exhibit "E". Exhibit "E" represents the last payment Stewart received from the Debtors. Stewart Aff. ¶ 13. Stewart remains unpaid for his final salary payment in the amount of \$9,166.67 representing the period of April 15, 2002 through April 30, 2002 (the "Unpaid Salary").

20. Pursuant to paragraph 10 of the Agreement, after the expiration of the Consulting Period on April 30, 2002, if Stewart was called upon to testify at any investigation or proceeding, Stewart would be reimbursed for all costs and expenses and compensated for his time at \$250.00 per hour. *See* Exhibit "A" at Page 4. After expiration of the Consulting Period, Stewart expended, at least, 40

hours and \$195.16 in expenses in this regard on behalf of the Debtors. Stewart Aff. ¶ 14. Stewart remains unpaid for \$10,075.16, representing the hours expended multiplied by \$250.00, pursuant to the Agreement, and coupled with the aforementioned expenses (the “Unpaid Services and Expenses”)<sup>1</sup>.

21. Pursuant to agreements by the Debtor, both prepetition and postpetition, the Debtors would pay Stewart’s individual legal expenses, particularly the fees of Harnisch & Gadd. *See* Exhibit “D”; *See also* Stewart Aff. ¶ 15. Also, paragraph 28 of the Agreement states that if, after July 31, 1999, Stewart is compelled to be or becomes a witness in a governmental or private proceeding at the request of Exide, then Exide would indemnify Stewart. *See* Exhibit “A” at page 12. Stewart remains unpaid for \$14,453.35 in legal fees and costs incurred postpetition by Harnisch & Gadd (the “Unpaid Legal Fees”). True and correct copies of invoices representing the Unpaid Legal Fees are attached hereto as Exhibit “F”<sup>2</sup>

22. Pursuant to Paragraph 11 of the Agreement, during the terms of the Agreement, Stewart was to have continued use of a corporate vehicle (the “Corporate Vehicle”). *See* Exhibit “A” at page 4. At the expiration of the Consulting Period, Stewart had the option to purchase the Corporate Vehicle pursuant to the lease terms, which terms would be the same as those in effect on July 31, 1999. *Id.* The purchase price of the Corporate Vehicle at the expiration of the Consulting Period should have been approximately \$2,000.00. Stewart Aff. ¶ 17. However, the Debtors renegotiated, altered,

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<sup>1</sup>The amount represented by the Unpaid Services and Expenses has been lessened by \$120.00, representing the \$30.00 per day expense reimbursement by the United States Attorneys Office for May 23, 24, 28, and 29.

<sup>2</sup>Exhibit “F” shows itemized services and costs expended by Harnisch & Gadd both prepetition and postpetition. While Stewart has incurred legal fees and expenses totaling \$26,466.81, the Unpaid Legal Fees are only those fees and costs rendered postpetition.

or otherwise changed the terms of the Corporate Vehicle's lease agreement whereas, on June 26, 2002, Stewart paid \$12,430.00 for the Corporate Vehicle. Stewart Aff. ¶ 17. True and correct copies of documents regarding the Corporate Vehicle's purchase by Stewart are attached hereto as Exhibit "G". Stewart has not been reimbursed for the overpayment of, at least, \$10,430.00 (the "Unpaid Vehicle Reimbursement").

23. In sum, Stewart is entitled to an administrative expense claim in the amount of, at least, \$44,125.18, representing the total of the Unpaid Salary, Unpaid Services and Expenses, Unpaid Legal Fees, and Unpaid Vehicle Reimbursement.

### **Argument**

24. The Bankruptcy Code contains provisions which are designed to promote the viability and continuance of insolvent businesses. See In re Zagata Fabricators, Inc., v. Superior Air Products, 893 F.2d 624, 627 (3<sup>rd</sup> Cir. 1990); In re: United Trucking Services, Inc., 851 F.2d 159, 161-62 (6<sup>th</sup> Cir. 1988). In this regard, Sections 503(b)(1)(A) and 503 (b)(3)(C) of the Bankruptcy Code provide that an administrative expense claim has priority over other unsecured claims. 11 U.S.C. §§ 503(b)(1)(A), 503(b)(3)(C). Sections 503(b)(1)(A) and 503(b)(3)(C) state, in full, as follows:

(b) After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under Section 502(f) of this title, including -

(1)(A) the actual, necessary costs and expenses of preserving the estate, including wages, salaries, or commissions for services rendered after the commencement of the case. 11 U.S.C. § 503(b)(1)(A). [and]

(3) the actual and necessary expenses, other than compensation and reimbursement specified in paragraph (4) of this subsection, incurred by -

(C) a creditor in connection with the prosecution of a criminal offense relating to the case or the business or property of the debtor;

25. In Zagata, the Court found that “[b]y placing creditors who are entitled to payment of these administrative expenses first in line, sections 503 and 507 advance the estate’s interest in survival above all other financial goals.” Id. 893 F.2d at 627.

26. Since the affording of priority status to one creditor has an impact upon the creditors of the debtor’s estate and conflicts with the goal of bankruptcy to provide creditors with an equal distribution of a debtor’s resources, courts have consistently held that administrative claims must be narrowly construed. *See In re: Philadelphia Mortgage Trust*, 117 B.R. 820, 825-28 (Bankr. E.D. Pa. 1990); *In re: Leedy Mortgage Co.*, 111 B.R. 488, 491 (Bankr. E.D. Pa. 1990); *In re: Grant Broadcasting of Philadelphia, Inc.*, 71 B.R. 891, 897 (Bankr. E.D. Pa. 1987). In Grant Broadcasting, the Court explained:

[w]e do not consider it to have been the intent of Congress, in enacting Section 503(b)(1)(A), to saddle debtors with special post-petition obligations lightly or give preferential treatment to certain select creditors by creating a broad category of administrative expenses. Hence we would read Section 503(b)(1)(A) narrowly...

*See id.* at 897.

27. The Third Circuit has stated that the burden of proving an administrative expense claim is on the claimant. *See In re: O’Brien Environmental Energy, Inc.*, 181 F.3d 527, 533 (3d Cir. 1999); *In Re: Smith Corona Corp.*, 210 B.R. 243, 245 (Bankr. D. Del. 1997)(citing In re: Continental Airlines,



146 B.R. 520, 526 (Bankr. D. Del. 1992)); In re: FGR, Inc., 653, 658 (Bankr. E.D. Pa. 1991); *see also* In re: Amarex, Inc., 853 F.2d 1526, 1530 (10<sup>th</sup> Cir. 1988); In re: Woodstock Associates I, Inc., 120 B.R. 436, 451 (Bankr. N.D. Ill. 1990) (burden of proving entitlement to administrative expenses is on claimant, and standard of proof is preponderance of the evidence); Philadelphia Mortgage Trust, 117 B.R. at 827 (“the burden of proving entitlement to a priority is on the person claiming priority”); In re: United States Lines, Inc., 103 B.R. 427, 429 (Bankr. S.D.N.Y. 1989) (burden of proof as to substantial benefit rendered to estate is on applicant for administrative expense claim, and entitlement to award must be established by preponderance of evidence).

28. Section 503 (b) of the Bankruptcy Code describes six, general non-exclusive categories of claims entitled to administrative expense status and, therefore, entitled to priority distribution under Section 507(a) of the Bankruptcy Code. The first of these categories is described by Section 503(b)(1)(A) as “the actual and necessary costs and expenses of the estate.” Generally, for a debt to qualify as a necessary preservation expense, it must satisfy two requirements: (i) it must have arisen from a transaction with the estate; and (ii) it must have benefitted the estate in some demonstrable way. *See In re CIS Corp.*, 142 B.R. 640, 643 (S.D.N.Y. 1992).

29. Further, the third general category includes the payment of actual and necessary expenses incurred by a creditor in connection with the prosecution of a criminal offense relating to the case or to the business or property of the debtor. 11 U.S.C. §503(b)(3)(C). This section evidences Congressional intent, not only to encourage, but to compensate those interested parties that cooperate in connection with the prosecution of a criminal offense relating to a crime associated with the debtor, the debtor’s business or the debtor’s property. In re George W. Holder, 207 B.R. 574, 585-586.

30. It is respectfully submitted that Stewart meets the aforementioned conditions of both or

either 11 U.S.C. §§503(b)(1)(A) and 503(b)(3)(C) and, therefore, should be granted an award of his administrative claim for his Unpaid Salary, Unpaid Services and Expenses, Unpaid Legal Fees, and Unpaid Vehicle Reimbursement.

#### *Unpaid Salary*

31. Stewart's Agreement was to terminate on April 30, 2002. Stewart continued to comply with the terms of the Agreement and expended services thereunder until the conclusion of the Agreement's term. The services and expenses rendered related to the Illinois Criminal Proceeding and were of the nature contemplated by the terms of the Agreement and the cooperation required under the Debtors' Plea Agreement. While the Debtors seek to reject the Agreement as of April 15, 2002, representations of the Debtors have induced Stewart's continued compliance with the Agreement. Further, the Debtors have accepted and benefitted from Stewart's actions postpetition. Stewart's failure to cooperate in the Illinois Criminal Proceeding could have subjected the Debtors to substantial repercussions as detailed in the Plea Agreement including, but not limited to, the withdrawal of the Plea Agreement and full prosecution and punishment by the United States Attorney's Office. *See* Exhibit "C", Page 5, ¶ 13. Stewart's services pursuant to the Agreement both arose from a transaction of the Debtors and clearly benefitted and preserved the bankruptcy estate and entitle him to an administrative expense for his Unpaid Salary.

32. In the alternative, Stewart's services pursuant to the Agreement were directly related to the Illinois Criminal Proceeding and, therefore, fit squarely with the intentions of 503(b)(3)(C). The actual and necessary compensation in connection with these services can be reasonably calculated by the terms of the Agreement, the amount of the Unpaid Salary.

#### *Unpaid Services and Expenses*

33. Likewise, Stewart's Unpaid Services and Expenses should be either reimbursed pursuant to the terms of the Agreement or mandated pursuant to § 503(b)(3)(C). The acceptance of the subpoena bound Stewart's participation in the Illinois Criminal Proceeding. Therefore, Stewart is entitled to the compensation pursuant to paragraph 10 of the Agreement. Any argument by the Debtors that Stewart's participation was bound by a legally binding subpoena issued by one other than by Exide and, therefore, no compensation is allowed, is undermined by the circumstances surrounding Stewart's acceptance of the subpoena. The subpoena was subject to several valid objections, but, nevertheless, the Debtors induced Stewart's acceptance of the subpoena and agreed that it was a legally binding subpoena pursuant to the Agreement. Again, Stewart's cooperation benefitted the bankruptcy estate by insuring compliance with the Plea Agreement. Further, the Debtors' anticipated the necessity of Stewart's involvement in the Illinois Criminal Proceeding beyond the termination of the Agreement as evidenced by the inclusion of paragraph 10 in the Agreement. Therefore, Stewart's Unpaid Services and Expenses are entitled to administrative priority pursuant to the terms of paragraph 10 of the Agreement.

34. Again, in the alternative, Stewart's services pursuant to paragraph 10 of the Agreement were directly related to the Illinois Criminal Proceeding and, therefore, fit squarely within the intentions of 503(b)(3)(C). The actual and necessary compensation in connection with these services and expenses can be reasonably calculated by the terms of the Agreement, the amount of the Unpaid Services and Expenses.

#### *Unpaid Legal Fees*

35. Pursuant to representations by the Debtors, including, but not limited to the email attached hereto as Exhibit "D", the Debtors agreed to pay Stewart's legal fees and expenses in

connection with his cooperation with the Illinois Criminal Proceeding. The representations were made postpetition, as well as prepetition. The Unpaid Legal Fees are directly related to Stewart's involvement in the Illinois Criminal Proceeding. The Unpaid Legal Fees represent services directly correlated to the benefits provided the bankruptcy estate due to Stewart's involvement in the Illinois Criminal Proceeding as discussed above.

#### *Unpaid Vehicle Reimbursement*

36. Pursuant to the Agreement, Stewart was entitled to purchase the Corporate Vehicle at the expiration of the Agreement, pursuant to the terms existing upon creation of the Agreement. The Debtors altered the terms of the Agreement to their benefit and to Stewart's detriment. If Debtor's alteration of the terms regarding the Corporate Vehicle occurred postpetition, Stewart is entitled to the Unpaid Vehicle Reimbursement. If the alteration of the Corporate Vehicle's terms occurred prepetition, Stewart is still entitled to the Unpaid Vehicle Reimbursement or, in the alternative the amount of the Unpaid Vehicle Reimbursement incurred or accruing postpetition.

#### **Conclusion**

Stewart respectfully requests that the amounts described above and referred to as the Unpaid Salary, Unpaid Services and Expenses, Unpaid Legal Fees, and Unpaid Vehicle Reimbursement constitute administrative expenses and should be paid as such by the Debtors.

WHEREFORE, Bernard F. Stewart prays the Court grant the Motion, and direct the Debtors to pay the sum of \$44,125.18 as an administrative expense and for such other and further relief to which Stewart may show himself justly entitled.

FERRY, JOSEPH & PEARCE, P.A.

/s/ Jason C. Powell

MICHAEL B. JOSEPH, ESQUIRE (No. 0392)

JASON C. POWELL, ESQUIRE (No. 3768)

824 Market Street, Suite 904

P.O. Box 1351

Wilmington, DE 19899

(302)575-1555

Attorney for Bernard Stewart

Dated: August 30, 2002

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:	:	Chapter 11
	:	
EXIDE TECHNOLOGIES, et al.,	:	Case No. 02-11125 (JCA)
	:	
Debtors.	:	(Jointly Administered)
	:	HEARING DATE: SEPTEMBER 18, 2002 @ 4:00 P.M.
	:	OBJECTION DEADLINE: SEPTEMBER 13, 2002 4:00 P.M.

**NOTICE OF MOTION**

TO: All Parties on the 2002 Service List

Bernard Stewart has filed a Motion for Allowance and Payment of Administrative Expense Claims.

You are required to file a response to the attached Motion on or before **September 13, 2002 at 4:00 p.m..**

At the same time, you must also serve a copy of the response upon Movant's attorney:

Jason C. Powell, Esquire  
Ferry, Joseph & Pearce, P.A.  
824 Market Street, Suite 904  
Wilmington, DE 19801  
(302) 575-1555

HEARING ON THE MOTION WILL BE HELD ON **SEPTEMBER 18, 2002 AT 4:00 P.M..**

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF DEMANDED BY THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

FERRY, JOSEPH & PEARCE, P.A.

/s/ Jason C. Powell

MICHAEL B. JOSEPH, ESQUIRE (#362)  
JASON C. POWELL, ESQUIRE (#3768)  
824 Market Street, Suite 904  
P.O. Box 1351  
Wilmington, DE 19899  
(302) 575-1555  
Counsel for Bernard Stewart

Dated: August 30, 2002

## **EXHIBIT A**

## AGREEMENT

This Agreement ("Agreement") is entered into between Bernard F. Stewart, an individual residing at 500 Overbrook Road, Bloomfield Hills, Michigan (hereinafter referred to as "Stewart"), and Exide Corporation, a Delaware corporation, with executive offices at 2901 Hubbard Road, Ann Arbor, Michigan (hereinafter referred to as "Exide").

### WITNESSETH:

WHEREAS, Stewart works for Exide as a salaried executive holding the position of Executive Vice President - Legal Affairs and Secretary;

WHEREAS, Exide would prefer that Stewart's duties be changed such that he will focus on resolving the Florida Attorney General matter and the exit from the Sears Roebuck supply agreement and thereafter give his attention to the Corporate Secretarial functions of Exide;

WHEREAS, Stewart is willing to accept these changes in his duties provided that his Active Employment Period, as defined herein, with Exide shall cease on July 31, 1999, and shall immediately be followed by the Consulting Period, as defined herein, which shall end on April 30, 2002.

WHEREAS, the parties have reached an agreement regarding Stewart's future relationship with Exide and wish to confirm Stewart's status with Exide.

NOW THEREFORE Stewart and Exide agree to the following provisions:

1. Subject to the terms and conditions stated herein, Stewart's status with Exide shall be as follows: Stewart shall continue in the employ of Exide from the date hereof through and



including July 31, 1999, which period shall be defined as the "Active Employment Period." Upon the conclusion of the Active Employment Period, Stewart's employment with Exide shall cease. Immediately following the end of the Active Employment Period through and including April 30, 2002, Stewart shall render consulting services to Exide in his capacity as an independent contractor, which period shall be defined as the "Consulting Period."

2. At the commencement of the Active Employment Period, Stewart shall relinquish his present title of Executive Vice President - Legal Affairs and Secretary. By his signature on this document, Stewart has confirmed his resignation from all board positions held by him with Exide and any affiliated companies and subsidiaries, effective August 1, 1999.

3. At any time prior to December 31, 1999, Stewart may utilize the Exide Relocation Program, and upon entering the Consulting Period described below, Exide may not and shall not seek to recapture from Stewart any part or all of the costs of said relocation.

4. If during Stewart's Active Employment Period, Robert A. Lutz ceases to be Chairman, Chief Executive Officer and President of Exide, Stewart, at his sole option, may elect to have his Consulting Period begin immediately by providing written notice of such election to the Executive Vice President - Human Resources of Exide.

5. The parties agree that the ending date of the Active Employment Period may be adjusted by mutual written agreement of the parties in consideration of the needs of Exide. Any such adjustment will not change the ending date of the Consulting Period.

6. On the first regular payroll date following the date on which the Active Employment Period ends, Exide shall pay to Stewart all accrued and unused vacation time for calendar year 1999.

7. During the Consulting Period, Stewart shall continue to receive the annualized salary he was paid during the Active Employment Period, and shall continue to participate in the Exide family health care and dental coverage plans in which he was participating on the date the Active Employment Period ends (the "Retained Benefits"). Stewart also shall be notified of his conversion rights with respect to life insurance coverage. Stewart recognizes that Exide Corporation has retained the right to amend or modify such benefit plans and understands and agrees that he, like active Exide employees, will be subject to all terms and conditions of such plans, including any such amendments or modifications, that are in effect from time-to-time, including without limitation the premium sharing terms of the plans and the right to participate in annual open enrollment for the Retained Benefits, if any. At the conclusion of the Consulting Period, Stewart shall be eligible to extend the health care and dental coverage in effect at that time in accordance with the provisions of COBRA, 29 U.S.C. §§ 1161 *et seq.*

8. Upon the commencement of the Consulting Period, Stewart shall perform those duties as described and requested of him in writing by the Chairman of the Board of Directors of Exide. Consulting duties will be in matters similar to the work Stewart performed during the Active Employment Period. If in the performance of his duties during the Consulting Period, Stewart is required to travel or incur other expenses, he shall be reimbursed for such travel and other expenses in accordance with Exide's expense account policies.

9. During the Consulting Period, Stewart shall give first priority to and dedicate the necessary attention to any Exide matter as may be requested of him in writing by Exide's Chairman of the Board. Stewart may enter the private practice of law in conjunction with a law firm or other entity during the Consulting Period. Further, during this period, Stewart may accept a political or judicial appointment provided that such employment or appointment shall not

interfere with his obligation to Exide. Stewart agrees that, should he engage in any such outside activities during the Consulting Period, he will refrain from any activity which constitutes a conflict of interest under the Pennsylvania Rules of Professional Conduct, 42 Pa. C.S.A., or the rules of professional conduct of another state to the extent applicable to Stewart's professional activities, or puts Stewart in a position where he or those with whom he may have associated himself could use or disclose confidential business information of Exide.

10. If after the expiration of the Consulting Period, Stewart is called upon by Exide or obligated by Exide to devote his time to Exide as a result of any governmental or private legal action, investigation, or other proceeding, then in such event, Stewart shall be reimbursed all of his costs and expenses and shall be compensated for his time at the rate of \$250 per hour upon the presentation to Exide of invoices detailing each such cost and expense and a description of the amount of time and nature of services rendered. Provided, however, that if such time is pursuant to a legally binding subpoena, other than one issued by Exide, Exide shall not be obligated to reimburse Stewart as provided in this paragraph.

11. Throughout both the Active Employment Period and Consulting Period, Stewart shall have the continued use of the Corporate vehicle that he is using as of the date the Active Employment Period commenced, under the same terms and conditions as apply at the time the parties enter into this Agreement. At the end of the Consulting Period, Stewart shall have the option of retaining the vehicle by assuming the obligation to make the then remaining lease payments thereon, if any, and to purchase the vehicle under the lease terms, which terms will be the same as those in effect at the time the Active Employment Period ended.

12. In the event Stewart dies prior to the expiration of the Consulting Period, the salary due Stewart for the balance of the Active Employment Period, if not yet concluded, and the

Consulting Period shall be paid to his spouse if she survives Stewart, or otherwise, to his estate, in the same manner as such payments would have been made to Stewart if he had survived. Except as required under COBRA, all other benefits and emoluments under the terms of this Agreement to which Stewart would have been entitled shall cease, and his surviving spouse or estate shall have no claim, right or entitlement thereto. Provided, however, that in the event of Stewart's death prior to the expiration of the Consulting Period, Stewart's surviving spouse, if any, shall have the option of retaining the Corporate vehicle retained by Stewart by assuming the obligation to make the then remaining lease payments thereon, if any, and to purchase the vehicle under the lease terms, as set forth in paragraph 11.

13. Upon entering into this Agreement, Stewart renounces any and all claims to stock options granted to him pursuant to Exide's 1993 Long Term Incentive Plan. Further, during the Active Employment Period and Consulting Period, Stewart shall not be entitled to any further vesting in options granted him under Exide's 1997 Stock Option Plan. Stewart, however, will be entitled to exercise, throughout the Active Employment Period and Consulting Period, any options vested in him as of the date the Active Employment Period commences.

14. Stewart acknowledges and agrees that, when his employment with Exide terminates at the end of the Active Employment Period, he shall have no further rights to employment or re-employment with Exide. Therefore, Stewart hereby releases and waives any and all rights or claims he may have to continued employment or re-employment with Exide subsequent to such date and agrees that he will not apply for any position with Exide or any of its affiliated companies or subsidiaries.

15. During the Consulting Period, the parties agree that Stewart shall be classified as an independent contractor of Exide and shall not be classified as an employee of Exide. It further

is agreed that Exide's interest in Stewart's services during the Consulting Period relates to the results to be achieved by Stewart, and Contractor shall control the means and methods used to perform such services. This Agreement is not intended to create and shall not create a joint venture, partnership or agency relationship between Stewart and Exide.

16. With respect to Stewart's services during the Consulting Period, Stewart shall accurately complete all federal, state and local forms, including, without limitation, IRS Form W-9, required by Exide for tax purposes. Further, Stewart shall have sole responsibility for the proper reporting and payment of all federal, state and local taxes due on payments made to Stewart by Exide, and Stewart shall pay all employment taxes, including, without limitation, worker's compensation, statutory disability insurance, and unemployment insurance applicable to Stewart and his employees, if any. Stewart shall have sole responsibility for providing such benefits to his employees, if any. Stewart shall indemnify and hold harmless Exide and its affiliated companies and subsidiaries against and from any liability relating to the tax treatment of compensation paid to Stewart by Exide.

17. It is understood and agreed by Stewart that, except as expressly provided herein, his classification as an independent contractor during the Consulting Period renders Stewart and his dependents and beneficiaries ineligible for any form of benefit, participation, coverage and service credit under Exide's fringe benefits, leave programs and employee benefit plans, including without limitation accidental death and dismemberment, life insurance (unless pursuant to a conversion option), disability, pension, retirement, bonuses or other long-term incentives, paid or unpaid leave, workers' compensation, unemployment, and statutory disability and family leave. Consistent with the foregoing, it is further agreed that Exide shall have no obligation to provide such benefits to Stewart or any of his dependents or beneficiaries and that no such right or

entitlement is created by this Agreement, regardless whether such benefits are made available to individuals classified by Exide as employees. If any governmental agency or entity should re-classify Stewart's status, it is agreed that such re-classification shall have no impact on Stewart's continuing ineligibility to participate in any such Exide plan or program, nor shall it cause Stewart to be eligible to participate retroactively in any such plan or program.

18. Stewart acknowledges and agrees that, should Exide have Good Cause, as defined herein, it shall be entitled to terminate this Agreement during the Active Employment Period or during the Consulting Period. "Good Cause" shall mean any act, conduct or omission on Stewart's part, whether occurring prior to, on or after the date of this Agreement that gives rise to or constitutes: (a) the conviction of Stewart of, or the entry of a pleading of guilty or nolo contendere by Stewart to, any crime involving moral turpitude or any felony; (b) breach by Stewart of a fiduciary duty owed to Exide or to any affiliated company or subsidiary; (c) material failure or inability of Stewart to perform his stated duties hereunder; or (d) a violation of any provision of paragraphs 21, 22, 23, 24, or 27 of this Agreement. In the event Exide terminates this Agreement for Good Cause, it shall have no further obligation to Stewart under this Agreement beyond the date that notice of termination is given, including without limitation any obligation to pay to Stewart his continued salary or to continue Stewart's participation in any fringe benefit, leave program or employee benefit plan, except as may be required by COBRA.

19. Stewart and Exide agree that as a material condition of this Agreement, neither shall disclose the terms or conditions of this Agreement to any third party or entity. However, this paragraph will not prohibit either party from disclosing the terms and conditions of this Agreement to their respective attorneys, tax advisors, or accountants, or as may be lawfully required or ordered by any state or federal administrative agency, tribunal or court of law. Nor

shall this paragraph preclude either Exide or Stewart from disclosing the terms of this Agreement as may be necessary in defense of any action brought by one party against the other with respect to any matter addressed by this Agreement.

20. Exide, its officers and directors, shall not make any disparaging remarks concerning Stewart or make detrimental, harmful or injurious remarks regarding Stewart, his employment with Exide or the circumstances surrounding the termination of such employment. Further Exide agrees to provide a reference for Stewart at his request substantially in the language as follows:

“Mr. Stewart served as an Executive of Exide Corporation from January 2, 1992, until ***[termination date of Active Employment Period]***. Mr. Stewart continues to provide Exide with consulting services. ***[Or if after April 30, 2002: Mr. Stewart provided Exide with consulting services through April 30, 2002]***. His departure from Exide was not related to the performance of his duties which he performed in an exemplary manner.”

Should any such officer or director of Exide be compelled to testify as a witness pursuant to a valid subpoena, nothing in this paragraph shall prohibit him/her from providing in his/her testimony complete and truthful responses to questions about Stewart.

21. In consideration for the promises made in this Agreement, Stewart agrees not to make or publish in oral, written, or any other form, any disparaging remarks or negative comments to any third party; nor shall Stewart knowingly encourage or assist any third party to make such disparaging remarks or negative comments regarding, concerning, or alluding to in any manner, Exide Corporation, its affiliates and/or subsidiaries, directors, officers, fiduciaries, agents and/or employees. Should Stewart be compelled to testify as a witness pursuant to a valid subpoena, nothing in this paragraph shall prohibit him from providing in his testimony complete and truthful responses to questions about Exide's business.

22. During the Active Employment Period, the Consulting Period or at any time thereafter, Stewart agrees: (i) not to make any public statement or statements to the press or third parties concerning Exide's business objectives, its management practices, or other sensitive information without first receiving Exide's written approval; and (ii) that he will not use, divulge or disclose, directly or indirectly, any proprietary or confidential information of Exide to any third party, except his personal legal advisor, without the consent of Exide.

23. Stewart further agrees that during the Active Employment Period and Consulting Period he shall cooperate with Exide in any legal or quasi-legal matter, and Exide shall recognize that Stewart's assertion of any valid legal, professional or constitutional right or obligation shall not constitute a breach of this Agreement.

24. On the date the Active Employment Period ends, Stewart shall return to Exide's Executive Vice President - Human Resources all corporate property and copies thereof in his possession or under his custody or control, including without limitation all files (other than files related to matters on which Stewart continues to work during the Consulting Period), corporate credit cards, keys and access cards, calling cards, cellular or mobile telephone, parking permit, laptop and other computer equipment and software and club membership cards. Stewart's access to such property and facilities shall cease immediately upon the conclusion of the Active Employment Period, and he shall be responsible for reimbursing Exide for all personal expenses associated with any of the foregoing incurred before that date.

25. Except as expressly provided herein, this Agreement contains the entire understanding of the parties and supersedes all verbal and written agreements, and there are no other agreements, representations or warranties between the parties not referenced or set forth in this Agreement.



26. Except to the extent superseded by federal law (e.g., ERISA) and except as stated otherwise in Exhibit A hereto, this Agreement shall be governed by the laws of the State of Michigan without giving effect to the choice of law provisions of any state.

27. In consideration of the continued employment, attendant salary and other benefits granted to Stewart under this Agreement, Stewart, for himself and his respective administrators, executors, agents, beneficiaries and assigns, does waive, release and forever discharge Exide (as defined below) of and from any and all Claims (as defined below) relating, regarding or referring to Stewart's employment with Exide, the terms and conditions of such employment, the changes in his duties and responsibilities as described herein, or Stewart's termination from employment at the conclusion of the Active Employment Period. Stewart agrees not to file a lawsuit to assert any such Claim. This release covers any and all Claims arising from the beginning of time up to and including the date that the Active Employment Period will end, but does not cover Claims relating to the enforcement of this Agreement.

For purposes of these release provisions, "Claims" includes without limitation all actions or demands of any kind that Stewart now has, or may have or claim to have in the future. More specifically, Claims include rights, causes of action, damages, penalties, losses, attorneys' fees, costs, expenses, obligations, agreements, judgments and all other liabilities of any kind or description whatsoever, either in law or in equity, whether known or unknown, suspected or unsuspected. All of the following are among the types of Claims which will be barred by this release and covenant not to sue: contract claims (whether express or implied); tort claims, such as for defamation or emotional distress; claims under federal, state and municipal laws, regulations, ordinance or court decisions of any kind; claims of discrimination, harassment or retaliation, whether based on race, color, religion, gender, sex, age, sexual orientation, handicap and/or

disability, national origin or any other legally protected class; claims under the AGE DISCRIMINATION IN EMPLOYMENT ACT, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act and similar state statutes and municipal ordinances; claims under the Employee Retirement Income Security Act, the Fair Labor Standards Act, state wage payment laws and state wage and hour laws; and claims for wrongful discharge. This enumeration of the Claims covered by this release is not intended to be, and shall not be construed as, an exhaustive list.

For purposes of these release provisions, "Exide" includes without limitation Exide Corporation and its respective past, present and future parents, affiliates, subsidiaries, divisions, predecessors, successors, assigns, employee benefit plans and trusts. It also includes all past, present and future managers, directors, officers, partners, agents, employees, attorneys, representatives, consultants, associates, fiduciaries, plan sponsors, administrators and trustees of each of the foregoing.

Stewart declares and agrees that any Claims he may have incurred or sustained may not be fully known to him and may be more numerous and more serious than he now believes or expects. Further, in making this Agreement, Stewart relies wholly upon his own judgment of the future development, progress and result of said Claims, both known and unknown, and acknowledges that he has not been influenced to any extent whatsoever in the making of this Agreement by any representations or statements regarding said Claims made by individuals or entities who are within the definition of Exide, as defined in these release provisions. Stewart further acknowledges that he accepts the terms herein in full settlement and satisfaction of all such Claims and that no such Claim is reserved.

Under the terms of this release, Stewart is barred from asserting any of the Claims described above against Exide. If Stewart does commence, join in, continue or in any other manner attempt to assert a Claim in violation of this release and covenant not to sue, or otherwise breaches any promise made in this Agreement, he agrees to indemnify and hold harmless Exide, as defined in these release provisions, from and against all losses incurred, including without limitation costs and attorneys' and expert fees, in defending such Claim or pursuing the released party's rights hereunder.

28. In consideration of the above, Exide hereby releases and forever discharges Stewart from any actions, causes of action, suits, proceedings, damages, costs and claims, which it ever had or now has based upon, or in any way connected with his employment with Exide.

Further, if after the expiration of Stewart's Active Employment Period, a governmental or private proceeding is either pending or is initiated which involves Stewart such that he is compelled to be or becomes a witness at the request of Exide, then Exide shall indemnify Stewart in accordance with the Indemnification Agreement between Stewart and Exide, dated March 31, 1995 and attached hereto as Exhibit A.

29. Stewart further understands and agrees that by entering into this Agreement, Exide, its directors, officers, and/or agents do not admit any violation of law or invasion of any of his rights.

30. Stewart further acknowledges that the consideration recited in this Agreement is the sole and only consideration for this Agreement and that no representations, promises or inducements have been made by Exide, or any of its directors, officers, employees or agents other than as appear in this Agreement.

31. Stewart acknowledges that he has been provided with a period of twenty-one (21) days to consider the terms of this offer from the date this Agreement first was presented to him on May 11, 1999. Stewart agrees that any changes to this offer, whether material or immaterial, will not restart the running of the 21-day period. Stewart agrees to notify Exide of his acceptance of this Agreement by delivering a signed and witnessed copy to Exide's Executive Vice President - Human Resources no later than June 2, 1999. Stewart understands that he may take the entire 21-day period to consider this Agreement. Stewart may return this Agreement in less than the full 21-day period only if his decision to shorten the consideration period is knowing and voluntary and was not induced in any way by Exide. By signing and returning this Agreement, Stewart acknowledges that the consideration period afforded Stewart a reasonable period of time to consider fully each and every term of this Agreement, including the release and covenant not to sue, and that Stewart has given the terms full and complete consideration.

32. Stewart acknowledges that he shall have seven (7) days after signing this Agreement to revoke it if he chooses to do so. If Stewart elects to revoke this Agreement, he shall give written notice of such revocation to Exide's Executive Vice President - Human Resources in such a manner that it is actually received within the seven (7) day period.

33. Stewart acknowledges that he has been advised to consult with legal counsel of his choosing, at his expense, regarding the meaning and binding effect of this Agreement and each and every term hereof prior to executing it. Stewart, intending to be legally bound hereby, certifies and warrants that he has read carefully this Agreement and has executed it voluntarily and with full knowledge and understanding of its significance, meaning and binding effect. Stewart further declares that he is competent to understand the content and effect of this Agreement.

[The balance of this page has been intentionally left blank.]

34. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, Stewart has executed this Agreement and Release on this  
\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Bernard F. Stewart

\_\_\_\_\_  
Witness

EXIDE CORPORATION

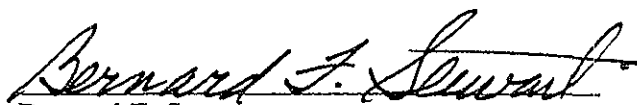
By: \_\_\_\_\_

Robert A. Lutz

\_\_\_\_\_  
Witness

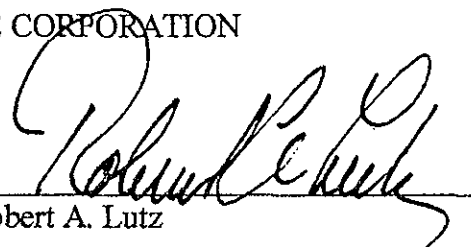
34. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, Stewart has executed this Agreement and Release on this  
23 day of July, 1999.

  
Bernard F. Stewart

\_\_\_\_\_  
Witness

EXIDE CORPORATION

By:   
Robert A. Lutz

\_\_\_\_\_  
Witness

## **EXHIBIT B**



HARNISCH & GADD, P.C.  
ATTORNEYS AND COUNSELORS  
30700 TELEGRAPH ROAD, SUITE 3475  
BINGHAM FARMS, MICHIGAN 48025-4527

ALAN C. HARNISCH  
LAWRENCE S. GADD  
PAULA JOHNSON-BACON

TELEPHONE (248) 644-8600  
FACSIMILE (248) 644-8344  
E-MAIL harnischlaw@aol.com

OF COUNSEL  
PAUL C. APAP  
LORI K. SHEMKA  
DAVID E. KATCHMAN

April 20, 2001

**SENT VIA FAX and FIRST CLASS MAIL**

Kenneth E. Kraus, Esq.  
Schopf & Weiss  
312 West Randolph Street, Suite 300  
Chicago, Illinois 60606

Re: **Bernard Stewart/Exide Corporation**  
**Subpoena to Appear Before Federal Grand Jury**  
**Case Number 01-30006-DRH (Southern District of Illinois)**

Dear Ken:

This is to confirm two of the items which we discussed during the meeting Ben Stewart and I had with you and Veronica Gomez at your offices on April 18, 2001.

Ben Stewart has been subpoenaed to appear before the Federal Grand Jury in East St. Louis, Illinois, a copy of which Subpoena I previously provided you. I have spoken with Assistant United States Attorney Miriam Miquelon and, at your request, adjourned Ben's appearance from April 18 to Tuesday, May 1, 2001. This extension was requested both so that Larry Urgenson is available to be present on May 1 and also so that you were able to meet with Ben prior to his appearance in East St. Louis.

We are in agreement that Ben should appear for an interview and possible Grand Jury appearance on May 1 and that such appearance qualifies as being "compelled to testify as a witness pursuant to a valid subpoena", pursuant to the last sentence of paragraph 21 of Ben Stewart's Agreement with Exide dated July 23, 1999, despite the fact that there may be objections which could be raised as to the validity of the subpoena and also that Ben may not actually appear before the Grand Jury on May 1.

This is also to request that Ben receive explicit and specific directions from Exide Corporation as to any attorney-client privilege (or any other privilege) which Exide may claim in conjunction with Ben's interview/Grand Jury appearance on May 1. Ben would prefer that these

Kenneth E. Kraus, Esq.  
Schopf & Weiss  
April 20, 2001  
Page 2

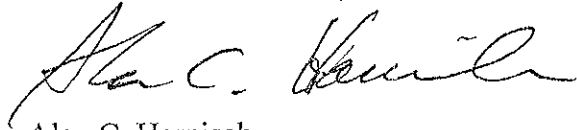
directions be provided to him in writing.

Additionally, I suggest that Ms. Miquelon be advised well in advance of May 1 of Exide's intention to assert the attorney-client privilege. It appears to me that it is in neither Exide's nor Ben Stewart's best interest to reveal that intent only on the day of the Grand Jury appearance/interview. However, I have not and will not inform Ms. Miquelon of Exide's assertion of privilege in advance of May 1 and will leave the timing and method of such assertion to Exide and its counsel.

Thank you for your attention to the matters contained in this letter and your continued cooperation and assistance regarding these matters.

Sincerely,

HARNISCH & GADD, P.C.

A handwritten signature in dark ink, appearing to read "Alan C. Harnisch", is written over the typed name.

Alan C. Harnisch

ACH:cc

CC: Bernard F. Stewart, Esq.  
Laurence A. Urgenson, Esq. (via facsimile and U.S. Mail)

## **EXHIBIT C**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	CRIMINAL NO.
vs.	)	
	)	
EXIDE ILLINOIS,	)	
a wholly owned subsidiary of the	)	
Exide Corporation,	)	
	)	
Defendant.	)	

PLEA AGREEMENT

The United States of America, by its counsel, W. Charles Grace, United States Attorney for the Southern District of Illinois, Miriam F. Miquelon and Hal Goldsmith, Assistant United States Attorneys for the Southern District of Illinois, and the Defendant, Exide Illinois, by its attorney, Laurence A. Urgenson, hereby notify the Court, pursuant to Rule 11 of the Federal Rules of Criminal Procedure, that the following Plea Agreement under Rule 11(e)(1)(C) has been negotiated and entered into:

1. Exide Illinois [hereinafter "Exide"], agrees to waive indictment and venue and will plead guilty through an authorized representative to Count One of the Information, a copy of which is attached hereto as Exhibit A. Exide is a wholly owned subsidiary of Exide Corporation [hereinafter "Corporation"] doing business in Illinois and elsewhere. Exide Corporation's principal place of business is Reading, Pennsylvania.

2. The Information charges Exide in Count One of violating Title 18, United States Code, Section 371, which statute carries a maximum penalty of 5 years probation, or a \$500,000

fine, or both. Exide is alternatively liable for a fine under Title 18, United States Code, Section 3571(d) which states:

If (the defendant) derives pecuniary gain from the offense, or if the offense results in pecuniary loss to a person other than the defendant, the defendant may be fined not more than the greater of twice the gross gain or twice the gross loss, unless imposition of a fine under this subsection would unduly complicate or prolong the sentencing process.

Exide agrees to plead guilty to Count One of the Information. The parties agree that a review of all the evidence would result in a determination that the gross gain to the Corporation and its wholly owned subsidiaries, including Exide, was at least twenty-seven million five hundred thousand dollars (\$27,500,000), thus resulting in a maximum alternative fine under 18 U.S.C. § 3571(d) of twenty-seven million five hundred thousand dollars (\$27,500,000). Exide affirmatively states that it has sufficient assets, to be provided by the Corporation, to pay this fine according to the "Installment Payment Terms" set forth hereinbelow and in the Judgment of Conviction, and that the Corporation has obtained and received the approval of its Board of Directors to pay the subject fine on behalf of the Corporation's wholly owned subsidiary, Exide Illinois. Both Exide and the Corporation agree that the Corporation shall be wholly and principally liable for the payment of the subject criminal fine and the Corporation also guarantees the payment of the criminal fine on behalf of Exide Illinois.

#### Installment Payment Terms

The Corporation shall pay the following annual fine amounts on a quarterly basis, on the first day of each quarter beginning after the date that the Judgment of Conviction is entered provided, however, that the total criminal fine of twenty-seven million five hundred thousand dollars (\$27,500,000) shall be paid in full before the expiration of the term of probation:

Year 1	\$3 million
Year 2	\$4 million
Year 3	\$5.5 million
Year 4	\$7 million
Year 5	\$8 million

3. The Government and Exide have agreed to recommend to the Court that a proper disposition of this matter is the payment of a criminal fine by Exide, as guaranteed by the Corporation of twenty-seven million five hundred thousand dollars (\$27,500,000), which is to be paid during the specified period of probation as set forth in the Installment Payment Terms and the Judgment of Conviction. Exide also agrees to pay the assessment of \$400 as required by 18 U.S.C. § 3013(a)(2)(B) (for offenses committed after April 24, 1996).

4. The Government and Exide have agreed that the disposition of this matter shall include a period of five years probation.

5. Provided the sentence imposed in this case does not exceed the recommendation set forth in paragraph 3 herein, Exide waives its right to appeal the sentence imposed, to challenge that sentence in any collateral proceeding, or to seek reduction of the sentence under Rule 35 of the Federal Rules of Criminal Procedure in exchange for the concessions made in this plea agreement.

6. Conditioned on Exide's compliance with all terms of this Plea Agreement, the United States agrees that it will not prosecute any other criminal charges against Exide or the Corporation for any matter relating to the contract between Exide and Sears, Roebuck & Co. and/or any other matters currently known to the government as a result of its investigation.

I.

7. Defendant will cooperate fully with the United States. Defendant agrees and acknowledges that its obligation to cooperate requires it to provide complete and truthful testimony under penalty of perjury before any Grand Jury or in any trial proceeding arising out of this investigation. This cooperation includes waiving its attorney-client privilege and attorney work product privilege as to witness statements of current and former employees. Defendant also agrees and acknowledges that it will make all reasonable efforts to encourage employees to provide complete and truthful testimony before any grand jury or any trial proceeding arising from the subject matter of this investigation, now or in the future. Furthermore, Defendant understands that this agreement requires it to testify concerning all criminal activity about which it knows, whether or not Defendant was itself involved.

8. Defendant also agrees and acknowledges that its obligation to cooperate requires it, upon request, to provide complete and truthful information to any Federal or State law enforcement agencies concerning any criminal activity about which it knows. Defendant agrees that any such information it provides law enforcement agencies will be complete and truthful.

9. Besides the foregoing, Defendant will do all things deemed reasonably necessary by the United States Attorney and/or any law enforcement agents to assist law enforcement personnel in their investigations into activities in which Defendant is involved or about which it knows arising out of this investigation.

10. Defendant further agrees that its obligation to cooperate includes providing information concerning its knowledge of criminal activity in the Southern District of Illinois, and elsewhere, including but not limited to all federal districts.

11. The United States will inform the Court of the extent of Exide's cooperation; however, Exide understands that the Court did not participate in this agreement, is not bound by any recommendations of the Government, and further, that except as provided under Rule 11(e)(1)(C), it will not be able to withdraw its plea of guilty, once entered.

12. Each person who signs this Plea Agreement in a representative capacity warrants that he or she is duly authorized to do so. A duly executed resolution of the Board of Directors of Exide approving this Plea Agreement is attached hereto as Exhibit B.

13. In conjunction with the provisions of paragraphs 7, 8, 9, and 10, above, Defendant specifically agrees and acknowledges that if it fails to comply with any reasonable request for cooperation, or does not cooperate fully or does not testify truthfully before the Grand Jury or at any trial in any federal district where a duly authorized representative is called by the United States as a witness, then the United States is completely released from any obligation arising from this agreement and Defendant is subject to full prosecution and punishment for any crime known to the Government at this time. It is further understood that no action taken by the Government, pursuant to this paragraph, will be grounds for Defendant to withdraw its plea.

14. Defendant acknowledges that it has been advised and does fully understand the following:

(a) the nature of the charges to which the plea is offered, the mandatory minimum penalty provided by law, if any, and the maximum possible penalty provided by law;

(b) that it has the right to plead not guilty or to persist in that plea if it has already been made, and it has the right to be tried by a jury and at that trial has the right to the assistance of counsel, the right to confront and cross-examine witnesses against it, and may, as a corporation, have the right not to be compelled to incriminate itself;



(c) that if it pleads guilty, there will not be a further trial of any kind, so that by pleading guilty, it waives the right to a trial;

(d) that if it pleads guilty, the Court may ask its representatives questions about the offense to which it has pleaded, and if it answers these questions under oath, on the record, and in the presence of counsel, its answers may later be used against it or its representatives in a prosecution for perjury or false statement; and,

(e) that if it pleads guilty, it will waive its right to persist in his plea of not guilty, to be tried by a jury, to have assistance of counsel at the trial, and to confront and cross-examine witnesses against it at trial.

15. Defendant agrees that this Plea Agreement and Stipulation of Facts constitutes the entire agreement between Exide Illinois and the United States and that no promises, inducements or representations, other than those specifically set forth in this Plea Agreement and Stipulation of Facts, were made to induce it to enter into this Plea Agreement and Stipulation of Facts.

16. Defendant understands that this offense is subject to provisions and guidelines of the Sentencing Reform Act of 1984 (Ch. II of the Comprehensive Crime Control Act of 1984, Public Law 98-173, Oct. 12, 1984), Title 28, United States Code, Section 994(a).

17. Defendant states that its representative has read this agreement and has discussed the agreement with its attorneys, and understands it.

18. Defendant understands and agrees that if Exide and/or the Corporation, through its officers, senior managers and/or directors, commit any offense in violation of federal, state, local law or violate any term or condition of this agreement, then the Government is not bound by the provisions in this plea agreement and may request that the Court impose on Defendant any penalty allowable by law, including the filing of additional charges or sentencing enhancement notices, in addition to any sanctions that may be imposed for violation of the Court's order setting the

Conditions of probation. No action taken or recommendation made by the Government pursuant to this paragraph will be grounds for Defendant to withdraw its plea.

19. This Plea Agreement may be executed in more than one counterpart, each of which shall constitute an original and all of which shall constitute one and the same Agreement.

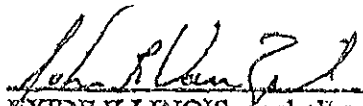
20. This Plea Agreement may not be altered, amended, modified, or otherwise changed except by a writing duly executed by each of the parties.

21. No additional promises, agreements, or conditions other than those referenced in this Plea Agreement will be entered unless in writing and signed by all parties.


II.

No matters are in dispute.

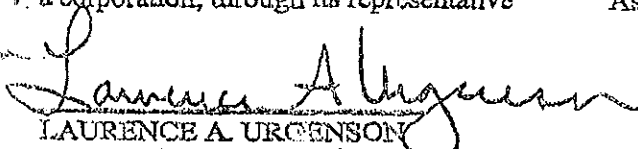
W. CHARLES GRACE  
United States Attorney  
Southern District of Illinois

  
EXIDE ILLINOIS, a wholly owned  
subsidiary of Exide Corporation  
Defendant  
through its representative

  
MIRIAM F. MIQUELON  
Assistant United States Attorney

  
EXIDE CORPORATION,  
a corporation, through its representative

  
HAL GOLDSMITH  
Assistant United States Attorney

  
LAURENCE A. URGENSON  
Attorneys for Defendant

Date: 3/23/01

Date: 3/23/01

## **EXHIBIT D**

**Alan Harnisch**

---

**From:** "Ken Kraus" <Kraus@sw.com>  
**To:** "Alan C. Harnisch" <ACH@harnischlaw.com>; "Bill Lucco" <blucco@lbmlaw.com>; "Burt Shostak" <bshostak@aol.com>; "C. Stanley Hunterton (E-mail)" <Hunterton@lvcn.com>; "Daniel R. O'Neill" <droneill@bryancave.com>; "Donald Wolff (E-mail)" <jazzcomx@aol.com>; "Gordon Ankney (E-mail)" <gankney@thompsoncoburn.com>; "Jeffrey Liebmann" <liebmann@snip.net>; "John J. O'Gara" <o'gara@compu-type.net>; "John P. Donohue" <jdonohue@donohueanddonohue.com>; "John Stobbs" <stobbslaw@aol.com>; "William S. Margulis (E-mail)" <billm@mgmlawfirm.com>  
**Cc:** "Ari Levine (E-mail)" <ALevine@exideworld.com>  
**Sent:** Wednesday, April 17, 2002 6:47 AM  
**Subject:** Exide Bankruptcy

Exide filed for Chapter 11 Bankruptcy protection on April 15, 2002. In Re Exide Technologies, No. 02-11125, in the District of Delaware. The court's web site is [www.deb.uscourts.gov](http://www.deb.uscourts.gov) <<http://www.deb.uscourts.gov>>. Kirkland & Ellis is handling the bankruptcy. I am unsure if unsecured creditors will be paid any portion of their outstanding receivable. In-house counsel has asked me to state that Exide has obtained \$425 million in new financing and will pay invoices within 30 days and would like you to continue to represent the witnesses you have as clients. If you have any questions, please call deputy general counsel Ari Levine at (609) 627-7229.

**CONFIDENTIALITY NOTICE:** This message and any attachments may contain confidential information which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution of, or the taking of any action in reliance on, the contents of this information is strictly prohibited. If you have received this message in error, please immediately notify us by email or telephone (312-701-9300) and delete all copies of this message and any attachments.

7/3/2002

**EXHIBIT E**



P.O. Box 500098  
Atlanta, GA 31150

Route: AA MAIL  
Advice No: 37090088  
Deposit Date: 04/09/02  
Period End: 04/15/02

1780758 STEWART, BERNARD F.

Separation	86.67	105.769	9,166.67	---Gross---	9,166.67	----	64,166.69
				FED Income T	4,733.41	----	33,133.87
				FED FICA w/h	562.31	----	3,936.20
				FED Medicare	131.51	----	920.56
				MI State Tax	391.85	----	2,742.95
				Medical	82.50	----	577.50
				Dental	14.58	----	102.06

\* Gross 86.67 9,166.67 \* Deductions 5,916.16 \* Net 3,250.51



P.O. Box 500098  
Atlanta, GA 31150

1780758 04/09/02 37090088

072000096 COMERICA BANK 6813584296 3,250.51

DEPOSITED FOR:

BERNARD F. STEWART  
500 OVERBROOK RD  
BLOOMFIELD HILLS MI 48302

AUTOMATIC PAYROLL  
BANK DEPOSIT  
NON NEGOTIABLE

**EXHIBIT F**

**HARNISCH & GADD, P.C.**  
**30700 Telegraph Road, Suite 3475**  
**Bingham Farms, MI 48025-4571**  
**(248) 644-8600**

June 14, 2002

Invoice submitted to:

Mr. Bernard Stewart  
500 Overbrook Road  
Bloomfield Hills MI 48302

Invoice# 8260

For Professional Services Rendered April 15, 2002 - May 31, 2002

Professional Services

			<u>Hrs/Rate</u>	<u>Amount</u>
	<u>Exide</u>			
04/16/2002	ACH	Telephone conference with J. Stobbs re trial developments in criminal trial in E. St. Louis and related matters.	0.30 250.00/hr	75.00
04/17/2002	ACH	Telephone conference with C. Turcotte re his request to accept subpoena on behalf of B. Stewart.	0.20 250.00/hr	75.00
04/18/2002	ACH	Telephone conference with C. Turcotte requesting acceptance of service of subpoena from D. Pearson; telephone conference with B. Stewart re same.	0.40 250.00/hr	100.00
	ACH	Telephone conference with J. Stobbs re status of trial.	0.20 250.00/hr	50.00
	ACH	Telephone conference with C. Turcotte re acceptance of service of subpoena on B. Stewart.	0.20 250.00/hr	50.00



			<u>Hrs/Rate</u>	<u>Amount</u>
04/18/2002	ACH	Telephone conference with B. Stewart re developments at trial; preparation for his trial testimony and re service of process.	0.50 250.00/hr	125.00
04/19/2002	ACH	Review of documents from prosecution team re B. B. Stewart and Defendants.	1.30 250.00/hr	325.00
04/22/2002	ACH	Telephone conference with J. Stobbs re criminal trial developments, including plea by A. Gauthier on 4/19/02 and effect on case.	0.50 250.00/hr	125.00
04/23/2002	ACH	Initial review of deposition transcripts of A. Hawkins, D. Pearson and A. Gauthier.	2.00 250.00/hr	500.00
	ACH	Telephone conference with B. Stewart re his review of deposition transcripts of defendant and re preparation for his trial testimony.	0.40 250.00/hr	100.00
04/24/2002	ACH	Telephone conference with B. Stewart re status of criminal trial in E. St. Louis and preparation for his trial testimony.	0.20 250.00/hr	50.00
04/25/2002	ACH	Telephone conference with C. Turcotte; review of letter from H. Ruvoldt; review of subpoena from defense counsel and duces tecum; draft letter to B. Stewart re same; related review of prior subpoena from defense team.	1.20 250.00/hr	300.00
04/26/2002	ACH	Telephone conference with J. Stobbs re developments in criminal trial.	0.30 250.00/hr	75.00
	ACH	Telephone conference with B. Stewart re status of criminal trial.	0.20 250.00/hr	50.00
	ACH	Telephone conference with Assistant United States Attorney H. Goldsmith re status of criminal trial from the Government's perspective and re when B. Stewart might testify.	0.30 250.00/hr	75.00
04/27/2002	ACH	Review of revised Motion to Quash by R. Luzader and exhibits thereto.	0.50 250.00/hr	125.00
	ACH	Review of draft Motion to Quash subpoenas from J. Stobbs; related review of FRCP and cited cases.	1.30 250.00/hr	325.00

			<u>Hrs/Rate</u>	<u>Amount</u>
04/29/2002	ACH	Review of letter from C. Turcotte; review of letter from H. Ruvoldt; review of subpoena and duces tecum schedule from defendant D. Pearson; letter to B. Stewart re same.	0.50 250.00/hr	125.00
	ACH	Telephone conference with J. Stobbs re update on developments in criminal trial.	0.50 250.00/hr	125.00
	ACH	Review of revised Motion to Quash by R. Luzader and exhibits thereto; preparation for filing Motion for B. Stewart.	0.70 250.00/hr	175.00
	ACH	Review of documents from client; draft letter for B. Stewart.	0.80 250.00/hr	200.00
04/30/2002	ACH	Legal research re Motion to Quash on Rule 17(C) and cases thereunder.	2.20 250.00/hr	550.00
	ACH	Redraft letter to B. Stewart.	0.10 250.00/hr	25.00
	ACH	Review of letter from B. Stewart and documents from Exide and forms for execution.	0.30 250.00/hr	75.00
05/01/2002	ACH	Legal research re Motion to Quash subpoena on B. Stewart; review of subpoenas duces tecum for B. Stewart; outlining Motion to Quash.	3.20 250.00/hr	800.00
	ACH	Review of memorandum from K. Kraus re matter.	0.10 250.00/hr	25.00
05/02/2002	ACH	Review and analysis of materials provided by B. Stewart.	0.40 250.00/hr	100.00
	ACH	Rough draft of Motion to Quash; related legal research on Rule 17(C).	2.50 250.00/hr	625.00
05/03/2002	ACH	Telephone conference with B. Stewart re status of criminal trial in E. St. Louis and related matters.	0.40 250.00/hr	100.00
	ACH	Review of correspondence re pending issues; review of proposed response letter.	0.50 250.00/hr	125.00

			<u>Hrs/Rate</u>	<u>Amount</u>
05/06/2002	ACH	Telephone conference with J. Stobbs re developments of court case in E. St. Louis.	0.30 250.00/hr	75.00
	ACH	Telephone conference with Assistant United States Attorney H. Goldsmith re documents to review for trial testimony preparation.	0.20 250.00/hr	50.00
05/07/2002	ACH	Telephone conference with K. Kraus re status of matter.	0.30 250.00/hr	75.00
	ACH	Review of correspondence from B. Stewart and enclosed documents.	0.30 250.00/hr	75.00
	ACH	Telephone conference with counsel.	0.20 250.00/hr	50.00
05/08/2002	ACH	Draft Motion to Quash Subpoenas Duces Tecum served on B. Stewart; related review of subpoena and file documents.	3.50 250.00/hr	875.00
	ACH	Telephone conference with B. Stewart re status of matter.	0.20 250.00/hr	50.00
05/13/2002	ACH	Telephone conference with T. McQueen, attorney for A. Hawkins, re status of case and re B. Stewart's possible testimony.	0.20 250.00/hr	50.00
	ACH	Telephone conference with B. Stewart re contact from A. Hawkins' counsel.	0.20 250.00/hr	50.00
	ACH	Review of case law on forthwith subpoenas.	0.50 250.00/hr	125.00
	ACH	Review of deposition transcripts of B. Stewart, key documents in file, file notes and memoranda in preparation for meeting with Assistant United States Attorney M. Miquelon; organize for meeting.	3.50 250.00/hr	875.00
	SKH	Conference with A. Harnisch; research re "forthwith" subpoenas.	0.50 190.00/hr	95.00
05/14/2002	ACH	Telephone conference with B. Stewart re preparation for trial testimony and related issues.	0.70 250.00/hr	175.00

			<u>Hrs/Rate</u>	<u>Amount</u>
05/14/2002	ACH	Telephone conference with Postal Inspector J. Clay re B. Stewarts' trial testimony and scheduling of same.	0.50 250.00/hr	125.00
	ACH	Telephone conference with B. Stewart re developments in criminal trial and re his trial testimony.	0.20 250.00/hr	50.00
	ACH	Telephone conference with Assistant United States Attorney H. Goldsmith re proposed direct exam of B. Stewart.	0.50 250.00/hr	125.00
05/15/2002	ACH	Conference with B. Stewart in preparation for his meeting with prosecution team in E. St. Louis on 5/17/02; review of notes of prior interviews of B. Stewart.	2.00 250.00/hr	500.00
	ACH	Telephone conference with J. Stobbs re status of criminal trial.	0.20 250.00/hr	50.00
05/16/2002	ACH	Telephone conference with B. Stewart in preparation for meeting with prosecution team on 5/17/02; related review of key file documents.	1.50 250.00/hr	375.00
	ACH	Telephone conference with B. Stewart in preparation for meeting with prosecution team on 5/17/02.	0.20 250.00/hr	50.00
05/17/2002	ACH	Telephone conference with B. Stewart re results of meeting with prosecution team in E. St. Louis today.	0.20 250.00/hr	50.00
	ACH	Additional telephone conference with B. Stewart re results of meeting with prosecution team in E. St. Louis.	0.20 250.00/hr	50.00
05/20/2002	ACH	Review of key documents in preparation for B. Stewart's trial testimony; outlining of possible cross-exam questions client may face at trial.	1.80 250.00/hr	450.00
	ACH	Telephone conference with K. Kraus re status of criminal trial.	0.20 250.00/hr	50.00
	ACH	Telephone conference with B. Stewart re preparation for trial testimony and issues related thereto.	0.30 250.00/hr	75.00
05/21/2002	ACH	Telephone conference with Inspector J. Clay re status of trial and re B. Stewart's testimony.	0.20 250.00/hr	50.00

			<u>Hrs/Rate</u>	<u>Amount</u>
05/21/2002	ACH	Telephone conference with Assistant United States Attorney H. Goldsmith re B. Stewart's trial testimony and schedule of same.	0.50 250.00/hr	125.00
	ACH	Conference with B. Stewart in preparation for his trial testimony in E. St. Louis.	2.50 250.00/hr	625.00
	ACH	Telephone conference with B. Stewart re preparation for his trial testimony.	0.20 250.00/hr	50.00
	ACH	Telephone conference with K. Kraus re status of criminal trial in E. St. Louis and re B. Stewart's testimony.	0.20 250.00/hr	50.00
05/22/2002	ACH	Telephone conference with K. Kraus re status of criminal trial.	0.20 250.00/hr	50.00
	ACH	Telephone conference with K. Kraus re Exide's position in criminal case.	0.20 250.00/hr	50.00
	ACH	Telephone conference with B. Stewart in preparation for his trial testimony.	0.20 250.00/hr	50.00
	ACH	Redraft of Motion to Quash subpoena from defendant D. Pearson; review of Court rules re same; review of subpoenas and duces tecum schedules; final redraft of Motion to Quash.	3.30 250.00/hr	825.00
	ACH	Organization of pleadings and documents for B. Stewart's testimony in E. St. Louis on 5/23/02 and 5/24/02.	0.50 250.00/hr	125.00
	ACH	Telephone conference with Postal Inspector J. Clay re results of trial today and re B. Stewart's possible testimony on 5/23/02 or 5/24/02.	0.50 250.00/hr	125.00
05/23/2002	ACH	Telephone conference with M. Miquelon re trial status.	0.20 250.00/hr	50.00
	ACH	Review of letter from K. Kraus; letter to B. Stewart re same.	0.20 250.00/hr	50.00
05/24/2002	ACH	Telephone conference with B. Stewart re developments in court today.	0.20 250.00/hr	50.00

			<u>Hrs/Rate</u>	<u>Amount</u>
05/24/2002	ACH	Telephone conference with B. Stewart re his court testimony E. St. Louis on 5/28/02.	0.20 250.00/hr	50.00
05/28/2002	ACH	Telephone conference with counsel re matters.	0.20 250.00/hr	50.00
	ACH	Telephone conference with B. Stewart re status of testimony to date.	0.30 250.00/hr	75.00
05/31/2002	ACH	Telephone conference with B. Stewart re his testimony in E. St. Louis 5/30/02.	0.30 250.00/hr	75.00
	SUBTOTAL:		[ 50.70	12,645.00]
	For professional services rendered		50.70	\$12,645.00
	Additional Charges:			
	<u>Exide</u>			
03/31/2002		St. Louis Trip Expenses - Airfare		160.00
		St. Louis Trip Expenses - Car Rental		32.21
		St. Louis Trip Expenses - Hotel and Meals		150.22
		St. Louis Trip Expenses - Parking		20.00
05/31/2002		Photocopies		134.20
		Facsimile		117.75
		Postage		6.40
	SUBTOTAL			[ 620.78]
	Total costs			\$ 620.78
	Total amount of this bill			\$13,265.78
	Previous balance			\$11,623.89
	Balance due			<u>\$24,889.67</u>

**HARNISCH & GADD, P.C.**  
**30700 Telegraph Road, Suite 3475**  
**Bingham Farms, MI 48025-4571**  
**(248) 644-8600**

July 15, 2002

Invoice submitted to:

Mr. Bernard Stewart  
500 Overbrook Road  
Bloomfield Hills MI 48302

Invoice# 8308

For Professional Services Rendered June 1, 2002 - June 30, 2002

Professional Services

			<u>Hrs/Rate</u>	<u>Amount</u>
		<u>Exide</u>		
06/03/2002	ACH	Review of documents from client.	0.50 250.00/hr	125.00
06/04/2002	ACH	Telephone conference with B. Stewart re his testimony as Government witness in East St. Louis and re possible recall by prosecution.	0.80 250.00/hr	200.00
	ACH	Telephone conference with B. Stewart and co-counsel re B. Stewart's rights and legal position.	0.70 250.00/hr	175.00
	ACH	Review of documents from client.	0.70 250.00/hr	175.00
	ACH	Telephone conference with counsel.	0.20 250.00/hr	50.00

			<u>Hrs/Rate</u>	<u>Amount</u>
06/11/2002	ACH	Telephone conference with H. Ruvoldt re B. Stewarts' testimony on subpoena of D. Pearson.	0.20 250.00/hr	50.00
	ACH	Telephone conference with C. Turcotte re testimony of B. Stewart and timing of same.	0.20 250.00/hr	50.00
	ACH	Telephone conference with B. Stewart re subpoena from defense to testify on behalf of D. Pearson; related review of file.	0.50 250.00/hr	125.00
	ACH	Letter to B. Stewart; related review of file documents.	0.40 250.00/hr	100.00
	ACH	Draft letter re matter.	0.30 250.00/hr	75.00
06/13/2002	ACH	Telephone conference with B. Stewart re his trial testimony on 6/12 and re possible rebuttal testimony for the Government.	0.50 250.00/hr	125.00
	ACH	Telephone conference with counsel.	0.20 250.00/hr	50.00
06/19/2002	ACH	Telephone conference with B. Stewart re preparation for additional trial testimony and re contact from Postal Inspector J. Pitterle.	0.40 250.00/hr	100.00
06/20/2002	ACH	Telephone conference with J. Stobbs re verdict in criminal case.	0.20 250.00/hr	50.00
06/21/2002	ACH	Telephone conference with B. Stewart re results of criminal trial and re fallout from same and re his role.	0.40 250.00/hr	100.00
		SUBTOTAL:	[ 6.20	1,550.00]
		For professional services rendered	6.20	\$1,550.00



## Additional Charges:

		<u>Amount</u>
	<u>Exide</u>	
06/30/2002	Postage	2.25
	Facsimile	20.25
	Photocopies	4.64
	SUBTOTAL	<u>[ 27.14]</u>
	Total costs	<u>\$ 27.14</u>
	Total amount of this bill	<u>\$1,577.14</u>
	Previous balance	\$24,889.67
	Balance due	<u><u>\$26,466.81</u></u>

**EXHIBIT G**



GE Capital Fleet Services

# CUSTOMER ARRANGED OFFER TO PURCHASE

Year 1999 Make Chrysler Fleet 002887 Unit 3813  
Model 300M VIN 2C3HE66G9X1155544

A 1. Sale Price: Price at which vehicle is sold to Purchaser. For leased vehicles, no less than the Fair Market Value will be accepted. (100% AMR "Clean" will also be accepted.) This amount will be on the Bill of Sale.		\$ <u>12,430.00</u>	
2. Sales Tax (leased vehicles ONLY): Based on sale price for vehicles to be titled in (based on purchaser's address [B]): AL, AZ, CA, CT, FL, GA, HI, ID, IL, ME, MI, MS, NV, NJ, NY, OH, SC, TN, and WA. Sales tax must be collected by GECFS at the time of sale. For tax rate and amount call GECFS customer service.		\$ .00	
3. Administration Fee:		\$ 75.00	
4. Remittance Amount: Amount Customer and Purchaser have agreed will be sent to GECFS at one of the Illinois mailing addresses shown below. For leased vehicles GECFS requires amount must be no less than remaining Book Value plus 2 & 3. Failure to send full required amount will delay sale.		\$ <u>12,505.00</u>	
*B Purchaser Information (Name(s) as should appear on title) <input type="checkbox"/> Lessee or Employee of Lessee <input type="checkbox"/> Other			
Full name(s)			
Street Address		City	
State	Zip	County	Home #
		Work #	
C <input type="checkbox"/> Send Title To: (Only if Different from Purchaser) <input type="checkbox"/> Add as Lienholder and Mail To <input type="checkbox"/> Add as Lienholder Only			
Name		Phone #	
Street Address		City	State Zip
*D By signing below, Purchaser is agreeing to all terms and conditions stated on pages 1 and 2.			
AS IS - NO WARRANTY Purchaser pays all cost for any repairs. Neither Seller nor Lessor assumes responsibility for any repairs of any oral statements about this vehicle.			
Purchaser's Signature		Date	
E By signing below, Customer is agreeing to all terms and conditions stated on pages 1 and 2.			
Customer Name <u>Exide Technologies</u>			
Customer Representative (Print) <u>Latoria Ingram</u>		Phone <u>678-560-9133</u>	
Customer Representative (Sign) <u>Latoria Ingram</u>		Date <u>4-26-03</u>	

Payment: Attach money order(s) or certified or cashier's check(s) (with Fleet and Unit number written on it) for the Remittance Amount (from A4) payable to: "GECFS by APEX as AGENT". GECFS may appoint APEX FLEET as its agent to sell its leased vehicles & acceptance of this Offer by either GECFS or APEX Fleet is binding on GECFS. No personal checks or drafts will be accepted. Restrictive statements such as "Paid in Full" are not acceptable and the amount of the check will be returned to Purchaser (without interest) even if the funds have been deposited. MAIL TO ONE OF THE ADDRESSES BELOW: We recommend use of express delivery to ensure timely delivery. To avoid delays, DO NOT mail offers direct to our Eden Prairie office.

U.S. MAIL:  
GE Capital Fleet Services  
Attention RS  
Suite 1230  
Chicago, IL 60675-1230

EXPRESS DELIVERY (Not U.S. Postal Service)  
GE Capital Fleet Services  
350 North Orleans Street  
Receipt & Dispatch 8th Floor Ste 1230  
Chicago, IL 60654  
Phone: 800-469-0044

GECFS ODOMETER STATEMENT AND PAYMENT IN FULL MUST BE ATTACHED

Seller  
GE Capital Fleet Services  
Three Capital Drive  
Eden Prairie, MN 55344



GE Capital  
Fleet Services

FLEET/UNIT \_\_\_\_\_

002887/00003813

# BILL OF SALE, ODOMETER STATEMENT AND TAX CERTIFICATE

## BILL OF SALE

TWELVE THOUSAND FOUR HUNDRED THIRTY AND 00/100 DOLLARS

In consideration of 12430.00

Dollars (\$ \_\_\_\_\_) the undersigned Transferor (Seller) does hereby sell, transfer and deliver unto the undersigned Transferee (Buyer), all right, title and interest in and to the vehicle described below "AS IS", with no implied warranties. Transferee (Buyer) agrees to INDEMNIFY and hold Transferor (Seller) harmless from any claims that may arise with respect to the physical or mechanical condition of the vehicle.

ALL WARRANTIES, EXPRESS OR IMPLIED, OF QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY ARE HEREBY EXCLUDED.

## ODOMETER DISCLOSURE STATEMENT

Federal law (and State law, if applicable) requires that you state the mileage upon transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment.

I, GELCO CORPORATION (Transferor's Name, Print) state that the odometer now reads 49578 (no tenths) miles and to the best of my knowledge that it reflects the actual mileage of the vehicle described below, unless one of the following statements is checked.

- ☐ (1) I hereby certify that to the best of my knowledge the odometer reading reflects the amount of mileage in EXCESS of its mechanical limits. (The odometer has started at zero again.)
- ☐ (2) I hereby certify that the odometer reading is NOT the actual mileage, WARNING - ODOMETER DISCREPANCY.

YEAR	MAKE	MODEL	BODY TYPE	VEHICLE IDENTIFICATION NUMBER
99	CHRY	300M	SEDAN	2C3HE6669XH555664

TRANSFEROR'S ADDRESS Three Capital Drive, Eden Prairie, MN 55344 street city state zip code		DATE 06/26/02	
TRANSFEROR'S SIGNATURE <i>[Signature]</i> PRINTED NAME JON AMB		TRANSFEEE'S SIGNATURE  PRINTED NAME  	
TRANSFEEE'S NAME BERNARD F STEWART			
TRANSFEEE'S ADDRESS 500 OVERBROOK ROAD street city state zip code			

Federal regulations require that you sign and complete this statement and return it to GE Capital Fleet Services.

## TAX CERTIFICATE

THIS WILL CERTIFY THAT SALES/USE TAX IN THE AMOUNT OF \$ 745.80 HAS BEEN COLLECTED

FROM BUYER ON ABOVE DESCRIBED VEHICLE. THIS TAX HAS BEEN REMITTED TO THE STATE OF MICHIGAN

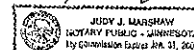
U-ME-0101597

UNDER OUR REGISTRATION # \_\_\_\_\_

Certified a true signature before me

*[Signature]*  
SIGNATURE OF (TRANSFEROR) SELLER

*[Signature]*



PURCHASER COPY

TS  
1-1015 (1/00)

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:	:	Chapter 11
	:	
EXIDE TECHNOLOGIES, et al.,	:	Case No. 02-11125 (JCA)
	:	
Debtors.	:	(Jointly Administered)
	:	HEARING DATE: SEPTEMBER 18, 2002 @ 4:00 p.m..
	:	OBJECTION DEADLINE: SEPTEMBER 13, 2002 4:00 p.m.

**ORDER GRANTING MOTION BY BERNARD F. STEWART FOR ALLOWANCE AND  
PAYMENT OF ADMINISTRATIVE EXPENSE CLAIMS**

UPON CONSIDERATION of the Motion by Bernard F. Stewart for Allowance and Payment of Administrative Expense Claims, any and all responses thereto; adequate notice of the Motion having been given; and this Court being fully advised in the premises:

IT IS HEREBY ORDERED that the Motion is GRANTED;

IT IS FURTHER ORDERED that Bernard F. Stewart is entitled an administrative expense claim in the amount of \_\_\_\_\_;

IT IS FURTHER ORDERED that Debtors are to make payment in the amount of \_\_\_\_\_ as an administrative expense claim within ten (10) days of the date of this Order.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

---

Honorable John C. Akard  
United States Bankruptcy Court

CERTIFICATE OF SERVICE

I, Jason C. Powell, Esquire, hereby certify that on this 30<sup>th</sup> day of August, 2002, I caused a true copy of Motion By Bernard F. Stewart for Allowance and Payment of Administrative Expense Claims, to be delivered in the manner noted to the below listed counsel, except to the extent that notice is effectuated through CM/ECF:

ALL PARTIES LISTED ON THE 2002 SERVICE LIST

/s/Jason C. Powell  
JASON C. POWELL, ESQUIRE

Document No. 44763  
023 - Hand Delivery  
006 - Overnight Delivery  
119 - First Class Mail  
001 - Foreign First Class Mail

(Counsel to Debtors)  
Laura Davis Jones, Esquire  
Pachulski, Stang, Ziehl, Young & Jones P.C.  
919 North Market Street, 16th Floor  
P.O. Box 8705  
Wilmington, DE 19899-8705

**Hand Delivery**  
(U.S. Trustee)  
Mark Kenney, Esquire  
Office of the United States Trustee  
844 King Street, Room 2313  
Lockbox 35  
Wilmington, DE 19801

**Hand Delivery**  
(U.S. Attorney)  
Ellen W. Slights, Esquire  
U.S. Attorneys Office  
1201 N. Market Street  
Wilmington, DE 19801

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(Counsel to American Electric Power, Detroit Edison Company, Metropolitan Edison Company, First Energy Company, Georgia Power Company, TXU Gas, TXU

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