IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

IN RE:	:	Chapter 11
	:	
EXIDE TECHNOLOGIES, INC., et al.	:	Case No. 02-11125 (KJC)
	:	(Jointly Administered)
	:	
	:	**Objection deadline: August 19, 2003 at 4:00 p.m.**
	:	**Hearing date: August 25, 2003 at 10:00 a.m.**
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	:	***Related to Docket No. 2097***

OBJECTION OF ENERSYS, INC. TO DISCLOSURE STATEMENT FOR DEBTORS' FIRST AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE

EnerSys, Inc. ("**EnerSys**") by and through its counsel, objects to the Debtors' request for approval of the Disclosure Statement for Debtors' First Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code (the "**Disclosure Statement**")[1] (Docket No. 2097) on the following bases:

BACKGROUND

1. In 1991, EnerSys purchased the Debtors' industrial battery division for about $135.0 million, including assumed liabilities.

2. The entire purchase price was paid on or shortly after the closing in 1991.

3. In connection with the sale, EnerSys purchased the right to use, among other things, the tradename and trademark "Exide" on industrial batteries. Because, following the sale to EnerSys, the Debtors required the ability to use the Exide tradename for corporate purposes and the Exide trademark on batteries manufactured for non-industrial use, the rights sold to EnerSys in the Exide tradename and trademark were evidenced by a perpetual, worldwide, exclusive, royalty free license agreement (the "**Trademark License Agreement**").

4. The Debtors have moved (the "**Rejection Motion**") to reject the Trademark License Agreement as well as five other agreements, including the agreement of sale, executed in connection with the 1991 Transaction (collectively, the "**Agreements**"). EnerSys has objected to the Debtors' attempt to reject the Agreements. Trial on the Rejection Motion is presently scheduled for October 9 and 10, 2003.

5. While EnerSys believes it will prevail on its objection to the Rejection Motion, if the Debtors prevail, EnerSys will have a rejection damage claim exceeding $50.0 million, making it one of the largest unsecured creditors of the Debtors.

OBJECTION

6. Pursuant to 11 U.S.C. Section 1125(a), a disclosure statement may not be approved unless it contains sufficient information to allow a hypothetical reasonable investor to make an informed judgment about the plan. *In re Phoenix Petroleum Co.*, 278 B.R. 385, 392 (Bankr. E.D. Pa. 2001); *First American Bank v. Century Glove, Inc.*, 81 B.R. 274, 278 (D. Del 1988); *In re Okan's Foods*, 217 B.R. 739, 752 (Bankr. E.D. Pa. 1998). The Disclosure Statement fails to meet the mandatory requirements of 11 U.S.C. Section 1125 for the following reasons:

(a) The most obvious defect in the Disclosure Statement is the failure to include any information about the pending Rejection Motion. In connection with the Rejection Motion, EnerSys served interrogatories which the Debtors have answered. Among the interrogatories served by EnerSys was one which asked the Debtors to identify the economic benefit to the Debtors if they were to prevail on the Rejection Motion. In response, the Debtors' stated, in relevant part:

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[1] Capitalized terms used but not defined herein shall have the meaning stated in the Debtors' First Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (the "**Plan**").

> [T]he economic benefit of rejecting the Trademark License Agreement are all of those benefits which would accrue from the Debtors' ability going forward to own and use the Marks, including for the purposes of marketing industrial batteries, in the same way Debtors' currently market transportation batteries. In addition to doing away with the need and expense of using a variety of different trademarks for industrial batteries, the Debtors would enjoy tremendous economic benefits from being able to market all of its products under a single, powerful brand ("Exide"). (emphasis supplied). Debtors Supplemental Objections and Responses to First Set of Interrogatories of EnerSys Addressed to Debtor.

(b) On August 4, 2003, EnerSys took the deposition of Lisa Donohue, the Chief Restructuring Officer of the Debtors. In response to questions posed by counsel to EnerSys, Ms. Donohue confirmed that neither the projections attached as Exhibit "C" to the Disclosure Statement (the "**Projections**") nor the $950.00 million total enterprise value estimated by Blackstone and stated in the Disclosure Statement (the "**Total Enterprise Value**") assumed that the Debtor would prevail on the Rejection Motion.[2] As a result, neither the Projections nor the Total Enterprise Value, each of which contains information which is critical to creditors attempting to determine how to vote on the plan, factor in the "tremendous economic benefits" which will, according to the Debtors, be realized if the Rejection Motion is granted.

(c) Simply put, the Debtors can not have it both ways. They can not assert that "tremendous economic benefits" will result from success on the Rejection Motion in order to increase their chances of success on the Rejection Motion and then, when recognition of such benefits would be inconvenient, such as in connection with a plan which effectively wipes out unsecured creditors, simply ignore the same benefits.

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[2] Ms. Donohue also testified that she suspected that the Projections would change if the Debtors were to succeed on the Rejection Motion but that the Debtors did not intend to prepare any projections or enterprise valuations which assume success on the Rejection Motion.

(d) The Debtors should be required to amend the Disclosure Statement to describe the pending Rejection Motion and to state the impact success on the Rejection Motion would have on the Projections and the Total Enterprise Value.

7. EnerSys reserves the right to join in objections to the Disclosure Statement filed by any other party.

WHEREFORE, EnerSys requests that an order be entered denying approval of the Disclosure Statement .

Dated: August 19, 2003

STEVENS & LEE

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