

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	§	Chapter 11
	§	
EXIDE TECHNOLOGIES, <u>et al.</u> ,	§	Case No. 02-11125(KJC)
	§	
Debtors.	§	(Jointly Administered)

**OBJECTION OF CARROLLTON-FARMERS BRANCH
INDEPENDENT SCHOOL DISTRICT TO CONFIRMATION OF THE
DEBTORS' THIRD AMENDED JOINT PLAN OF REORGANIZATION**

TO THE HONORABLE JUDGE OF SAID COURT:

The Carrollton-Farmers Branch Independent School District (hereinafter “CFBISD”) hereby objects to the confirmation of Debtors’ Third Amended Joint Plan of Reorganization (hereinafter “the Plan”) and, in support thereof, would show the Court the following:

1. CFBISD is the holder of secured claims totaling \$93,051.20 for ad valorem taxes assessed for the 2001 and 2002 tax years on real property and business personal property located within CFBISD’s taxing jurisdiction. Pursuant to Texas Tax Code §§32.01(a) and 32.05, CFBISD’s taxes are secured by statutory, first priority liens. Furthermore, pursuant to Texas Tax Code §32.01(b), the statutory tax liens on Debtors’ business personal property are liens *in solido* and attach to all of Debtors’ personal property.

2. CFBISD objects to confirmation of the Plan because the Plan fails to adequately provide for the treatment of CFBISD’s secured claims as required by 11 U.S.C.A. §1129(b)(2)(A). Presumably under the Plan, CFBISD’s claims would be treated under Class P2 as “other secured claims”, although the Plan does not specifically state that this class includes secured tax claims. The treatment of Class P2 under the Plan is extremely vague and is not appropriate for secured tax claims. The Plan provides three possible treatments for Class P2 claims, none of which are appropriate for CFBISD’s secured tax claims. Whether Debtors

leave CFBISD's "legal, equitable and contractual rights" unaltered by the Plan, surrender the collateral or treat CFBISD's Class P2 claims "in any other manner so that such Claim shall otherwise be rendered Unimpaired pursuant to section 1124 of the Bankruptcy Code," the Plan fails to provide how and when CFBISD's taxes will be paid, what interest will be paid on CFBISD's claims both pre and post-confirmation, or what remedies CFBISD will have in the event Debtors' default under the Plan.

3. CFBISD further objects to the Plan because it fails to specifically provide for retention of CFBISD's statutory tax liens until CFBISD's taxes are paid in full. Article V of the Plan states that, except as otherwise provided in the Plan, the property will vest in the Reorganized Debtors free and clear of all liens. However, Section 1129(b)(2)(A)(i)(I) requires that that CFBISD's liens be retained. *See*, 11 U.S.C.A. §1129(b)(2)(A)(i)(I).

4. CFBISD further objects to the Plan to the extent that Article VIII of the Plan provides that no payments will be made on Allowed Claims if the holder of the Allowed Claims is also the holder of Disputed Claims until the Disputed Claims are resolved. CFBISD holds multiple claims against Debtors and should be paid its Allowed Claims whether or not Debtors dispute one or more of CFBISD's claims.

5. CFBISD further objects to confirmation of the Plan to the extent that it fails to provide for payment of interest on CFBISD's claim pursuant to §506(b) of the Bankruptcy Code and fails to provide for payment of post-confirmation interest on CFBISD's claims. Pursuant to Section 33.01 of the Texas Tax Code, the statutory interest rate for unpaid property taxes is 12% per year. Payment of interest on CFBISD's claims is required to provide CFBISD, at the time of payment, the present value of its claims as of the effective date as required by 11 U.S.C.A. §1129(b)(2)(A)(i)(II).

6. CFBISD objects to confirmation of the Plan to the extent that it fails to clearly specify the date by which Debtors must complete and file objections to claims.

7. CFBISD further objects to confirmation of the Plan to the extent that it fails to include any default provisions detailing the rights of creditors in the event Debtors default under the Plan.

WHEREFORE, PREMISES CONSIDERED, CFBISD respectfully request that confirmation of Debtors' Third Amended Joint Plan of Reorganization be denied.

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-and-

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Dated: October 6, 2003