

Objection Deadline: To be determined
Hearing Date: To be determined

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re : Chapter 11
Oldco M Corporation :
(f/k/a Metaldyne Corporation), *et al.*, : Case No. 09-13412 (MG)
Debtors. : (Jointly Administered)
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**MOTION OF THE OLDSCO M DISTRIBUTION TRUST FOR AN
ORDER EXTENDING DEADLINE FOR TRUSTEE TO OBJECT TO CLAIMS**

TO THE HONORABLE MARTIN GLENN
UNITED STATES BANKRUPTCY JUDGE:

The Oldco M Distribution Trust (the "Trust") respectfully represents as follows:

I. Background

1. On May 27, 2009 (the "Petition Date"), Oldco M Corporation (f/k/a Metaldyne Corporation) and 30 of its domestic direct and indirect subsidiaries, as debtors and debtors in possession (collectively, the "Debtors"), filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). By an order entered on May 29, 2009, the Debtors' chapter 11 cases were consolidated for procedural purposes and thereafter were jointly administered (Docket No. 65).

2. Shortly after the Petition Date, the Debtors filed motions (Docket Nos. 214 and 323) to sell a majority of their assets and to establish an auction process or processes and bid procedures to consummate these sales, and also began the process of marketing their other business units for sale. On August 5, 2009 and August 6, 2009, the Debtors held an auction, pursuant to which MD Investors Corporation ("MD Investors") presented a bid for the assets, which included a cash component, a credit bid component and other consideration. On August 12, 2009, the Court entered an Order (Docket No. 674) (the "Sale Order") authorizing the sale to MD Investors of substantially all of the Debtors' assets free and clear of all liens, claims, interests and encumbrances (the "MD Investors Transaction"). The MD Investors Transaction closed on October 16, 2009.

3. On June 5, 2009, the Court entered the Administrative Order, Pursuant to Rule 1015(c) of the Federal Rules of Bankruptcy Procedure, Establishing Case Management and Scheduling Procedures (Docket No. 133) (the "Case Management Order"). Pursuant to Paragraph 14 of the Case Management Order,

[i]f a Motion to extend the time for the Debtors to take any action is filed before the expiration of the period prescribed by the . . . provisions of any order entered by this Court, the time shall automatically be extended until the Court acts on the Motion, without the necessity for the entry of a bridge order, provided that

the Court has the authority to extend the time for the Debtors to take such action.

See Case Management Order at ¶ 14, p. 11.

4. On January 11, 2010, the Debtors filed their Second Amended Joint Plan of Liquidation of Debtors and Debtors in Possession (Docket No. 1180) (the “Plan”) and the related Disclosure Statement. On February 23, 2010, the Court entered an Order confirming the Plan and substantively consolidating these bankruptcy cases (Docket No. 1384) (the “Confirmation Order”), and on March 30, 2010, the Plan became effective (the “Effective Date”). As of the Effective Date, the Debtors were dissolved and the Oldco M Distribution Trust was created in order to liquidate the Debtors’ remaining assets (including any claims and causes of action possessed by the Debtors), litigate and resolve claims filed against the Debtors’ estates, make distributions to creditors and take other actions permitted by Section III.C of the Plan.

5. The Plan provided that the Trustee (as defined below) could object to claims filed against the Debtors’ bankruptcy estate until a certain Claims Objection Bar Date.¹ Specifically, the Plan provided that “[t]he . . . Trustee may object to any Claims² it believes warrant the Filing of an objection prior to the Claims Objection Bar Date.” See Plan at § VI.B(5), p. 32. The Plan further provided that “[u]pon motion to the Bankruptcy Court, the . . . Trustee may request, and the Bankruptcy Court may grant, an extension to the Claims Objection Bar Date generally or with respect to a specific list of Claims. Any extension granted by the Bankruptcy Court shall not

¹ “Claims Objection Bar Date” was defined in the Plan to mean “the latest of: (a) 270 days after the Effective Date; (b) 75 days after the Filing of a proof of Claim for such Claim; and (c) such other period of limitation as may be specifically fixed by the Plan, the Confirmation Order, the Bankruptcy Rules or a Final Order for objecting to such Claim.” See Plan at § I.A(22), p. 3. 270 days after the Effective Date was December 25, 2010, which was an official Court holiday. In addition, the Court was officially closed on December 27, 2010 due to inclement weather. Accordingly, the Claims Objection Bar Date is December 28, 2010.

² Capitalized terms used with respect to Plan provisions but not defined shall have the meaning ascribed to them in the Plan.

be considered to be a Plan modification under section 1127 of the Bankruptcy Code.” See Plan at § VI.B(5), p. 32.

6. Since the Effective Date, Executive Sounding Board Associates, Inc., the trustee of the Trust (the “Trustee”), has been fulfilling its duties under the Plan, including the liquidation of the remaining assets. Specifically, the Trustee has been:

- Closing on and completing the sale of the Debtors’ Farmington Hills property for \$1,250,000.
- Closing on and completing the sale of the Debtors’ New Castle property for \$1,250,000.
- Making multiple visits to the Debtors’ headquarters.
- Making provisions at a local Michigan offsite storage facility for record retention.
- Closing fifty-two of the Debtors’ bank accounts at JP Morgan Chase.
- Preparing for and filing for bankruptcy (assignment) of the Metaldyne entity in Canada, which filed on October 22, 2010. The Trust filed a proof of claim against the Metaldyne entity in Canada in the amount of \$9.6 million, related to accrued management and royalty fees less amounts owed the Canadian entity in other intercompany transactions. The Trustee is serving as an inspector to the Canadian proceedings.
- Conducting weekly conference calls with Accretive Solutions, the professionals managing the claims matters, and coordinating efforts with Reed Smith LLP and BMC along with Accretive to expedite the handling of the claims.
- Reviewing and filing objections to administrative expense claims.

- Reviewed and resolved administrative expense claims of the various estate professionals.
- Working to reconcile and resolve account differences with Ford during the transition processing agreement.
- Sending correspondence to various claimants seeking additional information on their claims in order to streamline the claim objection process.
- Working with claimants to attempt to resolve the Trust's objections to claims.
- Sending more than 500 preference demand letters with respect to transfers made in the ninety days prior to the Petition Date. Negotiating and settling several preference demands, including collecting over \$350,000 in preference recoveries (which is currently held in the Trust's counsel's IOLTA account).
- Purchasing software in order to complete the Debtors' tax returns and hiring RSM McGladrey to prepare such tax returns.
- Timely filed the Federal Tax Return for the Estate due 12/15/10 and related state returns due on the same date. Also in the process of preparing the State Tax Returns with a due date of 1/15/2011.
- Settled a claim against the City of Litchfield for \$175,000 of which \$150,000 has been paid and the remainder of the proceeds is scheduled to be paid in February 2011.
- Negotiating a settlement of tax claims with the City of New Castle and Henry County in Indiana relating to the New Castle property, which resulted in an approximate reduction of \$300,000.

- Negotiating a settlement with the Internal Revenue Service in excess of \$1 million. The trust is working to finalize the amount.
- Conducting discovery with respect to the administrative expense claim of Ferguson Integrated Services.
- Winding down the foreign subsidiaries per the Plan.

Although this is not an exhaustive list, it highlights some of the significant duties that the Trustee has been fulfilling since the Effective Date.

II. Relief Requested

7. Pursuant to Section VI.B(5) of the Plan, the Trustee respectfully requests a six month extension of its time to object to claims against the estate.

III. Basis for the Relief Requested

8. Section 1141(a) of the Bankruptcy Code provides that the provisions of a confirmed plan bind all creditors and equity security holders under the plan “whether or not such creditor, equity security holder, or general partner has accepted the plan.” 11 U.S.C. § 1141(a). In the instant case, the confirmed Plan expressly provides the Court with the discretion to extend the deadline to object to claims against the estate.

9. The Trustee has been working diligently since its appointment. Over the last several months the Trustee has been engaged in a significant amount of activities more particularly described above. Despite its best efforts, the Trustee has not been able to complete its analysis of the claims filed against the estate. While working towards resolving these claims the Trustee has diligently been requesting additional information from claimants to be thorough and complete if an objection is necessary. Accordingly, the Trustee respectfully requests a six month extension of the time to object to such claims pursuant to the provisions of Section VI.B(5) of the Plan.

IV. Notice

10. Notice of this Motion has been served in accordance with the procedures set forth in the Case Management Order on the parties identified on the Special Service List and the General Service List (as such terms are defined in the Case Management Order). The Trust submits that no other or further notice need be provided.

WHEREFORE, based on the foregoing, the Trustee respectfully requests that the Court enter an order extending the deadline for the Trustee to object to claims against the bankruptcy estate thirty (30) days and granting such other and further relief as is just and proper.

Dated: December 28, 2010
New York, New York

Respectfully submitted,

/s/ Mark D. Silverschotz
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