

Hearing Date: September 30, 2013  
Hearing Time: 10:00 A.M. (ET)

**FOX ROTHSCHILD LLP**

75 Eisenhower Parkway, Suite 200  
Roseland, NJ 07068

- and -

100 Park Avenue, 15<sup>th</sup> Floor  
New York, NY 10017

RICHARD M. METH, ESQ. (RM7791)(admitted *pro hac vice*)

rmeth@foxrothschild.com

Telephone: 973-992-4800

- and -

**BINGHAM GREENEBAUM DOLL LLP**

3500 National City Tower

101 South Fifth Street

Louisville, KY 40202

C. R. BOWLES, ESQ. (admitted *pro hac vice*)

cbowles@bgdlegal.com

Telephone: 502-589-4200

*Attorneys for DSSI, LLC*

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

In re:

OLDCO M CORPORATION (f/k/a Metaldyne  
Corporation), *et al.*,

Debtors.

Chapter 11

Case No. 09-13412 (MG)

**RESPONSE OF DSSI LLC TO OMNIBUS OBJECTION OF  
OLDCO M DISTRIBUTION TRUST SEEKING TO DISALLOW, REDUCE,  
LIQUIDATE, EXPUNGE AND RECLASSIFY CERTAIN CLAIMS  
(OMNIBUS OBJECTION No. 34)**

TO: THE HONORABLE MARTIN GLENN  
UNITED STATES BANKRUPTCY JUDGE

DSSI LLC (“DSSI”), by and through counsel, hereby files its response and opposition (“Response”) to the Omnibus Objection (“Objection”) of Oldco M Distribution Trust (“Oldco Trust”) Seeking to Disallow, Reduce, Liquidate, Expunge and Reclassify Certain Claims. In support of its Response, DSSI states as follows:

**Background**

1. On May 27, 2009 (“Petition Date”), Oldco M. Corporation (f/k/a Metaldyne Corporation) and 30 of its domestic direct and indirect subsidiaries (collectively, the “Debtors”) filed voluntary petitions (“Bankruptcy Cases”) for relief under chapter 11 of title 11 of the United States Code (“Bankruptcy Code”).

2. On May 29, 2009, the Bankruptcy Cases were consolidated for procedural purposes and were subsequently jointly administered. See Doc. No. 65.

3. Upon information and belief, Oldco M. Corporation was the direct or indirect parent of each of the Debtors and their subsidiaries.

4. As of February 23, 2010, the Debtors were dissolved and the Oldco M Distribution Trust was created in order to liquidate the Debtors’ remaining assets, litigate and resolve claims filed against the Debtors’ estates, make distributions to creditors, and take other actions permitted by the Second Amended Joint Plan of Liquidation of Debtors and Debtors in Possession (“Plan”).

5. On February 23, 2010, this Court established April 29, 2010 as the bar date applicable for filing administrative proofs of claim in the Bankruptcy Cases.

6. On April 28, 2010, DSSI timely filed various proofs of claim in the Debtors’ Bankruptcy Cases, asserting post-petition claims against different Debtors.

7. On August 30, 2013, Oldco M Distribution Trust filed the Objection, seeking to,

*inter alia*, disallow certain proofs of claim filed by DSSI.

**Jurisdiction**

8. This Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §1408 and 1409.

**Relief Requested**

9. Oldco Trust has erroneously classified one of DSSI's claims ("Claim No. 3702") as a "No Liability Claim." DSSI therefore respectfully asks this Court to direct Oldco Trust to amend Exhibit A of its Objection to deny the Objection as to Claim No. 3702 as a "No Liability Claim," and to recognize and allow the sum of \$197.68 as an allowed administrative claim of DSSI.

10. More particularly, Debtors assert in the Objection that claims identified on Exhibit A should be disallowed "because they are not valid liabilities of the Debtors." Objection at ¶ 9. However, to the extent that the Objection seeks to disallow and expunge the administrative portion of Claim No. 3702 (*i.e.*, \$197.68), it should be overruled based upon the reasons set forth below.

11. In support of the assertion that DSSI's claims should be disallowed, Oldco Trust filed a declaration by Kimberly Lawson, Reed Smith LLP. In that Declaration, Ms. Lawson states that between July 2, 2013 and July 11, 2013, she sent letters to each of the claimants, including DSSI, requesting information and documentation regarding their claims and relating to Oldco Trust's classification of "No Liability Claims."

12. After receiving Ms. Lawson's letter, DSSI talked to Ms. Lawson and informed her that Claim No. 3702 remained open and that DSSI had not received any payment for that claim.<sup>1</sup> Also, DSSI asked Ms. Lawson to forward to DSSI any information from Oldco Trust that indicated payment had been made to DSSI for Claim No. 3702. Ms. Lawson agreed to do so. However, to date, DSSI has not received any information in response to its request.

13. As correctly stated in the Objection, Rule 3001(f) of the Federal Rules of Bankruptcy Procedure provides that "[a] proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim." Fed. R. Bankr. P. 3001(f).

14. Therefore, as the objecting party, Oldco Trust has the burden of overcoming that *prima facie* presumption. See *Carey v. Ernst*, 333 B.R. 666, 672 (S.D.N.Y. 2005) (quoting *In re Reilly*, 245 B.R. 768, 773 (B.A.P. 2nd Cir. 2000), "To overcome this *prima facie* evidence, the objecting party must come forth with evidence which, if believed, would refute at least one of the allegations essential to the claim.")

15. Rather than meeting its burden of proof, Oldco Trust simply states that "[t]he Trust has reviewed the No Liability Claims filed by the Claimants...and has determined that the No Liability Claims are not valid liabilities of the Debtors or their estates." Objection at ¶ 14.

16. Accordingly, the Objection should be overruled, as the Oldco Trust has failed to meet its burden of putting forth evidence to refute the validity of the administrative portion of Claim No. 3702.

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<sup>1</sup> In her Declaration, Ms. Lawson confirms she spoke DSSI and that Claim No. 3702 had not been paid. Declaration at ¶ 10-b.

**Conclusion**

17. With respect to Claim No. 3702, DSSI respectfully requests that the Court allow Claim No. 3702 as an administrative claim in the amount of \$197.68, and that it deny the Objection to the extent that it seeks to disallow same.

18. Consistent with the foregoing, DSSI also requests that this Court direct Oldco Trust to amend Exhibit A of its Objection to exclude the administrative portion of Claim No. 3702 as a “No Liability Claim,” and to recognize \$197.68 as an allowed administrative claim.

19. DSSI reserves the right to amend or supplement this Response and to amend Claim No. 3702.

Dated: September 20, 2013  
Roseland, NJ

/s/Richard M. Meth

RICHARD M. METH (R.M.7791)

**FOX ROTHSCHILD LLP**

75 Eisenhower Parkway, Suite 201

Roseland, NJ 07068

- and -

100 Park Avenue, 15<sup>th</sup> Floor

New York, NY 10017

rmeth@foxrothschild.com

(973) 994-7515 (T) - (973) 992-9125 (F)

- and -

/s/C.R.Bowles

C. R. Bowles (admitted *pro hac vice*)

**BINGHAM GREENEBAUM DOLL LLP**

3500 National City Tower

101 South Fifth Street

Louisville, KY 40202

cbowles@bgdlegal.com

(502) 589-4200 (T) - (502) 587-3695 (F)

ATTORNEYS FOR DSSI, LLC