

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re	)	
	)	Chapter 11
EXIDE TECHNOLOGIES,	)	
	)	Case No. 13-11482 (KJC)
Reorganized Debtor. <sup>1</sup>	)	Re: D.I. Nos. 4023, 4029

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**JOINDER OF GUC TRUST TRUSTEE TO THE REORGANIZED DEBTOR’S  
MOTION FOR ENTRY OF AN ORDER (I) ENFORCING THE PLAN  
INJUNCTION UNDER THE CONFIRMATION ORDER AND CONFIRMED PLAN  
OF REORGANIZATION AND (II) AWARDING COSTS AND ATTORNEYS’ FEES**

Peter Kravitz of Province Inc., GUC Trust Trustee (as defined in the Plan)<sup>2</sup> of the Exide Creditors’ Liquidating Trust (the “GUC Trust”), by and through his undersigned attorneys, hereby joins in *The Reorganized Debtor’s Motion for Entry of an Order (I) Enforcing the Plan Injunction Under the Confirmation Order and Confirmed Plan of Reorganization and (II) Awarding Costs and Attorneys’ Fees* filed by Exide Technologies (the “Reorganized Debtor”) pursuant to sections 105(a), 524, 1141 and 1142 of the Bankruptcy Code (the “Motion”)<sup>3</sup> and respectfully represents as follows:

**JOINDER**

1. In accordance with the Plan and the Confirmation Order, the GUC Trust was established effective on the Effective Date of the Plan, on which date the Reorganized Debtor and the GUC Trust Trustee entered into the Exide Creditors’ Liquidating Trust Agreement (the “Liquidating Trust Agreement”) governing the GUC Trust. Pursuant to the Plan

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<sup>1</sup> The last four digits of the Reorganized Debtor’s taxpayer identification number are -2730. The Reorganized Debtor’s corporate headquarters are located at 13000 Deerfield Parkway, Building 200, Milton, Georgia 30004.

<sup>2</sup> *Fourth Amended Plan of Reorganization of Exide Technologies* (the “Plan”) [D.I. No. 3423-1] § 1.101.

<sup>3</sup> D.I. No. 4023. Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

and the Liquidating Trust Agreement, the Reorganized Debtor is responsible for the claims reconciliation process but is required to consult with the GUC Trust Trustee on a periodic basis regarding that process.<sup>4</sup> These consultation rights recognize the fact that the allowance and disallowance of claims have a direct and tangible effect on unsecured creditors. Accordingly, the GUC Trust Trustee has standing to be heard with respect to the Motion.

2. The GUC Trust Trustee has reviewed the Motion and agrees with the Reorganized Debtor's observation that allowing the District's late claims would lead to significant, unanticipated exposure for the beneficiaries of the GUC Trust.<sup>5</sup> As such, the GUC Trust Trustee hereby joins in the Motion, and respectfully requests that the Bankruptcy Court grant the relief requested by the Reorganized Debtor.

3. The inclusion of Section 10.4 in the Plan, which provides for enforcement of the Bar Date Order through the automatic disallowance of late-filed claims, serves a distinct and important purpose: to define the outer limits of the claims pool. Creditors rely on the asserted claim amounts of timely filed claims when voting to accept or reject a plan, because any range of estimated distributions under a plan necessarily takes into account the minimum and maximum estimates of aggregate claims. Equally as important, the bankruptcy court also relies the same aggregate claims estimates when it considers confirmation of a plan, because it is required to make a determination as to feasibility. Unauthorized increases in claims thus jeopardize the legitimate expectations of all parties-in-interest, as the cumulative effect of even small claim increases could easily undermine the viability of a plan.

4. In this case, the parties' reliance on the Bar Date Order to establish a finite universe of claims is far from theoretical. Creditors reviewing the disclosure statement approved

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<sup>4</sup> Plan § 7.7; Liquidating Trust Agreement § 3.12.

<sup>5</sup> Motion ¶ 28.

in this case to make an informed vote on the Plan expressly were advised that their projected recoveries were dependent on the integrity of the claims pool:

As of the General Bar Date, the Debtor's Claims and Solicitation Agent had received approximately 2,900 Proofs of Claim (as defined below) totaling approximately \$4.6 billion. As of the Vernon Bar Date, the Debtor's Claims and Solicitation Agent had received approximately 3,900 Proofs of Claim totaling approximately \$9.5 billion. After the applicable General Bar Date and Vernon Bar Date had passed, the Debtor has received more than 200 Proofs of Claim totaling approximately \$850 million. The Debtor believes that many of the filed Proofs of Claim are invalid, *untimely*, duplicative, or overstated *and, therefore, has assumed for purposes of estimating recoveries that such Claims shall be expunged from*, or reduced in amount in, the official register of Claims and Interests maintained by the Debtor's Claims and Solicitation Agent [].<sup>6</sup>

5. More importantly, a clear mutual understanding of projected aggregate claims in this case was essential to the extensive negotiations between the Debtor and the Official Committee of Unsecured Creditors, which ultimately gave rise to the GUC Trust Settlement Agreement (as defined in the Plan) and made confirmation of a consensual Plan even possible. The untimely claims of the District – which, as the Reorganized Debtor points out, has never attempted to show that it can satisfy the high standards for a finding of excusable neglect<sup>7</sup> – threaten to erode the foundation on which the consensual Plan was based.

6. Estimated recoveries for general unsecured creditors, which already assumes the expungement of late claims, currently are expected to be modest. It would be a truly inequitable result for GUC Trust beneficiaries if the District were allowed, through its disregard

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<sup>6</sup> *Second Amended Disclosure Statement With Respect to the Second Amended Plan of Reorganization of Exide Technologies* [D.I. No. 3095] § II.C (emphasis supplied).

<sup>7</sup> Motion ¶ 20. Notably, government entities are held to the same standard as private creditors with respect to the implications of a bar date. *See In re Blue Coal Corp.*, 166 B.R. 816, 821 (Bankr. M.D. Pa. 1993) (stating that “[t]he bar date has a purpose and that purpose would not be served by treating a government agency any different than a private creditor.”).

of the Bar Date Order and the chapter 11 process generally, to change the fundamental economics of the Plan and the GUC Trust Settlement Agreement. The GUC Trust Trustee respectfully submits that the Bankruptcy Court should enforce the injunctive provisions of the Plan to prevent the further pursuit of the District's untimely claims.

**CONCLUSION**

WHEREFORE, the GUC Trust Trustee respectfully requests that the Court grant the Motion and grant such other and further relief as the Court deems just and proper.

Dated: Wilmington, Delaware  
June 17, 2015

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

By: /s/ Erin R. Fay  
Robert J. Dehney (No. 3578)  
Eric Schwartz (No. 3134)  
Erin R. Fay (No. 5268)  
1201 North Market Street, Suite 1600  
Wilmington, Delaware 19801  
Tel: (302) 658-9200  
Fax: (302) 658-3989

- and -

KELLEY DRYE & WARREN LLP  
James S. Carr (admitted *pro hac vice*)  
Dana P. Kane (admitted *pro hac vice*)  
101 Park Avenue  
New York, New York 10178  
Tel: (212) 808-7800  
Fax: (212) 808-7897

*Co-Counsel to Peter Kravitz of Province Inc., the GUC Trust Trustee of the Exide Creditors' Liquidating Trust*

**CERTIFICATE OF SERVICE**

I, Erin R. Fay, certify that I am not less than 18 years of age, and that service of the foregoing **Joinder Of GUC Trust Trustee To The Reorganized Debtor's Motion For Entry Of An Order (I) Enforcing The Plan Injunction Under The Confirmation Order And Confirmed Plan Of Reorganization And (II) Awarding Costs And Attorneys' Fees** was caused to be made on June 17, 2015, in the manner indicated, upon the entities identified below.

Date: June 17, 2015

/s/ Erin R. Fay  
Erin R. Fay (No. 5268)

**BY HAND DELIVERY**

Mark S. Kenney  
Office of the United States Trustee  
for the District of Delaware  
J. Caleb Boggs Federal Building  
Room 2207, Lockbox 35  
844 North King Street  
Wilmington, DE 19801

Pauline K. Morgan  
Young Conaway Stargatt & Taylor LLP  
Rodney Square  
1000 King Street  
Wilmington, DE 19801

Anthony W. Clark  
Skadden, Arps, Slate, Meagher &  
Flom LLP  
One Rodney Square  
920 N. King Street  
Wilmington, DE 19801

Dennis A. Meloro  
Greenberg Traurig, LLP  
1007 N. Orange Street, Suite 1200  
Wilmington, DE 19801

Mark D. Collins  
Richards, Layton & Finger, P.A.  
One Rodney Square  
920 North King Street  
Wilmington, DE 19801

**BY FIRST CLASS MAIL**

James J. Mazza, Jr.  
Skadden, Arps, Slate, Meagher &  
Flom LLP  
155 N. Wacker Drive  
Chicago, IL 60606-1720

Alice Belisle Eaton  
Paul, Weiss, Rifking, Wharton &  
Garrison LLP  
1285 Avenue of the Americas  
New York, NY 10019

Kenneth S. Ziman  
J. Eric Ivester  
Skadden, Arps, Slate, Meagher &  
Flom LLP  
Four Times Square  
New York, NY 10036

Exide Technologies  
13000 Deerfield Parkway  
Building 200  
Milton, GA 30004  
Attn: Phillip A. Damaska

Damian S. Schaible  
Davis, Polk & Wardwell LLP  
450 Lexington Avenue  
New York, NY 10017

David B. Kurzweil  
Greenberg Traurig, LLP  
3333 Piedmont Road NE  
Suite 2500  
Atlanta, GA 30305

Wells Fargo Bank, N.A.  
150 East 42<sup>nd</sup> Street, 40<sup>th</sup> Floor  
New York, NY 10017  
Attn: James R. Lewis

Mark F. Hebbeln  
Foley & Lardner LLP  
321 North Clark Street, Suite 2800  
Chicago, IL 60654

U.S. Bank National Association  
Global Corporate Trust Services  
60 Livingston Avenue, EP-MN-WSID  
St. Paul, MN 55107  
Attn: Cindy Woodward

Andrew Silfen  
Arent Fox LLP  
1675 Broadway  
New York, NY 10019

Robert J. Keach  
Michael Fagone  
Sam Anderson  
Bernstein Shur  
100 Middle Street  
P.O. Box 9729  
Portland, ME 04104-5029

GUC Trust Trustee  
c/o Peter S. Kravitz of Province, Inc.  
29209 Canwood Street, Suite 210  
Agoura Hills, CA 91301