

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

In re:

EXIDE TECHNOLOGIES,

Reorganized Debtor.

Chapter 11

Case No. 13-11482 (KJC)

**ANNUAL REPORT
OF THE VERNON TORT CLAIMS TRUST**

Craig R. Jalbert, CIRA, in his capacity as trustee (the “Trustee”) of the Vernon Tort Claims Trust (the “Trust”), hereby submits this annual report (the “Annual Report”) for the year ended December 31, 2017 (the “Reporting Period”).¹ In support hereof, the Trustee respectfully states as follows:

BACKGROUND

1. On June 20, 2013, Exide Technologies (the “Debtor” or “Reorganized Debtor,” as applicable) filed its petition for relief under Chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the “Court”).

2. On March 27, 2015, the Debtor filed its *Fourth Amended Plan of Reorganization of Exide Technologies* [D.I. 3409]. On the same date, the Court entered its *Findings of Fact, Conclusions of Law and Order Confirming Fourth Amended Plan of Reorganization of Exide Technologies* [D.I. 3423].

3. On April 10, 2015, the Ad Hoc Group of Exide Tort Claimants (the “Ad Hoc Group”) filed the *Motion for Order: (I) Approving Proposed Vernon Tort Claims Trust*

¹ Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to such terms in the Fourth Amended Plan of Reorganization of Exide Technologies (the “Plan”) and/or the Vernon Tort Claims Term Sheet, as applicable.

Agreement; (II) Approving Appointment of Vernon Tort Claims Trustee and Settlement Administrator; and (III) Granting Related Relief [D.I. 3496], pursuant to which the Ad Hoc Group sought, *inter alia*, approval of the Vernon Tort Claims Trust Agreement (the “Trust Agreement”).

4. On May 20, 2015, the Court entered its Order approving the Trust Agreement [D.I. 3681].

5. Pursuant to the Trust Agreement, the Trustee is required to file annual and quarterly reports with the Court. Trust Agreement § 7.04.

6. On November 16, 2015, the Trustee filed the *First Quarterly Report of the Vernon Tort Claims Trust* [D.I. 4556].

7. On February 16, 2016, the Trustee filed the *Second Quarterly Report of the Vernon Tort Claims Trust* [D.I. 4639].

8. On March 31, 2016, the Trustee filed the *Annual Report of the Vernon Tort Claims Trust* [D.I. 4660].

9. On May 16, 2016, the Trustee filed the *Third Quarterly Report of the Vernon Tort Claims Trust* [D.I. 4672].

10. On August 15, 2016, the Trustee filed the *Fourth Quarterly Report of the Vernon Tort Claims Trust* [D.I. 4691].

11. On November 17, 2016, the Trustee filed the *Fifth Quarterly Report of the Vernon Tort Claims Trust* [D.I. 4730].

12. On February 17, 2017, the Trustee filed the *Sixth Quarterly Report of the Vernon Tort Claims Trust* [D.I. 4754].

13. On April 3, 2017, the Trustee filed the second *Annual Report of the Vernon Tort Claims Trust* [D.I. 4771].

14. On May 27, 2017, the Trustee filed the *Seventh Quarterly Report of the Vernon Tort Claims Trust* [D.I. 4787].

15. On November 21, 2017, the Trustee filed the *Eighth Quarterly Report of the Vernon Tort Claims Trust* [D.I. 4914].

16. On February 17, 2018, the Trustee filed the *Ninth Quarterly Report of the Vernon Tort Claims Trust* [D.I. 4989].

Annual Report Of The Vernon Tort Claims Trust

A. Summary Of Significant Activities Related To The Trust.

17. In accordance with the Vernon Tort Claims Term Sheet, the Trust continues to proceed with the Recovery Litigation. On September 28, 2017, the Trustee filed a complaint in the United States District Court for the Central District of California (the “California District Court”) against certain of the Debtor’s insurance carriers seeking, among other things, a judicial determination and declaration as to the Trust’s rights and obligations under certain insurance policies issued by the insurance carriers to Exide Technologies and its predecessor, the Debtor. On December 1, 2017, the defendant insurance carriers filed their answers, affirmative defenses, and counterclaims to the Trustee’s complaint. On December 22, 2017, the Trustee filed his answers and affirmative defenses to the counterclaims filed by the defendant insurance carriers.

18. As previously discussed, on November 8, 2016, XL Insurance Company, Inc. (“XL”) filed a complaint for declaratory judgment in the California District Court. On January 24, 2017, the Trustee filed his answer and affirmative defenses to the complaint filed by XL. On the same day, the Trustee also filed his answers and affirmative defenses to certain cross-claims filed by several other insurance carriers in the proceeding. On February 9, 2017, the parties filed

their joint report pursuant to FRCP 26(f) (the “FRCP 26(f) Report”). As set forth in the FRCP 26(f) Report, the parties agreed to exchange their initial disclosures required by FRCP 26(a) by February 28, 2017. On June 29, 2017, the Trustee filed a motion to stay the litigation. On July 3, 2017, XL (and several other insurers) filed a motion for summary judgment seeking a declaration that no coverage existed under the various policies. On July 10, 2017, the Trustee filed his opposition to XL’s (and the other insurers’) motions for summary judgment. On July 27, 2017, the California District Court held a hearing with respect to the Trustee’s stay motion and ultimately dismissed the litigation for lack of subject matter jurisdiction.

19. Also as previously discussed, the Trustee has participated in court-approved mediation with counsel for certain insurance carriers in respect of the litigation commenced by Allied World National Assurance Company (“Allied”) in the United States District Court for the District of Delaware (the “Delaware District Court”).² On September 13, 2017, the Trustee and Allied filed a joint status report with the Delaware District Court pursuant to which the parties advised the Court that the mediator had submitted a proposal to the parties, in which the mediator recommended a settlement that he deemed fair and reasonable. The parties further advised that they had shared feedback on the proposal with the mediator, and that the mediator had twice extended the parties’ deadline to give a final decision with respect to the proposal. On October 18, 2017, the Trustee and Allied filed a joint status report with the Delaware District

² As previously noted, the Trustee has not consented to the jurisdiction of the Delaware District Court with respect to the complaint filed by Allied, has not consented to the sufficiency of Allied’s purported service of process, and has reserved all rights and defenses with respect to the foregoing. Also as previously noted, Allied and the Trustee entered into a stipulation pursuant to which the Trustee’s time to answer, move, or otherwise respond to Allied’s complaint was extended to the later of: (a) twenty (20) business days following receipt by the Trustee of written notification from the mediator that negotiations had reached an impasse and the mediation was concluded, and (b) the time to answer, move or otherwise respond provided in the Federal Rules of Civil Procedure (“FRCP”) following proper service of the complaint upon the Trustee.

Court pursuant to which the parties advised the Court that the mediator continued to discuss potential settlement proposals with the parties.

20. Finally, as previously discussed, the Trustee and Reorganized Debtor engaged in litigation before the Court regarding, among other things, the parties' respective obligations under the Plan and Vernon Tort Claims Terms Sheet. In respect thereof:

- (i) On August 21, 2017, the Reorganized Debtor filed the *Motion for Entry of an Order (I) Enforcing the Plan Injunction and Vernon Tort Claims Term Sheet and (II) Awarding Costs and Attorney's Fees* [D.I. 4821] (the "Plan Injunction Motion").
- (ii) On September 7, 2017, the Trustee filed the *Motion of Vernon Tort Claims Trustee, Pursuant to 28 U.S.C. § 1334, for Entry of an Order Abstaining from Adjudicating Relief Requested in Reorganized Exide's Motion for Injunctive Relief* [D.I. 4847] (the "Abstention Motion"). Related to the Abstention Motion, on September 7, 2017, the Trustee also filed a Complaint for Damages against Reorganized Debtor in the Superior Court of the State of California for the County of Los Angeles, Central District, captioned *Craig R. Jalbert v. Exide Technologies*, Case No. BC674961 (the "Parallel Proceeding").
- (iii) On September 21, 2017, the Reorganized Debtor filed the *Objection to Motion of Vernon Tort Claims Trustee for Entry of an Order Abstaining from Adjudicating Reorganized Debtor's Motion to Enforce the Plan Injunction and Vernon Tort Claims Term Sheet* [D.I. 4863].
- (iv) On September 25, 2017, the Trustee filed the *Reply in Support of Motion of Vernon Tort Claims Trustee, Pursuant to 28 U.S.C. § 1334, for Entry of an Order Abstaining from Adjudicating Relief Requested in Reorganized Exide's Motion for Injunctive Relief* [D.I. 4868].
- (v) On September 28, 2017, the Court held a hearing (the "Hearing") on the Plan Injunction Motion, the Abstention Motion, the Parallel Proceeding, and the related pleadings. At the Hearing, the Reorganized Debtor and the Trustee stated on the record that they had reached a resolution of the Plan Injunction Motion and the Abstention Motion.
- (vi) On October 19, 2017, the Trustee and the Reorganized Debtor filed that certain *Stipulation Concerning Reorganized Debtor's Plan Injunction Motion and the Vernon Tort Claims Trustee's Abstention Motion* [D.I. 4889] under certification of counsel, which the Court approved by entry of order on October 20, 2017 [D.I. 4890].

B. Accounting And Unaudited Financial Information.

21. Attached hereto as Exhibit A is selected unaudited financial information with respect to the Trust covering the Reporting Period.

C. Summary Of Vernon Tort Claims For Which Payment Or Distributions Have Been Made.

22. During the Reporting Period, the Trust did not make any payments or distributions with respect to any Vernon Tort Claims.

NOTICE

23. Notice of this Annual Report has been provided to: (i) counsel to the Reorganized Debtor; (ii) the Office of the United States Trustee; and (iii) all parties who requested notice pursuant to the *Order Establishing Noticing Procedures in Connection with Administering the Vernon Tort Claims Trust* [D.I. 4268]. The Trustee submits that no other or further notice is necessary.

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Dated: April 2, 2018
Wilmington, Delaware

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*Counsel to Trustee of the
Vernon Tort Claims Trust*

EXHIBIT A

(FINANCIAL INFORMATION)

	Type	Date	Num	Name	Memo	Class	Amount
Agent Deposits							
	Deposit	05/26/2015		Vernon Trust	Vernon/Exide	Vernon/Exide	2,675,000.00
Total Agent Deposits							2,675,000.00
Bank							
Bank Service Charge							
	Check	05/26/2015	EFT	Citizens Bank	In-coming wire fee-Vernon Trust?	Vernon/Exide	-18.00
	Check	06/02/2015	Eft	Citizens Bank	Out-going wire to Brown Rudnick	Vernon/Exide	-30.00
	Check	06/02/2015	Eft	Citizens Bank	Out-going wire to The Rosner Law Group, LLC	Vernon/Exide	-30.00
	Check	06/02/2015	Eft	Citizens Bank	Wire to Gray & Company, LLC	Vernon/Exide	-30.00
	Check	06/02/2015	Eft	Citizens Bank	Wire to Blau & Associates, P.C.	Vernon/Exide	-30.00
	Check	11/19/2015	EFT	Citizens Bank	Stop payment fees	Vernon/Exide	-35.00
Total Bank Service Charge							-173.00
Total Bank							-173.00
Expense Reimbursement							
	Check	06/02/2015	13683	Girardi Keese	VERNON TRUST/EXIDE	Vernon/Exide	-103,155.17
	Check	06/02/2015	13684	The Mandell Law Firm	VERNON TRUST/EXIDE	Vernon/Exide	-27,000.00
	Check	06/02/2015	13685	Steven Wolfson	VERNON TRUST/EXIDE	Vernon/Exide	-7,160.00
	Check	06/02/2015	Wire	Gray & Company, LLC	Vernon Trust/Exide	Vernon/Exide	-8,894.70
	Check	06/02/2015	Wire	Blau/Keane Law Group, P.C.	Vernon Trust/Exide	Vernon/Exide	-4,180.00
	Check	09/11/2015	13847	The Mandell Law Firm	VERNON TRUST/EXIDE	Vernon/Exide	-28,263.97
	Check	09/11/2015	13850	Steven Wolfson	VERNON TRUST/EXIDE	Vernon/Exide	-51,685.31
	Check	12/21/2015	14035	Blau/Keane Law Group, P.C.	Vernon Trust/Exide File # 400-333	Vernon/Exide	-2,430.00
	Check	12/21/2015	14036	Steven Wolfson	VERNON/EXIDE-James Dahlgren Medical	Vernon/Exide	-8,750.00
Total Expense Reimbursement							-241,519.15
Professional Fees							
Legal							
Retainer							
	Check	07/21/2015	13776	Gabriel A. Gutierrez	Retainer File # 107415-Vernon/Exide	Vernon/Exide	-10,000.00
Total Retainer							-10,000.00
Legal - Other							
	Check	06/02/2015	Wire	Brown Rudnick, LLP	Vernon Trust/Exide	Vernon/Exide	-45,891.89
	Check	06/02/2015	Wire	The Rosner Law Group, LLC	Vernon Trust/Exide	Vernon/Exide	-35,593.43
	Check	07/06/2015	13756	Brown Rudnick, LLP	Matter 32651.0001 Vernon/Exide	Vernon/Exide	-33,514.70
	Check	07/06/2015	13757	The Rosner Law Group, LLC	Acct # 1693.00 Vernon Trust/Exide	Vernon/Exide	-15,250.58
	Check	07/21/2015	13777	Gabriel A. Gutierrez	File # 107415 10 Hrs @ \$500.00-Vernon/Exide	Vernon/Exide	-5,000.00
	Check	09/11/2015	13848	The Rosner Law Group, LLC	Acct # 1693.00, #7089,7208 Vernon Trust/Exide	Vernon/Exide	-17,032.73
	Check	09/11/2015	13849	Brown Rudnick, LLP	Vernon Trust/Exide	Vernon/Exide	0.00
	Check	09/11/2015	13851	Brown Rudnick, LLP	Vernon Trust/Exide	Vernon/Exide	-29,641.59
	Deposit	11/19/2015	13848	The Rosner Law Group, LLC	Add back check # 13848	Vernon/Exide	17,032.73
	Check	11/19/2015	13979	The Rosner Law Group, LLC	Acct # 1693.00, #7089,7208 Vernon Trust/Exide	Vernon/Exide	-17,032.73
	Check	12/21/2015	14033	Brown Rudnick, LLP	Vernon/Exide Oct-Dec 2015	Vernon/Exide	-39,945.73
	Check	12/21/2015	14034	The Rosner Law Group, LLC	Acct # 1693.00, #7372,7442,7545 Vernon/Exide	Vernon/Exide	-6,551.57
	Check	05/11/2016	14752	Blau/Keane Law Group, P.C.	February #220455	Vernon/Exide	-750.00
	Check	05/11/2016	14752	Blau/Keane Law Group, P.C.	March # 220651	Vernon/Exide	-3,210.00
	Check	05/11/2016	14752	Blau/Keane Law Group, P.C.	April 220749	Vernon/Exide	-120.00
	Check	05/11/2016	14753	The Rosner Law Group, LLC	Acct # 1693.00, #7626	Vernon/Exide	-1,226.16
	Check	05/11/2016	14753	The Rosner Law Group, LLC	# 7779	Vernon/Exide	-530.30
	Check	05/11/2016	14753	The Rosner Law Group, LLC	# 7869	Vernon/Exide	-846.72
	Check	05/11/2016	14754	Brown Rudnick, LLP	January 692961	Vernon/Exide	-997.87
	Check	05/11/2016	14754	Brown Rudnick, LLP	February 694004	Vernon/Exide	-2,057.04
	Check	05/11/2016	14754	Brown Rudnick, LLP	April 697276	Vernon/Exide	-7,693.31
	Check	05/11/2016	14754	Brown Rudnick, LLP	March 696071	Vernon/Exide	-9,698.00
	Check	05/11/2016	14753	The Rosner Law Group, LLC	# 8000	Vernon/Exide	-79.40
	Check	04/20/2017	15783	Blau/Keane Law Group, P.C.	March 2017	Vernon/Exide	-2,280.00
	Check	04/20/2017	15784	The Rosner Law Group, LLC	# 8132	Vernon/Exide	-484.00
	Check	04/20/2017	15784	The Rosner Law Group, LLC	# 8259	Vernon/Exide	-55.00
	Check	04/20/2017	15784	The Rosner Law Group, LLC	# 8469	Vernon/Exide	-242.20
	Check	04/20/2017	15784	The Rosner Law Group, LLC	# 8516	Vernon/Exide	-432.00
	Check	04/20/2017	15784	The Rosner Law Group, LLC	#8650	Vernon/Exide	-1,418.10
	Check	04/20/2017	15784	The Rosner Law Group, LLC	#8948	Vernon/Exide	-5,577.71
	Check	04/20/2017	15784	The Rosner Law Group, LLC	#9104	Vernon/Exide	-385.00
	Check	04/20/2017	15784	The Rosner Law Group, LLC	#9210	Vernon/Exide	-242.50
	Check	04/20/2017	15784	The Rosner Law Group, LLC	#9340	Vernon/Exide	-857.05
	Check	04/20/2017	15784	The Rosner Law Group, LLC	Unknown	Vernon/Exide	-449.13
	Check	04/20/2017	15785	Brown Rudnick, LLP	Client#032651 - 8/2016 through 2/20017	Vernon/Exide	-18,931.37
	Check	09/14/2017	16254	Blau/Keane Law Group, P.C.	Exide File # 400-333, 5/09 thru 9/07	Vernon/Exide	-9,727.95
	Check	09/14/2017	16255	Brown Rudnick, LLP	Client#032651- Vernon Tort - 4/11 thru 9/11	Vernon/Exide	-36,746.27
	Check	10/11/2017	16353	The Rosner Law Group, LLC	10114	Vernon/Exide	-9,665.15
	Check	10/11/2017	16353	The Rosner Law Group, LLC	10004	Vernon/Exide	-740.00
	Check	10/11/2017	16353	The Rosner Law Group, LLC	9786	Vernon/Exide	-128.00
	Check	10/11/2017	16353	The Rosner Law Group, LLC	9688	Vernon/Exide	-405.34
	Check	10/11/2017	16353	The Rosner Law Group, LLC	9578	Vernon/Exide	-158.00
	Check	10/11/2017	16354	Blau/Keane Law Group, P.C.	Exide File # 400-333, Inv # 223387	Vernon/Exide	-480.00
	Check	10/13/2017	16355	Brown Rudnick, LLP	Client#032651- Vernon Tort - 4/11 thru 9/11	Vernon/Exide	-129,742.47

	Type	Date	Num	Name	Memo	Class	Amount
	Check	12/19/2017	16506	Brown Rudnick, LLP	Client#032651- Vernon Tort -Inv :726321/724418	Vernon/Exide	-9,968.16
	Check	12/19/2017	16507	The Rosner Law Group, LLC	10204	Vernon/Exide	-3,883.35
	Check	12/19/2017	16507	The Rosner Law Group, LLC	10311	Vernon/Exide	-633.40
Total Legal - Other							<u>-489,263.17</u>
Total Legal							<u>-499,263.17</u>
Other							
	Check	12/21/2015	14037	Epidemiology Resources	Inv # ER1251-Vernon/Exide	Vernon/Exide	-10,525.00
Total Other							<u>-10,525.00</u>
Outside Services							
	Check	12/21/2015	14038	SRF Environmental & Health Mgt., Inc.	Acct # 144, Inv# 150814443-Vernon/Exide	Vernon/Exide	-25,900.00
Total Outside Services							<u>-25,900.00</u>
Total Professional Fees							<u>-535,688.17</u>
Reimbursements							
	Check	05/11/2016	14752	Blau/Keane Law Group, P.C.	April 220749	Vernon/Exide	-11.44
Total Reimbursements							<u>-11.44</u>
TOTAL							<u><u>1,897,608.24</u></u>