

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE**

In re:)	Chapter 7
)	
CONSOLIDATED INDUSTRIES CORP.)	Case No. 98-40533
Tax I.D. #35-1020608,)	
)	
Debtor.)	

**TRUSTEE'S MOTION TO STRIKE ENODIS CORPORATION'S
OBJECTION TO THE TRUSTEE'S MOTION FOR AUTHORITY TO
COMPROMISE VANSANT CONTROVERSY AND OTHER RELATED RELIEF**

Daniel L. Freeland, not individually but as Trustee for Consolidated Industries Corp. (the "Trustee"), respectfully submits his Motion to Strike Enodis Corporation's Objections to the Trustee's Motion for Authority to Compromise Vansant Controversy and Other Related Relief, and states:

1. On February 20, 2004, the Trustee filed a motion to approve a settlement with two creditors, Sherill and Bobby Vansant. The Vansants allege that a defective Consolidated furnace began leaking carbon monoxide into their home in 1987 and caused them personal and other injuries. Under the proposed settlement, the estate's insurance carriers will pay the Vansants \$25,000 and the Vansants also will be allowed a \$2,000 unsecured claim. After previously filing suit to force the Trustee to settle with the Vansants, Enodis Corporation f/k/a Welbilt Corporation ("Welbilt") now objects, claiming any settlement with the Vansants must include a release for Welbilt.

2. As set forth more fully in the Trustee's Brief in Support of His Motion to Strike Enodis Corporation's Objection to the Trustee's Motion for Authority to Compromise Vansant Controversy and Other Related Relief, the Court should strike the Objection that Welbilt filed because Welbilt lacks standing to make the Objection. As this Court has previously held, any claim Welbilt holds must be disallowed under 11 U.S.C. § 502(d). Until Welbilt repays the

\$8,621,139.65 it owes this estate, it is not a creditor of this estate and has no standing to object to settlements of other creditors' claims. *See In re Consolidated Indus. Corp.*, 98-40533, Slip. Op. (Bankr. N.D. Ind. July 2, 2003). Moreover, Welbilt has no legal right to require a release here. Thus, it has no standing to ask for something to which it is not entitled.

3. The Court has repeatedly told Welbilt it no longer has standing in this case. Yet Welbilt persists in making objections it cannot legally press. The Court should award the Trustee his fees and expenses incurred in having to respond to Welbilt's latest objection.

WHEREFORE, the Trustee respectfully request that this Court enter an Order:

- A. Striking the Objection that Welbilt has filed;
- B. Awarding the Trustee his costs, including attorneys fees incurred in prosecuting this Motion; and
- C. Granting such other such relief as is equitable and just.

RESPECTFULLY SUBMITTED,

DANIEL L. FREELAND, not individually
but as Trustee for Consolidated Industries
Corp.

BY: /s/ Catherine Steege
One of His Attorneys

Catherine Steege
Joel T. Pelz
Jenner & Block, LLP
One IBM Plaza
Chicago, IL 60611
PH: 312/923-2952
FAX: 312/840-7352

Gordon E. Gouveia
Gouveia & Miller
433 West 84th Drive
Merrillville, IN 46410-6247
PH: (219) 736-6020
FAX: (219) 736-2545
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