

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

In the Matter of:)	
)	
CONSOLIDATED INDUSTRIES CORP.)	CASE NO.: 98-40533
)	
Debtor.)	Chapter 7
)	
)	

**NOTICE OF MOTION BY THE TRUSTEE FOR AUTHORITY TO COMPROMISE
AND SETTLE KB LITIGATION, ALLOW A GENERAL UNSECURED CLAIM AND
REQUEST FOR HEARING AND OPPORTUNITY TO OBJECT**

On October 22, 2004, Daniel L. Freeland, Trustee of the Chapter 7 bankruptcy estate of the debtor, Consolidated Industries Corporation (the "Trustee") moved for approval of two settlement agreements, pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure between Consolidated Industries Corporation ("Consolidated") and the Plaintiffs (the "KB Entities") in the matter entitled KB Home, et al. v. Consolidated Industries Corporation, et al. Case No. BC 250181 (the "KB Litigation"), now pending in the Los Angeles County Superior Court, State of California, which alleges that the KB Entities sustained monetary damages incurred in connection with the replacement of allegedly defective NOx rod furnaces manufactured by Consolidated ("Consolidated Furnaces"). A copy of the Motion along with the proposed settlement agreements may be reviewed at the office of the Clerk of the Bankruptcy Court, or obtained online at www.innb.us.courts.gov. The first proposed agreement (the "KB Settlement Agreement") resolves all claims against Consolidated regarding the Consolidated Furnaces that were or could have been asserted by the KB Entities in the underlying lawsuit in exchange for allowing the KB Entities to withdraw their election to opt out of the Salah Class Settlement and for their reinstatement as members of the Salah Class and an additional payment. The pertinent terms are as follows:

- a. The KB Entities have agreed to settle and release all claims arising out of the allegedly defective Consolidated Furnaces against Consolidated, the Estate, Consolidated's Insurers and each of their representatives. In return, the Trustee and Consolidated's Insurers have entered into a Confidential Settlement Funding Agreement and Release (the "Funding Agreement") resolving the funding of the KB Settlement Agreement. The Funding Agreement shall be maintained pursuant to the confidentiality and non use as evidence provisions contained therein.

Under the Funding Agreement, Consolidated's Insurers have agreed to provide the required settlement payment(s) under the KB Settlement Agreement on certain terms and conditions set forth therein.

- b. The KB Settlement Agreement, which allows the KB Entities to opt back into the Salah Settlement Agreement, provides for the distribution of \$585,900 as the KB Entities' total benefits under the Salah Class Settlement and an additional payment equal to one-third of the undisbursed funds from the Addison class action settlement, subject to certain terms and conditions, and subject to the approval of both the California State Court and this Court. The terms and conditions of the proposed settlement with the KB Entities are fully set forth in the KB Settlement Agreement attached to the Motion.
- c. The KB Settlement Agreement further provides that the KB Entities be allowed a pre-petition general unsecured claim in the amount of \$925,000, which amount shall be the compromised amount of KB's warranty claims against the Consolidated chapter 7 bankruptcy estate. The KB warranty claims are not covered by insurance.

The second proposed agreement (the "Installer Agreement") resolves all claims that were or could have been asserted by the KB Entities against certain installers of the furnaces in exchange for total payments of \$22,500. Because certain of the KB Entities' claims against the installers were assigned to the Trustee as a result of the KB Settlement Agreement, 50% of the settlement payments by the installers will be paid to the estate.

The Trustee believes that the proposed settlements are in the best interests of the estate and should be approved under Rule 9019 of the Federal Rules of Bankruptcy Procedure. The Trustee requests that he be authorized to enter into the KB Settlement Agreement and the Installer Settlement Agreement.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the motion, then **on or before the 12th day of November, 2004 by 4:00 p.m.** you or your attorney must:

1. File a written objection to the Application, which should explain the reasons why you object, with the Clerk of the United States Bankruptcy Court at:

Clerk, Ft. Wayne
U.S. Bankruptcy Court
1188 E. Ross Adair Federal Building & United States Courthouse
401 South Michigan Street
P.O. Box 2547
Ft. Wayne IN 46801-2547

If you mail your response to the Court, you must mail it early enough so that it will be received by the date it is due.

2. You must mail or fax a copy of your response to the undersigned and to:

Daniel L. Freeland
2136 45th Ave.
Highland, IN 46422
Fax (219) 922-01261

United States Trustee
555 One Michiana 555
100 East Wayne Street
South Bend, IN 46601
Fax (574) 236-8163

Greg L. Dillion
Reed N. Archambault
Newmeyer & Dillion LLP
895 Dove Street, Fifth Floor
Newport Beach, California 92660
Phone (949) 854-7000
Fax (949) 854-7099

Jeffrey L. Richardson
Mitchell Silberberg & Knupp, LLP
11377 W. Olympic Blvd.
Los Angeles, CA 90064

If you do not file an objection by the date it is due, the Court may grant the relief requested without holding a hearing. If you do file an objection the Court will set the motion for hearing, which you or your attorney will be expected to attend.

Date: October 22, 2004

By: /s/ Gordon E. Gouveia
One of his attorneys

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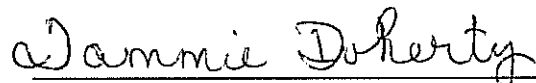
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CERTIFICATE OF SERVICE

I, the undersigned hereby certifies that on the **22nd** day of **October, 2004**, a true and complete copy of the **Notice of Motion by the Trustee for Authority to Compromise and Settle KB Litigation, Allow a General Unsecured Claim and Request for Hearing and Opportunity to Object** were served upon all parties listed below by depositing same in the United States Mail in envelopes properly addressed and with sufficient first class postage affixed thereto.

SEE ATTACHED MATRIX



Tammie Doherty