

## **Debtors' Motion for Entry of an Order Establishing Procedures for Settlement of Claims (the "Claims Settlement Procedures Motion").**

By the Claims Settlement Procedures Motion, the Debtors seek entry of an order authorizing the Debtors to establish uniform procedures for settling claims (the "Settlement Procedures").

During the course of the Debtors' chapter 11 cases, the Bankruptcy Court established October 30, 2009 (the "Bar Date") as the general deadline for filing proofs of claim against the Debtors. To date, over 14,000 proofs of claim have been filed against the Debtors. In the aggregate, such proofs of claim assert total liquidated liabilities of more than \$10.1 billion. In addition, over 8,000 of the proofs of claim that have been filed against the Debtors have been asserted in unliquidated amounts or contain an unliquidated component.

The Debtors allege that, in light of the number of claims asserted against them, the approval of settlement procedures is a necessary step in the Debtors' claims resolution process. The Debtors also assert that presenting individual settlements for each disputed claim to the Court for approval would be costly, inefficient and could disincentivise the parties from entering into otherwise beneficial settlements. Therefore, the Debtors propose the Settlement Procedures described below to streamline the settlement process.

### **Settlement Procedures**

The Debtors propose the following procedures for settling claims:

- Category 1 Settlements: Category 1 Settlements include any written agreement between the Debtors and a claimant for (i) the disallowance of any claim, (ii) the allowance of any claim or portion thereof up to \$1,000,000 where no corresponding amount is listed in the Debtors' Schedules of Assets and Liabilities (the "Schedules") or (iii) the allowance of any claim or portion thereof where there is a corresponding amount that is listed in the Schedules and the allowed amount of the Claim is not greater than \$250,000 more than the corresponding scheduled amount. Category 1 Settlements are subject to the following notice and objection procedures (the "Settlement Notice Procedures"):
  - The Debtors shall provide written notice describing the basic terms of the proposed settlement to (i) counsel to the Committee, (ii) the United States Trustee and (iii) counsel to the agent for the Debtors' postpetition and prepetition secured lenders (collectively, the "Notice Parties").
  - The Notice Parties will have 5 business days to object or request additional time to evaluate the proposed settlement. If a Notice Party requests additional time, the requesting Notice Party will have 5 additional business days to file with the Court and serve a formal written objection to the proposed settlement.
- Category 2 Settlements: Category 2 Settlements include settlements that provide for (a) an allowed claim in excess of \$1,000,000 where no corresponding amount is listed for the claim in the Schedules or (b) an allowed claim where there is a corresponding

amount listed in the Schedules and the allowed amount of the claim exceeds the corresponding scheduled amount by more than \$250,000. The Debtors will file settlement stipulations with the Court for presentment on 10 calendar days' notice and will serve the stipulations on (i) the claimant, (ii) the Notice Parties and (iii) those parties that have formally requested notice pursuant to Bankruptcy Rule 2002.

- Other Settlements. Notwithstanding the Settlement Procedures, the Debtors may file a motion to approve any settlement under Bankruptcy Code section 502, Bankruptcy Rule 9019 and any other applicable provision.
- Consultation with the Committee. The Debtors will consult with the Committee prior to entering into settlements that provide for (i) an allowed claim in excess of \$500,000 where no corresponding amount is listed for that claim in the Schedules or (ii) an allowed claim where there is a corresponding amount listed in the Schedules and the allowed amount of the Claim exceeds the corresponding scheduled amount by more than \$500,000.

The Debtors believe that the Settlement Procedures provide an efficient and cost-effective means of reconciling claims filed against the Debtors and allow for the reduction of unnecessary expense and effort by the Debtors, the Committee, the Debtors' creditors, other parties in interest and the Bankruptcy Court. Therefore, the Debtors believe that entry of an order approving the Settlement Procedures will benefit all parties in interest in the Debtors' chapter 11 cases.

***The Claims Settlement Procedures Motion has been scheduled for hearing on January 14, 2010 at 9:45 a.m. (ET), with a corresponding objection deadline of January 7, 2010 at 4:00 p.m. (ET).***