

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY
COLUMBUS, OHIO
CIVIL DIVISION

Ann H. Womer Benjamin, Superintendent,
Ohio Department of Insurance, in her
capacity as Rehabilitator of Builders &
Contractors Employee Benefit Association
Trust,

Plaintiff,

v.

Builders & Contractors Employee Benefit
Association Trust,

Defendant.

Case No. 02CVH02-2010

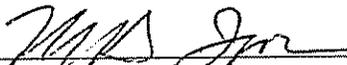
Judge Schneider

**PLAINTIFF'S MOTION FOR SCHEDULING ORDER AND FOR APPROVAL OF
THE NOTICE OF THE MOTION FOR APPROVAL OF THE FIRST AMENDED
PLAN OF REHABILITATION**

Plaintiff, by and through counsel, hereby moves this Court for an Order approving the Notice to be sent to all interested parties advising them of the filing of the Motion for Approval of the First Amended Plan of Rehabilitation (the "Approval Motion") and for an Order setting a date for interested parties to file objections to the First Amended Plan of Rehabilitation. A brief memorandum in support of this Motion is attached.

Respectfully submitted,

JIM PETRO
Attorney General, State of Ohio

By: 

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representing Ann H. Womer Benjamin, Superintendent
of the Ohio Department of Insurance, as Rehabilitator
For Builders and Contractors Employee Benefit
Association Trust*

MEMORANDUM IN SUPPORT

Pursuant to the Court's Order of January 6, 2006, plaintiff has filed a First Amended Plan of Rehabilitation and, by motion, has asked the Court to approve that Plan. Although the only formal parties to this Rehabilitation Case are the Rehabilitator as Plaintiff and Builders & Contractors Employee Benefit Association Trust ("BCEBAT") as Defendant, this First Amended Plan of Rehabilitation affects a number of individuals and entities who either have claims against BCEBAT or whom the Rehabilitator alleges owe amounts to BCEBAT. Therefore, Plaintiff recommends that certain parties be given notice of the Approval Motion and an opportunity to object to it. The Plaintiff believes this class of parties to receive notice should be those individuals and entities who were members of BCEBAT at any time during the years 2000 through 2003, the defendants in the Assessment Litigation filed by Plaintiff and their counsel of record, and all of the remaining creditors of BCEBAT as listed on Exhibit D to the First Amended Plan of Rehabilitation (collectively, "Interested Parties"). Since the Approval Motion is voluminous with all of its attachments, Plaintiff recommends that a shorter summary notice advising of the Approval Motion be served upon this group of individuals and entities. Attached to the present Motion and marked as Exhibit A is a Notice of the Motion for Approval of the First Amended Plan of Rehabilitation which the plaintiff proposes will be sent by her to all Interested Parties. As the Court will note, the proposed Notice provides a detailed summary of the Plan and directs all Interested Parties to the Rehabilitator's website or the Rehabilitator's office to obtain a complete copy of the First Amended Plan of Rehabilitation and its exhibits. The plaintiff requests that the Court approve this Notice and order that service of the Notice upon the Interested Parties is all of the notice that Plaintiff needs to provide regarding the Approval Motion and the First Amended Plan of Rehabilitation.

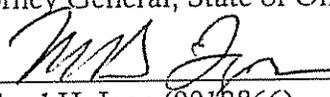
The plaintiff also requests the Court set a time by which any and all objections to this Plan must be submitted, in writing, to the Court. Plaintiff anticipates that it will take

approximately two weeks once this Court approves the Notice, before mailing of the Notice to all Interested Parties will be completed. Therefore, Plaintiff requests that the Court take that timing into consideration in scheduling a date for the filing of objections to the Approval Motion.

Further, plaintiff requests the Court set a time by which the plaintiff shall respond to any and all of those objections.

Respectfully submitted,

JIM PETRO
Attorney General, State of Ohio

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Judge Schneider

Builders & Contractors Employee Benefit
Association Trust,

Defendant.

**NOTICE OF MOTION FOR APPROVAL OF FIRST AMENDED PLAN OF
REHABILITATION**

Per order of the Court, the Rehabilitator of Builders & Contractors Employee Benefit Association Trust ("Builders & Contractors") filed a Motion for Approval of First Amended Plan of Rehabilitation (the "Amended Plan") on January 19, 2005. A copy of the Court's order directing that an amended plan be filed is enclosed.

Since the inception of the Rehabilitation, the Rehabilitator has been working to recover assets sufficient to pay all creditors of Builders & Contractors in full on their claims. At this time, the Rehabilitator has paid as many claims as she believes she can pay from the assets collected to date and is pursuing litigation against the former members of Builders & Contractors to recover additional amounts, which she believes they are obligated to pay (the "Assessment Litigation"). Although the Assessment Litigation has been pending since September 2003, absent some global settlement, it is not likely to be concluded soon. Both the Rehabilitator and the defendants in the Assessment Litigation still face substantial expense and delay before obtaining a final resolution. Moreover, the remaining creditors of Builders & Contractors are not likely to receive any substantial payments on their claims

until the Assessment Litigation is resolved. In light of all this, the Rehabilitator has prepared the Amended Plan in an effort to provide a means of concluding the Builders & Contractors' Rehabilitation more quickly and expeditiously.

Under the Amended Plan, each of the remaining defendants in the Assessment Litigation will be offered an opportunity to obtain a complete settlement of all current and future liability to Builders & Contractors if it pays 90% of its current unpaid assessment. Those defendants that elect this settlement option will, upon payment, receive a complete release from any present or future assessment liability. The Rehabilitator will continue to pursue the Assessment Litigation against the defendants who do not agree to settle their assessment liability. If the Rehabilitator is ultimately successful in the Assessment Litigation, those non-settling defendants will be responsible to pay not only their full share of the assessments that have been made to date, but they shall be jointly and severally liable for any additional assessments necessary for Builders & Contractors to pay in full all of its remaining creditors and the expenses of the rehabilitation, including the expenses incurred in the Assessment Litigation.

At the same time, creditors of the Builders & Contractors will be offered an opportunity to have their claims paid promptly from the funds collected from the settling defendants, if they agree to take a reduced payment of 70% of the amount of their claim as determined by the Rehabilitator. After certain priority claims, creditors, who elect this compromise of their claims will be given first priority for payment from the sums collected by the Rehabilitator under the Amended Plan and if sufficient funds are received from the settling defendants, the accepting creditors should receive payment within the next 5 months. In any event, the Amended Plan provides that all creditors of Builders &

Contractors shall be enjoined from pursuing payment of their claims from any person or entity other than the Builders & Contractors rehabilitation estate.

Per order of the Court, this Notice is the only notice of the Amended Plan that will be served upon parties in interest to the Rehabilitation. A complete copy of the Amended Plan may be obtained from the Rehabilitator's website, www.ohinsliq.com, or by requesting a copy from the Rehabilitator through the contact information on the website or by telephone at (614) 487-9200.

Objections to the Amended Plan must be filed with the Court on or before February 24, 2006, with a copy served on the Rehabilitator's counsel, Michael Igoe, Carlile Patchen & Murphy LLP, 366 East Broad Street, Columbus, Ohio 43215. The Rehabilitator shall have until February 10, 2006, to file a reply to the objections. If the Court elects to conduct a hearing on the Rehabilitator's Motion for Approval of First Amended Rehabilitation Plan, all parties who timely filed objections to the Motion will be provided notice of the time and date for that hearing.