

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO

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

Case No. 02CVH02-2010

Plaintiff,

Judge Schneider

v.

Builders & Contractors Employee Benefit
Association Trust,

Defendant.

**ORDER APPROVING FIRST AMENDED PLAN OF REHABILITATION
FOR BUILDERS & CONTRACTORS EMPLOYEE BENEFIT
ASSOCIATION TRUST, IN REHABILITATION**

This matter came before the Court for hearing on April 21, 2006 on the Motion of the Rehabilitator to approve the Rehabilitator's First Amended Plan of Reorganization (the "Plan") for Builders & Contractors Employee Benefit Association Trust ("Builders & Contractors") filed on January 16, 2006, and on the various objections filed thereto¹. Three

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COMMON PLEAS COURT
FRANKLIN COUNTY, OHIO
MAY 15 PM 4:06
CLERK OF COURTS-CY

¹Defendants who filed objections are as follows:

R.B. Thomas Electric, Counsel: Colin G. Skinner; Shanti Raghaven, Counsel: Pro Se; W.T. Pettit & Son, Co., Inc., Counsel: Timothy J. Jacob and John D. Savage; American Tool & Machine Co., Associated Tool & Die, Cleveland Express Trucking, Inc., Digital Color Imaging, Distribution Results, Inc., E & E Nameplates, Inc., F.M. Machine Co., Glen's Surplus, Inc., Hill-T Farms, Inc., Holmes Trucking, Houston Plumbing & Heating, International Sales & Leasing, Inc., KBZ Electric, Inc., Klyn Nurseries, Inc., Lawn & Order Landscape Services, Inc., Mason Color Works, Michael's Mobile Meats, Osgar's Rustproofing & Auto Body, Inc., Pinnacle Technologies, Pohn Transportation, Smith's Classic Machine, Superior Quality Manufacturing, The Rheil Supply Company, Trumbell County Kiln, Wells, Inc., Counsel: Michael D. Portnoy; Esterle Mold & Machine Company, Custom Poly Bag, Inc., Gauer Service & Supply Co., Universal Tire Molds, Inc., Rogers Industrial Products, Inc., Counsel: John M. Childs, Darren R. Toney and Leigh A. Kolzowicz; Tavens Container Company, Command Plastic Corporation and Smith-Lustig Paper Box Company, Counsel: Timothy G. Warner; Ziegler Tire & Supply Company, aka Ziegler Companies, Counsel: John M. Prilac and R. Clint Zollinger; Combi Packaging System, LLC, Counsel: Charles E. Ringer and Jason F. Hayst

parties who are members of Builders and Contractors, through counsel, appeared at the hearing and supported the Plan². The Court notes that the only parties opposing the Plan who appeared at the hearing were those parties represented by Attorney Michael D. Portnoy³. After hearing evidence and argument, the Court overrules all objections, subject to the Rehabilitator amending the Plan to provide for certain notice to any General Creditors (as defined in the Plan) who may violate the permanent injunction sought in the Plan.

The Court finds that the Rehabilitator's Addendum, filed herein on May 11, 2006 is satisfactory, and that the Plan, as amended, is fair and equitable to all parties concerned.

Accordingly, the Court APPROVES the Plan, as amended by the Addendum;

The Court further ORDERS, pursuant to Paragraph 3.C. of the Plan, that the General Creditors (as defined in the Plan), are hereby permanently enjoined from pursuing collection of their claims from any individuals or entity (such as the individual employees or patients for whom services were rendered) other than from the funds collected by the Rehabilitator as set forth in the Plan, regardless of whether such General Creditors accept or reject the Compromise Amount offered pursuant to the Plan.

It is further ORDERED that the Rehabilitator may proceed with the Assessment Litigation, as defined in the Plan, against the Indebted Members or Default Members (as those terms are defined in the Plan) who choose not to accept the Plan settlement approved by this Order (the "Non-settling Members"). If ultimately, the Rehabilitator prevails in whole or in part in that Assessment Litigation, such that it is determined that the Non-

² Counsel who appeared at the hearing in support of the Plan and their clients were: Counsel: **Charley Hess** for Member, Commercial Truck/Trailer; Counsel: **Alan F. Berliner** for Member, Republic Mills, Inc.; Counsel: **Donald A. Antrim** for Member, Berresford Enterprises.

³ Mr. Portnoy had filed an objection on behalf of the members identified in footnote No. 1

settling Members are liable for assessments in amounts sufficient to pay all remaining unpaid creditors of Builders & Contractors, then those Non-settling Members shall be jointly and severally liable for the full amount necessary to pay all remaining creditors of Builders & Contractors along with all administrative and legal expenses of the Rehabilitation, including the costs of pursuing the Assessment Litigation.

It is further ORDERED that all members of Builders & Contractors, who fully paid their share of the Assessments as of the date of this Order, are hereby fully released and forever discharged from any and all current and future liability to Builders & Contractors, including liability for any assessments made before or after the date of this Order.

It is further ORDERED that the Rehabilitator is hereby authorized and directed to carry out the terms of the Plan.

There is no just reason for delay.

IT IS SO ORDERED.

JUDGE CHARLES A. SCHNEIDER

APPROVED:

JIM PETRO
Attorney General, State of Ohio

By: 

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Builders and Contractors Employee Benefit Association Trust

Submitted but not signed

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Counsel for Members,

American Tool & Machine Co., Associated Tool & Die,

Cleveland Express Trucking, Inc., Digital Color Imaging,

Distribution Results, Inc., E & E Nameplates, Inc.,

F.M. Machine Co., Glen's Surplus, Inc., Hill- T Farms, Inc.

Holmes Trucking, Houston Plumbing & Heating,

International Sales & Leasing, Inc., KBZ Electric, Inc.,

Klyn Nurseries, Inc., Lawn & Order Landscape Services, Inc.,

Mason Color Works, Michael's Mobile Meats,

Osgar's Rustproofing & Auto Body, Inc., Pinnacle Technologies,

Pohn Transportation, Smith's Classic Machine,

Superior Quality Manufacturing, The Rheil Supply Company,

Trumbell County Kiln, Wells, Inc.