

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:

SETTLEMENT FACILITY-
DOW CORNING TRUST

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CASE NO. 00-CV-00005-DT
(Settlement Facility Matters)

Hon. Denise Page Hood, Chief Judge

CLOSING ORDER 3

NOTICE THAT CERTAIN CLAIMS WILL BE PERMANENTLY BARRED AND DENIED PAYMENT UNLESS A “CONFIRMED CURRENT ADDRESS” IS PROVIDED TO THE SF-DCT ON OR BEFORE JUNE 30, 2021

THIS ORDER APPLIES ONLY TO CERTAIN CLAIMS SUBMITTED ON OR BY JUNE 3, 2019 THAT HAVE NOT BEEN REVIEWED BECAUSE THE CLAIMANT’S ADDRESS IS NOT CURRENT AND THE CLAIMANT CANNOT BE LOCATED. IF THE SF-DCT HAS ALREADY ISSUED A NOTICE OF STATUS LETTER OR APPROVED THE CLAIM FOR PAYMENT, THIS ORDER DOES NOT APPLY

Whereas the Claimants’ Advisory Committee (“CAC”), Dow Silicones Corporation (“DSC”) and the Debtor’s Representatives (“DRs”) agree as follows:

1. This Court entered *Closing Order 1 for Final June 3, 2019 Deadline (Establishing Final Cure Deadlines, Revised Claims Review Procedures and Appeal Deadlines)* (“Closing Order 1”) on July 25, 2018.

2. This Court entered *Closing Order 2 (Regarding Additional Procedures For Incomplete And Late Claims; Protocols For Issuing Payments; Audits of Attorney Distributions of Payments; Protocols For Return of Undistributed Claimant Payment Funds; Guidelines For Uncashed Checks and For Reissuance of Checks; Restrictions on Attorney Withdrawals)* (“Closing Order 2”) on March 19, 2019.

3. Closing Order 1 provides at Paragraph 23 that, “To facilitate the process of final resolution of claims, the SF-DCT shall implement a unified claims review procedure so that all components of a claim – including the ‘pre-screen,’ the Proof of Manufacturer, the benefit claim and any known factors related to payment of the claim – are reviewed at the same time. Once that consolidated review is completed, the SF-DCT shall provide a single Notification of Status letter to the claimant.”

4. Closing Order 2 provides at Paragraph 11 that “Claimants and attorneys are required to keep their address and contact information current with the SF-DCT.” It further provides that the SF-DCT shall not issue payment to or for claimants unless the SF-DCT has a confirmed current address for the claimant.

5. Closing Order 2 further provides at Paragraph 11 that a “confirmed current address” is “an address that has been verified as a mailing address where the claimant or authorized payee is receiving mail so that the SF-DCT can assure that the claimant or authorized payee will actually receive the mailed check. This requirement applies both to claimants who are unrepresented and claimants who are represented and whose payment check might be mailed to the claimant’s attorney. The SF-DCT may accept confirmation of a claimant’s current address provided by the claimant’s attorney of record; however, the SF-DCT may seek additional confirmation as appropriate including, for example, in instances where prior mailings were returned as undeliverable or where prior address confirmations were not accurate.”

6. This Court has approved a protocol for the SF-DCT to use to ascertain current contact information for claimants and to conduct research where mail to a claimant has been returned to the SF-DCT as undeliverable. As set forth in *Consent Order To Establish Guidelines For the Distributions of Class 7 Silicone Materials Claimants’ Fund* (“Consent Order, Class 7”), (ECF 1227) dated December 3, 2015, approved December 3, 2015 (ECF 1226), the SF-DCT first sends

an address verification form to the claimant. If there is no response, then the SF-DCT conducts another search for the claimant. If the SF-DCT locates what appears to be contact information for a claimant, the SF-DCT affirmatively reaches out to confirm the claimant's current address and other contact information.

7. This procedure was employed with respect to the termination of the Class 7 Fund, to ensure that claimants received appropriate notification of the need to provide current address information. To provide notice to those claimants who could not be reached by mail, the Court directed the SF-DCT to post information on its website so that claimants could check the status of their claims and learn whether the SF-DCT needed a current address. The Court directed that those claimants who could not be located after two separate searches and mailings would have 90 days after the Consent Order became final to respond to the notification on the SF-DCT website. Claimants who failed to provide a confirmed current address by the end of that 90-day period had their claim permanently closed and were not entitled to any benefit distribution for their Class 7 claim.

8. As of the date of this Closing Order 3, the SF-DCT has identified 381 individual claimants in Classes 5, 6.1, and 6.2 who have submitted one or more benefits claims but do not have a confirmed current address. As provided in Closing Order 2, these claims may not be paid unless the SF-DCT obtains a confirmed current address for the claimant. Under the SF-DCT protocols, there is no reason to process a claim that is not eligible for payment. Consistent with the protocols adopted for the termination of the Class 7 Fund, the SF-DCT has undertaken to locate the 381 claimants. The SF-DCT has completed at least two separate address searches and two mailings for each of the 381 claimants and to the attorney of record if the claimant was represented, and has not received a confirmed current address. The 381 claimants are listed in Appendix A by SID number.

Accordingly, this Court ORDERS and DIRECTS:

The SF-DCT shall immediately post this Order and a notice with claim numbers (SIDs) on its SF-DCT website for the 381 claimants described above in paragraph 8. **The notice shall advise that these 381 claimants (or an appropriate representative of a deceased claimant) must provide a confirmed current address to the SF-DCT on or before June 30, 2021, by one of the methods explained below. If the SF-DCT does not receive a confirmed current address provided or postmarked on or before June 30, 2021, then the claim will be deemed abandoned, will be denied, and will be permanently closed. The claimant shall not be eligible to receive any payment for the claim.**

The claimant may provide the confirmed current address information directly to the SF-DCT in writing or by telephone communication, as explained below.

Written communication:

Address information may be provided in writing via email or letter:

(1) email to info@sfdct.com; or

(2) letter correspondence – using the Postal Service to SF-DCT, P. O. Box 52429, Houston, Texas 77052-2429 or using express delivery service to SF-DCT, 3200 Southwest Frwy, Suite 1500, Houston, Texas 77027. Correspondence by mail or express delivery must be postmarked or sent on or before June 30, 2021.

Telephone communication:

Claimants may provide current address information by contacting the SF-DCT by telephone at 866-874-6099.

THERE WILL BE NO EXTENSION OF THIS DEADLINE. A copy of this Closing Order 3 shall be mailed or emailed to all 381 claimants and attorneys of record for the applicable claims at the last known address available to the SF-DCT.

Dated: March 25, 2021

s/ Denise Page Hood
Denise Page Hood
Chief Judge

SO STIPULATED and AGREED:

BLANK ROME LLP

By: */s/ Deborah E. Greenspan*
Deborah E. Greenspan
Michigan Bar No. P33632
1825 Eye Street, N.W.
Washington, DC 20006
Tel.: (202) 420-2200
DGreenspan@blankrome.com

***Debtor's Representative and Counsel
for Dow Silicones Corporation***

CLAIMANTS' ADVISORY COMMITTEE

By: */s/ Dianna L. Pendleton-Dominguez*
Dianna L. Pendleton-Dominguez
Law Office of Dianna Pendleton
401 N. Main Street
St. Marys, OH 45885
Tel.: (419) 394-0717
DPend440@aol.com

By: */s/ Ernest H. Hornsby*
Ernest H. Hornsby
Farmer Price LLP
100 Adris Place
Dothan, AL 36303
Tel.: (334) 793-2424
Ernie@farmerprice.com

APPENDIX A

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