

EXHIBIT

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

**SETTLEMENT FACILITY DOW
CORNING TRUST**



**Case No. 00-CV-00005
(Settlement Facility Matters)**

Hon. Denise Page Hood

**[PROPOSED] FINDINGS AND CONCLUSIONS REGARDING AND
ORDER GRANTING MOTION TO TERMINATE FUNDING PURSUANT
TO SECTION 2.01(C) OF THE FUNDING PAYMENT AGREEMENT AND
TO TERMINATE THE SETTLEMENT FACILITY PURSUANT TO
SECTION 10.03 OF THE SETTLEMENT FACILITY AND FUND
DISTRIBUTION AGREEMENT**

This matter comes before the Court on the Motion of Dow Silicones Corporation, the Debtor's Representatives, and the Finance Committee ("Movants") to Terminate Funding Pursuant to Section 2.01(c) of the Funding Payment Agreement and to Terminate the Settlement Facility Pursuant to Section 10.03 of the Settlement Facility and Fund Distribution Agreement (ECF No. 1796) ("Motion"). The Court held a hearing on December 11, 2024 to address the Motion, and the Court now makes the following findings:

1. The Amended Joint Plan of Reorganization of Dow Corning Corporation (Plan) became effective on June 1, 2004.
2. The Plan provided terms for the resolution of Personal Injury Claims and claims related to Personal Injury Claims through either a settlement option or

a litigation option (depending on the particular Plan Class to which the claimants were assigned.)

3. This Court established the Settlement Facility and the Depository Trust as specified by the Plan.
4. Dow Silicones established the DCC Litigation Facility, Inc. as specified by the Plan.
5. This Court established a separate case for the submission and resolution of all issues arising with respect to the Settlement Facility.
6. This Court appointed entities and individuals to all the positions identified in the Plan – including the Claimants’ Advisory Committee, the Claims Administrator, the Appeals Judge and Lien Judge, the Special Master, the Special Master for Closing, the Financial Advisor, the Trustee, and the Independent Assessor.
7. This Court supervised the implementation of the Settlement Facility, reviewed and approved annual budgets for the administration of the Settlement Facility and the Litigation Facility, and maintained oversight over the operations of the Settlement Facility.
8. The Plan was structured to provide a 16-year period during which settlement claims could be submitted.

9. The Plan sets forth the procedures and terms for terminating the funding obligations of the Reorganized Debtor and for concluding the Settlement Facility operations.

Based on the Motion and the evidence submitted in support of the Motion, the Court finds that:

1. The Plan requires Dow Corning to provide funding in accordance with the Funding Payment Agreement – to pay ‘Fundable Expenditures’. Fundable Expenditures are defined as Allowed claims and administrative costs of operating the Settlement Facility and Litigation Facility.
2. Section 2.01(c) of the Funding Payment Agreement provides that the funding obligations shall terminate when all Allowed Claims in each of Classes 5 through 19 and all other obligations of the Settlement Facility and the Litigation Facility have been paid, all Claims filed have been liquidated and paid or otherwise finally resolved, and no new timely Claims have been made against the Settlement Facility or the Litigation Facility for two consecutive Funding Periods.
3. The evidence submitted confirms and the Court finds that:
 1. All Allowed Claims in each of Classes 5 through 19 have been paid.
 2. All Claims in each of Classes 5 through 19 have been liquidated and paid or otherwise finally resolved as required by the Funding Payment

Agreement. (The Court notes that “final resolution” is defined with reference to each relevant Plan class and each relevant claims determination option. Thus, final resolution for claims submitted to litigation means a final litigated resolution and final resolution for claims submitted to the Settlement Facility under the settlement program means resolution through the administrative process for settlement established in the Settlement Facility and Fund Distribution Agreement and Annex A to that Agreement.)

3. All other obligations (expenses) of the Settlement Facility and the Litigation Facility have been paid or will be paid during the wind-down period; and
4. All timely claims to the Settlement Facility have been processed and finally resolved. Timely claims were made throughout the period of time established by the Funding Periods and, accordingly, the provision in Section 2.01(c) of the Funding Payment Agreement that references the lack of claims filings for two consecutive funding periods does not apply.
5. The Court finds that the evidence set forth in the declarations of the Financial Advisor, Claims Administrator, and the Independent Assessor, confirms that the funds remaining in the Settlement Facility

account are sufficient for all remaining obligations of the Settlement Facility and to complete wind-down activities in a 90 day period or less starting January 1, 2025.

6. Based on the current circumstances and absent unexpected events, a 90 day period commencing on January 1, 2025 shall be a sufficient period in which to conduct wind-down.

Accordingly, the Court finds and concludes that the conditions set forth in the Plan and the Funding Payment Agreement for the termination of funding have been satisfied and that as of November 15, 2024, the date on which this Motion was filed, Dow Silicones had completed its funding obligations under the Plan and the Funding Payment Agreement and Dow Silicones shall have no further obligation to provide any additional funding for the Settlement Facility or Litigation Facility.

Pursuant to the terms of the Funding Payment Agreement and the Settlement Facility and Fund Distribution Agreement, the Settlement Facility shall proceed to wind-down its operations. Based on the declarations of the Financial Advisor, the Claims Administrator, and the Independent Assessor, the wind-down period shall commence on January 1, 2025 and shall conclude no later than March 31, 2025. The Court instructs the following general activities with respect to wind-down.

1. The Claims Administrator and Financial Advisor are instructed to complete all necessary tasks to achieve final termination including closure of bank

accounts, payment of all funds due to remaining staff, any other fees and expenses for vendors and contractors, and termination of storage of data and contracts for the storage of claims data by the end of the first quarter of 2025.

2. The Claims Administrator is instructed to arrange for the long-term storage of the claims database on a suitable hard drive or drives. Such data shall be maintained for a period of time to be set by the Court and shall be held and maintained as further instructed by the Court.
3. The Claims Administrator shall transfer to the Reorganized Debtor the files of cancelled checks (which serve as evidence of releases) as provided in the Plan.
4. The Finance Committee shall provide to the Court the summary of the resolution of claims.
5. The Financial Advisor is instructed to prepare and submit the final audit of the Settlement Facility and the final tax returns for the Trust. The Financial Advisor shall endeavor to complete the preparation and submission of these documents as promptly as feasible. The Financial Advisor shall submit the audit and confirmation of tax filing to the Court.
6. Any funds remaining in the Trust account at the conclusion of the wind-down activities are to be distributed to a neutral medical research institute or university, selected by the Finance Committee after consulting with the Claimants' Advisory Committee.

7. Once wind-down activities are complete, the parties shall provide a Trustee Direction to the Trustee instructing the Trustee to conclude its operations as provided in the Depository Trust Agreement and the parties shall assist the Trustee with the dissolution of the Depository Trust in accordance with the terms of the Depository Trust Agreement.
8. At or near the conclusion of the wind-down activities, the parties shall provide a notification to the Court and request an order from the Court that will terminate and dissolve all positions appointed by the Court under the Plan – including the Claimants’ Advisory Committee, Debtor’s Representatives, Finance Committee, Trust, Trustee, Independent Assessor, Claims Administrator, Appeals Judge and Lien Judge, the Special Master for Closing and the Financial Advisor (once the final audit and tax filings are complete). The parties will provide to the Court a proposed form of order.
9. At the conclusion of wind-down activities, the parties shall also provide a proposed order directing the destruction of any claim materials in the possession of any persons appointed by the Court or who were not subject to the Stipulation of the Finance Committee, Debtor’s Representatives, and Claimants’ Advisory Committee to Require All Vendors, Contractors, and Various Appointees to Return or Destroy All Data, Information and Materials

Related to the Settlement Facility (ECF No. 1781) entered by the Court on July 24, 2024.

10. Once wind-down activities are complete, Dow Silicones will dissolve the DCC Litigation Facility, Inc.

Accordingly, it is hereby ORDERED that the Motion is GRANTED.

DATED: _____

DENISE PAGE HOOD
UNITED STATES DISTRICT JUDGE