

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

IN RE: § **CASE NO. 00-CV-00005-DT**
§ **(Settlement Facility Matters)**
DOW CORNING §
CORPORATION, §
§
REORGANIZED DEBTOR § **Hon. Denise Page Hood**

**FINANCE COMMITTEE’S MOTION FOR ENTRY OF AN ORDER TO
SHOW CAUSE WITH RESPECT TO JEFFREY W. STEIDLEY
OF THE STEIDLEY LAW FIRM**

The Finance Committee files this Motion to require Jeffrey W. Steidley of The Steidley Law Firm to appear before this Court and show cause why he should not be sanctioned, held in contempt, and otherwise required to respond regarding the conduct of The Steidley Law Firm, which includes: 1) cashing the claim payment checks intended for Claimants represented by Mr. Steidley; 2) failing to provide the SF-DCT with valid address information for the Claimants, which is necessary to confirm each Claimant’s receipt of their claim payment(s); 3) failing to provide the SF-DCT with proof of distribution of the claim payments to the Claimants; and 4) failing to return to SF-DCT any claim payment funds that were not distributed to the Claimants. In support of this motion, the Finance Committee would respectfully show the Court as follows:

1. On May 15, 1995, Debtor filed a petition for reorganization under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Michigan. On November 30, 1999, the Court entered the Order confirming the Plan of Reorganization of Dow Corning Corporation (“the Confirmation Order”) and on June 1, 2004 the Amended Joint Plan of Reorganization of Dow Corning Corporation (“the Plan”) became effective. Pursuant to the Plan and the Confirmation Order, the Settlement Facility and Fund Distribution Agreement (“SFA”) became effective on June 1, 2004. *See* Exh. A.

2. The SFA establishes the Settlement Facility (“SF-DCT”), which among other things, assumes liability for and resolves claims of settling Personal Injury Claimants and distributes funds to Claimants with allowed claims. The Court supervises the resolution of Claims under the SFA and is authorized to perform all functions relating to the distribution of funds. *See* Exh. A at § 4.01. The funds distributed by the Settlement Facility are in the custody of the Court until they are *paid to* and *actually received by* a Claimant. *See id.* at § 10.09 (“All funds in the Settlement Facility are deemed in custodia legis until such times as the funds have actually been paid to and received by a Claimant.”).

3. Jeffrey W. Steidley is the attorney-of-record representing the five Claimants (“the Claimants”) listed in the chart below who submitted claims to the

SF-DCT. In that capacity, Mr. Steidley is aware that his clients' election to settle their claims subjects him to the terms of the SFA. *See id.* at § 6.02.

4. The five Claimants were determined by the SF-DCT to have allowed Claims. On the dates indicated in the chart below, the SF-DCT sent claim payment checks to Mr. Steidley's law firm for distribution to the Claimants.

	Claimant SID	Payment Type	Payment Amount	Payment Date
1	0237763	Rupture	\$20,000	3/10/2008
		Explant	\$ 5,000	4/27/2010
2	0253507	Rupture PP	\$ 2,500	9/16/2014
		Disease PP	\$15,000	1/15/2015
3	1127352	Rupture PP	\$ 2,500	8/15/2014
4	0244871	Rupture PP	\$ 2,500	10/14/2014
5	0674802	Rupture PP	\$ 2,500	9/16/2014
		TOTAL	\$50,000	

5. The SF-DCT has confirmed that each check listed in the chart above was cashed. For example, the \$20,000 Rupture claim payment for Claimant SID 0237763 was cashed on April 18, 2008, and the \$5,000 Explant claim payment for Claimant SID 0237763 was cashed on May 26, 2010. *See* Exh. B.¹

6. The Claim award notification letters mailed by the SF-DCT directly to the listed Claimants were returned undeliverable, with no forwarding addresses. Valid address information is necessary for the SF-DCT to notify Claimants of their

¹ The Claimants' names have been redacted from all exhibits for privacy.

claim payments and confirm receipt of those payments. To perform those functions, the SF-DCT sent written requests to Mr. Steidley for updated addresses for the five Claimants, or if a Claimant is deceased, the address of the person with authority to act on behalf of the Claim. *See e.g.* Exh. C.

7. In response to these numerous written requests, The Steidley Law Firm has provided proof of distribution or has returned the funds for Claimant SID 1127352 and Claimant 0253507. The Steidley fund has failed to provide proof of distribution and has failed to return the funds for Claimant 0237763 (\$25,000 claims payments), Claimant 0244871 (\$2,500 claim payment), and Claimant 0674802 (\$2,500 claim payment). This means that \$30,000 in claims payments were cashed by the Steidley Law Firm and have not been accounted for as requested by the SF-DCT.

8. Because the checks sent to Mr. Steidley were cashed, it is reasonable to assume that Mr. Steidley has valid address information for the Claimants to facilitate his distribution of funds to them. It is also reasonable to assume that Mr. Steidley has proof of distribution of the claim payments to the Claimants. Nevertheless, The Steidley Law Firm has failed to provide this information in response to multiple written requests by the SF-DCT and counsel for the Finance Committee. *See e.g.* Exhs. C and D.

9. In the event that The Steidley Law Firm was unable to distribute the claims payment to the Claimants, the SF-DCT and the counsel for the Finance Committee requested in its correspondence that the law firm return the undistributed claims funds to the SF-DCT. *See id.* The Steidley Law Firm indicated in email correspondence with counsel for the Finance Committee on January 8, 2018 and January 10, 2018 that it would return these payments. *See* Exh. E. However, The Steidley Law Firm has failed to return the funds to the SF-DCT as promised.

10. Because Mr. Steidley and his law office have failed to provide valid addresses for the Claimants, failed to provide proof of distribution to the Claimants, and failed to return the funds, the SF-DCT cannot verify that \$30,000 claims payments sent to The Steidley Law Firm (and subsequently cashed) have been received by the Claimants.

11. The conduct of the Steidley Law Firm with respect to the funds entrusted to Mr. Steidley for distribution to the Claimants has diverted SF-DCT's employees from performing their normal duties and necessitated the utilization of counsel, which has caused the SF-DCT to incur unnecessary expense.

12. This Court supervises the distribution of funds from the SF-DCT to Claimants. There can be no dispute that the claim payment funds sent to Mr. Steidley for distribution to the Claimants are in the Court's custody and under the

Court's supervision until those funds are received by the Claimants. *See* Exh. A at § 10.09. Accordingly, the Court is entitled to know with certainty whether the monies sent to Mr. Steidley were received by the Claimants. Moreover, if Mr. Steidley was unable to distribute the claim payments to the Claimants, the Court should require him to return those funds to the SF-DCT.

13. While there is no order or injunction requiring The Steidley Law Firm or Mr. Steidley's compliance with the SF-DCT's requests, Mr. Steidley subjected himself to the requirements of the SF-DCT and SFA when he filed claims on behalf of the Claimants and his conduct clearly contradicts the SFA and this Court's custody over the funds in question. Therefore, the imposition of civil contempt sanctions is warranted. District courts have inherent power to enforce compliance with orders through civil contempt. *Electrical Workers Pension Trust Fund of Local Union #58, IBEW v. Gary's Elec. Serv. Co.*, 340 F.3d 373, 378 (6th Cir.2003).

14. The Finance Committee respectfully requests that the Court enter an order requiring Jeffrey W. Steidley of the Steidley Law Firm to appear before this Court on June 14, 2018 at 9:30 a.m. and show cause why he should not be sanctioned, held in contempt, and otherwise required to respond regarding his failure to account for or return \$30,000 in claims funds. At the hearing, following submission of this and other evidence, the Finance committee will ask that the

Court enter such sanctions and penalties against Mr. Steidley as the Court deems appropriate.

Dated: May 17, 2018.

Respectfully submitted,

SMYSER KAPLAN & VESELKA LLP

/s/ Karima G. Maloney

Karima G. Maloney

Texas Bar No. 24041383

(E.D. Mich. admitted)

700 Louisiana Street, Suite 2300

Houston, Texas 77002

(713) 221-2382 (telephone)

kmaloney@skv.com

COUNSEL FOR FINANCE COMMITTEE

CERTIFICATE OF SERVICE

I hereby certify that on May 17, 2018, the foregoing Motion for Entry of An Order to Show Cause has been electronically filed with the Clerk of Court using the ECF system which will send notice and copies of the document to all registered counsel in this case. A copy of this motion was also sent via email and certified mail to Jeffrey W. Steidley at The Steidley Law Firm.

By: /s/ Karima G. Maloney

SMYSER KAPLAN & VESELKA LLP

Texas Bar No. 24041383

(E.D. Mich. admitted)

700 Louisiana Street, Suite 2300

Houston, Texas 77002

(713) 221-2382 (telephone)

kmaloney@skv.com

COUNSEL FOR FINANCE COMMITTEE