



**IT IS ORDERED as set forth below:**

**Date: December 17, 2020**

**Paul W. Bonapfel  
U.S. Bankruptcy Court Judge**

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**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

IN RE: )  
 )  
P-D VALMIERA GLASS USA CORP., ) CHAPTER 11  
 )  
 ) CASE NO. 19-59440-pwb  
 )  
Debtor. )

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**CONSENT ORDER REGARDING THE DEBTOR’S MOTION  
FOR THE DETERMINATION OF TAX LIABILITY AND  
ITS OBJECTION TO CLAIMS FILED BY THE IRS**

THIS MATTER came before the Court upon the Debtor’s Motion for the Determination of Tax Liability and Its Objection to Claims filed by the IRS (Doc. 440) (the “Debtor’s Motion”) filed by P-D Valmiera Glass USA Corp., the debtor and debtor-in-possession in the above-referenced Chapter 11 case (the “Debtor”), seeking entry of an order pursuant to Sections 502, 503, 505 and 507 of the United States Bankruptcy Code, 11 U.S.C., and Rule 3007 and 3012 of the Federal Rules of Bankruptcy Procedures, and the objection and response filed by the claimant, United States of America, by and through the Internal Revenue Service (“IRS”), (Doc. 505) (the “Claimant’s Response”). Based on a review of the record and the consent of the

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parties, as evidenced by the signatures of their respective counsel, below, it is hereby ORDERED, ADJUDGED and DECREED that:

1. The Debtor is not indebted to the United States for any additional corporate income taxes or interest for the tax year 2018, and therefore, the IRS claim for additional corporate income taxes, plus interest thereon, for 2018 shall be disallowed.

2. The Debtor is not indebted to the United States for additional federal withholding taxes on U.S. source income of foreign persons (the "Form 1042 withholding taxes"), penalties or interest for the tax year 2018, and therefore, the IRS claim for additional Form 1042 withholding taxes of \$198,981.34, penalties of \$4,200.71, and interest of \$3,304.03 for 2018 shall be disallowed.

3. The Debtor is not indebted to the United States for any additional excise taxes, penalties or interest for 2016, and therefore, the IRS claim for additional excise taxes, plus penalties and interest thereon, for 2016 shall be disallowed.

4. The Debtor is not indebted to the United States for any additional federal unemployment taxes or interest thereon for the tax year ended December 31, 2019, and therefore, the IRS claim for additional federal unemployment taxes, plus interest thereon, for 2019 shall be disallowed. The Debtor, however, is indebted to the United States for a penalty for failing to deposit federal unemployment taxes for 2019 timely (the "2019 federal tax deposit penalty"), and therefore, the IRS claim for the 2019 federal tax deposit penalty shall be allowed as an administrative expense claim under 11 U.S.C. § 503(b)(1)(C) and is entitled to priority under 11 U.S.C. § 507(a)(2) in the amount of \$2,229.26, plus statutory interest thereon as is required by law and determined pursuant to 11 U.S.C. § 511 and 26 U.S.C. §§ 6601 and 6621.

5. The Debtor is not indebted to the United States for federal employment taxes or interest for the quarter ended June 30, 2014, and therefore, the IRS claim for federal employment taxes, plus interest thereon, for the tax period ended June 30, 2014, shall be disallowed.

6. The Debtor is indebted to the United States for federal employment taxes assessed against it for the tax quarter ended December 31, 2018, and therefore, the IRS claim for the assessed employment taxes for the tax period ended December 31, 2018, shall be allowed as an unsecured priority claim under 11 U.S.C. § 507(a)(8)(C), (D) in the amount of \$343,063.08, plus

statutory interest as is required by law and determined pursuant to 11 U.S.C. § 511 and 26 U.S.C. §§ 6601 and 6621.

7. The Debtor is not indebted to the United States for any additional federal employment taxes, penalties or interest for the quarter ended March 31, 2019, and therefore, the IRS claim for additional federal employment taxes, plus penalties and interest thereon, for the tax period ended March 31, 2019, shall be disallowed.

8. The Debtor is not indebted to the United States for any additional federal employment taxes or interest thereon for the quarter ended June 30, 2019, and therefore, the IRS claim for additional federal employment taxes, plus interest thereon, for the tax period ended June 30, 2019, shall be disallowed. The Debtor, however, is indebted to the United States for a penalty for failing to deposit federal employment taxes for the quarter ended June 30, 2019 timely (the “6/30/19 federal tax deposit penalty”), and therefore, the IRS claim for the 6/30/19 federal tax deposit penalty shall be allowed as an administrative expense claim under 11 U.S.C. § 503(b)(1)(C) and is entitled to priority under 11 U.S.C. § 507(a)(2) in the amount of \$16,302.40, plus statutory interest thereon as is required by law and determined pursuant to 11 U.S.C. § 511 and 26 U.S.C. §§ 6601 and 6621.

9. The Debtor is not indebted to the United States for any additional federal employment taxes or interest thereon for the quarter ended September 30, 2019, and therefore, the IRS claim for additional federal employment taxes, plus interest thereon, for the tax period ended September 30, 2019, shall be disallowed. The Debtor, however, is indebted to the United States for a penalty for failing to deposit federal employment taxes for the quarter ended September 30, 2019 timely (the “9/30/19 federal tax deposit penalty”), and therefore, the IRS claim for the 9/30/19 federal tax deposit penalty shall be allowed as an administrative expense claim under 11 U.S.C. § 503(b)(1)(C) and is entitled to priority under 11 U.S.C. § 507(a)(2) in the amount of \$2,249.79, plus statutory interest thereon as is required by law and determined pursuant to 11 U.S.C. § 511 and 26 U.S.C. §§ 6601 and 6621.

10. The Debtor is not indebted to the United States for any additional federal employment taxes or interest thereon for the quarter ended December 31, 2019, and therefore,

the IRS claim for additional federal employment taxes, plus interest thereon, for the tax period ended December 31, 2019, shall be disallowed

11. The Debtor has overpaid its corporate income tax (Form 1120) liability for the tax year 2017 in the amount of \$552,605.98 (the “2017 overpayment”). However, because of the Debtor’s outstanding tax liabilities identified in paragraphs 4, 6, 8 and 9, above, the IRS may offset the Debtor’s 2017 overpayment, plus statutory interest thereon as is required by law and determined pursuant to 11 U.S.C. § 511 and 26 U.S.C. §§ 6611 and 6621, against its allowed claims, plus statutory interest thereon as is required by law and determined pursuant to 11 U.S.C. § 511 and 26 U.S.C. §§ 6601 and 6621. After the IRS offsets the Debtor’s 2017 overpayment of \$552,605.98 (excluding interest) against its allowed claims of \$363,844.53 (excluding interest), the Debtor is entitled to a refund of approximately \$188,761.45 (excluding interest), plus statutory interest thereon as is required by law and determined pursuant to 11 U.S.C. § 511 and 26 U.S.C. §§ 6611 and 6621.<sup>1</sup>

12. Within 20 days from entry of this Order, the IRS shall file an amended proof of claim and a request for the payment of administrative expense claims that are consistent with this Order. To the extent, however, that the IRS’s amended proof of claim and/or request for the payment of administrative expense claims are inconsistent with this Order, this Order shall govern.

13. Within 120 days from entry of this Order, the IRS shall mail a refund check payable to “P-D Valmiera Glass USA Corp.” in the amount determined under the method of calculation set forth in paragraph 11, above, via overnight mail, to the Debtor’s

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<sup>1</sup> The exact amount of the refund payable to the Debtor cannot be determined until the IRS computes the complex interest calculations that are required to be performed manually on account of the setoff of the Debtor’s 2017 overpayment against the IRS’s allowed claims. The IRS estimates that it will take between 90 to 120 days for it to perform the interest computations and issue a refund check to the Debtor.

counsel at the following address:

P-D Valmiera Glass USA Corp.  
c/o Ashley R. Ray, Esq.  
Scroggins & Williamson, P.C.  
4401 Northside Parkway  
Suite 450  
Atlanta, Georgia 30327

14. The Debtor's Motion and the Claimant's Response are resolved in accordance with this Order.

15. Each party shall bear their own costs, including any attorneys' fees.

16. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, enforcement, construction, administration and interpretation of this Order.

**END OF DOCUMENT**

*Prepared and Consented to by:*

RICHARD E. ZUCKERMAN  
Principal Deputy Assistant Attorney General

/s/ Lynne M. Murphy  
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*Counsel for the United States of America*

*Consented to by:*

SCROGGINS & WILLIAMSON, P.C.

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ASHLEY REYNOLDS RAY  
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*Counsel for the Debtor*

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Washington, D.C. 20044

United States Bankruptcy Court  
Northern District of Georgia

In re:  
P-D Valmiera Glass USA Corp.  
Debtor(s)

Case No. 19-59440-pwb  
Chapter 11

## CERTIFICATE OF NOTICE

District/off: 113E-9  
Date Rcvd: Dec 17, 2020

User: slaterc  
Form ID: pdf554

Page 1 of 3  
Total Noticed: 5

The following symbols are used throughout this certificate:

**Symbol Definition**

+ Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Dec 19, 2020:

Recip ID	Recipient Name and Address
db	+ P-D Valmiera Glass USA Corp., 168 Willie Paulk Pkwy, Dublin, GA 31021-0729
	+ Ashley Reynolds Ray, SCROGGINS & WILLIAMSON, P.C., 4401 Northside Parkway, Suite 450, Atlanta, GA 30327-3011
	+ Lynne M. Murphy, U.S. Department of Justice, P.O. Box 14198, Ben Franklin Station, Washington, D.C. 20044-4198

TOTAL: 3

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID	Notice Type: Email Address	Date/Time	Recipient Name and Address
	+ Email/Text: ustpreion21.at.ecf@usdoj.gov	Dec 17 2020 21:27:00	David S. Weidenbaum, Richard Russell Federal Building, 75 Ted Turner Drive, SW, Suite 362, Atlanta, GA 30303-3330
	+ Email/Text: ustpreion21.at.ecf@usdoj.gov	Dec 17 2020 21:27:00	Martins Ochs, Richard Russell Federal Building, 75 Ted Turner Drive, SW, Suite 362, Atlanta, GA 30303-3330

TOTAL: 2

## BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, \*duplicate of an address listed above, \*P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

## NOTICE CERTIFICATION

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Dec 19, 2020

Signature: /s/Joseph Speetjens

## CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on December 17, 2020 at the address(es) listed below:

Name	Email Address
Alan C. Hochheiser	on behalf of Creditor AmTrust North America Inc. ahochheiser@mauricewutscher.com, arodriguez@mauricewutscher.com



District/off: 113E-9  
Date Rcvd: Dec 17, 2020

User: slaterc  
Form ID: pdf554

Page 2 of 3  
Total Noticed: 5

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District/off: 113E-9  
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Form ID: pdf554

Page 3 of 3  
Total Noticed: 5

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TOTAL: 44