

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

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In re:	§	
	§	Chapter 11
	§	
SHERWIN ALUMINA COMPANY, LLC, <i>et al.</i> , <sup>1</sup>	§	Case No. 16-20012
	§	
Debtors.	§	(Jointly Administered)
	§	<b>David R. Jones</b>

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**NOTICE OF (A) DEADLINE TO CAST VOTES TO ACCEPT OR  
REJECT DEBTORS' MODIFIED JOINT CHAPTER 11 PLAN, (B) COMBINED  
HEARING TO CONSIDER APPROVAL OF DISCLOSURE STATEMENT AND  
CONFIRMATION OF PLAN, AND (C) RELATED MATTERS AND PROCEDURES**

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**Court Approval of the Disclosure Statement and the Solicitation Procedures**

On November 23, 2016, the United States Bankruptcy Court for the Southern District of Texas (the “Court”) entered an order [Docket No. 950] (the “Disclosure Statement Order”) that conditionally approved the *Disclosure Statement for the Debtors’ Modified Joint Chapter 11 Plan* [Docket No. 953] (as may be amended from time to time and including all exhibits and supplements thereto, the “Disclosure Statement”), as containing adequate information, as required under section 1125(a) of title 11 of the United States Code (the “Bankruptcy Code”), for the purposes of solicitation, and authorized the above-captioned debtors and debtors in possession (collectively, the “Debtors”), to solicit votes with regard to the acceptance or rejection of the *Debtors’ Modified Joint Chapter 11 Plan* [Docket No. 937] (as may be amended from time to time and including all exhibits and supplements thereto, the “Plan”).<sup>2</sup>

**Voting Record Date**

The Voting Record Date for purposes of determining (a) which Holders of Claims are entitled to vote on the Plan and (b) whether Claims have been properly transferred to an assignee pursuant to Bankruptcy Rule 3001(e) such that the assignee can vote as the Holder of the Claim was November 22, 2016.

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<sup>1</sup> The debtors in these chapter 11 cases, along with the last four digits of each debtor’s federal tax identification number, are: Sherwin Alumina Company, LLC (2376); and Sherwin Pipeline, Inc. (9047). The debtors’ service address is: 4633 Highway 361, Gregory, Texas 78359.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Disclosure Statement Order, the Disclosure Statement, or the Plan, as applicable.

### **Voting Deadline**

If you held a Claim against the Debtors as of the Voting Record Date, and are entitled to vote on the Plan, you have received a Ballot and voting instructions appropriate for your Claim(s). For your vote to be counted in connection with Confirmation of the Plan, you must follow the appropriate voting instructions, complete all required information on the Ballot, as applicable, and execute and return the completed Ballot so that it is actually received in accordance with the voting instructions by **December 9, 2016, at 4:00 p.m. (prevailing Central Time)** (the “Voting Deadline”). Any failure to follow the voting instructions included with the Ballot may disqualify your Ballot and your vote on the Plan.

### **Objections to the Plan**

The Court has established **December 9, 2016, at 4:00 p.m. (prevailing Central Time)**, as the deadline for filing and serving objections to the Confirmation of the Plan (the “Plan Objection Deadline”). Any objection to the Plan must: (a) be in writing; (b) conform to the Bankruptcy Rules; (c) state the name and address of the objecting party and the amount and nature of the Claim or Interest; (d) state with particularity the basis and nature of any objection to the Plan, (e) propose a modification to the Plan that would resolve such objection (if applicable); and (f) be filed, contemporaneously with a proof of service, with the Court and served on Kirkland & Ellis LLP at 300 North LaSalle, Chicago, Illinois 60654, Attn.: Gregory F. Pesce and each of the entities on the Master Service List and available on the Court’s website at [www.txs.uscourts.gov/bankruptcy](http://www.txs.uscourts.gov/bankruptcy)).

### **Combined Hearing**

A hearing to approve the adequacy of the Disclosure Statement and confirm the Plan (the “Combined Hearing”) will commence on **December 19, 2016, at 1:30 p.m. (prevailing Central Time)**, before the United States Bankruptcy Judge, in the United States Bankruptcy Court for the Southern District of Texas before the Honorable David R. Jones, Chief Judge, at 515 Rusk Street, Houston, Texas 77002. Please be advised that the Combined Hearing may be continued from time to time by the Court or the Debtors without further notice other than by such adjournment being announced in open court or by a notice of adjournment being filed with the Court and served on parties entitled to notice under Bankruptcy Rule 2002 or otherwise. In accordance with the Plan, the Plan may be modified, if necessary, before, during, or as a result of the Combined Hearing without further action by the Debtors and without further notice to or action, order, or approval of the Court or any other Entity.

### **Plan Supplement**

The Debtors intend to file a Plan Supplement on or before December 5, 2016, that includes, among other things, the list of rejected Executory Contracts and Unexpired Leases. The Debtors do not intend to serve copies of the Plan Supplement on all parties in interest in these chapter 11 cases; the Plan Supplement, however, may be obtained from the Notice and Solicitation Agent. In connection with the filing the Plan Supplement, the Debtors will send a separate notice advising applicable counterparties to Executory Contracts and Unexpired Leases

listed in the Plan Supplement that their respective contracts or leases are being assumed, assumed and assigned, or rejected under the Plan.

### **Inquiries**

Holders of Claims that are entitled to vote on the Plan shall receive a Solicitation Package. Further copies of the Solicitation Package may be obtained by (a) accessing the Notice and Solicitation Agent's website at <http://www.kccllc.net/sherwin>, (b) writing to the Notice and Solicitation Agent at Sherwin Alumina Company, LLC, c/o Kurtzman Carson Consultants, 2335 Alaska Avenue, El Segundo, California 90245, (c) calling the Notice and Solicitation Agent's toll-free information line with respect to the Debtors at (866) 927-7091 or, if calling from outside the United States or Canada, at (310) 751-2657, and/or (d) visiting the website maintained by the Court at <http://www.txs.uscourts.gov/bankruptcy>. The Debtors will answer questions regarding the procedures and requirements for voting to accept or reject the Plan and for objecting to the Plan, provide additional copies of all materials, and oversee the voting tabulation.

### **Temporary Allowance of Claims for Voting Purposes**

Holders of Claims that are subject to a pending objection by the Debtors or are set to be disallowed pursuant to the Plan as of the Voting Record Date cannot vote on the Plan; *provided* that if the pending objection seeks only to "reduce" the amount of such Claim, such Claim may be voted in the undisputed amount. Moreover, a Holder of a Claim cannot vote any disputed portion of its Claim unless one or more of the following events (each, a "Resolution Event") has taken place by December 2, 2016, a date five business days before the Voting Deadline:

- a. an order of the Court is entered allowing such Claim pursuant to section 502(b) of the Bankruptcy Code, after notice and a hearing;
- b. an order of the Court is entered temporarily allowing such Claim for voting purposes only pursuant to Bankruptcy Rule 3018(a), after notice and a hearing;
- c. a stipulation or other agreement is executed between the Holder of such Claim and the Debtors resolving the objection and allowing such Claim in an agreed upon amount;
- d. a stipulation or other agreement is executed between the Holder of such Claim and the Debtors temporarily allowing the Holder of such Claim to vote its Claim in an agreed upon amount; or
- e. the pending objection to such Claim is voluntarily withdrawn by the Debtors.

Furthermore, any Holder of a Claim (including any Contract/Lease Counterparty) that holds a Claim on account of an Executory Contract or Unexpired Lease that may be rejected pursuant to the Plan) may file a motion with the Court to have its Claim estimated for voting purposes only under Bankruptcy Rule 3018. Such Holder shall not be entitled to vote its Claim in an amount different than the amount set forth in such Holder's Ballot unless and until a Resolution Event occurs at least five business days before the Voting Deadline.

No later than one business day after a Resolution Event, the Debtors shall distribute a Solicitation Package and a pre-addressed, postage pre-paid envelope to the relevant Holder of such temporarily Allowed Claim that has been Allowed for voting purposes only (or for other purposes as set forth in an applicable order of the Court) by such Resolution Event, which must be returned according to the instructions on the Ballot by no later than the Voting Deadline.

**Release, Exculpation, and Injunction Language in the Plan**

Please be advised that Article VIII of the Plan contains the following release, exculpation, and injunction provisions:

**RELEASE OF LIENS.** Except as otherwise provided herein or in any contract, instrument, release, or other agreement or other document created pursuant to or in connection with the Plan, on the Effective Date and concurrently with the applicable distributions (if any) made pursuant to the Plan and, in the case of a Secured Claim, satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date or as otherwise treated in accordance with the Plan, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released, settled, and compromised, and all rights, titles, and interests of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall revert to the Debtors and be assigned to the Buyer pursuant to the Purchase Agreement.

**RELEASES BY THE DEBTORS.** Pursuant to section 1123(b) of the Bankruptcy Code and to the fullest extent authorized by applicable law, and except as otherwise specifically provided in the Plan, for good and valuable consideration, on and after the Effective Date, each Released Party is expressly, unconditionally, generally and individually and collectively released, acquitted and discharged by the Debtors and their Estates from any and all actions, claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims or claims for recharacterization, subordination, or avoidance of the Prepetition Secured Credit Facility Claims, asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereinafter arising, in law, equity, or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, that the Debtors or their Estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Chapter 11 Cases, the Sale Transaction, the Restructuring Transactions, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests before or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Restructuring Documents or related agreements, instruments or other documents (including, for the avoidance of doubt, providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or

the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion), upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date.

**RELEASES BY HOLDERS OF CLAIMS AND INTERESTS.** As of the Effective Date, except as otherwise provided in the Plan, and to the fullest extent authorized by applicable law, the Releasing Parties shall be deemed to expressly, unconditionally, generally and individually and collectively release, acquit and discharge the Debtors, their Estates, and the Released Parties from any and all actions, claims, interests, obligations, rights, suits, damages, Causes of Action, remedies and liabilities whatsoever, including any derivative claims or claims for recharacterization, subordination, or avoidance of the Prepetition Secured Credit Facility Claims, asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereinafter arising, in law, equity, or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, that each Releasing Party would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Debtors' restructuring, the Chapter 11 Cases, the Sale Transaction, the Restructuring Transactions, the purchase, sale or rescission of the purchase or sale of any security of the Debtors, or the Buyer, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests before or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Restructuring Documents, or related agreements, instruments, or other documents (including, for the avoidance of doubt, providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion), upon any other act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Effective Date obligations of any party under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan. For the avoidance of doubt, no provision of this Plan or any Order of this Court relieves the Debtors or any other persons or entities that are members of the Controlled Group, from the obligation to comply with ERISA, and the rules, regulations and orders promulgated thereunder by the PBGC. PBGC's rights and powers to take any action pursuant to its statutory and regulatory authority, including, but not limited to, termination of Debtor's covered pension plans and enforcement of ERISA and PBGC's regulations and the filing of statutory liens pursuant to 26 U.S.C. § 430(k) and/or 29 U.S.C. § 1368 against nondebtor Controlled Group members, are fully preserved, and nothing herein shall proscribe or constrain PBGC's exercise of such power or authority. The Confirmation Order shall be a judicial determination of the settlement, compromise, and release of all Claims and Interests in accordance with the Plan subject to the Effective Date occurring.

**EXCULPATION.** Except as otherwise specifically provided in the Plan, as of the Effective Date, each Debtor and each Released Party shall be deemed to be released and exculpated from any claim, obligation, Cause of Action, or liability for any Exculpated Claim, but in all respects each Debtor and each Released Party shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Debtors, their Estates, and the Released Parties have, and upon the Consummation of the Plan, shall be deemed to have, participated in good faith and in compliance with applicable law with regard to the restructuring of Claims and Interests in the Chapter 11 Cases and in connection with the Restructuring Transactions, the Sale Transaction, the negotiation, formulation, or preparation of the Restructuring Documents or related agreements, instruments, or other documents (including, for the avoidance of doubt, providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion) in connection with the Plan, and the solicitation of the Plan and distributions pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan.

**INJUNCTION.** Except as otherwise expressly provided in the Plan or for obligations issued or required to be paid pursuant to the Plan, or Confirmation Order, all Entities who have held, hold, or may hold claims or interests that have been released pursuant to Article VIII.B, Article VIII.C or Article VIII.D of the Plan, compromised and settled pursuant to Article VIII.A of the Plan, or are subject to exculpation pursuant to Article VIII.E of the Plan shall be deemed to be permanently enjoined, on and after the Effective Date, from taking any of the following actions against, as applicable, the Debtors or the Released Parties: (1) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claim or interest; (2) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests; (3) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or the estates of such Entities on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests; (4) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from such Entities or against the property of such Entities on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests unless such entity has timely Filed a Proof of Claim with the Bankruptcy Court preserving such right of setoff, subrogation, or recoupment; and (5) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests. For the avoidance of doubt, the injunction provided for in

**Article VIII.F shall apply to Reynolds, notwithstanding anything in the Plan to the contrary.**

**YOU ARE ADVISED TO CAREFULLY REVIEW AND CONSIDER THE PLAN, INCLUDING THE RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AS YOUR RIGHTS MIGHT BE AFFECTED.**

Dated: November 23, 2016  
Corpus Christi, Texas

**BY ORDER OF THE COURT**