

Hearing Date: April 22, 2010
Hearing Time: 10:00 a.m. (prevailing Eastern time)

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
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DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
	:	(Jointly Administered)
Reorganized Debtors.	:	
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REORGANIZED DEBTORS' STATEMENT OF DISPUTED ISSUES WITH RESPECT TO
PROOF OF CLAIM NO. 16127 (U.S. CUSTOMS AND BORDER PROTECTION)

("STATEMENT OF DISPUTED ISSUES – U.S. CUSTOMS AND BORDER PROTECTION")



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DPH Holdings Corp. and certain of its affiliated reorganized debtors in the above-captioned cases (collectively, the "Reorganized Debtors"), hereby submit this Statement Of Disputed Issues (the "Statement Of Disputed Issues") With Respect To Proof Of Claim Number 16127 filed by U.S. Customs and Border Protection ("CBP" or the "Claimant") and respectfully represent as follows:

Background

1. On October 8 and 14, 2005 (the "Petition Date"), Delphi Corporation ("Delphi") and certain of its subsidiaries and affiliates (collectively, the "Debtors"), predecessors of the Reorganized Debtors, filed voluntary petitions under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as then amended (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Southern District of New York (the "Court").

2. On August 9, 2006, CBP filed proof of claim number 16127 (the "Proof of Claim") against Delphi. The Proof of Claim asserts (a) a secured contingent claim in the amount of \$82,643.04, (b) an unliquidated and/or contingent unsecured claim, and (c) an unliquidated and/or contingent priority claim for certain duties and warehouse entries (the "Claim").

3. On May 22, 2007, the Debtors objected to the Proof of Claim pursuant to Debtors' Fifteenth Omnibus Objection (Substantive) Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 To Certain (A) Insufficiently Documented Claims, (B) Claims Not Reflected On Debtors' Books And Records, (C) Untimely Claims And Untimely Tax Claim, And (D) Claims Subject To Modification, Tax Claims Subject To Modification, And Modified Claims Asserting Reclamation (Docket No. 7999).

4. On June 21, 2007, the United States of America filed the United States Of America's Response To Debtor's Objection To The Claims Of U.S. Customs And Border Protection (Docket No. 8381) (the "Response").

5. On February 4, 2008, this Court entered the Joint Stipulation And Agreed Order Capping Proof Of Claim No. 16127 (U.S. Customs And Border Protection) (Docket No. 12499), setting a maximum liability for the Proof of Claim in the amount of \$68,259.00.

6. On October 6, 2009, the Debtors substantially consummated the First Amended Joint Plan Of Reorganization Of Delphi Corporation And Certain Affiliates, Debtors And Debtors-In-Possession, As Modified (the "Modified Plan"), which had been approved by this Court pursuant to an order entered on July 30, 2009 (Docket No. 18707), and emerged from chapter 11 as the Reorganized Debtors. Article 9.6(a) of the Modified Plan provides that "[t]he Reorganized Debtors shall retain responsibility for administering, disputing, objecting to, compromising, or otherwise resolving all Claims against, and Interests in, the Debtors and making distributions (if any) with respect to all Claims and Interests" Modified Plan, art. 9.6.

7. On February 16, 2010, the Reorganized Debtors filed the Notice Of Claims Objection Hearing With Respect To Debtors' Objection To Proof Of Claim No. 16127 (U.S. Customs And Border Patrol) (Docket No. 19443), scheduling an evidentiary hearing on the merits of the Proof of Claim for April 22, 2010, at 10:00 a.m. (prevailing Eastern Time) in this Court.

Disputed Issues

A. Delphi Corporation Does Not Owe The Amount Asserted In The Proof Of Claim

8. CBP asserts in the Proof of Claim that Delphi owes CBP (a) a secured contingent claim in the amount of \$82,643.04, (b) an unliquidated and/or contingent unsecured

claim, and (c) an unliquidated and/or contingent priority claim for certain duties and warehouse entries. The Reorganized Debtors have reviewed the information attached to the Proof of Claim and the Response and dispute the amount asserted in the Proof of Claim.

9. The Claim Has Been Resolved. In the Proof of Claim, CBP asserts that the Debtors did not properly transmit and pay entry summaries in the Port of Laredo, Texas under Case Numbers 2005-2304-201868-01, 2005-2304-201869-01, and 2005-2304-200009-01. Case Numbers 2005-2304-201868-01 and 2005-2304-201869-01 were initiated for liquidated damages for customs entries that CBP alleges were untimely filed by the Debtors. However, the customs entries were timely filed. Therefore, Fed Ex Trade Networks, the Debtors' customs broker, filed petitions on behalf of the Debtors in October, 2005. Because no response to the petitions was received, copies were then re-filed in September, 2006. The Debtors also requested assistance from the Debtors' U.S. Custom's account manager, who informed the Debtors that these customs entries were reflected in U.S. Custom's system as timely filed. However, CBP has not responded to Debtors' petitions.

10. Case Number 2005-2304-200009-01 was mitigated by CBP and the Debtors paid the mitigated amount of \$217.00. CBP accepted the payment and has orally confirmed this case was closed. On September 9, 2008, Delphi's internal customs counsel sent a letter to CBP requesting that CBP withdraw the Claim based on the fact that the entries covered under the cases had been resolved. The Debtors have not received a written response from CBP that this case has been closed.

Reservation Of Rights

11. This Statement Of Disputed Issues is submitted by the Reorganized Debtors pursuant to paragraph 9(d) of the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings

Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims (Docket No. 6089) (the "Claims Objection Procedures Order"). Consistent with the provisions of the Claims Objection Procedures Order, the Reorganized Debtors' submission of this Statement Of Disputed Issues is without prejudice to (a) the Reorganized Debtors' right to later identify and assert additional legal and factual bases for disallowance, expungement, reduction, or reclassification of the Claim(s) and (b) the Reorganized Debtors' right to later identify additional documentation supporting the disallowance, expungement, reduction, or reclassification of the Claim.

WHEREFORE the Reorganized Debtors respectfully request that this Court enter an order (a) disallowing and expunging the Proof of Claim in its entirety and (b) granting the Reorganized Debtors such other and further relief as is just.

Dated: New York, New York
February 23, 2010

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