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UNITED STATES BANKRUPTCY COURT

DISTRICT OF VERMONT

IN RE:

RUTLAND FIRE CLAY CO.

d/b/a Rutland Products

RUTLAND, INC.

d/b/a Rutland Products,

d/b/a Rutland, Inc. of Illinois

Debtors in Possession.

Case No. 99-11390-cab

Case No. 99-11391-cab

Jointly Administered

Chapter 11 proceeding

# 387-1

ORDER GRANTING MOTION BY THE DEBTORS AND THE RUTLAND FIRE CLAY COMPANY ASBESTOS TRUST FOR AN ORDER: (A) CORRECTING AN ERROR IN THE PLAN OF REORGANIZATION AND THE CONFIRMATION ORDER; (B) CLOSING THE ESTATES; (C) ENTERING FINAL DECREE; AND (D) PROVIDING FOR NOTICE PROCEDURE WITH RESPECT TO SUBSEQUENT ACCOUNTINGS OF THE RUTLAND FIRE CLAY COMPANY ASBESTOS TRUSTS

Rutland Fire Clay Company, including as successor to Rutland, Inc. (collectively, the "Debtors" or "Rutland") and the Rutland Fire Clay Company Asbestos Trust ("Rutland Asbestos Trust"), move this Court for an order pursuant to Sections 105(a), 350, 1142 and 1143 of the Bankruptcy Code and Rule 3022 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for the following relief:

- (1) To correct an error by entering an order amending paragraph 17.1 (d) of the Plan and paragraph 21 (d) of the Confirmation Order to read as follows: to resolve any and all controversies and disputes regarding the implementation or interpretation of the Asbestos Trust and related matters, including, without limitation, the settlement of accounts, the resolution of disputes between the TAC and the Trustees, and the termination of the Asbestos Trust, as those matters are provided for in paragraphs 2.7, 5.1 and 6.1, respectively, of the Asbestos Trust Agreement, but excluding all matters related to the Permanent Channeling Injunction, as set forth in Section 16.2 hereof;
(2) An Order Entering the Final Decree and Closing the Estates, subject to this order;

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- (3) Providing that retention of this Court's jurisdiction to hear and approve the settlement of the accounts of the Trustees of the Rutland Asbestos Trust or other matters set forth in paragraph 17.1 of the Plan and paragraph 21 (d) of the Confirmation Order (as amended pursuant hereto) shall not give rise to an obligation to pay fees to the United States Trustee pursuant to 28 U.S.C. Section 1930;
- (4) Finding that service of this Motion is sufficient Notice to Asbestos Related Claimants under the Debtors' First Amended Plan of Reorganization dated October 13, 2000 confirmed by an order of this Court and of the United States District Court for the District of Vermont of the manner and method of notice with respect to approval of the accountings of the Trustees of the Rutland Asbestos Trust, and that notice of such accountings of the Trustees shall only be given to such persons who shall serve a written request for such Notice and Accountings upon the Managing Trustee, Sylvester Minitzer, at 144 Broomsedge Lane, Kiawah Island, SC 29455 and with a copy upon John J. Preefer, Esq., 630 Third Avenue, 17<sup>th</sup> Floor, New York, New York 10017;
- (5) Retaining jurisdiction by the Bankruptcy Court to approve the accountings of the Trustees of the Rutland Asbestos Trust, notwithstanding the entry of a Final Decree and Order Closing the Estate; and
- (6) Granting the Debtors and the Rutland Asbestos Trust such other, further and different relief as may be just and proper in the circumstances;

and notice thereof having been served by first class mail on the 16<sup>TH</sup> day of March, 2001 upon all persons who have filed a Notice of Appearance, all law firms who were listed or scheduled as representing persons who held Asbestos Related Claims, all holders of Asbestos Related Contribution Claims having filed a Notice of Appearance, the former Legal representative of Future Claimants, all members of the former Official Asbestos Claimants Committee, the PBGC, the United States Trustee, the Trustees of the Rutland Trust;

and the Court having found that the Debtors have paid all fees due through March 29, 2001 pursuant to 28 U.S.C. 1930 (a) (6) to the United States Trustee, and the Debtors, through their Counsel at the hearing held March 29, 2001, having waived requests numbered (3) and (5) above for this Court to retain jurisdiction over the Trustee's accountings without incurring United States Trustee fees, and upon consideration of the Affidavit of the principal of the Debtors regarding plan consummation filed in support of the entry of the Final Decree;

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and no objections to having been filed, other than the limited objection filed by the United States Trustee which has been resolved by the Debtors' waiver of requests numbered (3) and (5) above, and the Debtors having appeared by their counsel, Obuchowski Law Office, and the Rutland Fire Clay Company Asbestos Trust having appeared by its counsel, John J. Preefer, Esq., and the United States Trustee having appeared by Kim Lefebvre, Esq., and the Motion having regularly come before the Court on March 29, 2001; and the Court having found that good and sufficient service and notice of the Motion and the hearing thereon has been given, and there being no other objections to the Motion, and the Court having further determined that the relief requested in the Motion is reasonable, proper and necessary, it is hereby

**ORDERED**, that to correct an error to paragraph 17.1 (d) of the Plan and paragraph 21 (d) of the Confirmation Order, paragraph 17.1 (d) of the Plan and paragraph 21 (d) of the Confirmation Order are amended to read as follows:

“to resolve any and all controversies and disputes regarding the implementation or interpretation of the Asbestos Trust and related matters, including, without limitation, the settlement of accounts, the resolution of disputes between the TAC and the Trustees, and the termination of the Asbestos Trust, as those matters are provided for in paragraphs 2.7, 5.1 and 6.1, respectively, of the Asbestos Trust Agreement, but excluding all matters related to the Permanent Channeling Injunction, as set forth in Section 16.2 hereof;”;

and, it is further

**ORDERED**, that, the Final Decree in these Estates are entered and the Estates are Closed; and it is further

**ORDERED**, that service of this Motion is sufficient Notice to Asbestos Related Claimants under the Debtors' First Amended Plan of Reorganization dated October 13, 2000 confirmed by an Order of this Court and of the United States District Court for the District of Vermont of the manner and method of notice with respect to approval of the accountings of the Trustees of the Rutland Fire Clay Company Asbestos Trust and that notice of such accountings of the Trustees shall only be given

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to the members of the Trust Advisory Committee ("TAC," as defined in the confirmed Plan) and to such persons who shall serve a written request for such Notice and Accountings upon the Managing Trustee, Sylvester Minter, at 144 Broomsedge Lane, Kiawah Island, SC 29455 and with a copy upon John J. Preefer, Esq., 630 Third Avenue, 17<sup>th</sup> Floor, New York, New York 10017; and it is further

**ORDERED**, that the Debtors shall serve a copy of this Order by first class on or before the 9<sup>th</sup> day of April, 2001 upon all persons who have filed a Notice of Appearance, all law firms who were listed or scheduled as representing persons who held Asbestos Related Claims, all holders of Asbestos Related Contribution Claims having filed a Notice of Appearance, the former Legal representative of Future Claimants, all members of the former Official Asbestos Claimants Committee, the PBGC, the United States Trustee and the Trustees of the Rutland Trust.

DATED at Rutland, Vermont, this 29<sup>th</sup> day of March, 2001.

  
Hon. Colleen A. Brown  
U.S. Bankruptcy Judge