

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

In re:

**ENERGY CONVERSION DEVICES, INC.,
et al.,¹**

Debtors.

Chapter 11

Case No. 12-43166
(Joint Administration Requested)

Hon. Thomas J. Tucker

DECLARATION OF HONIGMAN MILLER SCHWARTZ AND COHN LLP

JUDY B. CALTON declares as follows:

1. I am a partner in the law firm of Honigman Miller Schwartz and Cohn LLP (“**Honigman**”) and make this Declaration in support of the Application For Order Authorizing Employment of Honigman Miller Schwartz and Cohn LLP As Counsel For The Debtors.² The Debtors are the following affiliated entities (collectively, the “**Debtors**”):

- (a) Energy Conversion Devices, Inc. (“**ECD**”); and
- (b) United Solar Ovonic LLC (“**USO**”); and

2. I have personal knowledge of the facts set forth herein and if called as a witness, can personally attest thereto.

3. Honigman is a law firm and has members duly authorized to practice law in the State of Michigan and other jurisdictions.

4. Neither Honigman, nor any partner or associate thereof, to the best of my knowledge, has any connection with the Debtors, their creditors, any party in interest herein,

¹ The Debtors in the proposed jointly administered cases are Energy Conversion Devices, Inc. and United Solar Ovonic LLC.

² Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Application.

their respective attorneys or accountants, the United States Trustee or the employees of the United States Trustee, except as set forth in this Declaration.

5. Honigman is a full-service business law firm with over 220 lawyers and one of the leading firms in Michigan. Honigman has expertise in, among other practice areas of law, corporate, real estate, securities regulation, finance, bankruptcy and reorganization, labor, tax law, litigation, intellectual property, environmental and employee benefits.

6. Honigman has represented ECD and USO on a variety of corporate and other matters for more than 10 years. The range of legal services Honigman provided has been broad and involved virtually all of the firm's practice areas described above.

7. Honigman represented Ovonic Battery Company, Inc. ("**OBC**"), which was owned ninety-three and six one-hundredths (93.6%) percent by ECD. ECD sold its equity interest in OBC immediately prior to the filing of ECD's bankruptcy petition. Honigman represented both ECD and OBC in connection with the sale. It is not contemplated that OBC will need any representation in the Debtors' bankruptcy cases. If OBC needs representation in the Debtors' bankruptcy cases, OBC will be represented by another firm.

8. ECD has advanced approximately \$800 million to USO since 2003, which is reflected on the most recent internal accounting records of each entity as a debt obligation. Since ECD and USO have historically published consolidated financial statements, the separate accounting for the transaction is not reflected in historical published financial statements. The approximately \$800 million obligation consists of between \$300 to \$400 million advanced to fund capital expenditures, between \$300 to \$400 million advanced to fund losses at USO and between \$60 to \$70 million in accrued interest.

9. ECD is aware that there might be disputes between the ECD estate and the USO estate on interdebtor issues, such as the proper characterization of ECD's advances to USO and how these advances should be treated in a Chapter 11 bankruptcy proceeding context. It is currently contemplated that any dispute will be resolved by a consensual plan of reorganization. However, aware of the potential for disputes on these issues, ECD and Honigman have agreed that, if there are actual disputes among the Debtors' estates regarding the proper characterization of the advances from ECD to USO or other issues, Honigman shall not represent any of the Debtors in such disputes. Instead, special counsel and/or the unsecured creditors committees of each estate will handle such disputes. With agreement of the parties and the Court, Honigman could serve as a resource by producing documentation and attempting to facilitate consensual resolutions of the disputes.

10. In addition, as of December 19, 2011, ECD and USO entered into a \$5,000,000 secured Line of Credit Agreement to be used to fund USO's working capital requirements. The obligations under the Line of Credit Agreement are secured by a security interest in certain of USO's working capital assets, including without limitation, accounts, inventory and other receivables. As of the Petition Date, the outstanding balance under the Line of Credit Agreement is the full limit under the line of credit, \$5,000,000. ECD is consenting to USO's use of cash collateral without validation of its lien or priority.

11. On October 19, 2011, Honigman received a retainer of \$200,000 to cover fees and expenses after that date, but received payment of its ongoing fees and expenses to a certain extent after that date while continuing to hold the retainer. As a result, Honigman holds a retainer of \$38,836.13 for services to be rendered in the Debtors' Chapter 11 cases and as an advance against expenses incurred, all subject to the approval of the Court upon proper

application therefore. Any other payments Honigman received in the 90 days before the Petition Date were in the ordinary course of business.

12. Honigman has a large and diversified legal practice which encompasses the representation of many financial and commercial institutions, some of which are, or may be, creditors or parties in interest in the Debtors' Chapter 11 case. In preparing this Declaration, Honigman assembled lists of the parties filing UCC financing statements against the Debtors (including Solar Integrated Technologies, Inc. ("SIT"), ECD's subsidiary in chapter 7 bankruptcy proceedings), the officers and directors of the Debtors, the entity holding more than five (5%) percent of the shares of ECD as of November 1, 2010, known bondholders of the Debtors, parties to certain major contracts and/or business relationships with the Debtors, parties identified on the consolidated list of the Debtors' 40 largest unsecured creditors, lessors to the Debtors, and other professionals of the Debtors. Honigman did not perform a search as to other creditors and parties in interest. Honigman's conflict checking database was searched and multiple requests for disclosure information were sent to each attorney at Honigman by e-mail. For each relationship that was disclosed, follow up inquiries were conducted in writing, face to face meetings, by telephone and/or e-mail.

13. Stanley Ovshinsky is a founder and former officer and director of the Debtors and a former client of Honigman. Honigman will not represent Mr. Ovshinsky in connection with the Debtors.

14. The parties filing UCC financing statements against the Debtors and SIT include the following current or recent former clients (or affiliates of current or recent former clients) of Honigman:

(a) Summit Funding Group, Inc.: Honigman has represented Summit Royalty Fund LP and Summit Interests, LLC in matters unrelated to the Debtors. Honigman does not know whether those entities are related to Summit Funding Group, Inc.

(b) Xenith Bank: Honigman formerly represented a Xenith Investors LLC in matters unrelated to the Debtors. Honigman does not know whether Xenith Investors LLC is related to Xenith Bank.

(c) Siemens Financial Services, Inc.: Honigman has represented Siemens Energy and Automation Inc., which it believes is an affiliate of Siemens Financial Services, Inc., in matters unrelated to the Debtors.

(d) CCA Financial, LLC: Honigman represented CCA Industries, Inc. in matters unrelated to the Debtors. Honigman does not know whether CCA Industries, Inc. is affiliated with CCA Financial, LLC.

(e) Dell Financial Services, L.P.: Honigman has represented Dell Inc. and Dell Computer Corporation in matters unrelated to the Debtors. Honigman believes Dell Financial Services, L.P. is related to Dell Corporation and Dell Computer Corporation.

(f) Wells Fargo Bank, N.A. is a current client which Honigman represents in matters unrelated to the Debtors.

(g) JP Morgan Chase Bank, N.A. is a current client which Honigman represents in matters unrelated to the Debtors.

Honigman has not and will not represent the above entities with respect to the Debtors.

15. The Debtors' known bondholders and indenture trustee include the following current or recent former clients (or affiliates of current or recent former clients) of Honigman:

(a) Angelo, Gordon. Honigman has represented Angelo, Gordon & Co., L.P. in a matter unrelated to the Debtors; and

(b) Wolverine Asset Management. Honigman does not represent Wolverine Asset Management but has represented other entities with the name Wolverine in it in matters unrelated to the Debtors. Honigman does not believe any of these entities are related to Wolverine Asset Management.

(c) Bank of New York Mellon Trust Co. Honigman represents affiliates of Bank of New York Mellon Trust Co. in matters unrelated to the Debtors.

Honigman has not and will not represent the above entities with respect to the Debtors.

16. The Debtors' lessors include the following current or recent former clients (or affiliates of current or recent former clients) of Honigman:

(a) Alameda Business Centre, Ltd. Honigman does not represent Alameda Business Centre, Ltd. but has represented other entities with the name Alameda in it in matters unrelated to the Debtors. Honigman does not believe that any of these entities are related to Alameda Business Centre, Ltd.

(b) JBD Troy LLC. Honigman has represented JBD Acquisition Corporation. Honigman does not know whether JBD Acquisition Corporation is related to JBD Troy LLC.

(c) Joel Nosanchuk. Honigman has represented an individual with a last name of Nosanchuk in a matter unrelated to the Debtors. Honigman does not believe that individual to be Joel Nosanchuk.

(d) Jordan Properties, Inc. Honigman represents a Thomas Jordan who is a principal of certain real estate entities. Honigman does not know whether Jordan Properties, Inc. is one of his entities.

Honigman has not and will not represent any of the above with respect to the Debtors.

17. BASF purchased ECD's equity interest in OBC prepetition. BASF is a client of Honigman in matters unrelated to the Debtors. Honigman has not and will not represent BASF with respect to the Debtors.

18. Plante & Moran PLLC is serving as financial advisors to the Debtors. Plante & Moran PLLC and some of its affiliates are current clients of Honigman. Honigman has not, and will not, represent Plante & Moran PLLC or any of its affiliates with respect to the Debtors.

19. Deloitte Tax LLP provides tax services to the Debtors. Honigman has represented affiliates of Deloitte Tax LLP in matters unrelated to the Debtors, and has represented other clients who were served by Deloitte Tax LLP or its affiliates. Deloitte Tax LLP or its affiliates have represented parties involved in transactions in which Honigman's clients were involved. Honigman has not, or will not, represent Deloitte Tax with respect to the Debtor.

20. Alix Partners is serving as financial advisors to the Debtor. Honigman has represented Alix Partners in matters unrelated to the Debtors. Honigman has represented parties in transactions in which Alix Partners has been involved, either consulting with Honigman's clients or adverse to Honigman's clients. Honigman has not and will not represent Alix Partners with respect to the Debtors.

21. The Debtors' unsecured creditors include the following current or former clients (or affiliates of current or former clients) of Honigman.

- (a) Marubeni Iotchi Steel of America (MISA). Marubeni America Corp. is a former client of Honigman. Honigman does not know if that entity is affiliated with MISA.
- (b) Praxair, Inc. Praxair Inc. is a former client of Honigman and Praxair Distribution Inc. is a current client of Honigman.
- (c) Amerisource. Amerisource is a former client of Honigman.
- (d) City of Auburn Hills. The City of Auburn Hills is a former client of Honigman.
- (e) Wieland-Davco Corporation. Wieland-Davco is a former client of Honigman.
- (f) Pro Tech Resources. Protech is a former client and Pro-Tech Auction, Inc. is a current client of Honigman. Honigman does not know whether Pro Tech Resources is affiliated with Pro-Tech Auction, Inc.
- (g) Nancy Bacon. Honigman formerly represented a Nancy Bacon. Honigman does not know whether that former client is the same individual as the Debtors' creditor.
- (h) Bixby International. Emma L. Bixby Hospital and Bixby Medical Center are former clients of Honigman. Honigman does not believe they are affiliated with Bixby International.
- (i) EIS. An entity named EIS Energy Investor Fund owns an interest in an entity which is affiliated with a current client. Honigman does not know whether EIS is affiliated with EIS Energy Investor Fund.

(j) Aerotek. Aerotech Inc. is a former client of Honigman in matters unrelated to the Debtors.

(k) Ikon Finance Services. Ikon Office Solutions, Inc. is a former client of Honigman.

Honigman has not and will not represent any of the above with respect to the Debtors.

22. Honigman will be compensated for its services, subject to application, notice and approval by the Court, on a time and charges basis at its standard hourly rates. Honigman's current standard hourly rates, subject to change from time to time, are \$210 to \$770 for partners, \$210 to \$300 for associates, and \$135 to \$245 for legal assistants. The professionals at Honigman who are expected to work on the representation of the Debtors and their standard hourly rates include the following:

<u>Professional</u>	<u>Hourly Rate</u>
Robert B. Weiss (partner)	\$650
Donald J. Kunz (partner)	\$565
Judy B. Calton (partner)	\$560
Gregory R. Schermerhorn (partner)	\$400
Aaron M. Silver (partner)	\$375
Daniel N. Adams (associate)	\$290
Amy Floraday (associate)	\$225
Kelsey Switzer (associate)	\$225
LeeAnn Provenzano (legal assistant)	\$200

As the Debtors' cases progress, the services of additional or other Honigman attorneys and paraprofessionals may be required. The above listing is intended for informational purposes and is not a limitation as to staffing. The above hourly rates are changed from time to time, generally once a year.

23. No promises have been received or made by Honigman as to payment or compensation in connection with this case other than in accordance with the provisions of the Bankruptcy Code. Honigman has not made any agreement with any other entity to share with such entity any compensation received by Honigman.

24. Honigman is a disinterested person with respect to the estates of the Debtors.

25. Honigman does not represent or hold any interest adverse to the Debtors or their estates.

26. I make this Declaration under penalty of perjury.



Judy B. Calton

Executed in Detroit, MI
On February 14, 2012

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