

## MEMORANDUM

October 22, 2008

To: Official Committee of Unsecured Creditors (the “Committee”) of Propex Inc., *et al.* (“Propex” or the “Debtors”)

From: Akin Gump Strauss Hauer & Feld LLP (“Akin Gump”)

Re: Propex Inc., *et al.* – Recently Filed Pleading

**Debtors’ Motion for Approval of Settlement Agreement with Shaw Industries Group, Inc. Pursuant to Bankruptcy Rule 9019 (the “Motion”)**

By the Motion, the Debtors request the entry of an order (the “Order”) under Bankruptcy Rule 9019 approving a confidential settlement agreement (the “Settlement Agreement”) between the Debtors and Shaw Industries Group, Inc. (“Shaw”) dismissing a lawsuit (the “Lawsuit”) involving the ownership and use of certain technology and intellectual property rights (the “Cobra Technology”).

According to the Motion, in 2005 Shaw granted a license to SI Concrete Systems (“SI”) in the Cobra Technology for use in non-carpet backing fields. In 2006, Propex acquired SI, and shortly thereafter Shaw terminated SI’s license. Subsequently, a dispute regarding the rights of the Cobra Technology developed, which ultimately resulted in the filing of that certain lawsuit styled *Shaw Industries Group, Inc. v. Propex Fabrics, Inc. (successor by merger to SI Geosolutions LLC and SI Corporation)*, case number 07-09-049 RRC, filed in the Superior Court of the State of Delaware.

The Debtors state that, on September 22, 2008, Propex and Shaw entered into the Settlement Agreement, subject to Court approval. The following is a summary of the key terms of the Settlement Agreement:

- Propex acknowledges that Shaw owns all right, title and interest in the Cobra Technology.
- Shaw grants Propex and its affiliates a world-wide, royalty-free, fully paid-up, perpetual, and exclusive license to the Cobra Technology so that Propex can, among other things, make, use, sell, or export products that include or are produced with the Cobra Technology, but limited to the following fields of use:
  - Geotextile;
  - Industrial Fabric; and
  - Protective Covers.
- The Settlement Agreement does not grant Propex a similar license for use of the Cobra Technology in the Carpet Field, which includes carpets, rugs, and products incorporated into carpets or rugs.

- Shaw retains the right to use the Cobra Technology for its own business purposes.
- Shaw and Propex agree to unconditionally release, acquit, forever discharge and covenant not to sue each other regarding any claims arising out of the Lawsuit.
- Shaw and Propex agree to dismiss the Lawsuit with prejudice.

According to the Motion, the Settlement Agreement will not be filed with the Court due to the highly confidential and valuable nature of the intellectual property rights involved. The Debtors maintain that if the Settlement Agreement is not approved, the Debtors will be forced to continue with the Lawsuit which, to date, has cost the Debtors approximately \$50,000. The Debtors anticipate that if the Lawsuit is not settled, the costs of trial and probable appeal will be approximately \$500,000. The Debtors further contend that, although they believe that they would ultimately prevail in the Lawsuit, if Shaw prevailed on all of its claims, the Debtors could be required to pay unspecified damages and would lose the use of the Cobra Technology. The Debtors, therefore, believe that the Settlement Agreement is fair and reasonable and is in the best interests of the creditors of the Debtors.

**The hearing date on the Motion is scheduled for October 29, 2008 at 9:00 a.m. (ET). The deadline to object to the Motion is October 24, 2008 at 5:00 p.m. (ET).**