

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

IN RE:

**PICCADILLY RESTAURANTS, LLC,
ET AL.,**

DEBTORS

* **CASE NO. 12-51127**
*
* **(JOINT ADMINISTRATION)¹**
*
* **CHAPTER 11**
*
* **JUDGE ROBERT SUMMERHAYS**

**DEBTORS' OBJECTION TO PROOF OF CLAIM NO. 430 PURSUANT TO SECTIONS
105 AND 502(B) OF THE BANKRUPTCY CODE AND RULES 3001, 3003, AND 3007 OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

NOW IN COURT, through undersigned counsel, come the above-captioned debtors and debtors-in-possession (collectively, the "Debtors"),² who submit this Objection To Proof of Claim No. 430 Pursuant to Sections 105 and 502(b) of the Bankruptcy Code and Rules 3001, 3003, and 3007 of the Federal Rules of Bankruptcy Procedure (this "Objection"). In support of this Objection, the Debtors state as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

BACKGROUND

2. On September 11, 2012 (the "Petition Date"), the Debtors filed a petition for relief under chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"). The

¹ Jointly administered with *In re Piccadilly Food Service, LLC*, 12-51128 (Bankr. W.D. La. 2012), and *In re Piccadilly Investments, LLC*, 12-51129 (Bankr. W.D. La. 2012).

² The debtors in these Chapter 11 cases include Piccadilly Restaurants, LLC ("Restaurants"), Piccadilly Food Service, LLC, and Piccadilly Investments, LLC.

Debtors are operating their businesses and managing their properties as debtors-in-possession pursuant to Bankruptcy Code §§ 1107 and 1108.

3. No trustee or examiner has been appointed. An Official Committee of Unsecured Creditors was appointed in these Chapter 11 cases on October 23, 2012 (the “Unsecured Creditors’ Committee”).

4. The Debtors are jointly administrated pursuant to Bankruptcy Code § 105(a) and Bankruptcy Rule 1015(b). The statutory predicates for the relief requested herein are §§ 105(a) and 502(b) of the Bankruptcy Code.

RELIEF REQUESTED

5. The Debtors have examined the proofs of claim of Debbie Sanders (Claim No. 430) (the “Duplicate Claim”) and have determined that it is a duplicate of the claim of Debbie Sanders (Claim No. 443) (the “Surviving Claim”). Pursuant to section 502(b) of the Bankruptcy Code, Bankruptcy Rules 3001, 3003 and 3007, the Debtors seek entry of an order disallowing and expunging from the claims register the Duplicate Claim and preserving the Debtors’ right to later object to the Surviving Claim on any other basis.

6. This Objection does not affect the Surviving Claims and does not constitute any admission or finding with respect the Surviving Claim. All of the Debtors’ rights to object to the Surviving Claim on any basis are reserved. Further, the Debtors reserve all their rights to object on any basis to the Duplicate Claim if the Court does not grant the relief requested herein.

LEGAL STANDARD

7. A filed proof of claim is “deemed allowed, unless a party in interest . . . objects.” 11 U.S.C. § 502(a). If an objection refuting at least one of the claim’s essential allegations is asserted, the claimant has the burden to demonstrate the validity of the claim. *See In re Fidelity Holding Co.*, 837 F.2d 696, 698 (5th Cir. 1988).

8. Section 502(b)(1) of the Bankruptcy Code provides, in relevant part, that a claim may not be allowed to the extent that “such a claim is unenforceable against the debtor and property of the debtor under any agreement or applicable law.” 11 U.S.C. § 502(b)(1). The Debtors have compared their books and records with the proofs of claims identified above and have determined that the Duplicate Claim is filed by the same claimant against the same Debtors, for the same dollar amount, and on account of the same obligation as the Surviving Claim. The Surviving Claim is the later filed claim as compared to the Duplicate Claim.

9. To avoid the possibility of multiple recoveries by the same creditor, the Debtors request that the Court disallow and expunge in its entirety the Duplicate Claim. The Surviving Claim will remain on the claims register subject to further objections on any basis.

NOTICE

10. Notice of this Objection has been provided to the claimant asserting a Duplicate Claim and to (a) the secured creditor, through Atalaya Administrative, LLC, and its counsel of record, Brent R. McIlwain and David F. Waguespack, (b) the 30 largest unsecured creditors, the identity of which may be amended from time to time, (c) the twenty (20) additional random unsecured creditors, (d) all parties who have requested special notice pursuant to Bankruptcy Rule 2002, (e) counsel for the Unsecured Creditors’ Committee, and (f) the Office of the United States Trustee. The Debtors submit that no further notice is necessary for this Court to enter an Order granting the relief requested herein.

WHEREFORE, the Debtors pray that the Court enter an Order in the form attached as **Exhibit A**, (a) granting this Objection, (b) disallowing and expunging the Duplicate Claim, and (c) granting such other general and equitable relief as is just and proper.

Respectfully submitted,

/s/ Mark A. Mintz

R. PATRICK VANCE (#13008)

ELIZABETH J. FUTRELL (#05863)

MARK A. MINTZ (#31878)

TYLER J. RENCH (#34049)

Jones Walker LLP

201 St. Charles Avenue, 51st Floor

New Orleans, Louisiana 70170

Telephone: (504) 582-8000/ Direct: (504) 582-8194

Direct Facsimile: (504) 589-8194

Email: pvance@joneswalker.com

Email: efutrell@joneswalker.com

Email: mmintz@joneswalker.com

Email: trench@joneswalker.com

Exhibit A

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

IN RE:

**PICCADILLY RESTAURANTS, LLC,
ET AL.,**

DEBTORS

* **CASE NO. 12-51127**
*
* **(JOINT ADMINISTRATION)¹**
*
* **CHAPTER 11**
*
* **JUDGE ROBERT SUMMERHAYS**

**ORDER GRANTING DEBTORS'
OBJECTION TO DUPLICATE CLAIM**

Considering the *Objection To Proof of Claim No. 430 Pursuant to Sections 105 and 502(b) of the Bankruptcy Code and Rules 3001, 3003, and 3007 of the Federal Rules of Bankruptcy Procedure* (this "Objection") (Dkt. No. __), filed on behalf of Debtors and Debtors-

¹ Jointly administered with *In re Piccadilly Food Service, LLC*, 12-51128 (Bankr. W.D. La. 2012), and *In re Piccadilly Investments, LLC*, 12-51129 (Bankr. W.D. La. 2012).

in-possession (collectively, the “Debtors”),² and upon the record of these chapter 11 cases and due deliberation thereon, and good and sufficient cause appearing therefor,

IT IS ORDERED that the Objection is SUSTAINED;

IT IS FURTHER ORDERED that the Claim of Debbie Sanders (Claim No. 430) is disallowed and expunged; and

IT IS FURTHER ORDERED that this Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation or implementation of this Order.

###

This Order was prepared and is being submitted by:

R. PATRICK VANCE (#13008)
ELIZABETH J. FUTRELL (#05863)
MARK A. MINTZ (#31878)
TYLER J. RENCH (#34049)
Jones Walker LLP
201 St. Charles Avenue, 51st Floor
New Orleans, Louisiana 70170
Telephone: (504) 582-8000 / Direct: 582-8194
Direct Facsimile: (504) 589-8194
Email: pvance@joneswalker.com
Email: efutrell@joneswalker.com
Email: mmintz@joneswalker.com
Email: trench@joneswalker.com

**Attorneys for Piccadilly Restaurants, LLC
Piccadilly Food Service, LLC and
Piccadilly Investments, LLC**

² The debtors in these Chapter 11 cases include Piccadilly Restaurants, LLC (“Restaurants”), Piccadilly Food Service, LLC, and Piccadilly Investments, LLC.