

**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' THIRD OMNIBUS OBJECTION TO DUPLICATE CLAIMS 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 SEEKS TO DISALLOW AND EXPUNGE CERTAIN
FILED PROOFS OF CLAIM. CLAIMANTS RECEIVING THIS
OBJECTION SHOULD LOCATE THEIR NAMES AND CLAIMS ON THE
EXHIBIT ATTACHED TO THIS OBJECTION.**

NOW IN COURT, through undersigned counsel, come the above-captioned debtors and debtors-in-possession (collectively, the "Debtors"),² who submit this Third Omnibus Objection to Claims 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).

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.

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 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 identified on Exhibit A (the “Claims”), and have determined that the proofs of claim listed therein are not entitled to priority status under any of the subsections of section 507(a) of the Bankruptcy Code. Pursuant to section 502(b) of the Bankruptcy Code, Bankruptcy Rules 3001, 3003 and 3007, the Debtors seek entry of an order reclassifying the Claims so that they are in accordance with the Bankruptcy Code and preserving the Debtors’ right to later object to any Claim on any other basis.

6. This Objection does not constitute any admission or finding with respect to any of the Claims. All of the Debtors’ rights to object to any Claim on any basis are reserved.

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 reviewed and determined that each Claim is not properly asserted as a priority claim for the reasons indicated on Exhibit A. The Claims are not on entitled to priority under any of the subsections of section 507(a) of the Bankruptcy Code. Accordingly, the Debtors request that the Court enter an order reclassifying the Claims as indicated on **Exhibit A**.

NOTICE

9. Notice of this Objection has been provided to each claimant asserting a 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 B**, (a) granting this Objection, (b) disallowing and expunging the Duplicate Claims, and (c) granting such other general and equitable relief as is just and proper.

Respectfully submitted,

/s/ Mark A. Mintz

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Exhibit A

EXHIBIT A

<u>Name</u>	<u>Claim No.</u>	<u>Note</u>	<u>Proposed Reclassification</u>
Cash, Allen 6414 Plantation Dr. Chattanooga, TN 37416	314	This Claim is from a vendor is not entitled to priority status	General Unsecured
Cox Media – New Orleans c/o Szabo Associates, INC. 3355 Lenox Rd, NE Suite 945 Atlanta, GA 30326	388	This Claim is from a vendor and is not entitled to priority status	General Unsecured
Deluxe Janitorial Service, LLC 133 Executive Drive, Suite E Madison, MS 39110	253	This Claim is from a vendor and is not entitled to priority status	General Unsecured
Georgia Green Lawns Stanley McCullough 2065 Flippen Rd. Stockbridge, GA 30281	170	This Claim is from a vendor and is not entitled to priority status	General Unsecured
Hits the Spot Carpet, Upholstery & Janitorial Cleaning, Post Office Box 2351 Ridgeland, MS 39158	385	This Claim is from a vendor and is not entitled to priority status	General Unsecured
Kate, Mary d/b/a M&B Associates 6372 Vera Lane Olive Branch, MS 38654	130	This Claim is from a vendor and is not entitled to priority status	General Unsecured
QMC Services 2132 Cumberland Creek Trail SW Marietta, GA 30008	171	This Claim is from a vendor and is not entitled to priority status	General Unsecured
R&R Sheet Metal, Inc. 25 Sunflower Road Foxworth, MS 39483	343	This Claim is from a vendor and is not entitled to priority status	General Unsecured
Swift, Currie, McGhee & Heirs, LLP 1355 Peachtree Street Suite 300 Atlanta, GA 30309	421	This Claim is from a vendor and is not entitled to priority status	General Unsecured

<u>Name</u>	<u>Claim No.</u>	<u>Note</u>	<u>Proposed Reclassification</u>
Thermal King, LLC Post Office Box 437 Tickfaw, LA 70466	318	This Claim is from a vendor and is not entitled to priority status	General Unsecured
Tiggs, Derrick Four Star Pressure Washing Post Office Box 741273 Riverdale, GA 30274	164	This Claim is from a vendor and is not entitled to priority status	General Unsecured

Exhibit B

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
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IN RE:

**PICCADILLY RESTAURANTS, LLC,
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DEBTORS

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

**ORDER GRANTING DEBTORS' THIRD OMNIBUS
OBJECTION TO CLAIMS**

Considering the *Third Omnibus Objection to Claims 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-in-possession

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).

(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 all claims listed on **Exhibit A** to the Objection are reclassified as indicated therein; 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.

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This Order was prepared and is being submitted by:

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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.