

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In re: CASE NO. 9:08-bk-04360-MGW

ULRICH FELIX ANTON ENGLER, CHAPTER 7
PRIVATE COMMERCIAL OFFICE, INC., (Substantively Consolidated)
and PCO CLIENT MANAGEMENT, INC.,

Debtors.

AGREED MOTION FOR EXTENSION OF TIME TO RESPOND TO TRUSTEE'S OBJECTIONS TO PROOF OF CLAIM NUMBERS 64 THROUGH 69, 443, 444, AND 493 FILED IN THE ENGLER BANKRUPTCY CASE AND TO CONTINUE JULY 9, 2015 HEARING ON THE GROUP CLAIMS OBJECTIONS

The claimants who filed Proof of Claim Numbers 64 through 69, 443, 444, and 493 (“Group Claimants”), and ROBERT E. TARDIF, JR. (the “Trustee”, the Group Claimants and the Trustee are collectively referred to as the “Parties”), as Chapter 7 Trustee for the substantively consolidated bankruptcy estate of Ulrich Felix Anton Engler, Private Commercial Office, Inc., and PCO Client Management, Inc. (“Engler,” “PCO,” and “PCOM,” respectively, or collectively, the “Debtors”), by and through undersigned counsel, hereby file this Agreed Motion for Extension of Time to Respond to Trustee’s Objections to Proof of Claim Numbers 64 through 69, 443, 444, and 493 Filed in the Engler Bankruptcy Case and Agreed Motion to Continue July 9, 2015 hearing on the Group Claim Objections as set by the Court via its March 17, 2015, Order (Doc. No. 1070),¹ and state in support thereof as follows:

¹ On March 17, 2015, the Court entered an Order Granting Agreed Motion for Extension of Time to Respond to Trustee’s Objections to Proof of Claim Numbers 64 through 69, 443, 444, and 493 Filed in the Engler Bankruptcy Case and to Convert April 30, 2015 Hearing to Status Conference (Doc. No. 1070) which, inter alia, reset or continued the hearing on the Group Claim Objections to July 9, 2015, at 9:30 a.m.

A. PROCEDURAL AND FACTUAL BACKGROUND

1. On March 31, 2008 (the “Petition Date”), a group of creditors filed involuntary petitions for relief under Chapter 7 of Title 11 of the United States Code (the “Bankruptcy Code”) against Engler and PCO with the Clerk of this Court.

2. On April 29, 2008, the Court entered Orders for Relief against Engler and PCO.

3. On April 30, 2008, the Trustee was appointed and continues to serve as the permanent Chapter 7 Trustee for the Debtors’ substantively consolidated estate.

4. On June 24, 2008, the Court entered an Order substantively consolidating the assets and liabilities of Engler’s and PCO’s bankruptcy estates.

5. On July 31, 2008, the Court issued a Notice establishing November 3, 2008 (the “Bar Date”) as the deadline for filing proofs of claim in the Debtors’ substantively consolidated estate. Doc. 72.

6. On April 23, 2010, the Court entered an Order substantively consolidating the assets and liabilities of PCOM with and into Engler’s and PCO’s bankruptcy estates nunc pro tunc to March 31, 2008.

7. On July 25, 2014, the Court entered an Order granting the Trustee’s Motion to Establish Claim Objection Procedures and to Authorize Filing of Omnibus Claim Objections on Certain Additional Grounds. Doc. 1024.

Due to a personal scheduling conflict, John L. Urban, lead counsel for the Claimant Groups and many of the Group Claimant investors in Claims 66, 67, 68, and 443, will be outside of the State of Florida the week of July 6-10, 2015, and respectfully requests that the July 9, 2015, 9:30 a.m., hearing on the Group Claim Objections be continued to the following week or such other date and time that is available on the Court’s calendar.

8. On October 21, 2014, the Trustee filed Trustee's Motion for Entry of an Order Approving Stipulation Partially Resolving Proof of Claim Numbers 64 through 69, 443, 444, and 493 Filed in the Engler Bankruptcy Case and Proof of Claim Numbers 62 through 67, 146, 147, and 151 Filed in the Private Commercial Office, Inc., Bankruptcy Case (Doc. 1044), which includes the Claimants' and the Trustee's Stipulation Partially Resolving Proof of Claim Numbers 64 through 69, 443, 444, and 493 Filed in the Engler Bankruptcy Case and Proof of Claim Numbers 62 through 67, 146, 147, and 151 Filed in the Private Commercial Office, Inc., Bankruptcy Case (Doc. 1044, pages 9 – 17 of 17 "Stipulation").

9. On November 6, 2014, the Court entered an Order (Doc. 1048 "Order") granting the Trustee's Motion for Entry of an Order Approving Stipulation Partially Resolving Proof of Claim Numbers 64 through 69, 443, 444, and 493 Filed in the Engler Bankruptcy Case and Proof of Claim Numbers 62 through 67, 146, 147, and 151 Filed in the Private Commercial Office, Inc., Bankruptcy Case (Doc. 1044).

10. Pursuant to the Order and Stipulation, on January 23, 2015, the Trustee filed Trustee's Objection to Claim Numbers 64 through 69, 443, 444, and 493 (Docs. 1051 – 1059) which each include a negative notice providing a 45 day deadline of March 9, 2015, to respond.

11. On February 23, 2015, the Court scheduled a hearing on the Trustee's Objection to Claim of Congro Finanz, AG (Claim Number 68) and the Response filed by Manfred and Simone Walch (individual claimants within Group Claim No. 68) for April 30, 2015, at 9:30 a.m. Doc. Nos. 1054 and 1062.

12. On March 6, 2015, the Parties filed their Agreed Motion for Extension of Time to Respond to Trustee's Objections to Proof of Claim Numbers 64 through 69, 443, 444, and 493 Filed in the Engler Bankruptcy Case and Agreed Motion to Convert April 30, 2015 Hearing to Status Conference (Doc. No. 1068).

13. On March 17, 2015, the Court entered an Order Granting Agreed Motion for Extension of Time to Respond to Trustee's Objections to Proof of Claim Numbers 64 through 69, 443, 444, and 493 Filed in the Engler Bankruptcy Case and to Convert April 30, 2015 Hearing to Status Conference (Doc. No. 1070) which, inter alia, provided the Group Claims an additional 45 days, until April 23, 2015, to respond to the Trustee's Objection to Claim Numbers 64 through 69, 443, 444, and 493 (Docs. 1051 – 1059) and which reset or continued the hearing on the Group Claim Objections to July 9, 2015, at 9:30 a.m.

14. As of the date of this motion, the Trustee's Objection to Group Claim Numbers 64, 65, 66, and 443 (Doc. Nos. 1052, 1058, 1051, and 1057, respectively) have been responded to and the Trustee's Objection to Group Claim Numbers 67, 68, 69, 444, and 493 (Doc. Nos. 1059, 1054, 1056, 1053, and 1055, respectively) are still being completed.

B. THE PROOFS OF CLAIM

15. As of October 3, 2014, 1,235 proofs of claim totaling \$318,384,743.98 were filed in the Engler bankruptcy case and 210 proofs of claim totaling \$205,085,382.63 were filed in the PCO bankruptcy case.

16. Prior to the Bar Date, HIMA AG, MANTEL & PARTNER, CONGRO

FINANZ AG, PRIMUS GMBH, and ULLRICH MESSMER (“HIMA,” “Mantel,” “Congro,” “Primus,” and “Messmer,” respectively, or collectively the “Group Claimants”) filed the following claims in the Engler case through the law firm of Urban Thier Federer & Chinnery, P.A., now known as Urban Thier & Federer, P.A. (“UTFPA”):

- (i) Claim No. 64 – HIMA (consisting of 83 individual claims) in the face amount of \$8,348,673.50;
- (ii) Claim No. 65 – Mantel (consisting of 69 individual claims) in the face amount of \$3,844,372.15;
- (iii) Claim No. 66 – Congro and Primus (consisting of 49 individual claims) in the face amount of \$4,105,315.82;
- (iv) Claim No. 67 – Primus (consisting of 777 individual claims) in the face amount of \$31,220,448.81;
- (v) Claim No. 68 – Congro (consisting of 827 individual claims) in the face amount of \$24,855,433.44);
- (vi) Claim No. 69 – Messmer (consisting of 2,303 individual claims) in the face amount of \$55,599,317.88;
- (vii) Claim No. 443 – Primus (consisting of 35 individual claims) in the face amount of \$548,430.45;
- (viii) Claim No. 444 – Messmer (consisting of 91 individual claims) in the face amount of \$795,741.45; and

(ix) Claim No. 493 – Messmer (consisting of 47 individual claims) in the face amount of \$2,016,355.07

(collectively, the “9 Group Claim(s)”).

17. The 9 Group Claims consist of 4,281 individual claims and have a total face amount of \$131,334,088.57.

C. REQUESTED RELIEF

18. The undersigned have been working diligently to resolve the group claim objections and/or to narrow the issues. As contemplated in the Stipulation (Doc. 1044, page 14 of 17, ¶ 4) the Parties foresaw and agreed that “stipulations or agreements for extensions of time for filing of responses” may be needed given the large volume of investors/creditors involved.

19. The Parties hereby stipulate and agree, and jointly request, that the Court enter an order granting an additional 30 days for the Group Claimants to respond to the Trustee’s Objection to Group Claim Numbers 67, 68, 69, 444, and 493 (Doc. Nos. 1059, 1054, 1056, 1053, and 1055, respectively), making the new response deadline May 26, 2015.

20. The Parties hereby also stipulate and agree, and jointly request, that the Court continue the July 9, 2015, 9:30 a.m., hearing on the Group Claim Objections to the following week or such other date and time that is available based upon the Court’s schedule.

WHEREFORE, the Trustee respectfully requests the Court to enter an Order

- (a) granting an additional 30 days for the Group Claimants to respond to the Trustee's Objection to Group Claim Numbers 67, 68, 69, 444, and 493 (Doc. Nos. 1059, 1054, 1056, 1053, and 1055, respectively), and to file formal responses with the Court, making the new response deadline May 26, 2015;
- (b) resetting or continuing the July 9, 2015, 9:30 a.m., hearing on the Group Claim Objections to the following week or such other date and time that is available based upon the Court's schedule; and
- (c) granting such other and further relief as the Court may deem appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing *AGREED MOTION FOR EXTENSION OF TIME TO RESPOND TO TRUSTEE'S OBJECTIONS TO PROOF OF CLAIM NUMBERS 64 THROUGH 69, 443, 444, AND 493 FILED IN THE ENGLER BANKRUPTCY CASE AND TO CONTINUE JULY 9, 2015 HEARING ON THE GROUP CLAIMS OBJECTIONS* has been furnished to all creditors and/or interested parties registered on the Court's CM/ECF System and was also posted on the website "englerbk.com" in accordance with the Order Granting Trustee's Motion To Establish Certain Notice, Case Management And Administrative Procedures (Doc. 451) on April 21, 2015.

By: /s/ John L. Urban
John L. Urban, Esq.