

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.

**RESPONSE TO TRUSTEE'S OBJECTIONS (DOCS. 1056, 1053 AND 1055)
TO PROOF OF CLAIM NUMBERS 69, 444 AND 493
FILED IN THE ENGLER BANKRUPTCY CASE**

The claimants who filed Proof of Claim Numbers 69, 444 and 493 ("Group Claimants") hereby file this Response to Trustee's¹ Objection to Claims of Ullrich Messmer a/k/a Ulrich Messmer Proof of Claim Numbers 69, 444 and 493 (Docs. 1056, 1053 and 1055) filed in the Engler Bankruptcy Case and, by and through undersigned counsel, state in support thereof as follows:

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

¹ The Trustee is 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").

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.

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. On April 27, 2015, the Court entered an Order Granting Motion to Extend 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 to July 16, 2015 (Doc. No. 1087) which, inter alia, provided the Group Claims an additional 30 days, until May 26, 2015, to respond to the Trustee's Objection to Claim Numbers 64 through 69, 443, 444, and 493 (Docs. 1051 – 1059) and which continued the hearing on the Group Claim Objections to July 16, 2015, at 9:30 a.m.

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. Pursuant to the Stipulation and Order (Docs. 1044 and 1048), the Parties have worked together in a good faith effort to resolve or narrow the issues raised in the Trustee's Objection to Claims of Ullrich Messmer a/k/a Ulrich Messmer Proof of Claim Numbers 69, 444 and 493 (Docs. 1056, 1053 and 1055). The Parties have agreed to some Allowed Claim Amount amounts and continue to work together in a good faith effort to resolve or narrow the issues as to, inter alia, the other Group Claimants.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing *RESPONSE TO TRUSTEE'S OBJECTIONS (DOCS. 1056, 1053 AND 1055) TO PROOF OF CLAIM NUMBERS 69, 444 AND 493 FILED IN THE ENGLER BANKRUPTCY CASE* 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 May 26, 2015.

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