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UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

In re

CASE NO. 9:08-BK-04360-MGW

ULRICH F. ENGLER,  
PRIVATE COMMERCIAL OFFICE INC.  
et. alt.

CHAPTER 7  
(substantively consolidated)

- Debtors -

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**CREDITOR's OPPOSITION TO TRUSTEE's EIGHTH OMNIBUS OBJECTION TO  
CLAIMS**

Creditor Gerd ROSENKRANZ, by and through counsel, hereby objects to Trustee Eighth Omnibus Objection dated 19 Aug 2015 [Docket No. 1137], and presents and reasons as follows:

1. Trustee's Eighth Omnibus Objection seeks to reduce the value of creditor Gerd ROSENKRANZ's Claim No. 635 by \$1,600.00 based on Debtors' repayments upon the principal investment. Trustee's Eighth Omnibus Objection seeks to further reduce the value of creditor Gerd ROSENKRANZ's Claim No. 635 by an additional \$19,400.00 based upon creditor's claim for disallowed interest. See Trustee's Eighth Omnibus Objection to Claims filed 18 Aug 2015 [Docket No. 1137].

2. Creditor Gerd ROSENKRANZ holds 1 instrument executed and acknowledged by the Debtors. The promissory note acknowledges an investment of \$20,000.00. See Promissory Note dated 8 Sep 2006 attached hereto as *Exhibit 01*.

3. Creditor Gerd ROSENKRANZ does not oppose the proposed reduction of \$19,400.00 for disallowed interest concerning Claim No. 635. However, the Trustee has not provided any further evidence that \$1,600.00 of the principal investment of \$10,000.00 were indeed repaid to the creditor, on what date, and what the method of payment may have been. A proof of claim "constitutes prima facie evidence of the

validity and amount of the claim. [...] The burden then shifts to the objecting party to come forward with enough substantiations to overcome the claimant's prima facie case." Waltson v. PYOD LLC, 606 Fed. App. 543, 546 (11<sup>th</sup> Cir. 2015) (citing Benjamin v. Diamond, 563 F.2d 692, 701 (5<sup>th</sup> Cir. 1977)). Therefore, the Trustee has not met the burden to overcome creditor Gerd ROSENKRANZ's prima facie Claim No. 635 with regards to an alleged repayment of principal to the extent of \$1,600.00 because the objection is not supported by any factual substantiation.

WHEREFORE, creditor Gerd ROSENKRANZ hereby respectfully moves the Court to

- a. disregard Trustee's Eighth Omnibus Objection to Claims with respect to Claim No. 635;
- b. allow creditor Gerd ROSENKRANZ's Claim No. 635 in the amount of \$20,000.00;
- c. grant the creditor any other relief the Court deems appropriate under the circumstances.

Respectfully submitted on 18 November 2015.

/s/ Helge Naber  
ATTORNEY FOR CREDITOR  
*appearing pro hac vice*

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that a true and accurate copy of the foregoing OPPOSITION TO OMNIBUS OBJECTION has been distributed to all creditors and/or interested parties currently registered with the Court's CM/ECF electronic filing and notification system on **18 November 2015**.

/s/ Helge Naber  
Montana Bar Id. 7059  
ATTORNEY FOR CREDITOR  
*APPEARING PRO HAC VICE*