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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, CHAPTER 7
PRIVATE COMMERCIAL OFFICE INC. (substantively consolidated)
et. alt.
- Debtors -

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CREDITOR’S OPPOSITION TO TRUSTEE’S ELEVENTH OMNIBUS OBJECTION TO CLAIMS

Creditor Renate WIEGAND, by and through counsel, hereby objects to Trustee Eleventh Omnibus Objection dated 19 Aug 2015 [Docket No. 1140], and presents and reasons as follows:

1. Trustee’s Eleventh Omnibus Objection seeks to reduce the value of creditor Renate WIEGAND’s Claim No. 596 by \$7,550.00 based on Debtors’ repayments upon the principal investment. Trustee’s Eleventh Omnibus Objections seeks to further reduce the value of creditor Renate WIEGAND’s Claim No. 596 by an additional \$7,800.00 based upon creditor’s claim for disallowed interest. See Trustee’s Eleventh Omnibus Objection to Claims filed 19 Aug 2015 [Docket No. 1140]

3. Creditor Renate WIEGAND holds 1 instrument executed and acknowledged by the Debtors. The promissory note acknowledges an investment of \$13,000.00. See Promissory Note dated 5 Jan 2007 attached hereto as *Exhibit 01*. The note indicated in the very top line, in German, that

“Funds have already been wired yes no on 15/12/2006”

and is signed by the debtor.

4. Creditor Renate WIEGAND does not oppose the proposed reduction of \$7,800.00 concerning the claim for disallowed interest. However, the Trustee has not

provided any further evidence that \$7,550.00 of the principal investment of \$13,000.00 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 (11th Cir. 2015) (citing Benjamin v. Diamond, 563 F.2d 692, 701 (5th Cir. 1977)). Therefore, the Trustee has not met the burden to overcome creditor Renate WIEGAND’s prima facie Claim No. 596 with regards to an alleged repayment of principal to the extent of \$7,550.00 because the objection is not supported by any factual substantiation.

WHEREFORE, creditor Renate WIEGAND hereby respectfully moves the Court to

- a. disregard Trustee’s Eleventh Omnibus Objection to Claims with respect to Claim No. 596;
- b. allow creditor Renate WIEGAND’s Claim No. 596 in the amount of \$13,000.00; and
- 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
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ATTORNEY FOR CREDITOR
APPEARING PRO HAC VICE