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UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In re

ULRICH F. ENGLER,
PRIVATE COMMERCIAL OFFICE INC.
et. alt.
*- Debtors -*
_____/

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

CHAPTER 7
(substantively consolidated)

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

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

**1.** Trustee's Fourth Omnibus Objection seeks to reduce the value of creditor Mandy HUBER's Claim No. 542 by $2,800.00 based on Debtors' repayments upon the principal investment. Trustee's Fourth Omnibus Objections seeks to further reduce the value of creditor Mandy HUBER's Claim No. 542 by an additional $8,400.00 based upon creditor's claim for disallowed interest. See Trustee's Fourth Omnibus Objection to Claims filed 19 Aug 2015 [Docket No. 1133].

**3.** Creditor Mandy HUBER holds 1 instrument executed and acknowledged by the Debtors. The promissory note acknowledges an investment of $14,000.00. 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 Mandy HUBER does not oppose the proposed reduction of $8,400.00 concerning the claim for disallowed interest. However, the Trustee has not provided any

further evidence that $2,800.00 of the principal investment of $14,000.00 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 Mandy HUBER's prima facie Claim No. 542 with regards to an alleged repayment of principal to the extent of $2,800.00 because the objection is not supported by any factual substantiation.

WHEREFORE, creditor Mandy HUBER hereby respectfully moves the Court to

**a.** disregard Trustee's Fourth Omnibus Objection to Claims with respect to Claim No. 542;
**b.** allow creditor Mandy HUBER's Claim No. 542 in the amount of $14,000.00; 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*