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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 -

**CREDITOR'S OPPOSITION TO TRUSTEE'S NINTH OMNIBUS OBJECTION TO CLAIMS**

Creditor Marianne STOCKINGER, by and through counsel, hereby objects to Trustee Ninth Omnibus Objection dated 19 Aug 2015 [Docket No. 1138], and presents and reasons as follows:

1. Trustee's Ninth Omnibus Objection seeks to reduce the value of creditor Marianne STOCKINGER's Claim No. 568 to \$0.00 because it is a duplicate to Claim No. 65. See Trustee's Ninth Omnibus Objection to Claims filed 19 Aug 2015 [Docket No. 1138]. Trustee's Ninth Omnibus Objection also seeks to reduce the value of creditor Marianna STOCKINGER's Claim No. 594 to \$0.00 for the same reason. See id. The claimant of Claim No. 65 is "Mantel & Partner". See Proof of Claim No. 65 filed 31 Jul 2008.

3. Creditor Marianne STOCKINGER holds 2 instruments executed and acknowledged by the Debtors. The first promissory note acknowledges an investment of \$10,000.00 and is signed by the debtor. See Promissory Note dated 27 Jul 2007 attached hereto as *Exhibit 01*. The second promissory note also acknowledges an investment of \$10,000.00. See Promissory Note dated 3 Nov 2006 attached hereto as *Exhibit 02*. The note indicated in the very top line, in German, that

"Funds have already been wired  yes  no on 12/10/2006"

and is signed by the debtor.

4. Creditor Marianne STOCKINGER retained NABER PC as counsel in this matter 27 May 2008. See Powers of Attorney STOCKINGER dated 27 May 2008 attached hereto as *Exhibit 03*. Such powers remain unrevoked. The Trustee has not provided any basis why he considers a claim made by “Mantel & Partner” in its name for its own benefit as duplicative as those made by Ms. Stockinger through her retained counsel. 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 Marianne STOCKINGER’s prima facie Claim No. 568 and 594 because the objection is not supported by any factual substantiation.

WHEREFORE, creditor Marianne STOCKINGER hereby respectfully moves the Court to

- a. disregard Trustee’s Ninth Omnibus Objection to Claims with respect to Claim Nos. 568 & 594;
- b. allow creditor Marianne STOCKINGER’s Claim Nos. 568 & 594 in the amount of \$20,000.00;
- c. reduce Claim No. 65 accordingly if indeed claimed for the benefit of the creditor with due authorization; and
- d. 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*