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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 EIGHTH OMNIBUS OBJECTION TO CLAIMS

Creditor Andreas REITER, 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 Andreas REITER's Claim No. 615 by \$3,250.00 to reflect alleged repayments of the principal investment amount. See Trustee's Eighth Omnibus Objection to Claims filed 19 Aug 2015 [Docket No. 1137]. Trustee's Eighth Omnibus Objection to Claims also seeks to reduce creditor Andreas REITER's Claim No. 615 by \$9,360.00 based upon a claim for disallowed interest. See id.

2. Creditor Andreas REITER holds 1 instrument executed and acknowledged by the Debtors as the basis for Claim No. 615. The promissory note acknowledges an investment of \$13,000.00 and is signed by the debtor. See Promissory Note dated 15 Dec 2006 attached hereto as *Exhibit 01*. The note indicated in the very top line, in German, that

"Funds have already been wired yes no on 27/12/2006"

and is signed by the debtor. See id.

3. Credit Andreas REITER does not oppose the proposed reduction of Claim No. 612 by \$9,360.00 for a claim of disallowed interest. However, the Trustee has not provided any further evidence that \$3,250.00 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 Andreas REITER’s prima facie Claim No. 612 with regards to an alleged repayment of principal to the extent of \$3,250.00 because the objection is not supported by any factual substantiation.

WHEREFORE, creditor Andreas REITER hereby respectfully moves the Court to

- a. disregard Trustee’s Eighth Omnibus Objection to Claims with respect to Claim No. 612;
- b. allow creditor Andreas REITER’s Claim No. 612 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 **19 November 2015**.

/s/ Helge Naber
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