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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 FIRST OMNIBUS OBJECTION TO  
CLAIMS**

Creditor Michael BILLMEYER, by and through counsel, hereby objects to Trustee First Omnibus Objection dated 19 Aug 2015 [Docket No. 1130], and presents and reasons as follows:

1. Trustee's First Omnibus Objection seeks to reduce the value of creditor Michael BILLMEYER's Claim No. 546 by \$25,461.60 because of alleged repayment on the principal investment. See Trustee's First Omnibus Objection to Claims filed 19 Aug 2015 [Docket No. 1130]. Trustee's First Omnibus Objection to Claims also seeks to reduce creditor Michael BILLMEYER's Claim No. 546 by \$72,000.00 based upon a claim for disallowed interest. See id.

2. Creditor Michael BILLMEYER holds 2 instruments executed and acknowledged by the Debtors as the basis for Claim No. 546. The first promissory note acknowledges an investment of \$50,000.00 and is signed by the debtor. See Promissory Note dated 5 Jan 2007 attached hereto as *Exhibit 01*. The second promissory note also acknowledges an investment of \$50,000.00. See Promissory Note dated 12 Feb 2007 attached hereto as *Exhibit 02*.

3. Credit Michael BILLMEYER does not oppose the proposed reduction of Claim No. 546 by \$72,000.00 for a claim of disallowed interest. However, the Trustee has not

provided any further evidence that \$25,461.60 of the principal investment of \$100,000.00 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 Michael BILLMEYER’s prima facie Claim No. 546 with regards to an alleged repayment of principal to the extent of combined \$25,461.60 because the objection is not supported by any factual substantiation.

WHEREFORE, creditor Michael BILLMEYER hereby respectfully moves the Court to

- a. disregard Trustee’s First Omnibus Objection to Claims with respect to Claim No. 546;
- b. allow creditor Michael BILLMEYER’s Claim No. 546 in the amount of \$100,000.00; 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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ATTORNEY FOR CREDITOR  
*APPEARING PRO HAC VICE*