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COUNSEL FOR DAN LAIN, TRUSTEE OF THE
LIQUIDATING CREDITOR TRUST

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:	§	
	§	**CASE NO. 09-37010-sgj11**
ERICKSON RETIREMENT	§	
COMMUNITIES, LLC, *et al.*[1]	§	**CHAPTER 11**
	§	
Debtors	§	
	§	

LIQUIDATING TRUSTEE'S FIRST OMNIBUS OBJECTION
TO PROOFS OF CLAIM OF VENDORS' WHOSE CONTRACTS WERE ASSUMED

Dan B. Lain, Trustee of the Liquidating Creditor Trust ("Liquidating Trustee") files this First Omnibus Objection to Proofs of Claim of Vendors Whose Contracts Were Assumed (the "Objection"), objecting to the claims set forth in "Exhibit A" and seeking entry of an order pursuant to sections 502(a) and (b) and 503 of Title 11 of the United States Code (the "Bankruptcy Code") and Rule 3007 of the Federal Rules of Bankruptcy Procedure, disallowing and/or expunging certain claims, in whole or in part. In support of his Objection, the Trustee respectfully states as follows:

[1]The Debtors in these Chapter 11 Cases (the "Cases") were Erickson Retirement Communities, LLC; Ashburn Campus, LLC; Columbus Campus, LLC; Concord Campus GP, LLC; Concord Campus, LP; Dallas Campus GP, LLC; Dallas Campus, LP; Erickson Construction, LLC; Erickson Group, LLC; Houston Campus, LP; Kansas Campus, LLC; Littleton Campus, LLC; Novi Campus, LLC; Senior Campus Services, LLC; Warminster Campus GP, LLC; and Warminster Campus, LP.

JURISDICTION AND VENUE

1. This Court has jurisdiction of this case pursuant to 28 U.S.C. §§ 1334 and 157. This matter is a core proceeding pursuant to 28 U.S.C. §§ 157(b). Venue is proper in this District pursuant to 28 U.S.C. § 1409(a).

BACKGROUND

2. On October 19, 2009 ("Petition Date"), the Debtors filed their voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.

3. On November 2, 2009, the Office of the United States Trustee appointed the Official Committee of Unsecured Creditors (the "Creditors' Committee").

4. This Court confirmed the Debtors' Fourth Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code, dated March 8, 2010 (the "Plan") on April 16, 2010.[2] [Docket No. 1355]. The Trustee has authority to object to Claims pursuant to Section 6.4.12 of the Plan. [Docket No. 1005].

5. Pursuant to the authority granted to the Creditors' Committee in Section 6.4.11 of the Plan, on April 8, 2010, the Committee filed the definitive trust document establishing and governing the Liquidating Creditor Trust (the "Trust Agreement"). Dan B. Lain was appointed Trustee of the Liquidating Creditor Trust ("Trust"). On April 30, 2010, the Plan became effective (the "Effective Date"). On the Effective Date, the Trust Agreement was executed by the Trustee, the Creditors' Committee, the Acquisition Companies,[3] the Debtors, and the Reorganized Debtors (collectively, the "Parties").

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[2] Unless otherwise defined herein, capitalized terms used herein shall have the meaning ascribed to them in the Plan.

[3] The Acquisition Companies in these Cases are the following companies that formed to acquire substantially all of the assets relating to the Debtors' business as of the Petition Date: Redwood, ManagementCo, DevCo, PropCo, Redwood Kansas, Redwood Concord, Redwood Dallas, Redwood Houston, Redwood Ashburn, Redwood Littleton, Redwood Novi, Redwood-ERC Tinton Falls II, LLC, and Redwood-ERC Senior Care, LLC.

6. Each of the Debtors filed Schedules of Assets and Liabilities (collectively the "Schedules") with the Court. In addition to the Claims scheduled by the Debtors, various parties filed proofs of claim against the Debtors' bankruptcy estates pursuant to § 501 of the Bankruptcy Code. The Court's deadline for creditors' proofs of claim to be received by the bankruptcy clerk's office was February 28, 2010. [Docket No. 61].

RELIEF REQUESTED AND BASIS FOR RELIEF

7. The Liquidating Trustee has examined the schedules and the proofs of claim filed in each of the Debtors' cases, along with the supporting documentation (if any) submitted with each proof of claim. In addition, the Liquidating Trustee has inspected the Debtors' books and records in order to determine whether the various proofs of claim filed in these cases are accurate and represent bona fide liabilities.

8. As a result of this detailed review process, the Liquidating Trustee has determined that the proofs of claim listed on Exhibit "A" are subject to objection because the liabilities comprising the bases for these proofs of claim were assumed by the Acquisition Companies, pursuant to the Definitive Agreement. Under the Plan, anything in the Debtors' schedules and any proofs of claim filed with respect to any assumed contract or lease shall be "deemed disallowed and expunged." Plan, Section 10.1.1. The beneficiaries of the Trust are limited to holders of allowed general unsecured claims against the Debtors' estates. *See* Plan, Section 1.21. Upon assumption, all claims in Exhibit A become post-petition administrative claims and, therefore, were no longer holders of allowed general unsecured claims against the Debtors' estates. *Phoenix Mutual Life Ins. Co. v. Greystone III Joint Venture* (*In re Greystone III Joint Venture*), 995 F.2d 1274, 1281 (5th Cir. 1991). Therefore, the claims in Exhibit A should be disallowed as claims against the Trust.

9. Under § 502(a) of the Bankruptcy Code, a claim is "deemed allowed unless a party-in-interest . . . objects." 11 U.S.C. § 502(a). Consequently, absent this Motion, all claims listed on Exhibit "A" would be allowed claims against the Debtors' estates despite the fact that the Acquisition Companies have assumed liability for these claims.

10. The Liquidating Trustee hereby objects to all claims listed in Exhibit A, and requests that the Court disallow these claims as holders of allowed general unsecured claims against the Debtors' estates and beneficiaries of the Trust. This objection is made so that the Liquidating Trustee will not be required to pay any claims that have already been assumed by the Acquisition Companies. The Liquidating Trustee has not attached copies of each proof of claim listed in Exhibit A; however, a copy of these claims may be obtained from the Liquidating Trustee upon request.

11. **ALL CLAIMANTS RECEIVING THIS OBJECTION SHOULD LOCATE THEIR NAMES AND CLAIMS ON EXHIBIT A TO THE OBJECTION.**

12. Pursuant to Federal Rule of Bankruptcy Procedure 3007(d) and Local Bankruptcy Rule 3007-2, the Liquidating Trustee's objections to the claims listed on Exhibit A are based solely on the grounds that the claims should be disallowed as a claim against the Trust because they have been satisfied or released during the case in accordance with Plan. Thus, the Liquidating Trustee requests summary disposition of the claims objections set forth herein upon a hearing.

EXPLANATION OF ATTACHED EXHIBITS

13. Exhibit "A" sets forth the name of each claimant subject to this Objection; the case numbers in which these proofs of claim were filed; the name of the Debtors in whose cases these proofs of claim were filed; the claim number (if any); the date the proofs of claim were filed; and the proofs of claim's amounts.

RESERVATION OF RIGHTS

14. The Liquidating Trustee reserves the right to object to all claims set forth on Exhibit "A" on further and different grounds.

CONCLUSION

WHEREFORE, the Liquidating Trustee respectfully requests that the Court disallow as claims against the Trust the claims identified on the attached Exhibit "A." The Liquidating Trustee further seeks such other and further relief to which he may show himself justly entitled at law or in equity.

Date: April 30, 2012.

Respectfully submitted,

BRACEWELL & GIULIANI LLP

By: */s/ Tricia R. DeLeon*

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ATTORNEYS FOR DAN LAIN, TRUSTEE OF THE LIQUIDATING CREDITOR TRUST

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and complete copy of the Trustee's First Omnibus Objection to Proofs of Claim of Vendors Whose Contracts Were Assumed and all Exhibits thereto were served on this 30th day of April 2012 via first class United States mail, postage prepaid, upon the person whose name appears in the signature block on all proofs of claims listed in Exhibit "A" and via ECF notice upon all parties who consent to such service.

/s/ *Lauren C. Kessler*
Lauren C. Kessler

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