

UNITED STATES BANKRUPTCY COURT Northern District of Texas		PROOF OF CLAIM
Name of Debtor: Erickson Construction, LLC		Case Number: 09-37016
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): MBContract Specialties, Inc.		FILED U.S. Bankruptcy Court Northern District of Texas 3/27/2012 Tawana C. Marshall, Clerk COURT USE ONLY
Name and address where notices should be sent: c/o Barron & Newburger, P.C. Barron & Newburger, P.C. attn: Hershel R. Chapin 1212 Guadalupe St., Suite 104 104 Austin, TX 78701 Telephone number: 512-476-9103 hchapin@bn-lawyers.com		<input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____ <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.
Name and address where payment should be sent (if different from above): MBContract Specialties, Inc. PO Box 712 Bel Air, MD 21014 Telephone number: 410-879-7771 email: mbcontractspecialties@verizon.net		RECEIVED APR 02 2012 BMC GROUP
1. Amount of Claim as of Date Case Filed: \$\$ <u>4500.00</u> If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
2. Basis for Claim: <u>11 U.S.C. sec. 502(h)</u> (See instruction #2)		
3. Last four digits of any number by which creditor identifies debtor: _____	3a. Debtor may have scheduled account as: _____ (See instruction #3a)	3b. Uniform Claim Identifier (optional): _____ (See instruction #3b)
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ _____ Annual Interest Rate (when case was filed) ___% <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable		Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ <u>4500.00</u>
5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.		
<input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).	<input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier - 11 U.S.C. §507(a)(4).	<input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507(a)(5). Amount entitled to priority: _____
<input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507(a)(7).	<input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507(a)(8). Amount entitled to priority: \$ _____	<input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507(a)().
*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.		
6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)		

Erickson Ret. Comm. LLC



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7. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

8. Signature: (See instruction #8) Check the appropriate box.

- I am the creditor.
- I am the creditor's authorized agent.
(Attach copy of power of attorney, if any.)
- I am the trustee, or the debtor, or their authorized agent.
(See Bankruptcy Rule 3004.)
- I am a guarantor, surety, indorser, or other codebtor.
(See Bankruptcy Rule 3005.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Hershel R. Chapin

Title: attorney for MBContract Specialties, Inc.

Company: Barron & Newburger, P.C.

Address and telephone number (if different from notice address above):

s/ Hershel R. Chapin
(Signature)

3/27/2012
(Date)

Telephone number: . email: .

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Agreement") is made and entered into by and between Dan Lain, Trustee of the Liquidating Creditor Trust ("Trustee") and M&B Contracting Specialties, Inc. ("M&B") (collectively, the "Parties," and each a "Party").

WHEREAS, Erickson Retirement Communities, LLC, ("Debtor") is a Debtor in the Chapter 11 reorganization proceeding entitled *In re: Erickson Retirement Communities, LLC, et al*, Debtors,¹ Case No. 09-37010-sgj11 (the "Bankruptcy Case"), and the Liquidating Creditor Trust (the "Trust") is the plan trust established in the Bankruptcy Case for the benefit of the unsecured creditors of Debtor;

WHEREAS, within 90 days of the Debtor's filing of its bankruptcy petition (the "Preference Period"), the Debtor paid M&B the sum of \$40,000.00 in payment of a debt owed to M&B;

WHEREAS, the Trustee has authority to commence adversary and other legal proceedings to pursue any causes of action on behalf of the Trust under Section 6.4.4 of the Fourth Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code and Article V, Sections 5.1 and 5.2 of the Liquidating Creditor Trust Agreement;

WHEREAS, Trustee, on behalf of the Trust, filed an Adversary Proceeding against M&B entitled *Lain v. M&B Contracting Specialties, Inc.*, Case No. 11-03574 (the "Adversary Proceeding") to recover the \$40,000.00 transfer paid by Debtor to M&B during the Preference Period and objection to claims asserted by M&B, if any;

WHEREAS, Trustee and M&B wish to avoid the uncertainty and expense of litigation by compromising forever the claims existing between M&B and the Trustee, on behalf of Debtor, and they have reached this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual covenants, agreements, and releases referenced herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Trustee and M&B agree as follows:

1. Within fifteen (15) business days of the execution of this Agreement by all Parties, M&B will pay to Trustee the total sum of \$4,500.00 (the "Settlement Amount"). The Settlement Amount shall be paid to the Trustee by check, made payable to the Erickson Liquidating Creditor Trust, and shall be delivered to Ms. Lauren C. Kessler at Bracewell and Giuliani LLP, 1445 Ross Avenue, Ste. 3800, Dallas, Texas 75202. The Settlement Amount shall be deemed completed upon actual receipt of the same by counsel for the Trustee.

¹The 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.

2. Within a reasonable time after the execution of this Agreement by all Parties, the Trustee shall file all documents necessary to dismiss with prejudice the Adversary Proceeding. The Parties agree to pay their own court costs and attorneys' fees arising out of and associated with the Adversary Proceeding.

3. Conditioned upon and after final receipt of the Settlement Amount in good funds, the Trustee releases and forever discharges M&B and each of its employees, agents, officers, and attorneys (the "M&B Released Parties"), from any and all claims arising out of or directly relating to transactions with Debtor, of whatever kind or character, known or unknown, common law or statutory, that Trustee may have or claim to have on behalf of Debtor against the M&B Released Parties, as of the date of the execution of this Agreement by the Parties. This release does not prohibit the Trustee from suing M&B for its failure to timely pay the Settlement Amount.

4. Except as otherwise provided herein, and conditioned upon and after dismissal of the Adversary Proceeding with prejudice, M&B hereby releases and forever discharges Trustee and the Trust, and each of his and its employees, agents, officers, partners, and attorneys (the "Estate Released Parties"), from any and all pre-petition claims under Chapter 5 of the Bankruptcy Code, arising out of or directly relating to transactions with Debtor, of whatever kind and character, known or unknown, that M&B may have or claim to have against the Estate Released Parties, as of the effective date of the execution of this Agreement. The Parties agree that M&B shall have the right to assert, in the Bankruptcy Case, a claim in the amount of the Settlement Amount based upon Section 502(h) of the Bankruptcy Code until no later than the bar date for such proofs of claims or thirty (30) days after paying the Settlement Amount.

5. This Agreement shall be binding upon Trustee, M&B, and each of their respective parents, predecessors, successors, heirs, legal representatives, and assigns.

6. The Parties understand and agree that this settlement is being made to avoid the uncertainty, time, trouble, and expense of litigation and that such settlement shall not be taken as an admission of liability on the part of anyone, but rather, such liability has been and is expressly denied. M&B expressly denies any liability whatsoever to Trustee or the Trust. The Trustee and the Trust expressly deny any liability whatsoever to M&B. Each party agrees to bear its own costs, except as otherwise provided in this Agreement.

7. THIS AGREEMENT SHALL BE GOVERNED BY, CONSTRUED, AND ENFORCED IN ACCORDANCE WITH, AND SUBJECT TO, THE LAWS OF THE STATE OF TEXAS, EXCLUDING ANY LAWS THAT RESULT IN THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION. THE PARTIES FURTHER AGREE TO THE JURISDICTION OF THE BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS RESOLUTION OF ANY DISPUTE, CLAIM, OR ALLEGATION ARISING FROM OR RELATING TO THIS AGREEMENT.

8. This Agreement constitutes the entire and complete understanding and agreement of the Parties, and supersedes prior understandings and agreements, if any, among the Parties with respect to the subject matter hereof.

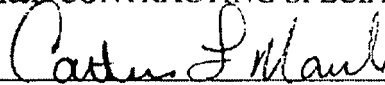
9. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which constitute one agreement. All Parties agree to execute such other and further documents and/or pleadings as may be reasonably necessary to evidence or carry out the terms and provision of this Agreement.

10. Each of the Parties warrants and represents that it is the sole and exclusive owner of any claim released hereunder and that it is legally competent to execute and deliver this Agreement and to perform the respective obligations contemplated herein. Each of the Parties further represents that this Agreement has been reviewed and that the Parties: (i) understand fully the terms of this Agreement and the consequences of the execution of this Agreement; (ii) have been afforded an opportunity to have this Agreement reviewed by legal counsel and to discuss all terms of this Agreement with legal counsel; and (iii) have entered into this Agreement of his or its own free will and accord. The Parties further represent that this Agreement is made and furnished in good faith, for good and valuable consideration, and has not been made under or induced by any duress or undue influence exercised by any person or entity.

11. This Agreement may not be changed, modified, amended or contradicted except in a writing signed by all Parties hereto. This agreement shall not become effective until the Settlement Amount has been received and delivered in good funds within fifteen (15) business days of the execution of this Agreement by all Parties. If M&B fails to deliver the Settlement Amount in good funds within the time provided, the Trustee and the Trust reserve the legal right to assert any and all claims against M&B.

IN WITNESS WHEREOF, Trustee and M&B have caused this Agreement to be executed and delivered as of the date of the last Party's execution of this Agreement.

M&B CONTRACTING SPECIALTIES, INC.

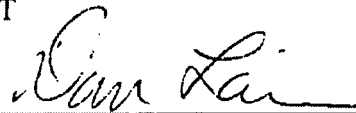


By: **Catherine L. Maule**

Its: **President**

Dated: 3/14/2012

TRUSTEE OF THE LIQUIDATING CREDITOR
TRUST



By: **Dan Lain**

LIQUIDATING TRUSTEE

Dated: 3/14/2012

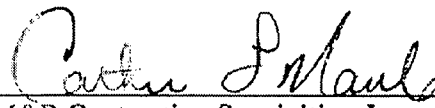
VERIFICATION AND ACKNOWLEDGEMENT

STATE OF MD

§
§
§

COUNTY OF Harford

BEFORE ME, the undersigned authority, on this day personally appeared **Catherine L. Maule**, known to me to be the person whose name is subscribed on the foregoing instrument, who, being first duly sworn, stated that he is fully competent and duly authorized to make this verification, that he has executed the foregoing Settlement Agreement and Release for the purpose and considerations expressed in it, in the capacities therein stated.



M&B Contracting Specialties, Inc.

By: **Catherine L. Maule**

Its: **President**

Given under my hand and seal of office this 14th day of March, 2012.



Notary Public in and for the State of MD

My Commission Expires: 4/27/2015

VERIFICATION AND ACKNOWLEDGEMENT

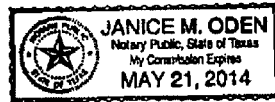
STATE OF TEXAS §
 §
COUNTY OF DALLAS §

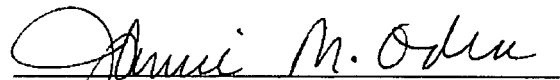
BEFORE ME, the undersigned authority, on this day personally appeared Dan B. Lain, Trustee of the Liquidating Creditor Trust, known to me to be the person whose name is subscribed on the foregoing instrument, who, being first duly sworn, stated that he is fully competent and duly authorized to make this verification, that he has executed the foregoing Settlement Agreement and Release for the purpose and considerations expressed in it, in the capacities therein stated.



Dan Lain
LIQUIDATING TRUSTEE

Given under my hand and seal of office this 14th day of March, 2012.





Notary Public in and for the State of Texas
My Commission Expires: 5/21/2014



ENTERED

TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

United States Bankruptcy Judge

Signed March 26, 2012

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re: § CASE NO. 09-37010-sgj11
ERICKSON RETIREMENT §
COMMUNITIES, LLC, *et al.* § CHAPTER 11
Debtors.¹ §

DAN LAIN, TRUSTEE OF THE §
LIQUIDATING CREDITOR TRUST, §
Plaintiff, § Adversary Proceeding
v. §
M&B CONTRACTING SPECIALTIES INC. § No. 11-03574-sgj
Defendant. §

ORDER APPROVING STIPULATION OF DISMISSAL

¹The 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.

Northern District of Texas Claims Register

09-37016-sgj11 Erickson Construction, LLC

Judge: Stacey G. Jernigan **Chapter:** 11
Office: Dallas **Last Date to file claims:** 02/28/2010
Trustee: **Last Date to file (Govt):**

Creditor: (14686197) **Claim No:** 17 **Status:**
M&B Contract Specialties, *Original Filed* *Filed by:* CR
Inc. *Date:* 03/27/2012 *Entered by:* Admin
c/o Barron & Newburger, P.C. *Original Entered* *Modified:*
attn: Hershel R. Chapin *Date:* 03/27/2012
1212 Guadalupe St., Suite
104
Austin, TX 78701

Amount claimed: \$4500.00
Unsecured claimed: \$4500.00

History:

Details 17-1 03/27/2012 Claim #17 filed by M&B Contract Specialties, Inc., Amount claimed: \$4500.00 (Admin)

Description:

Remarks:

Claims Register Summary

Case Name: Erickson Construction, LLC
Case Number: 09-37016-sgj11
Chapter: 11
Date Filed: 10/19/2009
Total Number Of Claims: 1

Total Amount Claimed*	\$4500.00
Total Amount Allowed*	

*Includes general unsecured claims

The values are reflective of the data entered. Always refer to claim documents for actual amounts.

	Claimed	Allowed
Secured		
Priority		
Administrative		