

Fill in this information to identify the case:

Debtor 1 Buffets, LLC
Debtor 2 _____
(Spouse, if filing)
United States Bankruptcy Court for the: Northern District of Texas, Dallas Division
Case number 21-30723-11

E-Filed on 05/25/2021
Claim # 138

Official Form 410
Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach 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. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor? G&I IX Empire Big Flats LLC
Name of the current creditor (the person or entity to be paid for this claim)
Other names the creditor used with the debtor _____

2. Has this claim been acquired from someone else? No
 Yes. From whom? _____

3. Where should notices and payments to the creditor be sent?
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)
Where should notices to the creditor be sent?
c/o Barclay Damon LLP
Name
Attn: Scott L. Fleischer 1270 Avenue of the Ame
Number Street
New York NY 10020
City State ZIP Code
Contact phone (212) 784-5810
Contact email sfleischer@barclaydamon.com
Where should payments to the creditor be sent? (if different)
c/o Barclay Damon LLP
Name
Attn: Kevin M. Newman Barclay Damon Tower, 1
Number Street
Syracuse NY 13202
City State ZIP Code
Contact phone (315) 413-7115
Contact email knewman@barclaydamon.com
Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. Does this claim amend one already filed? No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim? No
 Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: 4 3 5 1

7. How much is the claim? \$ 208,606.56. Does this amount include interest or other charges? No Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.
Damages arising from rejection -- see attached claim.

9. Is all or part of the claim secured? No Yes. The claim is secured by a lien on property.
Nature of property:
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____
Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No Yes. Amount necessary to cure any default as of the date of the petition. \$ 0.00

11. Is this claim subject to a right of setoff? No Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check one:

Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

Amount entitled to priority

\$ 0.00

\$ 0.00

\$ 0.00

\$ 0.00

\$ 0.00

\$ 0.00

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 05/25/2021
MM / DD / YYYY

Scott L. Fleischer

Signature

Print the name of the person who is completing and signing this claim:

Name Scott L. Fleischer
First name Middle name Last name

Title Counsel

Company Barclay Damon LLP, as attorneys
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____
Number Street

City State ZIP Code

Contact phone _____ Email _____

Attachment 1 - POC - Big Flats Guarantor Rejection \$208,606.56+.PDF

Description -

Fill in this information to identify the case:

Debtor 1 Buffets LLC

United States Bankruptcy Court for the Northern District of Texas

Case Number 21-30723

Official Form 410
Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach 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. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor	Name of the current creditor (the person or entity to be paid for this claim): G&I IX Empire Big Flats LLC	
	Other names the creditor used with the debtor: _____	
2. Has this claim been acquired from someone else?	<input type="checkbox"/> No <input type="checkbox"/> Yes. From Whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? c/o Barclay Damon LLP Attn: Scott L. Fleischer 1270 Avenue of the Americas, Suite 501 New York, New York 10020 Telephone: (212) 784-5810 Email: sfleischer@barclaydamon.com	Where should payments to the creditor be sent? (if different): c/o Barclay Damon LLP Attn: Kevin M. Newman Barclay Damon Tower 125 East Jefferson Street Syracuse, New York 13202 Telephone: (315) 413-7115 Email: knewman@barclaydamon.com
	Uniform claim identified for electronic payments in Chapter 13 (if you use one): -----	
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: <u>3114351</u>
7. How much is the claim?	<p>\$208,606.56 plus any and all costs of removing property and signage and restoring the premises, plus indemnity obligations and amounts subject to rights of setoff and/or recoupment, plus attorneys' fees</p> <p>Does this amount include interest or other charges: <input type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).</p>
8. What is the basis of the claim?	<p>Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.</p> <p>Damages pursuant to guaranty and arising from rejection of lease of non-residential real property located at Big Flats Consumer Square, Elmira, New York, plus any and all costs of removing property and signage and restoring the premises, plus indemnity obligations and amounts subject to rights of setoff and/or recoupment, plus attorneys' fees. See attached itemization, Summary of Lease, Guaranty, and portions of lease.</p>
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. <p>Nature of property:</p> <input type="checkbox"/> Real Estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410A) with this Proof of claim. <input type="checkbox"/> Motor Vehicle. <input type="checkbox"/> Other. Describe: _____ <p>Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)</p> <p>Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)</p> <p>Amount necessary to cure any default as of the date of the petition: \$ _____</p> <p>Annual Interest Rate (when case was filed) _____%</p> <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

12. **Is all of part of the claim entitled to priority under 11 U.S.C. § 507(a)?** No Yes. *Check all that apply.*

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

Domestic support obligations (including alimony and child support) under 11 U.S.C. §§ 507(a)(1)(A) or (a)(1)(B). \$ _____

Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____

Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition was filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____

Other – Specify applicable paragraph of 11 U.S.C. §§ 507(a)(2) and 365(d)(3). \$ _____

** Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.*

Part 3:

Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004..
- I am the guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

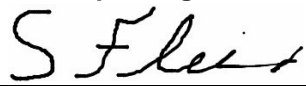
I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor creditor for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable believe that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date: May 25, 2021

Barclay Damon LLP, as attorneys for DLC Management Corporation, as managing agent for G&I IX Empire Big Flats LLC



 Signature

Print the name of the person who is completing and signing this claim:

Name	<u>Scott</u>	<u>L.</u>	<u>Fleischer</u>
	First name	Middle name	Last name
Title	<u>Counsel</u>		
Company	<u>Barclay Damon LLP</u>		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	<u>1270 Avenue of the Americas, Suite 501</u>		
	Number	Street	
	<u>New York</u>	<u>NY</u>	<u>10020</u>
	City	State	Zip Code
Contact phone	<u>(212) 784-5810</u>	Email	<u>sfleischer@barclaydamon.com</u>

G&I IX BIG FLATS CONSUMER SQ-BIG FLATS II
Accelerated Rent Schedule
OCB Restaurant Company, LLC

**CAM, RET, INS Future Amounts are subject to change with Annual Reconciliations*

	Base Rent		CAM		RET		INS
4/20-30/21	\$ 4,583.33	\$	1,013.60	\$	578.94	\$	41.31
4/23/2021 CAM Prior Year			(4,122.23)				
May-21	\$ 12,500.00	\$	2,764.36	\$	1,578.92	\$	123.93
Jun-21	\$ 12,500.00	\$	2,764.36	\$	1,578.92	\$	123.93
Jul-21	\$ 12,500.00	\$	2,764.36	\$	1,578.92	\$	123.93
Aug-21	\$ 12,500.00	\$	2,764.36	\$	1,578.92	\$	123.93
Sep-21	\$ 12,500.00	\$	2,764.36	\$	1,578.92	\$	123.93
Oct-21	\$ 12,500.00	\$	2,764.36	\$	1,578.92	\$	123.93
Nov-21	\$ 12,500.00	\$	2,764.36	\$	1,578.92	\$	123.93
Dec-21	\$ 12,500.00	\$	2,764.36	\$	1,578.92	\$	123.93
Jan-22	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Feb-22	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Mar-22	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Apr-22	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
May-22	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Jun-22	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Jul-22	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Aug-22	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Sep-22	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Oct-22	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Nov-22	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Dec-22	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Jan-23	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Feb-23	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Mar-23	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Apr-23	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
May-23	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Jun-23	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Jul-23	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Aug-23	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Sep-23	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
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Dec-23	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Jan-24	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Feb-24	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Mar-24	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Apr-24	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
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Jun-24	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Jul-24	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Aug-24	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
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Dec-24	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Jan-25	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93
Feb-25	\$ 12,916.67	\$	2,764.36	\$	1,578.92	\$	123.93

	Base Rent	CAM	RET	INS
Mar-25	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
Apr-25	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
May-25	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
Jun-25	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
Jul-25	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
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Dec-25	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
Jan-26	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
Feb-26	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
Mar-26	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
Apr-26	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
May-26	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
Jun-26	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
Jul-26	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
Aug-26	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
Sep-26	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
Oct-26	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
Nov-26	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
Dec-26	\$ 12,916.67	\$ 2,764.36	\$ 1,578.92	\$ 123.93
	\$ 879,583.53	\$ 184,867.85	\$ 107,945.50	\$ 8,468.55

TOTAL RENT RESERVED \$ 1,180,865.43

Monthly Charges \$ 12,916.67 \$ 2,764.36 \$ 1,578.92 \$ 123.93

One Year of Rent Reserved \$ 208,606.56

SUMMARY OF LEASE

Name of Shopping Center:	Big Flats Consumer Square
Location of Shopping Center:	Elmira, New York
Landlord:	G&I IX Empire Big Flats LLC

Tenant:	OCB Restaurant Company, LLC, as assignee of OCB Realty Co.
D/B/A:	Old Country Buffet
Store No.	237

Documents:

Lease dated April 7, 1995

Guaranty of Buffets, Inc. dated April 4, 1995

Memorandum of Lease dated July 1, 1996

Assignment of Leases dated January 1, 2000

Lease Renewal Letter dated July 15, 2011

Extension and Modification of Lease dated December 22, 2014

Due to their voluminous nature, complete copies of the lease documents referenced above are not attached. Complete copies are available upon request to claimant's attorneys, Barclay Damon LLP, Attn: Scott L. Fleischer, 1270 Avenue of the Americas, Suite 501, New York, New York 10020, email: sfleischer@barclaydamon.com.

GUARANTY

The undersigned, Buffets, Inc., a Minnesota corporation ("Guarantor"), in consideration of, and in order to induce the execution and delivery by Ronald Benderson, Randall Benderson and David H. Baldauf as Trustees under Agreement Dated October 14, 1985 Known as the Benderson 85-1 Trust; David Feuerstein and David Goodman, DBA FG-85 Associates ("Landlord"), to OCB Realty Co, a Minnesota corporation ("OCB"), of that certain Lease dated April 7, 1995, 1995, by and between Landlord, as landlord, and OCB, as tenant, a copy of which is attached to this Guaranty (the "Lease"), does hereby unconditionally guarantee (i) the payment, when due, of all amounts of rent or other payments which may become due and payable by OCB pursuant to the terms and conditions of the Lease, and (ii) the performance of all other monetary obligations of OCB thereunder. Guarantor's obligations under this Guaranty shall extend through the entire term of the Lease and any renewal or extension of the Lease.

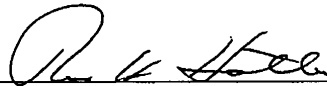
Guarantor hereby waives notice of (i) acceptance of this Guaranty, (ii) any action taken or omitted by Landlord in reliance on this Guaranty, and (iii) any default by OCB with respect to any term or condition of the Lease.

Guarantor agrees that, without its consent, the Lease may be modified, amended, and supplemented in any manner, including, but not limited to, a renewal or extension of the term of the Lease, and agrees that no such amendment, modification, supplement, renewal or extension shall release, affect or impair Guarantor's liability under this Guaranty. However, Guarantor shall be released of its obligations hereunder on and after the date that OCB's obligations under the Lease terminate, including as the result of a permitted assignment under the Lease wherein OCB is released from further performance.

Guarantor agrees that its liability under this Guaranty shall not be affected, reduced or impaired by reason of the failure of Landlord to pursue or enforce against OCB any right or remedy available to Landlord, and Guarantor hereby waives all right to require Landlord to pursue, enforce or resort to any or all such rights or remedies of Landlord.

Dated: April 4, 1995.

BUFFETS, INC.

By: 
Its: CB

LEASE

BY AND BETWEEN OCB REALTY CO., AS TENANT,

AND

RONALD BENDERSON, RANDALL BENDERSON AND DAVID H. BALDAUF
AS TRUSTEES UNDER AGREEMENT DATED OCTOBER 14, 1985
KNOWN AS THE BENDERSON 85-1 TRUST; DAVID FEUERSTEIN AND
~~DAVID~~ GOODMAN, DBA FG-85 ASSOCIATES, AS LANDLORD
STEPHEN B.

FOR SPACE IN

NORTHWEST CONSUMER SQUARE
BIG FLATS, NEW YORK

LEASE

THIS AGREEMENT, made this 7th day of April, 1995, between RONALD BENDERSON, RANDALL BENDERSON AND DAVID H. BALDAUF AS TRUSTEES UNDER AGREEMENT DATED OCTOBER 14, 1985 KNOWN AS THE BENDERSON 85-1 TRUST; DAVID FEUERSTEIN AND ~~DAVID~~ GOODMAN, DBA FG-85 ASSOCIATES, having offices at 570 Delaware Avenue, Buffalo, New York 14202, party of the first part (collectively "Landlord") and OCB REALTY CO., a Minnesota corporation, having offices at 10260 Viking Drive, Suite 100, Eden Prairie, Minnesota 55344, party of the second part ("Tenant").

X STEPHEN B.

WITNESSETH:

That the Landlord hereby lets to the Tenant and the Tenant hereby hires from the Landlord the following premises:

consisting of approximately 10,000 square feet of leasable area located at Big Flats Consumer Square, Big Flats, New York, ("Premises") as cross-hatched on the site plan attached hereto as Exhibit A. The Premises is part of the shopping center development known as Northwest Consumer Square located at Route 64 at Route 17 in Big Flats, New York consisting of approximately eighty-three thousand eight hundred (83,800) square feet ("Shopping Center"), as outlined in red on the site plan attached hereto as Exhibit A and as legally described in Exhibit B attached hereto. Tenant acknowledges that this number is an approximation and subject to adjustment. In the event Tenant uses or is required by law to use an enclosed garbage area, such area shall be made available and enclosed by Landlord (unless the requirement by law is imposed after the Commencement Date, in which case Tenant shall enclose) but such area shall not be considered a portion of the Premises for rent purposes and rent shall not be payable thereon.

This Lease shall be for a term of fifteen (15) full Lease Years and any Partial Lease Year commencing either (i) one hundred twenty (120) days after the Landlord completes Landlord's Work (as defined in Section 46), approves Tenant's Plans (as defined in Section 58), tenders possession of the Premises to Tenant, provides Tenant with a nondisturbance agreement from any and all ground lessors or mortgagees of the Shopping Center (as provided in Section 5) and Tenant obtains all necessary governmental permits and approvals concerning the construction and operation of the Premises, or (ii) the day Tenant opens the Premises for business, whichever comes first ("Commencement Date"), and ending fifteen (15) Lease Years after the last day of the first Partial Lease Year of the Term ("Expiration Date"). Tenant shall use best efforts to obtain the aforesaid governmental permits and approvals and shall apply for said permits and approvals within ninety (90) days of the date of this Lease. If Tenant is unable to obtain said permits and approvals within 120 days following the date of this Lease, then Landlord may elect to terminate this Lease upon thirty (30) days advance written notice to Tenant, provided that such election shall not be effective if Tenant actually receives all of such permits and approvals within the aforesaid thirty (30) day period. Tenant shall deliver to Landlord copies of said permits and approvals promptly after receipt from governmental authorities. In no event shall the Commencement Date occur until the parking area adjacent to the Premises and access to the Premises is paved. Promptly following the Commencement Date, Landlord and Tenant shall enter into an amendment of this Lease prepared by Landlord setting forth the Commencement Date,

STATE OF New York)
) ss.
COUNTY OF ERIE)

The foregoing instrument was acknowledged before me this 7th day of April, 1995, by David Feuerstein, _____, on behalf of _____, a _____

Julie Wilde-Roberts
Notary Public

JULIE WILDE-ROBERTS
NOTARY PUBLIC, State of New York
Registration No. 01W15022817
Qualified in Erie County
My Commission Expires January 18, 1996

STATE OF New York)
) ss.
COUNTY OF ERIE)

The foregoing instrument was acknowledged before me this 7th day of April, 1995, by Stephen B. Goodman, _____, on behalf of _____, a _____

Julie Wilde-Roberts
Notary Public

JULIE WILDE-ROBERTS
NOTARY PUBLIC, State of New York
Registration No. 01W15022817
Qualified in Erie County
My Commission Expires January 18, 1996

STATE OF New York)
) ss.
COUNTY OF ERIE)

The foregoing instrument was acknowledged before me this 7th day of April, 1995, by David H. Baldauf, Trustee, on behalf of RB-3 Associates, a partnership *

Julie Wilde-Roberts
Notary Public

* Benderson 85-1 Trust,
Q Trust Agreement

JULIE WILDE-ROBERTS
NOTARY PUBLIC, State of New York
Registration No. 01W15022817
Qualified in Erie County
My Commission Expires January 18, 1996

STATE OF New York)
) ss.
COUNTY OF ERIE)

The foregoing instrument was acknowledged before me this 7th day of April 1995, by Randall Benderson, ~~vice president and partner, on behalf of RB-3 Associates, a partnership.~~ Trustee

Julie Wilde Roberts
Notary Public

* Benderson ES-1 Trust,
a Trust Agreement

STATE OF MINNESOTA)
) ss.
COUNTY OF Dakota)

JULIE WILDE-ROBERTS
NOTARY PUBLIC, State of New York
Registration No. 01W15022817
Qualified in Erie County
My Commission Expires January 18, 1996

The foregoing instrument was acknowledged before me this 27th day of March, 1995, by Roe H. Hatten, the CEO of OCB Realty Co., a Minnesota corporation, on behalf of the corporation.

Julie Sauser
Notary Public

