Aaron M. Kaufman (TX Bar No. 24060067)
Sahrish K. Soleja (TX Bar No. 24102522)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: akaufman@grayreed.com
Email: ssoleja@grayreed.com

COUNSEL FOR MARK SHAPIRO, TRUSTEE FOR THE GGI LIQUIDATING TRUST

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

IN RE:	§	**CASE NO. 20-31318-hdh11**
	§	
GGI HOLDINGS, LLC, *et al.*,	§	**CHAPTER 11**
	§	
DEBTORS.[1]	§	**(Jointly Administered)**
	§	

GGI LIQUIDATING TRUSTEE'S
FIRST OMNIBUS OBJECTION TO CLAIMS (DUPLICATE CLAIMS) (SATISFIED CLAIMS) (PURCHASER ASSUMED CLAIMS) (LATE FILED CLAIMS)

A HEARING ON THIS OMNIBUS OBJECTION MAY BE HELD ON FRIDAY, DECEMBER 28, 2020, AT 9:00 A.M., UNLESS THE APPLICABLE CLAIMANT FAILS TO FILE A TIMELY RESPONSE WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT 1100 COMMERCE ST, ROOM 1254, DALLAS, TEXAS 75242 BEFORE CLOSE OF BUSINESS ON DECEMBER, 21, 2020, WHICH IS AT LEAST 40 DAYS FROM THE DATE OF SERVICE HEREOF.

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK, AND A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY PRIOR TO THE DATE AND TIME SET FORTH HEREIN. IF A RESPONSE IS FILED A HEARING MAY BE HELD WITH NOTICE ONLY TO THE OBJECTING PARTY.

IF NO HEARING ON SUCH NOTICE OR MOTION IS TIMELY REQUESTED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING

[1] The debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, were: GGI Holdings, LLC (1222); Gold's Gym International, Inc. (3614); Gold's Holding Corp. (3610); Gold's Alabama, LLC (0520); Gold's Gym Franchising, LLC (5009); Gold's Gym Merchandising, LLC (4892); Gold's Gym Rockies, LLC (7129); Gold's Louisiana, LLC (9825); Gold's North Carolina, LLC (3221); Gold's Ohio, LLC (4396); Gold's Oklahoma, LLC (7577); Gold's St. Louis, LLC (4827); Gold's Southeast, LLC (9382); and Gold's Texas Holdings Group, Inc. (8156).

THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.

Mark Shapiro, as trustee ("Trustee") for the GGI Liquidating Trust (the "Trust") and successor in interest to GGI Holdings, LLC and its affiliates (the "Debtors") in the above captioned chapter 11 cases (the "Cases"), by and through its undersigned counsel, hereby submits this objection (the "Objection") and seeks entry of an order, substantially in the form attached hereto as **Exhibit 1** (the "Order"),

i. disallowing and expunging certain duplicative claims listed on **Schedule A** to the Order (collectively, the "Duplicative Claims");

ii. disallowing and expunging certain claims that have already been paid and satisfied as listed on **Schedule B** to the Order (collectively, the "Satisfied Claims");

iii. disallowing and expunging certain claims that were assumed and paid by RSG pursuant to the Sale Order as listed on **Schedule C** to the Order (collectively, the "Purchaser Assumed Claims"); and

iv. disallowing and expunging certain claims that were filed after the applicable deadline to file claims as listed on **Schedule D** to the Order (collectively, the "Late Filed Claims").

I. JURISDICTION

1. The United States Bankruptcy Court for the Northern District of Texas (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The basis for the relief requested herein are sections 105(a) and 502 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 3001 and 3007 of the Federal Rules of

Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 3007-2 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas (the "Local Rules").

II. BACKGROUND

4. On May 4, 2020 (the "Petition Date"), the Debtors filed their voluntary petitions for relief under chapter 11 of the Bankruptcy Code. A full description of the Debtors' business, corporation structure, prepetition indebtedness, and events leading to the chapter 11 cases is set forth in the *Declaration of Adam Zeitsiff in Support of the Debtors' Chapter 11 Petition and First Day Relief* [Docket No. 24] (the "First Day Declaration").

5. The Court entered an order confirming a plan of liquidation on August 26, 2020, which plan went effective on September 10, 2020 [Docket No. 531]. Under the confirmed plan, the Trustee is the successor in interest to the Debtors for purposes of the Motion and this Objection.

6. The general deadline for filing proofs of claim was September 9, 2020 (the "Claims Bar Date"). The deadline for a governmental unit for filing proofs of claim is December 8, 2020 (the "Government Claims Bar Date").

III. RELIEF REQUETED

7. By this Objection, the Trustee respectfully requests entry of the Order (i) modifying or disallowing and expunging the Disputed Claims identified on **Schedules A-D** to the Order and (ii) granting related relief.

IV. BASIS FOR RELIEF

8. Section 502(a) of the Bankruptcy Code provides that "[a] claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest…objects." 11 U.S.C. § 502(a). A chapter 11 debtor has the duty to object to the allowance of any claim that is improper. 11 U.S.C. §§ 704(a)(5), 1106(a)(1), 1107(a); *see also*

Int'l Yacht & Tennis, Inc. v. Wasserman Tennis, Inc. (In re Int'l Yacht & Tennis, Inc.), 922 F.2d 659, 661-62 (11th Cir. 1991).

9. As set forth in Bankruptcy in Bankruptcy Rule 3001(f), a properly executed and filed proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under section 502(a) of the Bankruptcy Code. *See In re O'Connor*, 153 F.3d 258, 260 (5th Cir. 1998); *In re Texas Rangers Baseball Partners*, 10-43400 (DML), 2012 WL 4464550, at *2 (Bankr. N.D. Tex. Sept. 25, 2012). To receive the benefit of *prima facie* validity, however, "[i]t is elemental that a proof of claim must assert facts or allegations…which would entitle the claimant to a recovery." *In re Heritage Org., L.L.C.*, 04-35574 (BJH) 2006 WL 6508477, at *8 (Bankr. N.D. Tex. Jan. 27, 2006), *aff'd sub nom., Wilferth v. Faulkner*, 3:06 CV 510 K, 2006 WL 2913456 (Bankr. N.D. Tex. Oct. 2006). Moreover, a claimant's proof of claim is entitled to the presumption of *prima facie* validity only until an objecting party refutes "at least one of the allegations that is essential to the claim's legal sufficiency." *In re Am. Reit, Inc.*, 07-40308, 2008 WL 1771914, at *3 (Bankr. E.D. Tex. Apr. 15, 2006).

10. Section 502(b)(1) of the Bankruptcy Code requires disallowance of a claim if "such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law…." 11 U.S.C. § 502(b)(1).

V. OBJECTION

A. Duplicate Claims

11. The Trustee objects to the Duplicate Claims identified on **Schedule A** to the Order. Based on the review of the proofs of claim, the Trustee has determined that the Duplicative Claims listed in the "Claims to be Disallowed" column on Schedule A to the Order duplicate other proofs of claim filed against the same Debtor entity or multiple Debtor entities as

identified in the "Remaining Claim" column. These Duplicative Claims represent the same claim as the corresponding claim in the "Remaining Claim" column.

12. Failure to disallow and expunge the Duplicate Claims listed in the "Claims to Be Disallowed" column could result in the applicable claimants receiving multiple recoveries against the Debtors' estates, to the detriment of other similarly situated creditors. Moreover, elimination of the Duplicate Claims will enable the Trustee to maintain a more accurate claims register. Accordingly, the Trustee requests that the Court enter the Order, disallowing and expunging the Duplicate Claims listed in the "Claims to Be Disallowed" column on Schedule A to the Order. This objection to the Duplicative Claims does not affect the proofs of claim labeled as "Remaining Claim" identified on Schedule A to the Order. The Trust reserves the right to object to such "Remaining Claim" on any other available grounds, including the grounds that are raised elsewhere in this Objection.

B. Satisfied Claims

13. The Trustee has identified ten (10) proofs of claim listed on **Schedule B** that according to the Debtors' books and records have already been fully satisfied in the ordinary course of business. Disallowing such Satisfied Claims, therefore, is necessary and appropriate and will prevent the claimants from obtaining a double recovery on account of such claims.

C. Purchaser Assumed Claims

14. The Trustee has identified certain proofs of claim listed on **Schedule C** that were assumed and paid by RSG pursuant to the Sale Order entered by the Court [Docket No.428].

15. Additionally, the Court resolved any and all objections to 16 claims, as identified in paragraph 15 of the Sale Order, by approving the cure amounts of said claims as agreed to by the parties.

16. Accordingly, the Trustee asserts that the Debtors have no liability for such proofs of claim. Disallowing the Purchaser Assumed Claims, therefore, will streamline the claims reconciliation process and enable the Trustee to maintain a more accurate claims register and prevent the claimants from obtaining a double recovery on account of such claims.

F. Late Filed Claims

17. The Trustee objects to the Late Filed Claims as identified on **Schedule D**. Pursuant to the Bar Date Order, claimants had until the General Bar Date to file proofs of claims asserting General Unsecured Claims against the Debtors' estates. The Trustee has determined that the Late Filed Claims assert General Unsecured Claims and were filed after the General Bar Date and, therefore, do not have a right to payment against any of the Debtors' estates. Because each Late Filed Claim asserted a General Unsecured Claim and was filed after the General Bar Date, the Late Filed Claims are invalid and do not properly represent a claim against the Debtors' estates on account of such Late Filed Claims.[2]

18. Failure to disallow and expunge the Late Filed Claims could result in the applicable claimants improperly receiving unwarranted or excessive recoveries against the Debtors' estates. Moreover, elimination of the Late Filed Claims will enable the Trustee to maintain a more accurate claim register. Accordingly, the Trustee requests that the Court enter the Order, disallowing and expunging the Late Filed Claims listed on Schedule F to the Order.

VI. SEPARATE CONTESTED MATTER

19. Each of the above objections to the Disputed Claims constitutes a separate contested matter as contemplated by Bankruptcy Rule 9014. The Trustee requests that any order

[2] To the extent a claim was listed in the Debtors' Schedules for a claim that was not listed as disputed, contingent or unliquidated and subsequently filed a Late Filed Claim, the disallowance and expungement of the Late Filed Claim will not impact that claimants right, if any, to a distribution on account of such undisputed scheduled claim.

by this Court with respect to an objection asserted herein shall be deemed a separate order with respect to each Claim.

VII. RESERVATION OF RIGHTS

20. The Trustee expressly reserves the right to amend, modify or supplement this Objection and to file additional substantive or non-substantive objections to the proofs of claim objected to herein, or any other claims (filed or not) which may be asserted against the Debtors. Should the grounds for objection stated in this Objection be overruled, the Trustee reserves the rights to object on other stated grounds or on any other grounds that the Trustee discovers. In addition, the Trustee reserves the right to seek further reduction of any claim for any reason, including to the extent such claim has been paid, and further reserve the right to raise further objections, including objections under section 502(d) of the Bankruptcy Code.

VIII. COMPLIANCE WITH LOCAL RULES

21. This Objection includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated, and a discussion of their application to this Objection. The Trustee objects to no more than 100 proofs of claim herein. The Trustee has served notice of this Objection to those persons whose names appear in the signature blocks on the proofs of claim, and in accordance with Bankruptcy Rule 7004. Moreover, the Trustee has notified claimants that a copy of their claim may be obtained from the Trustee upon request.

22. Accordingly, the Trustee submits that this objection satisfies Bankruptcy Rule 3007, Local Rule 3007-2, and the Omnibus Objection Procedures Order.

IX. NOTICE

23. The Trustee has provided notice of this Motion to: (a) the Office of the United States Trustee for the Northern District of Texas; (b) any party who has requested notice pursuant to Bankruptcy Rule 2002; and (c) the claimants submitting the Disputed Claims. In

light of the nature of relief requested in this Motion, the Trustee respectfully submit that no further notice is necessary.

X. NO PRIOR REQUEST

24. No prior motion for the relief requested herein has been made to this Court or any other court.

WHEREFORE, the Trustee respectfully request that the Court grant the relief requested herein and such other and further relief as is just and proper.

Respectfully submitted this 9th day of November, 2020.

GRAY REED

By: */s/ Aaron Kaufman*

Aaron M. Kaufman
Texas Bar No. 24060067
Sahrish K. Soleja
Texas Bar No. 24102522
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: akaufman@grayreed.com
ssoleja@grayreed.com

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