

# Response to Objection

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**SECTION A:** *A caption stating the name of the Court, the name of the Debtor, the case number and the Objection to which the Response is directed;*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOISEASTERN DIVISION**

In re: GULF PACKAGING, INC., Debtor.

Chapter 11 Case No. 15-15249

(PSH) Honorable Pamela S. Hollis

**Hearing Date: December 10, 2015**

**Hearing Time: 10:00 a.m.**

**Court Room: 644**

**OMNIBUS 1: EXHIBIT B - RECLASSIFY CLAIMS – Doc 261:** 11. The Debtor has also determined that the claims identified on the schedule attached hereto as **Exhibit B** consist of priority claims of individuals who are either Affiliate Employees or ADP Employees. These claimants are not employees of the Debtor and do not have any direct right to payment of salary, wages or commission from the Debtor.

**SECTION B:** *A concise statement setting forth the reasons why the Court should not grant the Objection to the claim including the factual and legal bases upon which the claimant will rely in opposing the objection;*

This objection should not be granted based on the fact that I was employed by Gulf Packaging, Inc. beginning on May 15, 2014 through April 3, 2015 as evidenced by my signed and executed employment and W-2 form (enclosed)

**SECTION C:** *A copy of any other documentation or other evidence of the claim, to the extent not already included in the proof of claim, upon which the claimant will rely in opposing the objection; provided however that the claimant need not disclose confidential, proprietary or otherwise protected information in the Response; and*

See attached copies of;

1. Signed and executed employment agreement
2. Pay stub
3. W-2

**SECTION D:** *The name, address telephone number and e-mail address of the responding claimant or the name, address, telephone number and e-mail address of the claimant's attorney or designated representative to whom the attorneys for the Debtors should serve a reply to the response.*

Howard Movshin  
5765 Ogilby Drive  
Hudson, OH 44236

Home: 330-650-4464  
Cell: 330-800-7149

Email: hmovshin@gmail.com

**FILED**  
UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS

**NOV 30 2015**

**JEFFREY P. ALLSTEADT, CLERK  
TEAM CA**

# Certificate of Service

**A copy of this response has also been sent to the following:**

Counsel to the Debtor,

Gray Reed & McGraw, P.C.  
1601 Elm Street  
Suite 4600  
Dallas, Texas 75201  
Attn: Jason S. Brookner

FrankGecker LLP  
325 N. LaSalle Street  
Suite 625  
Chicago, Illinois 60654  
Attn: Jeremy Kleinman

Counsel to the Committee

Freeborn & Peters LLP  
311 S. Wacker Drive  
Suite 3000  
Chicago, Illinois 60606  
Attn: Shelly DeRousse  
Attn: Richard S. Lauter

Office of the United States Trustee

219 S. Dearborn Street  
Room 873  
Chicago  
Illinois 60604  
Attn: Kathryn M. Gleason

## EMPLOYMENT AGREEMENT

This employment agreement (the "Agreement") is made between Gulf Packaging, Inc. ("Company") and Howard Movshin ("Employee"). Company and Employee are sometimes collectively referred to as "Parties" or singularly as a "Party."

1. Offer and Acceptance. Upon the terms stated herein, Company offers to employ Employee as Co-Manager of the Company's Cleveland office, and Employee accepts such employment. The Cleveland office means the Cleveland office itself and any other office of the Company for which the Employee has managerial responsibility.

2. Definitions.

a. Client. Means any individual, proprietorship, partnership, corporation, association, governmental entity, or other entity that has been solicited or served by Company during the one (1) year period immediately prior to termination of Employee's employment provided, however, that Clients shall not include any customer to whom Employee has sold - or attempted to sell - products or equipment at any time in the fifteen month period preceding the commencement of this Agreement.

b. Confidential Information. Means Company's information which is used in Company's business and is (i) proprietary to, about or created by the Company; (ii) gives Company some competitive business advantage or the opportunity of obtaining such advantage or the disclosure of which could be detrimental to the interests of Company; (iii) designated as Confidential Information by Company, or from all the relevant circumstances should reasonably be assumed by the Employee to be confidential and proprietary to Company; or (iv) not generally known by persons or businesses outside of Company. Such Confidential Information includes, but is not limited to, the following types of information and other information of a similar nature (whether or not reduced to writing or designated as confidential):

i. Work Product. Means product or information resulting from or related to work or projects performed or to be performed by or for Company;

ii. Other Proprietary Information. Employee is aware of and acknowledges that Company has developed special competence and knowledge in the packaging industry and has accumulated information not generally known to others in the field which is of unique value in the conduct and growth of Company's business and which Company treats as proprietary. This information includes data relating to Company's proprietary rights prior to any public disclosure thereof, including but not limited to the nature of the proprietary rights, production data, the status and details of research and development of products and services, and information regarding acquiring, protecting, enforcing and licensing proprietary rights (including patents, copyrights and trade secrets);

iii. Third-Party Information. Confidential or proprietary information from third parties subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes.

iv. Business Operations. Internal personnel and financial information, vendor names and other vendor information (including vendor characteristics, services and agreements), purchasing and internal cost information, internal services and operational manuals, and the manner and methods of conducting Company's business;

v. Marketing and Development Operations. Marketing and development plans, price and cost data, price and fee amounts, pricing and billing policies, quoting procedures, marketing techniques and methods of obtaining business, forecasts and forecast assumptions and volumes, and future plans and potential strategies of Company which have been or are being discussed; and

vi. Clients. Names and contact information for Clients and their representatives, Client contracts and their contents, customer service information, and data provided by Clients.

3. Obligations of Employee. Company hereby engages and retains Employee to render to Company services in compliance with the following obligations:

a. Operate Company Office. Employee shall co-manage Company's Cleveland Office and perform all administrative tasks reasonably assigned by Company associated with operating said office.

b. Conduct Company Business. Employee shall conduct whatever reasonable business function Company requests during Employee's time of employment.

c. Follow Company Policies. Employee shall follow all Company established policies for conduct and procedures as established or revised from time to time.

d. Availability. Employee shall not, during the term of this Agreement, be engaged in any other business activity, whether or not such business activity is in the pursuit of gain, profit or other pecuniary advantage, without first obtaining the written consent of Company. Employee shall devote such time and effort as reasonably required to meet Employee's position objectives as set by Company.

e. Protection of Good Will. Employee acknowledges that in the course of carrying out, performing, and fulfilling Employee's duties to Company, Employee will be given access to and entrusted with Confidential Information relating to Company's business and clients. Employee recognizes that (i) the good will of Company depends upon, among other things, keeping the Confidential Information confidential and that the unauthorized disclosure of the Confidential Information would irreparably damage Company, and (ii) disclosure of any Confidential Information to a competing business against Company or to the general public

would be highly detrimental to Company. Employee agrees to do his or her personal best to protect the good will of Company in all respects.

f. Professionalism and Decorum. Employee agrees to maintain personal decorum in a manner befitting Company and consistent with reflecting a positive image of Company upon all persons Employee encounters at any time, whether in the course of Employee's business for Company or not.

4. Obligations of Company.

a. Provide Employee Compensation.

i. Salary. Company shall pay Employee a salary of \$135,000 per year, payable in accordance with the Company's standard payroll practices and subject to mandatory state and federal withholding requirements for so long as Employee is employed by Company.

ii. Bonus.

(1) Company shall pay Movshin annually a bonus based upon the financial performance of the Cleveland office. The bonus shall be 19% of the annual Net Profit of the Cleveland office; provided, however, if Lawrence Sollisch is not employed by the Company, then the bonus shall be 38% of the annual Net Profit of the Cleveland office.

(2) Net Profit means eighty percent (80%) of Annual Profit less any Cumulative Losses (excluding therefrom Cumulative Losses that have been set off against Annual Profits in prior years). The other twenty percent (20%) of any Annual Profit shall not be included in calculating Net Profit or the bonus due Employee, but instead will be withheld and used as reserve for operations of the Company's Cleveland office (the "Reserve"). Once the aggregate amount of the Reserve (for all years in which a Reserve has been withheld) equals the lesser of a) five percent (5%) of the previous year's Revenue of the Cleveland office or b) Five Hundred Thousand Dollars (\$500,000) (the "Reserve Threshold"), Net Profit shall be calculated by using one hundred percent (100%) of Annual Profit; provided however, that if at any time thereafter the aggregate amount of the Reserve shall fall below the Reserve Threshold, then Net Profit shall be deemed to mean 80% of Annual Profit until the Reserve Threshold is once again achieved. Upon the termination of this Agreement for any reason, the Company shall promptly pay over to the Employee nineteen percent (19%) of the aggregate amount of the Reserve, determined as of the date of termination.

(3) Annual Profit for any year means of the difference between that year's Revenues and that year's Expenses.

(4) Annual Loss for any year means that year's Expenses less that Year's Revenues.

(5) Cumulative Losses means the difference of Annual Losses less Annual Profits for the period beginning January 1, 2014 through the year for which a bonus is calculated.

(6) Revenue means all amounts billed by the Company to customers if the order is shipped or billed from the Cleveland office.

(7) Expenses means all a) direct costs incurred in connection with the operation of the Cleveland office, including compensation, benefits and payroll taxes associated with the Cleveland office, the Company's actual cost of products or equipment purchased by on or behalf of the Cleveland office, office expenses and supplies, broadband services, rent, utilities, and real estate taxes associated with the Cleveland office, b) straight-line depreciation on capital goods purchased for the Cleveland office, c) income taxes incurred by the Company on the profits generated by the Cleveland office and d) a reasonable management fee to reflect the cost of services supplied by the Company, such as purchasing, customer service, human resources support, tax and accounting, legal and other professional services, advertising and marketing. The Company shall determine the amount of the management fee in a manner consistent with its determination of management fees allocated to other Company offices, and shall provide Employee with reasonable documentation supporting such management fee. Expenses do not include capital purchases (other than the depreciation deduction for such items) interest or taxes.

(8) The Company will maintain separate books and records that reflect the Revenues and Expenses of the Cleveland office and supply such books and records to Employee no less frequently than monthly.

(9) <sup>Fiscal</sup> Any bonus due hereunder will be paid not later than ~~February 15~~ <sup>60 DAYS</sup> of the following year, and will be accompanied by such records as will support the determination of the bonus. Any amount due as a bonus and not paid timely shall bear interest at the rate of 12% per year from the date such bonus was due.

b. Provide Employee Fringe Benefits.

i. Benefit Programs. Employee shall be eligible to participate in Company fringe benefit programs and plans, including but not limited to: (1) health, eye, and dental insurance programs, if any; (2) life insurance programs, and (3) 401(k) plans in accordance with the terms, conditions and eligibility requirements as required by law or as may be periodically amended by Company.

ii. Cell Phone. Company shall reimburse Employee for cell phone and data

plan usage for Employee. Such reimbursement shall be payable once per month upon presentation in an amount not to exceed One Hundred Twenty-Five Dollars (\$125). Company reserves the right to shift Employee to a corporate cell phone account which shall be paid and maintained by Company in lieu of reimbursement to employee. Further, upon termination of the Agreement for any reason, Employee shall, at Company's option, transfer the cell phone number(s) from the reimbursed accounts to Company for its use or disposal as it sees fit.

iii. Vehicle Allowance. Employee shall be entitled to a monthly vehicle allowance of \$600.00 per month. Employee's vehicle must be no more than five model years old and must be clean at all times and maintained in good working order. Employee shall maintain Employee's own personal insurance for the vehicle with minimum limits of \$100,000.00/\$300,000.00. Employee insurance policy must list Company as an additional insured and the policy must provide that the vehicle is permitted to be used for business purposes. In no event shall Company be liable for any damages incurred by Employee or any third-party injured or otherwise damaged as a result of the actions of Employee while operating the vehicle for personal purposes.

iv. Vacation and Sick Time. Employee shall be entitled to participate in Company standard vacation and sick time programs for employees of similar experience with Company.

c. Confidential Information, Trade Secrets, and Specialized Training. Company promises to provide Employee access to some or all of Company's Confidential Information and/or specific trade secrets related to Company's business. Company further promises to provide Employee specialized training related to Company's business.

d. Cleveland Office. Company agrees to begin process of opening an office in Cleveland, Ohio and to provide support to Employee in the interim period.

e. Indemnification of Employee. Company agrees to indemnify and defend Employee (including payment of the cost of any legal fees, expert witness fees and other litigation expenses) in connection with any legal action brought by S&S, Inc. against Employee individually for violation of any alleged non-competition or non-solicitation covenant, or related claims.

5. Term and Termination.

a. Employee's employment shall begin \_\_\_\_\_, and shall continue until a) Employee voluntarily resigns, b) Employee's death or permanent disability, c) the Company terminates this agreement for Cause, or d) the Company terminates this Agreement without Cause. Cause means (i) a violation by Employee of any material term of this Agreement; (ii) frequent unexplained absence or other malfeasance by Employee; (iii) failure by Employee to perform the services reasonably required of Employee by the Company; (iv) the commission by Employee of a felony or an act of moral turpitude; and/or (vii) conduct which could reasonably be

expected to bring the Company into public disgrace or disrepute. Before the Company may terminate Employee's employment for Cause, the Company shall have promptly notified Employee of the basis for the proposed termination and have provided him a reasonable opportunity to cure. In the event of a termination without Cause, the Company shall a) pay Employee severance pay equal to three months of his Salary (the "Severance Period") b) maintain and pay for his group health insurance during the Severance Period without interruption and upon the same terms and conditions as in effect before the termination of his employment, c) and pay him the Bonus for the year of his termination and for two years thereafter.

b. Obligations upon Termination.

i. Return of Materials. Employee agrees that upon termination of this Agreement, Employee shall: (1) deliver to Company all Confidential Information and all copies thereof, along with any and all other property belonging to Company or any Client or supplier of Company, and (2) return to Company all sales material and all other documents, information or materials of whatever kind or nature and stored on any type of media developed by or for Company and thereafter shall neither use such documents, information materials or any similar materials, nor supply or make available such documents, information or materials to any third party.

ii. Notify Company of All Pending Leads. Employee agrees that upon termination of this Agreement, Employee shall deliver to Company a list of all leads for sales, if any, which Employee was pursuing at the time the Agreement was terminated.

c. Continuation of Certain Obligations. The obligations under this Agreement related to non-disclosure, non-solicitation, non-disparagement, and the covenant not to compete shall survive termination of this Agreement.

6. Non-Disclosure. Employee agrees to permanently secure and protect Company's Confidential Information in a manner consistent with the maintenance of Company's confidential and proprietary rights in the Confidential Information.

7. Non-Disparagement. The Parties each promise to refrain from making any disparaging remarks about the other following the termination of the employment relationship between them, except that Company may offer a faithful account of Employee's service to anyone seeking a recommendation or account for future employment of Employee.

8. Non-Solicitation of Employees and Contractors. Employee agrees that during the term of this Agreement and for a period of one (1) year from the date of termination of this Agreement, Employee will not (nor will Employee permit or allow any entity, firm, person, corporation or business which is more than five percent (5%) owned, or controlled by him) to hire or solicit, recruit or otherwise attempt to induce any person who is, or within the preceding six (6) months was, (i) an employee of Company, or (ii) an independent contractor or consultant of any kind providing services to Company to terminate his or her business relationship with Company.



9. Non-Solicitation of Clients. Employee agrees for a period of one (1) year from the date of termination of this Agreement, Employee will not call on or sell any Client that was provided to the Employee or the Cleveland office by the Company in the form of a National or Corporate account, either through any kind of ownership (other than ownership of securities of publicly held corporations of which Employee owns less than five percent (5%) of any class of outstanding securities) or as a director, officer, principal, agent, employee, employer, advisor, consultant, co-partner or in any individual or representative capacity whatsoever, either for its or Employee's own benefit or for the benefit of any other persons or firm, partnership, association, corporation or other entity, without the prior written consent of the Company, solicit any Client of Company.

10. No Use of S&S Proprietary Information. Employee agrees he will not use or divulge to the Company information that is proprietary to S&S Inc. and that was not in the possession of Employee before Employee became associated with S&S, Inc. Employee agrees not to solicit the business of any customer of S&S, Inc. (an "S&S Customer") for twelve months after the commencement of this Agreement. An S&S Customer is a customer a) to whom Employee sold products or equipment on behalf of S&S in the twelve months before the commencement of this Agreement and b) assigned by S&S to Employee. An S&S Customer does not include any customer to whom Employee sold product or equipment before joining S&S or any customer Employee brought to S&S from previous employment.

11. Attorneys Fees. The Company shall pay Schneider, Smeltz, Ranney & LaFond Five Thousand Dollars (\$5,000) for the preparation of this Agreement.

12. Ownership of Leads and Developments. All sales leads, copyrights, patents, trade secrets, trademarks, trade names, or other intellectual property rights associated with any ideas, concepts, techniques, inventions, processes, or works of authorship provided to the Employee by the Company during with Employee's relationship with Company (collectively the "Work Product") shall belong exclusively to Company. Employee hereby agrees to assign to Company and does automatically assign to Company at the time of creation of the Work Product, without any requirement or any further consideration, any and all right, title and/or interest (including good will) Employee may have in such Work Product. Upon any request by Company, Employee hereby agrees to take any and all such further actions, including but not limited to the execution and delivery of instruments of conveyance, as may be appropriate, in Company's sole discretion, to give full and proper credit to any such assignment.

13. Other Provisions.

a. Applicable Law and Forum. This Agreement shall be governed and construed in accordance with the laws of the State of Ohio without regard to the conflicts of laws or principles thereof. Any action or suit related to this Agreement shall be brought in the state or federal courts sitting in Cleveland, Ohio.

b. Waiver. No waiver by Company of any breach by Employee of any of the provisions of this Agreement shall be deemed a waiver of any preceding or succeeding breach of the same or any other provisions hereof. No such waiver shall be effective unless in writing and then only to the extent expressly set forth in writing.

c. Entire Agreement. This Agreement constitutes the entire agreement between the Parties as to the topics which it references and supersedes all prior agreements, whether oral or written.

d. Modifications. No modification of this Agreement shall be effective unless in writing and signed by both Parties.

e. Severability. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect by a judicial body, such holding shall not affect the validity and enforceability of any other provisions hereof. Further, should any provisions within this Agreement ever be reformed or rewritten by judicial body, such provisions as so rewritten shall be binding upon the Parties hereto.

f. Assignment. This Agreement may be assigned by Company to any affiliated or related company at any time without notice. This Agreement may not be assigned by Employee for any reason without express written consent of Company.

g. Reformation. Should any provision within this Agreement be determined too broad under any law or statute, the parties expressly request the agreement be reformed to provide the maximum possible protection to Company.


h. No Construction Against a Drafter. Employee is encouraged to seek the advice of legal counsel in reviewing this contract and has had an opportunity to review and consider the agreement before entering it. Therefore, in any construction to be made of this Agreement, the Agreement shall not be construed for or against either party.

i. No Third Party Beneficiary. This Agreement does not, and is not intended to, confer any rights or remedies on any party other than the parties hereto, and their respective successors, assigns and personal representatives.


IN WITNESS WHEREOF, and in acknowledgement that the Parties hereto have read and understood each and every provision hereof, the Parties have executed this Agreement on the date first set forth above.

Effective Date: ~~February~~ <sup>May</sup> 15, 2014

**GULF PACKAGING, INC.**

By:  Its duly authorized agent.

**HOWARD MOVSHIN**

  
Individually

Gulf Packaging, Inc.  
 1040 Maryland Avenue  
 Dolton, IL

HOWARD MOVSHIN  
 5765 OGILBY DRIVE  
 Hudson, OH 44236

2/19/2015

	SOCIAL SEC NO	PAY RATE	PERIOD END	STUB NO.
01-MOVSHIN	147-52-0445	5,625.000 SS	2/15/2015	D00544
		HOURS	AMOUNT	YTD
** EARNINGS				
Regular			5,625.00	20,942.35
HOLIDAY			0.00	1,557.65
** TAX DEDUCTIONS				
Federal W/H			776.00	3,182.00
FICA			300.02	1,219.36
Medicare			70.17	285.19
OH State W/H			208.00	852.00
** DEDUCTIONS				
DENTAL INS			16.93	67.72
HEALTH INS			469.08	1,854.47
HSA DEFERRAL			289.13	867.39
VISION INS.			10.76	43.04
** DIRECT DEPOSITS				
KEY BANK	351032028042		3,484.91	14,128.83

CHECK AMOUNT:	0.00		TOTAL DIR DEP:	3,484.91	14,128.83
GROSS EARNINGS:	5,625.00	22,500.00	TOTAL DEDUCT:	2,140.09	8,371.17
NET EARNINGS:	3,484.91				

b Employer identification number (EIN) <b>45-4695030</b>		1 Wages, tips, other compensation <b>\$76,552.55</b>		2 Federal income tax withheld <b>\$12,775.00</b>	
c Employer's name, address, and ZIP code <b>GULF PACKAGING, INC 1548 ROGER DALE CARTER SUITE - E KANNAPOLIS, NC 28081</b>		3 Social security wages <b>\$76,552.55</b>		4 Social security tax withheld <b>\$4,746.24</b>	
		5 Medicare wages and tips <b>\$76,552.55</b>		6 Medicare tax withheld <b>\$1,109.97</b>	
		7 Social security tips <b>\$0.00</b>		8 Allocated tips <b>\$0.00</b>	
d Control number		9		10 Dependent care benefits <b>\$0.00</b>	
e Employee's first name and initial <b>HOWARD</b>	Last name <b>MOVSHIN</b>	Suff.	11 Nonqualified plans <b>\$0.00</b>		12a <b>\$0.00</b>
f Employee's address and ZIP code <b>5765 OGILBY DR. HUDSON, OH 42236</b>		13 Statutory employee <input type="checkbox"/>	Retirement plan <input type="checkbox"/>	Third-party sick pay <input type="checkbox"/>	12b <b>\$0.00</b>
		14 Other <b>HEALTH INS \$4,025.04</b>		12c <b>\$0.00</b>	
		<b>DENTAL INS \$152.40</b>		12d <b>\$0.00</b>	
		<b>VISION INS \$96.84</b>			
15 State <b>OH</b>	Employer's state ID number <b>54006027</b>	16 State wages, tips, etc. <b>\$76,552.55</b>	17 State income tax <b>\$3,402.00</b>	18 Local wages, tips, etc. <b>\$0.00</b>	19 Local income tax <b>\$0.00</b>
		<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	20 Locality name

Form **W-2 Wage and Tax Statement 2014**

Department of the Treasury—Internal Revenue Service

Copy 2—To Be Filed With Employee's State, City, or Local Income Tax Return