

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
)
HOMELIFE PCE,) Case No. 01-2412 (JWV)
) (Jointly Administered)
Post Confirmation Estate.)
) **Hearing Date: May 6, 2003 at 10:30 a.m.**
) **Response Due: April 22, 2003 at 4:00 p.m.**

TENTH OMNIBUS OBJECTION TO CLAIMS (SUBSTANTIVE)

The above-captioned Post Confirmation Estate (the “Estate”), by and through its undersigned counsel of record, files this Tenth Omnibus Objection to Claims (Substantive) (the “Tenth Omnibus Objection”), and in support of thereof, states the following:

JURISDICTION

1. This Court has jurisdiction over the subject matter of this Motion pursuant to 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. §§ 157(b)(2)(A) and (O).
2. The bases for the relief requested are 11 U.S.C. §§ 105(a), 502 and Federal Rule of Bankruptcy Procedure 3007.

BACKGROUND

3. On July 16, 2001 (the “Petition Date”), each of the Debtors¹ filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code.
4. On March 5, 2003, this Court entered an Order confirming the Liquidating Debtors’² Third Amended Joint Liquidating Plan of Reorganization (the “Plan”).
5. Pursuant to Article VII, Paragraph B of the Plan, the Plan Administrator³, on behalf of the Estate, among other things, is responsible for making and filing objections to Administrative Claims, Secured Claims, Priority Claims, Unsecured Claims, and Equity Interests (collectively, the “Claims”) and ultimately making distributions on account of Allowed Claims.
6. On December 19, 2001, the Court entered an order fixing the bar date for filing proofs of claim (the “Bar Date Order”). Under the Bar Date Order, all entities, other than governmental units, were required to file prepetition claims no later than January 28, 2002 (the “Bar Date”). All governmental units were required to file prepetition claims no later than January 14, 2002 (the “Governmental Bar Date”).

¹ The Debtors consisted of the following entities: HomeLife Corporation, HL Holding Corporation, HomeLife de Puerto Rico, Inc., Furniture Holding LLC, and HLC 1 LLC.

² The Liquidating Debtors consist of HomeLife Corporation, Furniture Holding LLC and HLC 1 LLC.

³ Capitalized terms not defined herein are as defined in the Plan.

7. An Order Establishing Deadline for Filing Requests for Allowance of Certain Administrative Expense Claims and Approving Form and Manner of Notice Thereof (the “Administrative Bar Date Order”) was entered by the Court on November 30, 2001. Under the terms of the Administrative Bar Date Order, all entities holding claims that constituted Administrative Claims (as defined in the Administrative Bar Date Order) arising on or after the Petition Date through and including November 21, 2001 were required to file a request for allowance of that Administrative Claim on or before January 28, 2002. All claims for unpaid Administrative Expense arising after November 22, 2001 through the Confirmation Date must be filed on or before the twentieth day following the Confirmation Date.

THE OBJECTION AND REQUEST FOR RELIEF

8. By this Tenth Omnibus Objection, the Estate seeks disallowance and expungement, reclassification, and/or reduction and allowance, as appropriate, of the claims set forth in the attached Exhibits for the reasons described:

- (a) The Claims set forth in **Exhibit A**, attached as “Blank,” are Claims of Creditors who signed the pre-printed specific Proof of Claim form provided without indicating the amount of the claim, for which the Estate requests that the claims be treated as if they had been filed in an amount equal to the Scheduled Amount (the “Blank Claims”);
- (b) The Claims set forth in **Exhibit B**, attached as “Insufficient Documentation” are Claims for which the required supporting documentation was not provided, and for which the Estate seeks disallowance and expungement (the “Insufficient Documentation Claims”);
- (c) The Claim set forth in **Exhibit C**, attached as “Late Filed” is a Claim which was not properly received prior to the Bar Date, and is not a claim by a governmental unit (the “Late Filed Claim”);
- (d) The Claims set forth in **Exhibit D**, attached as “No Liability” are Claims for which the Estate has no liability, according to its books and records and for which the Estate seeks disallowance and expungement (the “No Liability Claims”);
- (e) The Claims set forth in **Exhibit E**, attached as “Reclassify” are Claims that improperly assert administrative, secured or priority status, for which the Estate seeks reclassification (the “Reclassify Claims”);
- (f) The Claims set forth in **Exhibit F**, attached as “Reclassify, Reduce and Allow” are Claims that improperly assert administrative or secured or priority status and are asserted in amounts in excess of what the Estate believes is owed to each such creditor based on the Estate’s books and records, but such claims are otherwise allowable at the status and in the

amount indicated on **Exhibit F** (the “Reclassify, Reduce and Allow Claims”); and

- (g) The Claims set forth in **Exhibit G**, attached as “Reduce and Allow” are Claims that are asserted in amounts in excess of what the Estate believes is owed to each such creditor based on the Estate’s books and records, but such claims are otherwise allowable at the amounts indicated on **Exhibit G** (the “Reduce and Allow Claims”);

THE BLANK CLAIMS

9. The Blank Claims identified on **Exhibit A**, are claims filed by creditors who received a specific Proof of Claim form from Bankruptcy Management Corporation, which was preprinted with the amount that the Estate had scheduled for each creditor (the “Scheduled Amount”). The Proof of Claim required that each creditor complete the remainder of the claim form, including that portion wherein the creditor was to indicate the amount that he or she claimed against the Estate (the “Additional Information”). The creditors whose claims appear on **Exhibit A** merely signed and returned the specific Proof of Claim without providing the Additional Information (the “Blank Claim”). The Estate believes that in these cases, each creditor who filed the Blank Claim did so to indicate his or her agreement with the Scheduled Amount. Therefore, the Estate requests that the Blank Claims, listed on **Exhibit A** be treated as if they had been filed in an amount equal to the Scheduled Amount.

THE INSUFFICIENT DOCUMENTATION CLAIMS

10. The Estate objects to the Insufficient Documentation Claims listed on **Exhibit B** pursuant to §502(b)(1) of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 3001(c) (“Rule 3001(c)”). Creditors filing such claims have failed to file the requisite documentation in support of their claims and thus have failed to comply with Rule 3001(c). Rule 3001(c) requires in pertinent part: “When a claim, or an interest in property of the Estate securing the claim, is based on a writing, the original or a duplicate shall be filed with the proof of claim.” Because the supporting documentation was not supplied, the Estate requests that the Insufficient Documentation Claims listed on **Exhibit B** be disallowed and expunged for all purposes.

THE LATE FILED CLAIM

11. Pursuant to Section 502(b)(9) of the Bankruptcy Code, the Estate objects to the Late Filed Claim because this claim is not a claim of a governmental unit and was not filed before the Bar Date of January 28, 2002 despite timely receipt of the Bar Date notice. Therefore, the Estate requests that the Late Filed Claim listed on **Exhibit C** be disallowed and expunged for all purposes.

THE NO LIABILITY CLAIMS

12. The Estate objects to the No Liability Claims listed on **Exhibit D** pursuant to § 502(b)(1) of the Bankruptcy Code, because these are claims which are not enforceable against the Estate or its property under any agreement or applicable law. Therefore, the Estate requests that the No Liability Claims listed on **Exhibit D** be disallowed and expunged for all purposes.

THE RECLASSIFY CLAIMS

13. The Estate objects to the Reclassify Claims listed on **Exhibit E**, pursuant to §§ 502(b)(1), 506(a) and 507 of the Bankruptcy Code, because these claims improperly assert administrative or secured or priority status. In evaluating the Reclassify Claims, the Estate has thoroughly reviewed its books and records, the proofs of claim and the supporting documentation provided by each claimant, and believes that the asserted classification of each such claim is not appropriate.

- (a) The Estate objects to the claim of Discover Financial Services Inc. (Claim No. 10945), to the extent that it asserts priority status. The proof of claim states that it is a claim for the return of deposits made by individual cardmembers prior to the commencement of the case in connection with the purchase, lease or rental of property or the purchase of services, for the personal, family or household use of such individuals which were not delivered or provided by the debtor. Discover Financial Services Inc. cannot assert the priority status which the Bankruptcy Code confers only upon the **individuals** who made the purchase. 11 U.S.C. section 507(a)(6) (emphasis added); In re Carolina Sales Corporation, 43 B.R. 596, 597 (Bankr.E.D.N.C.1984), holding that the 11 U.S.C. section 507(a)(7) priority only applies to claims of “individuals” and not to corporations. See also, In re Northwest Financial Express, Inc., 950 F.2d 561 (8th Cir. 1991) which declined to confer priority status upon businesses which took assignments of claims from individuals who had purchased money orders from the debtor which were eventually dishonored. The assignments stated that the original purchaser had deposited the face value of the money order with an agent of the debtor for the purpose of using the money order for his or her own personal, family or household use. The court never reached the evidentiary issues raised on appeal, deciding that a strict reading of section 507(a)(6) would not allow the assignees to assume the priority status of the assignors.

Accordingly, the Estate objects to the Reclassify Claims and requests that the Reclassify Claims be reclassified as provided on **Exhibit E**.

THE RECLASSIFY, REDUCE AND ALLOW CLAIMS

14. The Estate objects to the Reclassify, Reduce and Allow Claims listed on **Exhibit F**, pursuant to §§ 502(b)(1), 506(a) and 507 of the Bankruptcy Code, because these claims improperly assert administrative or secured or priority status, and assert claimed amounts in

excess of the amounts stated on the Estate's books and records. In evaluating the Reclassify, Reduce and Allow Claims, the Estate has thoroughly reviewed its books and records, the proofs of claim and the supporting documentation provided by the claimholders. The Estate believes that the asserted classifications are not appropriate, and the amounts claimed are overstated.

- (a) The Estate objects to the claim of Furnishings International Inc. ("Furnishings")(Claim No. 10614) which asserts secured status for its claim of \$20,387,375.89. All collateral securing the loan made by Furnishings to Homelife has been sold. All sales proceeds of the collateral associated with Furnishings' negotiated second lien position totaling \$10,680,665.78 were paid to Furnishings. The claim should therefore be reduced to the balance due of \$9,706,710.11 and reclassified as unsecured.

Accordingly, the Estate objects to the Reclassify, Reduce and Allow Claims and request that the Reclassify, Reduce and Allow Claims be reclassified and allowed in the amounts set forth on **Exhibit F**.

THE REDUCE AND ALLOW CLAIMS

15. The Estate objects to the Reduce and Allow Claims listed on **Exhibit G**, pursuant to § 502(b)(1) of the Bankruptcy Code, because these claims are asserted in amounts in excess of the amounts stated on the Estate's books and records. In evaluating the Reduce and Allow Claims, the Estate has thoroughly reviewed its books and records, the proofs of claim, and the supporting documentation provided by each claimholder. The Estate believes that the asserted amounts of the Reduce and Allow Claims are overstated. Accordingly, the Estate objects to the Reduce and Allow Claims and requests that the Reduce and Allow Claims be reduced to and allowed in the amounts set forth on **Exhibit G**.

DECLARATION IN SUPPORT

16. The Declaration of Patrick Regan, the Plan Administrator of the Estate, attesting that the information contained in **Exhibits A through G** is true and correct to the best of his knowledge and belief, is attached in further support of this Tenth Omnibus Objection to Claims.

RESERVATION

17. The Estate hereby reserves the right to object in the future to any of the claims listed in this Tenth Omnibus Objection, or on the attached Exhibits on any ground, and to amend, modify and/or supplement this Tenth Omnibus Objection, including, without limitation, to object to amended claims and newly-filed claims. Separate notice and hearing will be scheduled for any such objection.

COMPLIANCE WITH LOCAL RULE 3007-1

18. The Estate, by and through its counsel, affirmatively states that the Tenth Omnibus Objection to Claims complies with the requirements of Del. Bankr. LR 3007-1.

NOTICE

19. The Estate will serve copies of this Tenth Omnibus Objection (with all exhibits) on: (i) the Plan Oversight Committee, (ii) counsel to the Official Committee of Unsecured Creditors, (iii) counsel to Congress Financial (Central), (iv) counsel to the Sears Entities, and (v) the Office of the United States Trustee. The Estate will serve copies of this Tenth Omnibus Objection (without exhibits) on all parties that have requested that they be served with all pleadings filed in these cases pursuant to Federal Rule of Bankruptcy Procedure 2002 (the “2002 List”). Any party that is on the 2002 List may obtain a copy of the Tenth Omnibus Objection with all Exhibits by requesting the same from Bankruptcy Management Corporation (“BMC”) at (888) 909-0100 or by going onto the BMC website at <http://www.bmccorp.net>.

20. The Estate’s claims agent, BMC, has served a copy of the Tenth Omnibus Objection and customized notice, summarizing claim specific detail exactly as reflected in the Exhibit on which such creditor is listed, upon those creditors that have filed claims that are affected by the Tenth Omnibus Objection, in lieu of serving all Exhibits.

21. The Estate submits that notice of this Tenth Omnibus Objection is sufficient under Federal Rule of Bankruptcy Procedure 3007 and Del. Bankr. LR 3007-1 and that no further notice is necessary.

NO PREVIOUS REQUEST

22. No previous request for the relief set forth herein has been made to this or any other court.

WHEREFORE, the Estate respectfully requests that the Court enter an order: treating the Blank Claim as if it had been filed in an amount equal to the Scheduled Amount; disallowing and expunging the claims so identified for this treatment on **Exhibits B** through **D**; and reclassifying, reclassifying, reducing and allowing, or reducing and allowing those claims so identified for this

treatment on **Exhibits E** through **G**, as appropriate and as more fully described in this Tenth Omnibus Objection and/or shown on the attached Exhibits.

Dated: March 31, 2003

Respectfully submitted,

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and

/s/

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