

Fill in this information to identify the case:

Debtor 1 TradeGlobal, LLC

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: District of Nevada District of

Case number 19-15690

RECEIVED
NOV 19 2019
BMC GROUP

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? Yahaira Webber
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?	Where should payments to the creditor be sent? (if different)
	<u>Law Office of Neal Jacobs</u> Name <u>8118 Corporate Way, Suite 110</u> Number Street <u>Mason, OH 45040</u> City State ZIP Code Contact phone <u>513-706-4103</u> Contact email <u>neal@masonlawyers.net</u>	 Name _____ Number Street _____ City State ZIP Code _____ Contact phone _____ Contact email _____

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? _____

JAGGED PEAK Ct ID



00046

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: _____

7. How much is the claim? \$ 250,000.00. 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.
Sexual Harassment / Family & Medical Leave Act / (see addendum)

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. \$ _____

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

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

* 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.

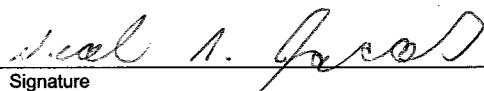
I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

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 11/13/2019
MM / DD / YYYY


Signature

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

Name Neal Jacobs
First name Middle name Last name

Title Attorney

Company _____
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 8118 Corporate Way, Suite 110
Number Street
Mason, OH 45040
City State ZIP Code

Contact phone 513-706-4103 Email Neal@masonlawyers.net

ADDENDUM TO PROOF OF CLAIM

Yahaira Webber (“Webber” submits this addendum to its Proof of Claim against TradeGlobal, LLC, Jagged Peak and its administrative consolidated debtors (collectively the “Debtors” or “Jagged Peak”). The addendum reflects unliquidated claims against Jagged Peak arising from sexual harassment and employment discrimination suffered by Webber predating Jagged Peak’s petition for relief.

GENERAL BACKGROUND

On September 16, 2019 the debtors file voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Nevada. The debtors remain in possession of their property and continue to operate their business as debtors-in-possession.

CLAIMS AGAINST JAGGED PEAK / FACTUAL ALLEGATIONS

1. Webber is a female and at all times relevant herein was a resident of the State of Ohio and the County of Warren.
2. Jagged Peak, Inc. and TradeGlobal, LLC (collectively “JAGGED PEAK”) are business entities registered to do business in Ohio.
3. All facts relevant to this dispute arise out of activities occurring in JAGGED PEAK’s distribution facility in West Chester, Butler County, Ohio (the “Distribution Center”).
4. The distribution center receives product from manufacturers and thereafter stores, “picks” and codes the product for local delivery.

JAGGED PEAK is an employer within the meaning of federal and state law.

5. Count 1 of this addendum arises under the Title VII of the 1964 Civil Rights Acts, as amended, *42 U.S.C. Section 2000, et seq.* (“Title VII”).

6. Counts 4 of this addendum arises under the Family and Medical Leave Act (“FMLA”), 29 U.S.C. § 2601 *et seq.* and *Ohio Revised Code Chapter 4112*.

7. Count 5 of this addendum arises under the Americans with Disability Act as amended (“ADAAA”), 42 USC §§ 12101, *et seq.*

8. Supplemental jurisdiction over pending state claims lies with this Court pursuant to 28 U.S.C. § 1367.

9. On September 27, 2019 the EEOC mailed its Notice of Right to Sue to Webber--the charge of discrimination having been filed prior to the petition date.

10. Webber was at all times relevant to this litigation a female whose date of birth is February 25, 1977. Webber is naturalized United States citizen of Hispanic heritage; born and raised in Panama.

11. Webber was hired by JAGGED PEAK in 2007. During her twelve (12) year tenure Webber worked as an allocator in which capacity she activated orders for the company’s distribution center.

12. Webber was a highly regarded and regularly received positive Performance Reviews and increases to her hourly rate of pay.

13. Webber had good working relationship with her supervisors--most recently Chris Glasgow (“Glasgow”) and Terry Cooper (“Cooper”).

14. Glasgow and Cooper reported to Manager Chris Coke (“Coke”).

15. Starting in March 2019, Coke began a series of harassing and inappropriate conduct directed towards Webber. The conduct included Coke’s comments regarding Webber's attire that were sexual in nature. Coke also placed his hand on Webber’s shoulder on a number of occasions causing her discomfort as these actions were unwanted and unsolicited.

16. Webber's desk was near Coke's office and on more than one occasion he reached around Webber while she was seated brushing her back. During this period Coke asked Webber: "do you want me to tie your shoes?"--the comment was odd and caused Webber discomfort.

17. Webber sometimes acted as an interpreter for Spanish speaking employees who worked at the Distribution Center, and on more than one occasion Coke asked Webber if she "was from Mexico like others in the warehouse".

18. On July 1, 2019 Coke told Webber that her "nails looked nice" and touched her hand. Webber was so upset by the action that she contacted Glasgow and Cooper about the comments advising them that those comments made her uncomfortable.

19. Glasgow was sufficiently concerned that he told Webber that she should speak with Jagged Peak's Human Resources Department ("HR"). Glasgow also provided Webber with portions of Jagged Peak's Handbook regarding "Sexual and Other Unlawful Harassment".

20. On July 2, 2019, Webber spoke to HR Representatives Joe Hotel ("Hotel") and Faith Rooney ("Rooney") regarding her concerns. Hotel and Rooney offered no solutions to remedy the environment created by Coke despite Webber's unequivocal statement that the behavior had caused her emotional distress.

21. As a result of Coke's actions Webber was unable able to return to work.

22. On July 3, 2019 Webber visited her Primary Care Physician, Dr. Christine Wallace.

23. On July 15, 2019 Dr. Wallace prepared a "Notice of Inability to Perform Work" reflecting Webber's inability to work through August 10, 2019.

24. On July 24, 2019 Dr. Wallace referred Webber to counseling for situational anxiety.

25. On August 6, 2019 Dr. Wallace prepared a “Certification of Health Care Provider for Employee’s Serious Health Condition” form (the “Certification Form”) in support of Webber’s request for Family and Medical Leave Act (“FMLA”) leave.

26. Webber subsequently saw a psychologist to address her situational stress and related depression arising from Coke’s behavior.

27. In a letter dated August 12, 2019, in response to the Certification Form, JAGGED PEAK’s Third Party Administrator, Chard Snyder, advised Webber that she was expected back at work on September 9, 2019.

28. On September 3, 2019 Dr. Wallace prepared a “Notice of Inability to Perform Work” reflecting a tentative return date of November 4, 2019.

29. At no time did JAGGED PEAK make no effort to address Coke’s unacceptable, improper and illegal sexual harassing behavior directed at Webber.

30. Subsequently, Webber advised JAGGED PEAK that she would not return to work without the company addressing her concerns.

31. Accommodations necessary to address Webber’s medical / psychological condition did not place an unreasonable burden on JAGGED PEAK.

32. The lack of meaningful action by JAGGED PEAK reveals an indifference or permissiveness that effectively amounts to discrimination.

33. Coke's actions have caused Webber to suffer from stress and depression; and otherwise created an intolerable workplace atmosphere for Webber.

34. The failure to address Webber’s concerns and her request for accommodation has made her return impossible and Webber has been constructively discharged.

FIRST CLAIM FOR RELIEF
(Sexual Harassment / Hostile Work Environment / Title VII)

35. All previous allegations are incorporated by reference as if fully rewritten.

36. Sexual harassment is a form of sex discrimination prohibited under Title VII of the 1964 Civil Rights Acts, as amended, *42 U.S.C. Section 2000, et seq.* (“Title VII”).

37. The sexually harassing conduct described herein created a hostile work environment for Webber.

38. The harassment was unwelcome, ongoing, severe and pervasive.

39. The sexual harassment was known by JAGGED PEAK and its employees and supervisors.

40. JAGGED PEAK and its supervisors failed to implement an anti-harassment policy that was effective in practice in reasonably preventing and correcting such harassing behavior.

41. By its actions and omissions, JAGGED PEAK ratified the harassment.

42. In its actions and omissions, JAGGED PEAK has engaged in willful and malicious conduct against Webber and has shown a reckless and/or conscious disregard for her rights.

43. Webber has suffered severe emotional distress and trauma as a proximate result of JAGGED PEAK’s acts and omissions.

SECOND CLAIM FOR RELIEF

(Sexual Harassment / Hostile Work Environment / O.R.C. Chapter 4112)

44. Webber incorporates the allegations set forth above as if fully restated herein.

45. Sexual harassment is a form of sex discrimination prohibited under *O.R.C. § 4112.02(A)* as enforced through *O.R.C. § 4112.99*.

46. The sexually harassing conduct described herein created a hostile work environment for Webber.

47. The harassment was unwelcome, ongoing, severe and pervasive.

48. The sexual harassment was, on information and belief, known or should have been known by JAGGED PEAK.

49. JAGGED PEAK failed to implement an anti-harassment policy that was effective

in practice in reasonably preventing and correcting such harassing behavior.

50. By its actions and omissions, JAGGED PEAK ratified the harassment.

51. JAGGED PEAK is strictly liable for the sexually harassing conduct against Webber under *O.R.C. Chapter 4112*. See OAC § 4112-5-05(J)(3).

52. Webber has suffered severe emotional distress and trauma as a proximate result of JAGGED PEAK' acts and omissions, for which she is entitled to recover against Defendants under *O.R.C. Chapter 4112* as set forth herein.

53. As a result of all of JAGGED PEAK's conduct Webber has suffered loss of wages, and will continue to suffer loss of wages into the indefinite future.

THIRD CLAIM FOR RELIEF

(Sexual Harassment / Constructive Discharge / Title VII and ORC Chapter 4112)

54. Webber incorporates the allegations set forth above as if fully restated herein.

55. JAGGED PEAK discriminated against Webber in violation of *ORC. § 4112.02(A)*, as enforced through *ORC § 4112.99*, by permitting a pattern of sexually harassing conduct so severe that Webber cannot return to work.

56. Under the foregoing circumstances, Webber's separation of employment with JAGGED PEAK constituted constructive termination.

57. As a direct and proximate result of this unlawful termination, Webber has suffered injuries and damages for which she is entitled to recover against JAGGED PEAK.

FOURTH CLAIM FOR RELIEF

(FMLA Retaliation-Discrimination)

58. All previous allegations are incorporated by reference as if fully rewritten.

59. Webber was an eligible employee under the FMLA.

60. JAGGED PEAK was an employer as defined under the FMLA.

61. Webber suffered from a serious health condition as defined under the FMLA.

62. Webber exercised her rights by giving JAGGED PEAK's notice of her medical condition, and the fact that she required intermittent medical leave.

63. JAGGED PEAK interfered with Webber's FMLA rights.

64. JAGGED PEAK effectively terminated Webber's employment by failing to address Coke's behavior and in retaliation for her exercising her FMLA rights.

65. JAGGED PEAK's actions constitute willful violation of the FMLA

66. As a result of all of JAGGED PEAK's conduct Webber has suffered loss of wages, and will continue to suffer loss of wages into the indefinite future.

FIFTH CLAIM FOR RELIEF

(Failure to Accommodate / 42 U.S.C. §§ 12101, *et seq.*)

67. All previous allegations are incorporated by reference as if fully rewritten.

68. Webber has requested reasonable accommodation to address medical / psychiatric conditions related to her situational anxiety.

69. JAGGED PEAK failed to provide reasonable accommodation to Webber's request.

70. JAGGED PEAK failed to suggest any reasonable accommodation prior to terminating Webber's employment.

71. As a result of JAGGED PEAK's willful violation of the ADA, Webber has suffered damages and is entitled to relief.

72. As a result of all of JAGGED PEAK's conduct Webber has suffered loss of wages, and will continue to suffer loss of wages into the indefinite future.

SIXTH CLAIM FOR RELIEF

(Disability Discrimination / ORC § 4112.01 *et seq.*)

73. All previous allegations are incorporated by reference as if fully rewritten.

74. Webber was an eligible employee under O.R.C. §4112.01(A)(2).

75. JAGGED PEAK was an employer as defined under O.R.C. §4112.01(A)(3).

76. Webber suffered from a disability as defined by the *O.R.C §4112.02(A)(13)*.

77. JAGGED PEAK discriminated against Webber by refusing to accommodate her disability, resulting in Webber's termination.

78. As a result of all of JAGGED PEAK's conduct Webber has suffered loss of wages, and will continue to suffer loss of wages into the indefinite future.

SEVENTH CLAIM FOR RELIEF

(National Origin Discrimination)

79. All previous allegations are incorporated by reference as if fully rewritten.

80. Webber is a member of a protected group, to wit Hispanic.

81. Webber was treated in a manner differently than other similarly situated employees of JAGGED PEAK, which treatment was motivated by Webber's national origin.

82. Webber was subject to an adverse employment decision in that she was constructively discharged.

83. Webber was qualified for the position.

84. Webber's treatment was motivated by her national origin status.

85. Webber has also suffered loss of fringe benefits, loss of medical coverage and loss of pension and other retirement benefits.

86. Webber has also suffered emotional distress and mental anguish.

87. JAGGED PEAK's actions were intentional, willful, wanton and malicious.

EIGHTH CLAIM FOR RELIEF

(National Origin Discrimination / *O.R.C. § 4112.02*)

88. All previous allegations are incorporated by reference as if fully rewritten.

89. Webber's is Hispanic and she was treated in a different manner than other employees of JAGGED PEAK, which treatment was motivated by Webber's national origin.

90. Plaintiff is a member of a protected group.

91. Webber was subject to an adverse employment decision.

92. Webber was qualified for the position.

93. Webber's treatment was motivated by her national origin status—to wit she was Hispanic.

94. Webber has also suffered loss of fringe benefits, loss of medical coverage and loss of pension and other retirement benefits.

95. Webber has also suffered emotional distress and mental anguish.

96. JAGGED PEAK's actions were intentional, willful, wanton and malicious.

TOTAL CLAIM OF WEBBER:

97. That Yahaira Webber be awarded all lost pay and benefits;

98. That Yahaira Webber be awarded front and back pay;

99. That Yahaira Webber be awarded lost short term disability pay that she would have been entitled to but for the illegal actions of JAGGED PEAK.

100. That Yahaira Webber be awarded compensatory damages in an amount not less than \$250,000.00;

101. That Yahaira Webber be awarded punitive damages;

102. That Yahaira Webber be awarded reasonable attorneys' fees and costs incurred in connection with maintaining this action;

103. That Yahaira Webber be awarded prejudgment interest; and

104. That Yahaira Webber be awarded all other legal and equitable relief to which she may be entitled.

RESERVATION OF OTHER CLAIMS AND RIGHTS

105. The filing of this Proof of Claim is not intended to be construed as an election of remedies, or a waiver of any past, present or future claims of Webber.

106. The filing of this Proof of Claim is not and should not be construed as a waiver of jury trial rights or waiver of any right, interest or cause of action held by Webber against any employee of Jagged Peak.
107. Webber reserves her right to seek any insurance proceeds that might cover the actions asserted in this addendum.
108. Webber includes a claim against any and all rights against parties other than the Debtors based on the foregoing facts.
109. Webber reserves the right to supplement her Proof of Claim and Addendum against the Debtors after full disclosure of all relevant facts in these bankruptcy proceedings.
110. Webber reserves the right to amended or supplement this Proof of Claim and Addendum, or to file additional claims arising prior to, on or after the petition date.
111. Webber does not consent to the jurisdiction of this Court for any purpose other than the proof and allowance of this Proof of Claim.

Respectfully submitted,



/s/ Neal D. Jacobs

Neal D. Jacobs (#0073218)
Attorney for Yahaira Webber
8118 Corporate Way, Suite 110
Mason, Ohio 45040
Phone: (513) 229-0302
Facsimile: (513) 299-1372
neal@masonlawyers.net

NEAL D. JACOBS

ATTORNEY AT LAW

8118 Corporate Way, Suite 110

MASON, OH 45040

neal@masonlawyers.net

Also Admitted in N.Y. and CA

Telephone: (513) 229-0302

Facsimile: (513) 299-1372

November 13, 2019

BMC Group, Inc.
Attn.: Jagged Peak Claims Processing
PO Box 90100
Los Angeles, CA 90009

RE: Jagged Peak, Inc. (Lead Case) Case No. 19-15959 / Webber Proof of Claim and Addendum

Dear Sir / Madam,

Enclosed please find Yahaira Webber's Proof of Claim and addendum submitted for filing in connection with the above matter. The case is pending in the U.S. Bankruptcy Court for the District of Nevada, Judge Mike K. Nakagawa.

Please call me if you have any questions. Thanks for your efforts in this matter.

Very truly,



Neal D. Jacobs

NDJ/wbm

Enc.

District of Nevada Claims Register

[19-15960-mkn TRADEGLOBAL, LLC, A DELAWARE LIMITED LIABILITY COM](#)

Judge: MIKE K. NAKAGAWA **Chapter:** 11
Office: Las Vegas **Last Date to file claims:** 01/22/2020
Trustee: **Last Date to file (Govt):** 03/16/2020

<p><i>Creditor:</i> (10999960) YAHAIRA WEBBER C/O LAW OFFICES OF NEAL JACOBS 8118 CORPORATE WAY, SUITE 110 MASON, OH 45040</p>	<p>Claim No: 16 <i>Original Filed</i> <i>Date:</i> 11/19/2019 <i>Original Entered</i> <i>Date:</i> 11/19/2019</p>	<p><i>Status:</i> <i>Filed by:</i> CR <i>Entered by:</i> BMC GROUP, INC. (1) <i>Modified:</i></p>
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Amount claimed: \$250000.00

History:

[Details](#) [16-1](#) 11/19/2019 Claim #16 filed by YAHAIRA WEBBER, Amount claimed: \$250000.00 (BMC GROUP, INC. (1))

Description: (16-1) Litigation

Remarks: (16-1) ClaimsAgent Recvd: 11/19/2019

Claims Register Summary

Case Name: TRADEGLOBAL, LLC, A DELAWARE LIMITED LIABILITY COM
Case Number: 19-15960-mkn
Chapter: 11
Date Filed: 09/16/2019
Total Number Of Claims: 1

Total Amount Claimed*	\$250000.00
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		