

United States Bankruptcy Court for the District of Delaware

Fill in this information to identify the case:

Debtor: KIKO USA, Inc.

Case No.: 18-10069

ID: 1541

Westland Garden State Plaza Limited Partnership

RECEIVED

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BMC GROUP

If you have already filed a proof of claim with the Bankruptcy Court or BMC, you do not need to file again.  
THIS SPACE IS FOR COURT USE ONLY

04/16

Modified Form 410

Proof of Claim

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, except for administrative expenses under 11 U.S.C. § 503(b)(9).

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.

The original of this completed form (faxes not accepted), together with accompanying documentation, must be either (a) delivered to the Claims and Noticing Agent at the address set forth on the Bar Date Notice, or (b) filed using the online claim filing system of BMC Group at [www.bmcgroup.com/kiko](http://www.bmcgroup.com/kiko), in either event so as to be received no later than the General Bar Date of March 26, 2018 at 4:00 p.m. (prevailing Eastern Time) or for governmental entities the Government Bar Date of July 10, 2018 at 4:00 p.m. (prevailing Eastern Time).

Part 1: Identify the Claim

1. Who is the current creditor?	<p><u>WESTLAND GARDEN STATE PLAZA LIMITED PARTNERSHIP</u></p> <p>Name of the current creditor (the person or entity to paid for this claim)</p> <p>Other name the creditor used with the debtor _____</p>	
2. Has this claim been acquired from someone else?	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. From whom? _____</p>	
3. Where should notices and payments to the creditor be sent?	<p>Where should notices to the creditor be sent?</p> <p>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)</p> <p><u>LeClairRyan, PLLC; ATTN: Niclas A. Ferland</u></p> <p>Name _____</p> <p><u>545 Long Wharf Drive, 9th Floor</u></p> <p>Number Street</p> <p><u>New Haven CT 06511</u></p> <p>City State ZIP Code</p> <p>Contact phone <u>203.672.3211</u></p> <p>Contact email <u>niclas.ferland@leclairryan.com</u></p> <p>Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____</p>	<p>Where should payments to the creditor be sent? (if different)</p> <p>Name _____</p> <p>Number Street _____</p> <p>City State ZIP Code _____</p> <p>Contact phone _____</p> <p>Contact email _____</p>
4. Does this claim amend one already filed?	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY</p>	
5. Do you know if anyone else has filed a proof of claim for this claim?	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Who made the earlier filing? _____</p>	

**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? \$ 101,759.57 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.  
Prepetition Lease Arrearages and lease rejection damages - 11 USC sec. 502(b)(6)

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. \$ 206.89

11. Is this claim subject to a right of setoff? ☐ No  
☒ Yes. Identify the property: Upon information and belief, Creditor may have possession of a security deposit in the amount of \$40,415.00; and there may be an undrawn letter of credit in favor of Creditor.

<p><b>12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?</b></p>	<p><input checked="" type="checkbox"/> <b>No</b></p> <p><input type="checkbox"/> <b>Yes. Check all that apply:</b></p> <p><input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).</p> <p><input type="checkbox"/> Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. §507(a)(7).</p> <p><input type="checkbox"/> Wages, salaries, or commissions (up to \$12,850*) 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).</p> <p><input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).</p> <p><input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).</p> <p><input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies.</p>	<p><b>Amount entitled to priority</b></p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p>
<p><small>* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.</small></p>		
<p><b>13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?</b></p>	<p><input checked="" type="checkbox"/> <b>No</b></p> <p><input type="checkbox"/> <b>Yes. Indicate the amount of your claim arising from the value of any goods received by the Debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.</b></p>	<p>\$ _____</p>

**RESERVATION OF CERTAIN RIGHTS AND EXPLANATION  
OF THE SUPPORTING DOCUMENTATION ATTACHED HERETO**

1. The claim is based upon certain prepetition arrearages and lease rejection damages pursuant to a rejected lease of nonresidential real property (the "Lease") and is filed in accordance with certain orders of the bankruptcy court and 11 U.S.C. § 502(b)(6) (the "Claim").

2. Attached hereto are:

(a) a detail spreadsheet setting forth the Claim by the Creditor against the Debtor;

and

(b) the first page of the Lease.

3. A copy of the Lease should be in the possession of the Debtor. A copy of the Lease will be made available for inspection and/or copying at the office of counsel to the Creditor: Niclas A. Ferland, Esq., LeClairRyan, PLLC, 545 Long Wharf Drive, 9<sup>th</sup> Floor, New Haven, Connecticut 06511; 203.672.3211.

4. The Creditor reserves the right to amend this Claim from time to time to reflect additional charges, adjustments and the like, due and payable pursuant to the Lease, as the same become quantified, known or available.

5. The Creditor has authorized counsel to sign the claim form on behalf of the Creditor.

6. The Creditor expressly preserves any and all rights to set off and/or recoupment with respect to any claim, right or cause of action of the Debtor against the Creditor whenever arising and however the same may be asserted.

## DETAIL CHARGE

DBA: Kiko USA, Inc.

Garden State Plaza	Unit: 2313 Description	Lease 00902555 Charges	Payments	Balance	Check Number
6/1/2006	Balance Forward				
7/18/2017	Termination Income- FA	86,195.89	(85,989.00)	206.89	2564

## ACCOUNT SUMMARY

Balance Prior To	6/1/2006	0.00
Plus Charges From	6/1/2006	86,195.89
Less Payments / Credits From	6/1/2006	(85,989.00)
<b>AMOUNT DUE:</b>		<b>206.89</b>

Monthly Charges

Fire Detection System	\$35.00
Property Tax	\$3,328.81
Small Shop	\$15,666.67
Promotional Charge-Esc JAI	\$761.72
Water	\$40.00
Common Area Maint-Esc JA	\$5,555.97
	<b>\$25,388.17</b>

Lease Expiration	Lease Rejection Date	Total Monthly Charges	Remaining Months	Annual Rental Amount	Balance Of Term of Lease
5/31/2018	1/31/2018	\$25,388.17	4.00	\$304,658.04	<b>\$101,552.68</b>

## TOTAL CLAIM CALCULATION Under 502(b)(6) Statutory Cap:

## Total Rejection Damages Claim

11 USC 502(b)(6)(A)	\$101,552.68
11 USC 502(b)(6)(B)	\$206.89
	<b>\$101,759.57</b>

**WESTFIELD GARDEN STATE PLAZA**

**Borough of Paramus  
County of Bergen  
State of New Jersey**

**LEASE**

THIS LEASE is made as of this 30<sup>th</sup> day of October, 2013, by and between **WESTLAND GARDEN STATE PLAZA LIMITED PARTNERSHIP**, a Delaware limited partnership, whose address is 2049 Century Park East, 41st Floor, Los Angeles, California 90067 ("Landlord"), and **KIKO USA, INC.**, a Delaware corporation, whose address is: c/o Tarter Krinsky & Drogin, 1350 Broadway, New York, New York 10018 ("Tenant").

Landlord, in consideration of the rent to be paid and the covenants to be performed by Tenant, does hereby, subject to the provisions of this Lease, demise and lease unto Tenant, and Tenant hereby rents and hires from Landlord, those certain premises identified on Exhibit A-2 attached hereto and made a part hereof ("the Premises") which is in and part of the development commonly known as "**WESTFIELD GARDEN STATE PLAZA**," a general site plan of which development is shown on Exhibit A-1 attached hereto and made a part hereof. The term "Development" as used herein shall include the real property shown on Exhibit A-1, the Department Stores, the locations of which are shown on Exhibit A-1, any Floor Area not included in the definition of Shopping Center, the parking facilities and the Shopping Center. Wherever the term "Shopping Center" is used, it shall be deemed to include the areas shown on Exhibit A-1 and shall be deemed to exclude the Department Stores, free standing units, full-service sit-down restaurants, all premises having an exterior entrance, all basement space not used for retail purposes, and the parking facilities. In the event Landlord elects to enlarge the Shopping Center, any additional area may be included by Landlord in the definition of "Shopping Center" for purposes of this Lease. The term "Department Store" shall be deemed to include any retail store operating or proposed to be operated in the Development the gross leasable Floor Area of whose premises is Twenty Thousand (20,000) square feet or greater. The term "Floor Area" is defined in Section 27.12. Said site plan shows, among other things, the principal improvements which comprise or will comprise the Development. The Premises is described as follows:

Store No. 2313, being approximately 1,504 square feet.

**DATA SHEET**

The following references furnish data to be incorporated in the specified sections of this Lease and shall be construed as if set forth in this Lease:

(1) **Section 1.02: Term:**

Latest Rental Commencement Date: Grand Opening which Landlord estimates to be March 20, 2014.

Expiration Date of Term: January 31, 2024

(2) **Section 2.01: Minimum Annual Rental:**

Rental Commencement Date through March 31, 2015:	<u>\$150,400.00;</u>
April 1, 2015 through March 31, 2016:	<u>\$154,912.00;</u>
April 1, 2016 through March 31, 2017:	<u>\$168,448.00;</u>
April 1, 2017 through March 31, 2018:	<u>\$188,000.00;</u>
April 1, 2018 through March 31, 2019:	<u>\$193,640.00;</u>
April 1, 2019 through March 31, 2020:	<u>\$199,449.20;</u>
April 1, 2020 through March 31, 2021:	<u>\$205,432.68;</u>



March 8, 2018

**VIA FEDERAL EXPRESS**

BMC Group, Inc.  
**Attention: KIKO USA Claims Processing**  
3732 West 120<sup>th</sup> Street  
Hawthorne, CA 90250

**Re: KIKO USA, Inc.**  
**Case No. 18-10069**

Dear Sir/Madam:

Enclosed for filing are originals and copies of Proofs of Claim in the above-referenced matter. Please file the originals, date stamp the copies and return the copies to me in the enclosed self-addressed, postage paid envelope.

Please contact me with any questions.

Sincerely,



Niclas A. Ferland

NAF:fr  
Enclosures

E-mail: [niclas.ferland@leclairryan.com](mailto:niclas.ferland@leclairryan.com)  
Direct Phone: 203-672-3211  
Direct Fax: 203-672-3232

545 Long Wharf Drive, Ninth Floor  
New Haven, Connecticut 06511  
Phone: (203) 672-3200 \ Fax: (203) 672-3201

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