

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

RECEIVED

MAR 26 2018

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

Modified Form 410

Proof of Claim

04/16

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, 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?

Queens Center SPE LLC

Name of the current creditor (the person or entity to paid for this claim)

Other name 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?

Where should notices to the creditor be sent?

Where should payments to the creditor be sent? (if different)

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Dustin P. Branch, Esq./Ballard Spahr LLP

Name

Name

2029 Century Park East, Suite 800

Number Street

Number Street

Los Angeles CA 90067-2909

City State ZIP Code

City State ZIP Code

Contact phone 424.204.4400

Contact phone

Contact email branchd@ballardspahr.com

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?

KIKO USA POC



00073

ORIGINAL

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? \$ 411,873.58. 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.
Real Property Lease

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. \$ 9,760.94

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 all that apply:

Amount entitled to priority

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ _____

☐ 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). \$ _____

☐ 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). \$ _____

☐ 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. \$ _____

* 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.

13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)? ☒ No ☐ 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. \$ _____

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:

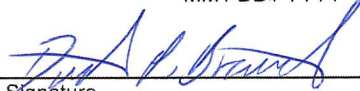
- ☐ I am the creditor.
- ☒ I am the creditor's attorney or authorized agent.
- ☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- ☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

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 03/22/2018
MM/DD/YYYY


Signature

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

Name Dustin P. Branch
First name Middle name Last name

Title Attorney

Company Ballard Spahr LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 2029 Century Park East, Suite 800
Number Street

Los Angeles CA 90067-2909
City State ZIP Code

Contact phone 424.204.4400 Email branchd@ballardspahr.com

PROOF OF CLAIM ATTACHMENT

CASE NAME: KIKO USA, Inc.

LOCATION: Queens Center

CASE NUMBER: 18-10069

A. General Information:

1. Landlord Name: Queens Center SPE LLC
2. Property Location: Elmhurst, NY
3. Tenant Name: KIKO USA, Inc.
4. Space No.: 2036
5. Petition Date: 1/11/2018
6. Lease Exp. Date: 8/31/2024
7. Lease Rej. Date: 1/31/2018

Remaining term: 79.0 months

B. Claim Information:

| | <u>Rent & Charges</u> | <u>Interest</u> | <u>Totals</u> |
|---|---------------------------|----------------------------|--|
| 1. Unsecured Non-Priority Rejection Claim Amount: (Section 502(b)(6)(A)) | \$402,112.64 | n/a | \$402,112.64 |
| 2. Unsecured Non-Priority Pre-Petition Claim Amount: (Section 502(b)(6)(B)) | \$9,760.94 | \$0.00 | \$9,760.94 |
| Subtotal Unsecured Claims | \$411,873.58 | \$0.00 ¹ | \$411,873.58 |
| 3. Administrative Post-Petition Priority Claim Amount: (Section 503(b)(1)(A), 365(d)(3)) | \$0.00 | \$0.00 | \$0.00 |
| Subtotal Administrative Claims | \$0.00 | \$0.00 ² | \$0.00 |
| TOTAL CLAIM AMOUNT | | | <u><u>\$411,873.58</u></u> ³ |

¹ Interest calculated at 10.% through 01/10/18, based on a 365 day year.

² Interest calculated at 10.% through 03/26/18, (the Claims Bar Date) based on a 365 day year.

³ Claimant reserves the right to supplement or amend this claim from time to time and at any time hereafter.

PRE-PETITION CHARGES

CASE NAME: KIKO USA, Inc.

LOCATION: Queens Center

CASE NUMBER: 18-10069

| DATE OF | | | | TOTAL |
|------------------------------------|--------------------------------------|-------------------|-----------------------------|--------------------------|
| CHARGE | DESCRIPTION OF CHARGE | AMOUNT DUE | INTEREST¹ | AMOUNT DUE |
| | 2017 Est. Tax Reconciliation | \$9,840.87 | \$0.00 | \$9,840.87 |
| | 2017 Est. Electricity Reconciliation | (\$1,589.87) | \$0.00 | (\$1,589.87) |
| | 2017 Est. Water Reconciliation | \$9.94 | \$0.00 | \$9.94 |
| | Attorney's Fees | \$1,500.00 | \$0.00 | \$1,500.00 |
| | | <u>\$9,760.94</u> | <u>\$0.00</u> | |
| TOTAL PRE-PETITION CHARGES: | | | | <u><u>\$9,760.94</u></u> |

¹ Interest calculated at 10.% through 01/10/18, the day before the petition date.

REJECTION DAMAGES

CASE NAME: KIKO USA, Inc.

LOCATION: Queens Center

CASE NUMBER: 18-10069

TOTAL RENT REMAINING FOR LEASE TERM

(BASIS: 365 DAYS PER YEAR)

TOTALS - ALL RENT STEPS

TOTAL RENT - ALL STEPS = \$2,680,750.95

TOTALS - RENT STEP 1
Daily rent: \$1,054.47
Start date: 01/31/18 Period rent: \$224,602.11
End date: 08/31/18 No. of days: 213

RENT CAPS (choose > one)

15% of remaining term: \$402,112.64

1 yr rent & add'l rent: \$384,880.20

Remaining rent if term is less than one year: \$0.00

TOTALS - RENT STEP 2
Daily rent: \$1,072.56
Start date: 09/01/18 Period rent: \$391,484.40
End date: 08/31/19 No. of days: 365

ACTUAL RESERVED RENT

Total rent & add'l rent: \$2,680,750.95

Total credits & payments: \$0.00

Actual reserved rent: \$2,680,750.95

TOTALS - RENT STEP 3
Daily rent: \$1,091.10
Start date: 09/01/19 Period rent: \$399,342.60
End date: 08/31/20 No. of days: 366

Rejection Claim Amount: \$402,112.64

TOTALS - RENT STEP 4
Daily rent: \$1,110.11
Start date: 09/01/20 Period rent: \$405,190.15
End date: 08/31/21 No. of days: 365

TOTALS - RENT STEP 5
Daily rent: \$1,129.60
Start date: 09/01/21 Period rent: \$412,304.00
End date: 08/31/22 No. of days: 365

TOTALS - RENT STEP 6
Daily rent: \$1,149.57
Start date: 09/01/22 Period rent: \$419,593.05
End date: 08/31/23 No. of days: 365

TOTALS - RENT STEP 7
Daily rent: \$1,170.04
Start date: 09/01/23 Period rent: \$428,234.64
End date: 08/31/24 No. of days: 366

Ballard Spahr LLP

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carolod@ballardspahr.com

March 22, 2018

VIA USPS PRIORITY MAIL

KIKO USA, INC.
c/o BMC Group, Inc.
P.O. Box 90100
Los Angeles, CA 90009

Re: **KIKO USA, INC.**
U.S.B.C. Del. Case No. 18-10069

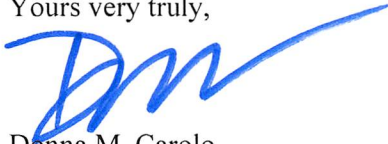
Dear Claims Agent:

Enclosed are eight (8) original Proofs of Claim being submitted to you for filing in the above-entitled case. Also enclosed are eight (8) extra copies of the Claims which need to be conformed and returned to us in the enclosed self-addressed, stamped envelope.

If you have any questions, please do not hesitate to call.

Thank you for your assistance in this regard.

Yours very truly,



Donna M. Carolo
Paralegal

Enclosures: Danbury Fair; Deptford; Kings Plaza; Lakewood; Los Cerritos; Queens Center;
Stonewood; The Oaks

cc: Dustin P. Branch, Esq. (via e-mail; w/o encls.)

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