

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

In re: ) Chapter 11  
 )  
TWG CAPITAL, INC., ) Case No. 12-11019-BHL-11  
 )  
Debtor. )

**OBJECTION TO CLAIM NO. 1 FILED BY  
BARI COHN AND NOTICE OF RESPONSE DEADLINE**

TWG Capital, Inc., the debtor and debtor-in-possession (the "Debtor") in the above-captioned chapter 11 case (the "Chapter 11 Case"), pursuant to 11 U.S.C. § 502 and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), hereby objects (this "Objection") to claim number 1 (the "Claim") filed by Bari Cohn ("Cohn"). The Debtor requests that the Court enter an order disallowing in full and expunging the Claim. In support of this Objection, the Debtor states as follows:

**Jurisdiction**

1. This Court has jurisdiction over this Objection pursuant to 28 U.S.C. § 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court under 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein are 11 U.S.C. § 502 and Rule 3007 of the Bankruptcy Rules.

**Background**

3. On September 14, 2012 (the "Petition Date"), the Debtor filed with the United States Bankruptcy Court for the Southern District of Indiana, Indianapolis Division (the "Court"), its voluntary petition for relief under Chapter 11 of Title 11 of the United States Code,

11 U.S.C. §§ 101 et seq. as amended (the "Bankruptcy Code") commencing the Chapter 11 Case.

4. The Debtor continues to operate its business and manage its properties as a debtor-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or committee has been appointed in the Chapter 11 Case.

5. On November 6, 2012, the Court entered an order approving The BMC Group, Inc. ("BMC") as the Trustee's claims and noticing agent in the Chapter 11 Case [Doc. No. 129]. Pursuant to that order, BMC was authorized and directed to, among other things, maintain the official claims register ("Claims Register") for all filed proofs of claim in the Chapter 11 Case. A copy of that Claims Register and all filed proofs of claim in the Chapter 11 Case can be viewed at <http://bmcgroup.com/restructuring/Claims.aspx?ClientID=311>.

6. On January 15, 2013, the Debtor filed a *Motion for Entry of an Order Establishing Procedures for Expunging Satisfied Claims* [Doc. No. 182] (the "Satisfied Claims Motion"), whereby the Debtor requested entry of an order authorizing and approving procedures to expunge satisfied claims. The Court entered its order approving the Satisfied Claims Motion on February 4, 2013 [Doc. No. 194].

7. Among the claims to be expunged from the Debtor's schedules and creditor list pursuant to the Satisfied Claims Motion are approximately 380 insurance agents or brokers, known as the "Downlines," which are scheduled by the Debtor as holders of commission payment claims (the majority reflected as "disputed" claims) (collectively, the "Downline Claims"). Cohn is one of the Downlines whose claim is to be expunged pursuant to the Satisfaction Notice Procedures (as defined in the Satisfied Claims Motion).

8. Pursuant to the Settlement Agreement dated November 20, 2012 (the "Settlement Agreement") by and between the Debtor, the LION 2004 Receivables Trust ("Lion

Trust"), and Imagine International Reinsurance Limited, Lion Trust warranted to the Debtor that Lion Trust has caused to be paid the Downline Claims and that Lion Trust will continue to cause to be paid the Downlines' commission payments, as and when due.<sup>1</sup>

9. Accordingly, pursuant to the Settlement Agreement, the pre-petition Downline Claims and the claims of the Downlines for post-petition commission payments have been and will be satisfied by Lion Trust, and the obligations of the Debtor to the Downlines, including Cohn, have been extinguished.

#### **Request for Relief**

10. By this Objection, the Trustee seeks entry of an order disallowing and expunging the Claim in full.

11. The Claim asserts an unsecured claim in an unspecified amount for "future commissions." The Claim does not set forth the basis for the Claim, nor does it attach any supporting documentation. Based on the Debtor's books and records, Cohn is believed to be a Downline whose Claim was satisfied pursuant to the Settlement Agreement. The Debtor is informed and believes that the Lion Trust has fully satisfied the Claim.

12. Accordingly, the Debtor objects to the Claim and requests that the Claim be disallowed and expunged in its entirety.

#### **Notice of Response Deadline**

10. If Cohn wishes to contest the relief requested in this Objection, Cohn must file a response with the Court no later than March 8, 2013 ("Response Deadline"). Responses must be filed with the Clerk of the United States Bankruptcy Court, Southern District of Indiana,

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<sup>1</sup> The Court entered its order approving the terms of the Settlement Agreement on November 29, 2012 [Docket No. 162].

Indianapolis Division, 116 U.S. Courthouse, 46 E. Ohio St., Indianapolis, IN 46204 and served on Trustee's Counsel, Faegre Baker Daniels LLP, 300 N. Meridian Street, Suite 2700, Indianapolis, IN 46204 (Attn: Kayla Britton). **IF NO RESPONSE IS FILED BY THE RESPONSE DEADLINE THE COURT MAY SUSTAIN THE OBJECTION TO THE CLAIM WITHOUT FURTHER NOTICE OR HEARING.**

WHEREFORE, the Trustee respectfully requests that the Court enter an Order disallowing in full and expunging the Claim and granting the Debtor all other just and appropriate relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Kayla D. Britton

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 6, 2013, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on February 6, 2013, a copy of the foregoing pleading will be mailed by first-class U.S. Mail, postage prepaid and properly addressed, to the following:

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Wayne, PA 19087

/s/ Kayla D. Britton