

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

_____	)	Case No. 06-51848-mss
	)	
CEP Holdings, LLC,	)	Chapter 11
	)	
Debtor.	)	Judge Marilyn Shea-Stonum
_____	)	

**RESPONSE OF AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY,  
INC. TO CEP LIQUIDATING TRUST’S SECOND OMNIBUS  
OBJECTION TO CLAIMS FILED WITH THE BANKRUPTCY COURT**

American Express Travel Related Services Company, Inc. (“American Express”), by and through its undersigned counsel, hereby replies to CEP Liquidating Trust’s Second Omnibus Objection to Claims Filed with the Bankruptcy Court and, in support thereof, avers as follows:

**PROCEDURAL HISTORY**

1. On September 20, 2006, CEP Holdings, LLC (“Debtor”) filed a voluntary petition under Chapter 11, Title 11 of the United States Code and relief was ordered thereon.
2. On February 22, 2007, American Express sent a general, unsecured claim in the amount of \$3,128.43 to the Debtor’s claims agent for the unpaid pre-petition charges incurred on Debtor’s credit card account number \*\*\*\*\*1002. The claim is referenced as Claim Number 543 (“Claim 543”) in the Objection.
3. On February 22, 2007, American Express sent a general, unsecured claim in the amount of \$8,154.25 to the Debtor’s claims agent for the unpaid pre-petition charges incurred on Debtor’s Corporate credit card account number \*\*\*\*\*1002. The claim is referenced as Claim Number 544 (“Claim 544”) in the Objection.
4. On October 10, 2007, the Liquidating Trustee filed its Second Omnibus Objection to Claims, including Claims 543 and 544, on behalf of the CEP Liquidating Trust. The

Objection to Claim 543 alleges that the claim is a post-petition liability, pre-petition liability that was paid prior to the petition date, and/or a pre-petition liability that was paid pursuant to authority granted by the court. The Objection to Claim 544 alleges that the claim was filed in an overstated amount. The Liquidating Trustee requests Claim 543 be disallowed in its entirety and Claim 544 be reduced to the amount of \$2,938.17.

## **RESPONSE**

### ***Claim 543***

5. According to American Express' records, the debt represented by Claim 543 has not been paid or settled.

6. In support of Claim 543, attached hereto and made a part hereof as Exhibit "A" are true and correct redacted copies of the Debtor's account statements, dated September 17, 2006 and November 16, 2006, which include a listing of the charges and fees that were applied to the account. The post-petition charges reflected on the October statement have been paid by post-petition credits to the account as indicated on the November statements. Therefore, the remaining balance includes only pre-petition debt in the amount of \$3,128.43.

7. American Express' records indicate that all payments made on the account are reflected in the balance of Claim 544. No further credits have been applied or payments received.

### ***Claim 544***

8. American Express avers that Claim 544 is not overstated or inaccurate.

9. Claim 544 represent the Debtor's Corporate Card account, which was comprised of nine Corporate Cardmember accounts with balances due at the time of the Debtor's bankruptcy filing totaling \$8,154.25. Attached hereto and made a part hereof as Exhibit "B" is a

true and correct redacted copy of a screen from American Express' database reflecting the pre-petition balances due for each Corporate Cardmember account.

10. Upon receipt of the CEP Liquidating Trust's Second Omnibus Objection to Claims, a search for additional documentation in support of each Corporate Cardmember account was made. Attached hereto and made a part hereof as Exhibit "C" are true and correct redacted copies of account statements for six out of the nine accounts that comprise the current balance due of \$8,154.25. If and when additional documentation for the remaining accounts is located, it will be provided to the Liquidating Trustee.

11. American Express' records indicate that no additional payments were made on the accounts since Claim 544 was filed. The claim balance remains due and owing.

#### **BURDEN OF PROOF**

12. Pursuant to 11 U.S.C. §502, a proof of claim is deemed allowed unless a party in interest objects. Upon objection and after notice and hearing, the court shall allow the claim except to the extent that the claim is unenforceable against the debtor. 11 U.S.C. § 502(b)(1).

13. The Liquidating Trustee bears the burden of proof establishing that the claims are not valid. Federal Rule of Bankruptcy Procedure 3001(f) provides that a proof of claim filed in accordance with the rules shall constitute *prima facie* evidence of the validity and amount of the claim.

14. The burden of proof is on the objecting party to produce evidence "equivalent in probative value to that of the creditor to rebut the *prima facie* effect of the proof of claim." *In re VTN, Inc.*, 69 B.R. 1005 (Bankr. S.D. Fla. 1987), citing *In re DeLorean Motor Co. Litigation*, 59 B.R. 329 (Bankr. E.D. Mich. 1986).

15. The Liquidating Trustee has not provided documentation that would contradict the *prima facie* effect of the claims nor to show that the debts have been paid or are overstated.

16. Should the Liquidating Trustee provide additional documentation to support the objection, American Express will review such information and adjust the claims, if necessary.

**WHEREFORE**, American Express Travel Related Services Company, Inc. respectfully requests that CEP Liquidating Trust's Second Omnibus Objection to Claims be overruled and Claims 543 and 544 be allowed as filed.

By: /s/ Amy M. Blythe  
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#### **CERTIFICATE OF SERVICE**

I hereby certify a copy of the foregoing *Response to CEP Liquidating Trust's Second Omnibus Objection to Claims Filed with the Bankruptcy Court* was sent electronically to William C. Price, Esquire, *Counsel to the CEP Liquidating Trustee* and to Eric R. Goodman, *Counsel for Debtor*; and by ordinary U.S. mail to CEP Holdings, LLC, *Debtor*, 3650 W. Market Street, Suite 340, Akron, OH 44333, on this 26<sup>th</sup> day of October, 2007.

/s/ Amy M. Blythe  
Amy M. Blythe, Bar #0071021