

**PLEASE CAREFULLY REVIEW THIS OBJECTION AND THE ATTACHMENTS  
HERETO TO DETERMINE WHETHER THIS OBJECTION AFFECTS YOUR CLAIM.**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

-----X  
*In re* : Chapter 11  
: :  
UBI Liquidating Corp., : Case No. 10-13005 (KJC)  
: :  
Debtor. : **Hearing Date: July 25, 2014 at 2:00 p.m. (EDT)**  
: **Response Deadline: June 11, 2013 at 4:00 p.m. (EDT)**  
-----X

**NINTH OMNIBUS OBJECTION OF THE LIQUIDATING TRUSTEE TO CERTAIN  
AMENDED AND SUPERSEDED CLAIMS (NON-SUBSTANTIVE)**

Stephen Feldman, in his capacity as trustee (the "Liquidating Trustee") of the UBI Liquidating Trust (the "Trust"), as the successor to UBI Liquidating Corp. and its affiliated debtors (collectively, the "Debtors"), and the Liquidating Trust Committee (the "Committee"), by and through their attorneys, Richards, Layton & Finger, P.A. and Cooley LLP respectively, hereby file this ninth omnibus objection (the "Objection") to those claims (individually, a "Claim", and collectively, the "Claims") listed on **Exhibit A** to the proposed form of order (the "Proposed Order") attached hereto as **Exhibit 1**. In support of this Objection, the Liquidating Trustee respectfully represents as follows:

**PRELIMINARY STATEMENT**

1. Pursuant to section 502 of chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"), Rule 3007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Bankruptcy Rule 3007-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), the

Liquidating Trustee requests the entry of the Proposed Order attached hereto as **Exhibit 1** disallowing each of the Claims as reflected in the exhibit attached thereto.

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.<sup>1</sup>

### **BACKGROUND**

3. On September 21, 2010 the Debtors each filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. On October 19, 2011, the Court entered an order approving the *Joint Plan of Liquidation Under Chapter 11 of the Bankruptcy Code* (the “Plan”) [D.I. 1384]. On December 1, 2011, the Plan became effective (the “Effective Date”) [D.I. 1493].

4. Under Article IV.B of the Plan, the Trust was established on the Effective Date for the purpose of, *inter alia*, administering the estates’ assets, resolving claims disputes, and distributing assets to creditors. The Trust is administered by the Liquidating Trustee, who is appointed by the Committee.

5. Under Article VI of the Plan, the Liquidating Trustee and the Committee have the exclusive right to make, file, prosecute, settle, compromise, withdraw or resolve in any manner approved by the Court objections to proofs of claim filed against the Debtors (each a “Proof of Claim,” and, collectively, the “Proofs of Claim”).

6. On November 22, 2010, the Court entered an order (the “Bar Date Order”) [D.I. 531] establishing, among other things, January 24, 2011 at 5:00 p.m. (Central Time) as the

---

<sup>1</sup> Pursuant to Local Rule 9013-1(f), the Liquidating Trustee and the Committee hereby confirm their consent to the entry of a final order by this Court in connection with this Motion if it is later determined that this Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

deadline for non-governmental creditors to file Proofs of Claim against the Debtors and March 21, 2011 as the deadline for governmental creditors to file Proofs of Claim (the “Bar Dates”).

7. Pursuant to the Bar Date Order, the Debtors, with the assistance of their claims and noticing agent, BMC Group, Inc. (“BMC”), mailed notice of the Bar Dates (the “Bar Date Notice”) to parties in interest. In addition to mailing the Bar Date Notice, the Debtors gave notice to potential creditors by publishing a modified form of the Bar Date Notice in the national edition of the *New York Times*. The mailing and publishing of the Bar Date Notice in a newspaper of general circulation provided potential creditors with adequate and sufficient notice of the Bar Date.

8. On November 30, 2012, the Court entered an order extending the Liquidating Trustee’s and Committee’s time to object to Proofs of Claim through June 1, 2013. This deadline may be extended by further order of the Court.

#### **CLAIMS RESOLUTION PROCESS**

9. In the ordinary course of business, the Debtors maintained books and records (the “Books and Records”) that reflect, among other things, the Debtors’ liabilities and the amounts thereof owed to their creditors.

10. The register of claims prepared and provided by BMC indicates that approximately 900 Proofs of Claim have been filed in these chapter 11 cases. The Liquidating Trustee, the Committee, and their professionals are reviewing and reconciling these Proofs of Claim, in addition to the claims listed on the Debtors’ Schedules of Assets and Liabilities, and comparing the claims asserted in the Proofs of Claim to the Debtors’ Books and Records to determine the validity of the asserted claims.

11. This reconciliation process includes identifying particular categories of claims that may be targeted for disallowance, reduction and allowance, or reclassification and allowance. To reduce the number of claims, and to avoid possible double recovery or otherwise improper recovery by claimants, the Liquidating Trustee has file several omnibus objections to such categories of claims. This Objection is the ninth such omnibus objections.

**RELIEF REQUESTED AND REASONS THEREFOR**

12. For the reasons set forth more fully herein, the Liquidating Trustee and Committee request the entry of the Proposed Order disallowing each of the Claims as reflected on **Exhibit A** attached thereto.

**A. Amended Claims**

13. Certain creditors filed Proofs of Claim that were later amended and therefore superseded by a subsequent Proof of Claim filed by or on behalf of the same claimant. The Claims listed on **Exhibit A** to the Proposed Order under the heading "Claim to be Expunged" (collectively, the "Amended Claims") have been superseded by a subsequently filed Proof of Claim listed under the heading "Surviving Claim." The Amended Claims should be disallowed in order to avoid duplicate recoveries.

14. Accordingly, the Liquidating Trustee objects to the allowance of each of the Amended Claims described in **Exhibit A** to the Proposed Order, respectively, and requests that such Claims be disallowed. Because this Objection does not constitute an objection to any of the surviving claims, the Liquidating Trustee and Committee reserve their right to object to such surviving claims on any grounds whatsoever.

15. In support of the foregoing, the Liquidating Trustee relies on the Declaration of Stephen Feldman pursuant to 28 U.S.C. § 1746 and Local Rule 3007-1 in support of this

Objection (the "Feldman Declaration"), dated as of the date hereof and attached hereto as **Exhibit 2**.

**NOTICE**

16. A copy of this Objection and all related exhibits will be served on (i) the Office of the United States Trustee for the District of Delaware; (ii) each holder of a Claim; and (iii) those parties who are required to receive notice pursuant to the Plan (collectively, the "Notice Parties"). The Liquidating Trustee respectfully submits that no further notice of this Objection is required.

17. Pursuant to Bankruptcy Rule 3007, the Liquidating Trustee has provided all claimants affected by this Objection with at least thirty (30) days' notice of the hearing to consider this Objection.

**NO PRIOR REQUEST**

18. No previous request for the relief sought herein has been made to this or any other Court.

**STATEMENT OF COMPLIANCE WITH LOCAL RULE 3007-1**

19. The undersigned certifies that he has reviewed the requirements of Local Rule 3007-1 and that the Objection substantially complies with that Local Rule. To the extent that the Objection does not comply in all respects with the requirements of Local Rule 3007-1, the undersigned believes such deviations are not material and respectfully requests that any such requirement be waived.

**SEPARATE CONTESTED MATTERS**

20. To the extent that a response is filed regarding any Claim listed in this Objection and the Liquidating Trustee is unable to resolve the response, each such Claim, and the objection

by the Liquidating Trustee to each such Claim asserted herein, shall constitute a separate contested matter as contemplated by Bankruptcy Rule 9014. Any order entered by the Court regarding an objection asserted in the Objection shall be deemed a separate order with respect to each Claim.

**RESERVATION OF RIGHTS**

21. The Liquidating Trustee hereby reserves the right to object in the future to any of the Proofs of Claim listed in this Objection or the Proposed Order or on the exhibits attached thereto on any ground, and to amend, modify, and/or supplement this Objection, including, without limitation, to object to amended or newly-filed Proofs of Claim. Separate notice and hearing may be scheduled for any such objection.

WHEREFORE the Liquidating Trustee respectfully requests entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: May 28, 2013  
Wilmington, Delaware

/s/ Andrew C. Irgens  
Mark D. Collins (No. 2981)  
Paul N. Heath (No. 3704)  
L. Katherine Good (No. 5101)  
Andrew C. Irgens (No. 5193)  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
920 North King Street  
Wilmington, Delaware 19801  
Telephone: 302-651-7700  
Facsimile: 302-651-7701

*Counsel to the Liquidating Trustee*

- and -

Lawrence C. Gottlieb (*pro hac vice*)  
Michael Klein (*pro hac vice*)  
COOLEY LLP  
1114 Avenue of the Americas  
New York, NY 10036  
Telephone: 212-479-6000  
Facsimile: 212-479-6575

*Counsel to the Liquidating Trust Committee*