

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re

AMERICAN BLUE RIBBON HOLDINGS, LLC,
a Delaware limited liability company, *et al.*,¹

Reorganized Debtors.

Chapter 11

Case No.: 20-10161 (LSS)

(Jointly Administered)

Obj. Deadline: June 16, 2021 at 4:00 p.m. (ET)

Hearing Date: July 19, 2021 at 10:00 a.m. (ET)

**REORGANIZED DEBTORS' FIFTH OMNIBUS (SUBSTANTIVE)
OBJECTION TO CERTAIN NO LIABILITY CLAIMS**

**CREDITORS RECEIVING THIS OMNIBUS OBJECTION TO CLAIMS SHOULD
LOCATE THEIR NAMES AND THEIR CLAIMS(S) IN THE ATTACHED SCHEDULE**

**YOUR SUBSTANTIVE RIGHTS MAY BE AFFECTED BY THIS OBJECTION AND
BY ANY FURTHER OBJECTION THAT MAY BE FILED AGAINST YOUR CLAIM(S)**

The Reorganized Debtors² (and, before the effective date of the Plan, the “Debtors”) in the above-captioned jointly administered chapter 11 cases (the “Cases”), hereby submit this omnibus objection (the “Objection”) seeking entry of an order substantially in the form attached hereto as Exhibit A (the “Proposed Order”), pursuant to section 502 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”) and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 3007-1 of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) disallowing and expunging the no liability claims listed on Schedule 1 to the Proposed Order (the “No Liability”).

¹The Debtors and the last four digits of their respective federal taxpayer identification numbers are as follows: American Blue Ribbon Holdings, LLC (1224-Del.); Legendary Baking, LLC (2615-Del.); Legendary Baking Holdings, LLC (2790-Del.); Legendary Baking of California, LLC (1760-Del.); and SVCC, LLC (9984-Ariz.). The Debtors’ address is 3038 Sidco Drive, Nashville, TN 37204.

²Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the *Debtors’ Second Amended Combined Disclosure Statement and Chapter 11 Plan of Reorganization* [D.I. 543] (the “Plan”).

Claims”).

In support of this Objection, the Reorganized Debtors rely on the *Declaration of Kurt Schnaubelt in Support of Reorganized Debtors’ Fifth Omnibus (Substantive) Objection to Certain No Liability Claims* (the “Declaration”), attached hereto as Exhibit B. In further support of this Objection, the Reorganized Debtors respectfully represent as follows:

I. JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over these Cases and the Objection pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of these Cases and the Objection in this district is proper under 28 U.S.C. §§ 1408 and 1409.

2. Pursuant to Local Rule 9013-1(f), the Reorganized Debtors consent to the Court’s entry of a final judgment or order with respect to the Objection if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

3. The statutory predicate for the relief requested herein are sections 105(a), 502, and 503 of the Bankruptcy Code, Bankruptcy Rule 3007, and Local Rule 3007-1.

II. BACKGROUND

4. On January 27, 2020 (the “Petition Date”), each of the Debtors commenced a voluntary case under chapter 11 of the Bankruptcy Code. From the Petition Date through the Effective Date (as defined below) of the Plan, the Debtors operated their businesses and managed their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. On February 6, 2020, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed an official committee of unsecured creditors (the “Committee”) in these Cases. [D.I. 89].

6. On August 4, 2020, the Debtors filed the Plan. On September 16, 2020, the Court entered an order confirming the Plan [D.I. 650] (the “Confirmation Order”) and the Plan became effective on October 2, 2020 (the “Effective Date”).

7. The Confirmation Order and Article X.1 of the Plan provide for limited substantive consolidation of the Debtors’ estates for, *inter alia*, Distributions to Holders of Allowed Claims.

8. The Plan also provides for the establishment of the GUC Trust Account on the Effective Date. Pursuant to Article IX.B of the Plan, the Reorganized Debtors are authorized to file objections to Claims.

9. The detailed factual background relating to the Debtors and the commencement of these Cases is set forth in the *Declaration of Kurt Schnaubelt in Support of First Day Motions* [D.I. 14] (the “First Day Declaration”).

III. CLAIMS PROCESS

10. On February 20, 2020, the Debtors filed their schedules of assets and liabilities and statements of financial affairs (collectively, the “Schedules”) [D.I. 132- 141].

11. On February 25, 2020, the Court entered an order [D.I. 150] (the “Bar Date Order”) which, among other things, established April 3, 2020 as the deadline by which each person or entity (including, without limitation, individuals, partnerships, corporations, joint ventures, and trusts), other than governmental units, must file a proof of claim based on any asserted claims against the Debtors that arose prior to the Petition Date (as defined below), including claims under section 503(b)(9) of the Bankruptcy Code.

12. In accordance with the Bar Date Order, Epiq Corporate Restructuring, LLC (“Epiq”), the Debtors’ court-appointed claims and noticing agent, mailed the *Notice of Deadline for Filing Proofs of Claim* [D.I. 164], which established April 3, 2020 as the general bar date (the “General Bar Date”) and provided proof of claim forms to, among others, all of the Debtors’ creditors and other known parties in interest as of the Petition Date. Notice of the General Bar Date was also published once in the national edition of USA Today. *See* Affidavit of Publication [D.I. 184].

13. The claims register, prepared and maintained by Epiq, shows that approximately 900 proofs of claim (the “Proofs of Claim”) were filed in the Debtors’ chapter 11 cases.

14. The Debtors, with the assistance of their advisors, actively reviewed and reconciled the Proofs of Claim prior to the Effective Date and filed six (6) prior claim objections [D.I. 327, 329, 366, 367, 549, and 550], all of which have been sustained by the Court. Additionally, thus far, the Reorganized Debtors filed four (4) claim objections [734, 735, 802, and 803] and two motions to deem certain claims fully or partially satisfied [D.I. 736 and 801]. In addition, the Reorganized Debtors have been, and continue to engage, in discussions with holders of disputed claims and have reached resolutions with numerous claimants. The Reorganized Debtors’ ongoing claims reconciliation process involves the collective effort of the Reorganized Debtors’ employees, counsel to the Reorganized Debtors, Nelson Mullins Riley & Scarborough LLP and Bayard, PA, and Epiq. More specifically, the claims reconciliation process includes identifying categories of claims that may be targeted for disallowance and expungement, reduction and/or reclassification. To reduce the number of claims, and to avoid possible double, or otherwise improper, recovery by claimants, the Reorganized Debtors anticipate filing numerous omnibus

objections to claims and, therefore, reserve the right to file additional objections to any alleged claims.

IV. RELIEF REQUESTED

15. By this Objection, the Reorganized Debtors respectfully request entry of the Proposed Order, substantially in the form attached hereto as Exhibit A disallowing and expunging the No Liability Claims listed on Schedule 1 to the Proposed Order.

V. OBJECTION

16. Under section 502 of the Bankruptcy Code, a proof of claim is deemed allowed “unless a party in interest . . . objects.” 11 U.S.C. § 502. Local Rule 3007-1 provides certain grounds for omnibus claim objections, which includes objections to claims that “do not have a basis in the debtor's books and records and does not include or attach sufficient information or documentation to constitute prima facie evidence of the validity and amount of the claim.” Local Rule 3007-1(d)(vi).

17. When asserting a claim against a bankrupt estate, a claimant must allege facts that, if true, would support a finding that the debtor is legally liable to the claimant. *See In re Allegheny Int’l, Inc.*, 954 F.2d 167, 173 (3d Cir. 1992); *see also In re Int’l Match Corp.*, 69 F.2d 73, 76 (2d Cir. 1934) (finding that a proof of claim should at least allege facts from which legal liability can be seen to exist). Where the claimant alleges sufficient facts to support its claim, its claim is afforded prima facie validity. *In re Allegheny Int’l, Inc.*, 954 F.2d at 173. A party wishing to dispute such a claim must produce evidence in sufficient force to negate the claim’s prima facie validity. *Id.* In practice, the objecting party must produce evidence that would refute at least one of the allegations essential to the claim’s legal sufficiency. *Id.* at 173- 74. Once the objecting party produces such evidence, the burden shifts back to the claimant to prove the validity of his or her claim by a preponderance of the evidence. *Id.* at 174. Ultimately, the burden of persuasion is on

the claimant. *Id.*

No Liability Claims

18. Section 502(b)(1) of the Bankruptcy Code provides that a claim asserted in a proof of claim shall be allowed, except to the extent “such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law.”

19. It is axiomatic that a claim must be for an actual obligation of the debtor, and not merely of a non-debtor related entity, in order for the claim to be enforceable against such debtor. *See, e.g.* 11 U.S.C. §101(10)(A) defining “creditor” as an “entity that has a claim *against the debtor* that arose at the time of or before the order for relief concerning the debtor” (emphasis added); *In re Arcapita Bank B.S.C.(c)*, 508 B.R. 814, 819 (S.D.N.Y. 2014) (upholding disallowance of claims based “not on an obligation of the Debtors but rather on [alleged creditor’s] equity interest in . . . three non-Debtor entities”).

20. Based upon a careful review and analysis of the Debtors’ books and records, the Schedules, and the claims register, the Reorganized Debtors have determined that the No Liability Claims listed on Schedule 1 to the Proposed Order involve the following as set forth in Schedule 1 to the Proposed Order: (i) a workers’ compensation claim for which the Debtors’ estates have no liability because the claim is covered by an insurance policy with a zero deductible amount; or (ii) a claim based on an equipment lease that was rejected by the Debtors for which outstanding amounts have been paid and the equipment has been returned to the claimant, leaving the Reorganized Debtors with no further liability.

21. Accordingly, all of the No Liability Claims should be disallowed and expunged because they are either not obligations of the Debtors or are not supported by the Debtors’ books and records or valid under any agreement or applicable law. Failure to disallow and expunge the No Liability Claims will result in creditors receiving improper recoveries on account of such

claims to the detriment of other similarly situated creditors.

VI. SEPARATE CONTESTED MATTERS

22. To the extent a Response (as defined below) is filed regarding any claim listed in this Objection and the Reorganized Debtors are unable to resolve the Response, the objection by the Reorganized Debtors to such claim shall constitute a separate contested matter as contemplated by Bankruptcy Rule 9014. Any order entered by the Court regarding an objection asserted in this Objection shall be deemed a separate order with respect to each claim subject thereto.

VII. COMPLIANCE WITH LOCAL RULE 3007-1

23. To the best of the Reorganized Debtors' knowledge and belief, this Objection, the Proposed Order, and Schedule 1 attached thereto, comply with Local Rule 3007-1. To the extent this 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.

VIII. RESPONSES TO OMNIBUS OBJECTION

24. To contest an objection, a claimant must file and serve a written response to this Objection (a "Response") so that it is received no later than June 16, 2021 at 4:00 p.m. (Eastern Time) (the "Response Deadline"). Every Response must be filed with the Office of the Clerk of the Court, 824 North Market Street, Wilmington, Delaware 19801, and served upon undersigned counsel.

25. Every Response must comply with the requirements of Local Rule 3007-1 and contain at a minimum the following information:

- a. A caption setting forth the name of the Court, the name of the Debtors, the case number, and the title of objection to which the Response is directed;
- b. The name of the claimant, his/her/its claim number, and a description of the basis for the amount of the claim;

- c. The specific factual basis and supporting legal argument upon which the party will rely in opposing this Objection;
- d. Any supporting documentation, to the extent it was not included with the Proof of Claim previously filed with the clerk or claims agent, upon which the party will rely to support the basis for and amounts asserted in the Proof of Claim; and
- e. The name, address, telephone number, email address, and fax number of the person(s) (which may be the claimant or the claimant's legal representative) with whom counsel for the Debtors should communicate with respect to the claim or the Objection and who possesses authority to reconcile, settle or otherwise resolve the objection to the disputed claim on behalf of the claimant.

26. If a claimant fails to file and serve a timely Response by the above Response Deadline, the Reorganized Debtors will present to the Court an appropriate order disallowing and expunging such claimant's claim, in the form filed contemporaneously herewith, without further notice to the claimant.

IX. REPLIES TO RESPONSES

27. In accordance with Local Rule 9006-1(d), the Reorganized Debtors may, at their option, file and serve a reply to a Response no later than 4:00 p.m. (Prevailing Eastern Time) one day prior to the deadline for filing the agenda for any hearing to consider the Objection.

X. RESERVATION OF RIGHTS

28. The Reorganized Debtors reserve the right to amend, modify or supplement this Objection, and to file additional substantive and non-substantive objections to each of the claims listed on Schedule 1 to the Proposed Order, including, without limitation, objections as to the amount, priority, validity, or timeliness of filing of any such claims, each in accordance with Local Rule 3007-1.

29. Moreover, should the grounds of objection stated in this Objection be dismissed, overruled, or withdrawn or should the claimants submit additional information

supporting their respective claims, the Reorganized Debtors reserve the right to object further to the claims on any non-substantive and/or substantive grounds in the future in accordance with Local Rule 3007-1.

XI. NOTICE

30. Notice of the Objection will be provided to the following parties: (i) the U.S. Trustee; (ii) the Plan Administrator; (iii) Cannae Holdings, Inc; (iv) the claimants listed on Schedule 1 to the Proposed Order at the addresses set forth on the claimants' respective proofs of claim; and (v) all parties who, as of the filing of this Objection, have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Reorganized Debtors respectfully submit that no other or further notice is necessary.

WHEREFORE, the Reorganized Debtors respectfully request that this Court enter the Proposed Order, substantially in the form attached hereto as Exhibit A, granting the relief requested and granting such further relief as is just and proper.

Dated: June 2, 2021
Wilmington, Delaware

BAYARD, P.A.

/s/ Gregory J. Flasser

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