

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE 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' THIRD MOTION FOR AN ORDER AUTHORIZING
CLAIMS AGENT TO REFLECT THAT CERTAIN CLAIMS AND SCHEDULED
LIABILITIES HAVE BEEN PARTIALLY OR FULLY SATISFIED**

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 move (the “Motion”), pursuant to sections 502 and 503 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”) and Rule 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), for entry of an order (the “Proposed Order”), substantially in the form attached hereto as Exhibit A, authorizing Epiq Corporate Restructuring, LLC, the claims and noticing agent (the “Claims Agent”) in the Cases, to reflect in its records, the claims register in these Cases, and the Schedules (as defined below) that certain proofs of claim and certain scheduled liabilities (collectively, the “Satisfied Claims”) identified on Schedules 1 and 2 to the Proposed Order have been satisfied in part or in whole, as the case may be. In support of the Motion, the Reorganized Debtors submit the *Declaration of Kurt Schnaubelt in Support of Reorganized Debtors' Third Motion for an Order Authorizing Claims Agent to Reflect that*

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.

² Capitalized 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”).

Certain Claims and Scheduled Liabilities Have Been Partially or Fully Satisfied (the “Declaration”), a copy of which is attached hereto as Exhibit B and incorporated by reference.

In further support of the Motion, the Reorganized Debtors respectfully represent as follows:

JURISDICTION, VENUE AND PREDICATES FOR RELIEF

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

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 predicates for the relief requested herein are sections 502 and 503 of the Bankruptcy Code and Bankruptcy Rule 9014.

BACKGROUND

A. Case 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”).

On January 28, 2020, the Court entered the *Order Appointing Epiq Corporate Restructuring, LLC as Claims and Noticing Agent Effective as of the Petition Date* [D.I. 36].

B. Claims Reconciliation 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. 164] (the “Bar Date Order”) granting the Debtors’ request for entry of a bar date for filing proofs of claim [D.I. 75] (the “Bar Date Motion”). The Bar Date Order established a deadline of April 3, 2020 (the “Bar Date”) for all non-governmental proofs of claim, including administrative priority claims under Bankruptcy Code section 503(b).

12. On or before February 28, 2020, the Claims Agent, caused the notice of the Bar Date Order to be served on all creditors. The Claims Agent filed an affidavit of service [D.I. 199] on March 23, 2020 acknowledging such service.

13. The claims register, prepared and maintained by the Claims Agent, shows that approximately 900 proofs of claim (the "Proofs of Claim") were filed in these Cases.

14. The Debtors, with the assistance of their advisors, 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] and two motions to deem certain claims fully or partially satisfied [D.I. 392 and 551]. Additionally, thus far, the Reorganized Debtors filed four (4) claim objections [D.I. 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 the Claims Agent. 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 additional omnibus objections to claims and motions to deem certain claims satisfied and, therefore, reserve the right to file additional motions to deem any of the alleged claims as satisfied.

C. The Satisfied Claims

15. During the course of these Cases, the Court entered certain orders (collectively, the “Payment Orders”) authorizing the Debtors to make certain payments in satisfaction of prepetition and post-petition obligations. The Payment Orders include the following:

- (i) *Final Order (I) Authorizing the Payment of Prepetition Sales, Use and Franchise Taxes, and Similar Taxes and Fees and (II) Authorizing Banks and Other Financial Institutions to Receive, Process, Honor, and Pay Checks Issued and Electronic Payment Requests Made Relating to the Foregoing [D.I. 143]; and*
- (ii) *Final Order (I) Authorizing Payment of Certain Prepetition Employee Claims, (II) Authorizing Honoring of Certain Prepetition Employee Benefits and Confirming Right to Continue Employee Benefits on Postpetition Basis, (III) Authorizing Reimbursement for Prepetition Expenses, (IV) Authorizing Payment of Withholding and Payroll-Related Taxes, and (V) Authorizing Banks to Honor Prepetition Checks and Fund Transfers for Authorizing Payments [D.I. 146].*

16. In accordance with the Payment Orders, the Debtors satisfied certain obligations (the “Payment Order Satisfied Claims”), including the identified portions of certain Satisfied Claims set forth in Schedules 1 and 2 to the Proposed Order.

17. Finally, certain of the Satisfied Claims listed on Schedules 1 and 2 to the Proposed Order were satisfied by payments made by the Debtors or Reorganized in the ordinary course of business. As a result of these payments, certain obligations have been satisfied (the “Ordinary Course Satisfied Claims”), including the identified portions of certain Satisfied Claims set forth in Schedules 1 and 2 to the Proposed Order.

RELIEF REQUESTED

18. The Reorganized Debtors, with the assistance of their professionals, have reviewed the Satisfied Claims identified on Schedules 1 and 2 to the Proposed Order and have determined that the Satisfied Claims, or portions thereof, identified therein are based on Payment Order Satisfied Claims or Ordinary Course Satisfied Claims. Accordingly, by this Motion, the

Reorganized Debtors request that the Claims Agent be authorized to reflect in the Claims Register that the Satisfied Claims have been satisfied to the extent described in Schedules 1 and 2 to the Proposed Order.

BASIS FOR THE RELIEF REQUESTED

19. The defining characteristic of a claim is a “right to payment.” *See* 11 U.S.C. § 101(5). By contrast, there is no right to payment—and therefore no claim—to the extent that the asserted liabilities have already been paid or otherwise are not due and owing by a debtor. Accordingly, because the Satisfied Claims represent Payment Order Satisfied Claims or Ordinary Course Satisfied Claims, the Claims Agent should be authorized to reflect in the Claims Register and the Schedules that the Satisfied Claims have been satisfied to the extent described in Schedules 1 and 2 to the Proposed Order.

20. Because the claimants asserting the Satisfied Claims received all of the benefit to which they were entitled on account of the satisfied portion of such Satisfied Claims pursuant to one or more of the Payment Orders or payments made by the Debtors or Reorganized Debtors in the ordinary course of business, the Reorganized Debtors do not have any further obligations to such claimants on account of the satisfied portion of the Satisfied Claims, to the extent set forth on Schedules 1 and 2 to the Proposed Order. Accordingly, the Claims Agent should be authorized to reflect in the Claims Register and, in the Schedules, that the Satisfied Claims have been paid in full or in part.

SEPARATE CONTESTED MATTERS

21. Each of the Satisfied Claims and the Motion to the extent directed thereto constitute a separate contested matter as contemplated by Bankruptcy Rule 9014. The Reorganized Debtors request that any order entered by the Court with respect to this Motion shall be deemed a separate order with respect to each Satisfied Claim.

ADJOURNMENT OF HEARING

22. The Reorganized Debtors reserve the right to seek an adjournment of the hearing (the "Hearing") on any responses to this Motion. In the event that the Reorganized Debtors seek such an adjournment, it will be noted on the notice of agenda for the Hearing, and such agenda will be served on the affected claimant by serving the person designated in the response.

RESERVATION OF RIGHTS

23. The Reorganized Debtors reserve the right to object to each of the Satisfied Claims on any and all factual or legal bases. Without limiting the generality of the foregoing, the Reorganized Debtors specifically reserve the right to amend this Motion, file additional papers in support of this Motion, file a subsequent objection on any ground to any of the Satisfied Claims, or take other appropriate actions to (a) respond to any allegation or defense that may be raised in a response filed by or on behalf of any of the claimants or interested parties, (b) object to any Satisfied Claim for which a claimant provides (or attempts to provide) additional documentation or substantiation or (c) object to any Satisfied Claim based on additional information that may be discovered upon further review by the Reorganized Debtors or through discovery pursuant to the applicable provisions of Part VII of the Bankruptcy Rules.

24. Notwithstanding anything contained in this Motion or the exhibits attached hereto, nothing herein shall be construed as a waiver of any rights that the Reorganized Debtors may have to (a) enforce the Reorganized Debtors' rights of setoff against the claimants relating to such avoidance actions, or (b) seek disallowance pursuant to section 502(d) of the Bankruptcy Code of claims of the claimants that are subject to such avoidance actions.

NOTICE

25. Notice of this Motion has been given to the following parties or, in lieu thereof, to their counsel: (a) the U.S. Trustee; (b) each of the parties listed in Schedules 1 and 2 to the

Proposed Order; and (c) those parties requesting notice pursuant to Rule 2002. The Reorganized Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

CONCLUSION

WHEREFORE, the Reorganized Debtors respectfully request that the Court enter an order, substantially in the form attached hereto as Exhibit A (i) authorizing the Claims Agent to reflect in the Claims Register and in the Debtor's Schedules that the Satisfied Claims identified on Schedules 1 and 2 to the Proposed Order have been satisfied to the extent described therein; and (ii) granting such other and further relief as the court may deem proper.

[Signature Page Follows]

Dated: June 2, 2021
Wilmington, Delaware

BAYARD, P.A.

/s/ Gregory J. Flasser

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