

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

www.flsb.uscourts.gov

In re:

1 GC COLLECTIONS, *et al.*,<sup>1</sup>  
Debtors.

Chapter 11

Case No. 18-19121-RAM

(Jointly Administered)

**SIXTH MOTION OF THE LIQUIDATING TRUSTEE TO  
EXTEND THE DEADLINE TO OBJECT TO CLAIMS**

James S. Cassel, solely in his capacity as liquidating trustee (the “**Liquidating Trustee**”) of the 1 GC Collections Creditors’ Liquidating Trust (the “**Trust**”), hereby moves the Court for entry of an order, substantially in the form attached as **Exhibit A** hereto (the “**Proposed Order**”), pursuant to Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), extending the deadline by which the Liquidating Trustee may object to claims filed against the Debtors’ estates from July 15, 2021, through and including the date that is 90 days after entry of the Proposed Order. In support of this motion (the “**Motion**”), the Liquidating Trustee respectfully states as follows:

**JURISDICTION AND VENUE**

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

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<sup>1</sup> The Debtors in the Chapter 11 Cases, along with the business addresses and the last four (4) digits of each Debtor’s federal tax identification number, if applicable, are: 1 GC Collections, c/o Development Specialists, Inc., 500 West Cypress Creek Road, Suite 400, Fort Lauderdale, Florida 33309 (9517); and 1 West Collections, c/o Development Specialists, Inc., 500 West Cypress Creek Road, Suite 400, Fort Lauderdale, Florida 33309 (1711).

## **BACKGROUND**

### **A. General Background**

4. On July 27, 2018 (the “**Petition Date**”), the above-captioned debtors (the “**Debtors**”) commenced the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”) by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Florida (the “**Court**”).

5. On September 20, 2019, the Court entered the *Order Confirming First Amended Joint Plan of Liquidation of 1 Global Capital LLC and 1 West Capital LLC Under Chapter 11 of the Bankruptcy Code Proposed by the Debtors and the Official Committee of Unsecured Creditors* [ECF No. 1197], confirming the *First Amended Joint Chapter 11 Plan of Liquidation* [Ex. A, ECF No. 1197] (the “**Plan**”),<sup>2</sup> directing the execution of the 1 GC Collections Creditors’ Liquidating Trust Agreement [Ex. A, ECF No. 1587] (the “**Liquidating Trust Agreement**”), and approving the appointment of the Liquidating Trustee as the liquidating trustee of the Trust.

6. On November 21, 2019 (the “**Effective Date**”), the Effective Date of the Plan occurred. *See Notice of (A) Effective Date of Chapter 11 Plan and (B) Administrative Claims Bar Date* [ECF No. 1586]. On the Effective Date, pursuant to the Plan and the Liquidating Trust Agreement, the Liquidating Trust was created, the Liquidating Trustee was appointed, and, among other things, the Liquidating Trustee succeeded to the Debtors’ rights and obligations regarding the administration of claims.

### **B. Claims Bar Date**

7. Pursuant to the *Notice of Chapter 11 Bankruptcy Case* [ECF No. 31] (the “**Bar Date Notice**”), dated August 2, 2018, the bar date for persons or entities other than governmental

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<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings given in the Plan.

units (as defined in section 101(27) of the Bankruptcy Code) to file proofs of claim against the Debtors was December 4, 2018 (the “**General Bar Date**”).

8. The General Bar Date applied to any Claim that is not an Administrative Claim, an Investor Claim or a Claim asserted by a Governmental Unit. Any Governmental Unit seeking to file a claim against the Debtors was required to do so by no later than January 23, 2019, *see* Bar Date Notice, and the deadline for any Investor to file any Investor Claim was March 7, 2019. *See Court’s Order Granting in Part and Denying in Part Motion to Enlarge Deadline to File Proof of Claim* [ECF No. 553].

**C. Claim Objection Deadline**

9. Pursuant to the Plan, the deadline to object to claims (the “**Claim Objection Deadline**”) is “the date that is ninety (90) days after the Effective Date (*i.e.*, February 19, 2020) or such later date as may be extended upon request by the Liquidating Trustee and order of the Bankruptcy Court after notice and a hearing to the Entities on the master service list.” Plan ¶ 1.19. This Court has previously extended the Claim Objection Deadline [ECF Nos. 2255, 2321, 2382, and 2444]. Most recently, by order dated April 15, 2021 [ECF No. 2510] (the “**Order Extending Claim Objection Deadline**”), the Court extended the Claim Objection Deadline to July 15, 2021.

10. Over 3,500 claims have been filed in the Chapter 11 Cases. The Liquidating Trustee has made considerable progress in evaluating objections to certain claims, resolving certain of those objections through settlement, and objecting to other of those claims and obtaining orders disallowing them on a negative notice basis without contested proceedings before the Court. As of the date of this Motion, only fifty-three Claims remain in the Disputed Claims Reserve. These fifty-three Disputed Claims fall into one of three categories: (1) thirty-

one are reserved for administrative reasons, *i.e.*, the claimant has not provided a valid W-9 (nineteen claims), the claimant is deceased (five claims), or the Liquidating Trustee has not located a good mailing address for the claimant (seven claims); (2) eighteen are claims by former agents, persons related to former agents of 1GC, or insiders of 1GC;<sup>3</sup> and (3) four claims are those of a former merchant and guarantor of a merchant cash advance made by 1GC,<sup>4</sup> a chapter 7 trustee of a former merchant of 1GC,<sup>5</sup> and a former alleged investor in 1GC. The Liquidating Trustee's professionals continue to work diligently to analyze the remaining claims, resolve them without significant contested matters where possible, and file claim objections where necessary or appropriate. Given the initial volume of claims filed in the Chapter 11 Cases, and the progress to date in winnowing the Disputed Claims from more than 3,500 to fifty-three as set forth above, the Liquidating Trustee and his professionals require additional time to complete their analysis of the claims, to resolve certain claims without the need for protracted claims litigation, and to determine which claims warrant objection.

### **RELIEF REQUESTED**

11. By this Motion, the Liquidating Trustee requests that the Court enter the Proposed Order, extending the Claim Objection Deadline from July 15, 2021 to the date that is ninety (90) days after entry of the Proposed Order, without prejudice to any request for a further extension.

### **BASIS FOR RELIEF REQUESTED**

12. Fed R. Bankr. P. 9006(b)(1) provides:

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<sup>3</sup> The Liquidating Trustee has recently filed a claim objection [ECF No. 2546] as to one of these Insiders, Besvea Media Inc., and expects soon to file a claim objection as to a second of these Insiders.

<sup>4</sup> The Liquidating Trustee has been in communication with this merchant and guarantor by letter and telephone, and are engaged in continuing efforts to resolve this claim consensually.

<sup>5</sup> The Liquidating Trustee has initiated communication with the chapter 7 trustee in an effort to resolve this claim consensually.

[W]hen an act is required or allowed to be done at or within a specified period ... by order of court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the request therefore is made before expiration of the period originally prescribed or as extended by a previous order...

FED. R. BANKR. P. 9006(b)(1). The Plan specifically contemplates extension of the Claim Objection Deadline by order of this Court. *See* Plan at § 1.19 (stating that the Claim Objection Deadline “may be extended upon request by the Liquidating Trustee and order of the Bankruptcy Court after notice and a hearing . . .”).

13. This request is being made before the Claim Objection Deadline and therefore falls within Rule 9006(b)(1). Though Rule 9006 does not define “cause” it has been noted that “courts should be liberal in granting extensions of time sought before the period to act has elapsed, as long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions has not been abused.” 10 Collier on Bankruptcy (15th ed. rev. 2002) at 9006-14.

14. In the context of determining whether “cause” exists regarding requests for extension of time, courts have considered such factors as the size and complexity of the issues involved, the debtor’s good faith progress in resolving issues, the amount of time elapsed in the case, and whether any prejudice will result to the creditors. *In re Express One Int’l, Inc.*, 194 B.R. 98, 100 (Bankr. E.D. Tex. 1996). The Liquidating Trustee submits that cause exists to grant the relief requested herein.

15. Since the Court entered the Order Extending Claim Objection Deadline, the Liquidating Trustee and his professionals have worked diligently to reconcile and administer the Claims. The Liquidating Trustee and his professionals have reviewed numerous Claims, including any supporting documentation filed therewith, actively engaged in negotiations with

claimants regarding many of the Claims, and successfully reconciled a significant portion of all Claims filed against the Debtors. The Liquidating Trustee successfully objected to several Claims thereby significantly reducing the aggregate amount of disputed Claims. The Liquidating Trustee remains actively engaged in discussions with the holders of the largest remaining Claims against the Debtors' estates and is optimistic that consensual resolutions can be negotiated, which will preserve the Trust's and judicial resources. Although the Liquidating Trustee has made and continues to make good progress in the claims reconciliation process, additional time is required to continue negotiating resolutions with the holders of disputed Claims and finalize claim objections as necessary or appropriate.

16. The Liquidating Trustee's efforts with respect to the claims reconciliation process were initially slowed upon the Effective Date of the Plan because the Liquidating Trustee was focused on handling the mechanics related to making an initial distribution to creditors, which include individual investors, self-directed Individual Retirement Accounts and business entities. Coordinating the distribution of nearly \$118 million to so many creditors required meticulous planning.

17. The Liquidating Trustee's efforts were also slowed due to the unprecedented effects of the COVID-19 pandemic. For a time, much of the country was under "stay at home" or similar orders, and even in locations where no such order was formally in place, travel restrictions and other concerns have significantly impacted the Liquidating Trustee's ability to complete its review and reconciliation of the Claims.

18. Under the circumstances, the additional time furnished by prior extensions of the Claim Objection Deadline facilitated the efficient administration of the Trust. These extensions permitted the Liquidating Trustee to negotiate and resolve through settlement rather than

litigation matters that but for the extensions would have been filed with the Court as claim objections to comply with the prior deadlines. These extensions avoided the fees and costs that would have been incurred with such filings, and avoided unnecessarily using the Court's resources. The Liquidating Trustee expects that a sixth extension will continue to result in out-of-court resolutions of remaining claim issues and thereby further conserve the parties' and judicial resources.

19. Thus, the additional time requested in this Motion will ensure that the Liquidating Trustee's review of claims is made as efficiently and accurately as possible and that all claims that warrant objections are properly identified and objected to so that all creditors of the Debtors will receive just and equitable distributions under the Plan. Absent the extension, moreover, the Trust and its beneficiaries may suffer unnecessary and unfair prejudice, as the Liquidating Trustee will be precluded from challenging invalid, misclassified and/or overstated Claims that may yet be discovered.<sup>6</sup>

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<sup>6</sup> The Trustee intends to serve a copy of this Motion on all holders with claims currently held in the Disputed Claims Reserve (as defined in the Plan), except for holders for whom the Trustee is withholding distribution for administrative purposes such as lack of a valid W-9 or a valid mailing address.

**CONCLUSION**

WHEREFORE, the Liquidating Trustee respectfully requests that the Court enter an order, substantially in the form attached hereto, (i) extending the Claim Objection Deadline through and including the date that is ninety (90) days after entry of the Proposed Order, without prejudice to any request for a further extension; and (ii) granting such other and further relief as is just and proper.

Dated: July 13, 2021

BAKER & MCKENZIE LLP

/s/ John R. Dodd

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**Exhibit A**

Proposed Order

(Attached)

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION  
www.flsb.uscourts.gov

In re:

1 GC COLLECTIONS, *et al.*,<sup>1</sup>  
Debtors.

Chapter 11

Case No. 18-19121-RAM  
(Jointly Administered)

**ORDER GRANTING SIXTH MOTION TO  
EXTEND THE DEADLINE TO OBJECT TO CLAIMS**

THIS MATTER came before the Court at a hearing on \_\_\_\_\_, 2021, at  
\_\_:\_\_ \_\_. m. upon the *Sixth Motion of the Liquidating Trustee to Extend the Deadline to  
Object to Claims* [ECF No. \_\_\_\_\_] (the “**Motion**”)<sup>2</sup> filed by the Liquidating Trustee for entry  
of an order extending the Claim Objection Deadline. Upon consideration of the Motion, the

<sup>1</sup> The Debtors in the Chapter 11 Cases, along with the business addresses and the last four (4) digits of each Debtor’s federal tax identification number, if applicable, are: 1 GC Collections, c/o Development Specialists, Inc., 500 West Cypress Creek Road, Suite 400, Fort Lauderdale, Florida 33309 (9517); and 1 West Collections, c/o Development Specialists, Inc., 500 West Cypress Creek Road, Suite 400, Fort Lauderdale, Florida 33309 (1711).

<sup>2</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion.

Court finds that (i) it has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A); (iii) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; (iv) the relief requested in the Motion is in the best interests of the Trust and other parties in interest; (v) notice of the Motion was appropriate under the circumstances and no other notice need be provided; and (vi) upon review of the record before the Court, including the legal and factual bases set forth in the Motion and the statements of counsel at the Hearing, good and sufficient cause exists to grant the relief requested. Accordingly, it is

**ORDERED** that:

1. The Motion is GRANTED.
2. The Claim Objection Deadline is hereby extended to and including the date that is 90 days from the date of entry of this Order, without prejudice to the right of the Liquidating Trustee to seek a further extension of the Claim Objection Deadline.
3. The Court retains jurisdiction as to all matters relating to or arising from the interpretation or implementation of this Order.

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Submitted by:

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*Co-Counsel for the Liquidating Trustee*

*(Epiq is directed to serve copies of this Order upon all interested parties and to file a Certificate of Service with the Court.)*