

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

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In re:

1 GC COLLECTIONS, *et al.*,¹

Debtors.

Chapter 11

Case No. 18-19121-RAM

(Jointly Administered)

**LIQUIDATING TRUSTEE'S OBJECTION TO
CLAIM NO. 2562 FILED BY BESVEA MEDIA INC.**

**IMPORTANT NOTICE TO CREDITOR:
THIS IS AN OBJECTION TO YOUR CLAIM**

This objection seeks either to disallow or reduce the amount or change the priority status of the claim filed by you or on your behalf. Please read this objection carefully to identify which claim is objected to and what disposition of your claim is recommended.

If you disagree with the objection or the recommended treatment, you must file a written response WITHIN 30 DAYS from the date of service of this objection, explaining why your claim should be allowed as presently filed, and you must serve a copy to Paul Keenan and John Dodd, Baker & McKenzie LLP, 1111 Brickell Avenue, Suite 1700 Miami, FL 33131, OR YOUR CLAIM MAY BE DISPOSED OF IN ACCORDANCE WITH THE RECOMMENDATION IN THIS OBJECTION.

The written response must contain the case name, case number, and must be filed with the Clerk of the United States Bankruptcy Court.

James S. Cassel, as liquidating trustee (the “**Liquidating Trustee**”) of the 1 GC Collections Creditors’ Liquidating Trust (including any successor or assign, the “**Trust**”), objects (this “**Objection**”) to Claim No. 2562 (the “**Disputed Claim**”) filed by Besvea Media

¹ 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).

Inc. (“**Besvea**”), pursuant to sections 105(a) and 502 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “**Bankruptcy Code**”), 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 Southern District of Florida (the “**Local Rules**”), and requests entry of an order, substantially in the form attached hereto as **Exhibit A**, disallowing and expunging the Disputed Claim. In support of this Objection, the Liquidating Trustee states:

JURISDICTION AND VENUE

1. The Bankruptcy Court has jurisdiction over this Objection pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).
2. Venue is proper before this Bankruptcy Court pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory and legal predicates for the relief requested herein are sections 105(a) and 502 of the Bankruptcy Code, Bankruptcy Rule 3007, Local Rule 3007-1, and section 8.02 of the Plan.

BACKGROUND

A. Status of Chapter 11 Cases.

4. On July 27, 2018 (the “**Petition Date**”), the above-captioned debtors (collectively, 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] (the “**Confirmation Order**”), confirming the First Amended Joint Chapter 11 Plan of Liquidation [Ex. A., ECF No. 1197] (the “**Plan**”),² directing the execution of the 1 GC Collections Creditors’ Liquidating Trust Agreement (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, the Trust was created, and the Liquidating Trustee appointed. Among other things, the Liquidating Trustee may object to Disputed Claims and prosecute, settle, compromise, withdraw or resolve in any manner approved by the Bankruptcy Court such objections.

B. Treatment of Insiders Under the Plan.

7. The Plan provides that Holders of Subordinated Claims are not entitled to receive a Distribution under the Plan on account of such claims. Plan § 3.04(f). Under the Plan, Subordinated Claims, include any claim held by an Insider. Therefore, Insiders are not entitled to receive any recovery on account of Insider Claims.

C. Prepetition Relationship Between 1GC and Besvea.

8. On October 31, 2014, Besvea and 1GC entered into a Syndication Partner Agreement (the “**Syndication Agreement**”). Pursuant to the Syndication Agreement, Besvea requested the opportunity to participate as a partner with 1GC in certain merchant cash advance transactions and expressed an interest in investing funds with 1GC. Upon execution of the

² All capitalized terms used in the Objection but not defined herein shall have the meanings set forth for such terms in the Plan.

Syndication Agreement, \$300,000 was invested with 1GC for Besvea. Upon information and belief, Scott Ruderman executed the Syndication Agreement and is a son of Carl Ruderman. At all times relevant before the Petition Date, Carl Ruderman served as the Chief Executive Officer and the Chairman, and/or was a person in control, of 1GC. Carl Ruderman is a prepetition Insider of the Debtors. Similarly, Scott Ruderman is a prepetition Insider of the Debtors.

D. The Disputed Proof of Claim.

9. On December 4, 2018, Besvea filed the unsecured Disputed Claim against the Debtors in the total amount of \$401,378.73. Besvea asserted money loaned as the basis of the Disputed Claim. The Disputed Claim was signed by Scott Ruderman. Besvea itself does not appear actually to exist in that after a diligent review of the public records of several states the Liquidating Trustee has not found any evidence Besvea was or is formally incorporated.³ Based on the foregoing matters, the Liquidating Trustee has concluded that the Disputed Claim should be disallowed because the Disputed Claim is a claim asserted by an Insider. The Debtors' estates have no obligation or liability on account of Insider Claims. *See* Plan § 3.04(f).

RELIEF REQUESTED

10. The Liquidating Trustee seeks entry of an order, substantially in the form attached hereto as **Exhibit A**, sustaining the Objection and disallowing and expunging the Disputed Claim. The Liquidating Trustee has reviewed the Disputed Claim and believes that the Disputed Claim does not represent a liability of the Debtors' estates because the Disputed Claim constitutes an Insider Claim, which under the Plan are not entitled to a distribution. In the

³ Specifically, as of June 29, 2021, the Liquidating Trustee has reviewed the public records of the following states and found no record of Besvea: California, Connecticut, Delaware, Florida, Maine, Massachusetts, New Jersey, Nevada, and New York.

alternative, the Liquidating Trustee requests that the Disputed Claim be classified as a Class 7 Subordinated Claim.

BASIS FOR RELIEF REQUESTED

11. Section 3.04 of the Plan provides, in relevant part:

(f) Subordinated Claims (collectively, “Class 7 Claims”)

Classification: Class 7 Claims consist of all Subordinated Claims against the Debtors.

Treatment: Holders of Class 7 Claims shall not receive a Distribution under the Plan on account of such claims.

Voting: Class 7 Claims are Impaired by the Plan and are receiving no Distribution under the Plan. Holders of Subordinated Claims are deemed to reject the Plan and are, therefore, not entitled to vote to accept or reject the Plan.

12. Section 1.113 of the Plan provides that a Subordinated Claim includes “any Insider Claim[.]” Sections 1.62 and 1.63 provide that an Insider Claim is any claim against a debtor held by an “insider” as defined in Section 101(31) of the Bankruptcy Code. Among other things, an “insider” within the meaning of the Bankruptcy Code includes a “relative of a general partner, director, officer, or person in control of the debtor”. 11 U.S.C. §101(31)(B)(vi).

13. Applying these provisions of the Plan, the Disputed Claim is a Class 7 Subordinated Claim not entitled to any Distribution. Scott Ruderman is the holder of the Disputed Claim. He is a relative of Carl Ruderman, a former officer, director and/or person in control of the Debtors, and therefore an insider. Accordingly, the Disputed Claim is an Insider Claim not entitled to receive a Distribution under the Plan. The Disputed Claim should be disallowed and expunged or, in the alternative, classified as a Class 7 Subordinated Claim, to

prevent Scott Ruderman from improperly obtaining a recovery on account of the Disputed Claim.

14. This relief is necessary and appropriate to prevent the allowance of the Disputed Claim to the detriment of the Trust, the beneficial holders of the Trust and other parties in interest. This Court has sustained similar objections to other Insider Claims. *See Order Sustaining The Official Committee of Unsecured Creditors' Objection to Claim Nos. 2561 and 2563 Filed by Snowflake* [ECF No. 2218] (sustaining claim objection against Snowflake Ltd., an alleged entity controlled or owned by Svetlana Ruderman, Carl Ruderman's wife). If the Disputed Claim is not formally disallowed and expunged from the claims register, or reclassified as a Class 7 Subordinated Claim, the potential exists for Scott Ruderman to receive a recovery on account of the Disputed Claim, to the ultimate detriment of the beneficial holders of the Trust and other parties in interest.

RESERVATION OF RIGHTS

15. This Objection is limited to the grounds stated herein. Accordingly, it is without prejudice to the rights of the Liquidating Trustee or any other party in interest to object to the Disputed Claim on any grounds whatsoever and the Liquidating Trustee expressly reserves all further substantive or procedural objections he may have.

CONCLUSION

WHEREFORE, the Liquidating Trustee respectfully requests that the Court enter an order substantially in the form attached hereto as **Exhibit A**, (i) sustaining the Objection, (ii) disallowing and expunging the Disputed Claim or, in the alternative, reclassifying the

Disputed Claim to Class 7; and (iii) granting such other and further relief as may be just and proper.

Dated: July 8, 2021

BAKER & MCKENZIE, LLP

/s/ Reginald Sainvil

Paul Keenan (Fla. Bar. No. 594687)

John R. Dodd (Fla. Bar. No. 38091)

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Co-Counsel for the Liquidating Trustee

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.*,¹
Debtors.

Chapter 11

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

**ORDER SUSTAINING LIQUIDATING TRUSTEE'S OBJECTION
TO CLAIM NO. 2562 FILED BY BESVEA MEDIA INC.**

THIS MATTER came before the Court upon the *Liquidating Trustee's Objection to Claim No. 2562 Filed by Besvea Media Inc.* [ECF No. [____]] (the “**Objection**”)² filed by the Liquidating Trustee. By way of the Objection, the Liquidating Trustee seeks entry of an order,

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² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Objection.

pursuant to sections 105(a) and 502 of the Bankruptcy Code, Bankruptcy Rule 3007, and Local Rule 3007-1, disallowing and expunging the Disputed Claim.

The Court, having reviewed the Objection, finds that (i) it has jurisdiction over the matters raised in the Objection 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) and this Court may enter a final order consistent with Article III of the Constitution; (iii) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; (iv) the relief requested in the Objection is in the best interests of the Trust, the beneficial holders of the Trust and other parties in interest; (v) notice of the Objection was appropriate under the circumstances and no other notice need be provided; (vi) the Liquidating Trustee represented that the Objection was served upon all the parties required, that the 30-day response time provided by Local Rule 3007-1(D) has expired, that no one has filed or served a response to the Objection; and (vii) upon review of the record before the Court, including the legal and factual bases set forth in the Objection, good and sufficient cause exists to grant the relief requested. Accordingly, it is

ORDERED as follows:

1. The Objection is **SUSTAINED**.
2. Claim No. 2562 filed by Besvea is disallowed.
3. The Liquidating Trustee is authorized to expunge the Disputed Claim from the claims register.
4. The Order shall be without prejudice to the Liquidating Trustee's ability to assert other causes of action.
5. The Liquidating Trustee is hereby authorized and empowered to take all actions necessary to implement the relief granted in this Order.

6. This Court shall retain jurisdiction with respect to all matters arising from or relating to 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.)