

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
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DITECH HOLDING CORPORATION, <i>et al.</i> ,	:	Case No. 19-10412 (JLG)
	:	
Debtors. ¹	:	(Jointly Administered)
	:	Related Docket No. 3736
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ORDER GRANTING CONSUMER CLAIMS TRUSTEE’S FORTY-NINTH
OMNIBUS OBJECTION TO PROOFS OF CLAIM (INSUFFICIENT LEGAL BASIS
UNSECURED CONSUMER CREDITOR CLAIMS)

The Consumer Claims Trustee by the *Consumer Claims Trustee’s Forty-Ninth Omnibus Objection to Proofs of Claim (Insufficient Legal Basis Unsecured Consumer Creditor Claims)* filed on October 18, 2021 (the “**Objection**”),² seeks an entry of an order, under section 502(b) of the title 11 of the United States Code, Rule 3007(d) of the Federal Rules of Bankruptcy Procedure, and this Court’s order for approving procedures for the filing of omnibus objections to proofs of claim (the “**Claim Procedures Order**”), disallowing the Insufficient Legal Basis Unsecured Consumer Creditor Claims on the basis that, for the reasons stated on Exhibit A, such claims fail

¹ The Debtors confirmed the *Third Amended Joint Chapter 11 Plan of Ditech Holding Corporation and Its Affiliated Debtors* (ECF No. 1326) (the “**Third Amended Plan**”), which created the Wind Down Estates. Wind Down Estates, along with the last four digits of their federal tax identification number, as applicable, are Ditech Holding Corporation (0486); DF Insurance Agency LLC (6918); Ditech Financial LLC (5868); Green Tree Credit LLC (5864); Green Tree Credit Solutions LLC (1565); Green Tree Insurance Agency of Nevada, Inc. (7331); Green Tree Investment Holdings III LLC (1008); Green Tree Servicing Corp. (3552); Marix Servicing LLC (6101); Walter Management Holding Company LLC (9818); and Walter Reverse Acquisition LLC (8837). The Wind Down Estates’ principal offices are located at 2600 South Shore Blvd., Suite 300, League City, TX 77573.

² Capitalized terms not otherwise herein defined shall have the meanings assigned to them in the Objection.

to state a legal basis for the claim or attach supporting documentation sufficient to establish the legal basis and demonstrate the claimant's right to compensable recovery. It appearing that this Court has jurisdiction to consider the Objection under 28 U.S.C. §§ 157 and 1334; that the relief requested is a core proceeding under 28 U.S.C. §157(b); that venue is proper before this Court under 28 U.S.C. §§ 1408 and 1409; that due and proper notice of the Objection has been provided, and that such notice was adequate and appropriate under the circumstances such that no other or further notice need be provided; that the Objection complies with the Claim Procedures set forth in the Claim Procedures Order; the Court finds and determines that the relief sought in the Objection is in the best interest of the Debtors' estates, creditors, and all parties in interest and that the legal and factual bases set forth in the Objection establish just cause for the relief granted herein, and it is:

ORDERED that the relief requested in the Consumer Claims Trustee's Forty-Ninth Omnibus Objection to Proofs of Claim is granted to the extent provided in this Order;

ORDERED that, under section 502(b) of the Bankruptcy Code, the claims listed on Exhibit A annexed hereto (collectively, the "**Insufficient Legal Basis Unsecured Consumer Creditor Claims**") are disallowed with prejudice;

ORDERED that Epiq Corporate Restructuring, LLC, the Debtors' claims and noticing agent, is directed to mark the Debtors' Claims Register to show the Insufficient Legal Basis Unsecured Consumer Creditor Claims listed on Exhibit A to this Order as disallowed and expunged so that such claims are no longer maintained on the Debtors' Claims Register;

ORDERED that the Trustee is authorized and empowered to take all actions as may be necessary and appropriate to implement the terms of this Order;

ORDERED that notice of the Consumer Claims Trustee's Forty-Ninth Omnibus Objection to Proofs of Claim shall be deemed adequate and appropriate notice of such Objection, and the requirements of Bankruptcy Rule 3007(a), the Order Implementing Certain Notice and Case Management Procedures, entered March 19, 2019 (ECF No. 211), the Claims Procedures Order, and the Local Bankruptcy Rules of this Court are satisfied by such notice;

ORDERED that this Order has no res judicata, estoppel, or other effect on the validity, allowance, or disallowance of any claim not listed in Exhibit A, and the Trustee and any party in interest's rights to object on any basis is expressly reserved with respect to any such claim not listed on Exhibit A;

ORDERED that this Order shall be a final order with respect to each of the Insufficient Legal Basis Unsecured Consumer Creditor Claims identified on Exhibit A, as contemplated by Bankruptcy Rule 9014, as if each such Insufficient Legal Basis Unsecured Consumer Creditor Claim had been individually objected to;

ORDERED that any stay of this Order pending appeal by any claimants whose claims are subject to this Order shall apply only to the contested matter that involves such claim and shall not act to stay the applicability and /or finality of this Order with respect to the other contested matters listed in the Objection or this Order;

ORDERED that the terms and conditions of this Order are effective immediately upon entry;

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: January 10, 2022
New York, New York

/s/ James L. Garrity, Jr.

HONORABLE JAMES L. GARRITY, JR.
UNITED STATES BANKRUPTCY JUDGE

Exhibit A

Consumer Claims Trustee's Forty-Ninth Omnibus Objection to Proofs of Claim
(Insufficient Legal Basis Unsecured Consumer Creditor Claims)

Creditor/Address	Claim Number	Total Claim Amount	Basis for Objection
Allen, Hazel R Charleston, WV	1419	\$9,701.97	Claim satisfied by third-party. Claimant fails to state a further legal claim for which relief may be granted.
Case, James R & Jamie L	1016	\$74,000.00	Claim satisfied by third-party. Claimant fails to state a further legal claim for which relief may be granted.
Dawson, Martha et. al., Estate of Virginia Beach, VA	1595	\$70,000.00	Claim satisfied via account correction/loan modification with successor servicer. Claimant fails to state a further legal claim for which relief may be granted.
Drilling, Joan S & Stephen J Visalia, CA	24596	\$1,373.00	Claim alleges double payment of flood insurance. After review of Debtors' book & records, second payment was refunded to claimant and therefore there was no error. Claim filed untimely.
Figgs, Nyota Chicago, IL	2020	\$7,000.00	Claimant fails to state a legal claim for which relief may be granted, and inconsistent with Debtors' books and records.
Fowler, Judith Sacramento, CA	24718	\$1,548.86	Claimant fails to state a legal claim for which relief may be granted. Claim filed untimely.
Goulla, Darla Brackettville, TX	24720	\$250,000.00	Claimant fails to state a legal claim for which relief may be granted. Claim filed untimely. Previously filed claims withdrawn by claimant (1465) or disallowed (1466, 1467, 1468); any further claims barred by res judicata.
Granello, Cathey R Houston, TX	21512	\$17,958.32	Claimant fails to state a legal claim for which relief may be granted.

Creditor/Address	Claim Number	Total Claim Amount	Basis for Objection
Gutierrez, Antonia Ponce	20774	\$0.00	Claimant fails to state a legal claim for which relief may be granted.
Hulshof, Diedrie Coloma, MI	24717	\$5,000.00	Claimant fails to state a legal claim for which relief may be granted. Claim filed untimely.
Jiva, Naheed A Chicago, IL	1314	\$0.00	Claimant fails to state a legal claim for which relief may be granted. Claimant further seeks injunctive relief that the Consumer Claims Trustee cannot provide.
Kahi, Edward Kennesaw, GA	24711	\$0.00	Claimant fails to state a legal claim for which relief may be granted. Claim filed untimely.
King, Frank Saint Louis, MO	2067	\$1,482.20	Claimant fails to state a legal claim for which relief may be granted.
Lauderdale, Charles Williford Mineola, TX	1736	\$1,750.61	Claimant fails to state a legal claim for which relief may be granted. Claim filed untimely. Further any possible claims related to 2003 modification process are barred by the statute of limitations.

Creditor/Address	Claim Number	Total Claim Amount	Basis for Objection
Lee, J. C. & Spouse, Wendy Hill Nacogdoches, TX	20383	\$15,000.00	Claimant asserts various improper charges on the account, including interest, insurance, and late fees. Upon review of the Debtors' books and records, the charges appear proper. Further, claimants fail to state any legal claims upon which relief may be granted. The breach of fiduciary duty claim fails as a matter of law because mortgage servicers have no fiduciary duties to borrowers. The FDCPA claim fails because the account was assigned to Green Tree prior to default. The Deceptive Trade Practices Act claim, which is predicated on violations of the Texas Insurance Code, fails because the Insurance Code does not cover mortgage servicers. Finally, any claims would be barred by the statutes of limitations.
Li, Xiaozhong Shanghai, China	24421	\$10.80	Claim appears to assert misapplication of May 2019 payments. After review of the Debtors' books and records, there is no basis for asserted error in application. Claimants fail to state a legal claim for which relief may be granted.
Michalowski, Stephan & Deborah Douglassville, PA	2308	\$173,000.00	Claimants fail to state a legal claim for which relief can be granted. Claim filed untimely.
Pasterchek, Thomas E Wadsworth, OH	1687	\$160,000.00	Claimant fails to state a legal claim for which relief may be granted.
Pattyson, Randy L Sinclairville, NY	2456	\$60,000.00	Claimant fails to state a legal claim for which relief may be granted. Claim filed untimely.

Creditor/Address	Claim Number	Total Claim Amount	Basis for Objection
Pattyson, Randy L Sinclairville, NY	24103	\$60,000.00	Claimant fails to state a legal claim for which relief may be granted. Claim filed untimely.
Quinkert, Thomas P and Wilczak, Steven R Detroit, MI	21373	\$0.00	Claimants fail to state a legal claim for which relief may be granted.
Rogers, Colin San Leandro, CA	24709	\$3,006.41	Check for funds in question was issued to and cashed by claimant and therefore the claim has been satisfied and no further relief is necessary. Claim filed untimely.
Samuel, Felicia Arlington, TX	24715	\$0.00	Claimant fails to state a legal claim for which relief may be granted.
Tapiavala, Vinod Plano, TX	24716	\$221.00	Claimant fails to state a legal claim for which relief may be granted. Claim filed untimely.
Tibbs, Sylvia K Maricopa, AZ	24713	\$0.00	Claimant fails to state a legal claim for which relief may be granted. Claim further seeks injunctive relief which the Consumer Claims Trustee cannot provide. Claim filed untimely.
Walker, Ann Marie Westwood, NJ	23597	\$50,000.00	Claimant fails to state a claim for which relief may be granted.
Walsh, Thomas M Plainwell, MI	24708	\$0.00	Claimant fails to state a legal claim for which relief may be granted. Claim filed untimely.

Creditor/Address	Claim Number	Total Claim Amount	Basis for Objection
Walters, Phyllis J Floyd, VA	23474	\$1,000,000.00	Claimant asserts claims against Bank of America, Nationstar, and Champion Mortgage, which are not Debtors in this proceeding. Claimant further asserts that RMS failed to timely release insurance proceeds; according to RMS' books & records claimant has not satisfied necessary pre-conditions for release of funds; reorganized RMS continues to hold restricted escrow funds. Claimant fails to state a claim against Debtors for which relief may be granted.
Wilson, Walter & Mary Decatur, MS	2736	\$0.00	Claimant's allegations of erroneous late fees are inconsistent with Debtors' books and records; appear to be appropriately applied. Claimant fails to state a claim for which relief can be granted. Claim filed untimely.