

Hearing Date: June 29, 2020 at 9:30 a.m. (Prevailing Eastern Time)
Response Deadline: June 22, 2020 at 4:00 p.m. (Prevailing Eastern Time)

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Counsel for the Estate and the Plan Administrator

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

-----X
In re:

Chapter 11

FEDERATION EMPLOYMENT AND
GUIDANCE SERVICE D/B/A FECS¹,

Case No.: 15-71074 (REG)

Debtor.

-----X

**PLAN ADMINISTRATOR’S EIGHTH OMNIBUS OBJECTION
TO CERTAIN PROOFS OF CLAIM FILED AGAINST THE ESTATE**

(Late Filed Prepetition General Unsecured Claims)

Judith Pincus, as Plan Administrator (the “Plan Administrator”) for the post-confirmation chapter 11 estate of Federation Employment and Guidance Service, Inc. d/b/a FECS (the “Estate”), by and through her counsel, hereby submits this omnibus objection (the “Objection”) seeking entry of an Order pursuant to 11 U.S.C. § 502 and Fed. R. Bankr. P. 3007 expunging certain proofs of claim, which are identified on Exhibit A, each of which is a prepetition general unsecured claim that was filed after the General Bar Date (each a “Claim” and, collectively, the “Claims”). In support of the Objection, the Plan Administrator represents as follows:

¹ The last four digits of the Debtor’s federal tax identification number are 4000.

CASE BACKGROUND

1. On March 18, 2015 (the “Petition Date”), Federation Employment and Guidance Service, Inc. d/b/a FEES (the “Debtor”) filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Eastern District of New York (the or this “Court”). The Debtor continued in possession of its remaining assets as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

2. On March 24, 2015, the Court entered an order authorizing the Debtor to employ Omni Agent Solutions as the Debtor’s Claims and Noticing agent [Docket No. 73].

3. On March 31, 2015, the United States Trustee appointed the Official Committee of Unsecured Creditors (the “Committee”) [Docket No. 105].

4. On March 19, 2015, the Debtor filed its schedules of assets and liabilities and statement of financial affairs (the “Schedules”) [Docket Nos. 180-81].

5. On August 18, 2015, the Court entered an Order (the “Bar Date Order”) setting October 5, 2015 as the general bar date for both general creditors of the Debtor’s Estate, as well as governmental units, to file proofs of claim against the Debtor’s Estate relating to the pre-petition period, including, without limitation, proofs of claim asserting a priority under section 503(b)(9) of the Bankruptcy Code (the “General Bar Date”) [Docket No. 471].

6. By Order dated October 2, 2015 (the “Administrative Bar Date Order”), the Court established November 6, 2015 (the “Administrative Bar Date”) as the deadline for the filing of

all claims asserting administrative priority which accrued from the Petition Date through August 31, 2015 [Docket No. 518].

7. On February 6, 2018, the Court entered an Order (the “Confirmation Order”) confirming the *Third Amended Plan of Liquidation Under Chapter 11 of the Bankruptcy Code of Federation Employment and Guidance Service, Inc. d/b/a FECS* (the “Plan”) [Docket No. 1050]. Pursuant to the Confirmation Order, Judith Pincus has been appointed Plan Administrator.

8. Pursuant to the Plan, the Plan Administrator has the authority, among other things, to object to claims on behalf of the Estate.

9. On March 16, 2018, the Debtor filed its *Notice of (I) Occurrence of Effective Date of Plan; (II) Supplemental Administrative Claims Bar Date; (III) Professional Fee Claims Bar Date; and (IV) Bar Date For Proofs of Claim Relating to Executory Contracts Rejected Pursuant to the Plan* (the “Effective Date Notice”), declaring the Plan to be effective as of March 1, 2018 (the “Effective Date”) [Docket No. 1056].

10. Pursuant to the Plan the deadline for the filing of all claims asserting an administrative priority which accrued from September 1, 2015 through February 28, 2018 was April 16, 2018 (the “Supplemental Administrative Claims Bar Date”) and the deadline for filing claims relating to damages caused by the rejection of executory contracts was April 30, 2018 (the “Rejection Damages Bar Date”).

11. On May 18, 2018, the Plan Administrator filed a *Motion for an Order Approving Omnibus Claim Objection Procedures* (the “Omnibus Procedures Motion”) [Docket No. 1082]. The Omnibus Procedures Motion was granted by Order of the Court dated June 8, 2018 (the “Omnibus Procedures Order”) [Docket No. 1096].

JURISDICTION

12. This Court has jurisdiction over this Objection pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A), (B), and (O). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

13. The Plan Administrator, after a review of claims filed against the Estate, has determined that the proofs of claim identified on Exhibit A, under the heading “Claims to be Expunged,” are prepetition general unsecured claims that were untimely filed after the General Bar Date. Accordingly, the Plan Administrator seeks entry of an Order expunging the Claims.

BASIS FOR RELIEF REQUESTED

14. Section 502 of the Bankruptcy Code provides, in pertinent part, as follows:

(a) A claim or interest, proof of which is filed, under section 501 of this title, is deemed allowed, unless a party in interest, including a creditor of a general partner in a partnership, that is a debtor in a case under chapter 7 of this title, objects.

11 U.S.C. § 502(a). As set forth in Bankruptcy Rule 3001(f), a properly executed and filed proof of claim constitutes prima facie evidence of the validity and the amount of the underlying claim under § 502(a) of the Bankruptcy Code. *See* Fed. R. Bankr. P. 3001(f). To receive the benefit of prima facie validity, however, “the proof of claim must ‘set forth facts necessary to support the claim.’” *In re Chain*, 255 B.R. 278, 280 (Bankr. D.Conn. 2000) (quoting *In re Marino*, 90 B.R. 25, 28 (Bankr. D. Conn. 1988)). Additionally, the Bar Date Order established the General Bar Date, and provides:

“that pursuant to Bankruptcy Rule 3003(c)(2), a holder of a claim that fails to comply with this Order by timely filing a Proof of Claim in appropriate form shall not be treated as a creditor with respect to that claim for purposes of voting and

distribution and such claim shall be forever barred from being asserted against the Debtor.”

(Bar Date Order. at 4-5.)

15. The Plan Administrator, after a review of various claims filed against the Estate, has determined that each of the Claims identified on Exhibit A are prepetition general unsecured claims which were untimely filed after the General Bar Date. Accordingly, each such Claim should be disallowed and expunged in accordance with the Bar Date Order. Additionally, allowing such untimely claims would prejudice those creditors who timely filed their claims in accordance with the Bar Date Order by reducing the ultimate distribution to holders of such timely filed claims. As such, the Plan Administrator seeks entry of an Order expunging those Claims listed on Exhibit A.

RESERVATION OF RIGHTS

16. The Plan Administrator reserves all rights to object to any surviving claim against the Estate whether asserted or unasserted and to further object to any surviving claim on any other grounds discovered by the Plan Administrator during the pendency of this case. Should the objection addressed herein be denied or dismissed, the Plan Administrator reserves her rights to further object to the disputed Claim, or Claims, on any other grounds discovered by the Plan Administrator during the pendency of this case.

NOTICE

17. Notice of this Objection will be given by mailing a copy of this Objection and the proposed order to (i) the Office of the United States Trustee for this district, (ii) counsel for the Oversight Committee, and (iii) each of the Claimants, or their counsel, listed on Exhibit A. Entities who have filed a notice of appearance in accordance with Bankruptcy Rule 2002 shall receive notice through ECF.

WHEREFORE, the Plan Administrator respectfully requests that the relief requested herein be granted and the Court enter an order, substantially in the form annexed hereto as Exhibit B, and grant such other and further relief as is just and proper.

Dated: Great Neck, New York
May 27, 2020

GARFUNKEL WILD, P.C.

Counsel for the Estate and the Plan Administrator

By: /s/ Adam T. Berkowitz
Burton S. Weston, Esq.
Adam T. Berkowitz, Esq.
111 Great Neck Road
Great Neck, NY 11021
Telephone: (516) 393-2200
Facsimile: (516) 466-5964

Exhibit A

**Federation Employment and Guidance Service Inc. d/b/a FECS
Exhibit A – Late Filed Claims to be Expunged**

SEQ. NO.	Claimant	Claim No.	Date Filed	Claim Amount
1	Castlevale Construction Enterprises	2466	6/24/2016	Unsecured: \$16,440.00
2	Henry Schein, Inc.	2458	12/22/2015	Unsecured: \$2,190.50
3	Henry Schein, Inc.	2459	12/22/2015	Unsecured: \$674.88
4	Noor Staffing Group, LLC	2468	5/22/2017	Unsecured: \$4,725.00
5	W B Mason Co Inc.	2240	10/26/2015	Unsecured: \$27,573.79

Exhibit B

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

-----x
In re:

Chapter 11

FEDERATION EMPLOYMENT AND
GUIDANCE SERVICE, INC. d/b/a FEFS¹,

Case No. 15-71074 (REG)

Debtor.
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**ORDER GRANTING THE EIGHTH OMNIBUS OBJECTION TO CLAIMS FILED
AGAINST THE ESTATE OF FEDERATION EMPLOYMENT AND GUIDANCE
SERVICE, INC. D/B/A FEFS**

THIS MATTER having come before the Court upon the objection of the Plan Administrator appointed in this case (the “Eighth Omnibus Objection”)² seeking entry of an Order pursuant to 11 U.S.C. § 502 and Rule 3007 of the Federal Rules of Bankruptcy Procedure expunging each of the proofs of claim listed on Exhibit A annexed hereto; and the Court having reviewed the Eighth Omnibus Objection; and notice having been provided (i) to the claimants, or their counsel, listed on Exhibit A at the addresses set forth on the claimants’ respective proofs of claim, (ii) counsel for Oversight Committee, (iii) the Office of the United States Trustee, and (iv) those parties who have entered a notice of appearance in this Case; and no responses or other objections having been filed; and a hearing having been held on June 29, 2020; and the Court having found that the relief requested in the Eighth Omnibus Objection is in the best interest of the Debtor’s Estate, creditors and other parties in interest; and it appearing that sufficient notice of the Eighth Omnibus Objection has been given, and the Court having determined that the legal and factual basis set forth in the Eighth Omnibus Objection establish cause for the relief granted herein; and after due deliberation and consideration of the Eighth Omnibus Objection having

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² Unless otherwise defined, capitalized terms used herein shall have the meanings ascribed to them in the Eighth Omnibus Objection and any exhibits thereto.

been had; and it appearing that good and sufficient cause exists for granting the Eighth Omnibus Objection, it is hereby

ORDERED, that the relief requested in the Eighth Omnibus Objection is GRANTED to the extent set forth below and upon the terms and conditions set forth herein; and it is further

ORDERED, that the Claims listed on Exhibit A, annexed hereto, are hereby expunged; and it is further

ORDERED, that the Debtor's claims and noticing agent is authorized to take any and all actions that are necessary or appropriate to give effect to this Order; and it is further

ORDERED, that this Order is deemed to be a separate order with respect to each claim covered hereby; and it is further

ORDERED, that all rights of the Plan Administrator to object to any surviving claims against the Debtor or its Estate, whether asserted or unasserted by any of the claimants affected by the Eighth Omnibus Objection, and to further object to the surviving claims on any other grounds discovered by the Plan Administrator during the pendency of this case are hereby reserved; and it is further

ORDERED, that this Court shall retain jurisdiction over any and all issues arising from or related to the implementation and interpretation of this Order.

**Federation Employment and Guidance Service Inc. d/b/a FECS
Exhibit A – Late Filed Claims to be Expunged**

SEQ. NO.	Claimant	Claim No.	Date Filed	Claim Amount
1	Castlevale Construction Enterprises	2466	6/24/2016	Unsecured: \$16,440.00
2	Henry Schein, Inc.	2458	12/22/2015	Unsecured: \$2,190.50
3	Henry Schein, Inc.	2459	12/22/2015	Unsecured: \$674.88
4	Noor Staffing Group, LLC	2468	5/22/2017	Unsecured: \$4,725.00
5	W B Mason Co Inc.	2240	10/26/2015	Unsecured: \$27,573.79

Hearing Date: June 29, 2020 at 9:30 a.m. (Prevailing Eastern Time)
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Counsel for the Estate and the Plan Administrator

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

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In re:

Chapter 11

FEDERATION EMPLOYMENT AND
GUIDANCE SERVICE D/B/A FEFS¹,

Case No.: 15-71074 (REG)

Debtor.

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THE OMNIBUS CLAIMS OBJECTION LISTED BELOW SEEKS TO EXPUNGE CERTAIN FILED PROOFS OF CLAIM. YOU ARE RECEIVING THIS NOTICE BECAUSE YOUR CLAIM IS COVERED BY THE EIGHTH OMNIBUS OBJECTION TO CERTAIN PROOFS OF CLAIM FILED AGAINST THE ESTATE.

YOUR FAILURE TO TIMELY OPPOSE THE RELIEF SOUGHT HEREIN MAY RESULT IN THE GRANTING OF THE RELIEF REQUESTED BY THIS OBJECTION.

ATTACHED TO THE OBJECTION IS A SCHEDULE LISTING EACH CLAIM OBJECTED TO AND THE GROUNDS FOR EACH SUCH OBJECTION. PLEASE REVIEW THE SCHEDULE CAREFULLY WITH RESPECT TO YOUR CLAIM.

NOTICE OF HEARING ON THE PLAN ADMINISTRATOR’S EIGHTH OMNIBUS OBJECTION TO CERTAIN PROOFS OF CLAIM FILED AGAINST THE ESTATE

PLEASE TAKE NOTICE, that a hearing will be held before the Honorable Robert E. Grossman, United States Bankruptcy Judge for the Eastern District of New York, at the **Alfonse M. D’Amato U.S. Courthouse, 290 Federal Plaza, Courtroom 860, Central Islip, New York 11722** on the 29th day of June 2020 at 9:30 o’clock in the forenoon of that day (Prevailing

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Eastern Time), or as soon thereafter as counsel can be heard (the “Hearing Date”), to consider the *Plan Administrator’s Eighth Omnibus Objection to Certain Proofs of Claim Filed Against the Estate* (the “Objection”).

PLEASE TAKE FURTHER NOTICE, that responses, if any, to the Objection must be in writing, stating in detail the reasons therefor, and must be filed with the Clerk of the Bankruptcy Court, with a hard copy provided to the Clerk’s Office at the Bankruptcy Court, Alfonse D’Amato U.S. Courthouse, 290 Federal Plaza, Central Islip, New York 11722 and shall be served upon (i) Garfunkel Wild, P.C., 111 Great Neck Road, Great Neck, New York 11021, attention Burton S. Weston, Esq. and Adam T. Berkowitz, Esq., counsel for Judith Pincus, as the Plan Administrator for the Estate of Federation Employment and Guidance Service, Inc. d/b/a FEES; (ii), Pachulski, Stang, Ziehl and Jones, 780 Third Avenue, 34th Floor, New York, New York 10017, Attn: Robert J. Feinstein, Esq. and Ilan D. Sharf, Esq., counsel to the Oversight Committee; and (iii) the Office of the United States Trustee for the Eastern District of New York, Alfonse D’Amato Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722, Attn: Christine H. Black, Esq. and Stan Y. Yang, Esq., Assistant U.S. Trustees, so as to be received no later than June 22, 2020 at 4:00 p.m. (Prevailing Eastern Time).

PLEASE TAKE FURTHER NOTICE that the hearing on the Objection may be adjourned without further notice except as announced in open court on the Hearing Date, or at any adjourned hearing.

Dated: Great Neck, New York
May 27, 2020

GARFUNKEL WILD, P.C.

Counsel for the Estate and the Plan Administrator

By: /s/ Adam T. Berkowitz
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