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COUNSEL FOR JEFFREY BARON

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re: §
§
ONDOVA LIMITED COMPANY, § **CASE NO. 09-34784-SGJ-11**
§
Debtor. § **Chapter 11**

**JEFFREY BARON’S OBJECTION TO PROOF OF CLAIM NO. 10
OF GRUPO ANDREA S.A. DE C.V.**

Jeffrey Baron (“Baron”), a creditor and party in interest in this case, hereby files his *Objection to Proof of Claim No. 10 of Grupo Andrea S.A. de C.V.* (the “Objection”), and in support thereof respectfully represents as follows:

I. JURISDICTION

1. The Court has jurisdiction over the Objection pursuant to 28 U.S.C. §§ 157 and 1334. Venue over the Objection is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The Objection is a core proceeding under 11 U.S.C. § 157(b)(2).

II. FACTUAL BACKGROUND

2. On July 27, 2009 (the “Petition Date”), the Debtor filed for bankruptcy protection

under chapter 11 of title 11 of the Bankruptcy Code.

3. On September 17, 2009, the Court entered an order approving the appointment of a chapter 11 trustee (Docket No. 98).

4. The Court set the bar date for filing proofs of claim for all creditors other than governmental units as November 25, 2009 (the "Bar Date").

5. Baron files this Objection pursuant to Section 502 of the United States Bankruptcy Code (the "Bankruptcy Code") and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

III. OBJECTION TO CLAIM

6. Pursuant to Section 502 of the Bankruptcy Code, Baron objects to Grupo Andrea S.A. de C.V.'s ("Grupo Andrea") Proof of Claim. 11 U.S.C.A. § 502(b)(1). Baron asserts such claim is unenforceable because Grupo Andrea has no standing as a creditor, as defined by the Bankruptcy Code, to file such a claim against Ondova. 11 U.S.C.A. § 101(10)(A). Grupo Andrea has neither obtained any judgment against Ondova nor has it established the requisite existence of any debt owed to it by Ondova. Thus, because Grupo Andrea has no standing to file such a claim, Baron contends same should be disallowed.

7. A claimant's Proof of Claim is deemed allowed unless a party in interest objects. 11 U.S.C.A. § 502(a). A creditor is a party in interest. *Id.*; *see also, Industrial Bank, N.A. v. City Bank*, 549 U.S. 1019 (2005). An objection, upon filing, initiates a contested matter by notifying the parties that litigation is required to determine the allowance or disallowance of a claim. *Matter of Taylor*, 132 F.3d 256, 260 (5th Cir. 1998). Once filed, the bankruptcy judge may examine the conscionability of a claim asserted against the estate and to disallow it if the claim is without lawful existence. *In re Hinkley*, 58 B.R. 339, 343 (Bankr. S.D.Tex. 1986).

8. Section 101 of the Bankruptcy Code defines a “creditor” as an “entity that has a claim against the debtor.” U.S.C.A. § 101(10)(A). “To be a creditor in bankruptcy, the debtor must owe a debt to the claimant.” *In re Internet Navigator, Inc.*, 289 B.R. 133, 136 (Bankr. N.D. Iowa 2003); *see also, In re Colonial Poultry Farms*, 177 B.R. 291, 299 (Bankr. W.D. Mo. 1995); *Disonics v. Ingalls*, 121 B.R. 626, 630 (Bankr. N.D. Fla. 1990). Here, Grupo Andrea filed its November 25, 2009 claim based upon an October 27, 2009 Consent Judgment in the lawsuit styled, *Grupo Andrea SA de C.V. v. Privacy Protection Services, Inc. (d/b/a Oakwood Services, Inc.)*, CV 08-05589 (C.D. Cal.) (the “California Lawsuit”). *See Exhibit “A.”* The Consent Judgment reflects only Grupo Andrea’s judgment over the Defendant in the California Lawsuit, Protection Privacy Services, Inc. (d/b/a Oakwood Services, Inc.). *Id.* Ondova was not a party to the California Lawsuit or the settlement which resulted in the Consent Judgment. *Id.* As such, any claim pursuant to the Consent Judgment would not be owed by the Debtor. Accordingly, Grupo Andrea’s claim should be disallowed.

9. In the California Lawsuit, Grupo Andrea alleged the Defendant’s involvement in a “massive cybersquatting scheme,” coupled with its belief of an accompanying conspiracy. *Id.* Prior to settling that case, Grupo Andrea admits to obtaining discovery between the beginning of July through October 2009 which indicated both an ownership dispute over an internet domain name portfolio registered by the Defendant, as well as Ondova’s potential rights to same.¹ *Id.* During this same period, Grupo Andrea also knew of the Debtor’s bankruptcy case. *Id.* Despite this knowledge and its awareness of Ondova’s potential ownership interest in the domain name portfolio, Grupo Andrea never sought to lift the automatic stay to add Ondova to the California Lawsuit. *See Exhibits “A” and “B.”* Instead, Grupo Andrea knowingly entered into the

¹ In addition to its receipt of written discovery and documents, Grupo Andrea also sought and took Jeff Baron’s Bankruptcy Rule 2004 examination on September 18, 2009.

Consent Judgment. *Id.* Now, by filing this claim, Grupo Andrea is attempting an “end run” around the legal system to circumvent the Debtor’s rights and federal bankruptcy law. Grupo Andrea has no claim against the Debtor based upon the Consent Judgment. Therefore, as Grupo Andrea does not qualify as a creditor of the Debtor, Grupo Andrea’s Proof of Claim should be disallowed.

WHEREFORE, PREMISES CONSIDERED, Baron requests that the Court enter an order sustaining his objection to Grupo Andrea’s Proof of Claim and granting Baron such other and further relief, general or special, at law or in equity, to which he may show himself justly entitled.

Dated: February 22, 2010

Respectfully submitted

By: /s/ Gerrit M. Pronske
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COUNSEL FOR JEFFREY BARON

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on February 22, 2010 I caused to be served the foregoing pleading upon the party listed below and the service list attached hereto via the Court's electronic transmission facilities and/or United States mail, first class delivery.

/s/ Gerrit M. Pronske
Gerrit M. Pronske

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