

CASE TYPE: Civil/Miscellaneous

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

STATE OF MINNESOTA

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In Re: Wayzata Home Products, LLC  
and cliqstudios.com LLC

Court File No.: 27-CV-20-4326

Judge: David L. Piper

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**MEMORANDUM OF LAW IN SUPPORT OF  
ASSIGNEE'S MOTION TO ESTABLISH CLAIMS PROCESS**

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Lighthouse Management Group, Inc. ("Lighthouse" or "Assignee") respectfully submits this Memorandum of Law in Support of its Motion to Establish Claims Process ("Motion").

**FACTUAL BACKGROUND**

This is an assignment for benefit of creditors proceeding pursuant to Minnesota Statutes Chapter 577. Under Minnesota Statutes Section 577.12, Wayzata Home Products, LLC, and its subsidiaries, including cliqstudios.com LLC (together with the other subsidiaries, Square Cabinets LLC f/k/a Itasca Cabinets LLC and Wayzata Cabinetry LLC, collectively the "Assignors"), as the assignor, and Lighthouse, as the assignee, entered into that certain Assignment for Benefit of Creditors, dated March 13, 2020 ("Assignment").<sup>1</sup> Pursuant to the Assignment, the Assignors assigned to the Assignee substantially all of their property ("Assignment Property").<sup>2</sup> By making the Assignment, the Assignors consented to the appointment of the Assignee as a

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<sup>1</sup> Declaration of Samuel J.H. Sigelman in Support of Assignee's Motion to Establish Claims Process ("Sigelman Declaration"), ¶ 2.

<sup>2</sup> See generally, Assignment; Sigelman Declaration, ¶ 3. The Assignment Property includes, without limitation, all real property, fixtures, goods, stock, inventory, equipment, furniture, furnishings, accounts receivable, general intangibles, intellectual property, bank deposits, cash, promissory notes, cash value and proceeds of insurance policies, claims, and demands belonging to the Assignors, wherever the property may be located.

General Receiver with respect to the Assignors, in accordance with Minnesota Statutes, Chapters 576 and 577.<sup>3</sup>

The Assignee filed the Assignment with this Court on March 13, 2020.<sup>4</sup> Formal notice of the Assignment was provided by the Assignee to all known creditors and other parties in interest of the Assignors, as required by Minnesota Statutes Section 577.16, on March 26, 2020.<sup>5</sup>

As set forth in the Assignment, Lighthouse's rights, duties and obligations as assignee include, among other things:<sup>6</sup>

- To act “true and lawful attorney-in fact, with full power and decision making authority, including all of the authority held by the assignor’s board, officers, and directors, and to do all acts and things which may be necessary to execute and fulfill the assignment hereby created, to the same extent as the acts and things might be done by the assignor in the absence of this assignment, including, but not limited to, the power to demand and recover from all persons all assignment property; to sue for the recovery of assignment property; to execute, acknowledge, and deliver all necessary deeds, instruments, and conveyances, and to grant and convey any or all of the real or personal property of the assignment property pursuant thereto; and to appoint one or more attorneys to assist the assignee in carrying out the assignee’s duties hereunder.”
- To “take possession of and administer the assignment property and shall liquidate the assignment property with reasonable dispatch, collect all claims and demands hereby assigned as and to the extent they may be collectible, and pay and discharge all reasonable expenses, costs, and disbursements in connection with the execution and administration of this assignment from the proceeds of the liquidations and collections in accordance with Minnesota Statutes, chapters 576 and 577....”
- To “pay and discharge in full, to the extent that funds are available from the assignment property after payment of expenses, costs, and disbursements, all of the debts and liabilities now due from the assignor, including interest on the debts and liabilities in full, in accordance with Minnesota Statutes, chapters 576 and 577.”

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<sup>3</sup> Minnesota law provides that an Assignee, assigned under Minnesota Statutes Chapter 577, “shall be treated as a general receiver, the assignment property shall be treated as receivership property, and all proceedings following the filing of the assignment shall be governed by sections 576.21 to 576.53.” Minn. Stat. Section 577.18.

<sup>4</sup> Sigelman Declaration, ¶ 2.

<sup>5</sup> Sigelman Declaration, ¶ 6.

<sup>6</sup> See Assignment, pp. 3-4.

The Assignee has reviewed the Assignors' books and records, and estimates that approximately \$1 million to \$1.5 million may be available to pay creditor claims that total approximately \$48 million.<sup>7</sup> These estimates could change significantly as more information is obtained.<sup>8</sup> Any distribution to creditors will be made on a pro-rata basis in their respective orders of priority, as defined in Minnesota Statute Chapter 576.49. Most creditors' claims will most likely be paid a distribution at 2%-4% of the amount owed to the given claimant.<sup>9</sup>

In accordance with the Assignment, the Assignee now brings this Motion to establish procedures by which creditors will be required to file claims, as described herein, where the creditor disagrees with the Assignee's calculation of the creditor's claim.<sup>10</sup>

### **ARGUMENT**

The Assignee seeks an order, pursuant to Minnesota Statutes Section 576.49, establishing a claims procedure to identify and determine the claims against the Assignment Property. Specifically, the Assignee seeks an order: (i) approving the proof of claim form and notice of claims procedure; (ii) setting a deadline to file claims where the creditor disagrees with the Assignee's calculation of the creditor's claim; (iii) authorizing the Assignee to use the Assignors' books and records to create a preliminary claims register; and (iv) approving a review and objection process for claims. For the reasons discussed below, the Assignee believes that the proposed claims procedure will best facilitate the efficient determination of creditors' rights and the administration of this case, and are appropriate under the circumstances of this case.

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<sup>7</sup> Sigelman Declaration, ¶ 8.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Sigelman Declaration, ¶ 7.

A. The Minnesota Receivership Statute Provides for the Implementation of a Claims Process.

Minn. Stat. § 576.49 provides, in part, as follows:

Subdivision 1. Recommendation of receiver. In a general receivership, and in a limited receivership if the circumstances require, the receiver shall submit to the court a recommendation concerning a claims process appropriate to the particular receivership.

Subd. 2. Order establishing process. In a general receivership and, if the court orders, in a limited receivership, the court shall establish the claims process to be followed in the receivership addressing whether proofs of claim must be submitted, the form of any proofs of claim, the place where the proofs of claim must be submitted, the deadline or deadlines for submitting the proofs of claim, and other matters bearing on the claims process.

In accordance with Section 576.49, the court has broad discretion in establishing the claims process that must be followed, including whether proofs of claim are required, the form that claims must take, the place where claims must be submitted, the deadline for submitting claims, and other matters bearing on the claims process.

B. The Court Should Approve the Proof of Claim Form and Notice of Claim Procedure.

The Assignee has prepared a proposed Proof of Claim Form (“Proof of Claim Form”) and a proposed Notice of Claims Procedure (“Notice of Claims Procedure”). The Proof of Claim Form is attached to the Sigelman Declaration as Exhibit A and the Notice of Claims Procedure is attached to the Sigelman Declaration as Exhibit B.<sup>11</sup> The Assignee requests that the Court approve its recommended Proof of Claim Form and the Notice of Claims Procedure for distribution to the Assignors’ known creditors and other parties in interest in the same, or substantially similar, form.<sup>12</sup>

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<sup>11</sup> Sigelman Declaration, ¶¶ 9 and 12.

<sup>12</sup> *Id.*

As is evident in the proposed Proof of Claim Form, and as explained further herein, the Assignee maintains that, as a result of reviewing the Assignors' books and records, each creditor is owed a certain amount by the Assignors.<sup>13</sup> The Proof of Claim Form and the Notice of Claims Procedure instruct creditors and other parties in interest to provide the Assignee with necessary information and documentation in support of their asserted claims, only if the creditor disagrees with the Assignee's calculation of the creditor's preliminary claim.<sup>14</sup> The Proof of Claim Form and the Notice of Claims Procedure direct creditors and other parties in interest to submit such information to the Assignee, rather than filing such information with the Court, as expressly permitted by Minnesota Statutes Section 576.49, Subdivision 3.<sup>15</sup> The Assignee believes that submitting the claims and supporting documentation in this manner will best facilitate the review of claims.<sup>16</sup>

C. The Proof of Claim Deadline Should Be Approved by the Court.

The Assignee requests that the Court establish a deadline for the submission of Proof of Claim Forms that is 30 days after the date that the Assignee sends the Notice of Claims Procedure and Proof of Claim Form to all known creditors and other parties in interest of the Assignors.<sup>17</sup> The Assignee believes that 30 days provides creditors with sufficient time to prepare and submit their claims, but is short enough so as to not unduly delay the assignment proceeding.<sup>18</sup>

D. Creditors That Do Not Object to Their Claim as Set Forth on the Preliminary Schedule of Claims Should Not Be Required to File a Proof of Claim.

An assignee may be authorized by the court to treat claims as allowed claims based on amounts established in the books and records of the assignor or on a schedule of claims that is filed

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<sup>13</sup> Sigelman Declaration, ¶ 13; see *infra*, Section D.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Sigelman Declaration, ¶ 9.

<sup>17</sup> Sigelman Declaration, ¶ 11.

<sup>18</sup> *Id.*

pursuant to Minnesota Statutes Section 576.33, without necessity of formal proofs of claim. Minn. Stat. § 576.49, subd. 3. The Assignee is preparing a preliminary schedule of claims that sets forth known creditors of the Assignors and the amounts owing to such creditors based upon the books and records of the Assignors (“Preliminary Schedule”).<sup>19</sup> Each Proof of Claim Form distributed to the creditors will be customized to indicate the amount of each creditor’s preliminary claim, as indicated on the Preliminary Schedule.<sup>20</sup> The Assignee recommends that creditors who do not object to the amount of their preliminary claim, as set forth on the customized Proof of Claim Form, need not file a Proof of Claim to establish their claim.<sup>21</sup> The Assignee proposes that such creditors will be deemed to have made a claim in the amount set forth on its customized Proof of Claim Form.<sup>22</sup> If a creditor disputes the amount of its preliminary claim, as set forth on its customized Proof of Claim Form, or the customized Proof of Claim Form does not include an preliminary claim amount, the creditor must file a Proof of Claim in accordance with the claim process approved by the Court, if it believes it has a claim.<sup>23</sup> If a creditor disputes the amount of its claim as set forth on the Preliminary Schedule and customized Proof of Claim Form, the Assignee may work with the creditor to stipulate to the amount of its submitted claim.<sup>24</sup> The Assignee believes that permitting non-objected to and preliminary claims to be treated as a submitted claim will reduce duplication and help facilitate an efficient claim process.<sup>25</sup>

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<sup>19</sup> Sigelman Declaration, ¶ 13. By relying on this procedure, the Assignee is not waiving the right to subsequently object to a claim listed on the Preliminary Schedule.

<sup>20</sup> *Id.*

<sup>21</sup> Sigelman Declaration, ¶ 14.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

E. The Proposed Review and Objection Process Should Be Approved.

Following the claim deadline, the Assignee will file a schedule of all submitted claims.<sup>26</sup>

The Assignee proposes that the deadline for filing such a schedule be 30 days after the claim filing deadline.<sup>27</sup>

Following the claim filing deadline, the Assignee will review each timely submitted claim and may request additional documentation or information from a claimant, as necessary, to verify or determine the allowed amount of the claim.<sup>28</sup> To the extent that the Assignee is unable to verify the amount of a submitted claim, or if the claimant does not agree with the Assignee's verified amount of the submitted claim, the Assignee may file a written objection to the claim pursuant to Minnesota Statutes Section 576.50.<sup>29</sup> The Assignee may file a written objection on an individual or omnibus basis.<sup>30</sup> The Assignors, or any party in interest, may also file a motion objecting to a claim pursuant to Minn. Stat. § 576.50.<sup>31</sup> The Assignee requests that the deadline to file written claim objections be 60 days after the claim filing deadline.<sup>32</sup>

**CONCLUSION**

The procedures proposed herein will facilitate the efficient determination of creditors' rights and the administration of this case, and are appropriate under the circumstances of this case. The Receiver, therefore, respectfully requests that the Court enter an order approving the claim procedures set forth above pursuant to Minn. Stat. § 576.49.

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<sup>26</sup> Sigelman Declaration, ¶ 15.

<sup>27</sup> *Id.*

<sup>28</sup> Sigelman Declaration, ¶ 16.

<sup>29</sup> Sigelman Declaration, ¶ 17.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

Dated: May 29, 2020.

Respectfully submitted,

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**ACKNOWLEDGMENT REQUIRED BY  
MINNESOTA STATUTES SECTION 549.211, SUBDIVISION 1**

The undersigned hereby acknowledges that pursuant to Minn. Stat. § 549.211, subd. 2, costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find that the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass; or committed a fraud upon the Court.

Dated: May 29, 2020.

**BARNES & THORNBURG LLP**

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