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*Co-counsel for Successor Litigation Trustee*

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X

In re:

EXTENDED STAY INC., et al.,

Debtors.

----- X

Case No. 09-13764 (JLG)

Chapter 11

(Jointly Administered)

**AMENDED NOTICE OF HEARING ON LITIGATION TRUSTEE’S  
NINTH OMNIBUS OBJECTION TO CLAIMS  
(Duplicate Claims filed by Robert Micklash)**

**PLEASE TAKE NOTICE** that on January 17, 2012, Walker, Truesdell, Roth & Associates and Hobart G. Truesdell in their capacity as the Litigation Trustee filed the *Litigation Trustee’s Ninth Omnibus Objection to Claims (Duplicate Claims filed by Robert Micklash)* (the “Objection”). The Objection was originally noticed for hearing on March 15, 2012 and adjourned thereafter to a date to be determined. A copy of the Objection (excluding the original proposed order and exhibits, but including the Declaration of Sharon Roth) is attached hereto as Exhibit B.

**PLEASE TAKE FURTHER NOTICE** that Finnarr O’Connor, in his capacity as Successor Litigation Trustee for and on behalf of the Extended Stay Litigation Trust (the “Trustee”) hereby moves forward with hearing on the Objection, and a hearing on the Objection will be held before the Honorable James L. Garrity, United States Bankruptcy Judge, on **July 25, 2023 at 10:00 a.m.** (prevailing Eastern Time) via Court Solutions LLC, and parties may register to listen or participate at [www.court-solutions.com](http://www.court-solutions.com).

**PLEASE TAKE FURTHER NOTICE** that the attached Exhibit A sets forth the revised form of Order, including Exhibit 1 thereto, which sets forth the claims to be disallowed and expunged in their entirety.

**PLEASE TAKE FURTHER NOTICE** that responses, if any, to the Objection shall be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court for the Southern District of New York, shall set forth the



name of the objecting party, the basis for the objection and the specific grounds thereof, shall be filed with the Bankruptcy Court electronically in accordance with the General Order M-399 (which can be found at <http://www.nysb.uscourts.gov>) by registered users of the Bankruptcy Court's case filing system and by all other parties in interest, in a text-searchable document format and with two hard copies delivered directly to the chambers of the Honorable James L. Garrity, and shall be served upon (i) Thompson Coburn Hahn & Hessen LLP, attorneys for the Successor Litigation Trustee, 488 Madison Avenue, New York, NY 10011, Attn: Mark T. Power, Esq., and Joseph Orbach, Esq.; (ii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: Jessica Liou, Esq., attorneys for the Debtors; (iii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21<sup>st</sup> Floor, New York, New York 10004, Attn: Paul Schwartzberg, Esq.; (iv) Fried, Frank, Harris, Shriver & Jacobson LLP, One New York Plaza, New York, New York 10004, Attn: Jennifer Rodburg, Esq., attorneys for Newco; and (v) TREO Asset Management, foconnor@treoam.com, Attn: Finbarr O'Connor, so as to be filed and received by no later than June 27, 2023 at 4:00 p.m. (prevailing Eastern Time) (the "Response Deadline").

**PLEASE TAKE FURTHER NOTICE** that if a response to the Objection is not received by the Response Deadline, the relief requested shall be deemed unopposed, and the Bankruptcy Court may enter an order substantially in the form annexed as Exhibit A, granting the relief sought without a hearing.

**PLEASE TAKE FURTHER NOTICE** that the hearing may be continued or adjourned thereafter from time to time without further notice other than an announcement of the adjourned date or dates at the hearing.

**PLEASE TAKE FURTHER NOTICE** that if you have questions about the Objection or would like to resolve an objection to your claim prior to the Hearing, please contact Joseph Orbach, Esq. at [jorbach@thompsoncoburn.com](mailto:jorbach@thompsoncoburn.com).

Dated: New York, New York  
June 6, 2023

**THOMPSON COBURN HAHN & HESSEN LLP**

By: */s/ Joseph Orbach*  
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**EXHIBIT A**

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X

In re:

EXTENDED STAY INC., et al.,

Debtors.

----- X

Case No. 09-13764 (JLG)

Chapter 11

(Jointly Administered)

**ORDER GRANTING LITIGATION TRUSTEE'S  
NINTH OMNIBUS OBJECTION TO CLAIMS  
(Duplicate Claims filed by Robert Micklash)**

Upon the Successor Litigation Trustee's (the "Trustee") Ninth Omnibus Objection to Claims (Duplicate Claims filed by Robert Micklash) (the "Objection," Docket No. 1553), dated January 17, 2012, seeking to disallow and expunge certain claims filed by Robert Micklash, all as more fully set forth in the Objection; and this Court having jurisdiction to consider the Objection and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the Standing Order of Referral of Cases to Bankruptcy Court Judges of the District Court for the Southern District of New York, dated July 19, 1984 (Ward, Acting C.J.); and consideration of the Objection and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Objection having been provided to (i) Robert Micklash, (ii) the United States Trustee for the Southern District of New York,

(iii) counsel to Newco, (iv) counsel to the Debtors, and (v) those parties included on the latest master service list on file in these chapter 11 cases, and it appearing that no other or further notice need be provided; and a hearing having been scheduled on the Objection for July 25, 2023; and the Court having determined that the relief sought in the Objection is in the best interests of the Plan Debtors, their estates, and their creditors; and the Court having determined that the legal and factual bases set forth in the Objection establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Objection is granted; and it is further

ORDERED that each of the claims listed on Exhibit 1 attached hereto is hereby disallowed and expunged in its entirety; and it is further

ORDERED that the claims agent is authorized and directed, pursuant to this Order, to modify the official claims registry in these chapter 11 cases as necessary to implement the relief granted in this Order; and it is further

ORDERED that the Trustee's rights and defenses with respect to any claims filed by Robert Micklash, including those listed in Exhibit 1 attached hereto shall be preserved, including, but not limited to, the right to further object to the claims on any basis; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from the interpretation and/or implementation of this Order.

Dated:           , 2023  
New York, New York

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Honorable James L. Garrity  
United States Bankruptcy Judge

**EXHIBIT 1**

Duplicate and/or Amended Claims to be Disallowed and Expunged in Their Entirety

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Surviving Claim	Objection Page Reference
1	Robert Micklash	966	ESA P Portfolio L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
2	Robert Micklash	970	Homestead Village L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
3	Robert Micklash	976	ESA P Portfolio MD Trust	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
4	Robert Micklash	984	ESA P Portfolio MD Beneficiary L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
5	Robert Micklash	997	ESH/Homestead Portfolio L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
6	Robert Micklash	999	ESH/Homestead Mezz 5 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
7	Robert Micklash	1006	ESA P Mezz 5 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
8	Robert Micklash	1007	ESA MD Properties Business Trust	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Surviving Claim	Objection Page Reference
9	Robert Micklash	1008	ESA 2005-San Jose L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
10	Robert Micklash	1009	ESA Canada Properties Trust	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
11	Robert Micklash	1010	ESA 2005-Waltham L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
12	Robert Micklash	1011	ESA Acquisition Properties L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
13	Robert Micklash	1012	ESA MD Beneficiary L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
14	Robert Micklash	1013	ESA Canada Trustee Inc.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
15	Robert Micklash	1014	ESA Canada Beneficiary Inc.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
16	Robert Micklash	1015	ESA Alaska L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
17	Robert Micklash	1017	ESA UD Properties L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Surviving Claim	Objection Page Reference
18	Robert Micklash	1020	ESA 2005 Portfolio L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
19	Robert Micklash	1028	ESA Mezz 5 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
20	Robert Micklash	1030	ESA 2007 Operating Lessee Inc.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
21	Robert Micklash	1032	ESA Canada Properties Borrower L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
22	Robert Micklash	1037	ESH/HV Properties L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
23	Robert Micklash	1040	ESA 2005 Operating Lessee Inc.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
24	Robert Micklash	1042	ESH/Homestead Mezz 6 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
25	Robert Micklash	1048	ESA Operating Lessee Inc.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
26	Robert Micklash	1061	ESH/Homestead Mezz L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7



No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Surviving Claim	Objection Page Reference
27	Robert Micklash	1063	ESA P Portfolio Operating Lessee Inc.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
28	Robert Micklash	1069	ESH/MSTX Property L.P.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
29	Robert Micklash	1073	ESA FL Properties L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
30	Robert Micklash	1075	ESA MN Properties L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
31	Robert Micklash	1079	ESA P Mezz 6 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
32	Robert Micklash	1080	ESH/TN Properties L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
33	Robert Micklash	1088	ESA MD Borrower L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
34	Robert Micklash	1092	ESA Mezz 6 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
35	Robert Micklash	1093	ESA Business Trust	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Surviving Claim	Objection Page Reference
36	Robert Micklash	1100	ESA Management L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
37	Robert Micklash	1106	ESA P Portfolio Holdings L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
38	Robert Micklash	1109	ESH/Homestead Mezz 7 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
39	Robert Micklash	1114	ESH/TX Properties L.P.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
40	Robert Micklash	1116	ESA P Portfolio PA Properties L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
41	Robert Micklash	1119	ESA Canada Operating Lessee Inc.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
42	Robert Micklash	1123	ESA P Portfolio MD Borrower L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
43	Robert Micklash	1127	ESA P Mezz 7 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
44	Robert Micklash	1134	ESA P Portfolio TXNC Properties L.P.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Surviving Claim	Objection Page Reference
45	Robert Micklash	1139	ESA Mezz 7 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
46	Robert Micklash	1143	ESA PA Properties L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
47	Robert Micklash	1146	ESH/Homestead Mezz 8 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
48	Robert Micklash	1150	ESA P Mezz L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
49	Robert Micklash	1155	ESA P Mezz 8 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
50	Robert Micklash	1163	ESA Mezz L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
51	Robert Micklash	1165	ESA Properties L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
52	Robert Micklash	1166	ESA Mezz 8 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
53	Robert Micklash	1171	ESA TX Properties L.P.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Surviving Claim	Objection Page Reference
54	Robert Micklash	1174	ESH/Homestead Mezz 2 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
55	Robert Micklash	1179	ESA P Mezz 2 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
56	Robert Micklash	1182	ESH/Homestead Mezz 9 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
57	Robert Micklash	1188	ESA P Mezz 9 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
58	Robert Micklash	1190	ESA Mezz 2 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
59	Robert Micklash	1195	ESA Mezz 9 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
60	Robert Micklash	1197	ESH/Homestead Mezz 10 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
61	Robert Micklash	1205	ESA P Mezz 10 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
62	Robert Micklash	1207	ESH/Homestead Mezz 3 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Surviving Claim	Objection Page Reference
63	Robert Micklash	1212	ESA P Mezz 3 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
64	Robert Micklash	1214	ESA Mezz 10 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
65	Robert Micklash	1220	ESA Mezz 3 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
66	Robert Micklash	1227	ESH/Homestead Mezz 4 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
67	Robert Micklash	1228	ESA P Mezz 4 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7
68	Robert Micklash	1235	ESA Mezz 4 L.L.C.	Unliquidated	General Unsecured	This claim is duplicative of claim number 1144	1144	pp. 1-7

**EXHIBIT B**

**PLEASE CAREFULLY REVIEW THIS OMNIBUS OBJECTION AND THE ATTACHMENTS HERETO TO DETERMINE WHETHER THIS OMNIBUS OBJECTION AFFECTS YOUR CLAIM(S). IF YOU HAVE ANY QUESTIONS REGARDING THIS OBJECTION PLEASE CALL ELYSSA KATES AT (212) 589-4200**

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Hearing Date and Time: March 15, 2012 at 10:00 a.m. (EST)  
Response Deadline: March 2, 2012 at 4:00 p.m. (EST)

*Attorneys for Litigation Trustee  
Walker, Truesdell, Roth & Associates and  
Hobart G. Truesdell*

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

In re:  
  
EXTENDED STAY INC., et al.,  
  
Debtors.

Case No. 09-13764 (JMP)  
  
Chapter 11  
  
(Jointly Administered)

**LITIGATION TRUSTEE'S NINTH OMNIBUS OBJECTION TO CLAIMS  
(Duplicate Claims filed by Robert Micklash)**

TO THE HONORABLE JAMES M. PECK  
UNITED STATES BANKRUPTCY JUDGE:

Walker, Truesdell, Roth & Associates and Hobart G. Truesdell (collectively, the "Trustee"), on behalf of, and together with the Extended Stay Litigation Trust (the "Trust"), by and through their counsel, respectfully submit this omnibus objection (the "Objection") to the



claims filed by Robert Micklash (“Micklash”) listed on the attached Exhibit “A” pursuant to 11 U.S.C. § 502 (the “Bankruptcy Code”), Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and the Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 3007 (i) for Authority to File Omnibus Claims Objections and (ii) an Extension of Time to File Omnibus Claims Objections [Docket No. 1356] (the “First Extension Order”), and respectfully represent as follows:

### **Background**

1. The debtors in the chapter 11 cases of Extended Stay Inc. and its debtor affiliates, as debtors and debtors in possession (collectively, “Extended Stay” or the “Debtors”) commenced voluntary cases under chapter 11 of the Bankruptcy Code in this Court on either June 15, 2009 or February 18, 2010 (the “Petition Date”). The Debtors’ chapter 11 cases were consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015(b).

### **The Litigation Trust**

2. By order dated July 20, 2010 [Docket No. 1172] (the “Confirmation Order”), the Bankruptcy Court confirmed the Debtors’ Fifth Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code, Dated June 8, 2010, as Amended (the “Plan”), which applies to all of the Debtors (collectively, the “Plan Debtors”) other than Extended Stay Inc. (“ESI”). On October 8, 2010, the effective date of the Plan occurred.

3. The Trust was formed pursuant to the Plan and Confirmation Order. The Trust assets (the “Trust Assets”) are comprised of essentially all claims, potential claims, causes of actions, charges, suits or rights of recovery of the Debtors (i) referenced in the Report of Ralph R. Mabey, as Examiner, as amended [Docket Nos. 913, 1031, 1094, 1218] (the “Examiner’s



Report”), and (ii) under §§ 502(d), 542 through 551, and 553 of the Bankruptcy Code (see Plan, ¶ 1.89; ESI Settlement Agreement, § 4). Pursuant to the Plan and Litigation Trust Agreement, the Trustee is responsible for, among other things, the disposition of the Trust Assets.

4. Pursuant to Article VII of the Plan, the Trustee is responsible for objecting to general unsecured claims and mezzanine facilities claims. See Section 7.1(c) of the Plan. Additionally, pursuant to paragraph 1.89 of the Plan and section 4 of the ESI Settlement Agreement, the Trustee has the right (and hence responsibility) from the Debtors and ESI to object to claims under Bankruptcy Code section 502(d) in connection with the Trustee’s obligation to dispose of Trust Assets (see Plan, ¶ 1.89; ESI Settlement Agreement, § 4).

#### **The Bar Dates and Claims Filed**

5. By orders entered on November 19, 2009 [Docket No. 595] and July 12, 2010 [Docket No. 1122] (together, the “Bar Date Orders”), the Bankruptcy Court set January 15, 2010 at 5:00 p.m. (prevailing Eastern Time) or August 17, 2010 at 5:00 p.m. (prevailing Eastern Time), as applicable, as the deadline (together, the “Bar Date”) for the filing of proofs of claim based upon prepetition claims.

6. Based upon information received to date from the Debtors and the plan administrator (the “Plan Administrator”), more than 1,700 proofs of claim were filed in the Plan Debtors’ chapter 11 cases. Combined with approximately 200 additional claims identified by the Debtors in their schedules of assets and liabilities and statements of financial affairs, the nearly 2,000 claims together assert liabilities in excess of \$95 billion.

#### **Extensions of the Deadline to Object to Claims**

7. On November 19, 2010, the Debtors, on behalf of themselves, the Trustee, and certain others, filed a motion [Docket No. 1333] (the “First Extension Motion”) requesting (i)

authority for these parties to file omnibus claims objections; and (ii) an extension of time for these parties to file omnibus claims objections for an additional sixty (60) days.

8. On December 16, 2010, the Bankruptcy Court entered the First Extension Order and granted the First Extension Motion. The First Extension Order was without prejudice to the right of the parties to request further extensions (see First Extension Order, p. 2).

9. On February 18, 2011, the Trustee filed a motion [Docket No. 1392] (the “Second Extension Motion”) requesting, among other things, an additional extension of time for the Trustee to file objections with respect to certain general unsecured claims and mezzanine facilities claims until and including September 2, 2011. The Second Request Motion was necessitated by, among other things, the Trustee’s ongoing investigation and evaluation of Trust Assets and analysis of potential causes of action, including those under Bankruptcy Code section 502(d).

10. By order dated March 23, 2011 [Docket No. 1419] (“Second Extension Order”), the Bankruptcy Court granted the Second Extension Motion, and extended the deadline for the Trustee to object to the allowance of general unsecured claims and mezzanine facilities claims until September 2, 2011 (see Second Extension Order, p. 2). The Second Extension Order was without prejudice to the parties to request further extensions (see Second Extension Order, p 2).

11. On August 23, 2011, the Trustee filed a motion [Docket No. 1473] (the “Third Extension Motion”) requesting, among other things, an additional extension of time for the Trustee to file objections with respect to certain general unsecured claims and mezzanine facilities claims through September 7, 2012. The Third Extension Motion was necessitated by, among other things, the Trustee’s ongoing investigation and evaluation of Trust Assets and the

institution of complex lawsuits<sup>1</sup> (the “Lawsuits”) seeking recovery of billions of dollars for the benefit of the beneficiaries of the Trust (the “Litigation Trust Beneficiaries”) and disallowance of claims under Bankruptcy Code section 502(d).

12. By order dated October 19, 2011 [Docket No. 1521] (“Third Extension Order”), the Bankruptcy Court granted the Third Extension Motion, extending the deadline for the Trustee to object to the allowance of general unsecured claims and mezzanine facilities claims until January 18, 2012 (see Third Extension Order, p. 3). The Third Extension Order also was without prejudice to the parties to request further extensions (see Third Extension Order, p. 3).

### **Jurisdiction**

13. This Court has jurisdiction to consider 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) & (O).

### **Objection to Claims**

14. Micklash filed approximately seventy claims in unliquidated amounts against various Debtors. The Trustee objects to each of the claims filed by Micklash and listed on Exhibit “A” attached hereto (the “Duplicate Claims”), on the grounds that the Duplicate Claims are not valid because they are either duplicate claims for the same debt as already represented by another claim filed against one of the Debtors by Micklash, or Micklash filed a subsequent claim which amended and/or superseded the previously filed claim, even if not specifically noted on

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<sup>1</sup> The lawsuits are Walker, Truesdell, Roth & Associates, et al. v. The Blackstone Group, L.P., et al., Adv. Pro. No. 11-2254 (JMP); Walker, Truesdell, Roth & Associates, et al. v. The Blackstone Group, L.P., et al., Adv. Pro. No. 11-2255 (JMP); Walker, Truesdell, Roth & Associates, et al. v. Lightstone Holdings, LLC, et al., Adv. Pro. No. 11-2256 (JMP); Walker, Truesdell, Roth & Associates, et al. v. Archon Group, L.P., et al., Adv. Pro. No. 11-2259 (JMP). Walker, Truesdell, Roth & Associates, et al. v. The Blackstone Group, L.P., et al., Adv. Pro. No. 11-2398 (JMP), was initially filed in the Supreme Court of New York, New York County, and subsequently removed to the Bankruptcy Court.



Dated: January 17, 2012  
New York, New York

Respectfully submitted,

**BAKER & HOSTETLER LLP**

By: /s/ Elyssa S. Kates

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Hearing Date and Time: March 15, 2012 at 10:00 a.m. (EST)

Response Deadline: March 2, 2012 at 4:00 p.m. (EST)

*Attorneys for Litigation Trustee  
Walker, Truesdell, Roth & Associates and  
Hobart G. Truesdell*

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

In re:

EXTENDED STAY INC., et al.,

Debtors.

Case No. 09-13764 (JMP)

Chapter 11

(Jointly Administered)

**DECLARATION OF SHARON ROTH IN SUPPORT OF LITIGATION TRUSTEE'S  
OMNIBUS OBJECTIONS TO CLAIMS**

SHARON ROTH, of full age, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a principal of Walker, Truesdell, Roth & Associates. I make this Declaration in support of the omnibus objections (the "Objections") to claims listed on Exhibit "A" and filed by Walker Truesdell, Roth & Associates and Hobart Truesdell (collectively, the "Trustee") in the chapter 11 cases of Extended Stay Inc. and its debtor affiliates. I make this Declaration based upon my own personal knowledge or upon information that I believe to be true.

2. All capitalized terms not defined herein have the meaning ascribed to them in the Objections.

3. Pursuant to Article VII of the Plan, the Trustee is responsible for objecting to general unsecured claims and mezzanine facilities claims filed against the Plan Debtors. See Section 7.1(c) of the Plan. Additionally, pursuant to paragraph 1.89 of the Plan and section 4 of the ESI Settlement Agreement, the Trustee has the right from the Plan Debtors and ESI to object to claims under Bankruptcy Code section 502(d) in connection with the Trustee's obligation to dispose of Trust Assets (see Plan, ¶ 1.89; ESI Settlement Agreement, § 4).

4. In furtherance of the Trustee's duties, I have read the Plan, the Confirmation Order, the ESI Settlement Agreement and the Litigation Trust Agreement. I have also reviewed the claims register and claims maintained by Kurtzman Carson Consultants, the claims agent ("Claims Agent") appointed in these chapter 11 cases. I request that the Court take judicial notice of the claims register and the claims maintained by the Claims Agent.

5. It appears that more than 1,700 proofs of claim were filed in the Plan Debtors' chapter 11 cases. Moreover, there are another approximately 200 claims scheduled by the Plan Debtors.

6. Based upon my review of the claims and claims register, I have determined the following; (a) approximately 1,200 claims are duplicate, (b) approximately 20 non-duplicate claims have been satisfied or will be satisfied in the ordinary course, (c) approximately 6 non-duplicate claims were filed late (including claims that appear unrelated to the Debtors), (d) approximately 15 non-duplicate claims lacked sufficient documentation, (e) approximately 6 non-duplicate claims should only be allowed in a reduced amount, (f) approximately 30 non-duplicate claims should be disallowed pursuant to section 502(d) of the Bankruptcy Code, and

(g) approximately 155 non-duplicate claims have been incorrectly classified. In addition, approximately 140 claims were filed against Extended Stay Inc. but it is not clear whether the claimant actually intended to file a claim against one or more of the Plan Debtors.

7. In addition to undertaking the steps outlined above, I have requested information from the Debtors on numerous occasions both by email and verbally and have received virtually no response to my repeated requests. I have also requested information from claimants in an effort to resolve issues relating to the claims and have similarly received either no response or an insufficient response. As a result, my ability to determine the validity of many claims has been impaired and there may be other claims which are objectionable or there may be further bases to object to the claims listed in the Objections.

8. Thus, based upon my own investigation and the limited information provided to me to date by the Debtors and others, I have determined that the claims set forth in the Objections should be disallowed and expunged or modified for the reasons set forth more fully in the Objections.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

  
\_\_\_\_\_  
Sharon Roth

Dated: January 17, 2012  
New York, New York



**Exhibit A**

**Omnibus Objections to Claims**

1.	Litigation Trustee's First Omnibus Objection to Claims (Duplicate Claims filed by Daehum Kim)
2.	Litigation Trustee's Second Omnibus Objection to Claims (Duplicate Claims by David Lichtenstein)
3.	Litigation Trustee's Third Omnibus Objection to Claims (Duplicate Claims Filed by Gary DeLapp)
4.	Litigation Trustee's Fourth Omnibus Objection to Claims (Duplicate Claims Filed by HVM LLC)
5.	Litigation Trustee's Fifth Omnibus Objection to Claims (Duplicate Claims Filed by F. Joseph Rogers) (Indemnification Claims)
6.	Litigation Trustee's Sixth Omnibus Objection to Claims (Duplicate Claims Filed by F. Joseph Rogers) (D&O Claims)
7.	Litigation Trustee's Seventh Omnibus Objection to Claims (Duplicate Claims Filed by Joseph Teichman)
8.	Litigation Trustee's Eighth Omnibus Objection to Claims (Duplicate Claims Filed by Kevin McDougall)
9.	Litigation Trustee's Ninth Omnibus Objection to Claims (Duplicate Claims Filed by Robert Micklash)
10.	Litigation Trustee's Tenth Omnibus Objection To Claims (Incorrectly Classified Claims)
11.	Litigation Trustee's Eleventh Omnibus Objection To Claims (Duplicate Claims)
12.	Litigation Trustee's Twelfth Omnibus Objection To Claims (Late-Filed Claims, Satisfied Claims, No Liability Claims or Reduced Liability Claims and Insufficiently Documented Claims)
13.	Litigation Trustee's Thirteenth Omnibus Objection To Claims (Duplicate Claims Filed By Barton Equities, LLC)
14.	Litigation Trustee's Fourteenth Omnibus Objection To Claims (Duplicate Claims filed by BK ESH LLC)
15.	Litigation Trustee's Fifteenth Omnibus Objection To Claims (Duplicate Claims filed by FOA ESH LLC)
16.	Litigation Trustee's Sixteenth Omnibus Objection To Claims (Duplicate Claims Filed By GF ESH LLC)

17.	Litigation Trustee's Seventeenth Omnibus Objection To Claims (Duplicate Claims Filed By Hospitality F LLC)
18.	Litigation Trustee's Eighteenth Omnibus Objection To Claims (Duplicate Claims filed by Legacy ESH, LLC)
19.	Litigation Trustee's Nineteenth Omnibus Objection To Claims (Duplicate Claims Filed By SFF ESH LLC)
20.	Litigation Trustee's Twentieth Omnibus Objection To Claims (Duplicate Claims Filed By SW ESH LLC)
21.	Litigation Trustee's Twenty-First Omnibus Objection To Claims (Duplicate Claims)
22.	Litigation Trustee's Twenty-Second Omnibus Objection To Claims Pursuant To 11 U.S.C. Section 502(d)
23.	Litigation Trustee's Twenty-Third Omnibus Objection to Claims (Claims Against "Extended Stay Inc.")
24.	Litigation Trustee's Twenty-Fourth Omnibus Objection to Claims (Claims Against "Extended Stay Inc.")

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