

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:) Case No. 10-50494
)
FAIR FINANCE COMPANY,) Chapter 7
)
Debtor.) Judge Marilyn Shea-Stonum
)

**TRUSTEE’S MOTION FOR AN ORDER
ESTABLISHING PROCEDURES FOR THE ASSIGNMENT OF FILED CLAIMS**

Brian A. Bash, the duly-appointed Chapter 7 Trustee (the “Trustee”) for Fair Finance Company (the “Debtor”) in the Debtor’s pending Chapter 7 bankruptcy case, files this motion (the “Motion”) seeking entry of an order approving the Trustee’s proposed procedures for the assignment of filed claims, effective as of the date of the filing of this Motion. In support of the Motion, the Trustee states as follows:

BACKGROUND

1. On February 8, 2010 (the “Petition Date”), certain creditors filed a petition for involuntary bankruptcy against the Debtor.
2. On the Petition Date, the creditors also filed an “Emergency Motion to Appoint Interim Trustee” (Dkt. No. 2) alleging that a trustee was needed to oversee the operations of the Debtor because (i) the Debtor had failed to make timely payments on its debts, including failing to redeem matured debt certificates and failing to pay interest on unmatured certificates; (ii) the Debtor and several affiliated companies had been raided by the Federal Bureau of Investigation in November of 2009; (iii) the Debtor had not been open to the public since the raid; and (iv) public records revealed that the Debtor had made “unusually large” loans to insiders.



105049412080100000000001

3. On February 19, 2010, this Court entered an order (Dkt. No. 25) directing the United States Trustee to appoint an interim trustee. On February 24, 2010, the Debtor filed notice consenting to the entry of an order for relief in this proceeding (Dkt. No. 35). On March 2, 2010, the Court entered an Order granting the relief sought by the petitioning creditors *nunc pro tunc* as of February 24, 2010 (Dkt. No. 40).

4. On March 2, 2010, the United States Trustee filed the Notice of Appointment of Interim Chapter 7 Trustee *nunc pro tunc* effective as of February 24, 2010 (Dkt. No. 41). The Trustee is the duly-appointed, qualified, acting and permanent Trustee in this bankruptcy case.

5. To assist the Trustee with the orderly and efficient processing of claims, the Trustee retained Kurtzman Carson Consultants LLC (“KCC”) as his claims agent. The Court entered an order approving the Trustee’s retention of KCC on March 23, 2010 (Dkt. No. 70). KCC has maintained the register of the Debtor’s creditors and other information with respect to creditor claims, which is updated as often as needed to accurately reflect information set forth in the claims.

6. As of the date of this Motion, approximately 5,600 claims have been filed in the Debtor’s bankruptcy case (collectively, the “Filed Claims”). The vast majority of these Filed Claims have been filed by less experienced individuals, many of whom are elderly, who purchased “V-Notes” from the Debtor. The Trustee has not yet determined substantially all of the Filed Claims in the case. The Trustee plans to make determinations on the Filed Claims if and when he has recovered sufficient funds to make distributions.

JURISDICTION AND VENUE

7. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

8. The statutory predicates for the relief requested herein are 11 U.S.C. §§ 105(a), 501 and 502, and Rule 3001(e) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

RELIEF REQUESTED

9. The Trustee seeks entry of an order approving the Trustee’s proposed procedures for all assignments of Filed Claims in the Debtor’s bankruptcy case, including approving the use of the Transfer and Notice of Transfer Forms (defined below) in lieu of the Official Bankruptcy Forms.

BASIS FOR RELIEF REQUESTED

10. The Trustee has been advised by several creditors that they have been contacted by companies asking to purchase their Filed Claims. The potential buyers of these Filed Claims are, for the most part, sophisticated investment firms who trade in bankruptcy claims as a for-profit business enterprise. The Trustee takes no position with respect to a creditor’s decision to sell his or her Filed Claim, and creditors must exercise their own judgment based upon information in the public record with respect to any offer they receive to purchase a Filed Claim. The Trustee has, however, provided some publicly available information on his website that individual creditors may find useful when deciding whether to sell their Filed Claims.

11. The Trustee has also been contacted by several creditors asking how they can transfer their Filed Claims to their children, as well as probate executors asking how they can

transfer Filed Claims as directed by a decedent's will, trust or probate plan. This Motion is not intended to supersede any applicable probate requirements, and the Trustee offers no opinion as to whether following the Claim Transfer Procedures (defined below) satisfy any applicable probate requirements.

12. The Trustee seeks approval of the Claims Trading Procedures (defined below) in order to protect less sophisticated creditors, remedy the confusion about how Filed Claims may be transferred, ease the administrative burden on the Clerk of the Bankruptcy Court and ensure that the claims register maintained by KCC remains accurate.

A. Bankruptcy Rule 3001(e) Governs the Transfer of Filed Claims.

13. Creditor claims may be transferred to third parties after they have been filed, and the transferee of a properly transferred claim obtains the right to receive a distribution on account of the transferred claim. Bankruptcy Rule 3001(e) governs the process for transferring a claim after a proof of claim has been filed. Under Bankruptcy Rule 3001(e), after a claim has been filed and transferred, a transferee must file evidence of the transfer with the Clerk of the Bankruptcy Court. The Clerk then notifies the transferor of the transfer by mail. The transferor has twenty-one (21) days to object to the transfer. If the transferor does not file a timely objection, the transferee of the claim is substituted for the transferor. If a transferor does timely file an objection, after notice and a hearing, the Bankruptcy Court determines whether the claim has been properly transferred and decides any other issue raised by the objection.¹

¹ The full text of Bankruptcy Rule 3001(e)(2), governing the transfer of claims other than for security after a proof of claim has been filed, is as follows:

continued on next page...

14. In these proceedings, the literal requirements of Bankruptcy Rule 3001(e) would require the Clerk of the Bankruptcy Court to obtain creditor information from the Trustee and KCC for each and every purported Filed Claim transfer. That would impose a significant administrative burden on the Clerk and result in wasteful, duplicative efforts by both the Clerk and KCC, which will be exacerbated if Filed Claims are assigned in large numbers.

15. Implementing uniform procedures and forms with respect to the transfer of Filed Claims that are similar to the procedures set forth in Bankruptcy Rule 3001(e) and the Official Bankruptcy Forms, but are modified to fit the circumstances of these proceedings, will protect creditors, ease the administrative burden on the Clerk and ensure the claim register's accuracy. In light of the magnitude of Filed Claims, having a uniform transfer process should also facilitate faster noticing of a Filed Claim transfer, ensure more accurate completion of the transfer process and create added certainty about the identity of holders of Filed Claims.

B. Claims Trading Procedures.

16. By this Motion, the Trustee respectfully requests that the Court approve the following procedures and forms (the "Claims Trading Procedures") with respect to the transfer of Filed Claims in these proceedings:

...continued from previous page

Transfer of Claim Other Than for Security After Proof Filed. If a claim other than one based on a publicly traded note, bond, or debenture has been transferred other than for security after the proof of claim has been filed, evidence of the transfer shall be filed by the transferee. The clerk shall immediately notify the alleged transferor by mail of the filing of the evidence of transfer and that objection thereto, if any, must be filed within 21 days of the mailing of the notice or within any additional time allowed by the court. If the alleged transferor files a timely objection and the court finds, after notice and a hearing, that the claim has been transferred other than for security, it shall enter an order substituting the transferee for the transferor. If a timely objection is not filed by the alleged transferor, the transferee shall be substituted for the transferor.

a) Filed Claim Transfer. The transferee of a Filed Claim must generate the paperwork associated with the transfer of the Filed Claim. This includes specifically, but is not limited to, buyers of Filed Claims who engage in claims trading for-profit and other purposes. Buyers and other transferees often do not use the Official Bankruptcy Form for transferred claims. To ensure that the same information is provided for each transferred Filed Claim, the Trustee is proposing that all Filed Claim transferees in these proceedings must use standardized forms. Thus, to evidence the transfer of a Filed Claim, the transferee of a Filed Claim or the transferee's agent must do the following:

- i. Complete, sign and date a "Transfer of Filed Claim" form that conforms to Exhibit A attached to this Motion (the "Transfer Form"). In the Transfer Form, the transferee or transferee's agent shall specifically identify the (aa) name and primary address of the transferor and transferee; (bb) address where a distribution on the transferred Filed Claim should be sent, if different from the transferee's primary address; (cc) the dollar amount of the Filed Claim to be transferred, certifying that the amount transferred represents the total amount of the transferor's Filed Claim;² and (dd) the Filed Claim number. The only instance in which multiple Transfer Forms would be completed would be when the transferor has received separate Filed Claim numbers from the Trustee and the transaction involves the

² Partial transfers of Filed Claims would not be permitted, as discussed *infra*.

transfer of multiple Filed Claims having separate Filed Claim numbers.³ In that event, the transferee must complete a separate Transfer Form for each distinct Filed Claim being transferred. It is not necessary that the transferee submit additional documents, other than the Transfer Form, in support of the transferred Filed Claim at this stage of the process.⁴ The completed, signed and dated Transfer Form constitutes evidence of the “Filed Claim Transfer”; and

- ii. Submit the completed, signed and dated Filed Claim Transfer to the Fair Finance Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 2335 Alaska Avenue, El Segundo, California 90245. KCC maintains the register of creditors and can efficiently serve the Notice of Transfer, as discussed in paragraph 16(b) below, file certificates of service, and compile a register of transferred Filed Claims without burdening the Clerk or disrupting and unnecessarily increasing the administrative cost of these proceedings. KCC shall have the right to request and obtain additional information from the transferee to the extent that KCC determines that the completed, signed and dated Transfer Form is ambiguous or deficient to evidence the Filed Claim Transfer. If KCC

³ Examples of situations in which a transferor may have multiple Filed Claim numbers include situations in which a transferor holds V-Notes in different capacities (e.g., both individually and as the trustee of a trust), or a transferor filed multiple proofs of claim for the same V-Note. In order for a Filed Claim Transfer to be valid, the transferor must transfer all Filed Claims relating to the same V-Note, as discussed *infra*.

⁴ As set forth in paragraph 16(d) of this Motion, the Court may require additional support for the transfer if an objection is filed by the transferor.

does not receive complete and satisfactory information, as requested, from the purported transferee, the Filed Claim Transfer shall be deemed invalid and unenforceable. In such circumstances, without further notice or a hearing, the transferor would be deemed to be the holder of the Filed Claim for all purposes, including receiving any distribution on such Filed Claim if the Filed Claim is allowed.

- b) Notice of Filed Claim Transfer. If KCC receives satisfactory evidence of the Filed Claim Transfer, including a completed, signed and dated Transfer Form that is not ambiguous or deficient, within five (5) business days thereafter, KCC must do the following:
- i. Send the transferor identified in the Transfer Form, by United States mail, postage prepaid, a notice of transfer that conforms to Exhibit B attached to this Motion (the “Notice of Transfer”), together with a copy of the Transfer Form and any additional evidence of the Filed Claim Transfer requested or received by KCC. The Notice of Transfer shall notify the transferor that the transferor has twenty-one (21) days from the date of the mailing of the Notice of Transfer to object to the Filed Claim Transfer (the “21-Day Notice Period”). If no objection to the Filed Claim Transfer is timely filed and served, the Filed Claim Transfer will be valid and enforceable upon expiration of the 21-Day Notice Period without further notice. Thereafter, the transferee shall be substituted for the transferor for all purposes with respect to the transferred Filed Claim; and

- ii. Promptly file with the Clerk a certificate of service of the Notice of Transfer and copy of the Transfer Form.
- c) Objection to Filed Claim Transfer. A transferor that objects to the Filed Claim Transfer must do the following:
- i. Prepare a written objection explaining the reasons for objecting to the transfer of the Filed Claim (the “Objection”);
 - ii. File the Objection with the Clerk of the Bankruptcy Court, in person between the hours of 9:00 a.m. and 4:00 p.m., or by mail, at John F. Seiberling Federal Building & U.S. Courthouse, 455 U.S. Courthouse, 2 South Main Street, Akron, Ohio 44308. If the transferor is represented by counsel that is a registered user of the Bankruptcy Court’s electronic case filing system, counsel for the transferor may file the Objection electronically using the Bankruptcy Court’s electronic case filing system;
 - iii. Serve a copy of the Objection and a certificate of service upon the following:
 - The Trustee’s claims agent at:
Fair Finance Claims Processing Center
c/o Kurtzman Carson Consultants LLC
2335 Alaska Avenue
El Segundo, California 90245
 - The transferee of the transferred Filed Claim at the address indicated in the Transfer Form; and
 - iv. Promptly file with the Bankruptcy Clerk a certificate of service of the Objection.
- d) Hearing on Objections. All Objections to a Filed Claim Transfer shall be resolved by a final order of the Court as a contested matter (the “Contested Transfers”)

after notice and a hearing. The transfer of a Filed Claim will not be valid and enforceable until the Contested Transfer is resolved by a final order of the Court, or the Objection is withdrawn or settled with Court approval. The Notice of Hearing shall be in lieu of a motion to determine the Contested Transfer. The Court may require that the parties submit further evidence in support of the transferred Filed Claim and/or legal briefs in order to resolve the dispute. The Court thereafter shall enter such orders respecting the Contested Transfers as it deems appropriate. Upon receiving a copy of the Objection, the transferee or transferee's agent shall be responsible for contacting the Clerk of the Bankruptcy Court and requesting that the Court fix a hearing date that is at least thirty (30) days after the date of service of the Objection upon the transferee (the "Hearing Date"). After contacting the Court to obtain a Hearing Date, the transferee or transferee's agent shall do the following:

- i. File a "Notice of Hearing," which Notice of Hearing shall (aa) specify the Hearing Date; (bb) identify the Contested Transfer by Filed Claim number and amount; (cc) identify the date of the purported transfer; (dd) identify the transferor and transferee; and (ee) identify the docket entry number of each Objection that will come before the Court during the hearing.
- ii. Serve a copy of the Notice of Hearing and a certificate of service upon the following:
 - The Trustee's claims agent at:
Fair Finance Claims Processing Center
c/o Kurtzman Carson Consultants LLC
2335 Alaska Avenue
El Segundo, California 90245

- The transferor of the transferred Filed Claim at the address indicated in the Transfer Form; and
- iii. Promptly file with the Clerk of the Bankruptcy Court a certificate of service of the Notice of Hearing.
- e) No Partial Transfers of Filed Claims Permitted. For a transfer of a Filed Claim to be valid and enforceable, the entire amount of the Filed Claim must be transferred. A transfer of part of a Filed Claim, whether expressed in the Filed Claim Transfer as a percentage or in partial dollars, would impose a burden on the Trustee of calculating and allocating a *pro rata* distribution to transferor and transferee for each partially transferred Filed Claim that is allowed. That burden would be compounded if there were multiple transferees receiving partial assignments of a single Filed Claim. Instead of minimizing the Court's involvement in a routine Filed Claim Transfer, allowing partial transfers could increase the Court's involvement, thereby draining, rather than conserving, the Court's and the parties' resources. The Trustee requests, therefore, that any transfer that purports to transfer only part of a Filed Claim, and not the entire Filed Claim, shall be invalid and unenforceable. In such circumstances, without further notice or a hearing, the transferor would be deemed to be the holder of the Filed Claim for all purposes, including receiving a distribution on such Filed Claim if the Filed Claim is allowed.
- f) Retroactive Application of Claims Trading Procedures. The Trustee requests that the Claims Trading Procedures be approved retroactively as of the date that the Motion is filed, and that the Court enter an order applying the relief retroactively to that date (the "Effective Date").

17. The Claims Trading Procedures outlined above will be followed with respect to each and every Filed Claim that a transferor seeks to transfer from and after the Effective Date and also will apply substantially in the following circumstances:

- a) If, prior to the Effective Date, the transferor and transferee entered into a written agreement to transfer a Filed Claim, but, as of the Effective Date, the transferee has not submitted evidence of the transfer of the Filed Claim to the Clerk of the Bankruptcy Court. In these circumstances, the transferee must submit evidence of the transfer of the Filed Claim to KCC. The evidence of the transfer need not strictly conform to the Transfer Form attached as Exhibit A to this Motion, but should include in substance the information called for in the Transfer Form. KCC shall have the right to request and obtain additional information from the transferee to the extent that KCC determines that the evidence of the transfer of the Filed Claim that has been furnished is ambiguous or deficient, as compared with the information required under paragraph 16(a) of this Motion. *See* ¶ 16 *supra*. If KCC receives all requisite information, it shall issue the Notice of Transfer to the transferor, and the Claims Trading Procedures shall be followed in all respects from that point forward. If KCC does not receive complete and satisfactory information, as requested, from the purported transferee, the Filed Claim Transfer shall be deemed invalid and unenforceable. In such circumstances, without further notice or a hearing, the transferor would be deemed to be the holder of the Filed Claim for all purposes, including receiving any distribution on such Filed Claim if the Filed Claim is allowed.

b) If, prior to the Effective Date, the transferee of a transferred Filed Claim has filed with the Clerk of the Bankruptcy Court evidence of the transfer of the Filed Claim, but the Clerk has not given notice to the transferor of the opportunity to object. In such circumstances, the transferee must notify KCC of the Bankruptcy Court's docket entry for the evidence of transfer that the transferee filed. The evidence of the transfer need not strictly conform to the Transfer Form attached as Exhibit A to this Motion, but must include in substance the information called for in the Transfer form. KCC shall have the right to request and obtain additional information from the transferee to the extent that KCC determines that the evidence of the transfer of the Filed Claim that has been furnished is ambiguous or deficient, as compared with the information required under paragraph 16(a) of this Motion. *See ¶ 16 supra.* If KCC receives all requisite information, it shall issue the Notice of Transfer to the transferor, and the Claims Trading Procedures shall be followed in all respects from that point forward. If KCC does not receive complete and satisfactory information, as requested, from the purported transferee, the Filed Claim Transfer shall be deemed invalid and unenforceable. In such circumstances, without further notice or a hearing, the transferor would be deemed to be the holder of the Filed Claim for all purposes, including receiving any distribution on such Filed Claim if the Filed Claim is allowed.

18. The Claims Trading Procedures would not apply to a transfer of a Filed Claim in which, prior to the Effective Date, the following notice and hearing procedures have been complied with: (a) the transferee had filed with the Court evidence of the transfer of the Filed Claim, (b) the Clerk of the Bankruptcy Court or the transferee had given at least 21-days'

advance written notice to the transferor of the opportunity to object, and (c) if notice to the transferor of the transferred Filed Claim in accordance with this paragraph had been given by the transferee, the transferee contemporaneously had filed with the Court and served upon the transferor and the Trustee a certificate of service with respect to such notice.⁵ In such circumstances, if the 21-day notice period had elapsed with no objection having been filed, the transferee effectively has been substituted for the transferor with respect to the transferred Filed Claim.

19. At this time, substantially all of the Filed Claims have not yet been determined by the Trustee. Following the Claims Trading Procedures will not: (a) reverse the Trustee's prior determination of a Filed Claim that has already been determined, (b) have any impact whatsoever on the Trustee's later determination of the Filed Claim, (c) give the transferor or transferee any additional rights with respect to such Filed Claim, or (d) alter or remove any rights of the Trustee as against the transferor or transferee with respect to such Filed Claim.

20. The Claims Trading Procedures substantially comply with Bankruptcy Rule 3001(e) and are in the best interest of the estate.

NOTICE

21. Notice of this Motion has been given to the Office of the United States Trustee, counsel to the Petitioning Creditors, all parties who have requested notice and any transferors or transferees of Filed Claims identified from papers docketed with the Court or otherwise brought

⁵ To date, the Trustee is only familiar with one instance in which the notice and hearing procedures, as set forth in paragraph 18 above, appear to have been complied with. Thus, it appears that nearly all Filed Claim Transfers are subject to this Claims Trading Procedure, if approved by the Court.

to the Trustee's attention. The Trustee submits that such notice is good and sufficient and no other or further notice is necessary or required.

WHEREFORE, the Trustee respectfully requests that the Court enter an order substantially in the form of Exhibit C attached hereto (a) granting this Motion, (b) approving the Claims Trading Procedures effective retroactively to the date of the filing of this Motion, and (c) granting the Trustee such other and further relief as is just and proper.

Dated: August 1, 2012

Respectfully submitted,

/s/ Alexis C. Osburn

Kelly S. Burgan (0073649)

Alexis C. Osburn (0083642)

BAKER & HOSTETLER LLP

PNC Center

1900 East 9th Street, Suite 3200

Cleveland, Ohio 44114-3482

Telephone: (216) 621-0200

Facsimile: (216) 696-0740

Email: kburgan@bakerlaw.com

aosburn@bakerlaw.com

Counsel for the Trustee

EXHIBIT A
TRANSFER FORM

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:) Case No. 10-50494
)
FAIR FINANCE COMPANY,) Chapter 7
)
Debtor.) Judge Marilyn Shea-Stonum
)

TRANSFER OF FILED CLAIM

A claim has been filed in this case, designated as Claim No. _____. Transferee hereby gives evidence pursuant to certain Claims Trading Procedures approved by Order of the Court dated _____, 2012 (Dkt. No. ____), of the transfer of the filed claim referenced herein.

Transferee Name: _____ Transferor Name: _____

Name and Address where notices to Transferee should be sent: Name and Address where notices to Transferor should be sent:

Name and Address where potential payments to Transferee should be sent (if different from above):

_____ Filed Claim No. _____
_____ Filed Claim Amount: _____

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

By: _____ Date: _____, 20____
Transferee/Transferee's Agent

Penalty for making a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 & 3571.

EXHIBIT B

NOTICE OF TRANSFER

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:) Case No. 10-50494
)
FAIR FINANCE COMPANY,) Chapter 7
)
Debtor.) Judge Marilyn Shea-Stonum
)

NOTICE OF TRANSFER

TO: [Transferor Name]
[Street Address]
[City, State and Zip Code]

[Transferee name] _____, as Transferee, has asked the Bankruptcy Court to transfer your filed Claim No. _____ against Fair Finance Company (your "Claim") to the Transferee.

If you do not object to the transfer of your Claim, you do not need to take action.

If you do not want your Claim to be transferred to the Transferee, **WITHIN 21 DAYS OF THE MAILING OF THIS NOTICE, YOU MUST DO THE FOLLOWING:**

1. Prepare a written objection to the transfer explaining your reasons for objecting to the transfer of your Claim to the Transferee. Your written objection must include the caption of this case and the Case Number (10-50494). You must also refer to Claim No. _____ in your objection.
2. File your written objection with the Clerk of the United States Bankruptcy Court, in person between the hours of 9:00 a.m. and 4:00 p.m., or by mail at the following address:

Clerk, United States Bankruptcy Court for the Northern District of Ohio
John F. Seiberling Federal Building & U.S. Courthouse
455 U.S. Courthouse
2 South Main Street
Akron, Ohio 44308

3. Send a copy of your objection to the Transferee at [Transferee address] _____, and send a copy of your objection to the Trustee's claims agent at Fair Finance Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 2335 Alaska Avenue, El Segundo, California 90245.
4. Prepare a written certification including the caption of the case and the Case Number (10-50494), and certifying that you sent a copy of your objection to the Transferee of your Claim and to the Trustee's claims agent, as set forth in paragraph 3 above, and file that written certification with the Clerk of the United States Bankruptcy Court at the address above.

If you file an objection, the purported Transferee of the Allowed Claim must request a hearing before the United States Bankruptcy Court at the address above to resolve the objection before any distribution is made on the Claim, if the Claim is allowed.

IF YOUR OBJECTION IS NOT TIMELY FILED, THE TRANSFEREE WILL BE SUBSTITUTED IN COURT RECORDS AS THE CREDITOR HOLDING YOUR CLAIM AND WILL RECEIVE ANY DISTRIBUTION TO WHICH YOUR CLAIM IS ENTITLED.

EXHIBIT C

PROPOSED ORDER

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:)	Case No. 10-50494
)	
FAIR FINANCE COMPANY,)	Chapter 7
)	
Debtor.)	Judge Marilyn Shea-Stonum
)	

**ORDER GRANTING TRUSTEE’S MOTION FOR AN ORDER
ESTABLISHING PROCEDURES FOR THE ASSIGNMENT OF FILED CLAIMS**

This matter came before the Court on the *Trustee’s Motion for an Order Establishing Procedures for the Assignment of Filed Claims* (the “Motion”) filed by Brian A. Bash, the duly-appointed Chapter 7 Trustee (the “Trustee”) for Fair Finance Company (the “Debtor”) in the Debtor’s pending Chapter 7 bankruptcy case, seeking entry of an order establishing procedures for the assignment of claims filed in the Debtor’s bankruptcy case (collectively, the “Filed Claims”). The Court having considered the Motion; and having found that notice of the Motion was adequate and sufficient under the circumstances, and that no other or further notice need be provided; and the Court having conducted a hearing on the Motion at which all parties in interest had an opportunity to present their respective positions; and the Court having found and

determined that the relief sought in the Motion is in the best interests of the estate and other parties in interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and any objections to the Motion having been overruled or withdrawn; and after due deliberation and sufficient cause appearing therefore:

IT IS HEREBY ORDERED THAT:

1. The Motion is granted.
2. The Claims Trading Procedures, as defined in the Motion, are approved.
3. Filed Claim Transfer. The transferor and transferee shall complete, sign and date the Transfer Form, as defined in the Motion, a copy of which is attached as Exhibit 1 to this Order, to evidence the transfer of a Filed Claim. The completed, signed and dated Transfer Form shall constitute evidence of the Filed Claim Transfer.
4. The transferee or the transferee's agent shall deliver the completed, signed and dated Transfer Form, as set forth in the Motion, to the Trustee's claims agent, Kurtzman Carson Consultants LLC ("KCC") at the following address: Fair Finance Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 2335 Alaska Avenue, El Segundo, California 90245.
5. KCC shall have the right to request and obtain additional information from the transferee or transferee's agent to the extent that KCC determines that the Transfer Form is ambiguous or deficient to evidence the Filed Claim Transfer. If KCC does not receive complete and satisfactory information, as requested, from the purported transferee, the Filed Claim Transfer shall be deemed invalid and unenforceable. In such circumstances, without further notice or a hearing, the transferor would be deemed to be the holder of the Filed Claim for all purposes, including receiving any distribution on such Filed Claim if the Filed Claim is allowed.

6. Notice of Transfer of Filed Claim. If KCC receives satisfactory evidence of the Filed Claim Transfer from the transferee or transferee's agent, including a completed, signed and dated Transfer Form that is not ambiguous or deficient, within five (5) business days thereafter, KCC shall send the transferor a Notice of Transfer, as defined in the Motion, a copy of which is attached as Exhibit 2 to this Order, together with the Transfer Form received from the transferee and any additional evidence of the Filed Claim Transfer requested or received by KCC. KCC shall promptly file a certificate of service of the Notice of Transfer with the Clerk of the Bankruptcy Court.

7. The Notice of Transfer shall notify the transferor that the transferor has twenty-one (21) days from the date of the Notice of Transfer to object to the Filed Claim Transfer by preparing a written objection (the "Objection") to the Filed Claim Transfer and explaining the reasons for the Objection.

8. If no Objection is timely filed and served, after expiration of the 21-day notice period, the transferee shall be substituted for the transferor with respect to the transferred Filed Claim and shall receive all distributions made on account of the Filed Claim if the Filed Claim is allowed.

9. Objection to a Filed Claim Transfer. If the transferor objects to the Filed Claim Transfer (a "Contested Transfer"), the transferor shall file the Objection with the Clerk of the Bankruptcy Court and serve a copy of the Objection and a certificate of service upon (a) KCC at the address indicated in paragraph 4 of this Order, and (b) the transferee at the address indicated in the Transfer Form. The transferor shall also promptly file a certificate of service of the Objection with the Clerk of the Bankruptcy Court.

10. Notice of Hearing. If an Objection is timely filed and served, upon receiving a copy of the Objection, the transferee or transferee's agent shall be responsible for contacting the Clerk of the Bankruptcy Court and requesting that the Court fix a hearing date that is at least thirty (30) days after the date of service of the Objection upon the transferee (the "Hearing Date"). After contacting the Court to obtain a Hearing Date, the transferee or the transferee's agent shall file a Notice of Hearing, which shall specify the Hearing Date and identify the Contested Transfer by (a) Filed Claim number and amount; (b) date of the purported transfer; (c) transferor and transferee; and (d) docket entry number of each Objection that will come before the Court during the hearing. The transferee or the transferee's agent shall serve a copy of the Notice of Hearing and a certificate of service upon (y) KCC at the address indicated in paragraph 4 of this Order, and (z) the transferor at the address indicated in the Transfer Form. The transferee shall also promptly file a certificate of service of the Notice of Hearing with the Clerk of the Bankruptcy Court:

11. The Notice of Hearing shall be in lieu of a motion to bring the Contested Transfer before the Court.

12. The transfer of a Filed Claim will not be valid and enforceable until the Contested Transfer is resolved by a Court order, unless the Objection is withdrawn or settled with Court approval.

13. No Partial Transfers of Filed Claims Permitted. A transferor must transfer the entire amount of a Filed Claim. Any transfer that purports to transfer only part of a Filed Claim, whether expressed by percentage or dollar amount, shall be invalid and unenforceable. In such circumstances, the transferor shall be deemed to be the holder of the Filed Claim for all purposes,

including with respect to receiving distributions on such Filed Claim if the Filed Claim is allowed.

14. Any transfer of a Filed Claim that was completed before the Effective Date and purports to have transferred less than the full amount of such Filed Claim is invalid. As to any such transferred Filed Claim, the transferor and transferee must comply with the Claims Trading Procedures.

15. The Claims Trading Procedures apply to the transfer of Filed Claims, as set forth in the Motion. Following the Claims Trading Procedures will not (a) reverse the Trustee's prior determination of a Filed Claim, (b) have any impact whatsoever on the Trustee's later determination of the Filed Claim, (c) give the transferor or transferee any additional rights with respect to the Filed Claim, or (d) alter or remove any rights of the Trustee as against the transferor or transferee with respect to a Filed Claim.

16. Neither the transferor nor the transferee of a transferred Filed Claim may waive compliance with the Claims Trading Procedures approved by this Order.

#

Submitted and approved by:

/s/ Alexis C. Osburn

Alexis C. Osburn (0083642)
BAKER & HOSTETLER LLP
PNC Center
1900 East 9th Street, Suite 3200
Cleveland, Ohio 44114-3482
Telephone: (216) 621-0200
Facsimile: (216) 696-0740
Email: aosburn@bakerlaw.com

Counsel for the Trustee

EXHIBIT 1

TRANSFER FORM

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:)	Case No. 10-50494
)	
FAIR FINANCE COMPANY,)	Chapter 7
)	
Debtor.)	Judge Marilyn Shea-Stonum
)	

TRANSFER OF FILED CLAIM

A claim has been filed in this case, designated as Claim No. _____. Transferee hereby gives evidence pursuant to certain Claims Trading Procedures approved by Order of the Court dated _____, 2012 (Dkt. No. ____), of the transfer of the filed claim referenced herein.

Transferee Name: _____ Transferor Name: _____

Name and Address where notices to Transferee should be sent: _____
Name and Address where notices to Transferor should be sent: _____

Name and Address where potential payments to Transferee should be sent (if different from above): _____
Filed Claim No. _____

_____ Filed Claim Amount: _____

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

By: _____ Date: _____, 20____
Transferee/Transferee's Agent

Penalty for making a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 & 3571.

EXHIBIT 2

NOTICE OF TRANSFER

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:) Case No. 10-50494
)
FAIR FINANCE COMPANY,) Chapter 7
)
Debtor.) Judge Marilyn Shea-Stonum
)

NOTICE OF TRANSFER

TO: [Transferor Name]
[Street Address]
[City, State and Zip Code]

[Transferee name] _____, as Transferee, has asked the Bankruptcy Court to transfer your filed Claim No. _____ against Fair Finance Company (your "Claim") to the Transferee.

If you do not object to the transfer of your Claim, you do not need to take action.

If you do not want your Claim to be transferred to the Transferee, **WITHIN 21 DAYS OF THE MAILING OF THIS NOTICE, YOU MUST DO THE FOLLOWING:**

1. Prepare a written objection to the transfer explaining your reasons for objecting to the transfer of your Claim to the Transferee. Your written objection must include the caption of this case and the Case Number (10-50494). You must also refer to Claim No. _____ in your objection.
2. File your written objection with the Clerk of the United States Bankruptcy Court, in person between the hours of 9:00 a.m. and 4:00 p.m., or by mail at the following address:

Clerk, United States Bankruptcy Court for the Northern District of Ohio
John F. Seiberling Federal Building & U.S. Courthouse
455 U.S. Courthouse
2 South Main Street
Akron, Ohio 44308

3. Send a copy of your objection to the Transferee at [Transferee address] _____, and send a copy of your objection to the Trustee's claims agent at Fair Finance Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 2335 Alaska Avenue, El Segundo, California 90245.
4. Prepare a written certification including the caption of the case and the Case Number (10-50494), and certifying that you sent a copy of your objection to the Transferee of your Claim and to the Trustee's claims agent, as set forth in paragraph 3 above, and file that written certification with the Clerk of the United States Bankruptcy Court at the address above.

If you file an objection, the purported Transferee of the Allowed Claim must request a hearing before the United States Bankruptcy Court at the address above to resolve the objection before any distribution is made on the Claim, if the Claim is allowed.

IF YOUR OBJECTION IS NOT TIMELY FILED, THE TRANSFEREE WILL BE SUBSTITUTED IN COURT RECORDS AS THE CREDITOR HOLDING YOUR CLAIM AND WILL RECEIVE ANY DISTRIBUTION TO WHICH YOUR CLAIM IS ENTITLED.

CERTIFICATE OF SERVICE

A copy of the foregoing has been served via ECF or regular, U.S. Mail, on August 1, 2012, on the attached service list.

/s/ Alexis C. Osburn

Alexis C. Osburn

Counsel for the Trustee

SERVICE LIST

Electronic Mail Notice List

The following is the list of **parties** who are currently on the list to receive e-mail notice/service for this case.

- Stephen M Bales sbales@zieglermetzger.com, dmalloy@zieglermetzger.com
- Brian A Bash bashtrustee@bakerlaw.com, bbash@ecf.epiqsystems.com
- Brian A Bash BBash@bakerlaw.com
- John E. Bator jbator@batorlaw.com, sbator@batorlaw.com
- Kathryn A. Belfance kb@rlbllp.com
- John B. Blanton jblanton@bakerlaw.com
- Kelly Burgan kburgan@bakerlaw.com
- Patrick W. Carothers pcarothers@thorpreed.com, dtomko@thorpreed.com;ghauswirth@thorpreed.com;rhotaling@thorpreed.com;jshannon@thorpreed.com
- Anthony J. Cespedes ajc1253@yahoo.com
- LeGrand L Clark legrand.clark@atg.in.gov, stephanie.patrick@atg.in.gov
- Deborah A. Coleman dacoleman@hahnlaw.com, hlpcr@hahnlaw.com;mcsoulsby@hahnlaw.com;cmbeitel@hahnlaw.com
- Anthony J DeGirolamo ajdlaw@sbcglobal.net
- Daniel A DeMarco dademarco@hahnlaw.com, hlpcr@hahnlaw.com;cmbeitel@hahnlaw.com
- Rocco I. Debitetto ridebitetto@hahnlaw.com, hlpcr@hahnlaw.com
- Duriya Dhinojwala dhinojwala@ccj.com, duriyal@hotmail.com
- Michelle L. DiBartolo mdibartolo@ttmlaw.com, mldibartolo@gmail.com
- James M. Dickerson jdickerson@bgdlegal.com, bmartin@bgdlegal.com;mthompson@bgdlegal.com
- Breaden M Douthett bdouthett@bakerlaw.com, krossiter@bakerlaw.com;fairfinancedocket@bakerlaw.com
- J Douglas Drushal ddrushal@ccj.com
- Charles R. Dyas charles.dyas@btlaw.com
- Joseph Esmont jesmont@bakerlaw.com, joe.esmont@gmail.com;fairfinancedocket@bakerlaw.com
- Gregory R Farkas gfarkas@frantzward.com, dlbeatrice@frantzward.com
- Adam Lee Fletcher afletcher@bakerlaw.com
- Dov Frankel dfrankel@taftlaw.com, dwhite@taftlaw.com;docket@taftlaw.com
- Leon Friedberg lfriedberg@cpmlaw.com, knocera@cpmlaw.com;squinn@cpmlaw.com
- Ronald P. Friedberg rfriedberg@meyersroman.com, vvardon@meyersroman.com
- Marc P Gertz mpgertz@goldman-rosen.com, kls@goldman-rosen.com;kstone_56@hotmail.com
- Harry W Greenfield bankpleadings@bucklaw.com, young@buckleyking.com;toole@buckleyking.com;heberlein@buckleyking.com
- John J Guy johnguy@neo.rr.com
- H Ritchey Hollenbaugh hrh@cpmlaw.com, knocera@cpmlaw.com;slq@cpmlaw.com
- Joseph F. Hutchinson jhutchinson@bakerlaw.com, smaxwell@bakerlaw.com;fairfinancedocket@bakerlaw.com
- Steven G Janik steven.janik@janiklaw.com
- Cynthia A Jeffrey ecfndoh@reimerlaw.com, RACJ.ecfndoh@yahoo.com
- Kenneth C Johnson kjohnson@bricker.com, rdelsignore@bricker.com
- Patrick J Keating pkeating@bdblaw.com
- Scott J. Kelly skelly@hahnlaw.com

- Suzana Krstevski Koch skoch@brouse.com, tpalcic@brouse.com;rhaupt@brouse.com
- John F Kostelnik jkostelnik@frantzward.com, dlbeatrice@frantzward.com
- David R. Krebs dkrebs@hklawfirm.com, dadams@hklawfirm.com
- Stuart A. Laven slaven@beneschlaw.com,
docket@beneschlaw.com;mkrawczyk@beneschlaw.com;lbehra@beneschlaw.com
- James Michael Lawniczak jlawniczak@calfee.com
- Trish D. Lazich trish.lazich@ohioattorneygeneral.gov,
angelique.seals@ohioattorneygeneral.gov
- Scott B. Lepene scott.lepene@thompsonhine.com,
docket@thompsonhine.com,betty.ribic@thompsonhine.com,marcia.burston@thompsonhine.com
- Jeffrey M Levinson jml@jml-legal.com
- David A Looney attorney@bright.net, davelooney1@gmail.com
- Crystal L. Maluchnik crystal.maluchnik@janiklaw.com
- Grant A Mason gamason@millermast.com
- Matthew H Matheney mmatheney@tddlaw.com, showard@tddlaw.com
- Shorain L. McGhee shorain.mcghee@sbcglobal.net
- Warner Mendenhall warnermendenhall@hotmail.com, bcyecfnofity@rushpost.com
- Tarek E. Mercho tmercho@mercholegal.com
- David P. Meyer dmeyer@dmlaws.com, docket@dmlaws.com
- David Polan Meyer dmeyer@dmlaws.com
- Michael J Moran moranecf@yahoo.com, moranecf@gmail.com
- David A Mucklow davidamucklow@yahoo.com
- Steven J. Mulligan stevenmulligan@cox.net
- Maritza S. Nelson mnelson@bakerlaw.com
- Josephine S. Noble josephine.noble@ogletreedeakins.com,
jennifer.mcguigan@ogletreedeakins.com
- Alexis Courtney Osburn aosburn@bakerlaw.com, fairfinancedocket@bakerlaw.com
- Mark A Phillips mphillips@beneschlaw.com,
docket@beneschlaw.com;lbehra@beneschlaw.com;cgreen@beneschlaw.com
- Clinton E. Preslan ndohbky@jbandr.com
- David F. Proano dproano@bakerlaw.com,
bsulhan@bakerlaw.com;fairfinancedocket@bakerlaw.com
- Stephen J Pruneski spruneski@rlblp.com
- Timothy J Richards trichards@frantzward.com, dlbeatrice@frantzward.com
- Mark Riemer mriemer@goldman-rosen.com, andreag@goldman-rosen.com
- Tim Robinson tim.robinson@dinsmore.com, lisa.geeding@dinsmore.com
- James E Rossow jim@rubin-levin.net, susan@rubin-levin.net
- Matthew J. Samsa msamsa@beneschlaw.com,
docket@beneschlaw.com;cgreen@beneschlaw.com
- Rafael A Sanchez rsanchez@bgdlegal.com, lcase@bgdlegal.com
- Dale S Smith dsmith@frantzward.com, dlbeatrice@frantzward.com
- Michael A. Steel masteel@goldman-rosen.com, andreag@goldman-rosen.com;bstewart@goldman-rosen.com
- Rachel L. Steinlage rsteinlage@meyersroman.com, jray@meyersroman.com
- Ray H Stoess raystoess@600westmain.com
- Megan D. Stricker mnovinc@davisyoung.com, mcybyk@davisyoung.com
- Timothy M. Sullivan tim@tmslaw.net,
alison@tmslaw.net;elaine@tmslaw.net;martin@tmslaw.net
- Jonathan D. Sundheimer jsundheimer@btlaw.com
- Gregory D Swope gswope@kwgd.com, mhelmick@kwgd.com
- David J. Theising dtheising@harrisonmoberly.com

- Ronald N Towne rtowne@neolaw.biz, awehener@neolaw.biz
- Vance P Truman medinaatty@yahoo.com, medinaatty@gmail.com
- United States Trustee (Registered address)@usdoj.gov
- Michael S Tucker mtucker@ulmer.com
- Nancy A Valentine navalentine@hahnlaw.com,
hlpcr@hahnlaw.com;cmbeitel@hahnlaw.com
- Michael A. VanNiel mvanniel@bakerlaw.com
- Thomas C Wagner wagnert@tcwlawyers.com, wagnert@vwlawyers.com
- Wayne County Litigants ddrushal@ccj.com
- Nicholas L. White nwhite@bakerlaw.com,
bsulhan@bakerlaw.com;fairfinancedocket@bakerlaw.com
- Alicia Raina Whiting-Bozich whiting-bozich@buckleyking.com,
heberlein@buckleyking.com
- Robert M Whittington robertwhittington0@gmail.com
- David E. Wright dwright@kgrlaw.com, mem@kgrlaw.com
- Lenore Kleinman ust04 Lenore.Kleinman@usdoj.gov
- Maria D. Giannirakis ust06 maria.d.giannirakis@usdoj.gov

Manual Notice List

The following is the list of **parties** who are **not** on the list to receive e-mail notice/service for this case (who therefore require manual noticing/service).

Emily S. Donahue
Jackson Walker L.L.P.
901 Main Street, Suite 6000
Dallas, TX 75202

Eric W. Sleeper
Barton Barton & Plotkin LLP
420 Lexington Avenue
New York, NY 10170

Christine A. Arnold
6005 Twin Lakes Drive
Parma, OH 44219

Gary Sallee
11650 Olio Road, Suite 1000-333
Fishers, IN 46037

Charles R. Dyas, Jr.
Barnes & Thornburg LLP
Fifth Third Center
21 East State Street, Suite 1850
Columbus, OH 43215

Robert Hanlon
Eileen Hanlon
P.O. Box 42
State Route 43
Mogadore, OH 44260

Leon Friedberg
Dennis J. Concilla
Carl A. Aveni
H. Ritchey Hollenbaugh
Carlile Patchen & Murphy LLP
366 Broad Street
Columbus, OH 43215

John McCauley, Esq.
J. Richard Kiefer, Esq.
Bingham McHale LLP
2700 Market Tower
10 West Market Street
Indianapolis, IN 46204

Robert Boote
Ballard Shahr LLP
919 North Market Street, 12th Floor
Wilmington, DE 19801-3034

Tobey Daluz
Ballard Spahr LLP
919 North Market Street, 12th Floor
Wilmington, DE 19801-3034

Leslie C Heilman
Ballard Spahr LLP
919 North Market Street, 12th Floor
Wilmington, DE 19801-3034

Jay Jaffe
Faegre Baker Daniels LLP
600 E. 96th Street, Suite 600
Indianapolis, IN 46240

Lenore Kleinman
Office of the United States Trustee
Howard M. Metzenbaum U.S. Courthouse
201 Superior Avenue East, Suite 441
Cleveland, Ohio 44114

Michael V. Demczyk
12370 Cleveland Avenue, NW
P.O. Box 867
Uniontown, OH 44685

Lothar Jung
12962 W. Linden Avenue
Parma, OH 44130-5817

Charles Boerner
1848 Ritchie Road
Stow, OH 44224

Mary I. Mace
3001 Bickleigh Avenue
Akron, OH 44312-5921