

1 **WINSTON & STRAWN LLP**  
Eric E. Sagerman (SBN: 155496)  
2 esagerman@winston.com  
Rolf S. Woolner (SBN: 143127)  
3 rwoolner@winston.com  
Gregory A. Martin (SBN: 261985)  
4 gmartin@winston.com  
333 S. Grand Avenue, 38th Floor  
5 Los Angeles, CA 90071-1543  
Telephone: (213) 615-1700  
6 Facsimile: (213) 615-1750

7 Counsel for Ronald Greenspan, as Trustee of the  
Liquidating Trusts of PCHLI, PCFI and PCFC  
8

9 **UNITED STATES BANKRUPTCY COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**  
11 **LOS ANGELES DIVISION**

Winston & Strawn LLP  
333 S. Grand Avenue  
Los Angeles, CA 90071-1543

12 In re:  
13 PEOPLE'S CHOICE HOME LOAN, INC.,  
14 *et al.*,<sup>1</sup>  
15 Debtors.

**Case No. 2:12-bk-15811-RK**  
(Jointly Administered with 2:12-bk-16200-RK and  
2:12-bk-16201-RK)  
(Transferred from 8:07-bk-10765-RK and Jointly  
Administered with Case Nos. 8:07-bk-10767-RK  
and 8:07-bk-10772-RK)

Chapter 11

**MOTION FOR ORDER DISALLOWING  
PROOF OF CLAIM OF RUTH MCFADDEN;  
DECLARATIONS OF TAMARA D.  
MCGRATH AND GREGORY A. MARTIN IN  
SUPPORT THEREOF**

Date: May 14, 2013  
Time: 2:30 p.m.  
Place: Courtroom 1675  
255 East Temple Street  
Los Angeles, CA 90012

Judge: Hon. Robert N. Kwan

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<sup>1</sup> The Debtors were People's Choice Home Loan, Inc., People's Choice  
Corporation.



1 The Liquidating Trust of People’s Choice Home Loan, Inc., People’s Choice Financial  
2 Corporation, and People’s Choice Funding Inc. (collectively, the “PC Trusts”), by and through  
3 Ronald F. Greenspan, solely as the duly authorized and acting Liquidating Trustee for the PC Trusts  
4 (the “Liquidating Trustee”), hereby objects (the “Objection”) to the claim asserted by Ruth  
5 McFadden against the Debtors (as defined below), as more particularly set forth herein.

6 In support of this Objection, the Liquidating Trustee submits the Declarations of Tamara D.  
7 McGrath and Gregory A. Martin. In further support hereof, the Liquidating Trustee respectfully  
8 represents as follows:

9 **I.**

10 **BACKGROUND**

11 **A. The Debtors’ Cases**

12 1. Each of People’s Choice Home Loan, Inc. (“PCHLI”), People’s Choice  
13 Funding, Inc. and People’s Choice Financial Corporation (collectively, the “Debtors”) filed a  
14 voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101,  
15 et seq. (the “Bankruptcy Code”) in the Bankruptcy Court for the Central District of California  
16 (the “Court”) on March 20, 2007 (the “Petition Date”), commencing the above-captioned bankruptcy  
17 cases (collectively, the “Cases”).

18 2. On August 6, 2008, the Court entered its order (the “Confirmation Order”)   
19 confirming the Committee’s First Amended Liquidating Plan under Chapter 11 of the Bankruptcy  
20 Code (the “Plan”). The “Effective Date” under and as defined in the Plan occurred on August 12,  
21 2008.

22 3. On the Effective Date of the Plan, and subject to the terms and conditions of  
23 the Plan and Confirmation Order, among other things, (i) the Liquidating Trust Agreements for each  
24 of the PC Trusts became effective, and the Liquidating Trustee for each of the PC Trusts began to  
25 manage and administer the PC Trusts subject to the terms and conditions of the Liquidating Trust  
26 Agreements, (ii) the Official Committee of Unsecured Creditors appointed in the Cases by the Office  
27 of the United States Trustee was dissolved and discharged from any further duties and obligations in  
28 the Cases, and the Post-Effective Date Committees for each of the PC Trusts became operative,

1 (iii) except as provided in the Plan, all of the assets and property of the Debtors, including any and  
2 all affirmative claims for relief, were transferred into the PC Trusts, and (iv) except as otherwise  
3 provided in the Plan, each of the Debtors was deemed dissolved or directed to be dissolved as soon  
4 as practicable following the Effective Date.

5 4. Pursuant to the Plan, and subject to the terms and conditions of the Plan, the  
6 Confirmation Order and the Liquidating Trust Agreements, the Liquidating Trustee is directed to  
7 administer the PC Trusts by, among other things, (i) reducing remaining property to cash,  
8 (ii) evaluating Claims against the Debtors and objecting to, allowing or otherwise resolving such  
9 Claims, (iii) evaluating and pursuing, releasing or otherwise resolving affirmative relief against  
10 third-parties, and (iv) making distributions of cash to Beneficiaries under and as defined in the  
11 Liquidating Trust Agreements.

12 5. The Plan provides that the Liquidating Trustee is the representative of the  
13 estates under 11 U.S.C. § 1123(b)(3)(B), and is a liquidator of the assets of the estates.

14 **B. The Supplemental Bar Date**

15 6. On June 25, 2010, the Court entered its *Order Granting Motion by the*  
16 *Liquidating Trustee to Establish a Supplemental Claims Bar Date for Certain Purported Creditors*  
17 *and Obtain Related Relief* [Docket No. 2267] (the “Order”). The order allowed “Subject Parties”  
18 additional time to file proofs of claim against the Debtors, establishing August 31, 2010 as the  
19 “Supplemental Bar Date.” The Order required Subject Parties to mail their written claims to  
20 Kurtzman Carson Consultants LLC (“Kurtzman” or the “Claims Agent”), the Liquidating Trustee’s  
21 Claims Agent in these Cases, so that it was received by the Claims Agent on or before the  
22 Supplemental Bar Date. Order ¶ 5. According to the Order, a writing conforming to the official  
23 proof of claim form satisfied the written claim requirement, but any proof of claim “must be  
24 accompanied by evidence, such as a sworn affidavit, establishing that such Subject Party did not  
25 receive actual, constructive, or inquiry notice of the Initial Claims Bar Date.” Order ¶ 6.  
26 According to the Order, the failure to file a claim by the Supplemental Bar Date or establish that the  
27 Subject Party did not timely receive notice of the Initial Claims Bar Date requires that the Subject  
28 Party’s claim

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1 either be (i) capped at the amount set forth by the Debtors as a general  
2 unsecured claim on Schedule F, subject to further review and  
3 objection by the Trustee (in the case of undisputed, non-contingent,  
4 liquidated claims) or (ii) disallowed in full and on a final basis (in the  
5 case of a creditor scheduled with a contingent, unliquidated, or  
6 disputed claim). Moreover, such Subject Party shall be forever barred  
7 from asserting any Matters against the Debtors, the property of the  
8 Debtors, the Liquidating Trustee, the PC Trusts or property of the  
9 PC Trusts and the holder of such Matters shall not receive or be  
10 entitled to receive any payment or distribution of property from the  
11 Debtors, their estates, the Liquidating Trustee or the PC Trusts with  
12 respect to any such Matters or to otherwise appear in the Cases with  
13 respect to any such Matters.

14 Order ¶ 7.

15 **C. The McFadden Proof of Claim**

16 7. On or about August 31, 2010 Winston & Strawn LLP (“Winston”), counsel to  
17 the Liquidating Trustee in these Cases, received a proof of claim related to a Florida state court case  
18 entitled Ruth McFadden v. PCHLI, et al. (the “Claim”). McGrath Decl. ¶ 4. A true and correct copy  
19 of the Claim is attached hereto as Exhibit A. So far as the Liquidating Trustee can ascertain, the  
20 Claim was neither mailed to the Claims Agent nor filed with the Court.

21 8. The Claim does not indicate which of the Debtors is liable for the claim, but  
22 does list PCHLI’s case number. The Claim provides no amount owed and no basis for the claim.  
23 And no supporting documentation of any kind is attached. Finally, the Claim is signed by Katy  
24 Rattray, who the Liquidating Trustee has discovered is Ms. McFadden’s niece.

25 **D. PC Trust’s Requests for Additional Information Related to the Claim**

26 9. Winston has attempted to contact Ms. McFadden a number of times to discuss  
27 her claims. Martin Decl. ¶5. In July, 2011, Winston first contacted the attorneys listed on the Claim,  
28 but those attorneys stated that they no longer represent Ms. McFadden and provided Katy Rattray’s  
contact information. Martin Decl. ¶5. Winston has had numerous telephone conversations with  
Ms. Rattray over the past two years in an attempt to obtain more information about the Claim.  
Martin Decl. ¶5. Ms. Rattray confirmed that the Claim was asserted on Ms. McFadden’s behalf, but  
that Ms. McFadden was elderly and unable to discuss her claim directly. Martin Decl. ¶5.  
Ms. Rattray stated that a legal aid organization helped her with her proof of claim and that she would  
have that organization contact the Liquidating Trustee’s counsel. Martin Decl. ¶5. The legal aid

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1 organization has never contacted the Liquidating Trustee or Winston. McGrath Decl. ¶3; Martin  
2 Decl. ¶5. And Ms. Rattray has not provided basic information requested by the Liquidating Trustee,  
3 such as the nature and amount of Ms. McFadden's claim. Martin Decl. ¶5.

4 10. In a final attempt to obtain information from Ms. Rattray, Winston mailed a  
5 letter to Ms. Rattray on July 16, 2012, outlining the Liquidating Trustee's concerns with the Claim  
6 and requesting further information. Martin Decl. ¶6. A true and correct copy of that letter is  
7 attached hereto as Exhibit B. The letter requested that Ms. Rattray or Ms. McFadden's attorneys, to  
8 the extent Ms. McFadden was now represented by counsel, respond with the requested information  
9 by August 2, 2012. See Ex. B. Neither the Liquidating Trustee nor Winston has heard from  
10 Ms. Rattray since. Martin Decl. ¶6.

11 **II.**

12 **RELIEF REQUESTED**

13 11. By this Objection, the Liquidating Trustee requests that the Court enter an  
14 order, pursuant to section 502 of the Bankruptcy Code and the Order, sustaining this Objection and  
15 disallowing the Claim in full on a final basis, as more particularly set forth herein.

16 **III.**

17 **OBJECTION**

18 **A. The Claim Does Not Conform to the Order's Requirements for Filing Late**  
19 **Claims**

20 12. The Order established two basic requirements for filing a late claim.  
21 First, late claims were to be mailed to and received by the Claims Agent on or before the  
22 Supplemental Bar Date. And second, late claims were to be accompanied by a declaration attesting  
23 to the fact that the claimant did not receive notice of the initial claims bar date. The Claim satisfied  
24 neither of those requirements. Ms. Rattray mailed the Claim to Winston, rather than Kurtzman.  
25 Although this procedural deficiency might be overlooked, since the claim was delivered to Winston  
26 before the Supplemental Bar Date expired, the failure to provide the evidence required by the Court  
27 may not. The purpose of the Supplemental Bar Date was to give those creditors who did not receive  
28 notice of the original claims bar date a chance to file claims in the case. To that end, the Court

1 limited the application of the Order to those who could provide evidence that they did not receive  
2 notice of the original bar date. Despite the Liquidating Trustee’s numerous requests, neither Ms.  
3 McFadden nor Ms. Rattray has provided any evidence that they did not receive the original bar date  
4 notice. Accordingly, pursuant to the Order, the Claim should be disallowed in full and on a final  
5 basis.

6 **B. The Claim is Unenforceable Against the Debtors**

7 13. Ms. McFadden seeks recovery of an undetermined amount on an unknown  
8 basis. The Debtors’ books and records do not show any amounts owing to Ms. McFadden or  
9 Ms. Rattray. McGrath Decl. ¶3. Thus the Liquidating Trustee believes that any claims asserted  
10 against the Debtors by Ms. McFadden or Ms. Rattray are baseless. McGrath Decl. ¶3.  
11 Further, neither Ms. McFadden nor Ms. Rattray has provided any evidence supporting the Claim  
12 despite the Liquidating Trustee’s repeated requests for information. Accordingly, the Claim is not  
13 enforceable against the Debtors and should be disallowed. 11 U.S.C. § 502(b)(1); Fed. R. Bankr. P.  
14 3001(c).

15 14. Bankruptcy Code section 502(b)(1) requires that a claim be disallowed when  
16 “such claim is unenforceable against the debtor and property of the debtor, under any agreement or  
17 applicable law for a reason other than because such claim is contingent or unmatured . . . .”  
18 11 U.S.C. § 502(b)(1). Here, the Liquidating Trustee has not discovered any evidence in the  
19 Debtors’ records that would support an enforceable claim by Ms. McFadden or Ms. Rattray against  
20 any of the Debtors. See McGrath Decl. at ¶3. Nor has Ms. McFadden or Ms. Rattray provided any  
21 evidence supporting the Claim, notwithstanding repeated requests made by counsel for the  
22 Liquidating Trustee by telephone and by letter. See Martin Decl. at ¶¶ 5-6. Accordingly, the Claim  
23 does not appear to represent an enforceable obligation of any of the Debtors.

24 **C. McFadden’s Failure to Document Her Claim Requires Disallowance of the**  
25 **Claim**

26 15. Adequate documentation is essential to establish a claim’s prima facie  
27 validity. In order for a claim to be prima facie valid, it must comply with Bankruptcy Rule 3001 and  
28 set forth the facts necessary to support the claim. See *In re Stoecker*, 143 B.R. 879, 883 (N.D. Ill.

1 1992), *aff'd in part, vacated in part on other grounds*, 5 F.3d 1022 (7th Cir. 1993); *In re Chain*,  
2 255 B.R. 278, 280-81 (Bankr. D. Conn. 2000). The Bankruptcy Rules and the official form  
3 governing proofs of claim (Official Form 10) call for claimants to attach copies of supporting  
4 documents to substantiate their claims. *See* Fed. R. Bankr. P. 3001(a); Official Form 10.  
5 Ms. McFadden has not produced documentation sufficient to substantiate the Claim, despite the  
6 Liquidating Trustee's specific requests that she do so. Accordingly, the Claim "fails to 'allege facts  
7 sufficient to support a legal liability,' and thus does not constitute prima facie evidence of the  
8 validity of the [C]laim." *Hilton v. Hongisto (In re Hongisto)*, 293 B.R. 45, 51 (N.D. Cal. 2003)  
9 (quoting *In re Consol. Pioneer Mortg.*, 178 B.R. 222, 226 (9th Cir. B.A.P. 1995); *see also In re*  
10 *Roasters Corp.*, Nos. 98-80704C-11D, 98-81049C-11D, 2001 WL 1699692, at \*4 (Bankr. M.D.N.C.  
11 March 7, 2001) ("A claimant who files a proof of claim that fails to set forth the necessary facts  
12 loses the benefit of Rule 3001(f) and is not entitled to have the proof of claim treated as prima facie  
13 evidence of the validity and amount of the claim.") (citations omitted); 9 COLLIER ON  
14 BANKRUPTCY 3001.09[1] (Resnick and Sommer eds., 16th ed. 2012) ("In order for a claim to be  
15 entitled to the weight [of prima facie validity] afforded by Rule 3001(f), it must comply with the  
16 rules, including Rule 3001, and set fort the facts necessary to support the claim. . . . [I]f the original  
17 proof of claim contains only summary information and lacks the documentation necessary under  
18 Rule 3001 to establish a prima facie validity, the claimant may have the burden of establishing its  
19 claim for the excess amounts . . .").

20 16. Although a Rule 3001 violation is not by itself an objectionable ground in the  
21 Ninth Circuit, the failure of a creditor to respond to a specific information request to substantiate its  
22 claim "may raise an evidentiary basis to object to the unsupported aspects of the claim, or even a  
23 basis for evidentiary sanctions, thereby coming within Section 502(b)'s grounds to disallow the  
24 claim." *Heath v. Am. Express Travel Related Servs. Co. (In re Heath)*, 331 B.R. 424, 437 (9th Cir.  
25 B.A.P. 2005); *see also Campbell v. Verizon Wireless S-CA (In re Campbell)*, 336 B.R. 430, 436  
26 (9th Cir. B.A.P. 2005) ("We emphasize, as we did in *Heath*, that a creditor who files a proof of claim  
27 that lacks sufficient support under Rule 3001(c) and (f) does so at its own risk. That proof of claim  
28 will lack prima facie validity, so any objection that raises a legal or factual ground to disallow the

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1 claim will likely prevail absent an adequate response by the creditor. Moreover, a creditor's lack of  
2 adequate response to a debtor's formal or informal inquiries 'in itself may raise an evidentiary basis  
3 to object to the unsupported aspects of the claim, or even a basis for evidentiary sanctions, thereby  
4 coming within Section 502(b)'s grounds to disallow the claim.'" (quoting *In re Heath*, 331 B.R. at  
5 437); *In re Lasky*, 364 B.R. 385, 389 (Bankr. C.D. Cal. 2007) (same); *In re Shank*, 315 B.R. 799,  
6 816 (Bankr. N.D. Ga. 2004) ("The Court expects creditors who file proofs of claim like the ones in  
7 this case to respond promptly and fully to an appropriate request for information; if their failure to  
8 do so precludes an objecting party from determining the debtor's liability or amount thereof, then an  
9 objection asserting same will be appropriate. In the context of a legitimate basis for questioning a  
10 claim and an appropriate request, formal or informal, for supporting documentation, a creditor who  
11 stands on an unadorned proof of claim such as the ones in this case may well find itself with a  
12 disallowed claim.").

13 17. Because Ms. McFadden has not provided evidence sufficient to support her  
14 prima facie burden, the Claim should be disallowed. See *In re Sandifer*, 318 B.R. 609 (Bankr. M.D.  
15 Fla. 2004) (proofs of claim which failed to provide documentation of charges, payments, fees, and  
16 interest, but simply set forth balances allegedly owing on debtor's accounts, failed to satisfy the  
17 requirements of Bankruptcy rule and would be disallowed); *In re Parrish*, 326 B.R. 708 (Bankr.  
18 N.D. Ohio 2005) (creditor's failure to include supporting documentation negates its *prima facie*  
19 validity).

20 18. The burden is upon the claimant. If an objection to a proof of claim is made,  
21 as it has been here with respect to the Claim, the ultimate burden of proof rests upon the purported  
22 creditor. See *Cal. State Bd. of Equalization v. Official Unsecured Creditors' Comm. (In re Fidelity*  
23 *Mortgage Holding Co., Ltd.)*, 837 F.2d 696, 698 (5th Cir. 1988) (affirming disallowance of claim;  
24 "the claimant must . . . 'prove the validity of the claim by a preponderance of the evidence.'  
25 The ultimate burden of proof always rests upon the claimant."); *Spencer v. Pugh (In re Pugh)*,  
26 157 B.R. 898, 901 (9th Cir. B.A.P. 1993) (burden of proof rests upon the claimant).  
27 Unless Ms. McFadden provides evidence sufficient to meet her prima facie burden, the Claim should  
28 be disallowed.



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**IV.**

**RESERVATION OF RIGHTS**

19. Nothing contained in this Objection shall be deemed an admission by the Liquidating Trustee of liability on any claims against the Debtors' estates, and the Liquidating Trustee does not waive any rights against any party. The Liquidating Trustee expressly reserves the right to amend, modify, or supplement this Objection, respond to any opposition filed by Ms. McFadden with respect hereto, file further objections to any claims asserted by Ms. McFadden in these cases, including, without limitation, objections as to the amounts and priority asserted in any proof of claim or motion for administrative claim, whether filed or not, and to seek affirmative relief with respect to Ms. McFadden.

20. Without limiting the generality of the foregoing, the Liquidating Trustee reserves the right to bring other and further objections to the claim that is the subject of this Objection whether or not such claim survives this Objection in whole or in part and to any other claims.

**V.**

**NOTICE**

The Liquidating Trustee will serve copies of this Objection (together with all exhibits) on: (a) Ms. McFadden; (b) Ms. Rattray; (c) the law firm listed on the Claim; and (d) the Office of the United States Trustee. The Liquidating Trustee submits that such service is consistent with Rule 7004 of the Federal Rules of Bankruptcy Procedure and that, in light of the nature of the relief requested, no further notice is required.

**VI.**

**CONCLUSION**

**WHEREFORE**, based upon the foregoing, the Liquidating Trustee respectfully requests that the Court enter its order (a) sustaining the Objection, (b) disallowing the Claim, (c) preserving other and further objections and affirmative claims of the Liquidating Trusts,

1 (d) approving the form and scope of notice given of the relief requested, and (e) granting such other  
2 and further relief as this Court may deem just and proper under the circumstances of this Case.

3 Dated: April 8, 2013

WINSTON & STRAWN LLP

4  
5 By: /s/ Gregory A. Martin  
6 Gregory A. Martin  
7 Counsel for Ronald Greenspan, as Trustee of the  
8 Liquidating Trusts of PCHLI, PCFI and PCFC  
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Los Angeles, CA 90071-1543

## **DECLARATION OF TAMARA MCGRATH**

**DECLARATION OF TAMARA D. MCGRATH**

I, Tamara D. McGrath, declare and state as follows:

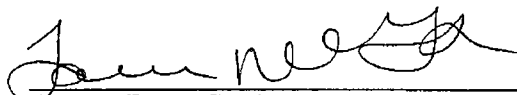
1. I am a Managing Director of Corporate Finance at FTI Consulting Inc. (“FTI”), financial advisor in these chapter 11 cases to (a) the Committee prior to plan confirmation and (b) the Liquidating Trustee since plan confirmation. In that capacity, I am custodian of and have become personally familiar with the Debtors’ books, records, and files (the “Records”). I am informed that the Records were created and updated by the Debtors’ employees in the ordinary course of business at or near the time of the events recorded. Those Records are now in the possession of the Liquidating Trustee, and as to the following facts, I know them to be true from my review of the Debtors’ business records. My business address is 633 West Fifth Street, 16th Floor, Los Angeles, CA 90071-2027.

2. I make this declaration in support of the Liquidating Trustee’s *Motion for Order Disallowing Proof of Claim of Ruth McFadden* (the “Objection”). Capitalized terms not defined in this declaration shall have the same meanings ascribed to them in the Objection.

3. During my review of the Records I discovered no evidence (a) of any amount owed by any of the Debtors to Ms. McFadden or Ms. Rattray or (b) that would otherwise support a claim by either of them against any of the Debtors.

4. The Liquidating Trustee has received no correspondence from Ms. McFadden, Ms. Rattray, or any counsel on their behalf, since Winston received the Claim. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. If called upon as a witness, I could and would testify competently to the foregoing.

Executed on April 4, 2013, at South Gate, California.

  
\_\_\_\_\_  
Tamara D. McGrath

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333 S. Grand Avenue  
Los Angeles, CA 90071-1543

## **DECLARATION OF GREGORY A. MARTIN**

**DECLARATION OF GREGORY A. MARTIN**

I, Gregory A. Martin, declare and state as follows:

1. I am an attorney at law admitted and in good standing to practice in the state of California and before the United States District Court for the Central District of California.

2. I am an attorney with Winston & Strawn, LLP. I am one of the lawyers responsible for the firm's representation of the PC Trusts. I have personal knowledge of the matters set forth below and, if called upon as a witness, I could and would testify competently thereto.

3. I make this declaration in support of the Liquidating Trustee's *Motion for Order Disallowing Proof of Claim of Ruth McFadden* (the "Objection"). Capitalized terms not defined in this declaration shall have the same meanings ascribed to them in the Objection.

4. On August 31, 2010, Winston received the Claim. A true and correct copy of that claim is attached to the Objection as Exhibit A.

5. Since receiving the Claim, I have attempted to contact Ms. McFadden a number of times to discuss her claim. I initially reached out to the law firm listed on the Claim but they informed me that they no longer represented Ms. McFadden. That law firm provided me with contact information for Katy Rattray, Ms. McFadden's niece. I've spoken to Ms. Rattray a number of times by telephone. During our conversations Ms. Rattray explained that she filed the claim on Ms. McFadden's behalf and that Ms. McFadden was elderly and unable to discuss the Claim. I asked Ms. Rattray to send me information about the Claim, including the nature of the claim and the amount sought. Ms. Rattray mentioned that she would have the legal aid organization that helped her prepare the Claim contact me with the information I requested. To my knowledge the legal aid organization has never attempted to contact anyone at Winston or the Liquidating Trustee.

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333 S. Grand Avenue  
Los Angeles, CA 90071-1543

1 6. In a final attempt to obtain information from Ms. Rattray, I mailed a letter to  
2 Ms. Rattray on July 16, 2012, outlining the Liquidating Trustee's concerns with the Claim and  
3 requesting additional information from Ms. Rattray or Ms. McFadden's attorneys by August 2, 2012.  
4 A true and correct copy of that letter is attached to the Objection as Exhibit B. As of the date of the  
5 Objection, the Liquidating Trustee has not received any additional information from Ms. Rattray or  
6 Ms. McFadden.

7 I declare under penalty of perjury under the laws of the United States of America that  
8 the foregoing is true and correct.

9 Executed on April 8, 2013, at Los Angeles, California.

10  
11 /s/ Gregory A. Martin  
Gregory A. Martin

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## **EXHIBIT A**



**B 10 (Official Form 10) (12/07)**

UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA

PROOF OF CLAIM

Name of Debtor:

Case Number:

8:0765-RK

NOTE: This form should not be used to make a claim for administrative expenses arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503(a).

Name of Creditor (the person or other entity to whom the debtor owes money or property):  
**Florida**

Check this box to indicate that this claim amends a previously filed claim.

Name and address where notices should be sent: Pack No. 396\*\*\*

Court Claim Number: \_\_\_\_\_  
 (If known)

**Ruth McFadden v PCHLI, et al Case no 06 20635 02**  
**Broward County Circuit Court, Florida**  
 Eisinger Brown Lewis & Frankel P A  
 4000 Hollywood Blvd Ste 265 South  
 Hollywood FL 33021

Filed on: \_\_\_\_\_

Telephone number:  
 954 788-5914

Name and address where payment should be sent (if different from above):

Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

Telephone number:

Check this box if you are the debtor or trustee in this case.

1. Amount of Claim as of Date Case Filed: \$ \_\_\_\_\_

5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a), 11 U.S.C. § 503(b)(9) or 11 U.S.C. § 546(e). If any portion of your claim falls in one of the following categories, check the box and state the amount.

If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.

If all or part of your claim is entitled to priority, complete item 5.

Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.

Specify the priority of the claim.

2. Basis for Claim: \_\_\_\_\_  
 (See instruction #2 on reverse side.)

Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

3. Last four digits of any number by which creditor identifies debtor: \_\_\_\_\_

Wages, salaries, or commissions (up to \$10,950\*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtors business, whichever is earlier — 11 U.S.C. § 507(a)(4).

3a. Debtor may have scheduled account as: \_\_\_\_\_  
 (See instruction #3a on reverse side.)

Contributions to an employee benefit plan — 11 U.S.C. § 507(a)(5).

4. Secured Claim (See instruction #4 on reverse side.)

Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.

Up to \$2,425\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use — 11 U.S.C. § 507(a)(7).

Nature of property or right of setoff:  Real Estate  Motor Vehicle  Other

Describe:

Value of Property: \$ \_\_\_\_\_ Annual Interest Rate \_\_\_\_\_ %

Amount of arrearage and other charges as of time case filed included in secured claim,

if any: \$ \_\_\_\_\_ Basis for perfection: \_\_\_\_\_

Amount of Secured Claim: \$ \_\_\_\_\_ Amount Unsecured: \$ \_\_\_\_\_

Taxes or penalties owed to governmental units — 11 U.S.C. § 507(a)(8).

Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(\_\_\_\_).

Other - 11 U.S.C. §§ 503(b)(9) or 546(c)

6. Total Amount of Claim at Time Case Filed:

\$ \_\_\_\_\_ + \$ \_\_\_\_\_ + \$ \_\_\_\_\_ + \$ \_\_\_\_\_ + \$ \_\_\_\_\_ = (Total)

Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

Amount entitled to priority:

\$ \_\_\_\_\_

7. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

\* Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment

8. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See definition of "redacted" on reverse side.)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

Date:

Signature: the person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.

Kate M. Patton

FOR COURT USE ONLY

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

**EXHIBIT B**

## WINSTON & STRAWN LLP

BEIJING  
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LOS ANGELES

333 SOUTH GRAND AVENUE  
LOS ANGELES, CALIFORNIA 90071

+1 (213) 615-1700

FACSIMILE +1 (213) 615-1750

www.winston.com

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July 16, 2012

**GREGORY A. MARTIN**  
Associate Attorney  
(213) 615-1918  
gmartin@winston.com

Ms. Katy Rattray  
c/o Eisinger Brown Lewis Frankel & Chalet, P.A.  
4000 Hollywood Blvd. Ste 265 South  
Hollywood, FL 33021

**Re: *People's Choice Home Loan, Inc., et al.***  
**Case No. 2:12-bk-15811-RK (Bankr. C.D. Cal.)**  
**[Transferred from 8:07-bk-10765-RK] -**  
**Ruth McFadden Proof of Claim**

Dear Ms. Rattray:

I am contacting you again on behalf of our client the Liquidating Trustee (the "Trustee") for the Liquidating Trust of People's Choice Home Loan, Inc. ("PCHLI").

You and I have spoken several times on the phone over the last five months about the proof of claim you filed for Ruth McFadden in PCHLI's bankruptcy case (the "Claim"). As you may recall, the attorneys you listed as the contacts for the Claim requested that I contact you directly in mid-February since they no longer represent you or Ms. McFadden.

The Trustee has several issues with the Claim. The Claim is almost entirely blank. It contains no amount and contains no documentation indicating what the grounds are for her asserted right to payment. In each of our conversations I have asked you to provide me with details of the Claim, including the amount of money Ms. McFadden believes she is owed by PCHLI, and copies of any documents supporting her Claim. In our conversations you mentioned that you might be contacting a legal aid organization that would follow up with me regarding the information we requested. But I have not heard from them or you since.

We are in the latter stages of the bankruptcy case and are in the process of finalizing the bankruptcy claims filed against PCHLI. The Trustee therefore asks that you either provide evidence supporting the Claim with respect to PCHLI's liability to Ms. McFadden, including the amount you believe is owed by PCHLI, or withdraw the Claim.

LA:317373.3

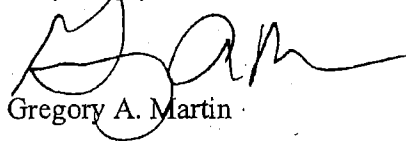
WINSTON & STRAWN LLP

July 16, 2012  
Page 2

Please note that if we do not receive the information we have requested by August 2, 2012, the Trustee plans to file an objection to the Claim based on Ms. McFadden's failure to provide evidence supporting the Claim. Please contact me at your (or your attorney's) earliest convenience – my contact information is shown above.

Thank you in advance for your cooperation in resolving this matter.

Very truly yours,



Gregory A. Martin

cc: Ron Greenspan, Trustee  
Tamara McGrath  
Rolf Woolner, Esq.

LA:317373.3

**PROOF OF SERVICE OF DOCUMENT**

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
Winston & Strawn, LLP, 333 S. Grand Avenue, 38th Floor, Los Angeles, CA 90071

A true and correct copy of the foregoing document entitled (*specify*): MOTION FOR ORDER DISALLOWING PROOF OF CLAIM OF RUTH MCFADDEN; DECLARATIONS OF TAMARA D. MCGRATH AND GREGORY A. MARTIN IN SUPPORT THEREOF will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **April 8, 2013**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On **April 8, 2013**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **April 8, 2013**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

PRESIDING JUDGE'S COPY - Service by Overnight Mail


Hon. Robert Kwan  
United States Bankruptcy Court  
255 E. Temple Street, Suite 1682  
Los Angeles, CA 90012  
Via overnight mail with Fedex  
Tracking Number: 799468557266

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

April 8, 2013  
Date

Linda daSilva  
Printed Name

  
Signature

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):**

- Jose D Alarcon jalarcon@bettzedek.org
- Daniel L Alexander daniel@colemanfrost.com
- Todd M Arnold tma@lnbyb.com
- Alvin M Ashley mashley@irell.com
- Daniel I Barness daniel@spiromoss.com
- Henkie F Barron hfbarron@gmail.com
- Richard J Bauer rbauer@mileslegal.com
- Ron Bender rb@lnbyb.com
- Patrick K Bruso generalmail@alvarado.ca.com
- Andrew W Caine acaine@pszyjw.com
- Rebecca J Callahan rcallahan@callahanlaw.biz
- Theodore A Cohen tcohen@sheppardmullin.com, amontoya@sheppardmullin.com
- Deborah Conley bkmail@prommis.com
- Vincent M Coscino vcoscino@allenmatkins.com, jaallen@allenmatkins.com
- Paul J Couchot pcouchot@winthropcouchot.com, pj@winthropcouchot.com;chipp@winthropcouchot.com
- Theron S Covey tcovey@coveylawpc.com
- Kevin A Crisp kcrisp@irell.com
- Peter A Davidson pdavidson@mdfslaw.com, lpekru@ecjlaw.com
- Joseph C Delmotte efcacb@piteduncan.com
- Willis B Douglass Willis.B.Douglass@irsounsel.treas.gov
- Jeffrey W Dulberg jdulberg@pszjlaw.com
- Theresa H Dykoschak tdykoschak@faegre.com
- Louis J Esbin Esbinlaw@sbcglobal.net
- Charles J Filardi abothwell@filardi-law.com
- H Alexander Fisch afisch@stutman.com
- Parisa Fishback pfishback@fishbacklawgroup.com
- Steven B Flancher flanchers@michigan.gov
- J Rudy Freeman rfreeman@linerlaw.com
- Anthony A Friedman aaf@lnbyb.com
- Jerome Bennett Friedman jfriedman@jbflawfirm.com,  
msobkowiak@jbflawfirm.com;jmartinez@jbflawfirm.com;sbiegenzahn@jbflawfirm.com
- Jose A Garcia efcacb@piteduncan.com
- Jeffrey K Garfinkle bkgroup@buchalter.com,  
jgarfinkle@buchalter.com;docket@buchalter.com;svanderburgh@buchalter.com
- Oscar Garza ogarza@gibsondunn.com
- Nancy S Goldenberg nancy.goldenberg@usdoj.gov
- Stanley E Goldich sgoldich@pszyjw.com
- Stanley E Goldich sgoldich@pszjlaw.com
- Richard H Golubow rgolubow@winthropcouchot.com, pj@winthropcouchot.com;vcorbin@winthropcouchot.com
- Ronald F Greenspan ron.greenspan@fticonsulting.com
- Kevin Hahn kevin@mclaw.org
- Farhad Hajimirzaee fhajimirzaee@winston.com
- Matthew W Hamilton mhamilton@fulcruminv.com
- D Edward Hays ehays@marshackhays.com, ecfmarshackhays@gmail.com
- Daniel L Hembree efcacbsfv@piteduncan.com
- Garrick A Hollander ghollander@winthropcouchot.com,  
pj@winthropcouchot.com;vcorbin@winthropcouchot.com;chipp@winthropcouchot.com
- Thomas J Holthus bknotice@mccarthyholthus.com
- Gil Hopenstand ghopenstand@wwolawyers.com
- David I Horowitz david.horowitz@kirkland.com,  
keith.catuara@kirkland.com;terry.ellis@kirkland.com;jay.bhimani@kirkland.com
- Eric D. Houser sleere@houser-law.com

---

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

- James KT Hunter jhunter@pszjlaw.com
- Jay W Hurst jay.hurst@texasattorneygeneral.gov, sherri.simpson@texasattorneygeneral.gov
- Lance N Jurich ljurich@loeb.com, kpresson@loeb.com
- Ivan L Kallick ikallick@manatt.com, ihernandez@manatt.com
- David Kaplan dkaplan@irell.com
- Grant C Keary gck@dlklaw.com
- John W Kim jkim@nossaman.com
- Benjamin J Kimberley bkimberley@winston.com,  
kmorris@winston.com;hhammon@winston.com;docketsf@winston.com
- Jessica Kronstadt jessica.kronstadt@lw.com
- Donna L La Porte donna@laportelaw.net
- David B Lally davidlallylaw@gmail.com
- Ian Landsberg ilandsberg@landsberg-law.com, bgomelsky@landsberg-law.com;ssaad@landsberg-  
law.com;dzuniga@landsberg-law.com
- Scott Lee slee@lbbslaw.com
- Leib M Lerner leib.lerner@alston.com
- Peter W Lianides plianides@winthropcouchot.com, pj@winthropcouchot.com;vcorbin@winthropcouchot.com
- Ganna Liberchuk gliberchuk@haincapital.com
- Kerri A Lyman klyman@irell.com
- William Malcolm bill@mclaw.org
- Gregory A Martin gmartin@winston.com
- Laura E Mascheroni lmascheroni@corbsteel.com
- David E McAllister ecfacb@piteduncan.com
- Christopher M McDermott ecfacb@piteduncan.com
- Scotta E McFarland smcfarland@pszjlaw.com, smcfarland@pszjlaw.com
- David J Mccarty dmccarty@sheppardmullin.com, pibsen@sheppardmullin.com
- David W. Meadows david@davidwmeadowslaw.com
- Robert K Minkoff rminkoff@jefferies.com
- Catherine A Moscarello - SUSPENDED - catherine@moscarellolaw.com
- Tania M Moyron tmoyron@peitzmanweg.com
- Randall P Mroczynski randym@cookseylaw.com
- Sean A Okeefe sokeefe@okeefelc.com
- John D Ott Jott@jdolawyers.com
- Daryl G Parker dparker@pszjlaw.com
- Renee M Parker bknotice@earthlink.net,  
bknotice@rcolegal.com;bknotice@earthlink.net;chanson@rcolegal.com
- JaVonne M Phillips bknotice@mccarthyholthus.com
- Dean G Rallis Jr drallis@sulmeyerlaw.com
- Kurt Ramlo kurt.ramlo@dlapiper.com, evelyn.rodriguez@dlapiper.com
- Justin E Rawlins jrawlins@winston.com, docketla@winston.com
- Richard J Reynolds rreynolds@bwslaw.com, dpeters@bwslaw.com;dwetters@bwslaw.com
- Jeremy V Richards jrichards@pszjlaw.com, bdassa@pszjlaw.com;imorris@pszjlaw.com
- Karen Rinehart krinehart@omm.com
- Ronald D. Roup ecf@rouplaw.com
- Eric E Sagerman esagerman@winston.com, docketla@winston.com
- Nicholas W Sarris nsarris@kbrlaw.com
- Robert M Saunders rsaunders@pszjlaw.com, rsaunders@pszjlaw.com
- Kristin A Schuler-Hintz bknotice@mccarthyholthus.com
- Nathan A Schultz nschultzesq@gmail.com
- David B Shemano dshemano@peitzmanweg.com
- Timothy J Silverman tim@sgsslaw.com
- Michael R Stewart mstewart@faegre.com
- Sean Sullivan seansullivan@dwt.com
- Julia Szafraniec bknotice@mccarthyholthus.com

- Derrick Talerico dtalerico@loeb.com, kpression@loeb.com
- Patricia B Tomasco ptomasco@mailbmc.com
- Robert Trodella robert.trodella@hellerehrman.com
- Robert Trodella rtrodella@jonesday.com
- United States Trustee (SA) ustpregion16.sa.ecf@usdoj.gov
- Darlene C Vigil cdcaecf@bdfgroup.com
- Andrew F Whatnall awhatnall@daca4.com
- John M White - SUSPENDED - scleere@houser-law.com
- David L Wilson dlwilson@winston.com
- Marc J Winthrop mwinthrop@winthropcouchot.com, pj@winthropcouchot.com;vcorbin@winthropcouchot.com
- David M Wiseblood dwiseblood@seyfarth.com, dmwadmin@wisebloodlaw.com
- Jennifer C Wong bknotice@mccarthyholthus.com
- Rolf S Woolner rwoolner@winston.com
- Donald A Workman dworkman@bakerlaw.com
- S Christopher Yoo cyoo@adornoca.com
- Les A Zieve bankruptcy@zivelaw.com

**2. SERVED BY UNITED STATES MAIL:**

Office of U.S. Trustee

Nancy S. Goldenberg, Esq.  
The Office of the United States Trustee  
411 W. Fourth Street, Suite 9041  
Santa Ana, CA 92701

Office of U.S. Trustee

The Office of the United States Trustee  
725 S. Figueroa Street, 26th Floor  
Los Angeles, CA 90017

**PROOF OF CLAIM - RUTH MCFADDEN**

Ruth McFadden  
Eisinger Brown Lewis & Frankel P A  
4000 Hollywood Blvd., Ste. 265 South  
Hollywood, FL 33021

Katie M. Rattray  
Eisinger Brown Lewis & Frankel P A  
4000 Hollywood Blvd., Ste. 265 South  
Hollywood, FL 33021