

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re: Case No. 20-32243
SPEEDCAST INTERNATIONAL Chapter 11
LIMITED, et al ,
Debtors. (Jointly Administered)

**MICHIGAN DEPARTMENT OF TREASURY'S RESPONSE TO
REORGANIZED DEBTORS' OBJECTION TO PROOF OF CLAIM NO. 1352
FILED BY MICHIGAN DEPARTMENT OF TREASURY**

The State of Michigan, Department of Treasury, through its attorney,
Assistant Attorney General James A. Ziehmer, responds to the Debtors' June 9,
2022, Objection to Treasury's Proof of Claim Number 1352 and states as follows:

Jurisdiction

1. Treasury asserts that the allegations in paragraph 1 of the Debtors' Objection represent legal conclusions to which no response is required.

Relief Requested

2. Treasury admits that it filed its claim on or about September 9, 2020. Treasury neither admits nor denies the remaining allegations that the claim was "paid in cash on June 3, 2022 (check number 0000001049)" and leaves the Debtors to their proofs. Treasury affirmatively asserts that it has no record of the payment referenced by the Debtors. If the claim were paid via a check (not cash), one would think the Debtors would produce a copy of the front and back of the check so Treasury can more easily track and verify that it received the payment. In that regard, Treasury's counsel and the Debtors' counsel have discussed this matter and Debtors' counsel is going to attempt to locate a copy of the check so the parties can most likely resolve this matter quickly.



3. Treasury denies the allegations in paragraph 3 of the Debtors' Objection as untrue. Treasury affirmatively asserts that it does not have a record of receiving the payment referenced by the Debtors. If the claim were paid via a check (not cash), one would think the Debtors would produce a copy of the front and back of the check so Treasury can more easily track and verify that it received the payment. In that regard, Treasury's counsel and the Debtors' counsel have discussed this matter and Debtors' counsel is going to attempt to locate a copy of the check so the parties can most likely resolve this matter quickly.

As this Court well knows, under Bankruptcy Rule 3001(f), a properly executed and filed proof of claim constitutes prima facie evidence of the validity and the amount of the claim under 11 U.S.C 502(a). *See, In re Tran*, 351 B.R. 440, 444 (Bankr. S.D. 2006), *affr'd* 369 B.R. 312 (S.D. Tex. 2007). A proof of claim loses the presumption of prima facie validity under 3001(f) if an objecting party refutes at least one of the allegations that are essential to the claim's legal sufficiency. Once such allegation is refuted, the burden reverts to the claimant to prove the validity of its claim by a preponderance of the evidence. *See, In re Fidelity Co., Ltd.*, 837 F.2d 696, 698 (5th Cir. 1988).

Treasury filed a Sworn Summary with its Proof of Claim. To counter that, the Debtors have stated that the claim was "paid in cash on June 3, 2022 (check number 0000001049)". *See*, ¶ 3 of DN 1998-1, Declaration of Michael Healy. Thus, all the Court has before it is competing sworn statements. Treasury cannot find that a payment was made by the Debtors. If the Debtors would produce a copy of the front and back of the check so Treasury can more easily track and verify that it received the payment, this matter could be resolved quickly and without wasting the Court's valuable time; especially given that the claim amount is only \$1,090.87. In that regard, Treasury's counsel and the Debtors' counsel have discussed this matter and Debtors' counsel is going to attempt to locate a copy of the check so the parties can most likely resolve this matter quickly.

4. Because Treasury believes the Debtors have not shifted the *prima facie* validity of its claim, Treasury respectfully requests that this Court deny the relief requested by the Debtors in paragraph 4 and instead issue an Order allowing Treasury's Claim in full.

Reservation of Rights

5. The allegations in paragraph 5 appear to be legal statements and conclusions of law to which no response is required. To the extent a response is required, Treasury affirmatively asserts that the Bankruptcy Code, Bankruptcy Rules, and current, relevant jurisprudence govern the Debtors' statements and legal conclusions.

Notice

6. Treasury neither admits nor denies the allegations in paragraph 6 of the Debtors' Objection. However, Treasury has no reason to disbelieve the allegations made in that paragraph as the Court's Docket should support the allegations.

No Previous Request

7. Treasury neither admits nor denies the allegations in paragraph 7 of the Debtors' Objection. However, Treasury has no reason to disbelieve the allegations made in that paragraph as the Court's Docket should support the allegations.

Respectfully submitted,

/s/James A. Ziehmer

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Dated: July 8, 2022

CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2022, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas which will provide electronic notice and copy of this filing.

/s/James A. Ziehmer
James A. Ziehmer (P75377)