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Counsel for the Debtors and Debtors- in- Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
RM BAKERY LLC, *et al*.,[2] Debtors.	Case No. 20-11422 (MG) Jointly Administered

OBJECTION TO PROOF OF CLAIM NUMBER 10006 AND PROOF OF CLAIM NUMBER 10007

RM Bakery LLC ("**RMB**") and BKD Group LLC ("**BKD** and together with RMB the "**Debtors**"), by its undersigned counsel, Mayerson & Hartheimer, PLLC, submit this objection (this "**Objection**"), seeking to disallow and expunge proof of claim number 10006 filed on December 3, 2020, filed against BKD (the "**BKD Claim**"), and proof of claim number 10007, also filed on December 3, 2020, filed against RMB (the "**RMB Claim**" and together with the BKD Claim the "**Claims**")[3] by CM Owner LLC (the "**Claimant**"). In support of this Objection, the Debtors respectfully state as follows:

[1]Please use the following temporary address for all service, notices, and correspondence: 48 Seneca Drive, Dobbs Ferry, NY 10522.
[2] The Debtors in these Chapter 11 Cases and the last four digits of each Debtor's taxpayer identification number are as follows: RM Bakery LLC (7954) and BKD Group LLC (0624).
[3] True and correct copies of the Claims are attached hereto as **Exhibit B**.

BACKGROUND

1. On June 15, 2020 (the "**Petition Date**"), the Debtors filed two voluntary petitions, one for each of the above referenced Debtors, for relief under Chapter 11 of the Bankruptcy Code thus commencing these bankruptcy cases (the "**Chapter 11 Cases**"). The Debtors have continued in possession of their assets and the operations of their businesses as debtors-in-possession. No creditors' committee, trustee or examiner has been appointed in these cases. On June 25, 2020, this Court entered an order directing joint administration of these Chapter 11 Cases [Docket No. 27].

2. RM Bakery is a wholesale artisanal bread and pastry bakery located in the Bronx, New York, that produces over 400 different breads and pastries. RM Bakery is wholly owned by BKD Group, which, has also guaranteed some of RM Bakery's debt.

3. On October 29, 2020, the Court entered an order [Docket No.98] (the "**Bar Date Order**") establishing certain dates and deadlines for filing proofs of claims in these Chapter 11 Cases. Among other things, the Court established December 9, 2020 (the "**Claims Bar Date**") as the last date and time for certain creditors (including, without limitation, individuals, partnerships, corporations, joint ventures, and trusts) to file proofs of claim based on prepetition claims against either of the Debtors.

4. The Debtors provided notice of the Bar Date Order by sending a notice (the "**Bar Date Notice**") to approximately 350 creditors and parties in interest, which also included instructions for completion of the proof of claim form. The Bar Date Notice, among other things, instructed claimants to "attach to your completed proof of claim any documents on which the claim is based (if voluminous, attach a summary) or an explanation as to why the documents are not available." *See* Certificate of Service [Docket No. 116].

5. On December 3, 2020, the Claimant filed two Claims in the amount of $3,077,244.08 each, one against each of the Debtors. The Claims state that they are unliquidated. Additionally, they appear to be contingent. As is more fully discussed below, although the Claimant states the Claims are "based upon its guaranty of indebtedness owed by [the Debtors]", the Claimant fails to attach any written guarantee to its Claims. Additionally, although the Claimant indicates that its Claims are inclusive of interest, the Claimant fails to attach a statement itemizing interest, as required by Rule 3001(c)(2)(a) of the Federal Rules of Bankruptcy Procedure (the" **Bankruptcy Rules**").

JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. § 1501 and the *Amended Standing Order of Reference M-431*, dated January 31, 2012 (Preska, C.J.) This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A) and (B). Venue is proper pursuant to 28 U.S.C. § 1408 and 1409.

RELIEF REQUESTED

7. By this Objection, the Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the "**Order**"), disallowing and expunging both Claims pursuant to section 502(b) of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") and Rule 3007(d) of the Bankruptcy Rules.[4] In the event the Court finds that the Claims are

[4] The Debtors also seek to preserve its right to object to the Claim on any applicable grounds to the extent the relief sought herein is not granted by the Court.

allowable, the Debtors respectfully request that this Court estimate these Claims pursuant to section 502(c) of the Bankruptcy Code.

BASIS FOR RELIEF

No Supporting Documentation

8. A filed proof of claim is "deemed allowed, unless a party in interest . . . objects." 11 U.S.C. § 502(a). However, a proof of claim must "set forth the facts necessary to support the claim" for it to receive the *prima facie* validity accorded under the Bankruptcy Rules. *In re Chain,* 255 B.R. 278, 280 (Bankr. D. Conn. 2000); *see Ashford v Consol. Pioneer Mtge. (In re Consol. Pioneer Mtge.),* 178 B.R. 222 (BAP 9th Cir 1995); *aff'd* 91 F.3d 151 (9th Cir. 1996*); In re Allegheny Int'l. Inc*., 954 F.2d 167. 173-74 (3rd Cir. 1992).

9. Bankruptcy Rule 3001(c)(1) specifically requires that when a claim is "based on a writing, a copy of the writing shall be filed with the proof of claim." Further, the Bar Date Order, among other things, instructed claimants to "attach to your completed proof of claim any documents on which the claim is based (if voluminous, attach a summary) or an explanation as to why the documents are not available." Failure to "attach the documentation required by Rule 3001 will result in the loss of the *prima facie* validity of the Claim." *In re Minbatiwalla*, 424 B.R. 104, 112 (Bankr. S.D.N.Y. 2010); *In re Wilson*, 532 B.R. 486, 490 (S.D.N.Y. 2015). Indeed, "in certain circumstances claims can be disallowed for failure to support the claim with sufficient evidence" because "absent adequate documentation, the proof of claim is not sufficient for the objector to concede to the validity of the claim." *Minbatiwalla*, 424 B.R. at 119.

10. Here, the Claims filed by the Claimant failed to attach the guarantee which the Claimants allege provides the basis for its Claims against the Debtors. Without a copy of the

guarantee, the Debtors have no ability to assess the validity of the Claims. The Claimant merely submitted two copies of Official Form 410 (one for each Claim), the standard form for filing proofs of claim, which alone is plainly insufficient under Bankruptcy Rule 3001(c), and a two-paragraph description of the basis of their Claims contained in a schedule attached to their proofs of claim. Review of the two paragraphs demonstrate that the Claimant has not provided a cognizable basis for claims against the Debtors. The Claimant's schedule states in pertinent part:

> CM Owner LLC….**is asserting a claim based upon its guaranty** of indebtedness owed by BKD Group LLC to Pacific Western Bank ("Pacific Western"), successor by merger to Square 1 Bank …. for that commercial loan agreement funded by Square 1, Pacific Western predecessor in interest, on May 2, 2013 in the original principal amount of $5 million. At present this amount is believed to be no less than $3,077,244.08 plus interest and other charges [5]

(Emphasis Added)

11. Not only does the claimant fail to provide the guarantee, on which its Claims against the Debtors are supposedly based, the Claimant fails to provide sufficient information regarding the Claims so as to give the Debtors colorable bases for its Claims. Significantly, there is no documentation as to why RMB would owe anything to the Claimant on an alleged guarantee of BKD debt, nor is there any documentation as to the amount, if any, Claimant has paid pursuant to the guarantee, nor a copy of any agreement by which either of the Debtor's indemnified Claimant for payments owed under the missing guarantee.

[5] This quote is from Schedule A to the BKD Claim. The description contained in Schedule A to the RMB Claim is identical to the description contained in Schedule A of the BKD Claim, other than it substitutes the words "BKD Group LLC' with "RM Bakery LLC".

12. The Debtors are not aware of any agreement that they have entered into with the Claimant and based on the description contained in the Claims, have no idea of the basis for which the Claimant is asserting its Claims against the two Debtors. *See* **Exhibit B**.

13. Section 502(b)(1) of the Bankruptcy Code provides, in relevant part, that a claim may not be allowed to the extent that "such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law." 11 U.S.C. § 502(b)(1). Here, the Claimant failed to include any documentation supporting its Claims, as required under both Bankruptcy Rule 3001(c) and the plain language of the Bar Date Order. By failing to include any documentation or sufficient explanations supporting its Claims, the Claimant clearly failed to meet its burden. The Claims must accordingly be disallowed and expunged.

14. Moreover, the Debtors suspect that the Claimant failed to attach *any* documentation or provide a sufficient explanation supporting its Claims because there are no valid bases for the Claims.

No Liability

15. The Debtors also object to the Claims because the Debtors have determined that the obligations asserted in the Claims seek recovery of amounts for which the Debtors are not liable; and are not reflected in the Debtors' books and records. Moreover, the Debtors are not aware of any contractual liability they owe to the Claimant.

16. Further the Claimant has failed to provide sufficient supporting documentation to support the amount of the Claims. Indeed, the Claimant has failed to demonstrate that it has paid anything whatsoever under the alleged guarantee.

RESERVATION OF RIGHTS

17. The Debtors reserve the right to object in the future to the Claims on any grounds, and to amend, modify, and/or supplement this Objection and request that a separate notice and hearing be scheduled for any such objection.

NOTICE

18. Debtors will provide notice of this Objection to: (a) the Claimant and its attorney of record, and (b) all partes set forth in the *Order Implementing Certain Notice and Case Management Procedures*, entered in these Cases on June 29, 2020 [Docket No. 35] and submit that no other or further notice is necessary in light of the relief requested.

NO PRIOR REQUEST

19. No prior request for the relief sought herein has been made to this or any other Court.

[Remainder of page intentionally left blank.]

CONCLUSION

20. WHEREFORE, for the foregoing reasons, the Debtors request that the Court (i) enter the Order disallowing and expunging the Claims, (ii) in the event the Court does not enter the Order disallowing and expunging the Claims, the Debtors respectfully requests that the Court hold a hearing to estimate the Claims pursuant to section 502(c) and (iii) grant such other relief as the Court deems just and proper.

Dated: August 16, 2024
Dobbs Ferry, New York

MAYERSON & HARTHEIMER, PLLC

By: */s/ David H. Hartheimer*
David H. Hartheimer, Esq.
Sandra E. Mayerson, Esq.
Mayerson & Hartheimer, PLLC
845 Third Avenue, 11th Floor
New York, NY 10022
Tel: (646) 778-4382
Fax: (501) 423-8672
david@mhlaw-ny.com
sandy@mhlaw-ny.com

Counsel for Debtors and Debtors in Possession

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
RM BAKERY LLC, *et al*.,[1] Debtors.	Case No. 20-11422 (MG) Jointly Administered

ORDER GRANTING DEBTORS' OBJECTION TO PROOF OF CLAIM NUMBER 10006 AND PROOF OF CLAIM NUMBER 10007

Upon the objection (the "**Objection**")[2] of the above-captioned debtors (the "**Debtors**"), for entry of an order (this "**Order**") disallowing and expunging proof of claim number 10006 filed on December 3, 2020, (the "**BKD Claim**"), filed against BKD Group LLC ("**BKD**") and proof of claim number 10007, also filed on December 3, 2020 (the "**RMB Claim**"), filed against RMB (the BKD Claim and the RMB Claim shall be collectively referred to as the "**Claims**"), by CM Owner LLC (the "**Claimant**"); and the Court having jurisdiction to consider the Objection and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference M-431*, dated January 31, 2012 (Preska, C.J.); and consideration of the Objection and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Objection is in the best interest of the Debtors, their estates and creditors, and all other parties in interest; and notice of the Objection appearing adequate and appropriate under the circumstances; and the Court having found that no other or further notice need be provided; and the Court having reviewed the Claims and the Objection; and the Court having determined that the legal and factual basis set forth in the Objection established just cause for the relief granted herein; and any responses to the relief granted herein

[1] The Debtors in these Chapter 11 Cases and the last four digits of each Debtor's taxpayer identification number are as follows: RM Bakery LLC (7954) and BKD Group LLC (0624).
[2] Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Objection.

having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefore, it is HEREBY ORDERED THAT:

1. The Objection is granted to the extent set forth herein.

2. Pursuant to section 502(b) of the Bankruptcy Code and Bankruptcy Rule 3007, the Claims are disallowed and expunged in their entirety and shall be deleted from the Debtor's claims register.

3. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Objection.

4. The terms, conditions, and provisions of this Order shall be immediately effective and enforceable upon entry hereof.

5. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: September ___, 2024

HONORABLE MARTIN GLENN
CHIEF UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

United States Bankruptcy Court for the Southern District of New York	
Name of Debtor: BKD Group LLC **Case Number:** 20-11423	**For Court Use Only** Claim Number: 0000010006 File Date: 12/03/2020 15:20:42

Proof of Claim (Official Form 410)

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. With the exception of 503(b)(9), do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.
Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.
A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.
Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) **that you received.**

04/19

Part 1: Identify the Claim

1. Who is the current creditor?
Name of the current creditor (the person or entity to be paid for this claim): CM Owner, LLC

Other names the creditor used with the debtor: _____

2. Has this claim been acquired from someone else? ☑ No ☐ Yes. From whom? _____

3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?	**Where should payments to the creditor be sent?** (if different)
Name: CM Owner, LLC	Name: _____
Address: Moritt Hock & Hamroff LLP Attn L Berkoff 400 Garden City Plaza	Address: _____
City: Garden City	City: _____
State: NY ZIP Code: 11530	State: _____ ZIP Code: _____
Country (if International): _____	Country (if International): _____
Phone: 516-873-2000	Phone: _____
Email: lberkoff@moritthock.com	Email: _____

4. Does this claim amend one already filed?
☑ No
☐ Yes.
Claim number on court claims register (if known) _____
Filed on _____ MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?
☑ No
☐ Yes.
Who made the earlier filing?
_____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?

☑ No

☐ Yes.
Last 4 digits of the debtor's account or any number you use to identify the debtor:

____ ____ ____ ____

7. How much is the claim?

$ 3,077,244.08 unliquidated

Does this amount include interest or other charges?

☐ No

☑ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim?

Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.

Bank Debt/Credit Facility

9. Is all or part of the claim secured?

☑ No

☐ Yes. The claim is secured by a lien on property.

Nature of property:

☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (official Form 410-A) with this *Proof of Claim.*

☐ Motor vehicle

☐ Other. Describe:

_____

Basis for perfection:

_____

Attach redacted copies of documents, if any, that show evidence of perfection of security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: $_____

Amount of the claim that is secured: $_____

Amount of the claim that is unsecured: $_____
(The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: $_____

Annual Interest Rate (when case was filed) _____%

☐ Fixed ☐ Variable

10. Is this claim based on a lease?

☑ No

☐ Yes. **Amount necessary to cure any default as of the date of petition.**

$_____

11. Is this claim subject to a right of setoff?

☑ No

☐ Yes. Identify the property:

_____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☑ No

☐ Yes. *Check one:*

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

Amount entitled to priority

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). $_____

☐ Up to $3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). $_____

☐ Wages, salaries, or commissions (up to $13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). $_____

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

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

☐ Other. Specify subsection of 11 U.S.C. § 507 (a) (_____) that applies. $_____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Does this claim qualify as an Administrative Expense under 11 U.S.C. § 503(b)(9)?

☑ No

☐ Yes. **Amount that qualifies as an Administrative Expense under 11 U.S.C. § 503(b)(9)**: $_____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☑ I am the creditor.

☐ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other co-debtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

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

Christian Matthaeus 12/03/2020 15:20:42

Signature Date

Provide the name and contact information of the person completing and signing this claim:

Name: Christian Matthaeus

Address: Managing Member, CM Owner, LLC
c/o Moritt Hock & Hamroff LLP
400 Garden City Plaza

City: Garden City

State: NY Zip: 11530

Country (in international): United States

Phone: 516-873-2000

Email: lberkoff@moritthock.com

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LEGAL SERVICES

Filed USBC - Southern District of New York
RM BAKERY LLC, et al (COR)
20-11422 (MG)
RMB
0000000003

Schedule A to Proof of Claim of
CM Owner, LLC.

CM Owner, LLC ("CM Owner") is asserting a claim based upon its guaranty of indebtedness owed by BKD Group LLC to Pacific Western Bank ("Pacific Western"), successor by merger to Square 1 Bank ("Square 1"), for that commercial loan agreement funded by Square 1, Pacific Western predecessor in interest, on May 2, 2013 in the original principal amount of $5,000,000.00. At present this amount is believed to be no less than $3,077,244.08 plus interest and other charges.

CM Owner reserves the right to amend and/or supplement this proof of claim at any time and in any manner, and to file additional proofs of claim for additional claims which may be based on the respective rights and obligations arising under the loan documents and all supporting or related documents identified herein, the relationship described herein or the events and circumstances described herein. In addition, CM Owner reserves the right to attach or bring forth additional documents supporting its claims and additional documents that may become available after further investigation and discovery. CM Owner further reserves the right to file proofs of claim for administrative expenses, other claims entitled to priority, proofs of interest and proofs of claim against other parties, including but not limited to, affiliated debtors against which proofs of claim have not been filed, if any.

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Tina Wheelon

CASE MANAGER

12/3/2020

DATE

United States Bankruptcy Court for the Southern District of New York	
Name of Debtor: RM Bakery, LLC **Case Number:** 20-11422	**For Court Use Only** Claim Number: 0000010007 File Date: 12/03/2020 15:33:59

Proof of Claim (Official Form 410)

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. With the exception of 503(b)(9), do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.
Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.
A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.
Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) **that you received.**

04/19

Part 1: Identify the Claim

1. Who is the current creditor?
Name of the current creditor (the person or entity to be paid for this claim): CM Owner, LLC

Other names the creditor used with the debtor: _____

2. Has this claim been acquired from someone else? ☐ No ☑ Yes. From whom? _____

3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?	**Where should payments to the creditor be sent?** (if different)
Name: CM Owner, LLC	Name: _____
Address: CM Owner, LLC c/o Moritt Hock & Hamroff Moritt Hock & Hamroff LLP Attn L Berkoff 400 Garden City Plaza	Address: _____
City: Garden City	City: _____
State: NY ZIP Code: 11530	State: _____ ZIP Code: _____
Country (if International): _____	Country (if International): _____
Phone: 516-873-2000	Phone: _____
Email: lberkoff@moritthock.com	Email: _____

4. Does this claim amend one already filed?
☑ No
☐ Yes.
Claim number on court claims register (if known) _____
Filed on _____ MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?
☑ No
☐ Yes.
Who made the earlier filing?
_____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?

☑ No

☐ Yes.

Last 4 digits of the debtor's account or any number you use to identify the debtor:

____ ____ ____ ____

7. How much is the claim?

$ 3,077,244.08 unliquidated

Does this amount include interest or other charges?

☐ No

☑ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim?

Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.

Bank Debt/Credit Facility

9. Is all or part of the claim secured?

☑ No

☐ Yes. The claim is secured by a lien on property.

Nature of property:

☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (official Form 410-A) with this *Proof of Claim.*

☐ Motor vehicle

☐ Other. Describe:

_____

Basis for perfection:

_____

Attach redacted copies of documents, if any, that show evidence of perfection of security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: $_____

Amount of the claim that is secured: $_____

Amount of the claim that is unsecured: $_____

(The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: $_____

Annual Interest Rate (when case was filed) _____%

☐ Fixed ☐ Variable

10. Is this claim based on a lease?

☑ No

☐ Yes. **Amount necessary to cure any default as of the date of petition.**

$_____

11. Is this claim subject to a right of setoff?

☑ No

☐ Yes. Identify the property:

_____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☑ No

☐ Yes. *Check one:*

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

Amount entitled to priority

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). $_____

☐ Up to $3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). $_____

☐ Wages, salaries, or commissions (up to $13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). $_____

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

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

☐ Other. Specify subsection of 11 U.S.C. § 507 (a) (_____) that applies. $_____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Does this claim qualify as an Administrative Expense under 11 U.S.C. § 503(b)(9)?

☑ No

☐ Yes. **Amount that qualifies as an Administrative Expense under 11 U.S.C. § 503(b)(9)**: $_____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☑ I am the creditor.

☐ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other co-debtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

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

Christian Matthaeus 12/03/2020 15:33:59

Signature Date

Provide the name and contact information of the person completing and signing this claim:

Name: Christian Matthaeus

Address: Managing Member, CM Owner, LLC

c/o Moritt Hock & Hamroff LLP

400 Garden City Plaza

City: Garden City

State: NY Zip: 11530

Country (in international): United States

Phone: 516-873-2000

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Filed USBC - Southern District of New York
RM BAKERY LLC, et al (COR)
20-11422 (MG)
RMB
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LEGAL SERVICES

Schedule A to Proof of Claim of
CM Owner, LLC.

CM Owner, LLC ("CM Owner") is asserting a claim based upon its guaranty of indebtedness owed by RM Bakery LLC to Pacific Western Bank ("Pacific Western"), successor by merger to Square 1 Bank ("Square 1"), for that commercial loan agreement funded by Square 1, Pacific Western's predecessor in interest, on May 2, 2013 in the original principal amount of $5,000,000.00. At present this amount is believed to be no less than $3,077,244.08 plus interest and other charges.

CM Owner reserves the right to amend and/or supplement this proof of claim at any time and in any manner, and to file additional proofs of claim for additional claims which may be based on the respective rights and obligations arising under the loan documents and all supporting or related documents identified herein, the relationship described herein or the events and circumstances described herein. In addition, CM Owner reserves the right to attach or bring forth additional documents supporting its claims and additional documents that may become available after further investigation and discovery. CM Owner further reserves the right to file proofs of claim for administrative expenses, other claims entitled to priority, proofs of interest and proofs of claim against other parties, including but not limited to, affiliated debtors against which proofs of claim have not been filed, if any.

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Tina Wheelon

CASE MANAGER

12/3/2020

DATE