

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

Medley LLC,<sup>1</sup>

Debtor.

Chapter 11

Case No. 21-10526 (KBO)

Hearing Date: April 7, 2022 at 9:00 a.m. (ET)

Objection Deadline: March 31, 2022 at 4:00 p.m. (ET)

**MOTION OF LIQUIDATING TRUSTEE FOR AN ORDER  
EXTENDING THE CLAIMS OBJECTION DEADLINE TO OCTOBER 17, 2022**

Saccullo Business Consulting, LLC, in its capacity as trustee (the “Liquidating Trustee”) of the Medley LLC Liquidating Trust (the “Trust”), by and through its undersigned counsel, hereby submits this motion (the “Motion”) for an order (the “Proposed Order”) substantially in the form attached hereto as **Exhibit A**, extending the Claims Objection Deadline (defined below) by approximately 180 days,<sup>2</sup> from April 18, 2022 through and including October 17, 2022. In support of the Motion, the Liquidating Trustee respectfully states as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012. The Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).<sup>3</sup> Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

<sup>1</sup> The Debtor’s current mailing address is c/o Medley LLC Liquidating Trust, c/o Saccullo Business Consulting, LLC, 27 Crimson King Drive, Bear, DE 19701.

<sup>2</sup> The 180<sup>th</sup> day is a Saturday.

<sup>3</sup> Pursuant to 9013(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), the Liquidating Trustee hereby consents to the entry of a final order by this Court in connection with this Motion if it is later determined that this Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.



2. The statutory predicate for the relief requested herein is 11 U.S.C. §§ 502 and 503, as supplemented by Rule 9006(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rules 9006-1 and 9006-2.

### **BACKGROUND**

#### **A. The Chapter 11 Case**

3. On March 7, 2021 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the United States Code, 11 U.S.C. § 101 through 1532 (the “Bankruptcy Code”).

4. On March 19, 2021, this Court entered the *Order (I) Establishing Bar Dates for Filing Proofs of Claims and (II) Approving the Form and Manner of Notice Thereof* [Docket No. 52] (the “Bar Date Order”) establishing, among other deadlines, (i) April 30, 2021 at 5:00 p.m. (ET) as the deadline, for each person or entity other than governmental units, to file proofs of prepetition claims, including administrative expense claims arising pursuant to section 503(b)(9) of the Bankruptcy Code (the “General Bar Date”); and (ii) September 3, 2021 at 5:00 p.m. (ET) as the last date for governmental units to file proofs of claim that arose before the Petition Date (the “Government Bar Date”).

5. Notice of the General Bar Date and the Government Bar Date was mailed to all known creditors and interest holders. *See* Docket No. 71.

6. On October 18, 2021, this Court entered an order [Docket No. 445] (the “Confirmation Order”) confirming the *Modified Third Amended Combined Disclosure Statement and Chapter 11 Plan of Medley LLC* [Docket No. 431] (as confirmed, the “Plan”). The Plan became effective on October 18, 2021 (the “Effective Date”). *See* Docket No. 449.

7. The Confirmation Order and Plan provide for the establishment of the Trust on the Effective Date and based on the terms and conditions of the liquidating trust agreement (the “Trust Agreement”), the Liquidating Trustee was appointed to administer the Trust. Under Section VII.F of the Plan and Section 3.2.9 of the Trust Agreement, the Liquidating Trustee is authorized, among other things, to cause the Trust to investigate, review, object to and resolve all claims filed against the Debtor’s estate. *See also* 11 U.S.C. § 502(b).

8. Article I of the Plan contemplates that objections to claims would be filed within 180 calendar days after the Effective Date of the Plan (the “Claims Objection Deadline”), subject to extension by this Court. Currently, the Claims Objection Deadline is April 18, 2022.<sup>4</sup>

**B. Current Status of Trust Administration and Claims Reconciliation**

9. The Debtor’s claims register, prepared by Kurtzman Carson Consultants LLC, reflects that as of the date of this Motion, 24 proofs of claim have been filed against the Debtor’s estate (the “Filed Claims”), in addition to claims that are listed on the Debtor’s schedules (the “Scheduled Claims” and, together with the Filed Claims, the “Claims”).<sup>5</sup> While the number of Claims pending in this case does not pose a challenge, the nature of those Claims and the current resources available for reconciling them both impact the timeline on which the Liquidating Trustee can be expected to address them.

10. The Liquidating Trustee has undertaken a high-level review of the Claims asserted against the Debtor and has preliminarily determined that several will be objectionable. However, a more in-depth assessment of the Claims and concentrated effort to resolve the

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<sup>4</sup> The 180<sup>th</sup> day after the Effective Date is April 16, 2022, which is a Saturday. Pursuant to Bankruptcy Rule 9006, deadlines that fall on Saturdays are extended to the next Monday, which is April 18, 2022.

<sup>5</sup> The Liquidating Trustee also intends the term “Claims” in respect of the requested extension to include applications for administrative expenses pursuant to section 503(b) of the Bankruptcy Code (if any). None are pending at this time.

Debtor's liabilities must be deferred for the time being, while the Liquidating Trustee focuses the Trust's activities on the asset side of the equation.

11. As this Court is aware, the Trust was funded on the Effective Date with very little initial cash for operating purposes – only \$100,000 in Initial GUC Funds, plus a small amount of Cash held by the Debtor on the Effective Date.<sup>6</sup> The Plan contemplated that more funds would be transferred to the Liquidating Trust over time as, among other things, (i) the Liquidating Trustee investigates, pursues, litigates and/or settles Causes of Action; and (ii) Additional GUC Funds are realized through collections on the Remaining Company Contracts. The monetization of these Liquidating Trust Assets serves the dual purpose of supporting the Trust's operations in the short term, and in the long term, funding eventual distributions to creditors of all priority levels.

12. Recognizing their importance as the primary source of recovery for holders of Allowed Claims, immediately upon the Effective Date, the Liquidating Trustee began pursuing Causes of Action against the Debtor's insiders. These efforts are ongoing, and no proceeds from Causes of Action have yet been realized. The Trust continues to monitor the wind down activities of Medley Capital LLC and its subsidiaries. While the Trust has been informed that the funds in the Medley Capital family will be wound down or transferred by March 31, 2022 (as originally contemplated), numerous corporate and fund activities will not be concluded by the March 31, 2022 and will require additional time to complete.

13. Consequently, the Trust's extremely limited current cash resources are needed to meet projected litigation costs and wind-down expenses over an indefinite period and

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<sup>6</sup> See, e.g., Plan at 3 ("The Liquidating Trust shall be funded with (i) all Cash Held by the Debtor on the Effective Date; (ii) the Initial GUC Funds, and (iii) the Additional GUC Funds."). See also Plan at 12 (defining "Initial GUC Funds" as "available funds on the Effective Date from Medley Capital in the amount of not less than \$100,000.").

cannot prudently be allocated toward addressing the Claims pool at this time. Once those resources are augmented and it is appropriate to undertake the Claims work, the Liquidating Trustee will first focus on two contingent and unliquidated claims – those of the SEC and of the Debtor’s landlord. These Claims do not lend themselves to simple “books and records” objections,<sup>7</sup> and the Liquidating Trustee expects it will take some time to work through them.

### **RELIEF REQUESTED**

14. The Liquidating Trustee respectfully requests entry of the Proposed Order extending the Claims Objection Deadline as to all Claims for a period of approximately 180 days, from April 18, 2022 through and including October 17, 2022, without prejudice to the Liquidating Trustee’s right to seek additional extensions of the Claims Objection Deadline as may be necessary.

### **BASIS FOR RELIEF**

15. Sections 502 and 503 of the Bankruptcy Code provide that claims will be challenged when appropriate and, if necessary, estimated.<sup>8</sup> The Plan vests the discretion to object to or seek estimation of all claims in the Liquidating Trustee. Although by defining a Claims Objection Deadline, the Plan implicitly sets an initial timeline by which such challenges must be raised, it also expressly contemplates extension of the Claims Objection Deadline by order of this Court.<sup>9</sup>

16. Bankruptcy Rule 9006(b) also provides for extensions of time for cause. Specifically:

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<sup>7</sup> In particular, Section II.M. of the Plan discusses the SEC Claim.

<sup>8</sup> See 11 U.S.C. §§ 502(b)-(c), 503.

<sup>9</sup> Plan § I at 8 (providing that “the Liquidating Trustee [may] seek to extend such deadline from time to time by filing one or more motions with this Court on notice and an opportunity for a hearing.”).

[W]hen an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion ... with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order . . . .<sup>10</sup>

17. Good cause exists for extension of the Claims Objection Deadline. Since the Effective Date, the Liquidating Trustee has been keenly focused on pursuing insider Causes of Action for the benefit of the Debtor's creditors. The Liquidating Trustee appropriately tabled Claims reconciliation until sufficient proceeds on estate claims come in to the Trust such that it makes sense to begin working through the Claims.

18. Extension of the Claims Objection Deadline is not sought coercively for purposes of delay. In fact, this Motion represents only the first extension that has been requested since the Plan was confirmed and became effective. The requested extension also will not prejudice any claimant's substantive defense(s) to any objection. Conversely, unnecessary and unfair prejudice to holders of allowed Claims will result from a failure to extend the Claims Objection Deadline. In that circumstance, the Liquidating Trustee will be precluded from challenging invalid and/or overstated Claims or, alternatively, it will be forced to lodge hastily prepared "protective" objections without the benefit of a full review and analysis by the Liquidating Trustee and its professionals. The result would be depletion of limited resources that are best used at this time for monetizing Liquidating Trust Assets for the benefit of holders of allowed Claims.

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<sup>10</sup> Fed R. Bankr. P. 9006(b)(1).

19. The Liquidating Trustee respectfully submits that, for all of the foregoing reasons, extension of the Claims Objection Deadline is in the best interests of the Debtor's creditors and estate and should be approved.

**NOTICE**

20. Notice of this Motion has been provided to the following parties: (i) the Office of the United States Trustee for the District of Delaware; (ii) the Securities and Exchange Commission; (iii) counsel to Medley Capital, LLC; and (iv) any party that has requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Liquidating Trustee submits that no other or further notice is required or necessary.

**CONCLUSION**

WHEREFORE, the Liquidating Trustee respectfully requests that this Court enter the Proposed Order, substantially in the form attached hereto as **Exhibit A**, (i) extending the Claims Objection Deadline for a period of approximately 180 days, from April 18, 2022 through and including October 17, 2022, without prejudice to the Liquidating Trustee's right to seek additional extensions of such deadline as appropriate; and (ii) granting such other and further relief as this Court may deem just and proper.

*[Signature Page Follows]*

Dated: March 21, 2022  
Wilmington, Delaware

Respectfully submitted,

/s/ Andrew L. Brown

Christopher M. Samis (No. 4909)

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*Counsel for the Liquidating Trust*



**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

Medley LLC,<sup>1</sup>

Debtor.

Chapter 11

Case No. 21-10526 (KBO)

**Hearing Date: April 7, 2022 at 9:00 a.m. (ET)**

**Objection Deadline: March 31, 2022 at 4:00 p.m. (ET)**

**NOTICE OF MOTION OF LIQUIDATING TRUSTEE FOR AN ORDER  
EXTENDING THE CLAIMS OBJECTION DEADLINE TO OCTOBER 17, 2022**

**PLEASE TAKE NOTICE** that Saccullo Business Consulting, LLC, in its capacity as trustee (the “Liquidating Trustee”) of the Medley LLC Liquidating Trust filed the *Motion of Liquidating Trustee for an Order Extending the Claims Objection Deadline to October 17, 2022* (the “Motion”).

**PLEASE TAKE FURTHER NOTICE** that any responses or objections to the Motion must be in writing, filed with the Clerk of the Court, 824 Market Street, 3<sup>rd</sup> Floor, Wilmington, Delaware 19801 and served upon and received by the undersigned counsel on or before **March 31, 2022 at 4:00 p.m. (ET)** (the “Objection Deadline”).

**PLEASE TAKE FURTHER NOTICE** that, if any objections or responses are received, a hearing with respect to the Motion will be held on **April 7, 2022 at 9:00 a.m. (ET)** before The Honorable Karen B. Owens, United States Bankruptcy Judge, at the Court, 824 Market Street, 6th Floor, Courtroom No. 3, Wilmington, Delaware 19801.

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<sup>1</sup> The Debtor’s current mailing address is c/o Medley LLC Liquidating Trust, c/o Saccullo Business Consulting, LLC, 27 Crimson King Drive, Bear, DE 19701.

**IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.**

Dated: March 21, 2022  
Wilmington, Delaware

Respectfully submitted,

/s/ Andrew L. Brown

Christopher M. Samis (No. 4909)

Andrew L. Brown (No. 6766)

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**EXHIBIT A**

**(Proposed Order)**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

Medley LLC,<sup>1</sup>

Debtor.

Chapter 11

Case No. 21-10526 (KBO)

Re: Docket No. \_\_\_\_

**ORDER EXTENDING THE CLAIMS  
OBJECTION DEADLINE TO OCTOBER 17, 2022**

Upon consideration of the motion (the “Motion”)<sup>2</sup> of the Liquidating Trustee for an order extending the Claims Objection Deadline by approximately 180 days, from April 18, 2022 through and including October 17, 2022; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and venue being proper before this Court; consideration of the Motion and the relief requested being a core proceeding pursuant to 28 U.S.C. § 157(b); due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; this Court having found and determined that the relief sought in the Motion is in the best interests of the Liquidating Trust, its beneficiaries, and all parties in interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED that:

1. The Motion is GRANTED, as set forth herein.
2. Pursuant to Bankruptcy Rule 9006, the time within which the Liquidating Trustee may object to Claims is extended approximately 180 days through and including October 17,

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<sup>1</sup> The Debtor’s current mailing address is c/o Medley LLC Liquidating Trust, c/o Saccullo Business Consulting, LLC, 27 Crimson King Drive, Bear, DE 19701.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

2022.

3. This Order shall be without prejudice to the Liquidating Trustee's right to seek further extensions of the Claims Objection Deadline.

4. This Court shall retain jurisdiction with respect to all matters relating to or arising from the Motion or the interpretation or implementation of this Order.