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Attorney for the Creditor Conrad P Burnett Jr

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	
In re:	: Chapter 11
	: :
	: Case No. 12-12020 (MG)
Residential Capital, LLC, et al.	: :
	: Jointly Administered
Debtors.	: :
-----X	Hon. Martin Glenn

MOTION FOR LEAVE TO AMEND PROOF OF CLAIM NO.7413

Creditor Conrad P Burnett Jr moves the court pursuant to Federal Rule of Civil Procedure Rule 15(a)(2) and Bankruptcy Rule 3003(c)(3) for leave to file an amendment to Proof of Claim No. 7413 beyond the bar date in the following particulars and grounds for this Motion would state as follows:

1. On January 8, 2014 the Liquidating Trust on behalf of the Debtor filed a [Proof of Claim No. 7413] on behalf of the Creditor Conrad P Burnett Jr in the amount of \$375,395.00. Creditor cannot ascertain how Debtor calculated these figures which appear to duplicate prior claims filed by Creditor; however, at the very least the amendment would correct the amount to reflect true administrative expenses and as a mechanism providing the Debtor and its creditors with finality.
2. The amended proof of claim accurately reflects the true nature of this claim for administrative expenses for Attorney's fees both pre and post-petition costs to litigate and enforce Creditors' claims.



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3. Bankruptcy Rule 3003(c) (3) directs a bankruptcy court to establish a bar date beyond which proofs of claim are disallowed in a chapter 11 case. *See, Gulf States Exploration Co. v. Manville Forest products Corp. (In re Manville Forest Products Corp.)*, 89 B.R. 358, 374 (Bankr. S.D.N.Y. 1988)
4. The bankruptcy judge has the discretion to grant or deny an amendment to a timely filed proof of claim. *See also, In re McLean Industries, Inc.*, 121 B.R. 704, 708 (Bankr. S.D. N.Y. 1990); the bankruptcy court must take care that an amendment would truly amend a timely filed proof of claim rather than assert a new claim. Creditor Conrad P Burnett Jr did file an original timely proof of claim.
5. Although the Bankruptcy Code nor Bankruptcy Rules directly address amendment of a proof of claim, however, determining whether the first prong of the two-prong test is satisfied this Court has determined the application of F.R.C.P. Rule 15(c) and pursuant to Bankruptcy Rules 7015 and 9014(c), to analyze such an amendment, *Enjet, Inc. v. Maritime Challenge Corp. (In re Enjet, Inc.)*, 220 B.R. 312, 315 (E.D. La. 1998) and *Liddle v. Drexel Burnham Lambert Group, Inc.*, 159 B.R. 420, 425 (S.D.N.Y. 1993); this amended claim relates back to the date of the original claim.
6. Creditor feels this was an affirmative act/misrepresentation by GMAC Joint-Debtor; and therefore, no showing of intent is required. *See, In Re Residential Capital, LLC*, et al., No. 12-12020 [Docket No. 7619] (Bankr. S.D.N.Y. October 6, 2014) the amount of the amended proof of claim would represent Attorney's fees only for the cost to litigate with Joint-Debtor GMAC both pre & post-petition to enforce the creditors' rights under a contract, and consumer fraud. The amendment to *Id.* 7413 would only represent restitution for the costs paid to counsel and burden to defend against Joint-Debtor GMAC. If the court does not permit the amendment of the Proof of Claim the

Creditor would suffer irreparable harm and damage in an amount that cannot reasonable be ascertained.

7. Creditor has attached the Amended Proof of Claim and is affixed herewith and marked as Exhibit “1” and incorporated for reference.

WHEREFORE, Creditor Conrad P Burnett Jr prays that this Honorable Court will grant leave to file an amendment to his proof of claim for administrative expenses for Attorney’s Fees and all other relief this court deems just and proper.

Date: 12/15/2014

Respectfully Submitted,

/s/ **Pablo E. Bustos**

Pablo E. Bustos, Esq.
Attorney for the Creditor

CERTIFICATE OF SERVICE

I **HEREBY** certify that a true and correct copy of the foregoing **MOTION FOR
LEAVE TO AMEND PROOF OF CLAIM NO.7413** is to be electronically filed with
the Clerk of the Court using ECF system, which sent notification of such filing to all ECF
participants requesting electronic service.

Date: 12/15/2014

Respectfully Submitted,

/s/ Pablo E. Bustos

Pablo E. Bustos, Esq.
Attorney for the Creditor

UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK		PROOF OF CLAIM
Name of Debtor and Case Number: Residential Capital, LLC, Case No. 12-12020		
NOTE: This form should not be used to make a claim for an administrative expense (other than a claim asserted under 11 U.S.C. § 503(b)(9)) arising after the commencement of the case. A "request" for payment of an administrative expense (other than a claim asserted under 11 U.S.C. § 503(b)(9)) may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Conrad P Burnett Jr		<input checked="" type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: 7413 (If known) Filed on: 1/8/2014 <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars. 5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. §507 (a)(4). <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5). <input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8). <input checked="" type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(C). Amount entitled to priority: <div style="text-align: right; font-size: large; font-weight: bold;">58,933.33</div>
Name and address where notices should be sent: Pablo E Bustos Esq. Bar No. 4122586 225 Broadway 39th Floor New York, NY 10007-3001		
Telephone number: 212-796-6256 email: pbustos@bustosassociates.com		
Name and address where payment should be sent (if different from above): New Research Services, 6655 Boulder Hwy. #1044, Las Vegas, NV 89122, Claims Agent for Creditor Conrad P Burnett Jr		
Telephone number: 866-249-0336 email: nrsfinancemgr@gmail.com		
1. Amount of Claim as of Date Case Filed: \$ 58,933.33 If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
2. Basis for Claim: Administrative Expenses for Attorneys Fees Pre & Post-Petition Expenses (See instruction #2)		
3. Last four digits of any number by which creditor identifies debtor: <div style="text-align: center;">4840</div>	3a. Debtor may have scheduled account as: (See instruction #3a)	3b. Uniform Claim Identifier (optional): (See instruction #3b)
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ _____ Annual Interest Rate _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable (when case was filed) Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		
6. Claim Pursuant to 11 U.S.C. § 503(b)(9): Indicate the amount of your claim arising from the value of any goods received by the Debtor within 20 days before May 14, 2012, the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim. \$ _____ (See instruction #6)		
7. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #7)		
8. Documents: Attached are 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. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #8, and the definition of "redacted".) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:		
9. Signature: (See instruction #9) Check the appropriate box. <input type="checkbox"/> I am the creditor. <input checked="" type="checkbox"/> I am the creditor's authorized agent. <input type="checkbox"/> I am the trustee, or the debtor, or their authorized agent. <input type="checkbox"/> I am a guarantor, surety, indorser, or other codebtor. (Attach copy of power of attorney, if any.) (See Bankruptcy Rule 3004.) (See Bankruptcy Rule 3005.) I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief. Print Name: Dennis J Huelbig Jr Authorized Agent for Conrad P Burnett Jr Title: Authorized Agent Company: New Research Services Address and telephone number (if different from notice address above): PO BOX 20383, Las Vegas, NV 89112 PO BOX 20383, Las Vegas, NV 89112 Telephone number: 323-489-9544 Email: newresearchservices@gmail.com		
Signature:  Date: 12/15/2014 (Signature) Authorized Representative on Behalf of Creditor CONRAD P. BURNETT JR.		
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.		

COURT USE ONLY

Exhibit "1"

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X		
In re:	:	Chapter 11
	:	
	:	Case No. 12-12020 (MG)
Residential Capital, LLC, et al.	:	
	:	Jointly Administered
Debtors.	:	
-----X		Hon. Martin Glenn

ORDER GRANTING LEAVE TO FILE AN AMENDED PROOF OF CLAIM

The motion of Conrad P Burnett Jr for an order granting leave to file amendments to Proof of Claim No. 7413 was heard on _____, 2014 at _____ A.M... Plaintiff appeared by counsel Pablo E Bustos, Esq.; Debtor appeared by counsel Morrison & Foerster LLP, Meryl L. Rothchild, Esq. Satisfactory proof having been made to the Court, and good cause appearing therefore:

IT IS ORDERED that Plaintiff may serve and file the Amendment to Proof of Claim No. 7413 within Ten (10) days.

Date: _____

Hon. Martin Glenn
UNITED STATES BANKRUPTCY JUDGE