

Presentment Date: October 8, 2020 at 12:00 p.m. (Prevailing Eastern Time)
Objection Deadline: October 8, 2020 at 11:00 a.m. (Prevailing Eastern Time)

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

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<i>In re</i>	:	Chapter 11
	:	
JCK LEGACY COMPANY, et al.,	:	Case No. 20-10418 (MEW)
	:	
Debtors.¹	:	(Jointly Administered)
	:	
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**NOTICE OF PRESENTMENT OF
STIPULATION AND AGREED ORDER**

PLEASE TAKE NOTICE that JKC Legacy Company and certain of its affiliates, the debtors and debtors in possession in the above-captioned cases (collectively, the “**Debtors**”), by their undersigned counsel, will present for signature to the Honorable Michael E. Wiles, United States Bankruptcy Judge, in his Chambers, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004-1408, at **12:00 p.m. (Prevailing Eastern Time) on October 8, 2020** (the “**Presentment Date**”), the proposed *Stipulation and Agreed Order* by and between the Debtors and Voltari Real Estate Holding LLC (the “**Stipulation and Agreed Order**”), a true and complete copy of which is annexed hereto.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Stipulation and Agreed Order must be made in writing and (a) filed with the Bankruptcy Court no later than

¹ The last four digits of Debtor JCK Legacy Company’s tax identification number are 0478. Due to the large number of debtor entities in these jointly administered chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <http://www.kccllc.net/McClatchy>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 2100 Q Street, Sacramento, California 95816.



11:00 a.m. (Prevailing Eastern Time) on the Presentment Date (the “Objection Deadline”)

and (b) served so as to be actually received by the following parties by the Objection Deadline:

(i) the Debtors, JCK Legacy Company, 2100 Q Street, Sacramento, California 95816;

(ii) counsel for the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, One Manhattan West, New York, New York 10001, Attn.: Shana A. Elberg (shana.elberg@skadden.com) and Bram A. Stochlic (bram.stochlic@skadden.com), 300 South Grand Avenue, Suite 3400, Los Angeles, California 90071, Attn.: Van C. Durrer, II (van.durrer@skadden.com), and Destiny N. Almogue (destiny.almogue@skadden.com), and 525 University Avenue, Palo Alto, California 94301 Attn.: Jennifer Madden (jennifer.madden@skadden.com);

(iii) co-counsel for the Debtors, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, New York 10119, Attn.: Albert Togut (altogut@teamtogut.com) and Kyle J. Ortiz (kortiz@teamtogut.com);

(iv) the Office of the United States Trustee, U.S. Federal Office Building, 201 Varick Street, Room 1006, New York, New York 10014, Attn.: Benjamin J. Higgins and Brian S. Masumoto;

(v) counsel to the Official Committee of Unsecured Creditors, Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, New York 10038-4982, Attn.: Kristopher M. Hansen (khansen@stroock.com), Frank A. Merola (fmerola@stroock.com), Erez E. Gilad (egilad@stroock.com), Samantha L. Martin (smartin@stroock.com), and Gabriel E. Sasson (gsasson@stroock.com);

(vi) the DIP Agent, Encina Business Credit, LLC, 123 N. Wacker Drive, Suite 2400, Chicago, Illinois 60606, Attn.: Thomas Sullivan;

(vii) counsel to the DIP Agent, Choate, Hall & Stewart LLP, Two International Place, Boston, Massachusetts 02110, Attn: Kevin J. Simard (ksimard@choate.com), Jennifer Conway Fenn (jfenn@choate.com), and Jonathan D. Marshall (jmarshall@choate.com);

(viii) the ABL Agent, Wells Fargo Bank, National Association, 2450 Colorado Avenue, Suite 3000 West, Santa Monica California, Attn.: Loan Portfolio Manager;

(ix) counsel to Wells Fargo Bank, National Association, Morgan, Lewis & Bockius LLP, 101 Park Avenue, New York, New York 10178, Attn.: Jennifer Feldsher (Jennifer.feldsher@morganlewis.com), Glenn E. Siegel (glenn.siegel@morganlewis.com), and David K. Shim (david.shim@morganlewis.com) and One Federal Street, Boston, Massachusetts 02110, Attn.: Christopher L. Carter (christopher.carter@morganlewis.com);

(x) the First Lien Agent, The Bank of New York Mellon Trust Company, N.A., 400 South Hope Street, Suite 500, Los Angeles, California 90071, Attn.: Corporate Unit;

(xi) the Second Lien Agent, The Bank of New York Mellon, 2001 Bryan Street, Suite 1000, Dallas, Texas, 75201 (lpcoe-dallasagentsvcs@bnymellon.com);

(xii) the Third Lien Agent, The Bank of New York Mellon Trust Company, N.A., 400 South Hope Street, Suite 500, Los Angeles, California 90071, Attn.: Corporate Unit, and 2001 Bryan Street, Suite 1000, Dallas, Texas 75201 (lpcoe-dallasagentsvcs@bnymellon.com);

(xiii) counsel to The Bank of New York Mellon Trust Company, Emmet, Marvin & Martin, LLP, 120 Broadway, 32nd Floor, New York, New York 10271, Attn.: Thomas A. Pitta (tpitta@emmetmarvin.com), Edward P. Zujkowski (ezujkowski@emmetmarvin.com), and Elizabeth Taraila (etaraila@emmetmarvin.com);

(xiv) counsel to Chatham Asset Management, Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019, Attn.: Andrew N. Rosenberg (arosenberg@paulweiss.com) and Elizabeth R. McColm (emccolm@paulweiss.com) and John T. Weber (jweber@paulweiss.com);

(xv) counsel to Brigade Capital Management, LP, Kramer Levin Naftalis & Frankel LLP, 1177 Avenue of the Americas, New York, New York 10036, Attn.: Thomas Moers Mayer (tmayer@kramerlevin.com), Douglas H. Mannal (dmannal@kramerlevin.com), and David Braun (dbraun@kramerlevin.com);

(xvi) counsel to the Pension Benefit Guaranty Corp., Schafer and Weiner, PLLC, 40950 Woodward Avenue, Suite 100, Bloomfield Hills, Michigan 48304, Attn.: Joseph K. Grekin (jgrekin@schaferandweiner.com);

(xvii) any party that has requested notice pursuant to Bankruptcy Rule 2002; and

(xviii) counsel to Voltari Real Estate Holding LLC, Brown Rudnick LLP, 7 Times Square, New York, New York 10036, Attn.: Kenneth Aulet (kaulet@brownrudnick.com), Gerard Cicero (gcicero@brownrudnick.com), and Andrew P. Strehle (astrehle@brownrudnick.com).

PLEASE TAKE FURTHER NOTICE that if no timely, written objections are filed and received in accordance with the foregoing, the Stipulation and Agreed Order may be entered by the Court.

PLEASE TAKE FURTHER NOTICE that a copy of this filing can be obtained through the Bankruptcy Court's electronic case filing system at www.nysb.uscourts.gov using a PACER password (to obtain a PACER password, go to the PACER website, www.pacer.gov) or the website maintained by the Debtors' noticing agent, Kurtzman Carson Consultants LLC, at www.kcellc.net/McClatchy.

Dated: New York, New York
September 21, 2020

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
Shana A. Elberg
Bram A. Stochlic
One Manhattan West
New York, New York 10001
Telephone: (212) 735-3000
Fax: (212) 735-2000

– and –

Van C. Durrer, II
Destiny N. Almogue (admitted *pro hac vice*)
300 S. Grand Avenue, Suite 3400
Los Angeles, California 90071-3144
Telephone: (213) 687-5000
Fax: (213) 687-5600

– and –

Jennifer Madden (admitted *pro hac vice*)
525 University Avenue
Palo Alto, California 94301
Telephone: (650) 470-4500
Fax: (650) 470-4570

– and –

TOGUT, SEGAL & SEGAL LLP

/s/ Kyle J. Ortiz
Albert Togut
Kyle J. Ortiz
Amy Oden
One Penn Plaza, Suite 3335
New York, New York 10119
Telephone: (212) 594-5000
Fax: (212) 967-4258

Counsel for Debtors and Debtors in Possession

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

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<i>In re</i>	:	Chapter 11
	:	
JCK LEGACY COMPANY, <i>et al.</i>,	:	Case No. 20-10418 (MEW)
	:	
Debtors.¹	:	(Jointly Administered)
	:	
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STIPULATION AND AGREED ORDER

The above-captioned debtors (collectively, the “**Debtors**”) and Voltari Real Estate Holding LLC (“**Voltari**”), by and through their respective counsel, hereby enter into this stipulation (the “**Stipulation**”) and agree as follows:

RECITALS

WHEREAS, on February 13, 2020 (the “**Petition Date**”),² each of the Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code commencing these chapter 11 cases, which cases have been procedurally consolidated for administrative purposes only;

WHEREAS, the Debtors are continuing to manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

¹ The last four digits of Debtor JCK Legacy Company’s tax identification number are 0478. Due to the large number of debtor entities in these jointly administered chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <http://www.kcellc.net/McClatchy>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 2100 Q Street, Sacramento, California 95816.

² On March 24, 2020 (the “**Additional Petition Date**”), Debtor Oak Street Redevelopment Corporation (“**Oak Street**”) also commenced a case by filing a chapter 11 petition. As used herein, the term “**Petition Date**” encompasses the Additional Petition Date, and the term “**Chapter 11 Cases**” includes the Oak Street chapter 11 case, which is being jointly administered with the Debtors’ chapter 11 cases commenced on February 13, 2020. See *Order (I) Directing Joint Administration of Cases and (II) Waiving Requirements of Bankruptcy Code Section 342(c)(1) and Bankruptcy Rules 1005 and 2002(n)* [Docket No. 265].

WHEREAS, prior to the Petition Date, Voltari and Debtor JCK Legacy Company (f/k/a The McClatchy Company) entered into a nonresidential real property lease for the premises located at 1401 Shop Road, Columbia, South Carolina (the “**Lease**”);

WHEREAS, Debtor JCK Legacy Company’s (f/k/a The McClatchy Company) obligations under the Lease are secured by a cash security deposit in the amount of \$403,250.01 (the “**Security Deposit**”);

WHEREAS, Section 553 of Title 11 of the United States Code preserves a creditor’s right to offset a mutual debt, subject to the terms of such section;

WHEREAS, on May 1, 2020, this Court entered that certain *Order Pursuant to Bankruptcy Code Sections 105, 363, 365, and 554, Bankruptcy Rules 6006 and 9014, and Local Bankruptcy Rule 6006-1 Authorizing and Approving Expedited Procedures for Rejection or Assumption or Executory Contracts and Unexpired Leases and Granting Related Relief* [Docket No. 401] (the “**Assumption/Rejection Procedures Order**”);

WHEREAS, pursuant to the Assumption/Rejection Procedures Order, on June 8, 2020, the Debtors filed their *Fourth Omnibus Notice of Rejection of Certain Executory Contracts and/or Unexpired Leases* [Docket No. 512], which absent objection, deemed the Lease rejected effective as of August 31, 2020;

WHEREAS, pursuant to Section 2(g) of the Assumption/Rejection Procedures Order, if the Debtors have deposited funds with a Contract counterparty as a security deposit or other arrangement, such Contract counterparty may not setoff, recoup, or otherwise use such deposit without further order of the Court, unless the Debtors and the counterparty or counterparties to such Contract(s) otherwise agree;

WHEREAS, on August 21, 2020, the Debtors filed their proposed *Joint Chapter 11 Plan of Distribution of The McClatchy Company and its Affiliated Debtors and Debtors in Possession* [Docket No. 781] (the “**Proposed Plan**”);

WHEREAS, pursuant to Section 9.10 of the Proposed Plan, the entitlements of Holders of Claims to setoff will be subject to filing a motion with this Court requesting the authority to perform such setoff on or before the Confirmation Date;

WHEREAS, pursuant to Section 2(i) of the Assumption/Rejection Procedures Order, Voltari’s bar date for filing a claim for rejection damages in respect of the rejection of the Lease may be later than the Confirmation Date and Voltari has not yet filed a general unsecured rejection damages claim;

WHEREAS, Voltari has raised to the Debtors an objection to Section 9.10 of the Proposed Plan, in so far as it could constrain Voltari’s time to file a motion to lift the stay in order to apply the Security Deposit (the “**Voltari Objection**”) and the Debtors agree that such objection is deemed timely filed in respect of the Proposed Plan if this Stipulation is not so-ordered prior to the commencement of the hearing at which this Court will consider confirmation of the Proposed Plan (the “**Confirmation Hearing**”);

WHEREAS, Voltari has shared with the Debtors a calculation of the minimum amount of Voltari’s general unsecured rejection damages claim, which is exclusive of certain additional amounts that will be asserted in Voltari’s timely filed rejection damages claim, and based on such calculation, the rejection damages claim is at least in the amount of \$3,064,700.07 (the “**Minimum Rejection Damages Claims Estimate**”);

WHEREAS, the Debtors do not dispute the Minimum Rejection Damages Claims Estimate, but reserve their rights to dispute any portion of Voltari's rejection damages claim in excess of the Minimum Rejection Damages Claims Estimate as set forth herein;

WHEREAS, Voltari has also timely filed a general unsecured claim in an unliquidated amount, for among other things, indemnities owed under the Lease, as identified by the Debtors' claims agent as Claim No. 2069 ("**Claim No. 2069**");

WHEREAS, the Debtors and Voltari (collectively, the "**Parties**") wish to resolve the Voltari Objection as well obviate any requirement for motion practice, including any motion to lift the automatic stay required under the Plan in respect of retention of the Security Deposit and application of the same to reduce Voltari's rejection damages claim; and

WHEREAS, the Parties have agreed to take necessary and appropriate steps to have this Stipulation so-ordered by the Bankruptcy Court prior to the Confirmation Hearing;

NOW THEREFORE, intending to be bound hereby, the Debtors and Voltari stipulate and agree that the execution and delivery of this Stipulation by the Parties hereto shall be deemed to constitute the Debtors' and Voltari's agreement to the setoff, recoupment, and application of a portion of Voltari's rejection damages claim in an amount equal to \$403,250.01 against any Claim or right of the Debtors in or to the Security Deposit as provided for under the Lease and Section 2(g) of the Assumption/Rejection Procedures Order and Voltari's agreement to reflect such as a reduction in the amount of \$403,250.01 from its general unsecured rejection damages claim;

AND, FURTHER, intending to be bound hereby, and subject to Bankruptcy Court approval, the Debtors and Voltari stipulate and agree that as follows:

1. The filing of the Stipulation shall be deemed to be a motion under Federal Rules of Bankruptcy Procedure Rule 4001(a)(1) and pursuant to Section 9.10 of the Plan.
2. Upon this Court's entry of an order approving this Stipulation, the automatic stay under Bankruptcy Code Section 362 shall be modified for the limited purpose of allowing Voltari to apply, recoup, and/or setoff a portion of its rejection damages claim in an amount equal to \$403,250.01 against any Claim or right of the Debtors in or to the Security Deposit and shall reflect such as a reduction in the amount of \$403,250.01 from its general unsecured rejection damages claim.
3. The Debtors and Voltari agree that the fourteen (14) day stay period prescribed by Federal Rule of Bankruptcy Procedure 4001(a)(3) be waived.
4. Upon this Court's entry of an order approving this Stipulation, (a) Voltari is authorized to effect the application, recoupment, and/or setoff in the amount described above and shall reflect such as a reduction of \$403,250.01 from its general unsecured rejection damages claim in its forthcoming rejection damages claim and (b) the allowance of such claim, in any amount, shall reflect such setoff and reduction.
5. Sections 9.10 and 9.11 of the Proposed Plan shall not be applicable to limit Voltari's entitlement to a setoff in respect of the Security Deposit as reflected in this Stipulation.
6. The Debtors agree that they waive any and all rights to dispute Voltari's rejection damages claim up to the Minimum Rejection Damages Estimate less the amount of the Security Deposit; *provided, however*, that the Parties' rights and defenses in respect to Voltari's rejection damages claim solely to the extent such claim is asserted

by Voltari in excess of the Minimum Rejection Damages Estimate less the amount of the Security Deposit, are fully preserved.

- 7. This Stipulation shall have no affect on Claim No. 2069, and all Parties’ rights and defenses in respect of the same are reserved.
- 8. This portions of this Stipulation that are subject to Court approval shall become final upon entry of this Court’s order approving the terms set forth herein.
- 9. Should any dispute arise regarding this Stipulation, the United States Bankruptcy Court for the Southern District of New York shall have exclusive jurisdiction to determine the same.

IN WITNESS WHEREOF, this Stipulation has been executed and delivered as of this 21st day of September 2020.

TOGUT, SEGAL & SEGAL LLP

/s/ Kyle J. Ortiz
 Albert Togut
 Kyle J.Ortiz
 One Penn Plaza, Suite 3335
 New York, New York 10119
 Telephone: (212) 594-5000
 Fax: (212) 967-4258

Counsel for Debtors and Debtors in Possession

BROWN RUDNICK LLP

/s/ Gerard Cicero
 Kenneth Aulet
 Gerard Cicero
 Andrew P. Strehle
 7 Times Square
 New York, New York 10036
 Telephone: (212) 209-4800
 Fax: (212) 209-4801

Attorneys for Voltari Real Estate Holding LLC

IT IS SO ORDERED.

Dated: New York, New York
September __, 2020

 THE HONORABLE MICHAEL E. WILES
 UNITED STATES BANKRUPTCY JUDGE