

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

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In re: : Chapter 11  
: :  
FREEDOM COMMUNICATIONS HOLDINGS, : Case No. 09-13046 (BLS)  
INC., et al., : :  
: :  
Debtors.<sup>1</sup> : Jointly Administered  
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**DEBTORS' OBJECTION (NON-SUBSTANTIVE) TO PROOF OF CLAIM OF  
SANTA MONICA MEDIA COMPANY, LLC (PROOF OF CLAIM NO. 3189)  
PURSUANT TO SECTIONS 105 AND 502(b) OF  
THE BANKRUPTCY CODE, BANKRUPTCY RULE 3007 AND LOCAL RULE 3007-1**

The debtors and debtors-in-possession in the above-captioned chapter 11 cases (each a “Debtor” and collectively, the “Debtors”), by and through their undersigned counsel, pursuant to Sections 105 and 502(b) of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 3007-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: Freedom Communications Holdings, Inc. (2814); Freedom Communications, Inc. (0750); Freedom Broadcasting, Inc. (0025); Freedom Broadcasting of Florida, Inc. (6581); Freedom Broadcasting of Florida Licensee, L.L.C. (1198); Freedom Broadcasting of Michigan, Inc. (6110); Freedom Broadcasting of Michigan Licensee, L.L.C. (1122); Freedom Broadcasting of New York, Inc. (6522); Freedom Broadcasting of New York Licensee, L.L.C. (9356); Freedom Broadcasting of Oregon, Inc. (7291); Freedom Broadcasting of Oregon Licensee, L.L.C. (9295); Freedom Broadcasting of Southern New England, Inc. (7274); Freedom Broadcasting of Southern New England Licensee, L.L.C. (1177); Freedom Broadcasting of Texas, Inc. (2093); Freedom Broadcasting of Texas Licensee, L.L.C. (1147); Freedom Broadcasting of Tennessee, Inc. (7961); Freedom Broadcasting of Tennessee Licensee, L.L.C. (9430); Freedom Magazines, Inc. (0328); Freedom Metro Information, Inc. (1604); Freedom Newspapers, Inc. (3240); Orange County Register Communications, Inc. (7980); OCR Community Publications, Inc. (9752); OCR Information Marketing, Inc. (7983); Appeal-Democrat, Inc. (4121); Florida Freedom Newspapers, Inc. (4227); The Seller Information, Inc. (5796); Freedom Colorado Information, Inc. (7806); Freedom Eastern North Carolina Communications, Inc. (5563); Freedom Newspapers of Illinois, Inc. (2222); Freedom Newspapers of Southwestern Arizona, Inc. (5797); Freedom Shelby Star, Inc. (8425); Illinois Freedom Newspapers, Inc. (8308); Missouri Freedom Newspapers, Inc. (8310); Odessa American (7714); The Times-News Publishing Company (0230); Victor Valley Publishing Company (6082); Daily Press (3610); Freedom Newspaper Acquisitions, Inc. (4322); The Clovis News-Journal (5820); Freedom Newspapers of New Mexico L.L.C. (5360); Gaston Gazette LLP (4885); Lima News (6918); Porterville Recorder Company (7735); Seymour Tribune Company (7550); Victorville Publishing Company (7617); Freedom Newspapers (7766); The Creative Spot, L.L.C. (2420); Freedom Interactive Newspapers, Inc. (9343); Freedom Interactive Newspapers of Texas, Inc. (8187); Freedom Services, Inc. (3125). The address for Freedom Communications Holdings, Inc. and certain other Debtors is 17666 Fitch, Irvine,

for the District of Delaware (the “Local Rules”), hereby file this objection (the “Objection”) to proof of claim number 3189 (the “Proof of Claim”) filed by Santa Monica Media Company, LLC (“Santa Monica”) against Freedom Arizona Information, Inc. (“Freedom Arizona”). In support of this Objection, the Debtors submit the declaration of Nancy S. Trillo, Vice President of Enterprise Finance of the Debtors (the “Trillo Declaration”), attached hereto as Exhibit A. In further support, the Debtors respectfully state as follows:

### **STATUS OF THE CASE**

1. On September 1, 2009 (the “Petition Date”), the Debtors filed voluntary petitions in this Court for relief under chapter 11 of the Bankruptcy Code. The Debtors continue to manage and operate their businesses as debtors in possession pursuant to Bankruptcy Code sections 1107 and 1108. No trustee has been requested in these chapter 11 cases. On September 10, 2009, the Office of the United States Trustee (the “U.S. Trustee”) appointed an official committee of unsecured creditors for these cases (the “Committee”).

2. The Debtors in these cases consist of 50 entities within a corporate family led by parent company Freedom Communications Holdings, Inc. (“Freedom Holdings”). Freedom Holdings is the direct owner of Freedom Communications, Inc. (“Freedom Communications”). Freedom Communications is, in turn, the direct or indirect owner of the other 48 Debtors, as well as six non-Debtor affiliates.

3. Together, the Debtors operate a media business in two primary industry segments: newspaper publishing and broadcast television. Headquartered in Orange County, California, their operations extend to 15 states within the United States and utilize the services of in excess of 8,200 employees and independent contractors. Their newspaper publishing segment produces

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California 92614.

approximately 90 daily and weekly publications, including 30 daily newspapers, as well as ancillary magazines and other specialty publications. They operate eight television stations within their broadcast television segment, including five CBS affiliates, two ABC affiliates, and one CW affiliate. In addition, the Debtors operate an interactive business which offers website complements, as well as digital and mobile products, to their newspaper and broadcast properties.

4. The Debtors believe that the best interests of their estates and all parties will be served by proceeding as quickly as possible through the chapter 11 process. Towards that end, on October 31, 2009, the Debtors filed a proposed disclosure statement and plan of reorganization, and subsequently modified the disclosure statement and plan of reorganization to address objections and reflect negotiations with parties in interest. By order dated January 22, 2010, this Court approved the Debtors' disclosure statement. The hearing to consider confirmation of the Debtors' plan of reorganization is scheduled to be held on March 9, 2010.

#### **THE BAR DATE AND THE PROOF OF CLAIM**

5. By order entered September 2, 2009, the Court appointed Logan & Company, Inc. to serve as the Debtors' claims agent (the "Claims Agent") [Docket No. 28].

6. On October 14, 2009, the Court entered the Order Pursuant to 11 U.S.C. 501, 502, 503, and 1111(a), Fed. R. Bankr. P. 2002 and 3003(c)(3) and Del. Bankr. L. R. 2002-1(e) Establishing Bar Dates for Filing Claims and Approving Form and Manner of Notice Thereof (the "General Bar Date Order") [Docket No. 246], which established December 11, 2009 as the last date for any person or entity to file a proof of claim, with certain exceptions, against any of the Debtors (the "General Bar Date"). Notice of the General Bar Date was mailed to all known creditors on November 6, 2009. In addition, prior to November 20, 2009, the Debtors published

notice of the General Bar Date in The New York Times (national edition), The Orange County Register, each local daily newspaper owned and operated by the Debtors, and newspapers serving the Debtors' broadcast markets. *See the Debtors' Notice of Filing of Proofs of Publication for Notice of Deadline for Filing Proofs of Claim* [Docket No. 956]. More than 3,400 proofs of claim were timely filed in these cases asserting claims against the Debtors. Claims filed in response to the General Bar Date Order are recorded on the official claims registry in these chapter 11 cases, which is maintained by the Claims Agent.

7. On or about December 11, 2009, Santa Monica filed the Proof of Claim. The Proof of Claim asserts a secured claim in the amount of \$2,002,200, and Santa Monica included the following bare description of the basis for its claim: "Debtor contracted to sell claimant it's [sic] Az. Assets for \$2M. \$2200 Earnest money." No further explanation of the basis of Santa Monica's asserted claim was provided, and Santa Monica did not attach copies of any documents that supported its asserted claim. A copy of the Proof of Claim that was received by the Claims Agent is annexed hereto as Exhibit B.

#### **THE ABANDONED PRE-PETITION TRANSACTION WITH SANTA MONICA**

8. Prior to the Petition Date, Freedom Arizona and Santa Monica negotiated a transaction in which certain assets of Freedom Arizona (the "Assets") would be sold to Santa Monica for a purchase price of approximately \$2 million. However, after the transaction documents were virtually finalized and ready for execution by the parties, Santa Monica failed to perform its obligations. Specifically, Santa Monica failed to provide a deposit to Freedom Arizona in the amount of \$200,000 (which it had agreed to provide), and rather only provided a deposit in the amount of \$2,200. Because of Santa Monica's failure to pay the deposit in the

amount it had agreed to provide, the proposed transaction involving the sale of the Assets was abandoned.

9. Annexed hereto as Exhibit C is a copy of a press article, in which the chief executive of Santa Monica admitted that he was unable to close on the proposed transaction in a timely manner.

10. According to the Debtors' books and records, neither Freedom Arizona nor any of the other Debtors have any obligations or liability to Santa Monica on account of the abandoned transaction, except possibly on account of the \$2,200 deposit made by Santa Monica.<sup>2</sup> Moreover, Santa Monica has failed to attach any documentation supporting its claim to the Proof of Claim. Santa Monica's failure to attach such documentation is not surprising, because the documentation does not exist. For example, there is no executed sale agreement to support Santa Monica's claim, and there is no signed security agreement, UCC-1 financing statement or mortgage that would document the grant and perfection of a security interest in any assets of Freedom Arizona.

11. On February 16, 2010, the Debtors filed a motion to approve the sale of the Assets to another potential purchaser (1013 Communications, LLC), subject to higher and better bids [Docket No. 1038]. The hearing with respect to that motion is currently scheduled for March 9, 2010.

### **RELIEF REQUESTED**

12. By this Objection, the Debtors seek entry of an order, pursuant to section 502(b) of the Bankruptcy Code, Bankruptcy Rules 3003 and 3007, and Local Rule 3007-1, disallowing the Proof of Claim because (a) the Debtors' books and records reflect that they do not have

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<sup>2</sup> The Debtors may have defenses to any claim of Santa Monica to the \$2,200 deposit.

liability to Santa Monica in the amount asserted in the Proof of Claim, and (b) the Proof of Claim fails to include sufficient information or documentation to constitute *prima facie* evidence of the validity of Santa Monica's claim.

### **BASIS FOR OBJECTION AND THE RELIEF REQUESTED**

13. Bankruptcy Rule 3001 provides certain procedures for the execution and filing of proofs of claim. As a general rule, a proof of claim that is executed and filed in accordance with Bankruptcy Rule 3001 constitutes *prima facie* evidence of the validity and the amount of the claim. *See* Bankr. R. 3001(f). Once the claimant establishes its *prima facie* evidence, the burden then shifts to the objector to produce evidence sufficient to negate the *prima facie* validity of the filed claim. If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, then the burden reverts to the claimant to prove the validity of the claim by a preponderance of the evidence. *See, e.g., In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992).

14. However, the burden of proving a claim by the preponderance of the evidence initially rests with the claimant. Thus, where a proof of claim does not adhere to the requirements of Bankruptcy Rule 3001 by providing the facts and documents necessary to support the claim, it is not entitled to the presumption of *prima facie* validity. *See, e.g., In re Kincaid*, 388 B.R. 610, 614 (Bankr. E.D. Pa. 2008), citing *Heath v. American Express Travel Related Services (In re Heath)*, 331 B.R. 424, 433 (9th Cir. BAP 2005).

15. Such is the case here. Santa Monica simply filled out the one page Official Form 10, asserting a secured claim in the amount of \$2,002,200 and describing the basis of its claim as "Debtor contracted to sell claimant it's [sic] Az. assets for \$2M. \$2200 Ernest money." Santa Monica does not further describe the basis of its claim, nor does it attach any documentation to

support the validity or amount of its claim, or the basis of its asserted security interests in any of Freedom Arizona's assets.

16. In fact, as set forth above, the Debtors believe that Santa Monica has no valid basis for its claim against Freedom Arizona in the amount asserted. Because the sale agreement was never executed, there was no binding sale agreement between the parties. Accordingly, this Objection should be sustained, and the Proof of Claim should be disallowed and expunged.

### **RESPONSES TO THIS OBJECTION**

17. Filing and Service of Responses. To contest this Objection, the claimant must file and serve a written response to this Objection (a "Response") so that it is received no later than 4:00 p.m. (Eastern Time) on April 5, 2010 (the "Response Deadline"). The claimant should read this Objection and all exhibits hereto carefully. A claimant who has timely filed a written Response and wishes to oppose this Objection must attend or make other arrangements to participate in the hearing on the objection, which hearing is scheduled to be held on April 22, 2010 at 11:30 a.m. (Eastern Time) before the Honorable Brendan L. Shannon, United States Bankruptcy Judge, United States Bankruptcy Court, 824 Market Street, 6th Floor, Wilmington, Delaware (the "Hearing"). The Debtors may adjourn the Hearing. In the event that the Debtors so adjourn the Hearing, they will state that the Hearing with respect to the Objection has been adjourned on the agenda for such Hearing.

18. All Responses shall be filed with the Office of the Clerk, United States Bankruptcy Court for the District of Delaware, Marine Midland Plaza, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801; and served upon the following, so that the Response is received no later than the Response Deadline, at the following addresses:

Michael R. Nestor (No. 3526)  
Kara Hammond Coyle (No. 4410)  
Young Conaway Stargatt & Taylor, LLP  
The Brandywine Building  
1000 West Street, 17th Floor  
Wilmington, DE 19801

- and -

Robert A. Klyman  
Latham & Watkins LLP  
355 South Grand Avenue  
Los Angeles, California 90071-1560

- and -

Rosalie Walker Gray  
Michael J. Riela  
Latham & Watkins LLP  
885 Third Avenue  
New York, New York 10022-4834

19. Content of Responses. Every Response must contain at a minimum the following:
- (a) a caption setting forth the name of the Court, the names of the Debtors, the case number and the title of the Objection to which the Response is directed;
  - (b) the name of the claimant and description of the basis for the amount of the claim;
  - (c) a concise statement setting forth the reasons why the claim should not be disallowed for the reasons set forth in the Objection including, but not limited to, the specific factual and legal bases upon which the claimant relies in opposing the Objection;
  - (d) all documentation or other evidence supporting the claim not previously filed with the Bankruptcy Court or the Claims Agent, upon which the claimant relies in opposing the Objection; and
  - (e) the name, address, telephone number, email address and fax number of the person(s) (which may be the claimant or a legal representative thereof) to whom counsel for the Debtors should serve a reply, if any, to the Response and who possesses authority to reconcile, settle or otherwise resolve the objection to the claim on behalf of the claimant.



20. Timely Response Required. If a claimant fails to file and serve a timely Response, then without further notice to the claimant or a hearing, the Debtors will present to the Court an order disallowing the claim in its entirety and authorizing and directing the Claims Agent to expunge such claim.

21. Service Address. If a Response contains an address for the claimant different from that stated on the claim, the address in the Response shall constitute the service address for future service of papers upon the claimant with respect to the Objection unless or until counsel for the Debtors receives written notice from the claimant or the claimant's counsel of a changed service address.

### **REPLIES TO RESPONSES**

22. Consistent with Local Rule 9006-1(d), the Debtors may, at their option, file and serve a reply to any Response.

### **RESERVATION OF RIGHTS**

23. The Debtors expressly reserve the right to amend, modify or supplement this Objection. Should one or more of the grounds of objection stated in this Objection be overruled, the Debtors reserve their rights to object to the Proof of Claim on any other ground that bankruptcy or non-bankruptcy law permits.

24. Notwithstanding anything contained in this Objection or the attached exhibits, nothing herein shall be construed as a waiver of any rights that the Debtors or the estates may have to (a) bring avoidance actions under applicable sections of the Bankruptcy Code, including, but not limited to, 11 U.S.C. §§ 544, 547 and 548, against Santa Monica, or (b) exercise any rights of setoff or recoupment against Santa Monica.

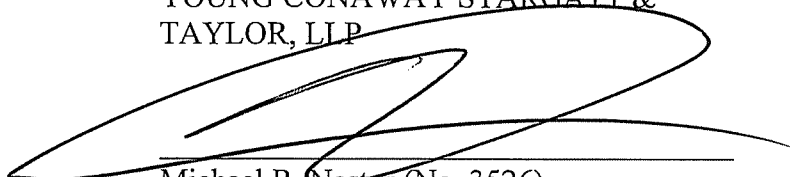
**NOTICE**

25. Notice of this Objection has been given to: (a) the Office of the United States Trustee; (b) counsel to the agent for Debtors' pre-petition secured bank group; (c) counsel to the Creditors' Committee; (d) Santa Monica Media Company, LLC (at the address shown on the Proof of Claim); and (d) those parties who have requested service of all motions and pleadings pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Debtors submit that no further notice is required.

**WHEREFORE**, for the reasons set forth herein, the Debtors respectfully request that the Court enter an order substantially in the form annexed hereto as Exhibit D, sustaining this Objection and grant such other and further relief as the Court deems just and proper.

Dated: Wilmington, Delaware  
March 5, 2010

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TAYLOR, LLP



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