

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
HOMEBANC MORTGAGE CORPORATION, <i>et al.</i> , <sup>1</sup>	)	Case No. 07-11079 (KJC)
	)	
Debtors.	)	Jointly Administered
	)	Hearing Date: Not Applicable
	)	Objection Deadline: Not Applicable

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**MOTION OF THE DEBTORS FOR AN ORDER PURSUANT  
TO BANKRUPTCY RULE 3003(c)(3) AND LOCAL RULE 2002-1(e)  
ESTABLISHING BAR DATES FOR FILING PROOFS OF CLAIM AND  
APPROVING THE FORM AND MANNER OF NOTICE THEREOF**

The above-captioned debtors and debtors-in-possession (each a “Debtor,” and collectively, the “Debtors”), by and through their undersigned attorneys, hereby move this Court (the “Motion”), pursuant to section 501 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), Rules 2002 and 3003(c)(3) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 2002-1(e) of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), for the entry of an order: (i) establishing December 18, 2007 at 4:00 p.m. (Pacific Time) (the “General Bar Date”) as the general bar date by which all entities, other than governmental units, must file proofs of claim in these chapter 11 cases (the “General Bar Date”); (ii) establishing February 5, 2008 at 4:00 p.m. (Pacific Time) (the “Government Bar Date”) as the date by which all governmental units must file proofs of claim in these cases; (iii) establishing the date by which proofs of claim relating to the Debtors’ rejection of executory

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<sup>1</sup> The last four digits of the taxpayer identification numbers for each of the Debtors follow in parentheses: (i) HomeBanc Mortgage Corporation (2745); (ii) HomeBanc Corp. (3067); (iii) HomeBanc Funding Corp. II (6229); (iv) HMB Acceptance Corp. (6280); (v) HMB Mortgage Partners, LLC (9446); and (vi) HomeBanc Funding Corp. (5742). Each of these entities has a mailing address of: 2002 Summit Boulevard, Suite 100, Atlanta, GA 30319.



contracts or unexpired leases must be filed in these cases (the “Rejection Bar Date,” and together with the General Bar Date and the Government Bar Date, collectively, the “Bar Dates”); and (iv) approving the form and manner of the notice of the Bar Dates (the “Bar Date Notice”) and finding that the proposed notice of the Bar Dates to creditors and equity interest holders in the form and manner set forth herein is fair, reasonable, and adequate. In support of this Motion, the Debtors respectfully represent as follows:

### **JURISDICTION**

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. The predicates for the relief requested herein are Bankruptcy Rule 3003(c)(3) and Local Rule 2002-1(e).

### **BACKGROUND**

3. On August 9, 2007 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

4. The Debtors continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. On August 22, 2007, the United States Trustee (the “U.S. Trustee”) appointed an official committee of unsecured creditors in these cases (the “Creditors’ Committee”).

### **THE DEBTORS’ BUSINESS**

6. Prior to the Petition Date, the Debtors’ businesses primarily entailed the origination, servicing and sale of prime retail mortgage loans, as well as the investment in, and management of a portfolio comprised of, mortgage loans and mortgage-backed securities

resulting from the securitization of residential mortgage loans. The Debtors historically offered an array of mortgage products, and primarily have made loans to borrowers with good, and in nearly all cases “prime,” credit profiles.

7. A large component of the Debtors’ businesses is the servicing of loans (the “Servicing Business”). Through their Servicing Business, the Debtors’ collect mortgage payments, administer tax and insurance escrows, respond to borrower inquiries and maintain control over collection and default mitigation processes. As of the Petition Date, the Debtors serviced approximately 48,300 loans with an aggregate principal amount of approximately \$8.0 billion. The Debtors continue to conduct the Servicing Business, which constitutes a valuable asset of the Debtors’ estates.

8. Since the Petition Date, the Debtors have been working to wind-down their operations and liquidate their assets. Currently, the Debtors are working to conduct a successful auction and sale of the Servicing Business in order to realize the most value to the Debtors’ creditors.

### **RELIEF REQUESTED**

9. In order for the Debtors to fully administer these estates and to make distributions under any chapter 11 plan confirmed in these cases, the Debtors must obtain complete and accurate information regarding the nature, validity and amount of all claims<sup>2</sup> that will be asserted in these chapter 11 cases. Consequently, the Debtors request that, pursuant to Bankruptcy Rule 3003(c)(3), the Court (a) establish the Bar Dates and related claims procedures proposed herein, and (b) approve the form and manner of notice thereof.

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<sup>2</sup> The term “claim,” as used herein, has the meaning given to it in section 101(5) of the Bankruptcy Code.

A. Establishment of the Bar Dates.

10. The General Bar Date. Bankruptcy Rule 3003(c)(3) requires that the Court fix a time within which proofs of claim must be filed. The Debtors anticipate that they, through their claims agent, will serve the Bar Date Notice and a proof of claim form<sup>3</sup> upon all known entities holding potential prepetition claims within five (5) business days after the date that an order is entered approving this Motion and establishing the Bar Dates (the “Bar Date Order”). The date on which the Debtors actually serve the Bar Date Notice and proof of claim forms is referred to herein as the “Service Date.” The Debtors request that the Court establish December 18, 2007 at 4:00 p.m. (Pacific Time), as the General Bar Date. The General Bar Date would be the date by which all entities<sup>4</sup> holding prepetition claims, other than governmental units,<sup>5</sup> must file proofs of claim. Except as provided below, the General Bar Date would apply to all entities, other than governmental units, holding claims against the Debtors (whether secured, unsecured priority or unsecured nonpriority) that arose prior to or on the Petition Date.

11. The Government Bar Date. Section 502(b)(9) of the Bankruptcy Code provides, in relevant part, that “[a] claim of a governmental unit shall be timely filed if it is filed before 180 days after the date of the order for relief or such later time as the [Bankruptcy Rules] may provide.” Accordingly, pursuant to section 502(b)(9) of the Bankruptcy Code, a proof of claim filed by a governmental unit in these cases is deemed timely if it is filed within 180 days after the Petition Date, or by February 5, 2008. The Debtors, therefore, request that February 5, 2008 at 4:00 p.m. (Pacific Time), be established as the Government Bar Date in these cases. The Government Bar Date would apply to all governmental units holding claims against the Debtors

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<sup>3</sup> A complete description of the procedures by which this service will be accomplished is set forth *infra*.

<sup>4</sup> As used herein, the term “entity” has the meaning given to it in section 101(15) of the Bankruptcy Code.

<sup>5</sup> As used herein, the term “governmental unit” has the meaning given to it in section 101(27) of the Bankruptcy Code.

(whether secured, unsecured priority or unsecured nonpriority) that arose prior to or on the Petition Date, including governmental units with claims against the Debtors for unpaid taxes, whether such claims arise from prepetition tax years or periods or prepetition transactions to which the Debtors were a party.

12. The Rejection Bar Date. The Debtors anticipate that certain entities may assert claims (each a “Rejection Damages Claim”) in connection with the Debtors’ rejection of executory contracts and/or unexpired leases pursuant to section 365 of the Bankruptcy Code. Indeed, by order dated September 12, 2007, this Court authorized the rejection of dozens of unexpired real property leases and executory contracts for which no claims bar date has been established. The Debtors propose that any person or entity that asserts a Rejection Damages Claim, must file a Proof of Claim on or before the later of (i) the General Bar Date, (ii) thirty (30) days after entry of an order approving the rejection of an executory contract or unexpired lease pursuant to which the entity asserting the Rejection Damages Claim is a party, or (iii) such other date as the Court may fix.

*B. Entities That Must File Proofs of Claim by the General Bar Date or the Government Bar Date.*

13. The Debtors propose that, subject to the provisions proposed in this Motion for holders of claims subject to the Rejection Bar Date, all entities holding Claims against the Debtors that arose prior to or on the Petition Date, including, without limitation, the following entities, must file proofs of claim on or before the General Bar Date or, with respect to claims of governmental units, on or before the Government Bar Date:

- a. any entity whose prepetition claim against the Debtors is not listed in the Debtors' schedules of assets and liabilities (the "Schedules") or whose prepetition claim is listed as disputed, contingent or unliquidated and that desires to participate in these chapter 11 cases or share in any distribution in these chapter 11 cases; and
- b. any entity that believes that its prepetition claim is improperly classified in the Schedules or is listed in an incorrect amount and that desires to have its claim allowed in a classification or amount other than that identified in the Schedules.

C. *Entities Not Required to File Proofs of Claim by the General Bar Date or the Government Bar Date.*

14. The Debtors propose that the following entities, whose claims otherwise would be subject to the General Bar Date or the Government Bar Date, need not file proofs of claim:

- a. any entity that has already properly filed a Proof of Claim against one or more of the Debtors with either Kurtzman Carson Consultants LLC ("KCC"), the Court-appointed claims agent in these cases, or the Clerk of the Court for the United States Bankruptcy Court for the District of Delaware;
- b. any entity (i) whose claim is listed in the Schedules or any amendments thereto, and (ii) whose claim is not described therein as "disputed," "contingent," or "unliquidated," and (iii) who does not dispute the amount or classification of its claim as set forth in the Schedules;
- c. professionals retained by the Debtors or the Committee pursuant to orders of this Court, including KCC, who assert administrative claims for payment of fees and expenses subject to the Court's approval pursuant to sections 330, 331(a) and 503(b) of the Bankruptcy Code;
- d. any entity that asserts an administrative expense claim against the Debtors pursuant to section 503(b) of the Bankruptcy Code;
- e. current officers and directors of the Debtors who assert claims for indemnification and/or contribution arising as a result of such officers' or directors' prepetition or postpetition services to the Debtors;
- f. any Debtor asserting a claim against another Debtor;
- g. any direct or indirect non-debtor subsidiary of a Debtor asserting a claim against a Debtor;

- h. any entity whose claim against the Debtors has been allowed by an order of the Court entered on or before the Bar Date; and
- i. any person or entity whose claim has been paid by the Debtors.

D. No Requirement to File Proofs of Interest.

15. The Debtors propose that any entity holding an interest in the Debtors (an “Interest Holder”), which interest is based exclusively upon the ownership of common or preferred stock in a corporation, a general or limited partner interest in a limited partnership, a membership interest in a limited liability company or warrants or rights to purchase, sell or subscribe to such a security or interest (any such security or interest being referred to herein as an “Interest”), need not file a proof of interest on or before the General Bar Date; provided, however, that Interest Holders that wish to assert claims against the Debtors that arise out of or relate to the ownership or purchase of an Interest, including claims arising out of or relating to the sale, issuance or distribution of such Interest, must file proofs of claim on or before the General Bar Date, unless another exception identified in this Motion applies.<sup>6</sup>

E. Filing Proofs of Claim Against Multiple Debtors and Requirement to Identify Debtor.

16. The Debtors propose that, any entity asserting Claims against more than one Debtor must file a separate proof of claim with respect to each such Debtor. In addition, any entity filing a proof of claim must identify on its proof of claim form the particular Debtor against which its Claim is asserted.

F. Effect of Failure to File Proofs of Claim.

17. The Debtors propose that, pursuant to Bankruptcy Rule 3003(c)(2), any entity that is required to file a proof of claim in these chapter 11 cases pursuant to the

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<sup>6</sup> The Debtors reserve the right to seek relief at a later date requiring Interest Holders to file proofs of interest.

Bankruptcy Code, the Bankruptcy Rules or the Bar Date Order with respect to a particular claim against the Debtors, but fails to do so by the applicable Bar Date, should be not treated as a creditor with respect to such Claim for the purposes of voting on and distribution under any chapter 11 plan proposed and/or confirmed in these cases.

*G. Procedures for Providing Notice of Bar Dates and Filing Proofs of Claim.*

18. The Debtors propose to serve on all known entities holding potential prepetition claims with: (a) a notice of the Bar Dates substantially in the form of the Bar Date Notice attached hereto as Exhibit A and incorporated herein by reference; and (b) a proof of claim form substantially in the form of Official Form No. 10 (the “Proof of Claim Form,” and together with the Bar Date Notice, collectively, the “Bar Date Notice Package”).<sup>7</sup>

19. The Bar Date Notice states, among other things, that proofs of claim must be filed with KCC on or before the applicable Bar Date. No later than five (5) business days after the date that the Court enters the Bar Date Order, the Debtors intend to mail, through KCC, the Bar Date Notice Package by first class United States mail, postage prepaid, to all known potential claimants and their counsel (if known), all parties that have requested notice in these cases, all equity security holders, the U.S. Trustee and all taxing authorities for the jurisdictions in which the Debtors do business. By fixing the General Bar Date as December 18, 2007, potential claimants shall receive no fewer than sixty (60) days’ notice of the General Bar Date, which exceeds the minimum notice period provided by Bankruptcy Rule 2002(a)(7).<sup>8</sup>

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<sup>7</sup> The Proof of Claim Form has been modified, and may be further modified in certain limited respects, to accommodate the claims process in these cases.

<sup>8</sup> Bankruptcy Rule 2002(a)(7) states that “the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 20 days’ notice by mail of . . . the time fixed for filing proofs of claim pursuant to [Bankruptcy] Rule 3003(c) . . . .” Local Bankruptcy Rule 2002-1(e) provides that “the debtor may request a bar date for the filing of proofs of claim or interests.” The Rule further states that if the request gives ten (10) days’ notice to the U.S. Trustee and Creditors’ Committee, is filed after the Schedules are filed and the section 341(a) meeting of creditors has been held “and provides that the bar date

20. The Proof of Claim Form will state whether the entity's claim is listed in the Schedules. Assuming that the entity's claim is listed in the schedules, the Proof of Claim Form will also state: (a) the Debtor(s) against which the entity's claim is scheduled, (b) whether the entity's claim is listed as disputed, contingent or unliquidated, and (c) if a claim is listed in the Schedules in a liquidated amount that is not disputed or contingent, the dollar amount of the claim (as listed in the Schedules). Any entity that relies on the information in the Schedules will bear responsibility for determining that its claim is accurately listed therein.

21. For any claim to be validly and properly filed, a signed original of a completed proof of claim, together with any accompanying documentation required by Bankruptcy Rules 3001(c) and 3001(d),<sup>9</sup> must be delivered to KCC at the address identified on the Bar Date Notice so as to be received **no later than 4:00 p.m., Pacific Time**, on the applicable Bar Date. The Debtors propose that claimants be permitted to submit proofs of claim in person or by courier service, hand delivery or mail. Proofs of claim submitted by facsimile or e-mail will not be accepted. Proofs of claim will be deemed filed when actually received by KCC. If a claimant wishes to receive acknowledgement of KCC's receipt of a proof of claim, the claimant also must submit to KCC by the applicable Bar Date and concurrently with

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shall be not less than sixty (60) days from the date that notice of the bar date is served (and not less than 180 days from the order for relief for governmental units), the request may be granted without notice and hearing.”

<sup>9</sup> Bankruptcy Rule 3001(c) requires as follows:

When a claim, or an interest in property of the debtor securing the claim, is based on a writing, the original or a duplicate shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim.

Bankruptcy Rule 3001(d) requires that “[i]f a security interest in property of the debtor is claimed, the proof of claim shall be accompanied by evidence that the security interest has been perfected.” The Debtors propose that, upon their advance express written consent, a claimant's proof of claim may be filed without the documents required by Bankruptcy Rules 3001(c) and 3001(d); provided, however, that any claimant that receives such a written consent will be required to transmit these documents in support of its claim to KCC, the Debtors or other parties in interest within ten (10) days after the date of a written request for such documents.

submitting its original proof of claim (a) a copy of the original proof of claim and (b) a self-addressed, stamped return envelope.

22. The Debtors submit that establishing December 18, 2007, as the General Bar Date in these chapter 11 cases will provide potential claimants with an adequate amount of time after the mailing of the Bar Date Notice within which to review the Schedules, compare the information contained therein with their own books and records and, if necessary, prepare and file proofs of claim. The Debtors also submit that the notice of the Bar Dates in the form and manner as proposed by the Debtors herein is fair and reasonable and will provide good, sufficient, and due notice to all creditors and Interest Holders of their rights and obligations in connection with claims they may assert against the Debtors' estates in these chapter 11 cases.

*H. Publication of Notice.*

23. In light of the size, complexity, geographic diversity and extensive history of the Debtors' businesses, potential claims against the Debtors may exist that the Debtors are unable to identify on the Schedules. Such unknown potential claims may include, for example, (a) claims of trade vendors that failed to submit invoices to the Debtors, (b) claims of former employees, (c) claims of entities with potential unasserted causes of action against the Debtors and (d) claims that, for various other reasons, are not recorded in the Debtors' books and records. Accordingly, the Debtors believe that (a) it is necessary to provide notice of the Bar Dates to entities whose names and addresses are unknown to the Debtors and (b) it is advisable to provide supplemental notice to known holders of potential claims. Therefore, pursuant to Bankruptcy Rule 2002(l),<sup>10</sup> the Debtors request authority to publish notice of the Bar Dates substantially in the form of the Bar Date Notice (the "Publication Notice," annexed hereto as Exhibit B) within

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<sup>10</sup> Bankruptcy Rule 2002(l) provides that "[t]he court may order notice by publication if it finds that notice by mail is impracticable or that it is desirable to supplement the notice."

ten (10) business days of the date of entry of the order granting this Motion in either the national edition of *The Wall Street Journal* or the national edition of *The New York Times*.

I. Master Proof of Claim of JPMorgan Chase Bank, N.A.

24. Paragraph 21 of the Order (I) Authorizing Debtors (A) to Obtain Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 361, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1) and 364(e) and (B) to Utilize Cash Collateral Pursuant to 11 U.S.C. § 363, and (II) Granting Adequate Protection to Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363 and 364 (the “Final DIP Order”) [Docket No. 268]<sup>11</sup> titled “Filing of Master Proof of Claim” provides that “The Prepetition Agent is authorized (but not required) to file one master proof of claim (the “Master Proof of Claim”) on behalf of itself and the Prepetition Secured Lenders on account of their claims arising under the Existing Agreements and hereunder, provided, however, that the Master Proof of Claim shall only relate to the liquidated amount of the Prepetition Secured Lenders’ claims and not to the secured status or priority thereof.” Nothing set forth in this Motion, the Bar Date Notice, the Publication Notice or the order granting this Motion shall affect, in any way, the rights of the Prepetition Agent to file one master proof of claim as authorized by the Final DIP Order.

**NOTICE**

25. No trustee or examiner has been appointed in the Debtors’ Chapter 11 cases. Pursuant to Bankruptcy Rule 2002 and Local Rule 2002-1(e), the United States Trustee and counsel to the Creditors’ Committee were provided with advance notice of the Motion and consent to entry of an order thereon without further notice or hearing. The Debtors otherwise meet all other criteria set forth in Local Rule 2002-1(e) in that the schedules have been filed, the

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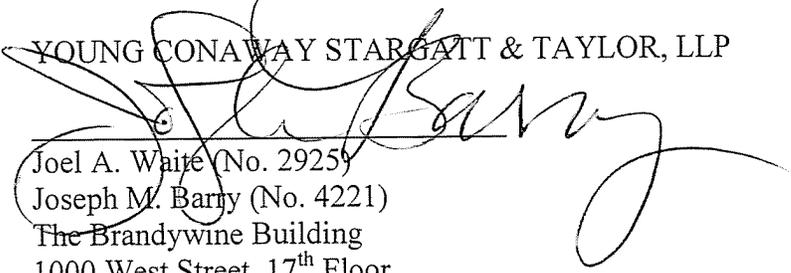
<sup>11</sup> Capitalized terms used but not defined in section I of this Motion shall have the meanings ascribed to them in the Final DIP Order.

section 341(a) meeting has been commenced and the General Bar Date provides creditors with no less than sixty (60) days notice thereof. Accordingly, pursuant to Local Rule 2002-1(e), no other or further notice or hearing is required.

WHEREFORE, the Debtors respectfully request that the Court enter an order, substantially in the form attached hereto as Exhibit C: (i) authorizing the Debtors to fix the General Bar Date for all claims other than claims asserted by governmental units and Rejection Damages Claims; (ii) establishing the Government Bar Date for all prepetition claims asserted by governmental units; (iii) establishing the Rejection Bar Date as the bar date for Rejection Damages Claims; (iv) approving the form and manner of service of the Bar Date Notice Package, pursuant to Bankruptcy Rule 2002(a)(7) and Local Bankruptcy Rule 2002-1(e); (v) approving the form and manner of publication of the Publication Notice, pursuant to Bankruptcy Rule 2002(l); and (vi) granting such other and further relief as the Court may deem proper.

Dated: Wilmington, Delaware  
October 11, 2007

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Counsel to the Debtors and Debtors in Possession

**EXHIBIT A**

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

In re:	)	Chapter 11
	)	
HomeBanc Mortgage	)	Case No. 07-11079 (KJC)
Corporation, <i>et al.</i> , <sup>1</sup>	)	
	)	Jointly Administered
_____ Debtors.	)	

**NOTICE OF BAR DATES FOR FILING OF PROOFS OF CLAIM**

**TO ALL CREDITORS AND EQUITY INTEREST HOLDERS:**

On October \_\_, 2007, the United States Bankruptcy Court for the District of Delaware (the "Court") entered an order in the above-captioned chapter 11 cases (the "Bar Date Order") establishing certain claims bar dates in the chapter 11 cases of the above-captioned debtors and debtors in possession (the "Debtors"). By the Bar Date Order, the Court established **December 18, 2007 at 4:00 p.m. (Pacific Time)**, as the general claims bar date (the "General Bar Date"). Except as described below, the Bar Date Order requires all Entities, other than Governmental Units, that have or assert any prepetition Claims against the Debtors to file proofs of claim with Kurtzman Carson Consultants LLC ("KCC"), the claims noticing and balloting agent in these cases, so that their proofs of claim are received by KCC **on or before 4:00 p.m., Pacific Time, on the General Bar Date**. Please note that the terms "Entity," "Governmental Unit" and "Claim" are defined below.

For your convenience, enclosed with this Notice is a proof of claim form, which identifies on its face the amount, nature and classification of your Claim(s), if any, listed in the Debtors' schedules of assets and liabilities and statements of financial affairs filed in these cases (collectively, the "Schedules").

**KEY DEFINITIONS**

As used in this Notice, the term "Entity" has the meaning given to it in section 101(15) of the Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), and includes all persons (individuals, partnerships and corporations), estates, trusts, Governmental Units and the United States Trustee.

As used in this Notice, the term "Governmental Unit" has the meaning given to it in section 101(27) of the Bankruptcy Code and includes the United States; states; commonwealths; districts; territories; municipalities; foreign states; or departments, agencies or instrumentalities of the foregoing.

As used in this Notice, the term "Claim" shall mean, as to or against the Debtors and in accordance with section 101(5) of the Bankruptcy Code: (a) any right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or (b) any right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

**WHO MUST FILE A PROOF OF CLAIM AND THE APPLICABLE BAR DATES**

<sup>1</sup> The last four digits of the taxpayer identification numbers for each of the Debtors follow in parentheses: (i) HomeBanc Mortgage Corporation (2745); (ii) HomeBanc Corp. (3067); (iii) HomeBanc Funding Corp. II (6229); (iv) HMB Acceptance Corp. (6280); (v) HMB Mortgage Partners, LLC (9446); and (vi) HomeBanc Funding Corp. (5742). Each of these entities has a mailing address of: 2002 Summit Boulevard, Suite 100, Atlanta, GA 30319.

### The Bar Dates

The Bar Date Order establishes the following bar dates for filing proofs of claim in these cases (collectively, the "Bar Dates"):

- (a) The General Bar Date. Pursuant to the Bar Date Order, all Entities holding Claims against the Debtors (whether secured, unsecured priority or unsecured nonpriority) that arose prior to or on August 9, 2007, are required to file proofs of claim by the General Bar Date.
- (b) The Government Bar Date. In accordance with section 502(b)(9) of the Bankruptcy Code, all Governmental Units holding Claims against the Debtors (whether secured, unsecured priority or unsecured nonpriority) that arose prior to or on August 9, 2007, are required to file proofs of claim by **February 5, 2008 at 4:00 p.m. (Pacific Time) (the "Government Bar Date")**, including Governmental Units with Claims against the Debtors for unpaid taxes, whether such Claims arise from prepetition tax years or periods or prepetition transactions to which the Debtors was a party.
- (c) The Rejection Bar Date. Any Entity whose Claims arise out of the Court-approved rejection of an executory contract or unexpired lease, in accordance with section 365 of the Bankruptcy Code and pursuant to an order entered prior to the confirmation of a chapter 11 plan in the Debtors' chapter 11 cases, must file a proof of claim on or before the later of: (i) the General Bar Date, (ii) thirty (30) days after entry of an order approving the rejection of an executory contract or unexpired lease pursuant to which the entity asserting the Rejection Damages Claim is a party or (iii) such other date as the Court may fix. The later of these dates is referred to in this Notice as the "Rejection Bar Date."

### Entities That Must File Proofs of Claims by the General Bar Date or the Government Bar Date

Subject to terms described above for holders of Claims subject to the Rejection Bar Date, the following Entities must file proofs of claim on or before the General Bar Date or, with respect to Claims of Governmental Units, on or before the Government Bar Date:

- (a) any entity whose prepetition claim against the Debtors is not listed in the Debtors' schedules of assets and liabilities (the "Schedules") or whose prepetition claim is listed as disputed, contingent or unliquidated and that desires to participate in these chapter 11 cases or share in any distribution in these chapter 11 cases; and
- (b) any entity that believes that its prepetition claim is improperly classified in the Schedules or is listed in an incorrect amount and that desires to have its claim allowed in a classification or amount other than that identified in the Schedules.

### Entities Not Required to File Proofs of Claim by the General Bar Date or the Government Bar Date

The Bar Date Order further provides that the following Entities need not file proofs of claim by the General Bar Date:

- (a) any entity that has already properly filed a Proof of Claim against one or more of the Debtors with either KCC or the Clerk of the Court for the United States Bankruptcy Court for the District of Delaware;
- (b) any entity (i) whose claim is listed in the Schedules or any amendments thereto, and (ii) whose claim is not described therein as "disputed," "contingent," or "unliquidated," and (iii) who does not dispute the amount or classification of its claim as set forth in the Schedules;
- (c) professionals retained by the Debtors or the Committee pursuant to orders of this Court, including KCC, who assert administrative claims for payment of fees and expenses subject to the Court's approval pursuant to sections 330, 331(a) and 503(b) of the Bankruptcy Code;
- (d) any entity that asserts an administrative expense claim against the Debtors pursuant to section 503(b) of the Bankruptcy Code;

- (e) current officers and directors of the Debtors who assert claims for indemnification and/or contribution arising as a result of such officers' or directors' prepetition or postpetition services to the Debtors;
- (f) any Debtor asserting a claim against another Debtor;
- (g) any direct or indirect non-debtor subsidiary of a Debtor asserting a claim against a Debtor;
- (h) any entity whose claim against the Debtors has been allowed by an order of the Court entered on or before the Bar Date; and
- (i) any person or entity whose claim has been paid by the Debtors.

**No Requirement to File Proofs of Interest**

Any Entity holding an interest in the Debtors (an "Interest Holder"), which interest is based exclusively upon the ownership of common or preferred stock in a corporation, a general or limited partner interest in a limited partnership, a membership interest in a limited liability company or warrants or rights to purchase, sell or subscribe to such a security or interest (any such security or interest being referred to in this Notice as an "Interest"), need not file a proof of interest on or before the General Bar Date; provided, however, that Interest Holders who wish to assert Claims against any of the Debtors that arise out of or relate to the ownership or purchase of an Interest, including Claims arising out of or relating to the sale, issuance or distribution of such Interest, must file proofs of claim on or before the General Bar Date, unless another exception identified in this Notice applies.

**Filing Proofs of Claim Against Multiple Debtors; Requirement to Identify Debtor**

Any Entity asserting Claims against more than one Debtor must file a separate proof of claim with respect to each such Debtor. In addition, any Entity filing a proof of claim must identify on its proof of claim form the particular Debtor against which its Claim is asserted.

**CONSEQUENCES OF FAILURE TO FILE PROOF OF CLAIM**

Any Entity that is required to file a proof of claim, but fails to do so by the applicable Bar Date described in this Notice, shall not be treated as a creditor with respect to such Claim for the purposes of voting on and distribution under any chapter 11 plan proposed and/or confirmed in these cases.

**If it is unclear from the Schedules whether your Claim is disputed, contingent or unliquidated as to amount or is otherwise properly listed and classified, you must file a proof of claim on or before the applicable Bar Date.** Any Entity that relies on the information in the Schedules bears responsibility for determining that its Claim is accurately listed therein.

**RESERVATION OF RIGHTS**

The Debtors reserve the right to (a) dispute, or to assert offsets or defenses against, any filed Claim or any Claim listed or reflected in the Schedules as to nature, amount, liability, classification or otherwise; and (b) subsequently designate any Claim as disputed, contingent or unliquidated. Nothing contained in this Notice shall preclude the Debtors from objecting to any Claim, whether scheduled or filed, on any grounds.

**PROCEDURE FOR FILING PROOFS OF CLAIM**

Original proofs of claim must be sent by mail, overnight courier or hand delivery to HomeBanc Mortgage Corporation, et al. Claims Processing, c/o Kurtzman Carson Consultants LLC, 2335 Alaska Avenue, El Segundo, CA 90245, so as to be received **no later than 4:00 p.m., Pacific Time**, on the applicable Bar Date. ***Any proof of claim submitted by facsimile or e-mail will not be accepted and will not be deemed filed until the proof of claim is submitted by one of the methods described in the foregoing sentence.*** Proofs of claim will be deemed filed only when actually received by KCC. If you wish to receive acknowledgement of KCC's receipt of your proof of claim, you must also submit by the applicable Bar Date and concurrently with submitting your original proof of claim, (a) a copy of your original proof of claim and (b) a self-addressed, stamped return envelope.

Proofs of claim must include all documentation required by Bankruptcy Rules 3001(c) and 3001(d), including an original or a copy of any written document that forms the basis of the Claim or, for secured Claims, evidence that the alleged security interest has been perfected. However, upon the advance express written consent of the Debtors, a claimant's proof of claim may be filed without the documents required by Bankruptcy Rules 3001(c) and 3001(d); provided, however, that any claimant that receives such a written consent will be required to transmit these documents in support of its Claim to KCC, the Debtors or other parties in interest within ten (10) days after the date of a written request for such documents.

### **ADDITIONAL INFORMATION**

You may be listed as the holder of a claim against the Debtors in the Schedules. If you hold or assert a claim that is not listed in the Schedules or if you disagree with the amount or priority of your claim as listed in the Schedules, or your claim is listed in the Schedules as contingent, unliquidated, or disputed, you **must** file a proof of claim. Copies of the Schedules and the Bar Date Order are available for inspection during regular business hours at the office of the Clerk of the Bankruptcy Court, United States Bankruptcy Court for the District of Delaware, 5<sup>th</sup> Floor, 824 Market Street, Wilmington, Delaware 19801. In addition, copies of the Debtors' Schedules and Bar Date Order may be obtained for a charge through Delaware Document Retrieval, 2 East 7<sup>th</sup> Street, 2<sup>nd</sup> Floor, Wilmington, Delaware 19801, or viewed on the Internet at the Bankruptcy Court's website (<http://www.deb.uscourts.gov/>) by following the directions for accessing the ECF system on such website or on KCC's website ([www.kccllc.com/homebanc](http://www.kccllc.com/homebanc)).

Questions concerning the contents of this Notice and requests for proofs of claim should be directed to KCC at (866) 381-9100 between the hours of 7:30 a.m. and 5:00 p.m. (Pacific Time), Monday through Friday. Please note that KCC's staff is not permitted to give legal advice. You should consult your own attorney for assistance regarding any other inquiries, such as questions concerning the completion or filing of a proof of claim.

Dated: October \_\_, 2007

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**EXHIBIT B**

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

In re:	)	Chapter 11
	)	
HomeBanc Mortgage Corporation, <i>et al.</i> , <sup>1</sup>	)	Case No. 07-11079 (KJC)
	)	
_____ Debtors.	)	Jointly Administered

**NOTICE OF BAR DATES FOR FILING PROOFS OF CLAIM**

**TO ALL CREDITORS:**

On October \_\_, 2007, the United States Bankruptcy Court for the District of Delaware (the "Court") entered an order in the above-captioned chapter 11 cases (the "Bar Date Order") establishing certain claims bar dates in the chapter 11 cases of the above-captioned debtors and debtors in possession (collectively, the "Debtors"). By the Bar Date Order, the Court established **December 18, 2007 at 4:00 p.m. (Pacific Time)**, as the general claims bar date (the "General Bar Date"). Except as described below, the Bar Date Order requires all Entities, other than Governmental Units, that have or assert any prepetition Claims against the Debtors to file proofs of claim with Kurtzman Carson Consultants LLC ("KCC") so that their proofs of claim are received by KCC **on or before 4:00 p.m., Pacific Time, on the General Bar Date**. As used in this Notice, the term "Claim" shall mean, as to or against any of the Debtors and in accordance with section 101(5), U.S. Bankruptcy Code: (a) any right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or (b) any right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

The Bar Date Order establishes the following bar dates for filing proofs of claim in these cases (collectively, the "Bar Dates"):

The General Bar Date. Pursuant to the Bar Date Order, all Entities holding Claims against the Debtors (whether secured, unsecured priority or unsecured nonpriority) that arose prior to or on August 9, 2007, are required to file proofs of claim by the General Bar Date.

The Government Bar Date. In accordance with section 502(b)(9), U.S. Bankruptcy Code, all Governmental Units holding Claims against the Debtors (whether secured, unsecured priority or unsecured nonpriority) that arose prior to or on August 9, 2007, are required to file proofs of claim by **February 5, 2008 at 4:00 p.m. (Pacific Time)** (the "Government Bar Date"), including Governmental Units with Claims against a Debtor for unpaid taxes, whether such Claims arise from prepetition tax years or periods or prepetition transactions to which a Debtor was a party.

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<sup>1</sup> The last four digits of the taxpayer identification numbers for each of the Debtors follow in parentheses: (i) HomeBanc Mortgage Corporation (2745); (ii) HomeBanc Corp. (3067); (iii) HomeBanc Funding Corp. II (6229); (iv) HMB Acceptance Corp. (6280); (v) HMB Mortgage Partners, LLC (9446); and (vi) HomeBanc Funding Corp. (5742). Each of these entities has a mailing address of: 2002 Summit Boulevard, Suite 100, Atlanta, GA 30319.

The Rejection Bar Date. Any Entity whose Claims arise out of the Court-approved rejection of an executory contract or unexpired lease, in accordance with section 365 of the Bankruptcy Code and pursuant to an order entered prior to the confirmation of a chapter 11 plan in the Debtors' chapter 11 cases, must file a proof of claim on or before the later of: (i) the General Bar Date, (ii) thirty (30) days after entry of an order approving the rejection of an executory contract or unexpired lease pursuant to which the entity asserting the Rejection Damages Claim is a party or (iii) such other date as the Court may fix. The later of these dates is referred to in this Notice as the "Rejection Bar Date."

Entities That Must File Proofs of Claims by the General Bar Date or the Government Bar Date: Subject to terms described above for holders of Claims subject to the Rejection Bar Date, the following Entities must file proofs of claim on or before the General Bar Date or, with respect to Claims of Governmental Units, on or before the Government Bar Date: (a) any entity whose prepetition claim against the Debtors is not listed in the Debtors' schedules of assets and liabilities (the "Schedules") or whose prepetition claim is listed as disputed, contingent or unliquidated and that desires to participate in these chapter 11 cases or share in any distribution in these chapter 11 cases; and (b) any entity that believes that its prepetition claim is improperly classified in the Schedules or is listed in an incorrect amount and that desires to have its claim allowed in a classification or amount other than that identified in the Schedules.

Entities Not Required to File Proofs of Claim by the General Bar Date or the Government Bar Date: The Bar Date Order further provides that the following Entities need not file proofs of claim by the General Bar Date: (a) any entity that has already properly filed a Proof of Claim against one or more of the Debtors with either KCC or the Clerk of the Court for the United States Bankruptcy Court for the District of Delaware; (b) any entity (i) whose claim is listed in the Schedules or any amendments thereto, and (ii) whose claim is not described therein as "disputed," "contingent," or "unliquidated," and (iii) who does not dispute the amount or classification of its claim as set forth in the Schedules; (c) professionals retained by the Debtors or the Committee pursuant to orders of this Court, including KCC, who assert administrative claims for payment of fees and expenses subject to the Court's approval pursuant to sections 330, 331(a) and 503(b) of the Bankruptcy Code; (d) any entity that asserts an administrative expense claim against the Debtors pursuant to section 503(b) of the Bankruptcy Code; (e) current officers and directors of the Debtors who assert claims for indemnification and/or contribution arising as a result of such officers' or directors' prepetition or postpetition services to the Debtors; (f) any Debtor asserting a claim against another Debtor; (g) any direct or indirect non-debtor subsidiary of a Debtor asserting a claim against a Debtor; (h) any entity whose claim against the Debtors has been allowed by an order of the Court entered on or before the Bar Date; and (i) any person or entity whose claim has been paid by the Debtors.

No Requirement to File Proofs of Interest: Any Entity holding an interest in any Debtor (an "Interest Holder"), which interest is based exclusively upon the ownership of common or preferred stock in a corporation, a general or limited partner interest in a limited partnership, a membership interest in a limited liability company or warrants or rights to purchase, sell or subscribe to such a security or interest (any such security or interest being referred to in this Notice as an "Interest"), need not file a proof of interest on or before the General Bar Date; provided, however, that Interest Holders who wish to assert Claims against any of the Debtors that arise out of or relate to the ownership or purchase of an Interest, including Claims arising out of or relating to the sale, issuance or distribution of such Interest, must file proofs of claim on or before the General Bar Date, unless another exception identified in this Notice applies.

Filing Proofs of Claim Against Multiple Debtors: Requirement to Identify Debtor: Any Entity asserting Claims against more than one Debtor must file a separate proof of claim with respect to each such Debtor. In addition, any Entity filing a proof of claim must identify on its proof of claim form the particular Debtor against which its Claim is asserted.

Consequences of Failure to File Proof of Claim: Any Entity that is required to file a proof of claim, but fails to do so by the applicable Bar Date described in this Notice, shall not be treated as a creditor with respect to such Claim for purposes of voting upon, or receiving distributions under, any plan or plans in these chapter 11 cases. If it is unclear from the Schedules whether your Claim is disputed, contingent or unliquidated as to amount or is otherwise properly listed and classified, you must file a proof of claim on or before the applicable Bar Date. Any Entity that relies on the information in the Schedules bears responsibility for determining that its Claim is accurately listed therein.

Reservation of Rights: The Debtors reserve the right to (a) dispute, or to assert offsets or defenses against, any filed Claim or any Claim listed or reflected in the Schedules as to nature, amount, liability, classification or otherwise; and (b) subsequently designate any Claim as disputed, contingent or unliquidated. Nothing contained in this Notice shall preclude the Debtors from objecting to any Claim, whether scheduled or filed, on any grounds.

Procedure for Filing Proof of Claim: Original proofs of claim must be sent by mail, overnight courier or hand delivery to HomeBanc Mortgage Corporation, et al. Claims Processing, c/o Kurtzman Carson Consultants LLC, 2335 Alaska Avenue, El Segundo, CA 90245, so as to be received **no later than 4:00 p.m., Pacific Time**, on the applicable Bar Date. *Any proof of claim submitted by facsimile or e-mail will not be accepted and will not be deemed filed until the proof of claim is submitted by one of the methods described in the foregoing sentence.* Proofs of claim will be deemed filed only when actually received by KCC. If you wish to receive acknowledgement of KCC's receipt of your proof of claim, you must also submit by the applicable Bar Date and concurrently with submitting your original proof of claim (a) a copy of your original proof of claim and (b) a self-addressed, stamped return envelope. Proofs of claim must include all documentation required by Bankruptcy Rules 3001(c) and 3001(d), including an original or a copy of any written document that forms the basis of the Claim or, for secured Claims, evidence that the alleged security interest has been perfected. However, upon the advance express written consent of the Debtors, a claimant's proof of claim may be filed without the documents required by Bankruptcy Rules 3001(c) and 3001(d); provided, however, that any claimant that receives such a written consent will be required to transmit these documents in support of its Claim to KCC, the Debtors or other parties in interest within ten (10) days after the date of a written request for such documents.

Additional Information: You may be listed as the holder of a claim against the Debtors in the Schedules. If you hold or assert a claim that is not listed in the Schedules or if you disagree with the amount or priority of your claim as listed in the Schedules, or your claim is listed in the Schedules as contingent, unliquidated, or disputed, you **must** file a proof of claim. Copies of the Schedules and the Bar Date Order are available for inspection during regular business hours at the office of the Clerk of the Bankruptcy Court, United States Bankruptcy Court for the District of Delaware, 5<sup>th</sup> Floor, 824 Market Street, Wilmington, Delaware 19801. In addition, copies of the Debtors' Schedules and Bar Date Order may be obtained for a charge through Delaware Document Retrieval, 2 East 7<sup>th</sup> Street, 2<sup>nd</sup> Floor, Wilmington, Delaware 19801, or viewed on the Internet at the Bankruptcy Court's website (<http://www.deb.uscourts.gov/>) by following the directions for accessing the ECF system on such website or on KCC's website ([www.kccllc.com/homebanc](http://www.kccllc.com/homebanc)). Questions concerning the contents of this Notice and requests for proofs of claim should be directed to KCC at (866) 381-9100 between the hours of 7:30 a.m. and 5:00 p.m. (Pacific Time), Monday through Friday. Please note that KCC's staff is not permitted to give legal advice. You should consult your own attorney for assistance regarding any other inquiries, such as questions concerning the completion or filing of a proof of claim.

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**EXHIBIT C**

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

In re:	)	Chapter 11
	)	
HOMEBANC MORTGAGE CORPORATION, <i>et al.</i> , <sup>1</sup>	)	Case No. 07-11079 (KJC)
	)	
Debtors.	)	Jointly Administered
	)	
	)	<b>Ref. Docket No.</b>

**ORDER PURSUANT TO BANKRUPTCY RULE 3003(c)(3) AND LOCAL RULE  
2002-1(e) ESTABLISHING BAR DATES FOR FILING PROOFS OF CLAIM  
AND APPROVING THE FORM AND MANNER OF NOTICE THEREOF**

This matter having come before the Court upon consideration of the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (each a “Debtor”, and collectively, the “Debtors”), for entry of an order, pursuant to section 501 of the Bankruptcy Code, Bankruptcy Rules 2002 and 3003(c)(3) and Local Rule 2002-1(e), establishing bar dates for filing proofs of claim and approving the form and manner of notice thereof; the Court having reviewed the Motion and the pleadings related thereto; the Court finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and (c) notice of the Motion and the Hearing was sufficient under the circumstances and in accordance with Local Rule 2002-1(e); and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein;

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<sup>1</sup> The last four digits of the taxpayer identification numbers for each of the Debtors follow in parentheses: (i) HomeBanc Mortgage Corporation (2745); (ii) HomeBanc Corp. (3067); (iii) HomeBanc Funding Corp. II (6229); (iv) HMB Acceptance Corp. (6280); (v) HMB Mortgage Partners, LLC (9446); and (vi) HomeBanc Funding Corp. (5742). Each of these entities has a mailing address of: 2002 Summit Boulevard, Suite 100, Atlanta, GA 30319.

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

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.

2. Capitalized terms not otherwise defined herein have the meanings given to them in the Motion. In addition, as used herein, (a) the term “claim” has the meaning given to it in section 101(5) of the Bankruptcy Code, (b) the term “entity” has the meaning given to it in section 101(15) of the Bankruptcy Code and (c) the term “governmental unit” has the meaning given to it in section 101(27) of the Bankruptcy Code.

3. The forms of the Bar Date Notice, the Publication Notice and the Proof of Claim Form, and the manner of providing notice of the Bar Dates proposed in the Motion, are approved in all respects pursuant to Rules 2002(a)(7) and 2002(l) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 2002-1(e) of the Local Rules for the United States Bankruptcy Court for the District of Delaware (the “Local Bankruptcy Rules”). The form and manner of notice of the Bar Dates approved herein are deemed to fulfill the notice requirements of the Bankruptcy Rules and the Local Bankruptcy Rules, and notice of the Bar Dates in the form and manner as proposed by the Debtors herein is fair and reasonable and will provide good, sufficient, and due notice to all creditors and equity interest holders of their rights and obligations in connection with claims they may assert against the Debtors’ estates in these chapter 11 cases. Accordingly, the Debtors are authorized to serve the Bar Date Notice Package in the manner described in paragraph 4 below.

4. As soon as practicable, but in any event no later than five (5) business days after the date that the Court enters this Order, the Debtors, through Kurtzman Carson Consultants LLC (“KCC”), shall serve the Bar Date Notice Package by first class United States mail, postage prepaid, on all known entities holding potential prepetition claims and their

counsel (if known), all parties that have requested notice in these cases, all equity security holders, all indenture trustees, the U.S. Trustee and all taxing authorities for the jurisdictions in which the Debtors do business. The date on which the Debtors actually serve the Bar Date Notice Package is referred to herein as the "Service Date."

5. Except as provided in paragraphs 7 and 8 of this Order, any entity holding a prepetition claim against the Debtors must file a proof of claim in accordance with the procedures described herein by the General Bar Date. The General Bar Date shall be fixed as December 18, 2007 at 4:00 p.m. (Pacific Time). The General Bar Date shall be identified in the Bar Date Notice and the Publication Notice. Except as provided in paragraphs 7 and 8 of this Order, the General Bar Date applies to all entities, other than governmental units, holding claims against the Debtors (whether secured, unsecured priority or unsecured nonpriority) that arose prior to or on the Petition Date.

6. Except as provided in paragraphs 7 and 8 of this Order, in accordance with section 502(b)(9) of the Bankruptcy Code, any governmental unit holding a prepetition claim against the Debtors must file a proof of claim in accordance with the procedures described herein by February 5, 2008 at 4:00 p.m. (Pacific Time) (the "Government Bar Date"). The Government Bar Date shall be identified in the Bar Date Notice and the Publication Notice. Except as provided in paragraphs 7 and 8 of this Order, the Government Bar Date applies to all governmental units holding claims against the Debtors (whether secured, unsecured priority or unsecured nonpriority) that arose prior to or on the Petition Date, including governmental units holding claims against the Debtors for unpaid taxes, whether such claims arise from prepetition tax years or periods or prepetition transactions to which the Debtors were a party.

7. The following entities whose claims otherwise would be subject to the General Bar Date or the Government Bar Date shall not be required to file proofs of claim in these chapter 11 cases:

- a. any entity that has already properly filed a Proof of Claim against one or more of the Debtors with either KCC or the Clerk of the Court for the United States Bankruptcy Court for the District of Delaware;
- b. any entity (i) whose claim is listed in the Schedules or any amendments thereto, and (ii) whose claim is not described therein as “disputed,” “contingent,” or “unliquidated,” and (iii) who does not dispute the amount or classification of its claim as set forth in the Schedules;
- c. professionals retained by the Debtors or the Committee pursuant to orders of this Court, including KCC, who assert administrative claims for payment of fees and expenses subject to the Court’s approval pursuant to sections 330, 331(a) and 503(b) of the Bankruptcy Code;
- d. any entity that asserts an administrative expense claim against the Debtors pursuant to section 503(b) of the Bankruptcy Code;
- e. current officers and directors of the Debtors who assert claims for indemnification and/or contribution arising as a result of such officers’ or directors’ prepetition or postpetition services to the Debtors;
- f. any Debtor asserting a claim against another Debtor;
- g. any direct or indirect non-debtor subsidiary of a Debtor asserting a claim against a Debtor;
- h. any entity whose claim against the Debtors has been allowed by an order of the Court entered on or before the Bar Date; and
- i. Any person or entity whose claim has been paid by the Debtors.

8. Any entity holding a Rejection Damages Claim arising from the rejection of an executory contract or unexpired lease pursuant to an order entered prior to the confirmation of a chapter 11 plan in the Debtors’ chapter 11 cases shall be required to file a proof of claim in respect of such Rejection Damages Claim in accordance with the procedures described herein by the Rejection Bar Date. The Rejection Bar Date shall be the later of (i) the Bar Date, (ii) thirty (30) days after entry of an order approving the rejection of an executory contract or unexpired

lease pursuant to which the entity asserting the Rejection Damages Claim is a party or (iii) such other date as the Court may fix.

9. The Debtors shall retain the right to (a) dispute, or assert offsets or defenses against, any filed claim or any claim listed or reflected in the Schedules as to nature, amount, liability, classification or otherwise; and (b) subsequently designate any claim as disputed, contingent or unliquidated.

10. Subject to the provisions of paragraph 8 of this Order with respect to holders of claims subject to the Rejection Bar Date, the following entities must file a proof of claim on or before the General Bar Date or, with respect to claims of governmental units, on or before the Government Bar Date:

- a. any entity whose prepetition claim against the Debtors is not listed in the Debtors' schedules of assets and liabilities (the "Schedules") or whose prepetition claim is listed as disputed, contingent or unliquidated and that desires to participate in these chapter 11 cases or share in any distribution in these chapter 11 cases; and
- b. any entity that believes that its prepetition claim is improperly classified in the Schedules or is listed in an incorrect amount and that desires to have its claim allowed in a classification or amount other than that identified in the Schedules.

11. Any entity holding an interest in the Debtors (an "Interest Holder"), which interest is based exclusively upon the ownership of common or preferred stock in a corporation, a general or limited partner interest in a limited partnership, a membership interest in a limited liability company or warrants or rights to purchase, sell or subscribe to such a security or interest (any such security or interest being referred to herein as an "Interest"), need not file a proof of interest on or before the General Bar Date; provided, however, that Interest Holders who wish to assert claims against the Debtors that arise out of or relate to the ownership or purchase of an Interest, including claims arising out of or relating to the sale, issuance or distribution of such

Interest, must file proofs of claim on or before to the General Bar Date, unless another exception contained herein applies.

12. Any entity asserting Claims against more than one Debtor must file a separate proof of claim with respect to each such Debtor. In addition, any entity filing a proof of claim must identify on its proof of claim form the particular Debtor against which its Claim is asserted.

13. Pursuant to Bankruptcy Rule 3003(c)(2), any entity that is required to file a proof of claim in these chapter 11 cases pursuant to the Bankruptcy Code, the Bankruptcy Rules or this Order with respect to a particular claim against the Debtors, but that fails to do so by the applicable Bar Date, shall not be treated as a creditor with respect to such Claim for the purposes of voting on and distribution under any chapter 11 plan proposed and/or confirmed in these cases.

14. The Debtors shall serve on all known entities holding potential prepetition claims: (a) a notice of the Bar Dates substantially in the form of the Bar Date Notice attached to the Motion as Exhibit A and (b) a proof of claim form substantially in the form of Official Form No. 10. The Debtors shall state on each proof of claim form whether the entity's claim is listed in the Schedules. Assuming that the entity's claim is listed in the schedules, the Proof of Claim Form will also state: (a) the Debtors against which the entity's claim is scheduled, (b) whether the entity's claim is listed as disputed, contingent or unliquidated, and (c) if a claim is listed in the Schedules in a liquidated amount that is not disputed or contingent, the dollar amount of the claim (as listed in the Schedules). Any entity that relies on the information in the Schedules shall bear responsibility for determining that its claim is accurately listed therein.

15. For any proof of claim to be validly and properly filed, a signed original of the completed proof of claim, together with any accompanying documentation required by Bankruptcy Rules 3001(c) and 3001(d), must be delivered to KCC at the address identified on the Bar Date Notice so as to be received **no later than 4:00 p.m., Pacific Time**, on the applicable Bar Date. Proofs of claim may be submitted in person or by courier service, hand delivery or mail. Proofs of claim submitted by facsimile or e-mail shall not be accepted. Proofs of claim shall be deemed filed when actually received by KCC. If a creditor wishes to receive acknowledgement of KCC's receipt of a proof of claim, the creditor also must submit to KCC by the applicable Bar Date and concurrently with submitting its original proof of claim (a) a copy of the original proof of claim and (b) a self-addressed, stamped return envelope.

16. Upon the advance express written consent of the Debtors, a claimant's proof of claim may be filed without the documents required by Bankruptcy Rules 3001(c) and 3001(d); provided, however, that any claimant that receives such a written consent shall be required to transmit these documents in support of its claim to KCC, the Debtors or other parties in interest within ten (10) days after the date of a written request for such documents.

17. The Debtors shall cause the Publication Notice to be published in the national edition of *The Wall Street Journal* or the national edition of *The New York Times* within ten (10) business days of the date of entry of this order; and it is further

18. Notwithstanding anything to the contrary in the Motion, the Bar Date Notice, the Publication Notice or this Order and as set forth in paragraph 21 of the Final DIP Order, the Prepetition Agent (as defined in the Final DIP Order) is authorized (but not required) to file one Master Proof of Claim (as defined in the Final DIP Order) on behalf of itself and the Prepetition Secured Lenders (as defined in the Final DIP Order) on account of their claims

arising under the Existing Agreements (as defined in the Final DIP Order) and the Final DIP Order, provided, however, that the Master Proof of Claim shall only relate to the liquidated amount of the Prepetition Secured Lenders' claims and not to the secured status or priority thereof.

Dated: \_\_\_\_\_, 2007

\_\_\_\_\_  
Kevin J. Carey  
United States Bankruptcy Judge