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10 Heller Ehrman LLP

11 UNITED STATES BANKRUPTCY COURT
12
13 NORTHERN DISTRICT OF CALIFORNIA
14
15 SAN FRANCISCO DIVISION

16 In re:

17 HELLER EHRMAN LLP,

18 Post-Confirmation
19 Liquidating Debtor.

Case No.: 08-32514

Chapter 11

**DECLARATION OF MICHAEL BURKART
IN SUPPORT OF FOURTH MOTION TO
VOID CLAIMS AND SCHEDULED
AMOUNTS OF CERTAIN CREDITORS
(NON-NEGOTIATED AND RETURNED
CHECKS; RELINQUISHED CLAIMS;
CREDITOR OUT OF BUSINESS;
CREDITOR DECEASED; UNABLE TO
LOCATE CREDITOR OR CREDITOR
NONRESPONSIVE) AND NOTICE OF
OPPORTUNITY FOR HEARING**

**[No hearing will be held unless affected party
responds to this Motion – Bankruptcy Local
Rule 9014-1]**

20 I, Michael Burkart, declare and state as follows:¹

21
22 1. I am the Plan Administrator for the liquidating debtor herein (“Heller” or the
23 “Debtor”) pursuant to the Joint Plan of Liquidation of Heller Ehrman LLP (August 9, 2010) (the
24 “Plan”). In such capacity, I am personally familiar with each of the facts stated herein, to which
25 I could competently testify if called upon to do so in a court of law.
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27
28 ¹ Unless otherwise indicated, all capitalized terms shall have the same meaning as those set
forth in the Motion.

2. I make this declaration in support of the Fourth Motion to Void Claims and Scheduled Amounts of Certain Creditors (Non-Negotiated and Returned Checks; Claims Relinquished; Creditor Out of Business; Creditor Deceased; Unable to Locate Creditor; or Creditor Non-Responsive) (the "Motion").

3. On December 28, 2008, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor, a 118-year-old international law firm, began the process of winding down its business and affairs following the adoption of a Plan of Dissolution by the shareholders of the Debtor's limited partners in September 2008.

4. On January 5, 2009, the Office of the United States Trustee appointed the Official Committee of Unsecured Creditors.

5. On August 13, 2010, the Court entered an order confirming the Plan, which order became effective on September 1, 2010 (the "Effective Date").

6. I am the duly appointed administrator under the Plan (the "Plan Administrator") and have been managing the Debtor since the Effective Date.

7. The Debtor scheduled certain unsecured creditors on its Schedule F (or Amended Schedule F) and/or certain creditors filed proofs of claim in the Bankruptcy Case, as listed on *Exhibits 1 through 5* attached hereto (collectively, the "Creditors").

8. To date, the Debtor has made eight interim distributions in 2011 to the priority and general unsecured creditors as set forth in the following table:

Distribution Number	Distribution Percent	Distribution % GUC Total	Distribution Description	Payment Date
1	100 (Admin/Priority Only)	0	Priority payments to employees, plus some administrative claim payments	13-Sep-10
2	30	30	GUC payments to claimants (30%)	26-Sep-11
3	8.5	38.5	GUC payments to claimants (8.5%)	30-Dec-11
4	5.5	44	GUC payments to claimants (5.5%) w/o Grew	30-Dec-12

5	9	53	GUC payments to claimants (9%)	18-Jul-13
6	7	60	GUC payments to claimants (7%)	20-Dec-15
7	4	64	2020 GUC 64% payments to PBGC, former employees	15-Sep-20
8	4	64	2021 GUC 64% unemp	23-Nov-21
Proposed 9	Estimated 3	67	Final GUC Dist (Anticipated)	2025

9. All litigation regarding Disputed Claims has been completely resolved.

10. Following the second and third distributions described in the above table (priority claims were paid in the first distribution), the Debtor filed its First Motion to Void Claims and Scheduled Amounts of Certain Creditors (Non-Negotiated Checks; Unable to Locate Creditor; Non-Responsive) (the “First Void Motion”). The Court granted the First Void Motion by Order dated December 14, 2012 [ECF No. 3162], and the claims identified therein were voided.

11. Following the fourth and fifth distributions to the GUC, the Debtor filed its Second Motion to Void Claims and Scheduled Amounts of Certain Creditors (Non-Negotiated and Returned Checks; claims Relinquished; Unable to Locate Creditor or Creditor Nonresponsive) and Notice of Opportunity for Hearing (the “Second Void Motion”). The Court granted the Second Void Motion by Order dated October 9, 2014 [ECF No. 3633] and the claims identified therein were voided.

12. Following the sixth and seventh distributions to the GUC, the Debtor filed its Third Motion to Void Claims and Scheduled Amounts of Certain Creditors (Non-Negotiated and Returned Checks; claims Relinquished; Unable to Locate Creditor or Creditor Nonresponsive) and Notice of Opportunity for Hearing (the “Third Void Motion”). The Court granted the Third Void Motion by Order dated October 16, 2021 [ECF No. 4414], and the claims identified therein were voided.

13. The rationale for having two separate (the Seventh and the Eighth) distributions to the GUC creditors involved the belief that those distributions would be the final distributions.

1 Due to the cost and time requirements for administering the payments to the employees and the
2 PBGC (multiple filings in many states), the Court approved a special “Seventh” and “Final”
3 Distribution to the employee/PBGC creditors in a set percentage amount. The Seventh
4 distribution was projected to be the same percentage amount but could have varied slightly up or
5 down. However, a significant and unanticipated receipt of funds respecting specific stock in
6 SpaceX made the final distribution estimate to the employee/PBGC creditors inaccurate by 75%.
7 As such, the Court approved a “make-up” distribution of the GUC (the Eighth Distribution) in
8 the same amount paid to the Employee/PBGC GUC creditors.

9 14. The Debtor is preparing to make a final distribution to (not all as many will be de
10 minimis) general unsecured claims (employee and non-employee). Following the last
11 distribution to the Non-Employee General Unsecured Creditors, the Debtor identified additional
12 claims that should be voided because the distribution checks for such claims were not negotiated
13 or were returned, the creditors have relinquished their claims, the creditors are out of business,
14 the Debtor is unable to locate such creditors, such creditors are deceased, and/or such creditors
15 are non-responsive.

16 15. In anticipation of this Ninth and final distribution (to GUC), in June and July of
17 2025, 712 emails, 644 letters to U.S. addresses and 36 letters were mailed overseas to creditors
18 who would receive a check in the forthcoming distribution. The purpose was to request that
19 creditors update changed address with the Court. Of the 1,392 emails and letters, approximately
20 101 letters were returned to the Debtor by the USPS, indicating such problems as “Attempted-
21 Not Known,” “Return to Sender,” “Not Deliverable as Addressed,” “Moved,” or “Unable to
22 Forward,” etc. And, approximately 82 emails bounced. Many other letters and emails produced
23 no response.

24 16. Regarding the Creditors described on the attached ***Exhibit 1*** (“Two Stikes” Non-
25 Negotiated or Returned Checks), none of the distribution checks sent to these Creditors were
26 negotiated following the 6th and either the 7th or 8th distributions to GUC. Many of the checks
27 were returned to the Debtor, indicating such problems as “Attempted- Not Known,” “Return to
28 Sender,” “Not Deliverable as Addressed,” “Moved,” or “Unable to Forward,” etc.

1 17. Regarding the Creditors described on the attached ***Exhibit 2*** (“One Strike Plus”),
2 none of the distribution checks sent to these Creditors were negotiated following either the 7th (if
3 they were employee or PBGC GUC claims) or the 8th (if they were general GUCs) distributions,
4 and there was no response to the letters mailed to such creditors at various times between June
5 2020 and July 2025, or such letters were returned. Many of the checks and/or letters were
6 returned to the Debtor, indicating such problems as “Attempted- Not Known,” “Return to
7 Sender,” “Not Deliverable as Addressed,” “Moved,” or “Unable to Forward,” etc.

8 18. Normally, under the Plan, “One Strike Plus” claims would only be voided if they
9 do not cash a second distribution. However, given that none of these creditors returned or
10 responded to the emails or letters sent to them in June and July 2025, requesting confirmation of
11 their addresses, I respectfully submit that the notices in June and July 2025 be deemed a second
12 strike under the Plan and that such claims may also be voided.

13 19. Regarding the Creditors described on the attached ***Exhibit 3*** (“No Claim/Claims
14 Relinquished”), all of these creditors have returned their distribution checks to the Debtor,
15 indicating that: (1) there is no amount is due; and/or (2) the creditor is relinquishing its claim.
16 For example, these Creditors have stated that there is “nothing due,” or they have asked to be
17 “taken off the distribution list,” or they have returned checks with the word “Refused” on the
18 envelope.

19 20. Regarding the Creditors described on the attached ***Exhibit 4*** (“Creditor Out of
20 Business”), none of the distribution checks sent to these Creditors were negotiated following the
21 7th and/or 8th distributions. The Debtor has since learned, after doing internet searches, that the
22 Creditors appear to be no longer in business.

23 21. Regarding the Creditors described on the attached ***Exhibit 5***, these Creditors are
24 individuals that the Debtor is informed and believes are deceased. The Plan Administrator has
25 attempted to contact such creditors’ heirs, but such heirs are unknown, and the Plan
26 Administrator has not received a response from potential heirs.

27 22. The Debtor has sent the emails and letters discussed above. In addition, the
28 Debtor has made numerous attempts to locate a current address for notices and for reissue of the

1 Creditors' distribution checks, including Internet searches, Secretary of State searches, reviewing
2 the Debtor's financial records, and contacting former Heller clients and vendors, and even
3 former Heller attorneys and staff. When such research produced an alternate address, the Debtor
4 re-mailed notices and change of address forms to such creditors. The Debtor has also attempted
5 to contact Creditors by telephone and e-mail. Nevertheless, the Debtor has been unable to
6 properly locate the creditors listed on *Exhibits 1 through 5*, and/or their distribution amounts
7 remain unclaimed.

8 23. The Debtor has been unable to properly locate the creditors listed on *Exhibits 1*
9 *through 5*, and/or their distribution amounts remain unclaimed. The 90-day period for
10 unclaimed property, as set forth in Section 5.28 of the Plan (discussed in the MPA), has long
11 since expired (based upon the date that the last distribution checks were mailed, January 2016).

12 24. I believe it is appropriate and in the unsecured creditors' best interest to void the
13 claims of the Creditors listed on *Exhibits 1 through 5* and to include in the 2024/26 GUC
14 Distribution and any future distributions. These funds had been reserved for these Creditors.

15 I declare under penalty of perjury that the foregoing is true and correct to the best of my
16 knowledge and that this declaration was signed on October 1, 2025 in Sacramento, California.

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18 
19 MICHAEL BURKART
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