

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

| | | |
|---|---|--------------------------------|
| In re: | § | |
| | § | |
| Garden Oaks Maintenance Organization, Inc., Debtor | § | Case No. 18-60018-H2-11 |
| | § | |
| | § | |
| | § | |

OBJECTION TO CLAIM #432 FILED BY BRYAN AND VALERIE KLEIN

THIS IS AN OBJECTION TO YOUR CLAIM. THE OBJECTING PARTY IS ASKING THE COURT TO DISALLOW THE CLAIM THAT YOU FILED IN THIS BANKRUPTCY CASE. YOU SHOULD IMMEDIATELY CONTACT THE OBJECTING PARTY TO RESOLVE THE DISPUTE. IF YOU DO NOT REACH AN AGREEMENT, YOU MUST FILE A RESPONSE TO THIS OBJECTION AND SEND A COPY OF YOUR RESPONSE TO THE OBJECTING PARTY WITHIN 30 DAYS AFTER THE OBJECTION WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE OBJECTION IS NOT VALID. IF YOU DO NOT FILE A RESPONSE WITHIN 30 DAYS AFTER THE OBJECTION WAS SERVED ON YOU, YOUR CLAIM MAY BE DISALLOWED WITHOUT A HEARING.

A HEARING HAS BEEN SET FOR THIS OBJECTION FOR JANUARY 25, 2021 AT 2:00PM, COURTROOM 400, 4TH FLOOR, 515 RUSK, HOUSTON, TX 77002.

1. The Debtor filed a voluntary chapter 11 petition on April 11, 2018.
2. The Debtor was unable to confirm a plan, and the case was converted to a chapter 7 on June 6, 2019.
3. Randy Williams was appointed Chapter 7 Trustee.
4. On July 16, 2019, the Trustee issued his *Notice of Assets*, with a claims bar date of October 21, 2019.

5. On October 15, 2019, Bryan and Valerie Klein filed claim #432, asserting an unsecured claim in the amount of \$4,987.50.
6. Claim #432 is a duplicate of Claim #389, which was also filed by the Kleins, for the same unsecured amount.
7. The Trustee asks the Court to disallow the duplicate claim, Claim #432.

WHEREFORE, the Trustee requests the Court to disallow Claim #432, as it is a duplicate of claim #389, and to grant him such other and further relief, at law or in equity, to which he may be justly entitled.

Dated: December 23, 2020.

Respectfully submitted,

By: /s/ Johnie Patterson

Johnie Patterson

State ID# 15601700

COUNSEL FOR THE CHAPTER 7
TRUSTEE

OF COUNSEL:

WALKER & PATTERSON, P.C.

P.O. Box 61301

Houston, TX 77208

713.956.5577

713.956.5570 (fax)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Objection* was served upon Bryan and Valerie Klein, P.O. Box 342, Terlingua, TX 79852, by first class, U.S. mail, postage prepaid on December 23, 2020.

By: /s/ Johnie Patterson

Johnie Patterson

Fill in this information to identify the case:

Debtor 1 Garden Oaks Maintenance
Organization (GOMO)

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: _____ District of _____

Case number 18-60018

United States Courts
Southern District of Texas
FILED

OCT 11 2019

David J. Bradley, Clerk of Court

Official Form 410

Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

| | | |
|--|---|--|
| 1. Who is the current creditor? | <u>Bryan & Valerie Klein</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor <u>NA</u> | |
| 2. Has this claim been acquired from someone else? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____ | |
| 3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g) | Where should notices to the creditor be sent? <u>Bryan & Valerie Klein</u> Name <u>PO BOX 342</u> Number Street <u>Terlingua TX 79852</u> City State ZIP Code Contact phone <u>713.907.5259</u> Contact email <u>VBK1@bigbend.net</u> | Where should payments to the creditor be sent? (if different) <u>SAME</u> Name Number Street City State ZIP Code Contact phone _____ Contact email _____ |
| Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____ | | |
| 4. Does this claim amend one already filed? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ | |
| | | Filed on _____ MM / DD / YYYY |
| 5. Do you know if anyone else has filed a proof of claim for this claim? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____ | |

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☒ No
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 4,987.50 Does this amount include interest or other charges?
☐ No
☒ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.

Gomo had been improperly formed & therefore not authorized to collect transfer fees, enforce deed restrictions or sue in an attempt to enforce deed restrictions.

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.
 Nature of property:
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☐ Other. Describe: _____

Basis for perfection: _____

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____

Amount of the claim that is secured: \$ _____

Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %

☐ Fixed
☐ Variable

10. Is this claim based on a lease? ☒ No
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? ☒ No
☐ Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☒ No

☐ Yes. Check one:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

Amount entitled to priority

\$ _____

☐ Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

☐ Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ _____

* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☒ I am the creditor.

☐ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date

10/2/2019
MM / DD / YYYY

Signature

Print the name of the person who is completing and signing this claim:

Name

Bryan E. Valen

Middle name

Klein

Last name

Title

Company

Identify the corporate servicer as the company if the authorized agent is a servicer.

Address

PO BOX 342

Number Street

Terlingua

City

TX

State

79852

ZIP Code

Contact phone

713.907.5259

Email

VBK1@bigbend.net

Itemization of Claim

| | |
|---|-------------------|
| 1. GOMO Transfer fee – Settlement statement enclosed | \$2,287.50 |
| 2. Legal expenses we were forced to incur when GOMO sued us regarding deed restrictions | <u>\$2,700.00</u> |
| GOMO sued us in April of 2008 – legal documents enclosed | |
| Receipts are not available because we retain paper documents for 7 years | |
| Paperwork from 2008 was shredded in 2016 | |
| We also checked with our bank – same policy – they retain statements for just 7 years | |
| TOTAL | \$4,987.50 |



A. U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SETTLEMENT STATEMENT
12/27/2004 10:16:07 AM

| | | | | | |
|---------------------------------|---|--|------------------------|------------------------|---------------------------------------|
| B. TYPE OF LOAN: | | | 6. FILE NUMBER: | 7. LOAN NUMBER: | 8. MORTGAGE INSURANCE CASE NO: |
| 1. <input type="checkbox"/> FHA | 2. <input type="checkbox"/> FMHA | 3. <input type="checkbox"/> CONV. UNINS. | 04120194 | 53219367 | |
| 4. <input type="checkbox"/> VA | 5. <input checked="" type="checkbox"/> CONV. INS. | | | | |

C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(POC)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

| | | |
|--|--|--|
| D. NAME AND ADDRESS OF BORROWER: BRYAN R. KLEIN 701 W. 43RD STREET HOUSTON, TX 77018 | E. NAME AND ADDRESS OF SELLER: HECTOR A. WILLARS RUTH M. WILLARS 4403 WEST ELOWIN AVE VISALIA, CA 93291 | F. NAME AND ADDRESS OF LENDER: CHASE MANHATTAN MORTGAGE CORPORATION 11550 FUQUA SUITE 200 HOUSTON, TX 77034 |
|--|--|--|

| | | |
|---|---|---|
| G. PROPERTY LOCATION: 701 W 43RD ST. HOUSTON, TX 77018 | H. SETTLEMENT AGENT: DIANE NEW Houston Title Company PLACE OF SETTLEMENT: 777 Post Oak Blvd Houston, TX 77056 | I. SETTLEMENT DATE: 12/28/2004 Payout Date: 12/28/2004 |
|---|---|---|

| J. SUMMARY OF BORROWER'S TRANSACTION | | K. SUMMARY OF SELLER'S TRANSACTION | |
|---|------------|---|------------|
| 100. GROSS AMOUNT DUE FROM BORROWER: | | 400. GROSS AMOUNT DUE TO SELLER: | |
| 101. Contract sales price | 305,000.00 | 401. Contract sales price | 305,000.00 |
| 102. Personal property | | 402. Personal property | |
| 103. Settlement charges to borrower (line 1104) | 8,604.01 | 403. | |
| 104. | | 404. | |
| 105. | | 405. | |
| Adjustments for items paid by seller in advance | | Adjustments for items paid by seller in advance | |
| 106. City/town taxes | | 406. City/town taxes | |
| 107. County Taxes | | 407. County Taxes | |
| 108. Assessments | | 408. Assessments | |
| 109. 04 TAXES 12/29/2004 to 1/01/2005 | 63.66 | 409. 04 TAXES 12/29/2004 to 1/01/2005 | 63.66 |
| 110. | | 410. | |
| 111. | | 411. | |
| 112. | | 412. | |
| 120. GROSS AMOUNT DUE FROM BORROWER | 313,667.67 | 420. GROSS AMOUNT DUE TO SELLER | 305,063.66 |
| 200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER: | | 500. REDUCTIONS IN AMOUNT DUE TO SELLER: | |
| 201. Deposit money | 1,000.00 | 501. Excess deposit | |
| 202. Principal amount of new loan(s) | 225,000.00 | 502. Settlement charges to seller (line 1400) | 19,313.26 |
| 203. Existing loan(s) taken subject to | | 503. Existing loan(s) taken subject to | |
| 204. | | 504. Payoff of first mortgage loan 12/30 | 252,519.87 |
| 205. | | 505. Payoff of second mortgage loan | |
| 206. | | 506. | |
| 207. | | 507. \$1,000.00 Disb'd As Proceeds | |
| 208. | | 508. | |
| 209. | | 509. | |
| Adjustments for items unpaid by seller | | Adjustments for items unpaid by seller | |
| 210. City/Town taxes | | 510. City/town taxes | |
| 211. County Taxes | | 511. County Taxes | |
| 212. Assessments | | 512. Assessments | |
| 213. | | 513. | |
| 214. | | 514. | |
| 215. | | 515. | |
| 216. | | 516. | |
| 217. | | 517. | |
| 218. | | 518. | |
| 219. | | 519. | |

6.0.89

| | | |
|--|-----------------|------------------|
| 1300. ADDITIONAL SETTLEMENT CHARGES: | | |
| 1301. Survey EXISTING | | |
| 1302. Pest inspection | | |
| 1303. HOA ONE TIME TRANSFER ASSMT- 'GARDEN OAKS MAINTENANCE ORGANIZATIO | 2,287.50 | |
| 1304. 04 CO/CITY/HCC TAX HARRIS COUNTY TAX ASSESSOR | | 3,205.05 |
| 1305. 04 ISD TAX HOUSTON ISD TAX ASSESSOR | | 4,561.95 |
| 1400. TOTAL SETTLEMENT CHARGES (enter on lines 103, Section J and 502, Section K) | 8,604.01 | 19,313.26 |

BORROWER AND SELLER CERTIFICATION

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement. I/we hereby approve this closing statement and agree to adjust any errors or omissions that may be discovered, including any variations in tax amounts unless expressly set forth herein to the contrary.

BRYAN R. KLEIN

HECTOR A. WILLARS

BORROWERS

RUTH M. WILLARS

SELLERS

SETTLEMENT AGENT CERTIFICATION

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused, or will cause the funds to be disbursed in accordance with this statement.

Closing Date: 12/28/2004**Payout Date: 12/28/2004**Settlement Agent **DIANE NEW**

Date

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For Details see: title 18: U.S. Code Section 1001 and Section 1010.

12/27/2004 10:16:07 AM

CAUSE NO. 200823763

RECEIPT NO. 364136
04-18-2008

0.00

CIV

TR # 72292584

PLAINTIFF: GARDEN OAKS MAINTENANCE ORGANIZATION

In The 333rd

Judicial District Court

of Harris County, Texas

333RD DISTRICT COURT

Houston, TX

vs.

DEFENDANT: KLEIN, BRYAN R

CITATION

THE STATE OF TEXAS

County of Harris

**PRECEPT/WRI
ATTACHED**

TO: KLEIN, VALERIE M

701 W 43RD STREET HOUSTON TX 77018

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION APPLICATION FOR TEMPORARY RESTRAINING ORDER TEMPORARY AND PERMANENT INJUNCTIONS AND SHOW CAUSE ORDER

This instrument was filed on the 18th day of April, 2008, in the above cited cause number and court. The instrument attached describes the claim against you.

~~YOU HAVE BEEN SUED~~ You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 24th day of April, 2008, under my hand and seal of said Court.

Issued at request of:

BARSALOU, W. AUSTIN

1001 FANNIN STE #270

HOUSTON, TX 77002

Tel: (713) 652-5044

Bar No.: 1835900



THERESA CHANG, District Clerk

Harris County, Texas

201 Caroline Houston, Texas 77002

(P.O. Box 4651, Houston, Texas 77210)

GENERATED BY: NICHOLAS, MARY L 8F6/6CN/8119156

OFFICER/AUTHORIZED PERSON RETURN

Came to hand at _____ o'clock _____ .M., on the _____ day of _____.

Executed at (address) _____ in

_____ County at _____ o'clock _____ .M., on the _____ day of _____.

_____, by delivering to _____ defendant, in person, a true copy of this Citation together with the accompanying _____ copy(ies) of the _____ Petition

attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this _____ day of _____.

Fee: \$ _____

_____ of _____ County, Texas

Affiant

By _____ Deputy

On this day, _____, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, on this _____ day of _____.

Renita G. L. Place 4/28/08

N.INT.CTR.P

Notary Public



2008-33763

No. _____

GARDEN OAKS MAINTENANCE
ORGANIZATION

VS.

BRYAN R. KLEIN , ET AL.

§
§
§
§
§
§
§

IN THE DISTRICT COURT

HARRIS COUNTY, TEXAS

333 JUDICIAL DISTRICT

2008 APR 18 PM 3:35
CLERK OF DISTRICT COURT
HARRIS COUNTY TEXAS
DEPUTY

**PLAINTIFF'S ORIGINAL PETITION AND
APPLICATION FOR TEMPORARY RESTRAINING ORDER,
TEMPORARY INJUNCTION AND PERMANENT INJUNCTION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, GARDEN OAKS MAINTENANCE ORGANIZATION, Plaintiff,
complaining of BRYAN R. KLEIN and VALERIE M. KLEIN, Defendants, and would
respectfully show unto the Court as follows:

1.

Discovery is intended to be conducted under Level 2 of Rule 190, Texas Rules of
Civil Procedure.

2.

Plaintiff is a non-profit corporation duly organized and existing under the laws of the
State of Texas, having its principal place of business in Houston, Harris County, Texas.

Defendants are BRYAN R. KLEIN and VALERIE M. KLEIN, who may be served at
701 W. 43rd Street, Houston, HARRIS COUNTY, Texas 77018.

3.

Certain covenants, conditions, restrictions, stipulations, and reservations were
placed upon the property in Garden Oaks, Section 2 (the "Subdivision"), as evidenced by
deed restrictions recorded in the real property records of Harris County, Texas, and

incorporated into each deed to each property within the Subdivision.

4.

Defendants are the owners of the property at 701 W. 43rd Street, Houston, Harris County, Texas 77018, described as Garden Oaks, Section 2, Block 29, Lot T23 (the "Property"), and are, therefore, bound by the provisions of the deed restrictions.

5.

Defendants have violated the Declaration by failing to remove the numerous signs on the Property. This violation of the deed restrictions detracts from the appearance of the Subdivision, and lowers property values in the Subdivision.

6.

Plaintiff and the property owners in the Subdivision, have no adequate remedy at law or otherwise for the harm or damage done by the above described breach of the deed restrictions. Monetary damages in an action at law would be an inadequate remedy for Plaintiff because of the essentially aesthetic nature and purpose of the deed restrictions on which this petition is based and because of the difficulty of precise computation of the amount by which the continued violation of such restrictions has lowered the value of the surrounding property.

7.

Plaintiff and the property owners in the Subdivision, will suffer irreparable harm, damage, and injury unless the acts and conduct herein complained of are cured by being enjoined forthwith. It is essential that Defendants be enjoined from the failure to follow the deed restrictions described herein because for every day that any violation remains unresolved, Plaintiff and the property owners in Garden Oaks, Section 2, are deprived of