



Other: \$ \_\_\_\_\_  
TOTAL: \$ 796,882.26

2. The foregoing claim arose on April 19, 2021, and is based upon the following events:

- Promissory Note and Security Agreement between Claimant and Defendants, attached hereto as **Exhibit A.**
- Amended Promissory Note and Amended Security Agreement between Claimant and Defendants, attached hereto as **Exhibit B.**
- See also Plaintiffs' complaint filed in this matter on March 8, 2024
- As of August 9, 2024, Claimant is owed a total of \$908,254.35 consisting of actual damages of \$319,414.00 and \$477,468.26 in interest.

**DOCUMENTS SUPPORTING THE CLAIM MUST BE ATTACHED TO THIS CLAIM FORM. IF SUPPORTING DOCUMENTATION IS NOT AVAILABLE, YOU MUST ATTACH AN EXPLANATION OF WHY THE DOCUMENTATION IS UNAVAILABLE.**

3. This claim is (select one):

unsecured; OR,

secured by the following collateral or security:

See **Exhibit A & B**

---

---

---

4. If the claim is secured, please identify the location of all collateral:

See **Exhibit A & B**

---

---

5. If the claim includes interest, please specify each of the reasons for such interest and the rate thereof (e.g. contract, statute, etc.):

See **Exhibit A & B**

---

6. The nature and value of any offset or counterclaim (*i.e.*, money or property that you owe Defendants or the Estate, or any claims that Defendants or the Estate may have against you):

---

---

---

7. If you are currently represented by an attorney, please complete the following:

Adam L. Massaro

Name of Attorney (Please print)

AKERMAN LLP

1900 Sixteenth Street, Suite 950

Denver, CO 80202

Address (street address, not post-office box)

(303) 260 7712

Telephone Number

(303) 260 7714

Facsimile Number

adam.massaro@akerman.com

E-mail Address

**CLAIMANT HEREBY CERTIFIES THAT IT HAS DISMISSED ANY OTHER PENDING SUITS OR PROCEEDINGS IT HAS COMMENCED AGAINST ANY AND ALL RECEIVERSHIP DEFENDANTS, OR ANY OF THEM, OR THE RECEIVERSHIP ESTATE AND THAT IT WILL NOT FILE (OR RE-FILE) ANY SUIT OR PROCEEDING IN ANOTHER FORUM WITHOUT THE RECEIVER'S PERMISSION OR LEAVE OF THIS COURT.**

8. I hereby certify and attest, under the penalty of perjury, that the information contained in the foregoing Claim Form is true and correct:

/s/ Sean Carney

Claimant Signature

Red Cloud Capital, LLC

Name of Claimant (Please print)

c/o Akerman LLP

\_\_\_\_\_  
Address (street address, not post-office box)

c/o Akerman LLP

Telephone

c/o Akerman LLP

Facsimile

c/o Akerman LLP

E-mail Address

Dated: August 9, 2024.

**IMPORTANT: A FULLY COMPLETED AND SIGNED CLAIM FORM WITH ALL SUPPORTING DOCUMENTATION MUST BE RECEIVED AT THE ADDRESS BELOW NO LATER THAN THE CLAIMS BAR DATE OR UNKNOWN CLAIMANT BAR DATE, AS APPLICABLE. REFER TO THE NOTICE YOU RECEIVED TO DETERMINE THE APPLICABLE CLAIMS BAR DATE OR UNKNOWN CLAIMANT BAR DATE.**

Claim forms submitted by hand delivery, courier, email (as an attachment in portable document format (.pdf)), facsimile or U.S. mail addressed to:

West 4th Holdings, LLC  
c/o Jordan Factor, Esq.  
Allen Vellone Wolf Helfrich & Factor, P.C.  
1600 Stout Street, Suite 1900

Denver, Colorado 80202  
Tel. No. (303) 534-4499  
Fax No. (303) 893-8332  
[Email: jfactor@allen-vellone.com](mailto:jfactor@allen-vellone.com)

Please note that your Claim must be legible, written in English and denominated in United States currency.

**Any Claimant who is required to submit a Proof of Claim, but fails to do so in a timely manner or in the proper form, will be: (a) barred, estopped, and enjoined to the fullest extent allowed by applicable law from asserting, in any manner, such Claim against the Receiver, the Receivership Defendants and their respective estates or property, (b) not be permitted to object to any distribution plan proposed by the Receiver on account of such Claim, (c) be denied any distributions under any distribution plan implemented by the Receiver on account of such Claim, and (d) not receive any further notices on account of such Claim. Further, the Receivership Defendants will be discharged from any and all indebtedness or liability with respect to such Claim.**

DISTRICT COURT, CITY AND COUNTY OF DENVER  
STATE OF COLORADO  
1437 Bannock Street  
Denver, CO 80202

**Plaintiffs:** ROSS BERMAN, an individual; JASON H. KARP, an individual; IMJ I LLC, a Delaware limited liability company; RACHEL FARBER REVOCABLE TRUST, STEPHEN FARBER REVOCABLE TRUST, and RED CLOUD CAPITAL, LLC, a Connecticut limited liability company;

**Plaintiffs-Intervenors:** TREVOR GALLUP, an individual; and LYNN HONDERD, an individual,

v.

**Defendants:** BELLROCK BRANDS, INC., a British Columbia corporation, BRB DB HOLDINGS, INC., a Delaware corporation, BRB MARY'S HOLDINGS CORP., a Delaware corporation, DIXIE BRANDS (USA) INC., a Delaware corporation, MARY'S OPERATIONS, LLC, a Colorado limited liability company, MARY'S PETS, LLC, a Colorado limited liability company, MARY'S NUTRITIONALS, LLC, a Colorado limited liability company, DB FINANCE, NEVADA, LLC, a Nevada limited liability company, and DB OKLAHOMA, LLC, a Colorado limited liability company.

▲ COURT USE ONLY ▲

***Attorneys for Intervenor Trevor Gallup:***

John A. Chanin, Reg. No. 20749  
Katherine A. Roush, Reg. No. 39267  
Julie M. Behrman, Reg. No. 37825  
Foster Graham Milstein & Calisher LLP  
360 S. Garfield Street, 6th Floor  
Denver, Colorado 80209  
Phone: (303)333-9810  
Fax: (303)333-9786  
Email: [jchanin@fostergraham.com](mailto:jchanin@fostergraham.com)  
[kroush@fostergraham.com](mailto:kroush@fostergraham.com)  
[jbehrman@fostergraham.com](mailto:jbehrman@fostergraham.com)

Case Number: 2024CV30763

Division: 466

**INTERVENORS' OMNIBUS OBJECTION TO ALL OTHER CLAIMS**

Intervenor Trevor Gallup, by and through his undersigned counsel, and also on behalf of Intervenor Lynn Honderd, submit Intervenor's omnibus objection to all other claims submitted to the Receiver in this action, and as grounds, state as follows:

1. On March 25, 2024, this Court issued its Order re: Forthwith Motion for Immediate Appointment of Receiver-Manager Pursuant to C.R.C.P. 121(c), § 1-15(4), appointing West 4th Holdings, LLC as the Receiver who shall “forthwith take physical possession of, manage, operate, and protect the Collateral and . . . operate the Defendants’ business” (the “Receivership Order”).

2. Since its appointment, Receiver has allegedly “take[n] charge of the Property assets and all personal property owned by Defendants[.]”

3. On May 7, 2024, the Court approved the Claims Process. The deadline for submission of any claims in this matter was August 12, 2024. The Court later set November 11, 2024 as the claims objection deadline.

4. On June 14, 2024, the Court granted Intervenor's Motion to Intervene, subject to the limitations set forth in the Stipulated Discovery and Scheduling Order entered on the same day.

5. Under the Stipulated Discovery and Scheduling Order:

Intervenors agree to submit a claim pursuant to that [Claims Administration Procedure ] Order. Intervenor, however, challenge the priority of the Plaintiffs’ claims based on an alleged violation of Colorado's Fraudulent Transfer act as well as seek rescission from the Defendants based on claims of duress or voiding the agreements with Defendants based on illusory and unconscionable theories. Because the composition of the assets of the estate of the Defendants in receivership may be affected by an adjudication of these three issues and claims raised Intervenor, and certain discovery is needed to resolve those three issues, it is agreed that the Intervenor are granted intervention to pursue discovery and claims based on those three issues and claims. Those three claims are set forth in Intervenor's joint complaint as claims 1, 2, and 8 (“Intervention Claims”).

6. The hearing on Intervenor's claims is currently set for a five (5) day bench trial beginning on January 27, 2025.

7. On June 24, 2024, Intervenor filed their Amended Complaint in Intervention and Third-Party Complaint in order to assert fraudulent transfer claims against other secured creditors of the Defendants on the same basis as their fraudulent transfer claims asserted against the Plaintiffs, namely, that the security interests granted in the Defendant Companies were fraudulently conveyed and were subject to being set aside. *See* C.R.S. § 38-8-101 *et seq.*, Colorado Uniform Fraudulent Transfer Act ("CUFTA").

8. However, on October 10, 2024, the Court struck the Amended Complaint in Intervention and Third-Party Complaint on the basis that the Intervenor were not allowed to amend their Complaint or to assert any claims against any new parties outside the scope of the Stipulated Discovery and Scheduling Order.

9. Intervenor have also moved to disqualify West 4<sup>th</sup> Holdings, LLC, as Receiver, asserting that West 4<sup>th</sup> Holdings should be removed from its role as Receiver because of its deep entanglement with both the Plaintiffs and the Defendants. This Court held an evidentiary hearing on disqualification but has not yet issued its ruling.

10. Notwithstanding their pending motion to disqualify the current Receiver, but in accordance with the Stipulated Discovery and Case Management Order, Intervenor timely submitted claims in the Claims Process to the Receiver.

11. Approximately 88 total claimants submitted nearly 100 total claims to the Receiver, with most of the claimants alleging overlapping secured interests in all or substantially all of the Defendants' property. It appears that all of these purported secured interests were granted after Intervenor's sale of their ownership of the Mary's Brands.

*Intervenors' Objection to Plaintiffs' Claims*

12. Plaintiffs filed an omnibus objection that asserts Plaintiffs and High Street Capital Partners have a superior priority to all other claimants, secured or unsecured.

13. Intervenors join in all of Plaintiffs' objections, except the objections to Intervenors' claims.

14. Intervenors object to each of Plaintiffs' submitted claims on the basis that their secured interests are subject to being set aside as fraudulent transfers under CUFTA at the hearing to be held by this Court commencing January 27, 2025.

*Effect of Receiver's Objections*

15. Receiver filed objections to multiple claimants who alleged secured and unsecured interests in the Defendants.

16. Intervenors note that Receiver's objections appear to be intended to further the interests of the Plaintiffs by filing only objections that would have the effect of allowing certain Plaintiffs to maintain their purported superior priority over all other claimants. Intervenors assert that the nature and scope of the objections Receiver has chosen to make indicate that Receiver is not acting impartially in the claims process.

17. Intervenors nonetheless join in all of Receivers' objections, except the objections to Intervenors' claims.

*Intervenors' Objection to Receiver's Premature Determination of the Defendants' Assets and Claimants' Interests*

18. Within Receivers' objections to the secured claims, Receiver repeatedly states that they are approved as unsecured against BellRock. See, e.g., as illustrative examples, Receiver's Amended Objection to Claim of Holly Keller, ¶ 46, and Receiver's Objection to Claim of San Marco EPC Fund, LLC, ¶ 43 (both stating "The Receiver has no objection to the remainder of the

Proof of Claim (i.e., principal and interest), and approves the remainder as made against Bellrock.”).

19. Pursuant to the Stipulated Discovery and Case Management Order, as well as the Receiver’s representations to the Court, the Receiver cannot approve any claims, whether secured or unsecured, until after this Court holds its hearing and issues its determination on the Intervenor’s claims.

20. The Receiver cannot determine which property and assets belong to the Defendants until after a ruling on the Intervenor’s claims. Intervenor’s claims of duress and of void contract affect the composition of the entire receivership estate. Intervenor’s assert that the sale of their ownership interests, including the intellectual property of the Mary’s Brands, is void or voidable as a result of duress and/or the illusory nature of the terms of the agreements that Intervenor were forced to enter into. *See Vail/Arrowhead, Inc. v. Dist. Court for the Fifth Judicial Dist., Eagle Cnty.*, 954 P.2d 608, 612 (Colo. 1998) (“A contract is voidable on the grounds of duress if a party’s manifestation of assent is induced by an improper threat that leaves no reasonable alternative.”).

21. Additionally, the Receiver cannot make a determination of the secured or unsecured status or priority of Plaintiffs’ claims until after the Court’s determination of Intervenor’s CUFTA claim against the Plaintiffs.

*Intervenor’s Objections to All Other Purported Secured Claims Must be Determined Through Evidentiary Hearings*

22. Intervenor also object to all secured claims asserted by all other claimants based on fraudulent transfer of their respective security interests in violation of CUFTA.

23. Each of the purported secured creditors entered into their respective security agreements with either actual knowledge or constructive knowledge of the terms of Intervenor’s respective Notes and Agreements with the Defendant Companies.

24. Each of the purported secured creditors took their security interests knowing that Defendant Companies were in default of the Honderd and Gallup Notes and Agreements.

25. Defendants transferred security interests in favor of each of the purported secured creditors at various times after the Intervenors' Notes and Agreements, thereby encumbering the Defendant Companies and all of their assets and intellectual property.

26. Intervenors at all relevant times were creditors of the Defendant Companies as defined by C.R.S. § 38-8-102(5).

27. Defendant Companies were insolvent or became insolvent at the time of the execution of each of these security interests, as defined by C.R.S. § 38-8-103.

28. Most or all of the secured interests were granted to affiliates or insiders of the Defendants.

29. Defendants transferred these security interests and encumbered the Defendant Companies with the actual intent to hinder, delay, and defraud Intervenors.

30. Defendants encumbered the Defendant Companies without receiving reasonably equivalent value for the security interest transferred.

31. At the time of the transfer of the security interests, the Defendants knew that the Gallup Note and the Honderd Note were in default and fully due and payable. At that time, Defendants also knew they could not enforce the subordination provisions of the Honderd and Gallup Notes and they had no right to take on purportedly senior secured debt.

32. Because Intervenors were the founders of Mary's Brands and the source of all its assets and intellectual property, these creditors also knew that the collateral underlying the security interest in Defendant Companies was at risk due to the material breach of the Notes.

33. Each of the purported secured creditors' secured interests constitutes a fraudulent transfer and should be set aside and avoided per C.R.S. Section 38-8-108(1)(a).

34. Pursuant to the Order Granting Receiver's Motion to Establish Claims Administration Procedure and to Set Claims Bar Date, upon filing of an objection by any party in interest to the validity, extent, security, or priority of any claim, the Court must "hold a short evidentiary hearing to rule on all Objections" and make a determination as to each and every purported secured creditor as to whether its secured interest is subject to being set aside as a fraudulent transfer.

35. Intervenors therefore request evidentiary hearings on the validity, extent, security, and priority of all other alleged secured claimants.

36. Intervenors expressly retain their rights, including but not limited to their right to separately pursue litigation against insiders and purported creditors against whom Intervenors may have claims.

Dated this 11th day of November, 2024.

FOSTER GRAHAM MILSTEIN &  
CALISHER, LLP

By: /s/ Julie M. Behrman  
John A. Chanin, Reg. No. 20749  
Katherine A. Roush, Reg. No. 39267  
Julie M. Behrman, Reg. No. 37825  
*Attorneys For Intervenor Trevor Gallup*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on November 11, 2024, a true and correct copy of the foregoing **INTERVENORS' OMNIBUS OBJECTION TO ALL OTHER CLAIMS** was served via the *Colorado Courts E-filing System* upon all parties/counsel of record.

/s/ Julie M. Behrman  
Julie M. Behrman

|   |  |
|---|--|
| <p>DISTRICT COURT, CITY AND COUNTY OF DENVER,<br/>STATE OF COLORADO<br/>1437 Bannock Street<br/>Denver, Colorado 80202</p>  |  |
| <p><b>Plaintiffs:</b><br/>ROSS BERMAN, JASON H. KARP, IMJ I LLC, a Delaware limited liability company, RACHEL FARBER REVOCABLE TRUST, STEPHEN FARBER REVOCABLE TRUST, AND RED CLOUD CAPITAL, LLC, a Connecticut limited liability company,</p> <p>v.</p> <p><b>Defendants:</b><br/>BELLROCK BRANDS INC., a British Columbia corporation, BRB DB HOLDINGS, INC., a Delaware corporation, BRB MARY’S HOLDINGS CORP., a Delaware corporation, DIXIE BRANDS (USA) INC., a Delaware corporation, MARY’S OPERATIONS, LLC, a Colorado limited liability company, MARY’S PETS, LLC, a Colorado limited liability company, MARY’S NUTRITIONALS, LLC, a Colorado limited liability company, DB FINANCE NEVADA, LLC, a Nevada limited liability company, and DB OKLAHOMA, LLC, a Colorado limited liability company.</p> | <p style="text-align: center;">▲ COURT USE ONLY ▲</p>              |
| <p>Attorneys for Receiver-Manager: West 4th Holdings, LLC:<br/>Jordan Factor, #38126<br/>Bailey C. Pompea, #48597<br/>Jackson K. Gardner, #49013<br/>ALLEN VELLONE WOLF HELFRICH &amp; FACTOR P.C.<br/>1600 Stout St., Suite 1900<br/>Denver, Colorado 80202<br/>Phone Number: (303) 534-4499<br/>E-mail: jfactor@allen-vellone.com<br/>E-mail: bpompea@allen-vellone.com<br/>E-mail: jgardner@allen-vellone.com</p>  | <p>Case Number:<br/>2024CV30763</p> <p>Division/Courtroom: 466</p> |
| <p><b>SECURED CREDITOR JAMES A. HARVEY’S OBJECTION TO<br/>RED CLOUD CAPITAL, LLC’S PROOF OF CLAIM</b></p>   |  |

Secured Creditor, James A. Harvey, by and through undersigned counsel, hereby submits his Objection to the Claim of Red Cloud Capital, LLC, submitted to the Receiver in the above matter, and in support thereof, states as follows:

1. James A. Harvey objects to the Claim 51 submitted by Red Cloud Capital, LLC to the extent the interest rate claimed is not a commercially reasonable rate.

2. James A. Harvey reserves the right to object to the entitlement or reasonableness of any attorneys fees included as a part of the Claim, the amount of the claim as overstated, as well as raise further objections as additional information becomes available, including as to the priority of distribution among secured creditors and including adopting those objections which may be asserted by the Receiver or other creditors, hereby incorporated by reference.

WHEREFORE, secured creditor James A. Harvey requests entry of a court order sustaining its objections to the Red Cloud Capital, LLC's Proof of Claim No. 51 and for such further relief as the Court deems appropriate.

DATED this 11<sup>th</sup> day of November 2024.

Respectfully Submitted,

CASSIDY LAW, PLC

By: /s/ Meghan W. Cassidy

Attorney for James A. Harvey  
3910 Telegraph Road, Ste. 200  
Bloomfield Hills, MI 48302  
(248) 387-9180

[MWC@Mcassidylaw.com](mailto:MWC@Mcassidylaw.com)