

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

-----X
In re: : Chapter 11
: :
BNA SUBSIDIARIES, LLC¹, : Case No. 10-13087 (BLS)
: :
: :
Debtor. : **Hearing Date: November 4, 2010 at 12:30 p.m.**
: **Objection Deadline: October 28, 2010 at 4:00 p.m.**
-----X

**MOTION OF THE DEBTOR FOR AN ORDER PURSUANT TO
SECTIONS 501, 502 AND 1111(a) 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 debtor and debtor-in-possession in the above-captioned case (the “Debtor”) hereby moves (the “Motion”) for entry of an order, pursuant to sections 501, 502 and 1111(a) of title 11 of the United States Code (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 of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”): (i) establishing deadlines for filing proofs of claim against the Debtor for claims that arose prior to September 23, 2010; and (ii) approving the forms and manner of noticing thereof. In support of the Motion, the Debtor respectfully represents:

Jurisdiction

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of this case and this Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

¹ The last four digits of the Debtor's federal tax identification number are 5412.

2. The statutory predicates for the relief requested herein are Bankruptcy Code sections 501, 502 and 1111(a). Such relief is also warranted pursuant to Bankruptcy Rules 2002 and 3003(c)(3) and Local Rule 2002-1(e).

Background

3. On September 23, 2010 (the "Petition Date"), the Debtor filed a voluntary petition in the United States Bankruptcy Court for the District of Delaware (the "Court") for relief under Chapter 11 of the Bankruptcy Code. The factual background regarding the Debtor, including its business operations, its capital and debt structure, and the events leading to the filing of this bankruptcy case, is set forth in detail in the Declaration of Bradford Smith, Chief Operating Officer of BNA Subsidiaries, LLC, in Support of Chapter 11 Petition and First Day Pleadings (the "Smith Declaration") filed on the Petition Date and fully incorporated herein by reference.²

4. The Debtor continues to manage and operate its business as a debtor-in-possession pursuant to Bankruptcy Code sections 1107 and 1108.

5. No trustee or examiner has been appointed in this Chapter 11 case, and no committees have yet been appointed or designated.

Relief Requested

6. The Debtor commenced this Chapter 11 case to obtain access to additional financing to fund its go forward operations and, with that much needed funding, utilize the benefits of the automatic stay and other Bankruptcy Code protections to assess creditor claims and explore any and all restructuring alternatives in an orderly fashion. The Debtor intends to file a plan of reorganization and related disclosure statement within a few weeks.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Smith Declaration.

7. Toward that end, the Debtor seeks to establish a bar date for filing claims against the Debtor that arose prior to the Petition Date so that the Debtor can adequately assess its prepetition liabilities and formulate a plan of reorganization. Accordingly, the Debtor seeks entry of an order, substantially in the form attached hereto as Exhibit A (the “Bar Date Order”), establishing deadlines for filing proofs of claim in this Chapter 11 case and approving the form and manner of notice thereof, as follows:

- a. except as otherwise provided herein, the Debtor proposes to establish **December 13, 2010 at 5:00 p.m.** (prevailing Eastern Time) (the “General Bar Date”), as the deadline for all persons and entities (excluding governmental units), holding a claim against the Debtor, to file a Proof of Claim (as defined below) in this Chapter 11 case;
- b. except as otherwise provided herein, the Debtor proposes to establish **March 23, 2010 at 5:00 p.m.** (prevailing Eastern Time) (the “Governmental Unit Bar Date”), as the deadline for each governmental unit (as defined in section 101(27) of the Bankruptcy Code), holding a claim against the Debtor, to file a Proof of Claim in this Chapter 11 case (a “Governmental Unit Claim”);
- c. the Debtor proposes to establish the later of (i) the General Bar Date or (ii) 21 days after the holder of a claim is served with notice of the applicable amendment or supplement to the Schedules as the bar date (the “Amended Schedule Bar Date”) for filing a Proof of Claim with respect to such amended claim; and
- d. except as otherwise set forth in any order authorizing rejection of an executory contract or unexpired lease, the Debtor proposes to establish the later of (i) the General Bar Date or (ii) 21 days after entry of any order authorizing the rejection of an executory contract or unexpired lease, as the bar date (the “Rejection Bar Date” and together with the aforementioned bar dates, the “Bar Dates”) by which a Proof of Claim relating to the Debtor’s rejection of such contract or lease must be filed.

Establishment of the Bar Dates

8. The Debtor submits that the notice period provided by the Bar Dates is more than sufficient to comply with the Bankruptcy Rules in light of the proposed notice procedures provided herein. Bankruptcy Rule 3003(c)(3) generally governs the filing of proofs

of claim in a Chapter 11 case and provides in relevant part: “[t]he court shall fix and for cause shown may extend the time within which proofs of claim or interest may be filed.” Fed. R. Bankr. P. 3003(c)(3). Although Bankruptcy Rule 2002(a)(7) generally provides that all parties-in-interest must receive, at a minimum, 21 days’ notice of the time fixed for filing proofs of claim pursuant to Bankruptcy Rule 3003(c), neither the Bankruptcy Code, the Bankruptcy Rules, nor the Local Rules specify a time by which proofs of claim must be filed in a Chapter 11 case, other than section 502(b)(9) of the Bankruptcy Code, which provides that governmental units shall have a minimum of 180 days after the entry of the order for relief to file proofs of claim.

9. Here, the Debtor proposes to give all known or reasonably ascertainable creditors and potential creditors more than 30 days’ notice of the General Bar Date. Moreover, while the Debtor has not yet filed its Schedules (defined below), the Debtor intends to do so on or before October 22, 2010. Potential creditors will, therefore, have ample time to review the Schedules and their own records and file a proof of claim if necessary.

10. The Debtor’s goal is to complete its restructuring and emerge from Chapter 11 as soon as possible. To facilitate this goal and develop a comprehensive, viable plan of reorganization, the Debtor will require complete and accurate information regarding the nature, validity, amount, and status of all claims against the Debtor that will be asserted in this Chapter 11 case. The Debtor seeks to establish the Bar Dates to determine what claims will be asserted against the Debtor in addition to those listed in the Schedules. For these reasons, the Bar Dates and the form and manner of notice proposed in this Motion are appropriate and should be approved.

11. General Bar Date. The Debtor requests that the Court establish **December 13, 2010 at 5:00 p.m.** (prevailing Eastern Time) as the General Bar Date. On or before

November 12, 2010 (the “General Service Date”), the Debtor will provide notice of the General Bar Date, substantially in the form attached hereto as Exhibit C (the “Bar Date Notice”), as follows:

- a. all parties listed on the Debtor’s Schedules will be mailed a copy of the Bar Date Notice, together with a Proof of Claim form,³ by first-class U.S. mail;
- b. all parties listed on the Debtor’s creditors’ matrix filed on the Petition Date or thereafter provided to Logan (as hereinafter defined) by the General Service Date that are not listed on the Debtor’s Schedules will be mailed a copy of the Bar Date Notice by first-class U.S. mail;
- c. all customers who purchased pre-paid subscriptions for the Debtor’s various daily, weekly and monthly print and electronic periodicals during the period from September 2007 to the Petition Date will be mailed a copy of the Bar Date Notice by first-class U.S. mail;
- d. all customers listed in the Debtor’s customer database that covers the period from 1994 to the present (the “Database”) for which the Debtor has a facsimile number whose order was not at any time canceled because the order was undeliverable by mail will be mailed a copy of the Bar Date Notice by first-class U.S. mail; and
- e. all customers listed in the Database whose order was canceled because the order was returned as undeliverable by mail but for which customers the

³ The Proof of Claim form is substantially in the form of Official Bankruptcy Form B10 but has been modified, and may be further modified in certain limited respects, to accommodate the claims process in this Chapter 11 case.

Debtor has a facsimile transmission number will only be sent a copy of the Bar Date Notice by blast fax.⁴

The requested General Bar Date will ensure that potential creditors receive no fewer than 30 days' notice after the General Service Date for creditors to file proofs of claim in this Chapter 11 case.

12. The General Bar Date would be the date by which all persons and entities (excluding claims held by governmental units as such term is defined in section 101(27) of the Bankruptcy Code) holding prepetition claims must file Proofs of Claim. The General Bar Date would apply to all persons or entities holding claims against the Debtor that arose or are deemed to have arisen prior to the Petition Date, including secured claims, unsecured priority claims (including, without limitation, claims entitled to priority under section 507(a)(4), (5), and (8)), unsecured non-priority claims and claims that might be entitled to administrative expense treatment under section 503(b), including section 503(b)(9).

13. Governmental Unit 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. . . .” 11 U.S.C. § 502(b)(9). Accordingly, the Debtor also requests that the Court establish **March 23, 2011, at 5:00 p.m.** (prevailing Eastern Time) as the Governmental Unit Bar Date. The Debtor intends to provide notice of the Governmental Unit Bar Date, substantially in

⁴ As more fully set forth in the Smith Declaration, class action litigation seeking a recovery of over \$15 million for claims allegedly arising from the transmission of marketing facsimiles by the Debtor in violation of the Telephone Consumer Protection Act was filed against the Debtor in November 2009 (the “Litigation”). As of the Petition Date, class certification in the Litigation had not occurred. The Debtor reviewed its Database and identified all customers from 1994 to the present for which the Debtor had a fax number that could have been sent a marketing facsimile. The Debtor disputes its liability in the Litigation and believes that the recipients of the marketing facsimiles do not hold claims, and thus, are at best, unknown creditors.

the form of the Bar Date Notice, by mailing a copy of the Bar Date Notice, together with a Proof of Claim form, by first-class U.S. mail to all known entities holding potential Governmental Unit Claims in this Chapter 11 case on or before the General Service Date.

14. Amended Schedule Bar Date. The Debtor proposes that it retain the right to (a) dispute, or assert offsets or defenses against, any filed claim or any claims listed or reflected in the Schedules as to nature, amount, liability, characterization or otherwise; (b) subsequently designate any claim as disputed, contingent or unliquidated; or (c) otherwise amend or supplement the Schedules. If the Debtor amends or supplements its Schedules after the General Service Date (i) to reduce the undisputed, noncontingent and liquidated amount of a claim, (ii) to change the nature or characterization of a claim, or (iii) to add a new claim to the Schedules, the Debtor proposes that the affected claimant's bar date to file a Proof of Claim or amend any previously filed Proof of Claim with respect to the amended scheduled claim be on or prior to the Amended Schedule Bar Date. Notwithstanding the foregoing, nothing contained herein shall preclude the Debtor from objecting to any claim, whether scheduled or filed, on any grounds.

15. Rejection Bar Date. The Debtor anticipates that certain persons or entities may assert claims ("Rejection Damages Claims") in connection with the Debtor's rejection of executory contracts or unexpired leases pursuant to section 365 of the Bankruptcy Code. The Debtor also proposes that the Court establish the Rejection Bar Date as the deadline for filing Proofs of Claim for any Rejection Damages Claims.

Parties Required to File Proofs of Claim

16. The proposed Bar Date Order provides that each person or entity (including, without limitation, each individual, partnership, joint venture, limited liability company, corporation, estate, trust or governmental unit) asserting a claim against the Debtor is

required to file a separate proof of claim in this Chapter 11 case. Each proof of claim must substantially comply with Official Bankruptcy Form 10, attached hereto as Exhibit B (a “Proof of Claim”), and must be actually received on or before the bar date associated with such claim by Logan & Company, LLC (“Logan”), the Court-approved claims and noticing agent in this Chapter 11 case. The proposed Bar Date Order also provides that (i) a Proof of Claim must be filed by the holder of the claim (the “Creditor”), an indenture trustee or an authorized representative of the Creditor; (ii) any Proof of Claim submitted by an authorized representative of the Creditor must state the basis for such authorization; and (iii) any person seeking to file a Proof of Claim on behalf of a Creditor without express written authorization must seek authorization from the Court prior to the applicable Bar Date.

17. Proofs of Claim mailed to Logan must be addressed to BNA Subsidiaries Claims Docketing Dept., c/o Logan & Company, LLC, 546 Valley Road, Upper Montclair, New Jersey 07043. **Proofs of Claim will be deemed timely filed only if actually received by Logan or the Court on or before the applicable Bar Date.**

Parties Not Required to File Proofs of Claim

18. The Debtor proposes that the following persons or entities not be required to file Proofs of Claim:
- a. any person or entity that has already properly filed a Proof of Claim against the Debtor with either Logan or the Clerk of the Court;
 - b. any person or entity (i) whose claim is listed in the Debtor’s schedules of assets and liabilities (collectively, 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 characterization of its claim as set forth in the Schedules;
 - c. professionals retained by the Debtor or any statutory committee appointed in this Chapter 11 case, pursuant to orders of this Court, who assert administrative claims for fees and expenses subject to the Court’s approval pursuant to sections 330, 331 and 503(b) of the Bankruptcy Code;

- d. current officers and directors⁵ of the Debtor who assert claims for indemnification and/or contribution arising as a result of such officers' or directors' prepetition or postpetition services to the Debtor;
- e. any wholly-owned non-debtor subsidiary or affiliate of the Debtor asserting a claim against the Debtor; and
- f. any person or entity whose claim against the Debtor has been allowed by an order of the Court entered on or before the Bar Dates, as applicable.

No Requirement to File Proofs of Interest

19. Any entity holding any interest in the Debtor (an "Interest Holder"), which interest is based solely upon the ownership of a membership interest of the Debtor (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 Debtor 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 an Interest, must file Proofs of Claim on or before the General Bar Date, unless another of the exceptions enumerated in the preceding paragraph applies.

Effect of Failure to File Proofs of Claim

20. The Debtor proposes that, pursuant to Bankruptcy Rule 3003(c)(2), any person or entity required to file a timely Proof of Claim in the form and manner specified in the Bar Date Order who fails to do so on or before the bar date associated with such claim or request: (i) be forever barred, estopped, and enjoined from asserting such claim against the Debtor or thereafter filing a Proof of Claim with respect thereto in this Chapter 11 case; (ii) with respect to such claim, not be treated as a creditor of the Debtor for the purpose of voting upon any plan of reorganization in this case; (iii) not receive or be entitled to receive any payment or

⁵ Current officers and directors shall include the officers and directors of the Debtor as of the date of the Bar Date Order.

distribution of property from the Debtor or its successors or assigns with respect to such claim; and (iv) not be entitled to receive any additional notices filed by the Debtor in this Chapter 11 case.

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

21. On or before the General Service Date, the Debtor intends to provide notice of the applicable Bar Dates by first-class mail or blast fax as outlined in paragraphs 11 and 13 above. The mailing or blast faxing, as applicable, of the Bar Date Notice on or before the General Service Date will ensure that creditors receive no less than 30 days' notice of the applicable Bar Dates as provided by Bankruptcy Rule 2002(a)(7).

22. The Debtor proposes to send the Proof of Claim form to persons or entities listed on the Debtor's Schedules. The Proof of Claim form will be customized to specify (a) the amount of the scheduled claim, if any; (b) whether the claim is listed as disputed, contingent, or unliquidated; and (c) whether the claim is listed as a secured, unsecured priority or unsecured non-priority claim.⁶

23. Furthermore, the Debtor intends to publish a notice in a form substantially similar to the Bar Date Notice to provide notice of the Bar Dates to unknown creditors. Such notice will be published at least once no later than 21 days prior to the General Bar Date in the national edition of the Wall Street Journal and The New York Times. In the Debtor's judgment, this publication is likely to reach the widest possible audience of creditors who may not otherwise have notice of this Chapter 11 case.

⁶ To the extent a creditor disagrees with the information on the customized Proof of Claim form, the creditor should file a Proof of Claim to assert the amount and classification believed to be correct.

24. The Bar Date Notice and the publication notice will: (i) set forth the applicable Bar Dates; (ii) advise creditors under what circumstances they must file a Proof of Claim under Bankruptcy Rules 3002(c)(2) and 3003(c)(3) or an order of this Court, as applicable; (iii) alert creditors to the consequences of failing to file a timely Proof of Claim as set forth in Bankruptcy Rule 3003(c)(2) or an order of this Court, as applicable; (iv) set forth the addresses to which Proofs of Claim must be sent for filing; and (v) notify creditors that (a) Proofs of Claim must be filed with original signatures and (b) facsimile or e-mail filings of Proofs of Claim will not be acceptable and will not be valid for any purpose. The Debtor submits that the Bar Date Notice and the publication notice will provide creditors with sufficient information to file properly prepared and executed Proofs of Claim in a timely manner.

25. Due to the confidential nature of the names and contact information of the Debtor's customers, the Debtor seeks authority for Logan or the Debtor, as applicable, to file an affidavit of service for the Bar Date Notice that with respect to the customers described in subsections (c) to (e) of paragraph 11 above only contains the names of those customers without any contact information.

Legal Basis for the Debtor's Notice Procedures

26. In conjunction with the setting of the applicable Bar Dates, the Debtor must ensure that interested parties receive appropriate notice of such dates. To determine the adequacy of notice given to a creditor, bankruptcy law distinguishes between "known" and "unknown" creditors. See Chemetron Corp. v. Jones (In re Chemetron Corp.), 72 F.3d 341, 345 (3d Cir. 1995). As the Third Circuit in Chemetron explained, "[k]nown creditors must be provided with actual written notice of a debtor's bankruptcy filing and bar claims date. For unknown claimants, notification by publication will generally suffice." Id. at 346 (citations omitted). A "known" creditor is one whose identity is either known or is "reasonably

ascertainable by the debtor.” Id. (citing Tulsa Professional Collection Serv., Inc. v. Pope, 485 U.S. 478, 490 (1988)). An “unknown” creditor is one whose “interests are either conjectural or future or, although they could be discovered upon investigation, do not in due course of business come to [the] knowledge [of the debtor].” Chemetron, 71 F.3d at 346 ((citing Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 317 (1950)).

27. In defining the efforts required to identify “known” creditors, the Third Circuit stated:

Precedent demonstrates that what is required is not a vast, open-ended investigation The requisite search instead focuses on the debtor’s own books and records. Efforts beyond a careful examination of these documents are generally not required. Only those claimants who are identifiable through a diligent search are ‘reasonably ascertainable’ and hence ‘known’ creditors.

Chemetron, 72 F.3d at 346-47 (citations omitted). As for the particular efforts a debtor must exert to identify known creditors, “[w]hether a creditor received adequate notice of a bar date ‘depends upon the facts and circumstances of a given case.’” In re Grand Union Co., 204 B.R. 864, 871 (Bankr. D. Del. 1997) (citing Oppenheim, Appel, Dixon & Co. v. Bullock (In re Robintech, Inc.), 863 F.2d 393, 396 (5th Cir. 1989), cert. denied, 493 U.S. 811 (1989)).

28. The Debtor submits that the proposed notice procedures more than satisfy the Chemetron standard. The Debtor has identified all entities that are known to the Debtor to hold claims against the Debtor as reflected on its Schedules and will notify those creditors directly of the applicable Bar Dates. In addition, the Debtor has identified and will notify the following potential creditors directly of the applicable Bar Dates: (i) all parties listed on the Debtor’s creditors’ matrix filed on the Petition Date or thereafter provided to Logan by the General Service Date that are not listed on the Debtor’s Schedules; (ii) customers who purchased pre-paid subscriptions for the Debtor’s various daily, weekly and monthly print and electronic

periodicals during the period from September 2007 to the Petition Date; (iii) all customers listed in the Debtor's Database for which the Debtor has a facsimile number whose order was not at any time canceled because it was undeliverable by mail and; (iv) all customers listed in the Database for which the Debtor has a facsimile number whose order was canceled because the order was returned as undeliverable by mail. As a result, the Debtor has identified those entities that could be potential holders of claims relating to the Litigation or otherwise and will notice those potential holders of claims directly of the applicable Bar Dates.

29. The Debtor's publication notice of the Bar Dates has been tailored to provide notice of such Bar Dates on an extensive basis throughout the United States. The Debtor is providing actual notice of the applicable Bar Dates to its "known" creditors as set forth in paragraph 11 above. The Debtor submits that all other creditors qualify as "unknown" creditors for which publication notice constitutes good and sufficient notice as defined by the Third Circuit in Chemetron.

30. Courts in this district have held that publication in one or more of the national editions of the Wall Street Journal or The New York Times constitutes adequate notice to unknown creditors. See, e.g., In re Netversant Solutions, Inc., Case No. 08-12973 (PJW) (Bankr. D. Del. Feb. 20, 2009); In re Solution Technology Int'l, Inc., Case No. 08-12640 (MFW) (Bankr. D. Del. Jan. 5, 2009); In re Landsource Communities Dev. LLC, Case No. 08-11111 (KJC) (Bankr. D. Del. Sept. 9, 2008); In re Tropicana Entm't, LLC, Case No. 08-10856 (KJC) (Bankr. D. Del. July 10, 2008).

31. Notice of the filing of this Motion has been provided to: (i) the Office of the United States Trustee; (ii) the United States Securities and Exchange Commission; (iii) the Office of the United States Attorney for the District of Delaware; (iv) the Internal Revenue

Service; (v) those entities or individuals included on the Debtors' list of largest unsecured creditors; (vi) counsel to the Bureau of National Affairs, Inc.; and (vii) all parties having requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Debtor submits that no other or further notice is necessary.

No Prior Request

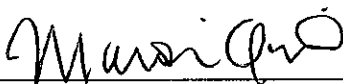
32. No prior request for the relief sought in this Motion has been made to this or any other Court.

[Remainder of page intentionally left blank.]

WHEREFORE, the Debtor respectfully requests that the Court enter an order, substantially in the form attached hereto as Exhibit A, (i) establishing the applicable Bar Dates as deadlines for filing Proofs of Claim against the Debtor, (ii) approving the form and manner of notice of the Bar Date Notice, and (iii) granting such other and further relief as the Court deems just and proper.

Dated: October 18, 2010
Wilmington, Delaware

COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.

By: 
Norman L. Pernick (No. 2290)
Marion M. Quirk (No. 4136)
Karen M. Grivner (No. 4372)
500 Delaware Avenue
Suite 1410
Wilmington, DE 19801
Tel: (302) 652-3131
Fax: (302) 652-3117

Proposed Counsel for the Debtor
and Debtor-in-Possession