

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

<p>In re:</p> <p>RCS CAPITAL CORPORATION, <u>et al.</u>,</p> <p style="text-align: right;">Reorganized Debtors.<sup>1</sup></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Chapter 11</p> <p>Case No. 16–10223 (MFW)</p> <p>Jointly Administered</p> <p>Hearing Date: March 7, 2017 at 10:30 a.m. (ET)</p> <p>Objection Deadline: February 28, 2017 at 4:00 p.m. (ET)</p>
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**CREDITOR TRUST’S MOTION FOR ORDER ESTABLISHING THE  
DISPUTED CLAIMS RESERVE IN CONNECTION WITH THE FOURTH  
AMENDED JOINT PLAN OF REORGANIZATION FOR  
RCS CAPITAL CORPORATION AND ITS AFFILIATED DEBTORS  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

The Creditor Trust (as defined below), by and through its undersigned counsel, hereby submits this motion (the “Motion”) for entry of an order in substantially the form annexed hereto as Exhibit 1 (the “Proposed Order”) pursuant to sections 105(a), 502(c) and 1142(b) of title 11 of the United States Code, as amended (the “Bankruptcy Code”), and Rule 3021 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), establishing a disputed claims reserve (the “Disputed Claims Reserve”) for disputed claims in Class 5 (collectively, the “Disputed General Unsecured Claims”) of the *Fourth Amended Joint Plan of Reorganization for RCS Capital Corporation and Its Affiliated Debtors Under Chapter 11 of the Bankruptcy Code*, dated May 10, 2016 [Docket No. 745] (the “Plan”).<sup>2</sup> In support of this Motion, the Creditor Trust relies upon and incorporates by reference the Declaration of Alan M. Jacobs, as administrator of the Creditor Trust

<sup>1</sup> The “Reorganized Debtors” in these chapter 11 cases, along with the last four digits of their respective federal tax identification numbers, are: RCS Capital Corporation n/k/a Aretec Group, Inc. (4716); American National Stock Transfer, LLC (3206); Braves Acquisition, LLC (6437); DirectVest, LLC (9461); J.P. Turner & Company Capital Management, LLC (7535); RCS Advisory Services, LLC (4319); RCS Capital Holdings, LLC (9238); Realty Capital Securities, LLC (0821); SBSI Insurance Agency of Texas, Inc. (9203); SK Research, LLC (4613); Trupoly, LLC (5836); We R Crowdfunding, LLC (9785). The Reorganized Debtors’ corporate headquarters and mailing address is located at 200 North Sepulveda Blvd., Suite 1200, El Segundo, CA 90245 Attn: Legal Department.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meaning set forth in the Plan.

(the “Trust Administrator”), a copy of which is annexed hereto as Exhibit 2 (the “Jacobs Declaration”), and represents as follows:

**PRELIMINARY STATEMENT**

1. Under the Plan, holders of Allowed General Unsecured Claims will receive Units in the Creditor Trust, which will entitle the holders thereof to distributions of the Creditor Trust Assets, depending on the Debtor entity against which their claims are asserted. By this Motion, the Creditor Trust seeks to establish the Disputed Claims Reserve for Series A-1 Class A Units based on an estimate of Disputed General Unsecured Claims against RCS (as defined herein) in the amount of \$75 million, so that it can make distributions to holders of Allowed General Unsecured Claims asserted against RCS.<sup>3</sup>

2. The establishment of a Disputed Claims Reserve was expressly contemplated by the Plan to address the General Unsecured Claims that were disputed as of the Effective Date, and remain disputed today. In accordance with the Plan, the Disputed Claims Reserve will hold Series A-1 Class A Units in reserve for Disputed General Unsecured Claims against RCS, thereby allowing the Creditor Trust to make distributions to holders of General Unsecured Claims that were Allowed on or after the Effective Date without requiring such holders to wait until all Disputed General Unsecured Claims are resolved to receive distributions.

3. For the reasons discussed herein, the Creditor Trust believes that the requested reserve amount is conservative and will ensure that holders of Disputed General Unsecured Claims will receive the treatment under the Plan to which they are entitled if and when their claims are Allowed. The Creditor Trust believes that the actual Allowed amounts of the Disputed General Unsecured Claims will be far lower than the amount being reserved.

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<sup>3</sup> As discussed in further detail below, the Creditor Trust is only seeking to establish the Disputed Claims Reserve for Series A-1 Class A Units at this time.

4. For the avoidance of doubt, the Court is not being asked to estimate any particular Disputed General Unsecured Claim pursuant to this Motion. Rather, the purpose of this Motion is to approve the estimate for the total amount of the Disputed Claims Reserve established for all Disputed General Unsecured Claims against RCS, thereby enabling the Creditor Trust to allocate Series A-1 Class A Units to the Disputed Claims Reserve, distribute Series A-1 Class A Units to holders of Allowed Claims against RCS, and make distributions on account of such Units as soon as practicable. Without the relief requested herein, the Creditor Trust's ability to effectuate timely distributions to holders of Allowed General Unsecured Claims against RCS could be delayed for an indefinite period of time. Accordingly, the Creditor Trust requests that the Court enter the Proposed Order establishing the Disputed Claims Reserve contemplated by the Plan.

#### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, and pursuant to the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated as of February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and this Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

6. The statutory and legal predicates for the relief requested herein are Bankruptcy Code sections 105(a), 502(c) and 1142(b) and Bankruptcy Rule 3021.

#### **BACKGROUND**

7. On January 31, 2016, the predecessors to the Reorganized Debtors (the "Debtors") each filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

8. Approximately 525 unsecured, secured, priority and administrative claims have been filed (the "Proofs of Claim") in these chapter 11 cases (the "Chapter 11 Cases") to date. Approximately 360 of these claims were, at least in part, unsecured.

9. On May 19, 2016, the Court entered an order confirming the Plan. The Plan became effective on May 23, 2016.

10. Section 5.17 of the Plan provides for the creation of a trust (the “Creditor Trust”) for the benefit of holders of Allowed General Unsecured Claims and Allowed Second Lien Deficiency Claims. The Plan also provides for the appointment of the Trust Administrator to supervise the operations of the Creditor Trust and, among other things, administer, dispute, object to, compromise, or otherwise resolve all General Unsecured Claims. *See* Plan §§ 5.17(f), 7.1.

11. According to section 7.2 of the Plan, any objections to claims must be filed on or before May 23, 2017, one year after the Effective Date. This deadline may be extended by order of the Bankruptcy Court.

#### **THE PLAN**

12. Under the Plan, certain of the Debtors’ assets, including (i) \$15 million in cash and warrants for 10% of the shares of Aretec Group, Inc. (collectively, the “Creditor Assets”), and (ii) certain causes of action related to matters that arose before the Effective Date, as discussed below and set forth more fully in the Plan (the “Litigation Assets,” and together with the Creditor Assets, the “Creditor Trust Assets”), will vest in the Creditor Trust. *See* Plan, §§ 5.17(d), 10.1. Following the Effective Date, the Creditor Trust was tasked with, among other things, (i) monetizing the Debtors’ non-cash assets through the investigation and pursuit of the Litigation Assets; (ii) reconciling all General Unsecured Claims, (iii) issuing units in the Creditor Trust (the “Units”) to holders of Allowed General Unsecured Claims (as well as the Disputed Claims Reserve) and Allowed Second Lien Deficiency Claims; and (iv) making periodic distributions to holders of Units, including Units held in the Disputed Claims Reserve. *See* Plan §§ 5.17(f), 7.1.

13. Pursuant to the Plan, the Class 5 General Unsecured Claims asserted against each Debtor were classified in separate sub-classes, with different series of Units to be issued to holders

of Allowed General Unsecured Claims based on the Debtor entity against which such claims were asserted.

14. Holders of Allowed General Unsecured Claims against RCS Capital Corporation (“RCS”) will receive Series A-1 Class A Units, which entitle such holders to their pro rata share of the Creditor Trust Assets transferred to the Creditor Trust by RCS. Holders of Series A-2 through A-12 Class A Units will receive their pro rata share of the Creditor Trust Assets transferred to the Creditor Trust by the applicable subsidiary Debtor (the “Subsidiary Debtor”) against which they hold Allowed General Unsecured Claims. This means only holders of Series A-1 Class A Units are entitled to receive any payment from the Creditor Assets—the \$15 million in cash and New Warrants. *See* Plan § 6.11(b). Such holders of Series A-1 Class A Units are also entitled to receive payment from the proceeds of any Litigation Assets transferred to the Creditor Trust by or on account of RCS. Holders of all other series of Class A Units will be entitled to receive only the proceeds of any Litigation Assets transferred to the Creditor Trust that were previously held by the applicable Subsidiary Debtor.

**A. Establishing Disputed Claims Reserve for Series A-1 Units Only**

15. The Plan contemplates that on or after the Effective Date, the Creditor Trust can establish a reserve for General Unsecured Claims that remain unresolved or unreconciled, to allow the Creditor Trust to make distributions on account of Class A Units issued to holders of Allowed General Unsecured Claims.

16. To date, while the Creditor Trust is actively investigating the Litigation Assets of each of the Debtors, the Creditor Trust has not received any proceeds of Litigation Assets contributed by any of the Subsidiary Debtors. The only distributable assets of the Creditor Trust at this time are the Creditor Assets and the proceeds of certain preference actions attributable to RCS, which are available only to holders of Series A-1 Class A Units. Thus, the Creditor Trust

currently seeks to establish a Disputed Claims Reserve solely for the Series A-1 Class A Units. The Creditor Trust reserves all rights to establish additional disputed claims reserves, as necessary, for Disputed General Unsecured Claims against Subsidiary Debtors once any Litigation Assets contributed by such Subsidiary Debtors are liquidated.

**B. Process for Establishing the Disputed Claims Reserve**

17. With respect to the establishment of the Disputed Claims Reserve, the Plan provides, among other things, as follows:

*Establishment of the CT Disputed Claims Reserve.* On or as soon as practicable after the Effective Date, the Creditor Trust Administrator shall establish the CT Disputed Claims Reserve in accordance with the Creditor Trust Agreement. The Creditor Trust Administrator shall set aside and reserve in the CT Disputed Claims Reserve, (1) for the benefit of each holder of a Disputed General Unsecured Claim against Holdings,<sup>4</sup> the number of Series A-1 Class A Units, together with an amount of Creditor Trust Assets corresponding thereto, equal to the Distribution from the Creditor Trust to which the holder of such Disputed General Unsecured Claim against Holdings would be entitled if such Disputed General Unsecured Claim were an Allowed General Unsecured Claim against Holdings . . . in an amount equal to (i) the amount of such Claim as estimated by the Bankruptcy Court pursuant to an Estimation Order, (ii) an amount mutually agreed between the Creditor Trust Administrator and the holder of such Disputed General Unsecured Claim, or (iii) if no agreement has been reached and no Estimation Order has been entered with respect to such Disputed Claim, the greater of (a) the amount listed in the Schedules and (b) the amount set forth in a proof of claim or application for payment filed with the Bankruptcy Court, or pursuant to an order of the Bankruptcy Court entered in the Chapter 11 Cases, in each case with respect to such Disputed General Unsecured Claim.

See Plan § 6.11(a).

18. In accordance with the Plan, the Disputed Claims Reserve will hold the Series A-1 Class A Units in reserve for future allocation to holders of Disputed General Unsecured Claims that are subsequently Allowed against RCS, and will also hold in reserve distributions made on those Units by the Creditor Trust. Series A-1 Class A Units, and a corresponding amount of the

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<sup>4</sup> The Plan defines “Holdings” as RCS Capital Corporation, which is defined as “RCS” herein.

distributions made on those Units, will be given to holders of Disputed General Unsecured Claims against RCS at the time, and to the extent, the claims are subsequently Allowed. *See* Plan § 6.11(f).

19. The amount of Series A-1 Class A Units to be reserved in the Disputed Claims Reserve for the Disputed General Unsecured Claims is based on a conservative estimate of Units that would be distributed on account of these claims were they to be Allowed in full in their estimated amounts. *See* Plan § 6.11(a).<sup>5</sup> As a consequence, the beneficiaries of the Creditor Trust should receive the same distributions irrespective of when their claims are Allowed, whether before, on, or after the Effective Date, depending on the Allowed amounts of their claims.

20. Disputed General Unsecured Claims against RCS that become Allowed will be satisfied exclusively out of the Disputed Claims Reserve in accordance with the Creditor Trust Agreement and in the order in which such Disputed General Unsecured Claims become Allowed. Once the Disputed Claims Reserve is established, no additional Series A-1 Class A Units will be added to the Disputed Claims Reserve. In the event that at any time the Series A-1 Class A Units and the related assets remaining in the Disputed Claims Reserve are insufficient to satisfy all the Disputed General Unsecured Claims that have become Allowed, such claims will be satisfied pro rata from the remaining Units and assets in the Disputed Claims Reserve, and no further distributions will thereafter be made in respect of Disputed General Unsecured Claims.

### **THE CLAIMS PROCESS**

21. On February 18, 2016 and March 11, 2016, the Debtors filed their respective schedules of assets and liabilities (collectively, the “Schedules”). The Schedules identified

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<sup>5</sup> Pursuant to the Creditor Trust Agreement, one Class A Unit will be issued for each \$100 of an Allowed General Unsecured Claim against RCS or any Subsidiary Debtor, as applicable.

approximately 358 potential unsecured claims against the Debtors' estates, approximately 108 of which were scheduled against RCS only.<sup>6</sup>

22. By an order entered on February 29, 2016 (the "Bar Date Order") [Docket No. 239], the Court established (i) March 31, 2016 as the general bar date for creditors to file Proofs of Claim asserting prepetition liabilities against the Debtors (the "General Bar Date") and (ii) July 29, 2016 as the deadline for governmental units to file Proofs of Claim asserting prepetition liabilities against the Debtors (the "Governmental Bar Date," together with the General Bar Date, the "Bar Dates").<sup>7</sup>

23. A notice of the Bar Dates (the "Bar Date Notice") [Docket No. 240] was served on all known creditors and potential creditors in accordance with the requirements of the Bar Date Order. The Bar Date Notice was published in the national edition of the *New York Times*, on March 7, 2016.

24. Subsequent to serving and publishing the Bar Date Notice, the Debtors received approximately 360 Proofs of Claim, which, if allowed, would be classified as Class 5 General Unsecured Claims.<sup>8</sup>

25. Among the pool of claims asserted against the Debtors, 202 claims were filed or scheduled as General Unsecured Claims against RCS. In addition, the Reorganized Debtors reclassified through claim objections certain claims asserted as administrative and/or priority claims to General Unsecured Claims, resulting in the addition of nine General Unsecured Claims,

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<sup>6</sup> Included among the scheduled unsecured claims were a number of claims classified as Convenience Class Claims, to be satisfied by the Reorganized Debtors, in accordance with the Plan.

<sup>7</sup> In response to an objection raised by the "ARC Parties" (as defined in Docket No. 145), the Court set a general bar date for such parties of April 30, 2016.

<sup>8</sup> This figure excludes claims which were automatically classified as Convenience Class Claims under the Plan or which claimants elected to be treated as Convenience Class Claims. After accounting for scheduled claims that were superseded by the filing of a Proof of Claim pursuant to Bankruptcy Rule 3003(c)(4), 165 claims remained scheduled as General Unsecured Claims against the Debtors' estates, in the aggregate.



leaving a total of 211 total General Unsecured Claims against RCS for the Creditor Trust to resolve. Since the Effective Date, the Creditor Trust, in consultation and cooperation with the Reorganized Debtors, has made substantial progress in examining, reconciling and adjudicating the General Unsecured Claims against RCS.

26. First, the Plan itself resolved seven General Unsecured Claims, through the agreed allowance of certain General Unsecured Claims against RCS in the aggregate amount of approximately \$106.3 million, and the agreed disallowance of approximately \$30.8 million in duplicative General Unsecured Claims.<sup>9</sup> Second, a stipulation entered into during the Chapter 11 Cases resulted in the disallowance of an additional approximately \$79.2 million in General Unsecured Claims filed against RCS. *See* Docket No. 589. Third, both the Reorganized Debtors and the Creditor Trust filed substantive and non-substantive objections to claims asserting general unsecured claim amounts. To date, these objections have resulted in the disallowance, subordination, reclassification, or reassignment of all or a portion of approximately 81 General Unsecured Claims asserted against RCS, totaling approximately \$46.1 million in the aggregate, excluding unliquidated amounts. As of the filing of this Motion, objections remain pending to two claims against RCS, seeking to disallow or subordinate over \$11.4 million in General Unsecured Claims. Finally, the Creditor Trust and the Reorganized Debtors have also filed notices of satisfied claims, which resulted in the removal of 22 General Unsecured Claims filed or scheduled against RCS in an aggregate amount of over \$1 million, excluding unliquidated amounts.<sup>10</sup>

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<sup>9</sup> The Plan also resolved the Second Lien Deficiency Claim, which was Allowed in the amount of \$103.2 million. Under the Plan, holders of Second Lien Deficiency Claims are entitled to Series B Units in the Creditor Trust.

<sup>10</sup> Two Disputed General Unsecured Claims against RCS are the subject of an additional Notice of Satisfied Claims filed by the Creditor Trust with an objection deadline of February 28, 2017.

27. Approximately 65 Disputed General Unsecured Claims against RCS in the aggregate face amount of approximately \$67 million remain to be resolved.<sup>11</sup> See Jacobs Decl. at ¶ 7. The following chart illustrates the current status of the Claims Register and the identification of the Disputed General Unsecured Claims against RCS:

<b>Claim Type</b>	<b>Number of Claims<sup>12</sup></b>	<b>Number of Unliquidated Claims</b>	<b>Asserted Amount</b>
<b>Total Claims</b>	211	43	\$332,082,320.73
Claims Ordered Disallowed	(42)	(5)	(\$12,177,891.26)
Satisfied Claims	(22)	(3)	(\$1,047,923.87)
Subordinated Claims	(27)	(16)	(\$33,280,615.13)
Claims Allowed Pursuant to the Plan	(5)	(0)	(\$106,313,827.07)
Claims Withdrawn or Stipulated Expunged	(5)	(0)	(\$110,047,138.93)
Claims Redesignated to Subsidiary Debtor	(12)	(0)	(\$669,422.71)
Allowed Claims	(33)	(0)	(\$1,878,587.79)
<b>Asserted Disputed General Unsecured Claims</b>	65	19	\$66,666,913.97

### **RELIEF REQUESTED**

28. By this Motion, the Creditor Trust respectfully requests, pursuant to Bankruptcy Code sections 105(a), 502(c) and 1142(b) and Bankruptcy Rule 3021, that the Court enter the Proposed Order establishing a reserve of Series A-1 Class A Units based on Disputed General Unsecured Claims of \$75 million (the “Reserve Amount”). See Jacobs Decl. at ¶ 8. This Motion

<sup>11</sup> This amount includes \$11,437,600.78 in General Unsecured Claims against RCS subject to a pending objection.

<sup>12</sup> The “Number of Claims” is inclusive of the “Number of Unliquidated Claims.”

is brought solely for the purpose of establishing the amount of the Disputed Claims Reserve for Series A-1 Class A Units.

29. The Creditor Trust believes this amount strikes a careful balance between enabling the Creditor Trust to make distributions of, and on account of, Series A-1 Class A Units to holders of Allowed General Unsecured Claims under the Plan, without jeopardizing the potential recoveries of holders of General Unsecured Claims that are presently Disputed General Unsecured Claims but that may be subsequently Allowed.

30. Section 6.11(h) of the Plan provides that the Creditor Trust has discretion to cancel any Series A-1 Class A Units in the Disputed Claims Reserve if it determines that such Units are not necessary for the satisfaction of Disputed General Unsecured Claims. *See* § 6.11(h). The Creditor Trust Assets in the Disputed Claims Reserve in respect of such canceled Units will be distributed to holders of the Series A-1 Class A Units then outstanding. *See id.* Any Creditor Trust Assets remaining in the Disputed Claims Reserve once all Disputed General Unsecured Claims have been satisfied will be distributed to the holders of Series A-1 Class A Units then outstanding and any remaining Units in the Disputed Claims Reserve will be canceled. *Id.*

31. For the avoidance of doubt, nothing set forth in this Motion shall be deemed or construed as an admission of the Creditor Trust or the Reorganized Debtors as to any liability for any Disputed General Unsecured Claims. Further, nothing in this Motion is intended to limit the ability of any Disputed General Unsecured Claim holder to obtain a determination of the amount of the Disputed General Unsecured Claim or assert a right for recovery on account of the Disputed General Unsecured Claim in accordance with the Plan.

**A. Components of the Disputed Claims Reserve**<sup>13</sup>

1. The Creditor Trust has broken the remaining Disputed General Unsecured Claims asserted against RCS into five categories for purposes of the Disputed Claims Reserve. *See* Jacobs Decl. at ¶ 9.

**i. *Liquidated Claims***

2. The Disputed General Unsecured Claims against RCS include 37 liquidated Claims that assert an aggregate amount of \$24,449,547.81<sup>14</sup> (the “Liquidated Claims”). A list of the Liquidated Claims is annexed hereto as Exhibit 3-A. Although the Creditor Trust believes that most of the Liquidated Claims largely assert amounts far in excess of the amounts to which the claim holder is entitled, for purposes of establishing the Disputed Claims Reserve and in accordance with the Plan, the Creditor Trust seeks to estimate the Liquidated Claims at the greater of (a) the liquidated amount listed in the Schedules and (b) the liquidated amount set forth in a Proof of Claim or application for payment filed with the Bankruptcy Court, or pursuant to an order of the Bankruptcy Court entered in the Chapter 11 Cases, for a total of \$25 million. The Creditor Trust will reserve the applicable amount of Series A-1 Class A Units for such estimated amount of Liquidated Claims.

**ii. *Partially Unliquidated Claims***

3. The Disputed General Unsecured Claims include seven claims that assert both liquidated and unliquidated amounts (the “Partially Unliquidated Claims”). The aggregate

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<sup>13</sup> Except where otherwise indicated, references to the number and amount of the claims described in this section refer solely to claims asserted against RCS.

<sup>14</sup> Because the scheduled amounts associated with one of the Liquidated Claims exceeded the filed claim amount, the Creditor Trust, in accordance with the Plan, is reserving for the greater scheduled amount which is reflected in this figure.

liquidated amount asserted in the Partially Unliquidated Claims is \$30,779,765.38.<sup>15</sup> A list of the Partially Unliquidated Claims is annexed hereto as Exhibit 3-B.

4. Based on the Creditor Trust's review of the Partially Unliquidated Claims and after consultation with, and the cooperation of, the Reorganized Debtors, the Creditor Trust believes that many of these claims assert amounts far in excess of the amounts to which the claim holder is entitled. In addition, the Creditor Trust believes that the unliquidated portions of the Partially Unliquidated Claims are generally speculative and protective in nature. For example, for many of these claims, the claimant included a short reference to the possibility that additional amounts may be added to the Proof of Claim simply as a means to protect its ability to later seek amounts that were not identified in the Proof of Claim. The Creditor Trust asserts that such a "protective" reservation of rights is not indicative of actual amounts owed. Other Partially Unliquidated Claims reserve for the possibility of additional amounts that are inappropriate, such as the ongoing accrual of interest that is prohibited under section 502(b)(2) of the Bankruptcy Code. In addition, certain of the Partially Unliquidated Claims assert claims that may be disallowed under section 502(e) as claims asserting contingent indemnity claims or claims related to securities issued by the Debtors that may be subordinated under section 510(b).

5. Nevertheless, for purposes of establishing the Disputed Claims Reserve, the Creditor Trust seeks to reserve the applicable amount of Series A-1 Class A Units for the Partially Unliquidated Claims at the amount of their full asserted liquidated portion, or \$31 million, plus an additional \$1 million for the unliquidated portion of the Partially Unliquidated Claims. *See Jacobs Decl. at ¶ 12.*

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<sup>15</sup> Because the scheduled amounts associated with two of the Partially Unliquidated Claims exceeded the filed claim amounts, the Creditor Trust, in accordance with the Plan, is reserving for the greater scheduled amounts which are reflected in this figure.

**iii. Wholly Unliquidated Claims**

6. There are approximately 19 Disputed General Unsecured Claims that assert only unliquidated amounts (the “Wholly Unliquidated Claims”). A list of the Wholly Unliquidated Claims is annexed hereto as Exhibit 3-C.<sup>16</sup>

7. The Wholly Unliquidated Claims primarily relate to (i) indemnification claims that are likely to be disallowed under section 502(e) of the Bankruptcy Code, (ii) director and officer indemnification claims and indemnification claims relating to certain guarantees of the Debtors’ prepetition secured debt, (iii) contingent claims that may be asserted against RCS arising out of and related to any claims asserted against the Excluded Parties (as defined in the Plan) by the Creditor Trust, (iv) breach of contract claims or rejection damages claims (including indemnification of legal costs), and (v) employee claims.<sup>17</sup> See Jacobs Decl. at ¶ 13. To determine the amount to be included in the Disputed Claims Reserve on account of Wholly Unliquidated Claims, the Creditor Trust, in consultation with, and with the cooperation of, the Reorganized Debtors, reviewed and analyzed the Wholly Unliquidated Claims, including, to the extent feasible, appropriate and/or necessary: (a) the Debtors’ books and records; (b) the underlying Proofs of Claim; (c) the known, assumed or believed facts and circumstances surrounding these claims; (d) the legal issues, if any, associated with these claims; (e) communications, if any, with the holders of these claims; and (f) any other potentially relevant factors. *See id.*

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<sup>16</sup> As indicated on Exhibit 3-C, two of the Wholly Unliquidated Claims are the subject of a Notice of Satisfied Claims filed by the Creditor Trust, with an objection deadline of February 28, 2017. The Creditor Trust does not anticipate any objections to the Notice of Satisfied Claims from either of these claimants.

<sup>17</sup> In addition, to the extent any Wholly Unliquidated Claims are asserted by parties that are the subject of causes of action ultimately pursued by the Creditor Trust, the Creditor Trust may seek to set-off any damages it suffered from the Allowed amounts of claims held by such parties, if any.

8. Based on this evaluation, the Creditor Trust believes that these claims are largely meritless and that the Debtors' estates have little, if any, liability with respect to these claims. *See* Jacobs Decl. at ¶14. However, in an abundance of caution, the Creditor Trust proposes to reserve the applicable amount of Series A-1 Class A Units on account of Wholly Unliquidated Claims in the aggregate amount of \$5 million. *See id.* This is a conservative reserve amount given the Creditor Trust's understanding of the Debtors' likely exposure for these claims.

**iv. *Claims Subject to Objection***

9. There are two Disputed General Unsecured Claims that are the subject of objections by the Creditor Trust or the Reorganized Debtors, which objections are scheduled to be heard on March 7, 2017 (the "Pending Disallowed Claims"). A list of the Pending Disallowed Claims is annexed hereto as Exhibit 3-D. The Pending Disallowed Claims were filed in the amount of \$11,437,600.78, not including unliquidated amounts. The Creditor Trust expects that all of these claims will be disallowed in full. Nonetheless, out of an abundance of caution, the Creditor Trust has determined to reserve the applicable number of Series A-1 Class A Units for the Pending Disallowed Claims at their full asserted liquidated amounts (rounded to \$12 million in the aggregate). *See* Jacobs Decl. at ¶ 15. As noted above, section 6.11(h) of the Plan provides that the Creditor Trust has the discretion to cancel any Units in the Disputed Claims Reserve if it determines that such Units are not necessary for the satisfaction of Disputed General Unsecured Claims. *See* Plan § 6.11(h). Therefore, to the extent the Court determines to disallow the Pending Disallowed Claims at or in advance of the scheduled hearing, the Creditor Trust will not reserve any Series A-1 Class A Units for the Pending Disallowed Claims in the Disputed Claims Reserve.

**vi. *Contingent Claims***

10. The Bar Date for most claims passed over ten months ago. Accordingly, claims that are only first filed at this point in the Chapter 11 Cases would be barred by the Bar Date Order

and subject to disallowance. Nevertheless, it is possible that some claims that are presently unknown to the Creditor Trust and are not listed on the Claims Register may at some point become Allowed General Unsecured Claims and entitled to a distribution of Class A Units (the “Contingent Claims”). The Contingent Claims potentially include, among other things, (a) claims arising under section 502(h) of the Bankruptcy Code for avoidance and recovery of any avoidable transfers; (b) any claims not identified to date that may be reclassified into Class 5; and (c) other new or amended claims that are determined to be properly filed and not disallowed as untimely. Although the Creditor Trust believes there is minimal exposure for these Contingent Claims, based on the Creditor Trust’s analysis of these issues, in consultation with, and with the cooperation of, the Reorganized Debtors, out of an abundance of caution, the Creditor Trust seeks to reserve for the Contingent Claims at \$1 million. *See Jacobs Decl. at ¶ 16.*

**B. The Disputed Claims Reserve Will be Cumulative**

11. For the avoidance of doubt, although the Creditor Trust calculated the Reserve Amount by reference to the various categories of claims listed above, the Creditor Trust proposes to create only one aggregate reserve for all of the Disputed General Unsecured Claims. Thus, to the extent the Creditor Trust underestimated the amount that should be attributed to one category of claims, the Creditor Trust’s overestimation with respect to another category will mean that sufficient amounts should be available to address all Disputed General Unsecured Claims that become Allowed in the future. The Creditor Trust believes this framework, together with the conservative Reserve Amount, ensures that all Disputed General Unsecured Claims will receive fair and equal treatment under the Plan. *See Jacobs Decl. at ¶ 17.*

12. The Creditor Trust also believes that the Reserve Amount represents reasonable and conservative estimates for the Disputed General Unsecured Claims that will ultimately be Allowed in these cases. As noted above, the Creditor Trust believes that these amounts strike a



careful and reasonable balance between enabling the Creditor Trust to make meaningful distributions to the holders of Allowed General Unsecured Claims while not jeopardizing the potential recoveries to claimants holding Disputed General Unsecured Claims in the event such claims subsequently are Allowed. *See* Jacobs Decl. at ¶ 18.

13. The proposed Reserve Amount is not indicative of the Creditor Trust's estimate of the ultimate Allowed amount of such claims. Rather, the Reserve Amount represents the Creditor Trust's estimate of the maximum liability that has been or could reasonably be asserted by the claimants on account of the Disputed General Unsecured Claims. By this Motion, the Creditor Trust is not proposing to allow the Disputed General Unsecured Claims at the Reserve Amount, and the Creditor Trust anticipates that substantive objections will be filed against a substantial number of these claims that will result in the disallowance of such claims. The Creditor Trust reserves all rights, for itself, the Reorganized Debtors, and any successors, to object to any or all Disputed General Unsecured Claims either in whole or in part, or seek to estimate, any and all Disputed General Unsecured Claims at lesser amounts. *See* Jacobs Decl. at ¶ 19.

#### **BASIS FOR RELIEF**

14. Bankruptcy Rule 3021 provides that after a plan is confirmed, a distribution "shall be made to creditors whose claims have been allowed . . . ." Fed. R. Bankr. P. 3021. To effectuate distributions under the Plan on account of Allowed Claims, the Creditor Trust seeks authorization to establish the Disputed Claims Reserve pursuant to sections 105(a), 502(c), and 1142(b) of the Bankruptcy Code, as contemplated by the Plan.

15. Bankruptcy Code section 105(a) provides that the Court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105. This broad grant of authority is meant to enable courts to issue orders to ensure the prompt administration of the estate and equitable distribution of the estate's assets. *See, e.g.,*

*Adelphia Bus. Solutions, Inc. v. Abnos*, 482 F.3d 602, 609 (2d Cir. 2007) (“Section 105(a) grants broad equitable power to the bankruptcy courts to carry out the provisions of the Bankruptcy Code so long as that power is exercised within the confines of the Bankruptcy Code.”); *Smart World Techs., LLC v. Juno Online Servs., Inc. (In re Smart World Techs., LLC)*, 423 F.3d 166, 183 (2d Cir. 2005) (“Section 105 grants the bankruptcy court equitable powers to implement the provisions of the Bankruptcy Code . . .”).

16. Moreover, section 502(c) of the Bankruptcy Code provides for the estimation of contingent or unliquidated claims. *See* 11 U.S.C. § 502(c). Although section 502(c) refers to the estimation of claims for the purposes of allowance, courts in this district and others have estimated claims for other purposes, including to establish reserves for plan distributions. *See, e.g., In re Hercules Offshore, Inc.*, No. 16-11385 (KJC) (Bankr. D. Del. Jun 21, 2016) (establishing aggregate claims reserve of \$47 million based on estimated disputed claims); *In re Newpage Corp.*, No. 11-12804 (KG) (Bankr. D. Del. Feb. 19, 2013) (establishing aggregate claims reserve of \$150 million based on estimated disputed claims); *In re Accredited Home Lenders Holding Co.*, No. 09-11516 (MFW) (Bankr. D. Del. May 31, 2011); *see also In re Gen. Maritime Corp.*, No. 11-15285 (MG) (Bankr. S.D.N.Y. Apr. 26, 2012) (estimating the maximum aggregate amount of unsecured claims for purposes of establishing an unsecured claims reserve); *In re Motors Liquidation Co.*, No. 09-50026 (REG) (Bankr. S.D.N.Y. Mar. 23, 2011) (estimating the maximum amount of individual claims for purposes of establishing a claims reserve under a plan); *In re Lyondell Chem. Co.*, No. 09-10023 (REG) (Bankr. S.D.N.Y. Nov. 23, 2010) (setting and establishing a disputed claims reserve).

17. Section 502(c) does not prescribe the method for estimating a claim, and the Court therefore has discretion to utilize any valuation model that best suits the circumstances of the case at hand. *See, e.g., Maxwell v. Seaman Furniture Co. (In re Seaman Furniture Co. of Union Square,*

*Inc.*), 160 B.R. 40, 42 (S.D.N.Y. 1993) (stating that “a bankruptcy court may use whatever method is best suited to the circumstances”). “[W]hen estimating claims, bankruptcy courts may use whatever method is best suited to the contingencies of the case, so long as the procedure is consistent with the fundamental policy of Chapter 11 that a reorganization must be accomplished quickly and efficiently.” *In re Adelpia Commc’ns Corp.*, 368 B.R. 140, 278 (S.D.N.Y. 2007) (citation and internal quotations omitted). Indeed, the clearly stated purpose for allowing the estimation of claims is to “avoid undue delay in the administration of bankruptcy proceedings.” *Frito-Lay, Inc. v. LTV Steel Co. (In re Chateaugay Corp.)*, 10 F.3d 944, 957 (2d Cir. 1993); *In re N.Y. Med. Grp., P.C.*, 265 B.R. 408, 415 (Bankr. S.D.N.Y. 2001) (“Under 11 U.S.C. § 502(c), a claim may be estimated for purposes of allowance if it is unliquidated and liquidation would unduly delay the administration of the case.”).

18. In addition, the Court has broad authority under sections 1142(b) of the Bankruptcy Code over the property of the estate administered under the Plan and to issue any order necessary to implement the provisions of the Plan and the Bankruptcy Code. *See* 11 U.S.C. § 1142(b) (“The court may direct the debtor and any other necessary party to execute or deliver or to join in the execution or delivery of any instrument required to effect a transfer of property dealt with by a confirmed plan, and to perform any other act, including the satisfaction of any lien, that is necessary for the consummation of the plan.”); *see also In re Enron Corp.*, 2006 Bankr. LEXIS 4294, at \*3 (Bankr. S.D.N.Y. Jan. 17, 2006) (estimating, pursuant to sections 105(a), 502(c), and 1142 of the Bankruptcy Code, certain claims at \$0 for purposes of establishing reserve claim amounts).

19. As described herein, the Creditor Trust determined the Reserve Amount in good faith, conservatively, in consultation with, and with the cooperation of, the Reorganized Debtors, and based on an appropriate review and analysis of the claims at issue. More specifically, the

Creditor Trust is requesting the Reserve Amount based on a comprehensive review of the following, to the extent feasible, appropriate, and/or necessary: (i) the Proofs of Claim and supporting documentation, (ii) the Debtors' books and records, (iii) communications, if any, with the holders of Disputed General Unsecured Claims, (iv) the legal issues, if any, associated with the claims, and (v) such other factors as the Creditor Trust deemed relevant.

20. Due to the magnitude and complexity of the claims filed against the Debtors' Estates, the Creditor Trust submits that establishing the Disputed Claims Reserve using the Reserve Amount is necessary to make timely distributions to holders of Allowed General Unsecured Claims against RCS as soon as practicable. The Reserve Amount balances the need to make prompt and material distributions to creditors while ensuring that a sufficient number of Series A-1 Class A Units will be available for the benefit of holders of the Disputed General Unsecured Claims, to the extent that such claims are ultimately Allowed. *See* Jacobs Decl. at ¶ 18.

21. Moreover, the Creditor Trust submits that the Disputed Claims Reserve will not unfairly prejudice the holders of the Disputed General Unsecured Claims. First, all of the Liquidated Claims and Pending Objection Claims are being reserved for at the full liquidated amount. These amounts are being reserved notwithstanding the fact that the Creditor Trust believes that many of these claims will ultimately be Allowed in lower amounts or disallowed in their entirety. *See* Jacobs Decl. at ¶ 22. Reserving for these claims at the face amount will both ensure that the Creditor Trust is reserving a conservative amount of distributions for these claims and provide additional cushion for the Creditor Trust in the event other Disputed General Unsecured Claims are ultimately Allowed at amounts higher than expected.

22. Second, based on the Creditor Trust's preliminary analysis, including a review of the above-referenced factors as appropriate, the Creditor Trust does not believe that the Debtors' estates will have significant liability with respect to the Unliquidated Claims. Nevertheless, the

Creditor Trust determined to reserve Series A-1 Class A Units based on estimated Wholly Unliquidated Claims totaling \$5 million, in the aggregate. The Creditor Trust also does not believe that the Debtors' estates will have significant (if any) liability for the unliquidated portion of the Partially Unliquidated Claims. But the Creditor Trust still seeks to reserve Series A-1 Class A Units based on the full liquidated amount of the Partially Unliquidated Claims, plus \$1 million to account for any unliquidated portion of such claims. Likewise, while the Creditor Trust does not believe it will have any liability for the Contingent Claims, the Creditor Trust determined to reserve the Series A-1 Class A Units in the Disputed Claims Reserve to account for Contingent Claims in the amount of \$1 million as a cushion in the event any of these claims become Allowed.

23. Third, the Reserve Amount is not sub-allocated to any specific Disputed Claim, thereby ensuring maximum protection for the holders of all Disputed General Unsecured Claims and maximum flexibility for the Creditor Trust. The relief requested herein does not limit the amount that any individual creditor can recover. Rather, reserving units based on aggregate claims amounts will not limit the ability of any one creditor to prove the amount of its General Unsecured Claim or to recover on the basis of that proven amount, subject only to the aggregate cap of the Reserve Amount.

24. Finally, the Creditor Trust respectfully submits that establishing a Disputed Claims Reserve to hold Series A-1 Class A Units based on estimated Disputed General Unsecured Claims of \$75 million is proper because (a) resolving all of the Disputed General Unsecured Claims will necessarily involve a lengthy and protracted process, and (b) waiting for the resolution of the Disputed General Unsecured Claims will unduly delay the administration of the Creditor Trust.

25. Thus, the relief requested herein will allow the Creditor Trust to effectuate timely distributions under the Plan to holders of Allowed General Unsecured Claims, without undue delay. It would be prejudicial to creditors with Allowed General Unsecured Claims to require

them to wait for the resolution of all Disputed General Unsecured Claims (with no interest accruing on their Allowed Claims), before receiving amounts available for distribution under the Plan. For the reasons set forth in this Motion, the Creditor Trust hereby requests that the Court authorize the establishment of the Disputed Claims Reserve to hold Series A-1 Class A Units on account of Disputed General Unsecured Claims estimated in an aggregate amount of \$75 million.

**REQUESTS FOR INCREASES OR ADDITIONS TO RESERVE**

26. Any holder of a Disputed General Unsecured Claim that believes an error has occurred in which its Disputed General Unsecured Claim (i) has been accounted for in the Reserve Amount, or (ii) is not included in the Reserve, and is not otherwise Allowed, may respond to this Motion. Objecting creditors may file a response to this Motion identifying: (a) the name of the affected creditor; (b) the date of filing of such creditor's Proof of Claim and the claim number; and (c) the amount requested to be reserved on account of such claim in the Reserve.<sup>18</sup> Responses should be filed in accordance with the Bankruptcy Rules and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), and served on counsel to the Creditor Trust at the address listed below:

KRAMER LEVIN NAFTALIS & FRANKEL LLP  
1177 Avenue of the Americas  
New York, New York 10036  
Attn: Rachael L. Ringer and David Z. Braun  
Phone: (212) 715-9100

-and-

ASHBY & GEDDES  
500 Delaware Avenue, 8th Floor  
P.O. Box 1150  
Wilmington, DE 19899  
Attn: Ben Keenan  
Phone: (302) 654-1888

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<sup>18</sup> By this Motion, neither the Creditor Trust nor the Reorganized Debtors consents to the reconsideration, review, or relitigation of any claims.

27. Creditors are able to view information regarding their proof of claim at the website maintained by Prime Clerk at <http://cases.primeclerk.com/rcscapital>. Additional information may be obtained by contacting Prime Clerk: (a) by writing to RCS Capital Corporation Claims Processing Center, c/o Prime Clerk LLC, 830 Third Avenue, 3<sup>rd</sup> Floor, New York, NY 10022; or (b) by calling Prime Clerk at (855) 410-7357.

28. The Creditor Trust respectfully submits that the ability of creditors to respond to this Motion, along with the sources of information made available to creditors with respect to their claims is sufficient to allow them to protect their interests and right to an appropriate distribution to the extent their claims are allowed.

#### **RESERVATION OF RIGHTS**

29. Nothing contained in this Motion shall be deemed an admission by the Creditor Trust or the Reorganized Debtors of any matter, including liability, allowance, or disallowance of any claim against the Debtors' estates or the Creditor Trust, and the Creditor Trust does not waive any rights against any party. The Creditor Trust reserves all rights, including, without limitation, the right to prosecute an objection to any claim, including amended claims or any other claim now or hereafter asserted. Separate notices will be served and a hearing will be scheduled for any such objection.

#### **NOTICE**

30. Notice of this Motion has been provided to the following parties: (i) the Office of the United States Trustee for the District of Delaware; (ii) counsel to the Reorganized Debtors; (iii) parties who have submitted a General Administrative Claim that remains unpaid and subject to an unfiled dispute; (iv) all parties that, as of the filing of this Motion, have requested notice in these

chapter 11 cases pursuant to Bankruptcy Rule 2002; and (v) all holders of General Unsecured Claims.

**CONCLUSION**

WHEREFORE, the Creditor Trust respectfully requests that this Court enter the Proposed Order granting the relief requested in this Motion, and such other and further relief as may be just and proper.

Dated: February 14, 2017  
Wilmington, Delaware

Respectfully submitted,

ASHBY & GEDDES, P.A.

/s/ Benjamin W. Keenan  
William P. Bowden (I.D. #2553)  
Benjamin W. Keenan (I.D. #4724)  
Aaron H. Stulman (I.D. #5807)  
500 Delaware Avenue, 8th Floor  
Wilmington, DE 19801  
Tel: (302) 654-1888  
Fax: (302) 654-2067  
E-mail: bkeenan@ashby-geddes.com  
E-mail: astulman@ashby-geddes.com

-and-

KRAMER LEVIN NAFTALIS & FRANKEL LLP  
Stephen D. Zide, Esq.  
Rachael L. Ringer, Esq.  
David Z. Braun, Esq.  
1177 Avenue of the Americas  
New York, NY 10036  
Telephone: (212) 715-9100  
Facsimile: (212) 715-8000  
E-mail: szide@kramerlevin.com  
E-mail: rringer@kramerlevin.com  
E-mail: dbraun@kramerlevin.com

*Counsel for the RCS Creditor Trust*



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

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In re:	)	Chapter 11
	)	
RCS CAPITAL CORPORATION, <u>et al.</u> ,	)	Case No. 16-10223 (MFW)
	)	
	)	Jointly Administered
	)	
Reorganized Debtors. <sup>1</sup>	)	Hearing Date: March 7, 2017 at 10:30 a.m. (ET)
	)	Objection Deadline: February 28, 2017 at 4:00 p.m. (ET)
	)	

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**NOTICE OF CREDITOR TRUST’S MOTION FOR ORDER ESTABLISHING THE  
DISPUTED CLAIMS RESERVE IN CONNECTION WITH THE FOURTH AMENDED  
JOINT PLAN OF REORGANIZATION FOR RCS CAPITAL CORPORATION AND ITS  
AFFILIATED DEBTORS UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

**PLEASE TAKE NOTICE** that on February 14, 2017, the RCS Creditor Trust, by and through its undersigned counsel, filed the *Creditor Trust’s Motion for Order Establishing the Disputed Claims Reserve in Connection with the Fourth Amended Joint Plan of Reorganization for RCS Capital Corporation and Its Affiliated Debtors Under Chapter 11 of the Bankruptcy Code* (the “Motion”) with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, Wilmington, Delaware 19801 (the “Bankruptcy Court”).

**PLEASE TAKE FURTHER NOTICE** that responses, if any, to the Motion must be in writing, in conformity with the Federal Rules of Bankruptcy Procedure and the Local Rules of Practice and Procedure for the United States Bankruptcy Court for the District of Delaware, filed with the Bankruptcy Court, and served upon, so as to be received by, the undersigned counsel on or before **February 28, 2017 at 4:00 p.m. (ET)**. Only properly and timely filed responses will be considered.

**PLEASE TAKE FURTHER NOTICE** that a hearing on the Motion is scheduled for **March 7, 2017 at 10:30 a.m. (ET)** before The Honorable Mary F. Walrath, in the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 5th Floor, Courtroom #4, Wilmington, Delaware 19801.

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<sup>1</sup> The “Reorganized Debtors” in these chapter 11 cases, along with the last four digits of their respective federal tax identification numbers, are: RCS Capital Corporation n/k/a Aretec Group, Inc. (4716); American National Stock Transfer, LLC (3206); Braves Acquisition, LLC (6437); DirectVest, LLC (9461); J.P. Turner & Company Capital Management, LLC (7535); RCS Advisory Services, LLC (4319); RCS Capital Holdings, LLC (9238); Realty Capital Securities, LLC (0821); SBSI Insurance Agency of Texas, Inc. (9203); SK Research, LLC (4613); Trupoly, LLC (5836); We R Crowdfunding, LLC (9785). The Reorganized Debtors’ corporate headquarters and mailing address is located at 200 North Sepulveda Blvd., Suite 1200, El Segundo, CA 90245 Attn: Legal Department.

**IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.**

Dated: February 14, 2017

ASHBY & GEDDES, P.A.

/s/ Benjamin W. Keenan

William P. Bowden (I.D. #2553)

Benjamin W. Keenan (I.D. #4724)

Aaron H. Stulman (I.D. #5807)

500 Delaware Avenue, 8th Floor

Wilmington, DE 19801

Tel: (302) 654-1888

Fax: (302) 654-2067

E-mail: [bkeenan@ashby-geddes.com](mailto:bkeenan@ashby-geddes.com)

E-mail: [astulman@ashby-geddes.com](mailto:astulman@ashby-geddes.com)

-and-

KRAMER LEVIN NAFTALIS & FRANKEL LLP

Stephen D. Zide, Esq.

Rachael Ringer, Esq.

1177 Avenue of the Americas

New York, NY 10036

Telephone: (212) 715-9100

Facsimile: (212) 715-8000

E-mail: [rringer@kramerlevin.com](mailto:rringer@kramerlevin.com)

*Counsel for the RCS Creditor Trust*

**Exhibit 1**  
**Proposed Order**

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

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In re: ) Chapter 11  
)  
) Case No. 16-10223 (MFW)  
RCS CAPITAL CORPORATION, et al., )  
) Jointly Administered  
)  
Reorganized Debtors.<sup>1</sup> ) **Ref. Docket No. \_\_\_\_**  
)

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**ORDER ESTABLISHING THE DISPUTED CLAIMS RESERVE IN  
CONNECTION WITH THE FOURTH AMENDED JOINT PLAN OF  
REORGANIZATION FOR RCS CAPITAL CORPORATION AND ITS AFFILIATED  
DEBTORS UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

Upon the *Creditor Trust’s Motion for Order Establishing the Disputed Claims Reserve in Connection with the Fourth Amended Joint Plan of Reorganization for RCS Capital Corporation and Its Affiliated Debtors Under Chapter 11 of the Bankruptcy Code* dated February 14, 2017 (the “Motion”)<sup>2</sup> seeking entry of an order establishing a disputed claims reserve (the “Disputed Claims Reserve”) for disputed claims in Class 5 (collectively, the “Disputed General Unsecured Claims”) in connection with distributions to be made under the *Fourth Amended Joint Plan of Reorganization for RCS Capital Corporation and Its Affiliated Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. 745] (as may be amended, the “Plan”); and the Court having subject matter jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334; and the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408

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<sup>1</sup> The “Reorganized Debtors” in these chapter 11 cases, along with the last four digits of their respective federal tax identification numbers, are: RCS Capital Corporation n/k/a Aretec Group, Inc. (4716); American National Stock Transfer, LLC (3206); Braves Acquisition, LLC (6437); DirectVest, LLC (9461); J.P. Turner & Company Capital Management, LLC (7535); RCS Advisory Services, LLC (4319); RCS Capital Holdings, LLC (9238); Realty Capital Securities, LLC (0821); SBSI Insurance Agency of Texas, Inc. (9203); SK Research, LLC (4613); Trupoly, LLC (5836); We R Crowdfunding, LLC (9785). The Reorganized Debtors’ corporate headquarters and mailing address is located at 200 North Sepulveda Blvd., Suite 1200, El Segundo, CA 90245 Attn: Legal Department.

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

and 1409; and due and proper notice of the Motion having been provided, and no other or further notice need be provided; and the relief requested in the Motion being in the best interests of the Debtors' estates and creditors, and the Court having reviewed the Motion, including the Jacobs Declaration, and having heard the statements in support of the relief requested therein at a hearing before the Court (the "Hearing"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is granted as provided herein.
2. For the sole purpose of establishing the Disputed Claims Reserve for Series A-1 Class A Units, the Creditor Trust is authorized to reserve Series A-1 Class A Units in an amount as if all Disputed General Unsecured Claims were allowed in an aggregate amount not exceeding \$75 million.
3. The Disputed Claims Reserve as set forth in the Motion is approved in all respects.
4. Holders of Disputed General Unsecured Claims that become Allowed General Unsecured Claims shall only be entitled to receive their share of the Series A-1 Class A Units from the Disputed Claims Reserve based on the Allowed amount of their General Unsecured Claims, and in no event shall the claimants have any recourse to the Creditor Trust, the Reorganized Debtors, or the Debtors' estates.
5. Pursuant to Section 6.11(h) of the Plan, to the extent the Creditor Trust Administrator determines that any Series A-1 Class A Units in the Disputed Claims Reserve are

not necessary for the satisfaction of Disputed General Unsecured Claims, the Creditor Trust Administrator may cancel such Series A-1 Class A Units, and distribute the Creditor Trust Assets in the Disputed Claims Reserve in respect thereof to the holders of the Series A-1 Class A Units then outstanding. Once all Disputed General Unsecured Claims have been resolved, any assets remaining in the Disputed Claims Reserve shall be distributed to the holders of Series A-1 Class A Units then outstanding, and any remaining Series A-1 Class A Units held in the Disputed Claims Reserve shall be canceled.

6. Nothing herein or in the Motion, nor any action by the Creditor Trust to implement this Order, shall constitute an admission of the validity, nature, amount or priority of any Disputed Claim.

7. The Creditor Trust is authorized to take any and all actions that are necessary or appropriate to establish and administer Disputed Claims Reserve consistent with the terms of the Plan and the Confirmation Order and to implement the terms of this Order.

8. The establishment of the Disputed Claims Reserve is without prejudice to the rights, defenses, and objections of the Creditor Trust and/or the Reorganized Debtors to the merits of the Disputed General Unsecured Claims. The Creditor Trust and this Court are not making a determination that the Creditor Trust, the Debtors' estates, or the Reorganized Debtors are liable on account of the Disputed General Unsecured Claims in any amount. Nothing set forth in the Motion or this Order shall be admissible against the Creditor Trust or the Reorganized Debtors in any proceeding in connection with the litigation or liquidation of the Disputed General Unsecured Claims that have not yet been allowed.

9. The rights of the Creditor Trust to object to, and defend against, the Disputed General Unsecured Claims are fully preserved.

10. The establishment of the Disputed Claims Reserve is without prejudice to the ability of the Creditor Trust to seek relief from the Court to disallow any Disputed General Unsecured Claims or to fix the allowed amount of any Disputed General Unsecured Claims in accordance with the Plan, the Bankruptcy Code, or the prior orders of this Court.

11. The Disputed General Unsecured Claims remain “Disputed” as defined in the Plan and shall remain so unless and until they are disallowed or become “Allowed” as defined in the Plan.

12. This Court shall retain jurisdiction to resolve all matters relating to the implementation of this Order.

Dated: \_\_\_\_\_, 2017  
Wilmington, Delaware

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The Honorable Mary F. Walrath  
United States Bankruptcy Judge

**Exhibit 2**

**Jacobs Declaration**



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

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In re:	)	Chapter 11
	)	
RCS CAPITAL CORPORATION, <u>et al.</u> ,	)	Case No. 16-10223 (MFW)
	)	Jointly Administered
Reorganized Debtors. <sup>1</sup>	)	
	)	

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**DECLARATION OF ALAN M. JACOBS IN SUPPORT OF  
CREDITOR TRUST’S MOTION FOR ORDER ESTABLISHING THE DISPUTED  
CLAIMS RESERVE IN CONNECTION WITH THE FOURTH AMENDED JOINT  
PLAN OF REORGANIZATION FOR RCS CAPITAL CORPORATION AND ITS  
AFFILIATED DEBTORS UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

ALAN M. JACOBS declares as follows:

1. I am the duly appointed representative (the “Trust Administrator”) of the RCS Creditor Trust (the “Creditor Trust”). I am authorized to submit this declaration on behalf of the Creditor Trust.

2. Except as otherwise indicated, all facts set forth in this Declaration are based upon information learned from my review of relevant documents, and information I have received through discussions with advisors to the Creditor Trust, members of the Debtors’ management or other employees, the Debtors’ professionals and consultants, and/or Prime Clerk LLC, the Debtors’ notice and claims agent. If I were called upon to testify, I could and would testify competently to the facts set forth in the Motion on that basis.

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<sup>1</sup> The “Reorganized Debtors” in these chapter 11 cases, along with the last four digits of their respective federal tax identification numbers, are: RCS Capital Corporation n/k/a Aretec Group, Inc. (4716); American National Stock Transfer, LLC (3206); Braves Acquisition, LLC (6437); DirectVest, LLC (9461); J.P. Turner & Company Capital Management, LLC (7535); RCS Advisory Services, LLC (4319); RCS Capital Holdings, LLC (9238); Realty Capital Securities, LLC (0821); SBSI Insurance Agency of Texas, Inc. (9203); SK Research, LLC (4613); Trupoly, LLC (5836); We R Crowdfunding, LLC (9785). The Reorganized Debtors’ corporate headquarters and mailing address is located at 200 North Sepulveda Blvd., Suite 1200, El Segundo, CA 90245 Attn: Legal Department.

3. I submit this Declaration in support of the motion (the “Motion”)<sup>2</sup> of the Creditor Trust for entry of an order estimating unsecured claims in Class 5 (“General Unsecured Claims”) for purposes of establishing a disputed claims reserve (the “Disputed Claims Reserve”) in connection with distributions to be made under the *Fourth Amended Joint Plan of Reorganization for RCS Capital Corporation and Its Affiliated Debtors Under Chapter 11 of the Bankruptcy Code* (the “Plan”) [Docket No. 745].

4. In connection with the claims reconciliation process, where feasible and applicable, the Creditor Trust has reviewed (a) information supplied or verified by the Debtors’ personnel, (b) the Debtors’ books and records, (c) the Schedules, (d) the Proofs of Claim that are the subject of the Motion and any attachments thereto, (e) information supplied by the respective claimants, if any, and/or (f) the official claims register maintained in the Debtors’ Chapter 11 Cases.

### **THE CLAIMS PROCESS**

5. The Creditor Trust and its advisors have been and continue to be engaged in a diligent and comprehensive review and reconciliation of all General Unsecured Claims filed against the Debtors’ estates. As of the Effective Date of the Plan, over 360 filed claims and 165 scheduled claims were asserted as General Unsecured Claims against the Debtors.<sup>3</sup>

6. Among the pool of claims asserted against the Debtors, 202 claims were filed or scheduled as General Unsecured Claims against RCS. In addition, the Reorganized Debtors reclassified through claim objections certain claims asserted as administrative and/or

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Motion.

<sup>3</sup> This figure excludes claims which were automatically classified as Convenience Class Claims under the Plan or which claimants elected to be treated as Convenience Class Claims. This figure also excludes scheduled claims that were superseded by the filing of a Proof of Claim.

priority claims to General Unsecured Claims, resulting in the addition of nine General Unsecured Claims, leaving a total of 211 total claims for the Creditor Trust to resolve. Based on a thorough and ongoing examination of the Proofs of Claim, the Creditor Trust continues to evaluate the filed General Unsecured Claims that should be Allowed, and those that should be either disallowed and expunged, reduced in amount, reclassified, or subordinated, so as to avoid providing certain creditors with improper recoveries to the detriment of other creditors.

7. Since the Effective Date, the Creditor Trust, in consultation with, and with the cooperation of, the Reorganized Debtors, has made substantial progress in examining, reconciling and adjudicating the General Unsecured Claims. First, the Plan itself resolved seven General Unsecured Claims, through the agreed allowance of certain General Unsecured Claims against RCS in the aggregate amount of approximately \$106.3 million, and the agreed disallowance of approximately \$30.8 million in duplicative General Unsecured Claims.<sup>4</sup> Second, a stipulation entered into during the Chapter 11 Cases resulted in the disallowance of an additional approximately \$79.2 million in General Unsecured Claims filed against RCS. *See* Docket No. 589. Third, both the Reorganized Debtors and the Creditor Trust have filed substantive and non-substantive objections to claims asserting general unsecured claim amounts. To date, these objections have resulted in the disallowance, subordination, reclassification, or reassignment of all or a portion of approximately 81 General Unsecured Claims asserted against RCS, totaling approximately \$46.1 million in the aggregate, excluding unliquidated amounts. As of the filing of this Motion, objections remain pending to two claims asserted against RCS, seeking to disallow or subordinate over \$11.4 million in General Unsecured Claims. Finally, the Creditor Trust and the Reorganized Debtors have also filed notices of satisfied claims, which

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<sup>4</sup> The Plan also resolved the Second Lien Deficiency Claim, which was Allowed in the amount of \$103.2 million. Under the Plan, holders of Second Lien Deficiency Claims are entitled to Series B Units in the Creditor Trust.

resulted in the removal of 22 General Unsecured Claims filed or scheduled in an aggregate amount of over \$1 million, excluding unliquidated amounts.<sup>5</sup> As a result, approximately 65 Disputed General Unsecured Claims asserted against RCS in the aggregate face amount of approximately \$67 million remain to be resolved.<sup>6</sup>

### **DISPUTED CLAIMS**

8. By the Motion, the Creditor Trust seeks to establish a reserve of Series A-1 Class A Units based on Disputed General Unsecured Claims of \$75 million (the “Reserve Amount”). The Motion seeks only to establish the amount of the Disputed Claims Reserve for Series A-1 Class A Units.

9. The following is a summary of the various categories of the Disputed General Unsecured Claims and the Creditor Trust’s determination of the reserve amount for each.

#### **A. Liquidated Claims**

10. The Disputed General Unsecured Claims against RCS include 37 liquidated claims that assert an aggregate amount of \$24,449,547.81<sup>7</sup> (the “Liquidated Claims”). A list of the Liquidated Claims is annexed to the Motion as Exhibit 3-A. Although the Creditor Trust believes that a number of the Liquidated Claims are either meritless or assert amounts well in excess of the amounts to which the Claim holder is entitled, for purposes of establishing the Disputed Claims Reserve, the Creditor Trust seeks to reserve the applicable amount of Series A-1 Class A Units for the Liquidated Claims at their full asserted amount, rounded to \$25 million.

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<sup>5</sup> Two Disputed General Unsecured Claims against RCS are the subject of an additional Notice of Satisfied Claims filed by the Creditor Trust with an objection deadline of February 28, 2017.

<sup>6</sup> This amount includes \$11,437,600.78 in General Unsecured Claims against RCS subject to a pending objection.

<sup>7</sup> Because the scheduled amounts associated with one of the Liquidated Claims exceeded the filed claim amount, the Creditor Trust, in accordance with the Plan, is reserving for the greater scheduled amount which is reflected in this figure.

**B. Partially Unliquidated Claims**

11. The Disputed General Unsecured Claims include seven claims that assert both liquidated and unliquidated amounts (the “Partially Unliquidated Claims”). The aggregate liquidated amount asserted in the Partially Unliquidated Claims is \$30,779,765.38.<sup>8</sup> A list of the Partially Unliquidated Claims is annexed to the Motion as Exhibit 3-B.

12. Based on the Creditor Trust’s review of the Partially Unliquidated Claims and after consultation with the Reorganized Debtors, the Creditor Trust believes that many of these Claims assert amounts far in excess of the amounts to which the claim holder is entitled. In addition, the Creditor Trust believes that the unliquidated portion of the Partially Unliquidated Claims is generally speculative and protective in nature. For example, for many of these claims, the claimant included a short reference to the possibility that additional amounts may be added to the Proof of Claim simply as a means to protect its ability to later seek amounts that were not identified in the claim. The Creditor Trust asserts that such a “protective” reservation of rights is not indicative of actual amounts owed. Other Partially Unliquidated Claims reserve for the possibility of additional amounts that the Creditor Trust believes are inappropriate. Based on this review, for purposes of establishing the Disputed Claims Reserve, the Creditor Trust seeks to reserve the applicable amount of Series A-1 Class A Units for the Partially Unliquidated Claims at their full asserted liquidated portion, or \$31 million, plus an additional \$1 million for the unliquidated portion of the Partially Unliquidated Claims.

**C. Wholly Unliquidated Claims**

13. There are approximately 19 Disputed General Unsecured Claims that assert only unliquidated amounts (the “Wholly Unliquidated Claims”). A list of the Wholly

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<sup>8</sup> Because the scheduled amounts associated with two of the Partially Unliquidated Claims exceeded the filed claim amounts, the Creditor Trust, in accordance with the Plan, is reserving for the greater scheduled amounts which are reflected in this figure.

Unliquidated Claims is annexed to the Motion as Exhibit 3-C.<sup>9</sup> The Wholly Unliquidated Claims primarily relate to (i) indemnification claims that are likely to be disallowed under section 502(e) of the Bankruptcy Code, (ii) director and officer indemnification claims and indemnification claims relating to certain guarantees of the Debtors' prepetition secured debt, (iii) contingent claims that may be asserted against RCS arising out of and related to any claims asserted against the Excluded Parties (as defined in the Plan) by the Creditor Trust, (iv) breach of contract claims or rejection damages claims (including indemnification of legal costs), and (v) employee claims. In reviewing these claims, to the extent feasible, appropriate and/or necessary, the Creditor Trust analyzed (a) the Debtors' books and records; (b) the underlying Proofs of Claim; (c) the known, assumed or believed facts and circumstances surrounding these Claims; (d) the legal issues, if any, associated with these Claims; (e) communications, if any, with the holders of these Claims; and (f) any other potentially relevant factors.

14. Based on this evaluation, the Creditor Trust believes that these Claims are largely meritless and that the Debtors' estates have little, if any, liability with respect to these Claims. Nevertheless, out of an abundance of caution and for purposes of establishing the Disputed Claims Reserve, the Creditor Trust proposes to reserve the applicable amount of Series A-1 Class A Units on account of Wholly Unliquidated Claims in the aggregate amount of \$5 million.

#### **D. Claims Subject to Objection**

15. There are two asserted General Unsecured Claims that are the subject of objections by the Creditor Trust, which objections are scheduled to be heard on March 7, 2017 (the "Pending Disallowed Claims"). A list of the Pending Disallowed Claims is annexed to the

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<sup>9</sup> As indicated on Exhibit 3-C, two of the Wholly Unliquidated Claims are the subject of a Notice of Satisfied Claims filed by the Creditor Trust, with an objection deadline of February 28, 2017. The Creditor Trust does not anticipate any objections to the Notice of Satisfied Claims from either of these claimants.

Motion as Exhibit 3-D. The Creditor Trust expects that all of these claims will be disallowed in full. Nonetheless, out of an abundance of caution, the Creditor Trust has determined to reserve the applicable number of Series A-1 Class A Units for the Pending Disallowed Claims at their full asserted liquidated amount (rounded to \$12 million in the aggregate). Section 6.11(h) of the Plan provides that the Creditor Trust has the discretion to cancel any Units in the Disputed Claims Reserve if it determines that such Units are not necessary for the satisfaction of Disputed General Unsecured Claims. Therefore, to the extent the Court determines to disallow the Pending Disallowed Claims at or in advance of the scheduled hearing, the Creditor Trust will not reserve any Series A-1 Class A Units for the Pending Disallowed Claims in the Disputed Claims Reserve.

**E. Contingent Claims**

16. Notwithstanding the fact that the Bar Date for most Claims passed over ten months ago, it is possible that some Claims that are presently unknown to the Creditor Trust and are not listed on the Claims Register may at some point become Allowed General Unsecured Claims and entitled to a distribution of Class A Units (the “Contingent Claims”). The Contingent Claims potentially include, among other things, (a) Claims arising under section 502(h) of the Bankruptcy Code for avoidance and recovery of any avoidable transfers; (b) any claims not identified to date that may be reclassified into Class 5; and (c) other new or amended claims that are determined to be properly filed and not disallowed as late. Although the Creditor Trust believes there is minimal exposure for these Contingent Claims, based on the Creditor Trust’s analysis of these issues, in consultation with the Reorganized Debtors, out of an abundance of caution, the Creditor Trust seeks to reserve for the Contingent Claims at \$1 million.

**DISPUTED CLAIMS RESERVE**

17. For the avoidance of doubt, although the Creditor Trust calculated the Reserve Amount by reference to the various categories of claims listed above, the Creditor Trust proposes to create only one aggregate reserve for all of the Disputed General Unsecured Claims. Thus, to the extent the Creditor Trust has underestimated the amount that should be attributed to one category of claims, the Creditor Trust's overestimation with respect to another category will mean that sufficient amounts should be available to address all Disputed General Unsecured Claims that are Allowed after the Effective Date. The Creditor Trust believes this framework, together with the conservative Reserve Amount, ensures that all Disputed General Unsecured Claims will receive fair and equal treatment under the Plan.

18. The Creditor Trust also believes that the Reserve Amount represents reasonable and conservative estimates for the Disputed General Unsecured Claims that will ultimately be Allowed in these cases. The Creditor Trust believes that these amounts strike a careful and reasonable balance between enabling the Creditor Trust to make meaningful distributions to the holders of Allowed Claims while not jeopardizing the potential recoveries to claimants holding Disputed General Unsecured Claims in the event such claims subsequently are Allowed.

19. The proposed Reserve Amount is not indicative of the Creditor Trust's estimate of the ultimate Allowed amount of such claims. Rather, the Reserve Amount represents the Creditor Trust's estimate of the maximum liability that has been or could reasonably be asserted by the claimants on account of the Disputed General Unsecured Claims. The Creditor Trust is not proposing to allow the Disputed General Unsecured Claims at the Reserve Amount, and the Creditor Trust anticipates that substantive objections will be filed against a substantial



number of these Claims that will result in the disallowance or reduction of such Claims. The Creditor Trust has reserved all rights, both for itself and its successors, and for the Reorganized Debtors and their successors, as applicable, to object to, or seek to estimate, any and all Disputed General Unsecured Claims at lesser amounts.

20. As described in the Motion and in further detail above, the Creditor Trust determined the Reserve Amount in good faith, conservatively, in consultation with, and with the cooperation of, the Reorganized Debtors, and based on an appropriate review and analysis of the claims at issue. More specifically, the Creditor Trust is requesting the Reserve Amount based on a comprehensive review of the following, to the extent feasible, appropriate, and/or necessary: (i) the Proofs of Claim and supporting documentation, (ii) the Debtors' books and records, (iii) communications, if any, with the holders of Disputed General Unsecured Claims, (iv) the legal issues, if any, associated with the claims, and (v) such other factors as the Creditor Trust deemed relevant.

21. The Creditor Trust submits that establishing the Disputed Claims Reserve using the Reserve Amount is necessary to make timely distributions to holders of Series A-1 Class A Units in the Creditor Trust as soon as practicable. The Reserve Amount balances the need to make prompt and material distributions to creditors while ensuring that a sufficient number of Series A-1 Class A Units will be available for the benefit of holders of the Disputed General Unsecured Claims, to the extent that such Claims are ultimately Allowed.

22. Moreover, the Creditor Trust believes that the Disputed Claims Reserve will not unfairly prejudice the holders of the Disputed General Unsecured Claims. First, all of the Liquidated Claims and the Partially Liquidated Claims are being reserved for at the full liquidated amount. The Creditor Trust has determined to take this conservative approach even

though it believes many of these claims ultimately will be Allowed in lower amounts or disallowed in their entirety.

23. Second, the Creditor Trust also proposes to estimate the full asserted amount for the Pending Disallowed Claims plus approximately \$7 million for unliquidated, partially unliquidated or contingent claims. The Creditor Trust believes these amounts are well in excess of the amount for which the Debtors are actually liable, and reflect the Creditor Trust's good faith estimate of the reasonable or likely high-end values of these claims.

\* \* \*

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: February 14, 2017  
New York, New York

By: /s/ Alan M. Jacobs  
ALAN M. JACOBS  
Creditor Trust Administrator of the  
RCS Creditor Trust

**Exhibit 3-A**  
**Liquidated Claims**

EXHIBIT 3-A  
Liquidated Claims

Name of Claimant	Claim/Schedule Number	Date Filed	Claim Amount and Classification Status
Westin Copley Place Boston	6	2/10/2016	Unsecured: \$34,249.84 Total: \$34,249.84
J. Frank Associates, LLC	9	2/12/2016	Unsecured: \$424,169.33 Total: \$424,169.33
Contrarian Funds, LLC as Transferee of Vestorly, Inc	13	2/16/2016	Unsecured: \$120,000.00 Total: \$120,000.00
Michael Page International, Inc	18	2/17/2016	Unsecured: \$23,761.44 Total: \$23,761.44
Kangrga, Rebecca Lee	20	2/19/2016	Unsecured: \$40,684.00 Total: \$40,684.00
Merrill Corporation	33	2/29/2016	Unsecured: \$34,843.39 Total: \$34,843.39
Mediant Communications	35	3/1/2016	Unsecured: \$2,359.67 Total: \$2,359.67
Michelson on Medicine LLC	40	3/2/2016	Unsecured: \$10,000.00 Total: \$10,000.00
CT Lien Solutions	52	3/7/2016	Unsecured: \$14,722.44 Total: \$14,722.44
Grub Hub Holding Inc.d/b/a Seamless	56	3/4/2016	Unsecured: \$18,755.88 Total: \$18,755.88
Resources Global Professionals	58	3/15/2016	Unsecured: \$146,632.50 Total: \$146,632.50
Department of the Treasury - Internal Revenue Service	66	3/14/2016	Unsecured: \$4,357.60 Total: \$4,357.60
SALESFORCE.COM, INC.	70	3/16/2016	Unsecured: \$494,706.22 Total: \$494,706.22
Vintage	73	3/15/2016	Unsecured: \$89,453.00 Total: \$89,453.00
Centerview Partners LLC	84	3/10/2016	Unsecured: \$5,099,562.27 Total: \$5,099,562.27
Cleary Gottlieb Steen & Hamilton LLP	85	3/21/2016	Unsecured: \$1,455,246.93 Total: \$1,455,246.93
Moody's Investors Service, Inc.	100	3/24/2016	Unsecured: \$75,045.13 Total: \$75,045.13
RSM US LLP f/k/a McGladrey LLP	104	3/29/2016	Unsecured: \$3,466,994.59 Total: \$3,466,994.59
Apollo Management Holdings, L.P.	150	3/23/2016	Unsecured: \$4,291,846.00 Total: \$4,291,846.00
Jones, Brian D.	168	3/30/2016	Unsecured: \$3,097,625.00 Total: \$3,097,625.00
Sidley Austin LLP	173	3/30/2016	Unsecured: \$491,005.00 Total: \$491,005.00
Winston and Strawn LLP	226	3/31/2016	Unsecured: \$203,832.66 Total: \$203,832.66
Centerbridge Partners, L.P.	235	3/31/2016	Unsecured: \$500,000.00 Total: \$500,000.00

EXHIBIT 3-A  
Liquidated Claims

Name of Claimant	Claim/Schedule Number	Date Filed	Claim Amount and Classification Status
Schulte Roth & Zabel LLP	263	3/31/2016	Unsecured: \$377,699.73 Total: \$377,699.73
Park, James <sup>1</sup>	362	4/22/2016	Unsecured: \$20,858.00 Total: \$20,858.00
SUSQUEHANNA COMMERCIAL FINANCE, INC.	507	6/2/2016	Unsecured: \$73,201.77 Total: \$73,201.77
The Ohio Department of Taxation	512	6/7/2016	Unsecured: \$9,630.46 Total: \$9,630.46
CIT Finance LLC	516	6/10/2016	Unsecured: \$3,557.42 Total: \$3,557.42
Oregon Department of Revenue	543	6/28/2016	Unsecured: \$5,227.00 Total: \$5,227.00
Contently Inc	213133	N/A	Unsecured: \$28,270.88 Total: \$28,270.88
Dell Marketing LP	213137	N/A	Unsecured: \$11,586.86 Total: \$11,586.86
Empire Office Inc.	213139	N/A	Unsecured: \$431,062.61 Total: \$431,062.61
One Town Center Associates	212799	N/A	Unsecured: \$41,990.79 Total: \$41,990.79
Independent Ins Advisors Inc.	212903	N/A	Unsecured: \$24,031.00 Total: \$24,031.00
Joseph Conlan	212907	N/A	Unsecured: \$85,328.00 Total: \$85,328.00
Proskauer Rose LLP	212803	N/A	Unsecured: \$1,540,894.76 Total: \$1,540,894.76
Proskauer Rose LLP	212804	N/A	Unsecured: \$1,643,880.64 Total: \$1,643,880.64

**Notes:**

1. The scheduled amount associated with Claim Number 263 exceeded the filed claim amount, and therefore, in accordance with the Plan, the Creditor Trust is reserving for the greater scheduled amount.

**Exhibit 3-B**  
**Partially Unliquidated Claims**

**EXHIBIT 3-B**  
Partially Unliquidated Claims

Name of Claimant	Claim Number	Date Filed	Claim Amount and Classification Status
VEREIT, Inc. (f/k/a American Realty Capital Properties, Inc.)	109	3/29/2016	Unsecured: \$40,244.00 Total: \$40,244.00
VEREIT Operating Partnership, L.P. (f/k/a ARC Properties Operating Partnership, L.P.) <sup>1</sup>	120	3/29/2016	Unsecured: \$15,533,481.74 Total: \$15,533,481.74
Equity Fund Advisors, LLC	124	3/29/2016	Unsecured: \$471,029.86 Total: \$471,029.86
Chief Shareholder Rep, LLC	164	3/30/2016	Unsecured: \$1,198,899.67 Total: \$1,198,899.67
Block, Brian S.	384	4/29/2016	Unsecured: \$137,841.85 Total: \$137,841.85
ARC HTNEWRI001, LLC	442	4/28/2016	Unsecured: \$976,750.00 Total: \$976,750.00
RCAP Holdings, LLC <sup>1</sup>	443	4/28/2016	Unsecured: \$12,327,128.68 Total: \$12,327,128.68

**Notes:**

1. The scheduled amounts associated with both Claim Numbers 120 and 443 exceeded the filed claim amounts, and therefore, in accordance with the Plan, the Creditor Trust is reserving for the greater scheduled amounts.

**Exhibit 3-C**

**Wholly Unliquidated Claims**



EXHIBIT 3-C  
Wholly Unliquidated Claims

Name of Claimant	Claim Number	Date Filed	Claim Amount and Classification Status
Marvin, JoAnn	63	3/14/2016	Unsecured: Unliquidated Total: \$0.00
Hartford Fire Insurance Company <sup>1</sup>	81	3/7/2016	Unsecured: Unliquidated Total: \$0.00
VEREIT Operating Partnership, L.P. (f/k/a ARC Properties Operating Partnership, L.P.)	117	3/29/2016	Unsecured: Unliquidated Total: \$0.00
VEREIT, Inc. (f/k/a American Realty Capital Properties, Inc.)	121	3/29/2016	Unsecured: Unliquidated Total: \$0.00
Medley LLC, Sierra Income Corporation, SIC Advisors LLC	276	3/31/2016	Unsecured: Unliquidated Total: \$0.00
Marvin, David W <sup>1</sup>	310	4/1/2016	Unsecured: Unliquidated Total: \$0.00
RCAP Holdings, LLC	378	4/29/2016	Unsecured: Unliquidated Total: \$0.00
AR Capital, LLC	399	4/29/2016	Unsecured: Unliquidated Total: \$0.00
RCS Capital Management, LLC	432	4/28/2016	Unsecured: Unliquidated Total: \$0.00
RCAP Holdings, LLC	444	4/28/2016	Unsecured: Unliquidated Total: \$0.00
Schorsch, Nicholas S.	447	4/28/2016	Unsecured: Unliquidated Total: \$0.00
Weil, Edward M. Jr.	449	4/28/2016	Unsecured: Unliquidated Total: \$0.00
Tanaka, James A.	452	4/28/2016	Unsecured: Unliquidated Total: \$0.00
Kahane, William M.	455	4/28/2016	Unsecured: Unliquidated Total: \$0.00
Galloway, Jesse C.	459	4/28/2016	Unsecured: Unliquidated Total: \$0.00
Budko, Peter M.	460	4/28/2016	Unsecured: Unliquidated Total: \$0.00
Merrill Lynch, Pierce, Fenner & Smith Incorporated	519	6/15/2016	Unsecured: Unliquidated Total: \$0.00
Barclays Capital Inc.	520	6/15/2016	Unsecured: Unliquidated Total: \$0.00
Barclays Capital Inc.	522	6/15/2016	Unsecured: Unliquidated Total: \$0.00

**Notes:**

1. Both Claim Numbers 81 and 310 are the subject of a pending Notice of Satisfied Claims filed by the Creditor Trust, with an objection deadline of February 28, 2017.

**Exhibit 3-D**

**Pending Disallowed Claims**

EXHIBIT 3-D  
Pending Disallowed Claims

Name of Claimant	Claim Number	Date Filed	Claim Amount and Classification Status
Smith, Ryan	76	3/14/2016	Unsecured: \$725,000.00 Total: \$725,000.00
Cisco Systems Capital Corporation	202	3/31/2016	Unsecured: \$10,712,600.78 Total: \$10,712,600.78