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

In re:

**EMPIRE SOLAR GROUP, LLC,
Debtor.**

Bankruptcy Case No. 21-23636

Chapter 7

Honorable Joel T. Marker

**CHAPTER 7 TRUSTEE’S MOTION FOR AN ORDER ESTABLISHING BAR DATE
FOR FILING CLAIMS FOR CERTAIN ADMINISTRATIVE EXPENSES AND LEASE
REJECTION DAMAGES, AND APPROVING NOTICE OF BAR DATE**

Steven R. Bailey, the duly appointed trustee in the above-captioned chapter 7 bankruptcy case (the “**Trustee**”), through counsel, hereby respectfully moves this Court for an order (1) establishing the date by which claims for post-petition administrative expenses allowable under Sections 503(b)(3) and 503(b)(9) of the Bankruptcy Code and lease rejection damages pursuant to Bankruptcy Rule 3002(c)(4) (collectively, “**Specified Claims**”) must be filed by the holders thereof, and (2) approving the form, manner, and sufficiency of the notice regarding the deadline (the “**Bar Date Notice**”), a copy of which is attached hereto as Exhibit A. Specifically, the

Trustee requests the deadline for filing proof of Specified Claims be set at Friday, January 28, 2022 (the “**Bar Date**”). In further support hereof, the Trustee states as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334.
2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

BACKGROUND

4. Empire Solar Group, LLC (the “**Debtor**”) filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code on August 22, 2021 (the “**Petition Date**”).
5. The Trustee was appointed as the Chapter 7 Trustee of the Debtor’s bankruptcy estate (the “**Estate**”) on August 23, 2021.

RELIEF REQUESTED

6. In order for the Trustee to efficiently and expeditiously administer the assets of the Estate, it is necessary to resolve issues surrounding the nature, amount, and status of certain claims entitled to administrative expense priority that may be asserted against the Estate.
7. Accordingly, the Trustee requests entry of an order fixing the Bar Date as the date by which holders of Specified Claims must file proof thereof. The Trustee requests that any person or entity that fails to file proof of a Specified Claim on or before the Bar Date be (1) forever barred, estopped, and enjoined from asserting a Specified Claim against the Debtor or the Estate; (2) precluded from receiving any payment on account of such Specified Claim; (3)

excluded from participating in any distributions of such Specified Claim in this case; and (4) excluded from receiving further notices regarding Specified Claims.

8. The Trustee further requests entry of an order approving the form, manner and sufficiency of the Bar Date Notice.

ARGUMENT

I. Cause Exists to Establish the Bar Date for the Specified Claims.

9. Section 503 of the Bankruptcy Code provides that any party can “timely file a request for payment of an administrative expense” and that such claim may be allowed after notice and a hearing. 11 U.S.C. §§ 503(b). Bankruptcy Rule 3002(c)(4) further provides that “[a] claim arising from the rejection of an executory contract or unexpired lease of the debtor may be filed within such time as the court may direct.” Fed. R. Bank. P. 3002(c)(4).

10. In order to effectively and efficiently administer the Estate, the Trustee needs to be apprised of the number and amount of Specified Claims that may be asserted against the Estate.

11. By establishing the Bar Date, the Trustee will be able to more accurately evaluate the pool of administrative claims, which will facilitate the Trustee’s ability to more accurately make projections in connection with this case and the claims resolution process.

12. Courts routinely impose bar dates for filing administrative claims similar to the Bar Date requested herein. *See, e.g., In re Brooke Corp.*, 485 B.R. 650, 662 (Bankr. D. Kan. 2013); *In re Cir. City Stores, Inc.*, No. 08-35653-KRH, 2010 WL 4956022, at *1 (Bankr. E.D. Va. Dec. 1, 2010).

13. Similarly, while Rule 3002(c)(4) does not require a deadline separate from the deadline for filing a proof of claim, the Trustee requests one in this case in order to ensure that the landlords of rejected leases have adequate time to file a proof of claim. *In re Harper*, 108 F.3d 1385 (9th Cir. 1997); *In re Bell*, 535 B.R. 432, 436 (Bankr. N.D. Ga. 2015); *In re Lee Way Holding Co.*, 178 B.R. 976, 984 (Bankr. S.D. Ohio 1995).

14. Therefore, cause exists to set the Bar Date as requested herein.

II. Potential Claimants Will Receive Adequate Notice of the Bar Date.

15. Bankruptcy Rule 9007 grants courts the general authority to regulate notices. Rule 9007 provides that “[w]hen notice is to be given under these rules, the court shall designate, . . . , the time within which, the entities to whom, and the form and manner in which the notice shall be given.” Fed. R. Bank. P. 9007.

16. Here, the Trustee will serve the Bar Date Notice by first class U.S. mail on all potential claimants listed in the case matrix in addition to all the landlords whose leases the Trustee has rejected.

17. The Bar Date Notice will also contain sufficient information regarding who must file a Specified Claim and the consequences of the failure to file such claims.

18. Moreover, assuming the entry of an Order approving this Motion by December 15, 2021, all potential claimants will receive at least thirty (30) days’ notice of the Bar Date, providing them with adequate time to investigate and file proof of Specified Claims.

CONCLUSION

WHEREFORE, the Trustee respectfully requests that the Court enter an order (1) fixing the Bar Date for filing proof of Specified Claims as Friday, January 28, 2021, (2) approving the form, manner, and sufficiency of the Bar Date Notice, and (3) granting the Trustee such other and further relief to which the Trustee may be entitled.

DATED this 12th day of November 2021.

RAY QUINNEY & NEBEKER P.C.

/s/ Michael R. Johnson _____

Michael R. Johnson

David H. Leigh

Attorneys for Chapter 7 Trustee

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of November, 2021, a true and correct copy of the foregoing **CHAPTER 7 TRUSTEE'S MOTION FOR AN ORDER ESTABLISHING BAR DATE FOR FILING CLAIMS FOR CERTAIN ADMINISTRATIVE EXPENSES AND LEASE REJECTION DAMAGES AND APPROVING NOTICE OF BAR DATE** was electronically filed and therefore served via ECF on the following:

- **B. Scott Allen** allen@mvmlegal.com, coley@mvmlegal.com
- **Steven R. Bailey** karen@baileylaw.org, UT06@ecfcbis.com
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- **United States Trustee** USTPRegion19.SK.ECF@usdoj.gov

I further certify that on the 12th day of November, 2021, a true and correct copy of the foregoing was mailed by first class mail, postage prepaid, to the following:

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/s/ Carrie Hurst

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EXHIBIT A

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David H. Leigh (Utah Bar No. 9433)
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**[PROPOSED] NOTICE OF (A) REQUIREMENT FOR FILING PROOF OF
ADMINISTRATIVE EXPENSES UNDER SECTIONS 503(b)(3) AND 503(b)(9) OF
THE BANKRUPTCY CODE AND LEASE REJECTION DAMAGES UNDER
BANKRUPTCY RULE 3002(c)(4), (B) LAST DATE FOR FILING PROOF THEREOF,
AND (C) PROCEDURES IN CONNECTION THEREWITH**

TO ALL ALLEGED POST-PETITION CREDITORS OF THE DEBTOR:

On August 22, 2021, (the “**Petition Date**”), EMPIRE SOLAR GROUP, LLC (the “**Debtor**”) filed a voluntary petition for relief under chapter 7 of Title 11 of the United States Code (the “**Bankruptcy Code**”).

**BAR DATE FOR (1) ADMINISTRATIVE EXPENSES UNDER SECTIONS 503(b)(3)
AND 503(b)(9) OF THE BANKRUPTCY CODE AND (2) LEASE REJECTION
DAMAGES UNDER BANKRUPTCY RULE 3002(c)(4)**

The United States Bankruptcy Court for the District of Utah (the “**Court**”) has entered an order setting **FRIDAY, JANUARY 28, 2022** (the “**Bar Date**”) as the deadline for all persons and entities, including all individuals, former and present employees, partnerships, corporations, estates, trusts, and governmental units, to file a proof of claim evidencing (1) alleged administrative expenses under Sections 503(b)(3) and/or 503(b)(9) of the Bankruptcy Code and

(2) lease rejection damages under Bankruptcy Rule 3002(c)(4) (collectively, “**Specified Claims**”) against the Debtor or the Estate. The Bar Date and the procedures set forth below for filing proofs of Specified Claims apply to all Specified Claims that arose after the Petition Date.

Specified Claims under Section 503(b)(3) are those claims that seek the actual, necessary expenses, incurred by: (A) a creditor that recovers, after the court’s approval, for the benefit of the estate any property transferred or concealed by the debtor; (B) a creditor in connection with the prosecution of a criminal offense relating to the case or to the business or property of the debtor; or (C) a custodian superseded under Section 543 of the Bankruptcy Code, and compensation for the services of such custodian.

Specified Claims under Section 503(b)(9) are those claims that seek the value of any goods received by the Debtor within twenty (20) days before the Petition Date in which the goods have been sold to the Debtor in the ordinary course of the Debtor’s business.

Specified Claims under Bankruptcy Rule 3002(c)(4) are those claims arising from the rejection of an executory contract or unexpired lease of the Debtor.

1. WHO MUST FILE PROOF OR OTHER EVIDENCE OF SPECIFIED CLAIMS

You **must** file with the Court proof or other evidence of alleged Specified Claims if you have a Specified Claim as described above.

2. WHEN AND WHERE TO FILE PROOF OF OTHER EVIDENCE OF SPECIFIED CLAIMS

Proof or other evidence of a Specified Claim must be filed so as to be received on or before the Bar Date at the following address: Clerk of the Court, United States Bankruptcy Court, 350 South Main Street, Room 301, Salt Lake City, Utah 84101. Proof or other evidence of Specified Claims will be deemed filed only when actually received by the Court. If you wish to receive a file-stamped copy of your proof or other evidence, you must provide an additional copy of your request to the Clerk of the Bankruptcy Court along with a postage pre-paid envelope. In addition, copies of such proof or other evidence of Specified Claims must also be served, no later than the Bar Date, on the following: Michael R. Johnson and David H. Leigh, Ray Quinney & Nebeker P.C., P.O. Box 45385, Salt Lake City, Utah 84145.

3. FAILURE TO FILE PROOF OF OTHER EVIDENCE OF SPECIFIED CLAIMS

Any creditor who fails to file with the Court proof or evidence of Specified Claims on or before the Bar Date, shall be forever barred, estopped, and enjoined from asserting such Specified Claim or filing proof or other evidence with respect to such Specified Claim against the Debtor or the Estate. If the holder of a Specified Claim fails to timely file a proof of claim with the Court, such holder shall not be permitted to participate in any distribution in this chapter 7

case on account of such Specified Claim or to receive further notices regarding such Specified Claim.

4. INQUIRIES

ANY INQUIRIES, SUCH AS WHETHER YOU SHOULD FILE PROOF OR EVIDENCE OF A SPECIFIED CLAIM OR TAKE ANY OTHER ACTION WITH RESPECT TO YOUR SPECIFIED CLAIM SHOULD BE DIRECTED TO YOUR OWN ATTORNEY. DO NOT CALL THE OFFICE OF THE CLERK WITH ANY SUCH QUESTIONS.

DATED this ___ day of _____, 2021.

RAY QUINNEY & NEBEKER P.C.

/s/ Michael R. Johnson

Michael R. Johnson

David H. Leigh

Attorneys for Chapter 7 Trustee

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