

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

mgm 3024

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In re

Chapter 11

Case No. 09-75473-reg

SUFFOLK READY MIX, LLC,

Debtor.

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**ORDER (a) FIXING THE FINAL DATE FOR FILING PROOFS OF CLAIMS IN THIS CASE, AND (b) PRESCRIBING FORM AND MANNER OF NOTICE**

UPON the application dated August 4, 2009 (the "Application") of the above-named chapter 11 debtor in possession (the "Debtor"); and no advance notice of or hearing on the Application being required by the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure ("FRBP"); and after due deliberation and sufficient cause appearing therefor; and this Court having determined that (1) it is necessary and appropriate to immediately establish a final date for the filing of proofs of claims against the Debtor, the Debtor's property, and the Debtor's Estate, i.e., the Final Filing Date, as the term is defined in the paragraph numbered "1" below, and (2) notice of the Final Filing Date in the form and manner set forth below is reasonably calculated, under all the circumstances herein present, to apprise all of the Debtor's creditors and all other entities having an interest in the Debtor's case, of the Final Filing Date, and to provide them with an adequate opportunity to that file their proofs of claims; it is hereby

ORDERED, pursuant to 11 U.S.C. Section 105(a) and FRBP 2002 and 3003:

1. All entities and persons (as those terms are defined in 11 U.S.C. Section 101) which hold or allegedly hold a claim (as that term is defined in 11 U.S.C. Section 101) against either of the Debtor or the Debtor's Estate which arose or can be deemed to have arisen at any time on or before the July 24, 2009 filing date of the Debtor's petition in this case, must file proofs of such claims in a form in substantial conformance with Official Bankruptcy Form

No. 10, so that they are actually received by the Clerk of this Court **on or before 4:00 p.m. on October 1, 2009** (the "Final Filing Date"), except that:

- a. Professional persons employed and/or retained herein pursuant to 11 U.S.C. Sections 327 and/or 1103 need not file any proof of claims herein on or before the Final Filing Date in respect of their postpetition professional services or disbursements, and/or their services or disbursements in contemplation of the case before the filing date of the petition;
- b. Entities or persons which heretofore properly filed a proof of claim herein, utilizing a claim form which substantially complies with Official Bankruptcy Form No. 10, and otherwise with this Order, need not file additional proofs of each claim on or before the Final Filing Date, unless they desire to amend such previously filed claims;
- c. Entities or persons whose claims have been liquidated or allowed under an Order of this Court (which has been "so Ordered"), need not file additional proofs of such claims on or before the Final Filing Date.
- d. Entities or persons whose claims are listed in the Debtor's most current schedules or amended schedules of liabilities on file herein (the "Schedules") need not file additional proofs of claim herein on or before the Final Filing Date, unless their claim is listed in the Schedules as "contingent," "disputed," "unliquidated," "unknown," or for an approximate amount, or unless the classification or amount of the listing is for any reason disputed by the person or entity;
- e. Entities or persons whose claims are presently listed in the Schedules and who are not required to file proofs of claims under subparagraph "d" above, but whose listing is redesignated, reduced, or reclassified by a future amendment of the Schedules, shall be entitled to file proofs of claims herein on or before the later of the Final Filing Date or twenty-five (25) days after the Debtor serves them with notice of any amendment of the Schedules which redesignates, reduces or reclassifies their claim.
- f. Entities or persons who are not listed in the Schedules and are not sent direct notice of the Final Filing Date in the manner set forth below, and whose claims are listed for the first time in amended schedules filed by the Debtor after the date hereof, shall be entitled to file proof of their claims on or before the later of the Final Filing

Date and twenty-five (25) days following the date on which the Debtor serves them with notice of their listing in the amended schedules.

- g. Entities or Persons whose claim arises from the rejection of any executory contract or unexpired lease (the "Rejection") by the Debtor after the date of the entry hereof, shall be entitled to file proofs of claims on or before the later of the Final Filing Date and twenty-five (25) days following the date of the authorization of the Rejection.

2. Proofs of claims which fail substantially to conform to the above requirements and to Official Bankruptcy Form No. 10, may be disallowed and may be deemed null and void, even if they are filed on or before the Final Filing Date. Proofs of claims filed after the Final Filing Date, except as allowed above, may be disallowed and may be deemed null and void. It shall be the sole duty of each claimant or creditor to ensure that its proof of claim is timely received by the Clerk of this Court in a form substantially conforming to Official Bankruptcy Form No. 10 on or before the Final Filing Date.

3. Any entity or person which is required to file a proof of claim and which fails properly to do so on or before the Final Filing Date in the manner set forth herein or in the notice approved below in this Order

- shall not be treated as a creditor or claimant of or against the Debtor, the Debtor's property, or the Debtor's bankruptcy Estate for the purpose of objecting to, voting for or against, or receiving any distribution under any chapter 11 plan confirmed in the Debtor's case, and

- shall be forever barred, restrained, and enjoined from asserting any unfiled claim against the Debtor; any successor[s] or assign[s] of the Debtor; and/or the Debtor's bankruptcy Estate, or the Debtor's or the Debtor's bankruptcy Estate's properties.

4. Notice of the Final Filing Date shall be deemed to be adequate and sufficient, if a copy of a notice substantially in the form of the proposed notice annexed to the Application at Exhibit "A," is directly sent by the Debtor or his counsel by first class postage

prepaid mail on or before August 28, 2009 to the last known address of each and all of the following entities and persons: (i) the Office of the United States Trustee for this District; (ii) all creditors listed in the Schedules; (iii) all entities who heretofore filed with this Court and served on the Debtor's counsel of record, a request for receipt of all notices in the Debtors' case; (iv) all taxing authorities, **except that the proposed notice shall contain the following information:**

**Proofs of claim may be filed over the Internet, on CD-ROM, on diskette or in paper form. To file a proof of claim over the Internet, you must be an Electronic Case Filing ("ECF") account holder. If you are not a current ECF account holder and wish to obtain a Limited Access Creditor Password to file claims, you must complete the application located at:**

**[http://www.nyeb.uscourts.gov/ecf/train\\_guide/limited\\_access\\_pwd.pdf](http://www.nyeb.uscourts.gov/ecf/train_guide/limited_access_pwd.pdf)**

**To file a proof of claim by mail, by hand or by overnight courier, the address is:  
United States Bankruptcy Court, Eastern**

**District of New York, 290 Federal Plaza, P.O. Box 9013 Central Islip, New York  
11722-9013.**

Dated: Central Islip, New York  
August 27, 2009

**/s/ Robert E. Grossman**  
Hon. Robert E. Grossman  
United States Bankruptcy Judge