

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In re:  C SWANK ENTERPRISES, LLC  <p style="text-align: center;">Debtor</p> <hr/> DE LAGE LANDEN FINANCIAL SERVICES, INC.  <p style="text-align: center;">Movant,</p> <p style="text-align: center;">v.</p> C SWANK ENTERPRISES, LLC  <p style="text-align: center;">Respondent.</p>
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Case No.: 16-3451(JAD)

Chapter 11

Hearing Date: November 14, 2017

**OBJECTION TO SECOND AMENDED DISCLOSURE STATEMENT AND PLAN**

De Lage Landen Financial Services, Inc. (hereinafter “DLL”), by and through its undersigned attorneys, hereby objects to confirmation of the Debtor’s Second Amended Disclosure Statement and Chapter 11 Plan dated October 10, 2017, and in support thereof states as follows:

1. DLL is a secured creditor pursuant to a Loan and Security Agreement (the “Agreement”) entered into between DLL and Debtor C Swank Enterprises, LLC (“Debtor”). See a true and correct copy of the Agreement attached hereto as Exhibit “A” and incorporated herein by reference.

2. In connection with the Agreement, the total amount due to DLL from Debtor, including interest through the petition date, is \$89,823.47<sup>1</sup>. See Certification of Kenneth Jones attached hereto as Exhibit “B” and incorporated herein by reference.

3. The amount due was calculated as follows:

Past Due/Billed Payments	\$28,447.04
Remaining Payments Discounted at 3%	\$42,090.14
Property Tax	\$ 1,321.60
Attorneys’ Fees	\$17,964.69
<b>TOTAL DUE</b>	<b>\$89,823.47</b>

See Exhibit “B”.

4. The principal portion of this amount represents the twenty (20) monthly payments remaining due to DLL under the Agreement. See Exhibit “B”.

5. Furthermore, Debtor has not made a payment under the Agreement since July 2016. See Exhibit “B”.

6. Pursuant to the Second Amended Plan and accompanying Disclosure Statement dated October 10, 2017, Debtor still proposes to pay DLL’s claim over of a period of seven (7) years, more than four times the length of time remaining on the Agreement. See Disclosure Statement at paragraph I(7)(H).

7. In the Second Amended Disclosure Statement and Plan, Debtor notes that DLL did not file a proof of claim but that Debtor estimates the claim amount to be \$67,545.78. As

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<sup>1</sup> DLL filed a Motion to Enlarge Time to File a Proof of Claim in this amount on October 16, 2017. The Motion is scheduled for November 21, 2017 and responses were due by November 2, 2017 but, to date, no response or opposition to the same has been filed.

noted above and in footnote 1, the actual claim amount is \$89,823.47 and DLL's Motion to Enlarge Time to File a Proof of Claim is currently pending.

8. In addition, the Second Amended Disclosure Statement and Plan set forth a proposal of a consent entry of judgment against Carol Swank in the event of default, but still request that creditors be barred and enjoined from pursuing Carol Swank and other individuals in connection with personal guaranties, including the guaranty signed by Carol Swank in connection with the Agreement with DLL, which is currently being litigated in the Court of Common Pleas of Chester County.

9. In light of the fact that Carol Swank has not filed bankruptcy and cannot be considered a co-debtor in connection with the instant matter, there is no basis for precluding creditors from proceeding against Ms. Swank in state court, nor is there any jurisdiction to stay any actions currently pending in state court.

10. Moreover, there is no basis in law or fact for a co-debtor stay to be imposed as to Carol Swank in connection with this matter.

11. DLL further concurs with the objections raised by the other creditors who filed objections to the Second Amended Disclosure Statement and Plan.

12. As such, DLL respectfully objects to the Disclosure Statement and Chapter 11 Plan, and submits that confirmation is inappropriate.

13. Finally, DLL respectfully notes that the instant objection was due on November 7, 2017. However, the undersigned counsel's office was closed and completely inaccessible from November 3, 2017 until today due to a water main break in the building, and DLL's counsel was unable to access its files until today. In light of the same, DLL is filing the foregoing objection at the earliest possible time.

**WHEREFORE**, Creditor/Objecting Party De Lage Landen Financial Services, Inc. respectfully requests that this Honorable Court sustain its Objection and deny confirmation of the Second Amended Disclosure Statement and Chapter 11 Plan, and such other and further relief as this court deems appropriate.

Respectfully Submitted,

*/s/ Nicola G. Suglia*

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Nicola G. Suglia, Esquire  
Fleischer, Fleischer & Suglia  
Four Greentree Centre  
601 Route 73 North, Suite 305  
Marlton, NJ 08053  
T: 856-489-8977  
F: 856-489-6439  
[nsuglia@fleischerlaw.com](mailto:nsuglia@fleischerlaw.com)

Dated: November 8, 2017