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9 **UNITED STATES BANKRUPTCY COURT**
 10 **FOR THE DISTRICT OF NEVADA**

<p>11 In re:</p> <p>12 Front Sight Management LLC,</p> <p>13</p> <p>14 Debtor.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p>	<p>Case No. 22-11824-abl</p> <p>Chapter 11</p> <p>Hearing Date: January 9, 2023 Hearing Time: 9:30 a.m.</p>
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19 **LIQUIDATING TRUSTEE’S REPLY TO WARD STRINGHAM’S RESPONSE TO THE**
 20 **DEBTOR’S THIRD OMNIBUS OBJECTION TO CLAIMS**

21 Province, LLC, solely in its capacity as the duly authorized and acting Liquidating Trustee
 22 (the “Liquidating Trustee”) for the Front Sight Creditors Trust (the “Trust”), hereby submits its reply
 23 (the “Reply”) to the response [ECF No. 530] (the “Response”) filed by Ward Stringham (“Claimant”
 24 or “Stringham”) to the *Third Omnibus Objection (1) Reducing and Allowing Certain Member*
 25 *Claims and (2) Disallowing and expunging Certain Other Member Claims* [ECF No. 442] (the
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1 “Objection”) filed by Front Sight Management LLC (the “Debtor”).¹ In support of the Reply, the
2 Liquidating Trustee respectfully represents as follows:

3 **I. CLAIM 220 SHOULD BE DISALLOWED IN ITS ENTIRETY AS DEBTOR**
4 **ALREADY REFUNDED CLAIMANT ALL AMOUNTS PAID BY CLAIMANT**

5 Stringham filed Proof of Claim 220-1 (“Claim 220”) in the amount of a \$50,000 general
6 unsecured claim in this bankruptcy case. Claimant attached two pieces of paper to Claim 220—
7 neither of which provide evidence sufficient to entitle Claimant to a \$50,000 claim in this
8 bankruptcy case. Similarly, the documents attached to the Response also do not support Claimant’s
9 putative claim. In his Response, Stringham provides no evidence or case law in support of his
10 assertion that his membership entitles to him a \$50,000 claim against this estate. As acknowledged
11 by Claimant, in November 2020, the Debtor refunded Claimant \$1,946.06, which is the full amount
12 Claimant paid to the Debtor. Thus, Claimant it not entitled to any claim in this bankruptcy case as
13 Claimant has already been refunded the full amount that he paid to the Debtor.

14 The ultimate burden of persuasion with respect to an objection to claim is always on the
15 claimant. *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991). Claimant has failed to
16 meet this burden. Claimant has failed to produce any evidence supporting the amount of Claim 220
17 or controverting the Debtor’s evidence that Claimant is not entitled to a claim against this estate. In
18 fact, the evidence attached to the Response supports the Objection’s request to disallow Claim 220
19 because it demonstrates that Claimant was previously refunded all amounts paid to the Debtor.
20 Thus, the Objection should be sustained and Claim 220 should be disallowed in its entirety.

21 **II. TO THE EXTENT THE COURT ALLOWS CLAIM 220, THE COURT SHOULD**
22 **REDUCE THE CLAIM TO THE AMOUNT PAID BY CLAIMANT**

23 To the extent that the Court allows Claim 220, the Court should reduce Claim 220 to the
24 amount Claimant paid to the Debtor for his memberships and membership upgrades. In the
25 Response, Claimant acknowledges that he only paid \$1,946.06 for all memberships and membership
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27 ¹ As of the effective date of the Debtor’s confirmed chapter 11 plan of reorganization, the
28 Liquidating Trustee was vested with sole authority to prosecute most objections to claims in this
bankruptcy case.

1 upgrades. Bankruptcy courts routinely find that rejection damages from termination of memberships
2 are based on what the respective claimants paid for their memberships. *See In re Nittany*
3 *Enterprises, Inc.*, 502 B.R. 447, 456-7 (Bankr. W.D. Va. 2012) (allowing a general unsecured claim
4 only as to a pro-rated amount of the membership purchase price); *In re Palmas del Mar Country*
5 *Club, Inc.*, 443 B.R. 569 (Bankr. D. P.R. 2010) (disallowing priority claims filed by the country
6 club’s members for refund of the membership deposit and allowing the claims as general unsecured
7 claims in the amount of the membership deposit); *In re Yellowstone Mountain Club, LLC*, 469 Fed.
8 Appx. 584 (9th Cir. 2012) (holding that claimant’s allegations for damages above and beyond his
9 \$250,000 membership deposit were speculative and not provided for under the membership
10 agreement).

11 For example, *In re Four Star Financial Services, LLC* (“*Four Star*”), 469 B.R. 30 (C.D. Cal.
12 2012), the claimant paid an initiation fee to purchase a transferable lifetime membership which
13 entitled the member to use various campgrounds for life. On average, the initiation fee was \$4,500
14 plus annual dues. *Id.* at 31. The claimant argued he was entitled to a priority claim and that “he
15 contracted for a transferable, lifetime membership, and the services that go with it, and at the time of
16 the bankruptcy he had not yet received all these services.” *Id.* at 33. In *Four Star*, the district court
17 noted that “the initiation fee paid here by Appellee entitled him to immediate use of the campground
18 network. With the payment of the initiation fee, Appellee was immediately a member. He was not
19 waiting for services to be rendered by TAI. Somewhat illogically, Appellee points to his lifetime
20 membership and transferability as evidence of undelivered services. Assuming this were true,
21 Appellee's bargained-for services would not be delivered for several generations. While not
22 discounting the premium placed on the longevity and transferability of the memberships, the Court
23 finds these benefits inherent in the membership Appellee received immediately, rather than
24 something incapable of delivery for several generations ... Appellee paid an initiation fee and was
25 immediately entitled to avail himself of the entire campground network. Appellee contracted with
26 his eyes wide open, and while he might not have foreseen the financial trouble of TAI, this was a
27 risk he took in signing up to be a member of the campground network.” *Id.* at 35. The district court
28 ultimately found that “the initiation fee entitled Appellee to the immediate use of the facilities. The

1 initiation fee was not paid for the future guarantee of services and monthly dues were required in
2 order to continue utilizing the campground network ... In neither case was the initiation fee offered
3 as security for the future provision of services; it was merely the price of admission. Thus, the
4 initiation fee was not a deposit and the bankruptcy court erred by giving Appellee's Claim
5 priority..." *Id.*

6 While the claimant was not seeking a claim more than what he had paid, the analysis done by
7 the district court is helpful in this matter as Stringham received his membership when purchased and
8 he took the risk when signing up with the Debtor that it may have unforeseen financial trouble.
9 Stringham only paid \$1,946.06 for all memberships and membership upgrades. Thus, Claim 220
10 should be reduced to \$1,946.06 to the extent it is not disallowed.

11 **III. CONCLUSION**

12 For the foregoing reasons, the Liquidating Trustee respectfully requests that the Court sustain
13 the Objection in its entirety.

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15 DATED: January 3, 2022

BG Law LLP

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17 By: /s/ Susan K. Seflin
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19 Jessica S. Wellington
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21 the Liquidating Trustee of the Front Sight Creditors
22 Trust
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