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Benefit of Creditors of Fleer Collectibles, LLC

In the Matter of the General Assignment for  
the Benefit of Creditors of FLEER  
COLLECTIBLES, LLC

Assignor,

to

WARREN J. MARTIN JR.,

Assignee.

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION, PROBATE PART  
BURLINGTON COUNTY

DOCKET NO: 2005-1408

**VERIFIED COMPLAINT OF ASSIGNEE PURSUANT TO N.J.R. 4:83-1 et seq.**

Warren J. Martin Jr. (the "Assignee"), Assignee for the Benefit of Creditors of Fleer Collectibles, LLC ("Fleer Collectibles"), by way of Verified Complaint ("the Complaint"), alleges and states as follows:

1. Plaintiff is the Assignee ("Assignee") for the Benefit of Creditors of Fleer Collectibles, LLC ("Fleer Collectibles"), having been so designated pursuant to a Deed of Assignment for the Benefit of Creditors (the "Assignment") dated June 8, 2005 and registered with the Burlington County Clerk's office on June 10, 2005 (the "Assignment Date"), and an Amended and Restated Deed of Assignment for the Benefit of Creditors dated July 14, 2005, and

registered with the Burlington County Clerk's office on July 18, 2005. The Assignee is also an attorney-at-law of the State of New Jersey and a member of the law firm of Porzio, Bromberg & Newman, P.C. ("Porzio").

2. Prior to the Assignment Date, Fler Collectibles was primarily in the business of producing and selling die-cast miniature replica vehicles. Fler Collectibles had ceased all operations and terminated all employees prior to the Assignment Date.

**COUNT ONE**  
**(Professionals' Fees)**

3. The Assignee repeats and re-alleges the allegations contained in all of the foregoing paragraphs as if fully set forth herein.

**Porzio**

4. On July 1, 2005, the Court entered an Order Authorizing Retention of Porzio *nunc pro tunc* to June 8, 2005, as attorneys to represent the interests of the Assignee in connection with the above-referenced matter.

5. Porzio has performed necessary legal services, including, but not limited to, legal strategy, case administration, provision of public notice, creditor relations, preparing and conducting an auction of Fler Collectibles' assets, readying the estate for distribution to creditors and preparing fee applications.

6. The computer time records of Porzio detail the services rendered by date, time and activity, which reflect fees of \$162,879.50 and expenses of \$14,465.57 for a total award of \$177,345.07 for legal services rendered through and including September 30, 2005. A summary report of Porzio's computer time records is annexed as **Exhibit "1"** to the Certification of John S. Mairo, which is itself annexed hereto as **Exhibit "A."**

**Fox Rothschild**

7. Fox Rothschild, LLP ("Fox Rothschild") was appointed as special corporate counsel to the Assignee *nunc pro tunc* to June 8, 2005 by Order of this Court dated July 1, 2005.

8. Fox Rothschild has performed services, including, but not limited to, negotiating and drafting agreements with different parties to reach a stalking horse agreement; addressing and advising the Assignee regarding licensing and intellectual property issues; assisting with negotiations during the first auction sale and the subsequent closing; and addressing and advising the Assignee with respect to lien issues, and issues regarding sale of assets to the Upper Deck Company.

9. The computer time records of Fox Rothschild detail the services provided by Fox Rothschild, which records reflect fees of \$77,255.37 for legal services rendered through September 30, 2005. A copy of the computer time records of Fox Rothschild are annexed as **Exhibit "1"** to the Certification of Hal S. Baume in Support of Fox Rothschild's Fees, which is itself annexed as **Exhibit "B."**

#### **The Stetz Firm**

10. Stetz, Belgiovine & Manwarren, P.C. (the "Stetz Firm") was retained as accountant to the Assignee *nunc pro tunc* to June 8, 2005 by Order of this Court dated July 1, 2005.

11. The Stetz Firm has performed services, including, but not limited to accounting support and investigative services.

12. The computer time records of the Stetz Firm detail the services provided by the Stetz Firm, which reflect fees of \$13,744.37 for accounting services rendered through September 30, 2005. A copy of the computer time records of the Stetz Firm are annexed as **Exhibit "1"** to

the Certification of Robert Manwarren in Support of the Stetz Firm's Fees, which is itself annexed hereto as **Exhibit "C."**

**WHEREFORE**, the Assignee seeks:

- a. an allowance in the sum of \$162,879.50 for the legal services rendered by Porzio to the Assignee through September 30, 2005 and \$14,465.57 for reimbursement of disbursements during the same time period;
- b. an allowance in the sum of \$77,255.37 for the legal services rendered by Fox Rothschild to the Assignee through September 30, 2005; and
- c. an allowance in the sum of \$13,744.37 for the accounting services rendered by the Stetz Firm to the Assignee through September 30, 2005.

**COUNT TWO**  
**(Assignee's Final Commissions)**

13. The Assignee repeats and re-alleges the allegations contained in all of the foregoing paragraphs as if fully set forth herein.

14. The Assignee has served from the Assignment Date through the present time, and has expended approximately 497.3 hours in the performance of his duties as Assignee through September 30, 2005, as reflected in the Assignee's computer time records, attached as **Exhibit "1"** to the Certification of Warren J. Martin, Jr. ("Martin Affidavit"), which is itself annexed hereto as **Exhibit "D."**

15. The Assignee has performed services, including, but not limited to, investigating multiple strategies for Fleer Collectibles' business and proceeding with the filing of the Assignment, protecting Fleer Collectibles' assets, promoting public awareness of the Assignment

and the sale of assets, attending to the expedited auction of assets, and negotiating trademark, copyright and license issues with Major League Baseball Properties, Inc., the Major League Baseball Players Association, NFL Properties LLC, and NBA Properties, Inc, and others.

16. To date, the Assignee has brought receipts and interest totaling \$2,812,380.23 into the estate.

17. Pursuant to N.J.S.A. 2A:19-43 (2005), the Assignee is entitled to a maximum commission of 20 (twenty) percent of all receipts and interest he brings into the estate, which would calculate to \$562,476.05.

18. The Assignee wishes to make a distribution to all creditors approaching 100 percent. The Assignee believes he can accomplish this as a result of his extremely successful auction sale of the Fleer Collectibles assets, so long as his commission is restricted to 10 percent.

**WHEREFORE**, the Assignee seeks:

- a. an allowance of his final commission in this matter in the amount of 10% (ten) percent of his receipts and interest, totaling \$281,238.02.

**COUNT THREE**  
**(Distributions to Creditors)**

19. The Assignee repeats and re-alleges the allegations contained in all of the foregoing paragraphs as if fully set forth herein.

20. Upon completion of the Assignee's collection of assets, review of claims which have been filed by employees and non-employees against Fleer Collectibles and following hearings on the extent and validity of any and all claims which the Assignee will move to expunge, reduce or reclassify, the Assignee will submit a Verified Application to Approve Final Distributions to Creditors.

**WHEREFORE**, the Assignee seeks approval of a Final Distribution to Creditors.

**COUNT FOUR**

**(Approve Final Accounting, Discharge Bond and Abandon/Destroy Books, Records and Assets)**

21. The Assignee repeats and re-alleges the allegations contained in all of the foregoing paragraphs as if fully set forth herein.

22. The Assignee filed a bond with the Court on September 22, 2005, in the amount of \$2,450,000.00 dated September 9, 2005.

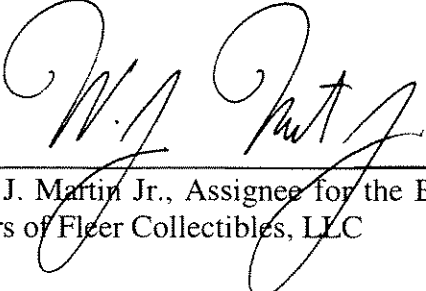
23. Upon completion of distributions to creditors, the Assignee will present, for the Court's approval, a Verified Application for Approval of the Assignee's Final Accounting regarding the administration of Fleer Collectibles' estate, as well as a request for discharge of the bond. A copy of the Assignee's Cash Reconciliation Report, Balance Sheet and Income Statement will be submitted therewith.

24. The Assignee has preserved the books and records of Fleer Collectibles, and hereby seeks further authorization to either destroy and/or abandon them upon the entry of a final judgment in this matter.

**WHEREFORE**, the Assignee seeks:

- a. approval of the Assignee's Final Accounting;
- b. discharge of the Assignee's Bond; and
- c. authorization to destroy and/or abandon the books and records and miscellaneous remaining assets of Fleer Collectibles.

DATED: October 21, 2005

By:   
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Warren J. Martin Jr., Assignee for the Benefit of  
Creditors of Fleer Collectibles, LLC