

**Dated: June 11, 2025**  
**The following is ORDERED:**



A handwritten signature in black ink, appearing to read "M. Ruthie Hagan".

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**M. Ruthie Hagan**  
**UNITED STATES BANKRUPTCY JUDGE**

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**UNITED STATES BANKRUPTCY COURT**  
**WESTERN DISTRICT OF TENNESSEE**  
**WESTERN DIVISION**

In re  
**Burrell Farms and Gardens, LLC**  
Debtor

Case No. 23-21037  
Chapter 11  
Subchapter V

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**OPINION AND ORDER GRANTING RESPONDENTS' MOTION FOR JUDGMENT ON  
PARTIAL FINDINGS UNDER FED. R. CIV. P. 52(C) AND FED. R. BANKR. P. 7052**

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This matter came before the Court for trial on the Objection to Claim 8-3 of Alabama Growers, LLC and Claim 9-1 of WJR Equipment, LLC filed by Thomas Burrell, individually, pursuant to 11 U.S.C. § 502(a) and FED. R. BANKR. P. 3007. The Court considered the testimony of Thomas Burrell, Tearie Leslie, the exhibits submitted at trial, and the arguments of counsel. At the close of the Plaintiff's case, Alabama Growers, LLC and WJR Equipment, LLC ("Respondents") made an oral Motion for Directed Verdict. Because this was a bench trial, the Motion is treated as a motion for a judgment on partial findings under FED. R. CIV. P. 52(c), made applicable herein by FED. R. BANKR. P. 7052. Under subsection (c) of Rule 52, "the court may

enter judgment against the party on a claim or defense that, under the controlling law, can be maintained or defeated only with a favorable finding on that issue.” After considering the evidence and testimony, as well as the arguments of counsel, the Court grants the Respondents’ Motion for judgment on partial findings pursuant to FED. R. BANKR. P. 7052. The following constitutes the Court’s findings of fact and conclusions of law in support of the entry of the judgment.

The Court has subject matter jurisdiction under 28 U.S.C. §§ 1334(a)-(b) and 157(a). By virtue of 28 U.S.C. § 157(b)(2)(A) and (B), this is a core proceeding.

### **FINDINGS OF FACT**

Debtor in the underlying case owned one farm and leased several others to grow and harvest certain crops. On the petition date, the Debtor was in the business of farming CBD-grade cannabis under a license from the State of Tennessee Department of Agriculture and leasing warehouse space for income.

On March 1, 2023 (the “Petition Date”), the Debtor filed a voluntary petition for relief from its creditors pursuant to subchapter V of Chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). Debtor scheduled certain unsecured debts including the claim of Alabama Growers, LLC, though Debtor did mark the claim as disputed. Debtor did not schedule the claim of WJR Equipment, LLC. On March 3, 2023, the Trustee was appointed as the subchapter V trustee in this case. (Doc. No. 4).

This Court entered an order on August 8, 2023 (the “Removal Order”) (Doc. No. 76), which removed the Debtor as debtor-in-possession. As the subchapter V trustee-in-possession, the Trustee became the statutory representative of the Debtor company under 11 U.S.C. § 323. During this bankruptcy proceeding, Debtor sold certain real property in a § 363 sale pursuant to an order entered by the Bankruptcy Court. The § 363 sale generated approximately \$2.1 million in net

proceeds after satisfaction of the costs of closing and the payment of the undisputed pre-petition portion of the obligations.

Since that time, Debtor was able to confirm a consensual plan of reorganization on October 3, 2024. (Doc. No. 168). Class 2 General Unsecured Claims (which include the two (2) claims subject to this dispute) are to be paid:

As provided in Section 9.01 of the Plan, on the later of (a) the Effective Date and (b) the date any Claim becomes an Allowed Claim pursuant to a Final Order, the Subchapter V Trustee shall make an initial distribution (each, an “Initial Distribution”) to each holder of an Allowed Claim in an amount equal to eighty percent (80%) of such Allowed Claim. The remaining balance of each Allowed Claim shall be paid in accordance with the provisions of section 9.02 of the Plan.

In order to fund the Initial Distribution, the Subchapter V Trustee shall hold back cash in an amount equal to 80% of the as-filed or as-scheduled amount of each Claim. Based upon the Claims filed and scheduled by the Debtor, the Trustee will retain the sum of \$1,235,976.76 which sum includes \$695,976.76 representing 80% of the Claims filed and/or scheduled by the Debtor; \$340,000 representing the settlement amount of the Claim of the Estate of David Allen Hall; and \$200,000 in estimated administrative expenses.

After payment in full of all (a) Allowed Claims (including Claims which may not become Allowed Claims until resolution of any pending objection to such Claims) and (b) Allowed Non-Classified Claims, the Subchapter V Trustee, shall release any remaining funds to the Debtor.<sup>1</sup>

After confirmation, Debtor filed an Objection to certain claims on October 28, 2024 (Doc. No. 191) and later amended the Objection (Doc. No. 194). The objections to Claims 8 and 9 were later set for hearing. Subsequently, Respondents amended their claims which resolved the

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<sup>1</sup> As provided in Section 9.02 of the Plan, Class 2 Allowed Claims shall receive payment in full of the remaining 20% of each Allowed Claim from Net Cash Flow generated from (a) sale of cannabis or crop; and (b) the operation of the Debtor’s business. Payments will be made annually after distribution from the Subchapter V Trustee October 1, 2025 and on a pro rata basis on the 1st day of October each year thereafter until paid in full. The proffered testimony of the Debtor’s representative indicates that the inventory, crop in ground and to be harvested, will be sufficient to pay the remaining 20% of Allowed Claims.

Objection of the Debtor. However, Thomas Burrell formally objected to the claims which are now the subject of this Opinion and Order.

The Subchapter V Trustee stands ready to distribute funds to Respondents upon resolution of this proceeding.

### **LEGAL ANALYSIS**

Under Bankruptcy Code § 502(a), a proof of claim is deemed an allowed claim unless objected to by a party in interest. 11 U.S.C. § 502(a). If a proof of claim follows certain requirements under FED. R. BANKR. P. 3001, then the claim is prima facie evidence of the claim's validity. As the Third Circuit explained in *Allegheny*, however, the filing of an objection under FED. R. BANKR. P. 3007 operates to defeat that prima facie case so long as the objection "produces sufficient evidence to negate one or more of the sworn facts in the proof of claim." *In re Allegheny Int'l, Inc.*, 954 F.2d 167, 174 (3d Cir. 1992) (citing *In re WHET, Inc.*, 33 B.R. 424, 437 (Bankr. D. Mass. 1983)). In that event, the burden is then shifted back to the claimant to demonstrate the validity of the claim. If the objecting party fails to offer sufficient evidence to overcome the evidentiary effect of the properly filed proof of claim, the objection will be overruled, and the claim will be allowed as filed. For purposes of the present dispute, the Court must determine if the Movant has presented enough evidence to shift the burden to the Respondents as outlined in *Allegheny*. See also *Kelly v. Mace (In re Mace)*, 573 F. App'x 490, 496 (6th Cir. 2014).

Movant's Objection to the claims focused (1) on the fact that Thomas Burrell, not the Debtor, was the obligor under the Alabama Grower, LLC loan documents, and (2) as to the claim of WJR Equipment, LLC "the documentation to the claim does not support the unsecured claim and such claim should be disallowed in full." (Doc. No. 252) At the trial, Thomas Burrell also presented argument that the Alabama Growers, LLC loan was invalid because of a scrivener's error

in the guaranty agreement in which the documents reference Alabama Growers, LLC as a Mississippi limited liability company, instead of an Alabama limited liability company.

The bulk of Movant's direct examination and cross examination of Mr. Burrell involved the review of the seven (7) separate promissory notes and options to convert and the seven (7) related guaranty agreements. Mr. Burrell did not dispute executing the loan documents, the authenticity of the signatures on the documents, or receiving the funds as outlined in Trial Exhibit 1, but simply claimed that he believed that the loans were extended to himself individually instead of to his limited liability company. Several of the wire transfers were made directly to Debtor, and no evidence was presented that any funds were directly transferred to Mr. Burrell individually. More telling, the seven (7) promissory notes between Debtor and Alabama Growers, LLC (which were drafted by Debtor) were all signed by "The Borrower(s): Burrell Farms and Gardens, LLC and Thomas Burrell, Individually." It is clear from Trial Exhibits 2-9 that Burrell Farms and Gardens is obligated under the loan documents.

During re-direct, without objection by opposing counsel, Movant's counsel presented a new argument that the Alabama Growers, LLC loan documents were invalid because of an error in the guaranty agreement. Specifically, the various guaranty agreements between Alabama Growers, LLC and Thomas Burrell in which Mr. Burrell guarantees certain loans of an undefined "Borrower"<sup>2</sup> in favor of Alabama Growers, LLC, an "*entity of the State of Mississippi*." However, the Promissory Notes do not contain any similar error. The Promissory Notes are the basis of the loan (the guaranty is related to Mr. Burrell's personal guarantee of the loans). The parties agreed in the loan documents that Alabama law controls their agreement, as such:

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<sup>2</sup> While not necessarily relevant, the Guaranty Agreement failed to define who the borrower is. Further errors in the loan documents exist including the option to convert the loan to "common stock," something that does not exist in a limited liability company.

“Under general Alabama rules of contract interpretation, the intent of the contracting parties is discerned from the whole of the contract. Where there is no indication that the terms of the contract are used in a special or technical sense, they will be given their ordinary, plain, and natural meaning. If the court determines that the terms are unambiguous (susceptible of only one reasonable meaning), then the court will presume that the parties intended what they stated and will enforce the contract as written. On the other hand, if the court determines that the terms are ambiguous (susceptible of more than one reasonable meaning), then the court must use established rules of contract construction to resolve the ambiguity. *See [Voyager Life Ins. Co. v.] Whitson*, 703 So. 2d 944, 948 [(Ala. 1997)]. Under those established rules of contract construction, where there is a choice between a valid construction and an invalid construction, the court has a duty to accept the construction that will uphold, rather than destroy, the contract and that will give effect and meaning to all of its terms. *See id.* at 948-49; *Sullivan, Long & Hagerty v. Southern Elec. Generating Co.*, 667 So. 2d 722, 725 (Ala. 1995).”

*Once Upon a Time, LLC v. Chappelle Properties, LLC*, 209 So. 3d 1094, 1097 (Ala. 2016) (alterations in original) (quoting *Homes of Legend, Inc. v. McCollough*, 776 So. 2d 741, 746 (Ala. 2000) (some citations omitted)).

This Court interprets the promissory notes from the four corners of the agreement and finds *no* ambiguity in the Promissory Notes. The intent of the parties is clear from the plain language of the Promissory Notes. There is no error in the Promissory Notes besides the fact that the obligation can never be converted to stock because the obligor is a limited liability company. This does not invalidate the agreement, nor does it create ambiguity in this Court’s opinion; therefore, the Court is not required to engage in the rule of *contra proferentem*, i.e. any ambiguity must be construed against the drafter of the contract. *Lamps Plus, Inc. v. Varela*, 587 U.S. 176, 187 (2019) (“Unlike contract rules that help to interpret the meaning of a term, and thereby uncover the intent of the parties, *contra proferentem* is by definition triggered only after a court determines that it cannot discern the intent of the parties.”); *see also Molton, Allen & Williams, Inc. v. St. Paul Fire & Marine Ins. Co.*, 347 So. 2d 95, 99 (Ala. 1977) (indicating that ambiguities must be interpreted against the party drawing the contract if the circumstances surrounding the contract do not make

the terms clear) (citation omitted); *Jackson v. Enter. State Cmty. Coll.*, 390 So. 3d 567, 575 (Ala. 2023) (emphasis and alteration in original) (quoting *McCullough*, 776 So. 2d at 746) (“[I]f all other rules of contract construction fail to resolve the ambiguity, then, under the rule of *contra proferentem*, any ambiguity must be construed against the drafter of the contract.”).

Furthermore, the purported error in the Guaranty Agreement does not invalidate the debt or create any ambiguity in the Promissory Note. Even if the Court accepts Mr. Burrell’s interpretation as reasonable, this Court still has a duty, when there is a choice between valid and invalid construction, to choose the valid construction interpretation. Moreover, even if this Court is not able to discern the intent of the parties, the doctrine of *contra proferentem* requires this Court to resolve the ambiguity against the drafter, i.e. Debtor.<sup>3</sup>

The Court heard no argument presented as to why the WJR Equipment, LLC claim should not be allowed. The written objection provides no details besides the blanket allegation that the documentation does not support the unsecured claim. However, the proof of claim had documents attached (Promissory Note and Guaranty Agreement) and those documents were presented during cross-examination of Mr. Burrell (again, Mr. Burrell did not dispute the authenticity of the documents, the signature on the loan documents or receipt of the related funds). *See* Trial Exhibit 10 and Claim 9-1. *See also In re Gorman*, 495 B.R. 823, 833-34 (Bankr. E.D. Tenn. 2013) (discussing whether a blanket objection to a claim because of lack of supporting documentation is a sufficient objection in the Sixth Circuit).

Simply put, Movant’s Objection and evidence presented during trial are not sufficient to shift the burden, under *Allegheny*, to the claimants to demonstrate the validity of their claims.

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<sup>3</sup> The loan documents were drafted by Debtor (at the direction of Mr. Burrell), the scrivener’s error is the fault of Debtor’s drafters and should not be something to hold against Alabama Growers, LLC

The Court therefore grants Respondents' Motion as Movant did not provide sufficient evidence to challenge Claim 8-3 nor Claim 9-1 in that Movant failed to produce sufficient evidence to negate any of the sworn facts in the proof of claim, a burden that lies solely on the Movant. Movant failed to carry this burden of proof.

### **CONCLUSION**

For all the above reasons, the Court **GRANTS** Respondents' Motion for judgment on partial findings. A final order, incorporating the findings herein and overruling the Objection of Movant, with prejudice, will accompany this Memorandum Opinion. There is no just reason to delay entering this Order. *See* FED. R. BANKR. P. 7054; FED. R. CIV. P. 54(b).

The Bankruptcy Court Clerk shall cause a copy of this Order and Notice to be sent to the following interested persons:

cc:

Burrell Farms and Gardens, LLC  
287 Madison Avenue  
Memphis, TN 38103

Ms. Toni Campbell Parker, Esq.  
Law Office of Toni Campbell Parker  
45 N. Third St., Suite 201  
Memphis, TN 38103

Mr. Percy Squire, Esq.  
Percy Squire CO, LLC  
341 S. 3<sup>rd</sup> St., Suite 10  
Columbus, OH 43215-7426

Mr. Bo Luxman, Esq.  
44 N. Second St., Suite 1004  
Memphis, TN 38103

Mr. James E. Bailey, III, Esq.  
Butler Snow LLP  
6075 Poplar Avenue, Suite 500  
Memphis, TN 38119



Mr. Sean M. Haynes, Esq.  
Office of the United States Trustee  
200 Jefferson Avenue, Suite 400  
Memphis, TN 38103