

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF LOUISIANA

In re:	*	CASE NO. 15-10553
	*	
THINKSTREAM INCORPORATED	*	CHAPTER 11
OF DELAWARE	*	
	*	
Debtor	*	

**CHAPTER 11 TRUSTEE’S *EX PARTE* MOTION FOR ORDER FIXING BAR DATE FOR FILING NON-GOVERNMENTAL PROOFS OF CLAIM AND INTERESTS AND APPROVING NOTICE PROCEDURES**

David S. Rubin (“Trustee”), the Chapter 11 Trustee for Thinkstream Incorporated of Delaware (“Thinkstream” or the “Debtor”) in this Chapter 11 Case (the “Case”), files this Motion for Order Fixing Bar Date for Filing Proofs of Claim and Interests and Approving Notice Procedures (the “Motion”), and in support thereof, states as follows:

**JURISDICTION**

1.

This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

**CORE PROCEEDING**

2.

This matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A) and (B).

**INTRODUCTION**

3.

On May 11, 2015, an Involuntary Petition was filed against Thinkstream by several petitioning creditors. On July 9, 2015, this Court entered an Order for Relief (Doc. 105) under chapter 11 of Title 11 of the United States Code, 11 U.S.C. §104, *et seq.* (the “Bankruptcy”

Code”). On July 9, 2015, the Trustee was appointed pursuant to section 1104 of the Bankruptcy Code. (Doc. 106) and the Court approved the appointment (Doc. 108). A committee of unsecured creditors has not been appointed.

4.

The Debtor has approximately 200 creditors and more than 500 equity interest holders. The Trustee believes that some of the alleged obligations of the Debtor on its books and records are subject to objection and non-allowance. In order to create certainty and finality regarding the amount and the number of claims, the Trustee requests the entry of an order establishing October 30, 2015 (the “General Bar Date”) as the bar date for filing non-governmental proofs of claims and interests.<sup>1</sup>

5.

The Trustee also requests authorization to provide notice of the General Bar Date by (i) mailing a Notice Package (as defined below) the relevant party’s last known address and (ii) publishing a notice of the General Bar Date in the Baton Rouge Advocate newspaper.

### **BASIS FOR RELIEF REQUESTED**

#### **A. Establishment of October 30, 2015 as the General Bar Date**

6.

Bankruptcy Rule 3003(c)(3) states that “[t]he court shall fix...the time within which proofs of claim or interests may be filed.” The order for relief in this case was entered on July 9, 2015. Establishing October 30, 2015 as the General Bar Date will give creditors and parties sufficient opportunity within which to assert a proof of claim against the Debtor. Given the

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<sup>1</sup> The proposed General Bar Date would not apply to claims asserted by governmental units under Section 502(b)(9), which would remain subject to the 180 day deadlines contained in that provision.

notice procedures discussed below, the Trustee submits that this is a reasonable notice period under the circumstances of this case.

**B. Approval of Notice Parties and Procedures for Providing Notice Parties with Actual Notice of the General Bar Date**

7.

Bankruptcy Rules 2002(1), (m), 9007, and 9008 give the Court broad authority to regulate the form and means of notice in cases, including the authority to permit notice by publication where appropriate. The Trustee understands that the Clerk of Court has provided notice of this bankruptcy case by sending the 341(a) notice to the approximate 1,000 names and addresses shown on the Master Mailing Matrix filed by the Trustee, which includes (i) the United States Trustee; (ii) all holders of prepetition claims listed on the Debtor's schedules; (iii) counterparties to all executory contracts and unexpired leases; (iv) all employees of the Debtor; (v) all taxing authorities for locations in which the Debtor operates; (vi) all parties to litigation in which the Debtor was involved; (vii) all providers of utility services to the Debtor; and (viii) all shareholders of the Debtor as listed in the Debtor's records (collectively the "Original Notice Parties"). The Trustee is unaware of any additional creditors, claims or shareholders other than the Original Notice Parties. However, in order to provide notice to as many potential claimants as possible, the Trustee also intends to provide notice of the case and the General Bar Date to anyone requesting notice under Bankruptcy Rule 2002 as of the entry of the order granting this Motion (collectively the "Additional Notice Parties").

8.

Upon entry of an order granting this Motion, the Trustee will serve the Original Notice Parties and the Additional Notice Parties (collectively the "Notice Parties") a notice of the General Bar Date in substantially the form attached as Exhibit 1 and an official proof of claim

form (the “Notice Package”). The Trustee intends to serve the Notice Package by mailing it to the Notice Parties’ last known address no later than 5 days after entry of the order establishing the Bar Date. Service of the Notice Package on the Notice Parties in this manner will provide all known creditors with at least 60 days’ actual notice of the General Bar Date which is substantially more than is required by Bankruptcy Rule 2002(a)(7).

9.

Because the Debtor may not have current addresses for unknown creditors or shareholders who have not updated their addresses, the Trustee also intends to publish a notice of the General Bar Date in a form substantially similar to Exhibit 2 in the Baton Rouge Advocate. The Trustee will request that the notice be published in the Baton Rouge Advocate as soon as possible after the entry of the order granting this Motion.

10.

“It is well settled that constructive notice of the claims bar date by publication satisfies the requirements of due process for unknown creditors.” *In re New Century TRS Holdings, Inc.*, 2014 WL 4100749, at \*5 (D. Del. Aug. 19, 2014). Indeed, “[p]ublication in national newspapers is regularly deemed sufficient notice to unknown creditors, especially when supplemented with notice in papers of general circulation in locations where the debtor is conducting business.” *Id.* Accordingly, the Trustee submits that publishing notice of the General Bar Date in the Baton Rouge Advocate will give unknown creditors and shareholders who may not have yet notified the Debtor of a current address sufficient notice of the Debtor’s bankruptcy and the General Bar Date and will satisfy the requirements of due process of unknown creditors.

**PRAYER**

11.

For the reasons set forth above, the Trustee requests the entry of an order (i) establish October 30, 2015 as the General Bar Date for non-governmental claims; (ii) approving the Notice Package; (iii) authorizing the Trustee to serve the Notice Package on the Notice Parties by mailing the Notice Package to the Notice Parties' last known address; (iv) authorizing the Trustee to notify unknown creditors by publishing a notice of the General Bar Date in the Baton Rouge Advocate as set forth herein; (v) finding that the notice procedure provided herein is calculated to give notice to all creditors and interest holders and is sufficient to satisfy the requirements of due process for both known and unknown creditors and parties in interest and (vi) granting any further relief the Court deems appropriate.

Dated: August 13, 2015.

Respectfully submitted,

By Attorneys:  
KANTROW, SPAHT, WEAVER & BLITZER  
(A PROFESSIONAL LAW CORPORATION)  
P. O. Box 2997  
Baton Rouge, Louisiana 70821-2997  
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By: /s/David S. Rubin  
David S. Rubin (La. 11525)  
Julie M. McCall (La. 29992)  
**Attorneys for David S. Rubin, Chapter 11  
Trustee**

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**Exhibit 1**

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF LOUISIANA

In re: \* CASE NO. 15-10553  
\*  
THINKSTREAM INCORPORATED \* CHAPTER 11  
OF DELAWARE \*  
\*  
Debtor \*

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**NOTICE TO HOLDERS OF CLAIMS AGAINST AND PROOFS OF INTERESTS IN THE  
DEBTOR OF THE DEADLINE FOR FILING PROOFS OF CLAIM  
THIS NOTICE APPLIES TO CLAIMS OF CREDITORS AND PROOFS OF INTEREST  
BY EQUITY SECURITY HOLDERS  
BAR DATE: OCTOBER 30, 2015**

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**PLEASE TAKE NOTICE** that on May 11, 2015, an Involuntary Petition was filed against Thinkstream Incorporated of Delaware (the “Debtor”) by several petitioning creditors. On July 9, 2015, the United States Bankruptcy Court for the Middle District of Louisiana (the “Court”) entered an order for relief under chapter 11 of Title 11 of the United States Code, 11 U.S.C. §104, *et seq.* (the “Bankruptcy Code”). On July 9, 2015, the Trustee was appointed pursuant to section 1104 of the Bankruptcy Code and the Court approved the appointment.

You are receiving this Notice because you may hold a claim against, or interest, in, the Debtor. Parties-in-interest receiving this Notice may have already received notice of the filing of the Debtor’s bankruptcy case from the Bankruptcy Court or the Trustee. This Notice supplements any previous notice you may have received.

**BAR DATE FOR FILING PROOFS OF CLAIM**

**PLEASE TAKE NOTICE** that on August \_\_, 2015 the Bankruptcy Court entered an order (the “Bar Date Order”) establishing **October 30, 2015** (the “General Bar Date”) as the last date for each person or entity (including individuals, partnerships, corporations, joint ventures, trusts) other than governmental units to file a proof of claim or, for equity security holders, a proof of interest (the “Proof of Claim”) based on prepetition claims against and equity interest in the Debtor. The Bar Date Order, the Bar Date, and the procedures set forth below for the filing of Proofs of Claims apply to all claims and interests against the Debtor (other than those held or asserted by governmental units) that arose prior to May 11, 2015, the date on which the Debtor’s involuntary bankruptcy case was filed. Note: excluded from this Bar Date are:

- A. Any claim for which a proof of claim against the Debtor has already been properly filed with the Clerk of this Court;
- B. Any claim of a person or entity (i) whose claim or interest is listed on the Schedules of Assets and Liabilities filed by the Trustee; (ii) is not described in such Schedules as “disputed,” “contingent,” or “unliquidated” and (iii) who does not dispute the amount, priority, status, or nature of such claim or interest as set forth in the Schedules;

- C. Any claim or interest to the extent that such claim or interest has been paid by the Debtor with the authorization of this Court;
- D. Any claim or interest that has been fixed and allowed by an order of this Court entered on or before the Bar Date; and
- E. Any claims arising under 11 USC §503(b)(9) which shall continue to be subject to the procedures set forth herein.

**INSTRUCTIONS AND INFORMATION FOR FILING A PROOF OF CLAIM**

**IF YOU FAIL TO FILE A PROOF BY THE BAR DATE YOU MAY BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERTING SUCH CLAIM OR INTEREST AGAINST THE DEBTOR AND THE DEBTOR'S PROPERTY, AND THE DEBTOR MAY BE FOREVER DISCHARGED FROM ANY AND ALL INDEBTEDNESS, LIABILITY, OR OBLIGATION WITH RESPECT TO YOUR CLAIM. SUCH CREDITORS OR PARTY-IN-INTEREST SHALL NOT BE PERMITTED TO PARTICIPATE IN THE DEBTOR'S BANKRUPTCY CASE ON ACCOUNT OF SUCH CLAIM UNLESS THE COURT ORDERS OTHERWISE.**

**WHERE TO FILE:** By mail to the Clerk, U.S. Bankruptcy Court, 707 Florida Blvd., Room 119, Baton Rouge, Louisiana 70802 or electronically at [www.ecf.lamb.uscourts.gov/](http://www.ecf.lamb.uscourts.gov/)

**WHAT TO FILE:** A Proof of Claim (Official Form 10) is attached hereto and is also available online at [www.uscourts.gov/forms/bankruptcy\\_forms](http://www.uscourts.gov/forms/bankruptcy_forms).

**WHEN TO FILE:** Creditor's claims must be actually received by **October 30, 2015**. Post marking the claim prior to this date is not sufficient.

**ANY PROOF OF CLAIM FILED AFTER OCTOBER 30, 2015 WILL BE DISALLOWED** (except claims asserted by governmental units under Section 502(b)(9) of the Bankruptcy Code). Any person or entity that is required by the Bar Date Order to file a Proof of Claim and fails to do so by **October 30, 2015** shall not be treated as a creditor for purposes of voting or receiving distributions in these cases, and any claim of such person or entity will be discharged and forever barred.

**A CLAIMANT SHOULD CONSULT AN ATTORNEY IF THE CLAIMANT HAS ANY QUESTIONS, INCLUDING WHETHER SUCH CLAIMANT SHOULD FILE A PROOF OF CLAIM.** Parties-in-interest with questions regarding the information contained in this Notice may contact the Trustee or counsel for the Trustee at the phone numbers or e-mail addresses listed below. The Trustee and his counsel cannot provide legal advice to any creditor, shareholder, or party-in-interest.

Dated: August \_\_, 2015.

David S. Rubin, Chapter 11 Trustee

-and-



KANTROW, SPAHT, WEAVER & BLITZER  
(A PROFESSIONAL LAW CORPORATION)

By: /s/Julie M. McCall

David S. Rubin (La. 11525)

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**ATTORNEYS FOR DAVID S. RUBIN, CHAPTER  
11 TRUSTEE**

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**Exhibit 2**

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF LOUISIANA

In re:	*	CASE NO. 15-10553
	*	
THINKSTREAM INCORPORATED	*	CHAPTER 11
OF DELAWARE	*	
	*	
Debtor	*	

**NOTICE OF BAR DATE FOR FILING PROOFS OF CLAIM  
BAR DATE: OCTOBER 30, 2015**

**PLEASE TAKE NOTICE** THAT ON AUGUST \_\_, 2015, THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF LOUISIANA SIGNED AN ORDER (“BAR DATE ORDER”) IN THIS CASE ESTABLISHING **OCTOBER 30, 2015** AS THE BAR DATE FOR THE FILING OF PROOFS OF CLAIM AND PROOFS OF INTEREST BY EQUITY SECURITY HOLDERS FOR ALL ENTITIES, EXCEPT FOR GOVERNMENTAL UNITS, AGAINST THE DEBTOR.

**WHO MUST FILE CLAIMS:** As set forth in the Bar Date Order, each person or entity, including, without limitation, each individual, partnership, joint venture, corporation, limited liability company, estate, trust and/or governmental unit, that asserts a Claim (as defined in the Bankruptcy Code) against the Debtor, including, but not limited to, Claims for accounts payable, alleged torts, and/or Claims arising from or under pre-petition contracts, leases or agreements, that arose before or are deemed to have arisen prior to May 11, 2015, regardless of whether such Pre-Petition Claim is contingent, disputed, inchoate or unliquidated, is required to file a written proof of claim so as to be received on or before the Bar Date either electronically or by mail or delivery by hand, courier, or overnight service to the offices of the Clerk of this Court.

**IF YOU FAIL TO FILE A PROOF BY THE BAR DATE YOU MAY BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERT SUCH CLAIM AGAINST THE DEBTOR AND THE DEBTOR’S PROPERTY, AND THE CLAIM MAY BE FOREVER DISCHARGED FROM ANY AND ALL INDEBTEDNESS, LIABILITY, OR OBLIGATION WITH RESPECT TO YOUR CLAIM, AND SUCH CREDITORS OR PARTY-IN-INTEREST SHALL NOT BE PERMITTED TO PARTICIPATE IN THE DEBTOR’S BANKRUPTCY CASE ON ACCOUNT OF SUCH CLAIM UNLESS THE COURT ORDERS OTHERWISE.**

**WHERE TO FILE:** By mail to the Clerk, U.S. Bankruptcy Court, 707 Florida Blvd., Room 119, Baton Rouge, Louisiana 70802 or electronically at [www.ecf.lamb.uscourts.gov/](http://www.ecf.lamb.uscourts.gov/)

**WHAT TO FILE:** A Proof of Claim (Official Form 10) is available online at [www.uscourts.gov/forms/bankruptcy](http://www.uscourts.gov/forms/bankruptcy) or by contacting Julie M. McCall or Janella R. Vidrine at the address and phone number below.

**WHEN TO FILE:** Creditor's claims must be actually received by **October 30, 2015**. Post marking the claim prior to this date is not sufficient.

By Attorneys:

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