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To: Advisory Committee on Bankruptcy Rules
From: Maria D. McIntyre
RE: Proposed Amendments to Rule 3001
Date: February 16, 2010

At this late juncture, though I am in strong support of Proposed Rule 3001, I will not add to the thorough and persuasive testimony of those who have commented in support of the rule change. Rather, I find it important to respond to the testimony of Linh Tran, Associate General Counsel of B-Line with respect to her characterization of the claims at issue in the *Andrews* case (08-00151-8-JRL, E.D.NC.). I am Ms. Andrews' bankruptcy counsel and, though it has been nearly two years since these events transpired, my understanding of the facts at issue in *Andrews* differs from Ms. Tran's testimony.

Ms. Tran states that "the debtor scheduled the debt as undisputed." (2/5/10 *Transcript*, p. 71, lines 9-10). The claims objections in *Andrews* addressed two claims, one of B-Real and one of Roundup. To be clear, the debt for which B-Real sought collection (Claim No. 5) was not scheduled by the debtor because the debt was not known to her – either by original creditor, assignee, date or amount as set forth in the proof of claim. Accordingly, she objected to the claim.

The debtor did schedule, as disputed, a debt in the amount of \$1,291.00 in the name of "National Credit Adj./Internatl Fin SE." Roundup asserted, without supporting documentation, that it is the assignee to National Credit Adjusters and that HSBC was the original creditor of this debt which was charged off on 04/30/2003, more than four years before the filing of the debtor's bankruptcy petition on January 9, 2008.

Ms. Tran further testified:

And on top of that, our affiliate, which is B-Real, presented evidence that the debtor actually resided in New Jersey at the time

this account was opened. And New Jersey has a six-year statute of limitations for contracts versus North Carolina that has a three-year statute of limitations. So I believe because the debtor somehow moved and decided to file bankruptcy in North Carolina, the three-year statute of limitations - - Judge Small decided to apply that. So arguably there's an issue whether it was barred by the statute of limitations.

(*Transcript*, p. 71, lines 12-21).

In response to the debtor's objections and not with the proof of claims themselves, B-Real and/or Roundup did offer a Westlaw "People Finder Historic Tracker Record" (*Roundup Funding, LLC's and B-Real, LLC's Supplemental Brief in Support of Opposition to Debtor's Objections to Claims Number Five (5) and Seven (7)*, Exhibit E)¹ in an effort to introduce confusion about where the debtor had lived in the last 15 years. B-Real and Roundup misstated the Westlaw record when they conclude that "[f]rom February 1993 until February 2004, Debtor either used the address or resided at "824 S. 19th Street, Newark, NJ 07108-1110." *Creditors' Brief*, Section VI, ¶4, lines 1-2. A proper reading of the Westlaw record, attached hereto as Exhibit A, plainly disclosed the debtor's former address, "PO Box 613, Riegelwood, NC 28456-0613" and that such address was last reported "10/01/1993." The purported debts at issue, as set forth by the creditors in their proofs of claim, were opened on 11/19/1997 (B-Real, Claim No. 5) and 09/02/2002 (Roundup, Claim No. 7), respectively, many years after the creditors' own record shows the debtor was residing in Riegelwood, North Carolina, her place of residence for nearly 15 years before and at the time of her bankruptcy filing.

¹ For brevity, I am not including the relevant sections of the briefing from the *Andrews* case, though I would be

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Insofar as Ms. Tran references the *Andrews* case in her testimony in opposition to Proposed Rule 3001, I felt it important to correct the record on these important points.

pleased to provide such upon request.

Westlaw

PEOPLE FINDER HISTORIC TRACKER RECORD

Information Current Through: 06-30-2008
Database Last Updated: 07-08-2008
Update Frequency: MONTHLY
Current Date: 08/07/2008
Source: TRANS UNION
INDIVIDUAL INFORMATION

Name: ROBIN YVETTE ANDREWS
Also Known As: ANDREWS, ROBIN
SSN: ██████████
Estimated Date of Birth: █████/1960
On File Since: 05/01/1989
Phone Number 1: 918-895-6042
Phone Number 2: 918-895-6042

CURRENT ADDRESS INFORMATION

Current Address: 115 MUNN LN
RIEGELWOOD, NC 28456-8659
Address Last Reported: 02/25/2004

PREVIOUS OR ADDITIONAL ADDRESS INFORMATION

Previous Address: 824 S 19TH ST
NEWARK, NJ 07108-1110
Address Last Reported: 02/01/1993
Previous Address: PO BOX 613
RIEGELWOOD, NC 28456-0613
Address Last Reported: 10/01/1993

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