

Presentment Date: September 22, 2023 at 12:00 p.m. (Prevailing Eastern Time)
Objection Deadline: September 19 2023 at 4:00 p.m. (Prevailing Eastern Time)

PILLSBURY WINTHROP SHAW PITTMAN LLP
31 West 52nd Street
New York, NY 10019-6131
Telephone: (212) 858-1000
Facsimile: (212) 858-1500
Leo T. Crowley
Patrick E. Fitzmaurice
Kwame O. Akuffo

Counsel for Successor GUC Recovery Trustee

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

.....	X	
In re:	:	Chapter 11
	:	
JCK LEGACY COMPANY, <i>et al.</i> ,	:	Case No. 20-10418 (MEW)
	:	
Debtors. ¹	:	(Jointly Administered)
	:	
.....	X	

**NOTICE OF PRESENTMENT OF SUCCESSOR
GUC RECOVERY TRUSTEE'S MOTION TO AMEND
JCK LEGACY GUC RECOVERY TRUST AGREEMENT**

PLEASE TAKE NOTICE that upon the annexed *Successor GUC Recovery Trustee's Motion to Amend JCK Legacy GUC Recovery Trust Agreement* (the "**Motion**"), the undersigned counsel will present for entry of the proposed order (the "**Proposed Order**") attached to the Motion as **Exhibit A** to the Honorable Michael E. Wiles, Courtroom 617, at the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**"), One Bowling Green, New York, New York 10004, on **September 22, 2023 at 12:00 p.m. (ET)**.

¹ The Debtors in these chapter 11 cases and the last four characters of each Debtor's tax identification number are: JCK Legacy Company (0478) and Herald Custom Publishing of Mexico, S. de R.L. de C.V. (SUZ1). The location of the Successor GUC Recovery Trustee's service address for purposes of these chapter 11 cases is: 110 East 42 Street, Suite 1818 New York, NY 10017.



PLEASE TAKE FURTHER NOTICE that any objection to entry of the Proposed Order must be filed on or before **September 19, 2023 at 4:00 p.m. (ET)** (the “**Objection Deadline**”) with the Bankruptcy Court. At the same time, you must serve a copy of any objection by the Objection Deadline upon the undersigned counsel to the movant and to:

- (a) The Debtors, JCK Legacy Company, c/o FTI Consulting, Inc., 1201 W. Peachtree Street, NW, Suite 500, Atlanta, Georgia 30309, Attn.: Sean M. Harding (sean.harding@fticonsulting.com);
- (b) Counsel for the Plan Administration Trustee, Skadden, Arps, Slate, Meagher & Flom LLP, One Manhattan West, New York, New York 10001, Attn.: Shana A. Elberg (shana.elberg@skadden.com) and Bram A. Strohlic (bram.strohlic@skadden.com), 300 South Grand Avenue, Suite 3400, Los Angeles, California 90071, Attn.: Van C. Durrer, II (van.durrer@skadden.com), and Destiny N. Almogue (destiny.almogue@skadden.com) and 525 University Avenue, Palo Alto, California 94301 Attn.: Jennifer Madden (jennifer.madden@skadden.com);
- (c) Co-counsel for the Plan Administration Trustee, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, New York 10119, Attn.: Albert Togut (altogut@teamtogut.com) and Kyle J. Ortiz (kortiz@teamtogut.com);
- (d) The GUC Recovery Trust, c/o Development Specialists, Inc., 500 West Cypress Creek Road Suite 400 Fort Lauderdale, Florida 33309, Attn.: Yale Scott Bogen (YBogen@DSIConsulting.com);
- (e) The Office of the United States Trustee, U.S. Federal Office Building, 201 Varick Street, Room 1006, New York, New York 10014, Attn.: Benjamin J. Higgins and Brian S. Masumoto; and
- (f) Any party that has requested notice pursuant to Bankruptcy Rule 2002;

Only those objections made in writing and timely filed in accordance with the above procedures will be considered by the Bankruptcy Court.

PLEASE TAKE FURTHER NOTICE THAT if no objections are received by the Objection Deadline, the Proposed Order may be signed and entered without notice.

Dated: September 15, 2023
New York, New York

/s/ Leo T. Crowley
PILLSBURY WINTHROP SHAW PITTMAN LLP
Leo T. Crowley
Patrick E. Fitzmaurice
Kwame O. Akuffo
31 West 52nd Street
New York, New York 10019
Telephone: (212) 858-1000
Facsimile: (212) 858-1500
leo.crowley@pillsburylaw.com
patrick.fitzmaurice@pillsburylaw.com
kwame.akuffo@pillsburylaw.com

Counsel for Successor GUC Recovery Trustee

Presentment Date: September 22, 2023 at 12:00 p.m. (Prevailing Eastern Time)

Objection Deadline: September 19, 2023 at 4:00 p.m. (Prevailing Eastern Time)

PILLSBURY WINTHROP SHAW PITTMAN LLP

31 West 52nd Street

New York, NY 10019-6131

Telephone: (212) 858-1000

Facsimile: (212) 858-1500

Leo T. Crowley

Patrick E. Fitzmaurice

Kwame O. Akuffo

Counsel for Successor GUC Recovery Trustee

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

.....	X	
In re:	:	Chapter 11
	:	
JCK LEGACY COMPANY, <i>et al.</i> ,	:	Case No. 20-10418 (MEW)
	:	
Debtors. ¹	:	(Jointly Administered)
	:	
.....	X	

**SUCCESSOR GUC RECOVERY TRUSTEE’S MOTION TO
AMEND JCK LEGACY GUC RECOVERY TRUST AGREEMENT**

Yale Scott Bogen, in his capacity as successor trustee (the “**Successor GUC Recovery Trustee**”) of the JCK Legacy GUC Recovery Trust (“**GUC Recovery Trust**”) created under the GUC Recovery Trust Agreement (the “**Trust Agreement**”) and the confirmed *First Amended Joint Chapter 11 Plan of Distribution of JCK Legacy Company and its affiliated Debtors and Debtors in Possession* (the “**Plan**”) [ECF No. 879], by undersigned counsel, submits this motion (the “**Motion**”) for entry of an order (the “**Proposed Order**”) substantially in the form attached as **Exhibit A**, amending the Trust Agreement to permit the Successor GUC Recovery Trustee to

¹ The Debtors in these chapter 11 cases and the last four characters of each Debtor’s tax identification number are: JCK Legacy Company (0478) and Herald Custom Publishing of Mexico, S. de R.L. de C.V. (SUZ1). The location of the Successor GUC Recovery Trustee’s service address for purposes of these chapter 11 cases is: 110 East 42 Street, Suite 1818 New York, NY 10017.

move to extend the duration of the GUC Recovery Trust at any time before its fifth anniversary. As support for the Motion, the Successor GUC Recovery Trustee represents as follows.

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the Southern District of New York (“**Court**”) has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference M-431*, dated January 31, 2012 (Preska, C.J.). This matter is a core proceeding pursuant to 28 U.S.C. § 157(b).

2. Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.

3. The bases for relief the requested is Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and Rule 9074-1(b)(2)(K) of the Local Rules of Bankruptcy Procedure of the United States Bankruptcy Court for the Southern District of New York, applicable to any other type of motion ordered by this Court, in particular, section 10.1 of the Trust Agreement defined herein authorizes an amendment to the Trust Agreement.

INTRODUCTION

4. The Trust Agreement should be amended to allow the Successor GUC Recovery Trustee to request extension of the duration of the GUC Recovery Court at any time within the fifth anniversary of the GUC Recovery Trust. Currently, that request must be done within the six-month period prior to the third anniversary of the GUC Recovery Trust (i.e., September 30, 2023 or two years before it is needed). An extension now is not necessary because the claims reconciliation process is complete, and the only task left is to roll out distributions to creditors. That process depends on when the GUC Recovery Trust receives its share of a tax refund, which represents the main source of recovery for unsecured creditors and was approved by the Internal Revenue Service and Joint Committee of Taxation in September and November 2022,

respectively. Although it is unknown when the refund will be distributed, the Successor GUC Recovery Trustee hopes to complete distributions and terminate the GUC Recovery Trust before it sunsets on September 30, 2025.

5. Thus, an extension of the duration of the GUC Recovery Trust may not be necessary in the future. Accordingly, the Successor GUC Recovery Trustee believes that Trust Agreement should be amended to provide that a motion for an extension of the duration of the GUC Recovery Trust may be made at any time before September 30, 2025 instead of before September 30, 2023.

BACKGROUND

6. On February 13, 2020, The McClatchy Company and certain of its affiliates (the “**Debtors**”) filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The chapter 11 cases have been jointly administered for procedural purposes, and some cases remain pending. On September 25, 2020, the Court entered an order confirming the Plan (the “**Confirmation Order**”), which became effective on September 30, 2020 (the “**Effective Date**”). *See* ECF No. 886. The Plan and Confirmation Order created the GUC Recovery Trust under the Trust Agreement. *See* Confirmation Order at 11; Plan, § 6.20.

7. The GUC Recovery Trust was mainly created to reconcile general unsecured claims, distribute assets of the GUC Recovery Trust to beneficiaries and wind down the Debtors’ estates. *See* Trust Agreement, § 9.4. The GUC Recovery Trust became effective on the Effective Date of the Plan and is effective until:

five (5) years from the Effective Date unless the Bankruptcy Court, upon motion by the GUC Recovery Trustee within the six-month period prior to the third anniversary [(or within the six-month period prior to the end of any extension period approved by the Bankruptcy Court),] determines that a fixed period extension (not to exceed five (5) years, together with any prior extensions,

without a favorable letter ruling from the Internal Revenue Service that any further extension would not adversely affect the status of the GUC Recovery Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the liquidation, recovery and distribution of the GUC Recovery Trust Assets.

Id. § 9.2.

8. Per the above provision, the GUC Recovery Trust is set to end on September 30, 2025 absent a court order extending its duration. Section 10.1 of the Trust Agreement provides that the Successor GUC Recovery Trustee to “may modify, supplement, or amend [the Trust] Agreement in any way that is not inconsistent with the Plan or the Confirmation Order. The [Successor] GUC Recovery Trustee shall seek Bankruptcy Court approval of any material modification, supplement, or amendment.” *See id.* § 10.1. Although the Successor GUC Recovery Trustee believes that such an amendment arguably could be implemented without Court approval at all, since it is not material from the standpoint of creditors, out of an abundance of caution this motion is being made.

RELIEF REQUESTED

9. The Successor GUC Recovery Trustee requests entry of the Proposed Order amending the Trust Agreement to permit a motion for an extension of the duration of the GUC Recovery Trust at any time before the fifth anniversary of the GUC Recovery Trust.

DISCUSSION

10. Bankruptcy Rule 9006 provides that “when an act is required or allowed to be done within a specified period by these rules or by a notice given thereunder or by order of the court, the court for cause shown may at any time in its discretion . . . order the period enlarged if the request therefor is made before the expiration of the period originally prescribed.” Fed. R. Bankr. P. 9006(b)(1). Section 10.1 of the Trust Agreement authorizes the Successor GUC Recovery Trustee to “amend [the Trust] Agreement in any way that is not inconsistent with the

Plan or the Confirmation Order. The [Successor] GUC Recovery Trustee shall seek Bankruptcy Court approval of any material modification, supplement, or amendment.”

11. The Trust Agreement should be amended to permit an extension of the GUC Recovery Trust’s duration to be sought at any time before its fifth anniversary, instead of requiring that such relief be sought now. As drafted, the duration of the GUC Recovery Trust must be extended by motion during the six-month period before the third anniversary of the GUC Recovery Trust (i.e., before September 30, 2023).

12. The timing set forth in the Trust Agreement may well have been a drafting error, as there is no rational reason to require a decision now-- two years in advance -- as to whether the GUC Recovery Trust should be extended.

13. Accordingly, the Trust Agreement should be amended for the reasons stated to permit a motion for an extension of the duration of the GUC Recovery Trust at any time before the fifth anniversary of the GUC Recovery Trust.

NOTICE

14. Notice of this Motion on presentment² will be provided to all parties entitled to receive notice pursuant to Bankruptcy Rule 2002. The Successor GUC Recovery Trustee submits that no other or further notice is required.

² The Case Management Procedures Order allows the Successor GUC Recovery Trustee to present the Proposed Order if it is filed and served “at least seven (7) calendar days before the presentment date.” Docket No. 106

CONCLUSION

WHEREFORE, the Court should (a) enter the Proposed Order attached as **Exhibit A**, amending the Trust Agreement to permit a motion to extend the duration of the GUC Recovery Trust at any time before the fifth anniversary of the GUC Recovery Trust; and (b) grant such other and further relief as the Court deems necessary and appropriate.

Dated: September 15, 2023

New York, New York

/s/ Leo T. Crowley

PILLSBURY WINTHROP SHAW PITTMAN LLP

Leo T. Crowley

Patrick E. Fitzmaurice

Kwame O. Akuffo

31 West 52nd Street

New York, New York 10019

Telephone: (212) 858-1000

Facsimile: (212) 858-1500

leo.crowley@pillsburylaw.com

patrick.fitzmaurice@pillsburylaw.com

kwame.akuffo@pillsburylaw.com

Counsel for Successor GUC Recovery Trustee

Exhibit A

Proposed Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
In re:	:	Chapter 11
	:	
JCK LEGACY COMPANY, <i>et al.</i> ,	:	Case No. 20-10418 (MEW)
	:	
Debtors. ¹	:	(Jointly Administered)
	:	
-----	X	

**ORDER GRANTING SUCCESSOR GUC RECOVERY TRUSTEE'S
MOTION TO AMEND JCK LEGACY GUC RECOVERY TRUST AGREEMENT**

Upon the motion (the “**Motion**”) of Yale Scott Bogen, in his capacity as successor trustee of the JCK Legacy GUC Recovery Trust (the “**Successor GUC Recovery Trustee**”), for entry of an order (a) amending the Trust Agreement, and (b) granting other relief as the Court deems necessary and proper; and the Court having jurisdiction under 28 U.S.C. §§ 157 and 1334 to consider the Motion and relief requested; and the Motion and relief requested being a core proceeding under 28 U.S.C. § 157(b)(2); and venue being proper before this Court under 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided; and it appearing that no other notice is needed; and such relief being in the best interests of the Debtors’ estates and their creditors, and the GUC Recovery Trust²; and the Court having considered all papers submitted; and for good cause shown;

It is hereby **ORDERED** that:

1. The Motion is **GRANTED** to the extent set forth herein.

¹ The Debtors in these chapter 11 cases and the last four characters of each Debtor’s tax identification number are: JCK Legacy Company (0478) and Herald Custom Publishing of Mexico, S. de R.L. de C.V. (5UZ1). The location of the Successor GUC Recovery Trustee’s service address for purposes of these chapter 11 cases is: 500 West Cypress Creek Road Suite 400 Fort Lauderdale, Florida 33309.

² Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to them in the Motion.

2. Section 9.2 of the Trust Agreement is hereby amended to allow the Successor GUC Recovery Trustee to seek an extension of the duration of the GUC Recovery Trust at any time before the fifth anniversary of the GUC Recovery Trust.

3. The Court shall retain jurisdiction over any matter arising from or related to the implementation of this Order.

Dated: September __, 2023
New York, NY

Honorable Michael E. Wiles
United States Bankruptcy Judge