UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

FUTURE PROVISIONS, INC.
The Pro Image No. 173 Case No. 93-10915 K

Debtor

The Trustee has objected to the claim of New Era Cap Co., Inc. ("New Era") on the grounds that it was filed on August 2, 1994, one day after the claims bar date of Monday, August 1, 1994. New Era's credit manager opposed the objection by a letter dated January 19, 1998, explaining that according to office procedures their proof of claim would have been mailed on July 25, 1994. She adds: "In view of the 1254 days that have passed since our claim was filed and the 1800 plus days since the debt was incurred, this quibble over one day, which may in fact be a mere postal delay, is of dubious merit."

The merit of the Trustee's objection is well explained in the attached decision of Bankruptcy Judge Gerling, explaining why the court has no authority whatsoever to overlook even one day, no matter how harsh that result may seem. Congress has recognized that there must be finality. The credit manager seems to be unaware that allowance of New Era's claim would come at the expense of some other creditors who had no difficulty in meeting the final deadline. (If it were New Era that had filed a timely claim, but who would be forced to take less in order to accommodate someone else who did not take appropriate steps to assure timely receipt of the claim at the Court, New Era would not likely think the governing principles to be so "dubious.")

New Era's credit manager's other argument, or comment, is that "the command that we appear on March 4, 1998 at 10:00 a.m. for a hearing on this matter, or have our claim disallowed, could be construed as a vexatious ploy to dismiss our claim." This might be simply passed over as tragically misguided cynicism, were it no so puzzling. Firstly, there is no record here of New Era having been "commanded" to do anything. Rather, the Trustee properly served a Notice of Motion announcing a date, time and place at which New Era could be heard on this matter, if it wished to. The Court "commanded" nothing. In sum, that is known as "Due Process of Law" and New Era should be grateful for it.

Second, there is no record here of anything sent to New Era to the effect that if New Era did not come here, it's claim would be disallowed. It has always been the practice of this Court to examine every written submission by every creditor in every claim objection and to rule on the merits of the objection and the reply regardless of whether the creditor did or did not come to court. Any suggestion otherwise is a complete fiction. Indeed, this writer recently completed twenty or more days of doing precisely that in one case alone -- the Kayak Pools case -- listening to more than a thousand of the Trustee's objections, one-by-one, in open court, on the record, where the only opposition to the Trustee's objections were more than a thousand letters, photos, etc. received from the creditors. Every single one of the objections was ruled upon on the governing law, often overruling the Trustee's objection so as to allow the creditor's claim.

Before New Era's credit manager weaves a further fantasy about what occurs here, she should make a minimal attempt to ascertain the facts.

Finally, that she thinks it remotely fathomable that there could be some "vexatious

ploy to dismiss [New Era's] claim" and "run over the innocent" says more about her unfortunate cynicism than about this Court or its officers.

It is common and completely understandable to encounter creditors who disagree with the bankruptcy laws that Congress has enacted. It is rare, thankfully, to encounter a creditor so cynical as to think that a Trustee or Judge in a Federal Court might engage in some effort to "vex" a creditor or a "ploy" to defeat its claim.

It suffices to say that her musings are false, baseless, and wrong.

New Era's claim will be allowed only as a late-filed claim.

SO ORDERED.

Dated: Buffalo, New York
March 12, 1998

/s/ Michael J. Kaplan

Michael J. Kaplan, U.S.B.J.