

**THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	CHAPTER 11
	)	
TSIC, Inc. f/k/a Sharper Image Corporation,	)	Case No. 08-10322 (KG)
	)	
Debtor.	)	Re Doc. No. 964 <u>and 1260</u>

**ORDER GRANTING THE MOTION OF  
FREDERIC B. PROHOV FOR CLASS CERTIFICATION**

Upon consideration of the Motion of Plaintiff Frederic B. Prohov for Class Certification (the "Motion"); and upon concluding that this Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 1334 and 157; and upon finding that notice of the Motion was proper and sufficient; and having considered the relief requested in the Motion and the objections thereto of Sharper Image Corporation ("Debtor") and the Official Committee of Unsecured Creditors (the "Committee"); and the Debtor, the Committee and Mr. Prohov (the "Claimant" or "Movant") having agreed to the form of this Order; and the Court having found that a class should be certified in accordance with the terms of this Order; and having found that the Claimant as moving party has satisfied the requirements of Fed. R. Civ. P. 23 for the certification of a class action as provided herein; it is therefore hereby ORDERED that:

1. The Motion is GRANTED subject to the terms and conditions of this Order.
2. Pursuant to, inter alia, Fed. R. Bankr. P. 7001 and 7023, the gift card claimants

may proceed as a Class defined as:

A "Gift Card Claim", for purposes of this Order, shall mean a claim, not to exceed \$2,245, held by an individual, arising from the deposit, before the commencement of the case, of money in connection with the purchase of property or the purchase of services from The Sharper Image Corporation, for the personal, family, or household use of such individual, that were not delivered or provided, and includes any individuals who received and now hold a Sharper Image gift card, but excludes however, any claims (i) based on merchandise certificates and

merchandise credits or (ii) based on gift card received as a result of corporate or other promotions activities, i.e., "Reward Cards". The definition of "Gift Card Claim" set forth herein is without prejudice to the respective rights of parties in interest to object to any such purported claim on any basis deemed appropriate by the objector.

3. In certifying this class, the Court makes the following findings:

(a) Facts as to Claimant:

(i) Claimant received his card as a gift from his father. On March 11, 2008, Claimant, by Krislov & Associates, Ltd., filed a proof of claim regarding his \$50 gift card.

(b) Rule 23(a) Prerequisites:

(i) **Numerosity.** Pursuant to Fed. R. Civ. P. 23(a)(1), the class is so numerous that joinder is impracticable. There are potentially thousands of Gift Card Claims.

(ii) **Commonality.** Under Rule 23(a)(2) there are questions of law or fact that are common to the class. The legal question applicable to all class members is a determination of priority treatment for Gift Card Claims, and that is a question that should be answered uniformly for all members of the defined class.

(iii) **The Named Claimant's Claims are Typical of the Class.** The "claims or defenses of the representative parties are typical of the claims or defenses of the class" pursuant to Fed.R.Civ.P. 23(a)(3). In this case, typicality is met because the relief Movant seeks arises from the same event or practice or course of conduct that gives rise to the claims of other class members.

(iv) **Adequacy of Representation.** Under Rule 23(a)(4)'s adequacy is satisfied. (a) The interests of the Claimant as representative party in determining the treatment of gift card claimants under the Bankruptcy Code do not conflict with the interests of any of the class members; and counsel chosen by the representative party is qualified, experienced, and able

to vigorously conduct the proposed litigation. (b) Claimant's proposed class counsel Clinton A. Krislov (Lead Class Counsel) and Kenneth T. Goldstein KRISLOV & ASSOCIATES, LTD, and Christopher D. Loizides, LOIZIDES, P.A., and are qualified to adequately represent the class as experienced class action attorneys, litigation attorneys and bankruptcy attorneys.

(c) Rule 23(b)(2) categories:

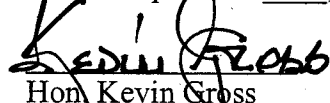
(1) The Class is certified under Rule 23(b)(2), as Claimants demand for declaratory relief as to the treatment of Gift Card Claims under the Bankruptcy Code is a question that should be answered uniformly.

(2) The Class is also certified under Rule 23(b)(3). Questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy because determination of the treatment of Gift Card Claims under the Bankruptcy Code is a question that should be answered uniformly for all members of the class. The Gift Card Claims can be adjudicated far more efficiently and at a much lower cost to all parties if they are addressed in a single proceeding. Class certification is an efficient and superior method to manage the priority issue claimed by the Gift Card Claims and the treatment of Gift Card Claims under the Bankruptcy Code.

(3) To the extent of any adversary proceeding initiated by the Class, it shall constitute a class action case.

4. By this Order, Claimant's previously submitted proof of claim is on behalf of the Gift Card Claim Class.

Dated: September 9, 2008

  
Hon. Kevin Gross  
United States Bankruptcy Judge