

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re)
)
Kenneth S. Booher) Case No. 03-55856-172
Sherry A. Booher) Chapter 7
) Documents 36, 37, 38, 39 , 41, 42, 43
Debtors.)

ORDER

Pending before the Court are the Debtors' Objections to seven Proofs of Claims filed by non-priority, unsecured creditors in this liquidating bankruptcy case. On July 20, 2004, the Debtors filed objections to Claim number 2 of Citibank/Assoc/Citgo Payment Center (File Document No. 36), Claim number 3 of Citibank/Assoc/Citgo Payment Center (File Document No. 37), Claim number 4 of Bank One Delaware, N.A. (File Document No. 38), Claim number 6 of Discover Financial Services (File Document No. 39), Claim number 7 of Discover Financial Services (File Document No. 41), Claim number 8 of Aspire Visa Card Services (File Document No. 42), and Claim number 9 of eCast Settlement Corporation (eCast) (File Document No. 43). The substance of each of the objections was essentially the same. The Debtors have argued that the Proofs of Claims failed to include written documentation of the writing or written assignment of the claim as required by Federal and Local Bankruptcy Rules. The Debtors requested that the claims be disallowed.

Responses in opposition to all of the Debtors' objections were filed by the Chapter 7 Trustee. The Trustee alleged that Claims number 2, number 3, number 6, and number 7 were supported by formal written documentation to substantiate the creditors' Claims. Further, the Trustee alleged that each of these Claims was listed by the Debtors in their schedules as being undisputed, due and owing to these creditors in the approximate amounts shown on the Proof of Claim.

The Trustee responded that Claim number 4 had been amended by Claim number 11 on August 4, 2004. Additional documentation had been provided with the amended claim. The Debtors

did not object to the Amended Claim number 11.

The Trustee reported that an order disallowing Claim number 8 was entered on July 9, 2004 pursuant to the Trustee's objection, and therefore the Debtors' objection was moot.

The Trustee responded that Claim number 9 had been amended by Claim number 10 on June 18, 2004, and that the necessary documentation had been provided. The Debtors did not object to Claim number 10. Creditor eCast filed a response to the Debtors' objection to Claim number 9 stating that Claim number 9 had been amended by Claim number 10 and presented defenses to the Debtors' objections.

A hearing was held on September 15, 2004. The Debtors argued that the claimants should be required to submit originals or copies of each charge slip to establish the existence and amount of the debt owed. eCast and the Trustee strenuously objected on the basis that the Rules do not require such documentation and that the burden of the administrative task of collecting, submitting and analyzing the volume of documentation thus required would not be justified by the evidentiary value of the documentation. The Trustee further argued that the Debtors schedules identified each account number and the amount owed with sufficient particularity to support the creditors' claims.

This is a core proceeding pursuant to Section 157(b)(2)(B) of Title 28 of the United States Code. The Court has jurisdiction over the parties and this matter pursuant to 28 U.S.C. Sections 151, 157 and 1334, and Rule 81-9.01 of the Local Rules of the United States District Court for the Eastern District of Missouri.

A comparison between the information from the Debtors' schedules, and information on the claims that have been objected to by the Debtors may be summarized as follows:

The Debtors listed a debt to Citibank account number *****1403 in the amount of \$1,137.00. Citibank filed Claim number 2 for the same account number in the amount of \$1,137.59;

The Debtors listed a debt to Texaco account number *****5253 in the amount of \$786.00.

Citibank filed Claim number 3 for the same account number in the amount of \$899.38;

The Debtors listed a debt to First USA Bank, NA, account number *****6411 in the amount of \$5,255.00. Bank One Delaware NA, f/k/a First USA filed Claim number 4 and Amended Claim number 11 for account *****6441 in the amount of \$5,680.85;

The Debtors listed a debt to Discover account number *****9581 in the amount of \$3,500.00. Claim number 6 was filed by Discover Financial Services for the same account number in the amount of \$3,745.96;

The Debtors listed a debt to Discover account number *****7586 in the amount of \$7,350.00. Claim number 7 was filed by Discover Financial Services for the same account number in the amount of \$7,619.39; and

The Debtors listed a debt to Aspire Visa Card Services account number *****0882 in the amount of \$2,263.00. Claim number 7 was filed by Aspire Visa Card Services with no identifying account number in the amount of \$2,635.86. The Debtors listed a debt to First North America account number *****4241 in the amount of \$2,778.00. eCast Settlement Corporation, identifying itself as successor to Fleet Bank NA, as successor in interest to FNANB, filed Claim number 9 and Amended Claim number 10 for account number *****4241 in the amount of \$2,997.99.

A filed proof of claim is deemed allowed unless a party in interest objects. **11 U.S.C. §502(a)**. The Bankruptcy Code lists nine grounds for disallowance of a filed proof of claim and states that absent an exception listed, the claim shall be allowed. **11 U.S.C. § 502(b)**. The Bankruptcy Rules require that a proof of claim shall conform substantially to the appropriate Official Form. **Fed. R. Bankr. P. 3001(a)**. When the claim is based on a writing, the rules require that the original or a duplicate be filed with the proof of claim, unless the writing has been lost or destroyed. **Fed. R. Bankr. P. 3001(c); see also, Rule 3001-1 A, Local Rules of Bankruptcy Procedure,**

EDMO. Paragraph 8 of the Official Proof of Claim Form instructs claimants to attach copies of supporting documents, lists examples of such documents, allows for the inclusion of an explanation if such documents are not available and permits the attachment of a summary if the documentation is voluminous.

The Court is in agreement with previous decisions that have found that if the proof of claim conforms with the rules it constitutes *prima facie* evidence of the claim which the objector may refute by presenting evidence to support grounds for disallowance under Section 502(b). **See In re Dove-Nation**, 318 B.R. 147, 152 (8th Cir. B.A.P. 2004) *citations omitted*.

Documents attached to claims numbered 2, 3, 6 and 7 included account statements that indicated the Debtors' name(s), address, the account numbers and the balances due. The amounts claimed are the same or slightly higher than the amounts scheduled by the Debtors. Even assuming *arguendo* that the claims filed are not entitled to *prima facie* validity, the Debtors have presented no evidence that the claims are not accurate as filed, or that the claim is excepted from allowance under Section 502(b). The Court finds and concludes that, based on the record as a whole, Proofs of Claims numbered 2, 3, 6 and 7 are allowed claims that are entitled to receive a distribution in this case.

The Claimant identified on Claim number 8 failed to attach any documentation to the Proof of Claim. The Trustee filed an objection (Filed Document No. 27) which was ultimately sustained by the Court, and the claim was not allowed (File Document No. 33). The Debtors' objection to Proof of Claim number 8 will be overruled as moot.

Claim number 4 was amended and superceded by Claim number 11, to which no objection has been filed. The Debtors' objection to Claim number 4 will be overruled as moot.

Claim number 9 was amended and superceded by Claim number 10, to which no objection has been filed. The Debtors' objection to Claim number 9 will be overruled as moot.

IT IS ORDERED that these matters are concluded; and


That the Debtors' objections to Claims number 2, number 3, number 6, and number 7 are overruled and the Claims are allowed as filed, and;

That the Debtors' objections to Claims number 4, number 8, and number 9 are overruled as moot, those Claims having been previously disallowed or superceded by amendment and

That all other requests are denied.

DATED: February 14, 2005

St. Louis, Missouri


James J. Barta
Chief U. S. Bankruptcy Judge

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