

**UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

In re: MARIA SAAVEDRA,

Debtor

Case No. 04-34811

Judge L. S. Walter
Chapter 7

DECISION OVERRULING TRUSTEE'S OBJECTION TO CLAIMS

DISPOSITION

The Chapter 7 Trustee filed an objection to claims of credit card claimholders requesting disallowance of the claims primarily because of the failure to attach sufficient supporting documentation. For the reasons set forth in the *Burkette* decision, the court concludes that the Trustee's objection is without merit. An objection to a claim based solely on lack of documentation or deviation from the Official Form does not provide a substantive basis for disallowing the claim, especially if a debtor acknowledges the claim as a legitimate debt in his or her schedules.

FACTUAL AND PROCEDURAL BACKGROUND

On January 20, 2005, Chapter 7 Trustee Thomas R. Noland (“Trustee”) filed an objection to several claims in the bankruptcy case of Maria Saavedra (“Debtor”). [Doc. 23.] The Trustee primarily objects because of an alleged lack of proper documentation attached to creditors’ proofs of claim.¹ One credit card claimholder, Chase Manhattan Bank, USA, NA fka Bank One Delaware, NA (“Chase Manhattan”), filed two responses [Docs. 24 and 25] to the Trustee’s objection to two of its proofs of claim. Chase Manhattan further filed a supplemental response [Doc. 27] and amended the two proofs of claim at issue to provide additional documentation requested by the Trustee. [Proofs of Claim # 7 and # 8, amending # 5 and # 6.]

In the responses to the Trustee’s objection, Chase Manhattan argues that the documentation requested by the Trustee, including the Debtor’s full credit card account number, credit card application, itemized statement of interest, fees and other charges and monthly account statements for at least the ninety days prior to the bankruptcy filing are not required by the Bankruptcy Code or related rules. Consequently, Chase Manhattan argues that the omission of these documents and information from a proof of claim does not form a basis for disallowance

¹ The Trustee also objects to the failure of creditors to check the box in paragraph 4 of Official Form 10 and minor modifications to the Official Form. The full text of the Trustee’s objection to the creditor’s claims at issue in this decision is as follows:

Trustee’s objection to the proof of claim filed by Chase Manhattan Bank USA (#5):

“Disallow- Failed to provide full account number to Trustee. Failed to check box in paragraph 4, credit card involves interest and other expenses, failed to provide itemization of all interest and charges. Failed to attach required supporting documents, failed to supply copy of credit application signed by debtor(s), failed to provide account statements for the period covering the bankruptcy filing date and three months prior, summary statement is insufficient.”

Trustee’s objection to the proof of claim filed by Chase Manhattan Bank (#6):

“Disallow – Failed to check box in paragraph 4, credit card involves interest and other expenses, failed to provide itemization of all interest and charges.”

of the claim. On March 17, 2005, the court held a hearing to consider the Trustee's objection as well as similar objections filed by the Trustee in other bankruptcy cases. The parties filed supplemental briefs following the hearing [Docs. 31 and 34] and the court is now prepared to render its decision.

LEGAL ANALYSIS

Because of the similarity of objections filed by the Trustee in several cases before the court, the court has decided to adopt the legal analysis and reasoning written in the court's decision on the Trustee's objection entered on September 15, 2005 in the case of *In re Charles J. Burkette, III*, Case No. 04-34826, Docket # 48.

Applying the law to this case, the court will begin by emphasizing that a trustee's objection to claims based on the omission of a complete account number is without merit. The court will not require a full credit card account number on a public document filed with this court. Such a requirement not only compromises a debtor's privacy, but also conflicts with current laws protecting sensitive financial information as well as the court's own Administrative Procedures for Electronic Case Filing and revisions to Official Form 10.

The Trustee's remaining bases for objecting to the two claims at issue in this case are not substantive in nature and do not question the validity, ownership or amount of the claims. Instead, the objection primarily focuses on the lack of appropriate documentation attached to the proofs of claim as purportedly required by Rule 3001 and/or Official Form 10 and the failure to precisely comply with the Official Form. [See Doc. 23.] Lack of documentation, alone, is not a statutory basis for disallowance of a claim nor can Rule 3001 and Official Form 10 expand on the statutory bases for disallowance. Furthermore, both claims may be verified against the Debtor's schedules in which the Debtor acknowledged the validity of his debts to this claimant. [See Doc. 1, Schedule F.]

The court holds that the Trustee's objection based on a lack of documentation attached to proofs of claim does not provide the court with a basis for disallowing the claims. The court concludes that the Trustee's objection is without merit and is overruled.

For future guidance, the court recommends that trustees compare the proofs of claim filed in a case against the debtor's schedules. To the extent they do not match, and the proofs of claim are not substantiated by attachments, a trustee may have a basis for a substantive objection based on the dissimilarities. However, the substantive basis for the objection must be described clearly in the trustee's objection.

WHEREFORE, the court overrules the Trustee's objection to the proofs of claim filed by Chase Manhattan Bank, USA, NA including Proof of Claim # 5 as amended by Proof of Claim # 7 and Proof of Claim # 6 as amended by Proof of Claim # 8.

SO ORDERED.

cc:

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