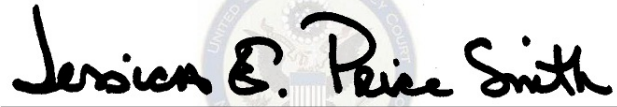


IT IS SO ORDERED.

Dated: 23 September, 2015 12:02 PM



*Jessica E. Price Smith*

JESSICA E. PRICE SMITH  
UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE:  
DENNIS J. FIORILLI, SR.,  
  
DEBTOR.

IN PROCEEDINGS UNDER CHAPTER 7  
  
CASE NO. 14-15367

JUDGE JESSICA E. PRICE SMITH

**ORDER**

The matter before the Court is the Trustee's Final Report and Account (Doc. No. 30). The Creditor, Kamal Elseikali, objects to the Trustee's proposed distribution of the estate proceeds (Doc. No. 34). The Trustee filed an Amended Memorandum in Opposition to the Objection to Final Report (Doc. No. 37). For the reasons set forth below, the Creditor's Objection is overruled in part and sustained in part.

Creditor filed a proof of claim asserting an interest in the amount of \$2,573.00. Her interest is secured by a lien attached to real property owned by the Debtor. She objects on the basis that Trustee's proposed distribution provides for payment on administrative expense claims, priority claims, and unsecured claims but nothing on her secured claim. She argues that the distribution conflicts with the February 27, 2015 notice from the Court which states, "claims secured by liens and claims entitled to priority must be paid in advance of any dividend to general creditors" (Doc.

No. 31). The Trustee has funds in the estate in the amount of \$4,139.00. Creditor alleges the Trustee should use the funds to pay her secured claim. Those funds, however, are for distribution to unsecured creditors.

The Court finds that it is appropriate to treat the claim as unsecured for purposes of distribution in this proceeding. Creditor's claim shall be paid in accordance with the general unsecured creditors in the interests of equity. *See U.S. Nat. Bank in Johnstown v. Chase Nat. Bank of New York City*, 331 U.S. 28, 34-36 (1947). While Creditor is not entitled to the entire dividend available to unsecured creditors, she may receive a portion of the funds. Based on the conflict between the notice and the Trustee's proposed distribution, the Court finds that Creditor may partake in the dividend available to unsecured creditors on a pro-rata basis. Her claim will be reduced by the amount received. Partaking in the dividend shall not change the secured status of her claim. *See id.*

Accordingly, Creditor's Objection to the Trustee's Final Report is overruled in part and sustained in part.

**IT IS SO ORDERED.**