

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO

In re: ) Case No. 03-23991  
)  
DAVID W. TOLER, ) Chapter 13  
)  
Debtor. ) Judge Arthur I. Harris  
)

ORDER OVERRULING DEBTOR'S OBJECTION TO CLAIM #9 FILED BY  
ECAST SETTLEMENT CORPORATION (DOCKET #30)

This case is currently before the Court on the debtor's objection to Claim #9 filed by eCast Settlement Corporation (eCast) (Docket #30) and the creditor's response (Docket #32). The Court heard oral argument from counsel on July 22, 2004. For the reasons that follow, the debtor's objection is overruled.

Under Bankruptcy Rule 3001(a), "A proof of claim shall conform substantially to the appropriate Official Form." Under Bankruptcy Rule 3001(f), "A proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim." Since the debtor does not dispute the validity or amount of the underlying debt and does not offer any evidence to defeat the prima facie effect of Bankruptcy Rule 3001(f), the merits of the debtor's objection hinge entirely on whether eCast's proof of claim has been executed and filed in accordance with the bankruptcy rules and is accorded the prima facie validity provided under Bankruptcy Rule 3001(f). *See generally In re*

*Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992) (discussing burden of proof for claims, what is needed to establish prima facie validity, and what is needed to negate the prima facie validity). *Accord In re Harford Sands Inc.*, 372 F.3d 637, 640 & n.2 (4th Cir. 2002)(following *Allegheny Int'l* and the other circuit courts that have addressed the issue); *In re Reilly*, 245 B.R. 768, 773 (B.A.P. 2d Cir. 2000)(same); *In re AVN Corp.*, 248 B.R. 540, 547 (Bankr. W.D. Tenn. 2000) (same).

The debtor raises three grounds in his objection to the proof of claim filed by eCast: (1) the absence of documentation showing a debt owed by the debtor, (2) the absence of evidence of assignment of the claim, and (3) alterations in Section 9 of the proof of claim that differ from Official Form B10. These arguments are discussed below.

Contrary to the debtor's first argument, eCast's proof of claim does contain documentation in the form of an account summary attached to the proof of claim. The summary includes the debtor's name, address, partially redacted Social Security number, partially redacted credit card account number, name of the initial creditor, and balance. The summary indicates that the "information was derived from the information in the account database of the assignor, as well as information from other sources." The summary also states: "The assignor has verified that the

balance recorded above is the balance of the account as of the filing date of the bankruptcy.” The Court finds that this summary documentation meets the requirements of Section 9 of Official Form B10:

**Supporting Documents:** *Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS.* If the documents are not available, explain. If the documents are voluminous, attach a summary.

Given the creditor’s representation that it would be unduly time consuming and burdensome to reproduce the debtor’s itemized monthly statements of account, and, presumably, the written credit card agreement as well, the Court finds that the account summary accompanying the proof of claim is appropriate in this instance where the “documents are voluminous.”

With respect to the debtor’s second argument – the absence of evidence of assignment of the claim, the 1991 Amendment to the Advisory Committee Note to Bankruptcy Rule 3001(e) specifies that if a claim has been transferred prior to the filing of a proof of claim, “there is no need to state the consideration for the transfer or to submit other evidence of the transfer.” Therefore, the debtor’s second argument is without merit.

With respect to the debtor’s third argument – the alterations in Section 9 of

the proof of claim that differ from Official Form B10, the Court notes that Bankruptcy Rule 3001(a) provides for a proof of claim to “conform substantially to the appropriate Official Form.” It need not be identical in all respects. As indicated earlier, eCast’s proof of claim states that it would be unduly time consuming and burdensome to reproduce the debtor’s itemized monthly statements of account, absent a dispute as to the balance. Instead, eCast indicates that, upon request, it will search its records to provide copies of the account statement. The proof of claim also includes a toll free telephone number for anyone who seeks further documentation. The creditor does not indicate whether it will provide such documentation for free.

The Court need not decide in this case whether proofs of claim with such alterations substantially conform with the requirements of Official Form B10 in all situations. Rather, the Court need only address the situation here, in which the debtor does not dispute the validity or amount of the underlying credit card debt. Indeed, the debtor’s own Schedule F, filed under penalty of perjury, lists as undisputed a credit card debt, which matches the amount listed on eCast’s proof of claim to the penny. The last four digits of the partially redacted account numbers are also identical. Under these circumstances, and with the creditor having attached the account summary described above, the Court finds that

eCast's proof of claim "substantially conforms with the requirements of [Official Form B10]."

Accordingly, the debtor's objection to Claim #9 filed by eCast Settlement Corporation (Docket #30) is overruled.

IT IS SO ORDERED.

/s/ Arthur I. Harris 09/08/04

Arthur I. Harris

United States Bankruptcy Judge