

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In re:) Case No. 04-13771
)
JEANNETTE BROWN,) Chapter 13
)
Debtor.) Judge Arthur I. Harris
)

ORDER OVERRULING DEBTOR'S OBJECTION (DOCKET #29)
TO CLAIM #8 FILED BY ECAST SETTLEMENT CORPORATION

This case is currently before the Court on the debtor's objection (Docket #29) to Claim #8 filed by eCast Settlement Corporation (eCast). A hearing on the objection was scheduled for December 9, 2004, but no one appeared. For the reasons that follow, the debtor's objection is overruled without prejudice.

Debtor filed her bankruptcy case on March 29, 2004. Pursuant to the notice of meeting of creditors (Docket #14), the deadline to file a proof of claim was August 5, 2004. On July 27, 2004, eCast filed Claim #8, indicating a claim for \$1,342.18 with \$530 secured by a purchase money security interest. On October 8, 2004, the debtor filed an objection to the eCast claim (Docket #29), stating that the claim was untimely filed and "failed to provide evidence of security." eCast did not respond, and neither party appeared at the hearing scheduled for December 9, 2004.

DISCUSSION

eCast's proof of claim indicates a total claim of \$1,342.18 with \$530 secured by a purchase money security interest. Debtor does not object to the total claim amount; in fact, Debtor admits in her schedules that she has a debt with Sam Ash Music (original holder of the debt) of \$1,342. Debtor instead objects that the claim was untimely filed and that the claim "failed to provide evidence of security." *See* Docket #29. Neither objection is warranted.

First, the objection to timeliness is without merit. eCast timely filed its claim on July 27, 2004, prior to the proof of claim deadline of August 5, 2004.

Second, eCast did provide sufficient evidence of its secured interest. Bankruptcy Rule 3001(d) requires, "If a security interest in property of the debtor is claimed, the proof of claim shall be accompanied by evidence that the security interest has been perfected." The proof of claim indicates that the claim is secured by a purchase money security interest and that the value of the collateral is \$530. Attached to the proof of claim is a credit application signed by the debtor. Paragraph sixteen of the application states that the debtor grants "a purchase money security interest in the goods purchased with your Card." This documentation fulfills the creditor's responsibility under Rule 3001(d). eCast's proof of claim is, therefore, prima facie evidence as to the validity of the secured

claim. *See* Rule 3001(f). The debtor has not offered any evidence that would overcome this prima facie evidence. *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). Debtor is free to file a new objection, but any such objection must include some legal argument or evidence to defeat the prima facie validity of eCast's claim.

Accordingly, the debtor's objection (Docket #29) to Claim #8 filed by eCast Settlement Corporation is overruled without prejudice.

IT IS SO ORDERED.

/s/ Arthur I. Harris 12/16/2004
Arthur I. Harris
United States Bankruptcy Judge