

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
LONNIE P. LAWSON and) CASE NO. 05-61152 JPK
BETTY L. LAWSON,) Chapter 7
)
Debtors.)

ORDER FOR HEARING

On August 22, 2007, the Chapter 7 Trustee filed an objection to Claim #9-2 of the United States of America, Internal Revenue Service. The record establishes that proper notice of the objection was provided to the claimant and that no response to the objection has been filed. The objection is essentially premised upon the Trustee's assertion that the "Debtor has provided proof that it did not operate the business after June 2002"¹, and that therefore "there should be no FICA or FUTA tax liability after this date". The objection proposes to allow as a priority claim the amount of the actual assessed tax liability stated as a priority claim in Claim #9-2. The objection further states that the entire unsecured portion of the IRS claim should be disallowed because it does not specify the extent to which any portion of it may be premised upon an unassessed and/or estimated tax liability.

The problem with the Trustee's objection is that Claim #9-2, while stating an unassessed liability for 941 tax for the period ended 3/31/2002, states that the liability was taken from a filed return. The Trustee's objection is therefore insufficient to overcome the presumption of validity of the claim provided by 11 U.S.C. § 502(a) and Fed.R.Bankr.P. 3001(f), in that the claim asserts that the debtor has acknowledged the liability to the extent stated in the proof of claim. While it is true that Claim #9-2 does not itemize an asserted unsecured claim for penalties relating to priority tax liabilities, the record establishes, from Claim #9-1, the amount of penalties which comprise the unsecured claim with respect to assessed tax liabilities.

¹ The Trustee has provided nothing in support of this statement in the objection.

Based upon the record as a whole, the United States of America, Internal Revenue Service, has established a claim entitled to priority in the amount of \$33,110.86, and an unsecured claim in the amount of \$13,649.48. The Trustee's objection, and materials of record in support of that objection, fail to overcome the evidentiary effect of the record provided by Fed.R.Bankr.P. 3001(f).

IT IS ORDERED that a hearing will be held on **November 16, 2007, at 9:00 A.M.** with respect to the Trustee's objection. If the United States of America, Internal Revenue Service, fails to appear at that hearing, or if at that hearing the Trustee is unable to overcome the presumptive effect of the record provided by Fed.R.Bankr.P. 3001(f), then the Court will determine that the priority claim of the Internal Revenue Service is \$33,110.86 and the allowed unsecured claim of the Internal Revenue Service is \$13,649.48.

Dated at Hammond, Indiana on October 9, 2007.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:

Debtors, Attorney for Debtors

Trustee, US Trustee

Department of the Treasury - Internal Revenue Service, P.O. Box 21126, Philadelphia PA
19114

IRS Insolvency Group 2, 230 South Dearborn, Room 2560, STOP 5014 CHI, Chicago, IL 60604

Office of the United States Attorney, 5400 Federal Plaza, Suite 1500, Hammond, IN 46320