

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

IN THE MATTER OF:)
)
CONSOLIDATED INDUSTRIES CORP.) CASE NO. 98-40533
)
)
Debtor)

DECISION AND ORDER DENYING OBJECTION TO CLAIM

At Fort Wayne, Indiana, on November 1, 2007

The trustee has objected to five claims filed on behalf of the Internal Revenue Service designated by the clerk as claim numbers 105, 320, 321, 322, and 333. There has been no response to this objection within the time required by the local rules of this court, N.D. Ind. L.B.R. B-3007-1(b), and the matter is now before the court.

As to claim numbers 105, 320, and 322, the trustee asks that they be denied because they have been “superseded, amended and/or duplicated” by claim numbers 320, 321, and 333, respectively. Unfortunately, he does not specify which shortcoming he is complaining about, and it matters. If claim numbers 105, 320, and 322 have been duplicated by claim numbers 320, 321, and 333 - so that the creditor has literally filed the same claim twice - the objection is well-taken. The creditor is entitled to only one claim against the estate. If, however, claim numbers 105, 320, and 322 have been superseded by claim numbers 320, 321, and 333, the trustee does not even need to address it. They is no longer pending before the court and of no further force or effect. Cf. 188 LLC v. Trinity Industries, Inc., 300 F. 3d 730,736 (7th Cir. 2002) (“An amended pleading ordinarily supersedes the prior pleading. The prior pleading is in effect withdrawn . . . and becomes functus officio.”); Kelley v. Crosfield Catalysts, 135 F. 3d 1202,1204-1205 (7th Cir. 1998) (same).

As for claim number 321, the trustee's objection states that it "should be allowed as a Chapter 11 administrative claim under 11 U.S.C. §507(a)(1) in the amount of \$675.42." Unfortunately, the trustee does not identify what the problem with this particular claim might be. See, N.D. Ind. L.B.R. B-3007-1(b) ("An objection to a proof of claim shall . . . state with specificity the basis for disallowance or allowance in an amount . . . other than that claimed.") See also, Fed. R. Bankr. P. Rule 9013 ("A motion shall state with particularity the grounds therefore and the relief sought."). Claims are deemed allowed unless objected to. See, 11 U.S.C. § 502(a). If there is a problem with no particular claim, nothing needs to be done. But, if there is a problem, "to be proper, an objection to a proof of claim must allege facts which, if accepted as true, would trigger one of the statutory reasons for denying a claim. If it does not, the objection should not be sustained. This remains true even if the creditor lacks sufficient interest to respond." In re Taylor, 289 B.R. 379, 384 (Bankr. N.D. Ind. 2003). All the trustee has done is object to the claim, he has not explained why. This is not sufficient.

The trustee's final objection – that to claim number 333 – suffers from the same deficiency. The objection states that it "should be allowed as a general unsecured claim in the amount of \$0.00." Again, the trustee does not identify what the problem with this claim might be. See, N.D. Ind. L.B.R. B-3007-1(b).

IT IS THEREFORE ORDERED that the trustee's objections to the claims of the Internal Revenue Service are overruled, without prejudice.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court