

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
ENOCHIO ANN HULEY,) CASE NO. 04-62183 JPK
) Chapter 13
Debtor.)

ORDER DENYING DEBTOR'S OBJECTION TO CLAIM

On October 14, 2004, the debtor, by counsel, filed an objection to claim #2 of Wells Fargo Financial Acceptance. By its order of December 29, 2004, the Court determined that the bases for objection stated by the debtor were insufficient as a matter of law to deny the claim; that order provided that "claim #2 of Wells Fargo Financial Acceptance is allowed as filed". At a hearing held on February 3, 2005, the debtor's counsel stated that the debtor would file a more specific claim objection regarding claim #2. On March 30, 2005, a "Second Objection to Claim No. 2 – Wells Fargo Financial Acceptance" was filed.

The first paragraph on the Second Objection essentially restates the bases for objection stated in the original objection. The second paragraph of the Second Objection is not a substantive ground of objection. The third paragraph states that the only supporting documentation attached to the claim "is not dated", "is signed by Debtor but not countersigned by the lender", and "does not appear to claim a security interest in collateral". Contrary to these assertions, the exhibit attached to claim #2 is titled "Note and Security Agreement". A promissory note is never signed by the obligee, so one would not expect to see the lender's signature on this document. The document clearly states that it is a security agreement. The reason no security interest appears to be claimed in collateral is because the face of the claim itself designates the claim as an unsecured claim.

The fourth paragraph of the Second Objection states that documentation attached to it does not allow it to "be determined if any payments were made on the note or whether collateral

was seized to satisfy the note". This basis is frivolous – the debtor knows whether or not payments were made on the note, and if she deems that the amount of the claim has not been computed by taking these payments into account, the basis of the objection would be that the claim does not accurately reflect credits for payments made. Obviously, the debtor knows whether or not the vehicle which provided collateral for this loan has been repossessed – it's not up to the creditor in a proof of claim to tell the debtor what the debtor already knows.

The fifth paragraph of the objection states that it can't be determined from the note whether the spouse of the debtor is the co-debtor on the note or whether some other person is the co-debtor on the note. Whatever this basis for objection is seeking to say, it's immaterial: the debtor is clearly independently liable for the full amount of the debt, and whether or not there is a co-signer who may be jointly liable with her has no bearing on whether or not this might be an allowable claim against the debtor in this case.

The Court finds that the Second Objection states no valid grounds for overcoming the *prima facie* validity of the claim as provided for by 11 U.S.C. § 502(a).

IT IS ORDERED that the debtor's objection to claim #2 is denied, without leave to file another objection to that claim. The claim as previously allowed by the Court's order of December 29, 2004 is allowed for all purposes in this case.

Dated at Hammond, Indiana on May 13, 2005.

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

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee