

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
CHRISTOPHER SCOTT MAGLEY ) CASE NO. 07-23523 JPK  
 ) Chapter 13  
Debtor. )

ORDER DENYING OBJECTION TO CLAIM

On June 17, 2008, the debtor, by counsel, filed an objection to claim #2 of the Lake County Treasurer. The record establishes that proper notice of this objection was provided to the claimant, and that no response to the objection or request for hearing was filed by the claimant.

The proof of claim asserts a secured claim for real property taxes in the amount of \$1,915.54, for the tax period of 2007 for which taxes are payable in 2008. The basis for the objection is that real property taxes on the debtor's real property are paid by means of an escrow arrangement with the debtor's mortgagee. Thus, apparently the debtor deems the claim against the bankruptcy estate to be misplaced because he is not directly paying real property taxes to the Lake County Treasurer.

I.C. 6-1.1-2-4(a) states that the "owner of any real property on the assessment date of a year is liable for the taxes imposed for that year on the property". I.C. 6-1.1-1-2(1) states that March 1 is the "Assessment date" for all tangible property, and I.C. 6-1.1-1-19 defines "Tangible property" to include real property. Pursuant to I.C. 6-1.1-22-13, the "state acquires a lien on each tract of real property for all property taxes levied against the tract", a lien which "attaches on the assessment date of the year for which the taxes are assessed". Finally, I.C. 6-1.1-22-10(a) states that a "person who is liable for property taxes under IC 6-1.1-2-4 is personally liable for the taxes and all penalties, cost, collection expenses, including reasonable attorney's fees and court costs, resulting from the late payment of the taxes".

From the foregoing paragraph, it can be seen that a person who is the owner of real property on March 1 of a particular year is personally liable for the real property taxes assessed against that property for that year, and that a lien is acquired for assessed taxes as of March 1 of the year for which taxes are assessed – regardless of when those taxes are actually payable. The Treasurer has asserted a claim with respect to the debtor’s liability for real property taxes. The term “claim” is defined by 11 U.S.C. § 101(5)(A) to be a “right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured”. The term “debt” is defined by 11 U.S.C. § 101(12) to mean “liability on a claim”. Thus, in accordance with the foregoing definitions, the Lake County Treasurer has a claim against the debtor, and the debtor has a debt owed to the Lake County Treasurer. Because the “debt”/“claim” is secured by a statutory lien, the claim of the Lake County Treasurer is a secured claim which must be provided for in accordance with 11 U.S.C. § 1325(a)(5) in order for the plan of the debtor to be confirmed.

The objection confuses the assertion of a claim by a creditor with respect to a debt owed by the debtor to that creditor, with the manner in which arrangements may have been made for the payment of that claim/debt. Whether or not the debtor has entered into a contractual arrangement with a mortgage lender whereby real property taxes for which the debtor is liable are paid by means of an escrow arrangement with that lender has nothing to do with the debtor’s liability to the Treasurer of Lake County for the real property taxes, or with attachment of the lien to property of the bankruptcy estate, thus invoking 11 U.S.C. § 1325(a)(5) with respect to treatment of the Treasurer’s secured claim in the plan. The claim of the Lake County Treasurer is fully allowable as a secured claim, and it must be provided for as a secured claim in the manner required by 11 U.S.C. § 1325(a)(5) in order for the plan of the debtor to be confirmed. Arrangement for payment of that claim may be made by a plan provision which

states that the liability on the Treasurer's claim will be paid by means of payments made by the debtor's mortgage lender under the terms of an escrow agreement between the debtor and that lender.

Based upon the foregoing, the debtor has failed to state any basis for overcoming the *prima facie* validity of the Treasurer's claim provided by 11 U.S.C. § 502(a) and by Fed.R.Bankr.P. 3001(f). The objection must therefore be denied.

IT IS ORDERED that the foregoing objection is denied.

Dated at Hammond, Indiana on July 31, 2008.

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

Distribution:  
Debtor, Attorney for Debtor  
Trustee, US Trustee