

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
DAVID CARL BOO, II and) CASE NO. 07-22362 JPK
DIANNA LYNN BOO,) Chapter 13
)
Debtors.)

ORDER FOR CREDITOR TO APPEAR AT HEARING

On October 8, 2007, HSBC Mortgage Services, Inc. filed a claim in this Chapter 13 case, docketed as claim #4. On February 29, 2008, the debtors, by counsel, filed an objection to this claim; proper service of the objection and of the notice required by N.D.Ind.L.B.R. B-3007-1 was made upon the creditor. The creditor has not filed a response to the objection.

The matters raised by the objection require the active participation of the creditor in the process of determining whether or not the objection should be sustained, either in whole or in part. The determination of the creditor's claim is necessary for the effective administration of this bankruptcy case, and is therefore necessary to carry out the provisions of Title 11 of the United States Code.

As stated in *Wiswall, et al. v. Campbell, et al. Assignees*, 93 U.S. 347, 351 (1876):

Every person submitting himself to the jurisdiction of the bankrupt court in the progress of the cause, for the purpose of having his rights in the estate determined, makes himself a party to the suit, and is bound by what is judicially determined in the legitimate course of the proceeding. A creditor who offers proof of his claim, and demands its allowance, subjects himself to the dominion of the court, and must abide the consequences. His remedies for the purpose of this proof are prescribed by the law.

As stated in *Gardner v. State of New Jersey*, 329 U.S. 565, 573, 67 S.Ct. 467, 472 (1947):

It is traditional bankruptcy law that he who invokes the aid of the bankruptcy court by offering a proof of claim and demanding its allowance must abide the consequences of that procedure. *Wiswall v. Campbell*, 93 U.S. 347, 351, 23 L.Ed. 923.

The Court therefore has both jurisdiction over the claimant, and authority provided by law, to order a representative of the claimant to appear before the Court to assist in the determination of the issues raised by the debtor's objection.

IT IS ORDERED that the Chief Executive Officer of HSBC Mortgage Services – or his/her designee or representative – shall appear before the Court on **September 8, 2008, at 3:00 P.M.** and at that time present evidence and documentation which the creditor asserts establishes the accuracy of its claim in response to the objection of debtors.

IN THE EVENT THAT A REPRESENTATIVE OF HSBC MORTGAGE SERVICES FAILS TO APPEAR AT THE SCHEDULED HEARING, OR APPEARS AT SAID HEARING WITHOUT DOCUMENTARY EVIDENCE FROM WHICH THE ACCURACY OF ITS CLAIM MAY BE DETERMINED, THE COURT MAY ISSUE AN ORDER TO SHOW CAUSE AS TO WHY THE CHIEF EXECUTIVE OFFICER OF HSBC MORTGAGE SERVICES SHOULD NOT BE HELD IN CONTEMPT FOR FAILURE TO COMPLY WITH THIS ORDER.

Dated at Hammond, Indiana on August 7, 2008.

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

Distribution:

Debtors, Attorney for Debtors

Trustee, US Trustee

HSBC Mortgage Services, Inc., P.O. Box 9590, Virginia Beach, VA 23450