

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
DAVID LEE JOHANNSEN and) CASE NO. 08-22884 JPK
KATHLEEN JOHANNSEN,) Chapter 13
)
Debtors.)

ORDER SCHEDULING HEARING

On January 29, 2009, Taylor, Bean & Whitaker Mortgage Corp. filed a Motion to Allow Late Proof of Claim. The court notes that pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party-in-interest, including the debtor, objects to that claim. There has been no objection to this creditor's claim. However, the motion requests affirmative relief in the form of allowing the claim despite its late filing. Fed.R.Bankr.P. 3002(c) provides the time limitations for filing a proof of claim in a Chapter 13 case, and states five exceptions to that deadline – none of which appear to apply with respect to the claim which is the subject of the motion. Fed.R.Bankr.P. 9006(b)(3) limits an enlargement of time for the filing of proofs of claim in a Chapter 13 case to only those exceptions to the claim filing deadline stated in Fed.R.Bankr.P. 3002(c). A federal bankruptcy court has no authority to extend the claim filing deadline apart from the exceptions in Rule 3002(c); *See, In re Greenig*, 152 F.3d 631 (7th Cir. 1998). Thus, in order for the motion to be allowed, the creditor must establish that it falls within one of the exceptions in Rule 3002(c), subject potentially to the creditor's being able to show that it received no notice of the filing of this case [the record establishes that the creditor was listed on the debtor's original list of creditors, and thus presumably received initial notice of the case].

IT IS ORDERED that a hearing will be held on **March 23, 2009, at 1:00 P.M.** with respect to the foregoing motion.

Dated at Hammond, Indiana on February 18, 2009.

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

Distribution:
Debtors, Attorney for Debtors, Trustee, US Trustee, Attorney for Creditor