

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
KENNETH MARK SIMS,) CASE NO. 08-21105 JPK
) Chapter 13
Debtor.)

ORDER REGARDING OBJECTION TO CLAIM

On December 17, 2008, the debtor, by counsel, filed an "Objection to Claim". This objection was directed to the claim of JPMorgan Chase, N.A., filed on September 2, 2008, which is claim #10-1 on the claims register of this case. The objection objected to the claim as described as "an unsecured claim in the amount of \$708.93", and asserted that the claim is a duplicate of claim #1 filed as a "unsecured claim in the amount of \$53,076.57". Claim #1 was filed as a secured claim in the amount of \$53,076.57, and claim #10-1 is an unsecured claim in the amount of \$52,972.07. Therefore, claim #10-1 is in no way, shape, or form a duplicate of claim #1. The objection is therefore denied.¹

The court also notes that an order erroneously sustaining the objection was entered on March 5, 2009.

IT IS ORDERED that the order sustaining the debtor's objection to claim #10-1 entered on March 5, 2009 is vacated.

IT IS FURTHER ORDERED that the debtor's objection to claim #10-1 is denied.²

Dated at Hammond, Indiana on March 19, 2009.

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

Distribution:

Debtor, Attorney for Debtor, Trustee, US Trustee

¹ The court also notes that the form of order that was tendered with the claim objection states that claim #10 is denied "based on the fact that the "Creditor failed to attach sufficient supporting documentation to their claim and erroneously asserted priority status". First, the objection to claim stated nothing about this ground for denial of the claim. Secondly, claim #10-1 does not assert priority status – it is simply a general unsecured claim.

² Claim #10-1 is clearly designated as an amended claim with respect to claim #1. Thus claim #1 no longer exists in this case as a separate claim, and claim #10-1 is allowed as a general unsecured claim until the debtor properly objects to it and sustains that objection.