

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
MATTHEW ALLEN MARCUS and) CASE NO. 05-64215 JPK
CARRIE MARCUS,) Chapter 13
)
Debtors.)

ORDER REGARDING OBJECTION TO CLAIM #12-1 ("OBJECTION")

The Objection was filed by the debtor, by counsel, on November 11, 2010. The Objection was properly noticed to the creditor, and no response or request for hearing was filed.

The gist of the Objection is that the secured claim asserted in claim #12-1 is far less than the amount actually owed by the debtors. The sole assertion by the debtors as to their contentions is: "Debtors maintain that the total principal due at the filing of their claim was \$19,887.62 and could be paid at 8% annual interest since its being paid in full in the plan". While the debtors contend in their Objection that the proof of claim does not itemize the calculations of the claim, the debtors in turn do not provide any substantiation of how they arrived at their amount. The claim has no account information whatsoever, and its attachments are limited to what appears to be a loan origination document and a mortgage. However, the claim does state a definite amount as being owed on the date of the petition, and thus that amount is *prima facie* valid under 11 U.S.C. § 502(a) and Fed.R.Bankr.P. 3001(f).

The claim objection is an effort to determine the amount of a secured claim owed on the date of the filing of the petition, i.e., the amount of the debt owed by the debtors to Beneficial Indiana, Inc. on the date of the filing of the petition. The debtors' objection does not overcome the *prima facie* validity of the claim. The court determines that it is necessary to conduct a hearing on the Objection.

IT IS ORDERED that a hearing will be held on **February 11, 2011, at 1:00 P.M.** with

respect to the above-designated Objection. At this hearing, the debtors will appear and provide the court with evidence as to the amount which they deem to be owed to the creditor as of the date of the filing of the petition. Beneficial Indiana, Inc. did not respond to the Objection, but it may appear as well at the hearing to provide the court with evidence as to the amount which it deems the debtors owe it as of the date of the filing of the petition. If the creditor fails to appear and the debtors are able to submit evidence sufficient to the court to establish the amount owed, the amount then determined will be the amount of the secured claim of Beneficial Indiana, Inc. to be provided for by the debtors' plan.

Dated at Hammond, Indiana on January 26, 2011.

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

Distribution:

Debtors, Attorney for Debtors
Trustee, US Trustee

Beneficial Indiana, Inc. d/b/a Beneficial Mortgage Co., 961 Weigel Drive, Elmhurst, IL 60126
Beneficial Indiana, Inc. d/b/a Beneficial Mortgage Co., 1301 East Tower Road, Schaumburg,
IL 60173 ATTN: Payment Processing