

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)	
)	
EDWARD G. SHELL)	CASE NO. 13-12590
AMY S. SHELL)	
)	
Debtors)	

ORDER ON OBJECTION TO CLAIM

On May 12, 2015

The trustee’s objection to claim number 2 filed by Atlas Acquisitions, LLC is OVERRULED, without prejudice.

To be proper, an objection to a claim must allege facts that, when accepted as true, are sufficient to overcome the prima facie validity of a proof of claim. 9-3007 Collier on Bankruptcy ¶ 3007.01 (16th ed. rev.) (Objection to claim should, “at a minimum, allege those facts necessary to support the objection.”). See also, Fed. R. Bankr. P. Rule 9013 (motion “shall state with particularity the grounds therefor”); N.D. Ind. L.B.R. B-3007-1(b) (objections to claims “shall state with specificity the basis for disallowance”). Conclusory allegations do not suffice; instead, the underlying facts that justify the conclusion must be pleaded. See, Ashcroft v. Iqbal, 556 U.S. 662 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007). Here, although the trustee alleges that the claim “appears to be time barred under the applicable statute of limitations,” he says nothing about why or how that may be so. The trustee must have a reason for believing that to be the case; he should share it with the court by identifying the length of the relevant statute of limitations, stating when it began to run and when it expired. See, Schecter v. Comptroller of City of New York, 79 F.3d 265, 270 (2nd Cir. 1996) quoting, National Acceptance Co. of Am. v. Regal Prods., Inc., 155

F.R.D. 631, 634 (E.D. Wis. 1994) (“[d]efenses which amount to nothing more than conclusions of law and are not warranted by any asserted facts have no efficacy.”). The present objection fails to do so and is therefore overruled without prejudice to another attempt.

SO ORDERED.

/s/ Robert E. Grant
Chief Judge, United States Bankruptcy Court