

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

IN THE MATTER OF:)

TABER MARK VAN SLYKE)
BELINDA JANE VAN SLYKE)

Debtors)

CASE NO. 15-40010

Not for Publication

DECISION AND ORDER OVERRULING OBJECTION

On September 1, 2015

The debtors have objected to claim number 5 filed by Discover Bank. They contend that the claim is barred by Indiana’s statute of limitations, that the creditor has not provided any proof of payment within the last six years and that it is required to do so. Although there has been no response within the time required, the court cannot sustain it because it fails to state a sufficient basis for denying a claim. In re Taylor, 289 B.R. 379, 382-83 (Bankr. N.D. Ind. 2003).

Debtors’ objection misconstrues the claims allowance process. Claims are deemed allowed unless objected to. 11 U.S.C. § 502(a). Moreover, a properly filed proof of claim “constitute[s] prima facie evidence of the validity and the amount of the claim.” Fed. R. Bankr. P. Rule 3001(f).

A party objecting to a claim has the initial responsibility for coming forward with evidence or information that is capable of overcoming the prima facie weight given to the creditor’s proof of claim. In re Smith, 249 B.R. 328 (Bankr. S.D.Ga. 2000). Once that happens, the ultimate burden of proof rests with the creditor. Id. But until it happens, the creditor need not do a thing. See, 4-502 Collier on Bankruptcy ¶ 502.02[3][f] (16th ed.).

The debtors’ objection states that the creditor has not presented proof that payment was made on the debt within the last six years such as to fall within the statute of limitations and that “a bare

statement on a piece of paper is not proof of its truthfulness.” That contention runs contrary to what Rule 3001(f) specifically says. What is a proof of claim other than a statement (under oath) on a piece of paper? Rule 3001 outlines the requirements for a proof of claim: it “is a written statement setting forth a creditor’s claim” conforming substantial Official Form for a proof of claim. Fed. R. Bankr. P. Rule 3001(a). The rule goes on to provide that claims based on revolving consumer credit agreements must include a statement providing, inter alia, the date of the last payment on the account and the date of the last transaction. Fed. R. Bankr. P. Rule 3001(c)(3)(A)(iii), (iv).

The proof of claim filed by Discover Bank satisfies all of those requirements. It has been filed on the Official Form (B10), states that the basis for the claim is a credit card debt, and provides the required statement indicating that the last payment was made on October 10, 2014 and the last transaction was on October 27, 2014 – both well within the six year statute of limitations. Discover Bank appears to have done all that the rules require of it. If something is missing or if something more was required, or if the debtors want to controvert any of the facts set forth in the claim, they should specifically advise both the creditor and the court of what it is.

Debtors’ objection to claim number 5 filed by Discover Bank is OVERRULED, without prejudice.

SO ORDERED.

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