

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

IN THE MATTER OF: )  
 )  
WILLIAM JOHN BROWN ) CASE NO. 10-12845  
PAMELA ANN BROWN )  
 )  
Debtors )

**DECISION AND ORDER OVERRULING OBJECTION TO CLAIM**

On September 18, 2015.

The trustee in this Chapter 13 case has objected to a claim filed by Fifth Third Bank. The essence of the objection is that the bank filed an unsecured claim representing the deficiency on account of a loan secured by a Kia Optima; yet, the confirmed plan surrendered that vehicle in full satisfaction of the debt; as a result, the trustee contends the Bank is not entitled to a deficiency and its claim should be denied. There has been no response from the Bank within the time required and the matter is before the court for a decision. Despite the lack of a response, the objection must be overruled. See, In re Taylor, 289 B.R. 379, 384 (Bankr. N.D. Ind. 2003) (“an objection to a proof of claim must allege facts which, if accepted as true, would trigger one of the statutory reasons for denying a claim. If it does not, the objection should not be sustained . . . even if the creditor lacks sufficient interest to respond.”).

Any consideration of the determination of claims must begin with § 502 of the Bankruptcy Code. Claims are deemed allowed unless objected to. 11 U.S.C. § 502(a). In the event of an objection, the court is to determine the amount due as of the date of the petition and allow the claim in that amount. 11 U.S.C. § 502(b). As a result, an objection to a claim implicates either the validity of the debt under non-bankruptcy law, one of the other reasons for which a claim may be denied, or the amount due the creditor as of the date of the petition. These are the issues identified in

§ 502(b)(1)-(9). See, Taylor, 289 B.R. at 384-85; In re Dawson, 444 B.R. 688, 690 (Bankr. E.D. Va. 1998). If an “objection” to a claim has some other basis, it is not a claim objection within the scope of § 502. It may well be something else, but it is not an objection to a claim.<sup>1</sup>

The trustee’s objection does not implicate any of the issues identified in § 502(b). Quite to the contrary, it is entirely based upon the effect of the confirmed plan; not how much was due as of the date of the petition. The objection seems to confuse determining claims – what, if anything, was due as of the date of the petition – with the mechanics of paying or satisfying them. In a Chapter 13 case, such as this, providing for the payment or satisfaction of claims is done through the plan: some claims will be paid by the trustee, some by the debtor and some will be satisfied, either in whole or in part, through a surrender of property. See, 11 U.S.C. §§ 1322(a)(1), (b)(8); 1326(c). Nonetheless, those are all mechanisms for the payment of a claim – not its allowance or disallowance, Dawson, 444 B.R. at 690; Matter of Sensibaugh, 2015 WL 4664441 (Bankr. N.D. Ind. 2015) – and they do not affect what might have been owed as of the (earlier) date of the petition.

The trustee’s objection to the claim of Fifth Third Bank is OVERRULED.

SO ORDERED.

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

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<sup>1</sup>To the extent the trustee may be seeking something other than a determination concerning the amount due the bank as of the date of the petition an adversary proceeding may be required. See, Fed. R. Bankr. P. Rule 7001(9); Matter of Perkins, 902 F.2d 1254, 1258 (7th Cir. 1990).