

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

IN THE MATTER OF: )  
 )  
TABER MARK VAN SLYKE ) CASE NO. 15-40010  
BELINDA JANE VAN SLYKE )  
 )  
Debtors )

**DECISION AND ORDER OVERRULING OBJECTION**

On September 2, 2015

The debtors have objected to claim number 17 filed by Calvary SPV 1, LLC. The claim indicates it is based upon a credit card. The debtors contend that the claimant was required to present evidence that the debtors applied for and used the credit card and it has not done 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 process and what a creditor is required to do in submitting a proof of claim.

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, See, Taylor, 289 B.R. 379.

The debtors' objection states that the creditor has not presented proof that the debtors applied

for this credit card, that any statements were mailed to the debtors, or provided any documentation showing the debtors' signature or social security number (properly redacted) and asserts 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 substantially to 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:

1. The name of the entity from whom the creditor purchased the account;
2. The name of the entity to whom the debt was owed at the time of the last transaction;
3. The date of the last payment on the account;
4. The date of the last transaction; and
5. The date on which the account was charged off.

Fed. R. Bankr. P. Rule 3001(c)(3)(A)(i)-(v). More is not required. The claimant is not required to include a copy of the application for the card or copies of monthly statements mailed to the debtor; although they sometimes do.

The proof of claim filed by Calvary satisfies all of the rule's requirements. It has been filed on the Official Form (B10), states that the basis for the claim is a credit card debt and the amount due is \$7,774.88. It is also accompanied by the required statement indicating from whom the account was purchased (Capital One), the name of the entity who owned the account on the date of

the last transaction (Capital One), the date of the last payment (10/8/14), the date of the last transaction (10/8/14), and the date the account was charged off (3/24/15).

Debtors' entire objection seems to be that something more was required, whether it be proof that the debtors applied for and used the card; copies of monthly statements; or something signed by the debtors. The creditor was not required to do so in order to file a proper proof of claim. What has been filed is sufficient to inform the debtors of the basis and the amount of the claim:

- (a) It is a credit card issued by Capital One
- (b) for an account ending in 6786
- (c) as to which payments were being made as recently as October 2014 and,
- (d) as of the date of the petition date, the amount due was \$7,774.88.

If the debtors dispute any of those facts their claim objection should say so, and not just ask a lot of questions about how something is proved. Similarly, if the debtors have some other reason they contend justifies denying the claim, they should advise both the creditor and the court of what it is, by alleging specific facts and not conclusions. See, Matter of Shell, Case No. 13-12590, Order dated May 12, 2015 (Bankr. N.D. Ind.).

Debtors' objection to claim number 17 filed by Calvary SPV 1, LLC is OVERRULED, without prejudice.

SO ORDERED.

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