

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
VERONICA L. SESSFORD) CASE NO. 04-14394
)
Debtor)

**DECISION ON TRUSTEE'S
OBJECTION TO LATE CLAIMS**

At Fort Wayne, Indiana, on January 6, 2006.

The debtor filed a petition for relief under chapter 13 of the Bankruptcy Code on September 29, 2004, as a result of which a meeting of creditors was scheduled and a deadline for filing proofs of claim was established. That deadline was February 14, 2005. Two months later, on April 12, 2005, Edon State Bank filed two proofs of claim, which have been designated as claim numbers 19 and 20 to which the trustee has objected because they were not timely filed.¹ In its response to the objection, the Bank acknowledged that its claims were late but argued that, for equitable reasons, the court should permit the tardy filing. As the result of a pre-trial conference, the matter was to be submitted for a decision based upon the parties' stipulations of fact and the briefs of counsel. The anticipated stipulations have been filed, as has the trustee's brief, and the matter was taken under advisement after Bank failed to file a brief within the time required.²

There is no denying the Bank's claims were not timely filed and the Bank does not dispute

¹Claim 19 was disposed of by the court's order of July 22, 2005. There is a third claim, claim 21, which was also filed on April 12. After the issues were joined in this matter, the trustee objected to that claim as well. The parties subsequently agreed that the objection to claim 21 should be included in the present dispute.

²The Bank's failure to file a brief is not too surprising, as the Seventh Circuit has foreclosed any equitable arguments it might wish to advance in support of allowing its late claims.

that fact. Instead, it argues that equitable considerations should lead the court to disregard the claims' lateness and to overrule the trustee's objection, despite the provisions § 502(b)(9) which state that late claims are to be denied. The Seventh Circuit has concluded that "a bankruptcy judge is not vested with such equitable power." Matter of Greenig 152 F.3d 631, 635 (7th Cir. 1998). The Bank's claims were filed after the deadline for doing so had passed and that deadline "may not be circumvented, either by the existence of a confirmed plan, or by the presence of equitable considerations." Greenig, 152 F.3d at 636.

The trustee's objection is well-taken and will be sustained. Claims numbered 20 and 21 filed by Edon State Bank will be denied. An order doing so will be entered.

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