

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	
	:	Case No. 03-93082-PWB
SUSAN DELAINE ANDERSON,	:	
	:	Chapter 7
Debtor.	:	
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	:	
NEIL C. GORDON, Chapter 7 Trustee,	:	
	:	
Objector,	:	
vs.	:	CONTESTED MATTER
	:	
CITIBANK (SOUTH DAKOTA), N.A.,	:	
	:	
Claimant.	:	
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**ORDER AND NOTICE OF HEARING ON TRUSTEE’S OBJECTION
TO CLAIM NO. 3 OF CITIBANK (SOUTH DAKOTA) N.A.**

The Debtor filed this chapter 7 case on March 19, 2003. She scheduled an unliquidated claim of Citibank, Account No. 4428135112132733, in the amount of \$9,036.

Citibank (South Dakota) N.A. (“Claimant”) filed proof of claim no. 3 in this case on December 1, 2005, asserting an unsecured claim in the amount of \$9,827.19. Box 2 of the form reflects that the claim was incurred on March 19, 2003. The only document attached to the proof of claim is a one page document that includes the Debtor’s name, an account number that matches the number on the Debtor’s schedules, an amount due, a “statement date” of December 1, 2005, and a “file date” of March 19, 2003. The proof of claim includes a toll-free telephone number to call the Claimant.

The Trustee objected to the claim on the grounds that the proof of claim form states that

it was incurred postpetition and that it lacked documentation required by FED. R. BANKR. P. 3001(a). The Trustee seeks disallowance of the claim in its entirety. Because the Claimant did not respond to the objection or appear at the call of the Court's calendar on January 23, 2007, the Court did not conduct a hearing.

It appears to the Court that the proof of claim asserts the prepetition debt to Citibank the Debtor scheduled as undisputed in the same approximate amount. Although the proof of claim states that the debt was incurred on March 19, 2003, it is unlikely that the Debtor incurred the debt on that day – the same day she filed her petition; it is far more likely that the preparer of the proof of claim erroneously inserted the date of filing as the date the debt was incurred. Similarly, it is unlikely that the “statement date” on the attached form refers to anything but the date the statement was printed – the same day on which the proof of claim was filed.

There is, to be sure, a discrepancy between the amount scheduled by the Debtor and the amount of the proof of claim. But the difference of less than \$800 could easily be interest that accrued between the date of the last statement the Debtor had when she filed the petition and the date of filing of the case. (A month's interest at 12 percent per annum on the principal amount scheduled by the Debtor would be approximately \$900.)

The objective of the claims allowance process in a chapter 7 case is the proper distribution of estate assets to creditors. A claim should not be disallowed on technical grounds or because of inadvertent and apparently immaterial errors in the absence of some basis to suspect that the claim in fact is not actually owed. *Cf. In re Shank*, 315 B.R. 799, 812-16 (Bankr. N.D. Ga. 2004).

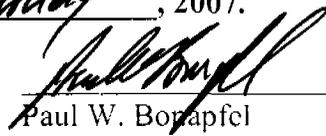
The Court declines to disallow the claim in the absence of a showing of some basis to

suspect that it is not owed. To provide the Trustee an opportunity to demonstrate such a basis, the Court will schedule a hearing.

IT IS, THEREFORE, ORDERED, and NOTICE IS HEREBY GIVEN, that a hearing on the Trustee's Objection to Proof of Claim No. 3 of Citibank (South Dakota) N.A., will be held at **10 o'clock a.m. on March 20, 2007**, in Courtroom 1401, U.S. Courthouse, 75 Spring Street, S.W., Atlanta, Georgia.

The Trustee's objection was not properly served because it was not mailed to the attention of the person who filed the proof of claim. BLR 3007-1(b). The Trustee is, therefore, directed to mail a copy of the objection to the proof of claim with a copy of this Order to the Claimant in care of the person signing the proof of claim at the address shown thereon, as set forth below. The Clerk is directed to mail copies of this Order to the persons shown on the distribution list below.

It is SO ORDERED this 12 day of February, 2007.


Paul W. Borapfel
United States Bankruptcy Judge

DISTRIBUTION LIST

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