



IT IS ORDERED as set forth below:

Date: May 02, 2007

Paul W. Bonapfel
U.S. Bankruptcy Court Judge

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

IN RE:	:	
	:	
FREDDIE F. CHRISTOPHER,	:	Case No. 06-42452-PWB
	:	
Debtor.	:	Chapter 13
_____	:	
	:	
FREDDIE F. CHRISTOPHER,	:	
	:	
Objector,	:	
	:	Contested Matter
vs.	:	
	:	
D & G Auto Sales,	:	
	:	
Claimant.	:	
_____	:	

ORDER ON OBJECTION TO PROOF OF CLAIM NO. 3

On February 26, 2007, the Debtor filed an objection to proof of claim No. 3 filed by D & G Auto Sales in the amount of \$27,749.15. The objection asserts that the claim was filed in

a gross amount and includes unmatured interest.¹ The objection was served properly, but the notice of the hearing improperly identified the name of the claimant. Nevertheless, the claimant, through counsel, filed a response on March 23, 2007, stating that the proper amount of the claim is \$18,997.57. The claimant did not appear at the hearing scheduled for March 28, 2007, counsel for the Debtor did not request to be heard at that time, and no hearing was held.

Although it may be appropriate to object to a claim that includes unmatured interest, it is not appropriate to seek its complete disallowance on that ground; the proper remedy is allowance of the claim in the proper amount. Further, it is not appropriate to disallow a claim, without a hearing, if a response to an objection has been filed, even if the claimant fails to appear at the hearing. If the debtor has an actual objection to a claim on the merits, the court will, of course, hear it. But the court will not disallow a claim, in whole or in part, in the absence of a showing that the debtor has a valid objection that requires its disallowance under 11 U.S.C. §§ 502(b). *In re Shank*, 315 B.R. 799 (Bankr. N.D. Ga. 2004).

Moreover, if the claim is secured by collateral that the debtor desires to retain, disallowance of the claim other than because it is not owed would not seem to affect the holder's lien. Thus, the lien might survive the bankruptcy case under *Universal American Mortgage Co. v. Bateman (In re Bateman)*, 331 F.3d 821 (11th Cir. 2004). If the Debtor's objective is to retain collateral, disallowance of the claims for a procedural defect would not appear to be in the Debtor's interest.

In view of the claimant's response, the Court will disallow the claim in part, reducing it to, and allowing it in, the amount claimed, \$18,997.57. The Court's allowance of the claim in

¹The Court points out to counsel for claimant that filing a response to an objection to a proof of claim does not end the matter. Counsel should have followed up to resolve the matter with Debtor's counsel or appeared at the hearing.

the amount of \$18,997.57 is without prejudice to the right of the Debtor to object to the claim on the ground that the claimant's calculation is erroneous or to assert any other valid objection to the claim in accordance with *Shank*.

The Court notes that, after the filings of the objection and the response, the proof of claim was transferred to Car Financial Services, Inc. If the Debtor files any further objection, the objection and notice should be directed to the new holder of the claim. The Clerk is directed to mail copies of this Order to the persons shown on the attached Distribution List.

In accordance with the foregoing, it is hereby **ORDERED and ADJUDGED** that Proof of Claim No. 3 filed by D & G Auto Sales (and transferred to Car Financial Services, Inc.), be allowed in the amount of \$18,997.57 and that the Debtor's objection be denied, without prejudice as set forth above.

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