



IT IS ORDERED as set forth below:

Date: April 17, 2008

**Paul W. Bonapfel
U.S. Bankruptcy Court Judge**

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

IN RE: :
: Chapter 7
DANNIE JEAN COATES, :
: Case No.-06-71205-PWB
: Debtor. :
:

**ORDER AND NOTICE TO eCAST SETTLEMENT CORPORATION
WITH REGARD TO POTENTIAL DISALLOWANCE OF CLAIM
AND NOTICE OF HEARING THEREON**

eCast Settlement Corporation's ("eCast") disregard of a bankruptcy rule that should be well known to it has created problems for the Chapter 7 trustee and delays for creditors in this case, and the Court is not happy about it. The issue arises from the failure of eCast to comply with the provisions of FED. R. BANKR. P. 3001(e)(2) with regard to a proof of claim [Claim No. 6] it filed, purportedly as the assignee of Household Finance Corporation ("HFC"), which had earlier filed its own proof of claim. [Claim No. 3]. For reasons set forth below, the Court orders

eCast, within 20 days from the date of entry of this Order, (1) to comply with Rule 3001(e)(2) and (2) to file with the Court a statement explaining (i) why it failed to comply with Rule 3001(e)(2), (ii) what procedures it follows to insure compliance with Rule 3001(e)(2), and (iii) the reasons that the amount eCast states in its proof of claim exceeds the amount stated in HFC's.

If eCast fails to comply with this Order, the Court will hold a hearing at the time and place set forth below to consider whether to disallow eCast's claim and to consider whether to schedule a further hearing with regard to sanctions against eCast and its attorneys.

HFC filed proof of claim No. 3 in the amount of \$7,087.72. Thereafter, eCast filed a proof of claim, identifying itself as the "assignee of Household Finance Corporation," in the amount of \$7,435.99. The proof of claim was submitted by the law firm of Becket and Lee, LLP, which has also filed a notice of appearance in this case [Docket No. 30].

The only thing attached to eCast's proof of claim is what appears to be a "payment history" of some sort which is unintelligible to the Court. The fact that the amount of the claim stated in eCast's proof of claim is more than the amount HFC stated in its gives rise to a concern that eCast has filed a claim for unmatured, postpetition interest in violation of 11 U.S.C. §502(b)(2) while representing, under penalty of perjury, that its claim does not include such interest. (The representation arises from eCast's leaving blank the box that states, "Check this box if claim includes interest or other charges in addition to the principal amount of the claim.")

The Court has had occasion to review proofs of claim filed by eCast in other cases. The Court is aware that eCast regularly holds a claim by assignment from the original creditor and is aware that Becket and Lee regularly files proofs of claim on eCast's behalf. The Court's

experiences in this regard lead it to conclude that eCast is in the business of acquiring claims in bankruptcy cases from original creditors and filing proofs of claim for those debts. (eCast is invited to correct the Court if its assessment of its business is inaccurate.) This is, of course, a lawful and legitimate business, and the Court has expressed its view that the bankruptcy process should not impose unnecessary burdens on eCast and other assignees in connection with the filing of, and objections to, a claim held by assignment. *In re Shank*, 315 B.R. 799 (Bankr. N.D. Ga. 2004). Moreover, the Court has upheld the authority of Becket and Lee to file proofs of claim in this Court on behalf of eCast even though its attorneys are not admitted to the bar of this Court. *In re Isom*, 321 B.R. 756 (Bankr. N.D. Ga. 2005).

But if a company expects to engage in the regular business of acquiring claims by assignment and filing proofs of claim for them, the Court expects that it will know and comply with the Federal Rules of Bankruptcy Procedure, particularly when a law firm regularly files proofs of claim on its behalf. This case illustrates the importance to the bankruptcy process of such compliance.

The Chapter 7 Trustee's review of the claims register in this case showed that two proofs of claim had been filed, apparently with regard to the same debt. The Trustee objected to the claim of HFC (the first claim) because it was a duplicate of the proof of claim filed by eCast. This appears to be true enough, but the problem is that there is no evidence in eCast's proof of claim to prove that it is the actual holder of the claim and there has, consequently, been no compliance with Rule 3001(e)(2). Based on the record before the Court, eCast's claim, not HFC's, should be disallowed.

eCast's noncompliance with Rule 3001(e)(2) (or, worse, its filing of a proof of claim with

regard to a debt it does not own) has caused the Trustee and his counsel to go to the trouble of sorting out the problem. Trustees and their attorneys have better things to do, and in many consumer cases such as this one may not be fully compensated even for the required work they do. It is not appropriate for what appears to be a regular user of the bankruptcy system that expects to profit thereby to create unnecessary work for trustees who are, in effect, working for it. Moreover, eCast's conduct has resulted in a delay in the administration of this case that adversely affects all other creditors because distributions to them must necessarily be delayed while the Court and the Trustee deal with the problem it created.

The Court's views as expressed in *In re Shank* are premised in large part on the assumption that creditors filing proofs of claims under penalty of perjury will do so properly. The possible inflation of a claim through the addition of unallowable postpetition interest is a matter of serious concern. To be sure, the amount in this case is not much, and the fact that creditors in this case will most likely receive only a portion of their claims may render the issue *de minimis*. Nevertheless, the bankruptcy system cannot function if some creditors routinely claim more than they are entitled to under the Bankruptcy Code. Failure to address the issue when it appears can only encourage others to try the same tactic. Because the essential integrity of the bankruptcy process is thus at stake, the Court must take action when the circumstances suggest that an improper claim may have been filed.

The Court's concern about the Trustee's burdens in this case causes it, pursuant to 11 U.S.C. § 105(a) and its inherent supervisory powers over the administration of bankruptcy cases, to raise an objection to eCast's claim *sua sponte*. The Court's concern about potential abuse of the bankruptcy process causes the Court to order eCast to comply with Rule 3001(e)(2), to

explain why it did not do so in this case, to explain its procedures for insuring its compliance with Rule 3001(e)(2), and for explaining why its proof of claim is for a larger amount than HFC's.

IT IS, THEREFORE, HEREBY ORDERED that, within 20 days from the date of entry of this Order, eCast shall:

1. Comply with FED. R. BANKR. P. 3001(e)(2) with regard to the proof of claim it has filed in this case;

2. File a statement with the Court, and serve a copy on the Trustee and the United States Trustee, that explains: (i) why eCast failed to comply with Rule 3001(e)(2), (ii) what procedures it follows to insure compliance with Rule 3001(e)(2), and (iii) the reasons that the amount eCast states in its proof of claim exceeds the amount stated in HFC's.

IT IS FURTHER ORDERED, and NOTICE IS HEREBY GIVEN, that if eCast fails to comply with the foregoing Order, the Court will hold a hearing at **10:00 a.m.** on **May 20, 2008**, in Courtroom 1401, United States Courthouse, 75 Spring Street, S.E., Atlanta, Georgia, to consider whether to disallow eCast's proof of claim and to consider whether a further hearing should be scheduled to consider any sanctions against eCast and its attorneys.

IT IS FURTHER ORDERED that if eCast complies with this Order, the Court will consider the statement filed by eCast and determine whether to schedule a further hearing with regard to this matter to consider disallowance of the claim and sanctions or to allow the claim.

The Clerk is directed to mail a copy of this Order to the persons shown on the Distribution List.

***** End of Order*****

Distribution List

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