



IT IS ORDERED as set forth below:

Date: April 01, 2011

Mary Grace Diehl

**Mary Grace Diehl
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In Re:	:	Chapter 13
	:	
David A. Hall,	:	Case No. 10-98992-MGD
	:	
Debtor.	:	Judge Diehl
	:	
David A. Hall,	:	
	:	
Movant,	:	
	:	
v.	:	
	:	Contested Matter
Roundup Funding, LLC,	:	
RJM Acquisitions, LLC,	:	
Midland Credit Management, Inc.,	:	
eCast Settlement Corporation,	:	
Asset Acceptance, LLC,	:	
Portfolio Recovery Associates, LLC, and	:	
Chase Bank USA N.A. c/o Creditors	:	
Bankruptcy Service,	:	
	:	
Respondents.	:	

ORDER OVERRULING DEBTOR'S OBJECTIONS TO CLAIM

Before the Court are eight Objections to Claim filed by David A. Hall ("Debtor"). (Docket Nos. 21-28). Debtor filed objections to claims against Roundup Funding, LLC, RJM Acquisitions, LLC, Midland Credit Management, Inc., eCast Settlement Corporation, Asset Acceptance, LLC, Portfolio Recovery Associates, LLC, and Chase Bank USA N.A. c/o Creditors Bankruptcy Service ("Respondents"). The matter came on for hearing March 23, 2011. Alexia Niketas of Niketas & Clark, LLP appeared at the hearing for Debtor. No written responses were filed and no appearances were made on behalf of Respondents. The Court heard argument by Debtor's counsel. Debtor seeks to disallow each Respondents' claim on the basis that the respective proof of claims fail to comply with Federal Rule of Bankruptcy Procedure 3001. Specifically, Debtor asserts that each Respondent has failed to provide documentation to show "proof of ownership interest" of the claim filed. At the hearing, the Court overruled Debtor's Objections and this Order memorializes the Court's ruling. This is a core proceeding under 28 U.S.C. § 157(b)(2)(B) and venue is proper.

A recitation of the details for each claim at issue is not necessary for the Court's ruling. Because the reasoning for overruling the Objections is the same, this Order disposes of each Objection.

Rule 3001(a) of the Federal Rules of Bankruptcy Procedure provides for the form and content of a proof of claim and requires substantial conformation to the appropriate form. When a claim is based on a "writing," like a credit card agreement or any other contract, Rule 3001(c) provides that "the original or duplicate should be filed with the proof of claim." FED. R. BANKR. P. 3001(c) (continuing that if the writing has been lost or destroyed a statement of such circumstances shall be

filed with the claim). If a proof of claim conforms to Rule 3001, subsection (f) states that such claim “shall constitute prima facie evidence of the validity of the claim.” FED. R. BANKR. P. 3001(f).

Here, the a determination as to the sufficiency of the attached documentation to these proof of claims is not dispositive. Even if the attached documentation is insufficient under Rule 3001, the claims would only lose their prima facie validity under Rule 3001(f). Such a deficiency, in and of itself, does not create a basis for disallowing the Claims. *Cluff v. eCast Settlement*, 2006 U.S. Dist. LEXIS 71904 at *13; *In re Burkett*, 329 B.R. 820, 832 (Bankr. S.D. Ohio 2005); *In re Shank*, 315 B.R. 799 (Bankr. N.D. Ga. 2004). “Insufficient documentation is not a basis to disallow a claim under § 502 of the Bankruptcy Code.” *In re Moreno*, 341 B.R. 813, 814 (Bankr. S.D. Fla. 2006); *see also Am. Express Bank, FSB v. Askenaizer (In re Plourde)*, 418 B.R. 495, 504 n.12 (B.A.P. 1st Cir. 2009) (dicta).

Debtor’s Objections are limited to the Respondents’ failure to submit proof of ownership and noncompliance with Rule 3001. Debtor’s technical objection alone can not disallow claims that are otherwise admittedly valid. *E.g., In re Lapansky*, 2006 WL 3859243 at *2 (Bankr. E.D. Pa. Oct. 31, 2006). “Should the Debtor contest the validity or amount of the proof of claim pursuant to § 502(b), then the evidentiary effect of [the creditor’s] purported failure to properly document its proof of claim will become relevant.” *In re Simms*, 2007 WL 4468682 (Bankr. N.D. W.Va. Dec. 17, 2007).

When the documentation is incomplete, the Court may use the bankruptcy record to provide indicia of claim’s validity. *In re O’Brien*, 2010 WL 3894420 (Bankr. E.D. Pa. Oct. 1, 2010). “[T]he bankruptcy court may properly consider as admissions or evidence any information contained in debtor's bankruptcy schedules, and may also consider the creditor's failure to provide relevant documentation.” *Campbell v. Verizon Wireless S-CA (In re Campbell)*, 336 B.R. 430, 436 (B.A.P.

9th Cir. 2005). Debtor's sworn schedules comport with the claims at issue. In this case, three of the claims, with Respondents Roundup Funding, LLC, RJM Acquisitions, LLC, and Midland Credit Management, Inc., have the exact creditor name and exact amount as what is scheduled by Debtor. Additionally, the last four digits of the account numbers associated with these claims match the Debtor's schedules. The difference between Debtor's scheduled debts and the remaining five claims is minimal in amount, or the name of the listed creditor on Debtor's schedules matches the proof of claim's detail of in 3a. on Official Form 10, which allows a claimant to list: "Debtor may have scheduled account as:". The striking similarities between Debtor's admissions and the proof of claim constitute evidence of each claim's validity. It is also significant that no other claim for these scheduled debts has been filed by an additional creditor. Further, Debtor's sworn schedules did not list any of the debts as disputed. Under these facts, the claims are sufficiently verified by Debtor's schedules and correlate to each respective proof of claim.

Section 502(a) provides that a filed proof of claim is deemed allowed unless there is an objection. 11 U.S.C. § 502(a). Section 502(b) provides the grounds for which a claim may be disallowed. *Dove-Nation v. eCast Settlement Corp. (In re Dove-Nation)*, 318 B.R. 147, 153 (B.A.P. 8th Cir. 2004). Debtor's Objections do not include any of enumerated basis in § 502(b). Instead, the sole basis for the Objections is noncompliance with Rule 3001, which, even absent Rule 3001(f)'s presumption of validity, Debtor's Objections do not provide any ground to disallow Respondents' claims. *Id.* at 151; *In re Moreno*, 341 B.R. at 817 (Bankr. M.D. Fla. 2006); *In re Irons*, 343 B.R. 32, 41 (Bankr. N.D.N.Y. 2006); *In re Burkett*, 329 B.R. 820, 832 (Bankr. S.D. Ohio 2005); *In re Shank*, 315 B.R. at 812 (holding that "an objection to a proof of claim based solely on the lack

of attached documents provides no basis for disallowance of a claim, even if the claimant declines to respond to the objection.”).

The Court does not want to discourage zealous advocacy in the representation of debtors, but the procedural basis for Debtor’s Objections is troubling to the Court given the sworn statements included in Debtor’s Schedule F. Objections to claim should not be used as a tool for a debtor to disallow debts rightfully owed by a debtor, unless there is a substantive legal basis for disallowing the claim under § 502(b) or elsewhere. Regardless of whether Respondents benefitted from Rule 3001(f)’s presumption of validity in amount, Debtor’s Objections provide no proper basis to warrant sustaining the Objection given Debtor’s own schedules. Accordingly, it is

ORDERED that Debtor’s Objections to Claim held by Roundup Funding, LLC (Claim No. 1), RJM Acquisitions, LLC (Claim No. 2), Midland Credit Management, Inc. (Claim No. 3), eCast Settlement Corporation (Claim No. 5), Asset Acceptance, LLC (Claim Nos. 7 & 8), Portfolio Recovery Associates, LLC (Claim No. 9), and Chase Bank USA N.A. c/o Creditors Bankruptcy Service (Claim No. 10) are hereby **OVERRULED**.

The Clerk’s Office is directed to serve a copy of this Order upon Debtor, Debtor’s counsel, Chapter 13 Trustee, and the parties on the attached distribution list.

END OF DOCUMENT

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