



SO ORDERED.

SIGNED this 6th day of April, 2016.

*Catharine R. Aron*

UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
WINSTON SALEM DIVISION

In re:

GEOFFREY ROSE and  
DEANNA ROSE,

Debtors,

Case No: 14-51269

**ORDER OVERRULING OBJECTION**  
**TO PROOF OF CLAIM WITHOUT PREJUDICE**

THIS CASE came before the Court for hearing on March 23, 2016, in Winston-Salem, North Carolina, upon the Objection to Proofs of Claim filed by Portfolio Recovery Associates, LLC (hereinafter "Portfolio"). At the hearing, Kristen Nardone appeared on behalf of the Debtors and Robert Price appeared on behalf of the United States Bankruptcy Administrator. After considering the objection, the arguments of counsel, and the record in this case, the Court finds that the objection should be overruled without prejudice.

Portfolio timely filed two proofs of claim in this Chapter 11 proceeding; Claims 17 and 18. Claim Number 17 was filed by Portfolio in the amount of \$1,032.20 and is based upon an

open-end or revolving consumer credit agreement originally held by Capital One.

Accompanying the claim is an account summary sheet with information on the last payment date, the charge off date, the last transaction date, the last transaction owner, and the creditor from whom Portfolio purchased the account. The Debtors' Schedules list an undisputed unsecured debt to Capital One in the amount of \$1,032.00.

Claim Number 18 was filed by Portfolio in the amount of \$971.13 and is based upon an open-end or revolving consumer credit agreement originally held by Care Credit.

Accompanying the claim is an account summary sheet with information on the last payment date, the charge off date, the last transaction date, the last transaction owner, and the creditor from whom Portfolio purchased the account. The Debtors' Schedules list an undisputed unsecured debt to GECRB/Care Credit in the amount of \$991.00.

Generally, if a claim is based upon a writing, a copy of the writing must accompany the claim. Fed. R. Civ. P. 3001(c)(1). This requirement does not apply to a claim based on an open-end or revolving consumer credit agreement, which must include a statement detailing:

- (i) the name of the entity from whom the creditor purchased the account;
- (ii) the name of the entity to whom the debt was owed at the time of an account holder's last transaction on the account;
- (iii) the date of an account holder's last transaction;
- (iv) the date of the last payment on the account; and
- (v) the date on which the account was charged to profit and loss.

Fed. R. Bankr. P. 3001(c)(3)(A); *see In re Gorman*, 495 B.R. 823, 831 (Bankr. E.D. Tenn. 2013)

("As of December 1, 2012, an exception was added to the requirement to attach supporting documentation for proofs of claim for open-end accounts or revolving consumer credit agreements. . . . Instead of the documentation, open account creditors must now provide a statement . . . which substitutes for the supporting writings."). If a party in interest would like

additional information and sends a written request for a copy of the writing underlying the claim, the holder of the claim must comply within 30 days. Fed. R. Bankr. P. 3001(c)(3)(B).

The account summaries Portfolio attached to Claim Numbers 17 and 18 contain all of the information required under Rule 3001(c)(3)(A). Therefore, the claims are considered presumptively valid under Rule 3001(f). *See In re White*, No. 14-03109-5-SWH, 2016 WL 1125640, at \*3 (Bankr. E.D.N.C. Mar. 21, 2016); *In re Nussman*, 501 B.R. 297, 301 (Bankr. E.D.N.C. Oct. 28, 2013); Collier on Bankruptcy ¶ 3001.01[3]. However, on December 7, 2015, counsel for the Debtors sent a Rule 3001(c)(3)(B) request to Portfolio. Portfolio did not respond. The Debtors now request that the Court disallow Claims 17 and 18 in their entirety, inasmuch as Portfolio failed to comply with Rule 3001(c)(3)(B).

Portfolio's failure to comply with the requirements of Rule 3001(c)(3)(B) is not sufficient cause to disallow its claims. This court adopts what has previously been described as the majority or "exclusive" view that, in an individual case, where a debtor's objection to a claim is based solely on Rule 3001(c), such an objection does not constitute sufficient cause to disallow the claim in its entirety. *See, e.g., In re Moore*, No. 1:14-BK-03779-MDF, 2016 WL 1177845, at \*3 (Bankr. M.D. Pa. Mar. 22, 2016) ("[A] majority of courts have held that an objection stating that a claim lacks adequate documentation does not support disallowance of a claim under § 502(b)."); *In re Pedro*, No. 14-02972, 2016 WL 869754, at \*3 (Bankr. D.P.R. Mar. 4, 2016) ("Debtors argue that Estate's claim should be disallowed as a matter of law for failure to attach supporting documentation in compliance with Fed. R. Bankr. P. 3001(c). We disagree."); *In re Brunson*, 486 B.R. 759, 773 (Bankr. N.D. Tex. 2013) ("Under th[e exclusive view], § 502 sets forth the exclusive grounds for disallowance of a claim, and failure to file documentation is not among them. Therefore, the debtor must assert a substantive basis for disallowance expressly

stated in § 502 and come forward with some evidence to disallow the claim for that reason. If the debtor does not, then an objection to a claim based solely on the claimant's failure to attach the documents required by Bankruptcy Rule 3001 must be overruled.”). Particularly in light of the 2011 Amendments to Rule 3001, it appears clear that “[f]ailure to provide the required information [under the Rule] does not itself constitute a ground for disallowance of a claim.” Fed. R. Bankr. P. 3001 Advisory Comm. Note (2011 Amendment).

Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT the Objection to Claims 17 and 18 is DENIED WITHOUT PREJUDICE.

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SERVICE LIST

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