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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re:)
)
Josefina Patio) Case No. 05-30425-B-13J
) Docket Control No. PGM-2
Debtor.) Date: January 17, 2007
)
) Time: 9:30 a.m.

On or after the calendar set forth above, the court issued the following ruling. The official record of the ruling is appended to the minutes of the hearing.

Because the ruling constitutes a "reasoned explanation" of the court's decision under the E-Government Act of 2002 (the "Act"), a copy of the ruling is hereby posted on the court's Internet site, www.caeb.uscourts.gov, in a text-searchable format, as required by the Act. However, this posting does not constitute the official record, which is always the ruling appended to the minutes of the hearing.

DISPOSITION AFTER ORAL ARGUMENT

Neither the respondent within the time for opposition nor the movant within the time for reply has filed a separate statement identifying each disputed material factual issue relating to the motion. Accordingly, both movant and respondent have consented to the resolution of the motion and all disputed material factual issues pursuant to FRCivP 43(e). LBR 3007-1(d)(1)(i), (ii).

The objection to claim is overruled. Claimant is awarded attorneys fees and cost of \$699.00 related to this objection to

1 claim. Claimant may amend its proof of claim to include the
2 awarded fees and costs.

3 The debtor questions the validity and nature of this claim.
4 A properly completed and filed proof of claim is prima facie
5 evidence of the validity and amount of a claim [B.R. 3001(f)].
6 However, when an objection is made and that objection is
7 supported by evidence sufficient to rebut the prima facie
8 evidence of the proof of claim, then the burden is on the
9 creditor to prove the claim. In this instance, the burden never
10 shifts because the debtor provides no evidence to overcome the
11 prima facie validity of the claim.

12 The objection is without merit. Claimant provides evidence
13 that the \$30.00 fee included in the claim was incurred in
14 response to a demand from Ticor Title Company, which demand was
15 signed by debtor herself. Debtor's reply makes clear the
16 debtor's real objection. She is upset that the creditor filed
17 this claim instead of accepting \$30.00 from her in payment of the
18 debt. Claimant's actions were entirely correct. This is
19 unquestionably a pre-filing debt. Any attempt by claimant to
20 collect it directly from debtor would have been a violation of
21 the automatic stay. The debtor's attempt to pay the claim
22 directly violates debtor's confirmed plan. Claimant acted
23 properly - it filed a claim.

24 Claimant is entitled to an award of attorney's fees for
25 responding to this claim objection. The court takes judicial
26 notice pursuant to Federal Rule of Evidence 201 that debtor
27 admits a value of the subject property of \$439,000. Downey's
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1 claim, secured by a first deed of trust, is in the amount of
2 \$292,309.30. See Exhibit A attached to debtor's objection to
3 claim. Claimant is therefore an oversecured creditor and
4 entitled to fees and costs under 11 U.S.C. § 506(b). Claimant
5 provides evidence that it expended \$699 in fees and costs
6 opposing this objection to claim. Such fees and costs may be
7 added to Downey's filed proof of claim.

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