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3 UNITED STATES BANKRUPTCY COURT
4 EASTERN DISTRICT OF CALIFORNIA
5 SACRAMENTO DIVISION
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8 In re:)
9) Case No. 03-26017-B-7
10 ARJINDERPAL SEKHON,)
11 Debtor.) Docket Control No. KSR-3
12) Date: September 12, 2006
Time: 9:30 a.m.

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

15 Because the ruling constitutes a "reasoned explanation" of
16 the court's decision under the E-Government Act of 2002 (the
17 "Act"), a copy of the ruling is hereby posted on the court's
Internet site, www.caeb.uscourts.gov, in a text-searchable
18 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.

19 **DISPOSITION AFTER ORAL ARGUMENT**

20 This objection has been filed pursuant to LBR 3007-1(d)(1). The
21 failure of any party in interest to file timely written opposition as
22 required by this local rule is considered consent to the granting of
23 the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR
24 3007-1(d)(1). Therefore, the objection to claim No. 17 on the court's
25 claims register, filed by Pennsylvania Life Insurance Co., ("Claim")
26 is resolved without oral argument.

27 The objection is sustained. The debtor questions the validity
28 and nature of this claim. A properly completed and filed proof of

1 claim is prima facie evidence of the validity and amount of a claim
2 [B.R. 3001(f)]. However, when an objection is made and that objection
3 is supported by evidence sufficient to rebut the prima facie evidence
4 of the proof of claim, then the burden is on the creditor to prove the
5 claim.

6 As an initial matter, the court must address the debtor's
7 standing to raise this objection. Ordinarily a chapter 7 debtor lacks
8 standing to object to claims. Cheng v. K&S Diversified Investments,
9 Inc. (In re Cheng), 308 B.R. 448, 454 (9th Cir. BAP 2004). Typically,
10 a debtor has no standing because he does not have a pecuniary interest
11 in the distribution of the assets of the estate. Kapp v. Naturelle,
12 Inc. (In re Kapp), 611 F.2d 703, 706-707 (8th Cir. 1979). An exception
13 to this rule exists where there will be a surplus available to return
14 to the debtor. Kapp, 611 F.2d at 707. The court takes judicial
15 notice pursuant to Federal Rule of Evidence 201 that the chapter 7
16 trustee's Final Report and Proposed Distribution shows that debtor
17 will receive a distribution because all filed claims will be paid in
18 full. This is so whether this objection is sustained or not. Debtor
19 has standing to raise this objection to claim.

20 The Claim seeks payment of \$40,000 for insurance benefits paid
21 out on an allegedly fraudulent insurance claim. Here, the debtor
22 provides evidence consisting of his own declaration and two
23 declarations from the physicians who treated him in 1999 and 2000.
24 The court finds that debtor has provided sufficient evidence to
25 overcome the prima facie validity of the Claim. By failing to respond
26 to the objection, the creditor has failed to carry its burden.
27 Accordingly, the objection is sustained and the Claim is disallowed,
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1 except to the extent already paid by the trustee.

2 The court will issue a minute order.

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