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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. 05-35762-B-7
10 KENNEDY CHANCELLOR,) Docket Control No. MC-345
11 Debtor.) Date: November 21, 2006
12) 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
"Act"), a copy of the ruling is hereby posted on the court's
17 Internet site, www.caeb.uscourts.gov, in a text-searchable
format, as required by the Act. However, this posting does not
18 constitute the official record, which is always the ruling
appended to the minutes of the hearing.

19 **DISPOSITION AFTER ORAL ARGUMENT**

20 The court construes this matter as an objection to the claim of
21 Audrey Dollarhide, claim 44 on the court's claims register ("Claim").
22 As so construed, the objection is overruled without prejudice.

23 As an initial matter, the court notes that debtor failed to file
24 a certificate of service for this motion. The court therefore cannot
25 determine whether all proper parties were served or whether sufficient
26 notice of the objection to claim was given. Federal Rule of
27 Bankruptcy Procedure 3007 requires service of claim objections on the
28 claimant, the debtor or debtor-in-possession, and the trustee. Local

1 Bankruptcy Rule 3007-1 sets forth alternative procedures for notice of
2 objections to claims. The alternative providing the shortest notice
3 period requires no less than thirty days notice. See LBR 3007-
4 1(d)(2). This objection to claim was initially filed October 26, 2006
5 and was amended on November 7, 2006. If the matter were properly
6 served on the day before it was filed, movant would have provided only
7 twenty-seven (27) days notice. That is insufficient under both LBR
8 3007-1(d)(2) and Fed. R. Bankr. P. 3007.

9 Furthermore, Debtor lacks standing to object to this or any other
10 claim. A party-in-interest can only object to a claim if it
11 demonstrates an "injury in fact" if the claim is not disallowed.
12 Cheng v. K&S Diversified Investments, Inc. (In re Cheng), 308 B.R.
13 448, 454 (9th Cir. BAP 2004) (J. Klein). Typically, a chapter 7 debtor
14 has no standing because she does not have a pecuniary interest in the
15 distribution of the assets of the estate. Kapp v. Naturelle, Inc. (In
16 re Kapp), 611 F.2d 703, 706-707 (8th Cir. 1979). An exception to this
17 rule exists where there will be a surplus available to return to the
18 debtor. Kapp, 611 F.2d at 707. The debtor has provided no evidence
19 that this is a surplus case. Her schedules indicate that the debts
20 exceed assets substantially. There is therefore no evidence that the
21 first exception applies.

22 A second exception to the Kapp rule exists. It is not referenced
23 in Kapp because it was not at issue in that case. The debtor can
24 establish a pecuniary interest where his personal liability will
25 survive the bankruptcy. See In re KRSM Properties, LLC, 318 B.R. 712,
26 716 (9th Cir. BAP 2004) and McGuirl v. White, 86 F.3d 1232, 1235-36
27 (D.C. Cir. 1996). This second exception does not apply. While the
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1 deadline to object to debtor's discharge has been extended until
2 December 8, 2006 as to the trustee and Travis Credit Union, no
3 complaint to do so is currently pending. Debtor lacks standing to
4 raise this objection.

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