

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

In re )  
RICHARD and PAMELA COLE, ) Case No. 05-90268-A-13G  
Debtors. ) Docket Control No. FW-3  
Date: April 2, 2006  
Time: 2:00 p.m.

On April 2, 2007 at 2:00 a.m., the court considered the chapter 13 debtors' objection to the proof of claim of Valley Credit Union and that creditor's opposition to the objection. The court's ruling on the objection and the opposition is appended to the minutes of the hearing. Because that ruling constitutes a "reasoned explanation" of the court's decision, it is also posted on the court's Internet site, [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov), in a text-searchable format as required by the E-Government Act of 2002. The official record, however, remains the ruling appended to the minutes of the hearing.

**FINAL RULING**

The objection will be sustained.

The last date for a creditor to file a timely proof of claim was June 14, 2005. Valley Credit Union filed its proof of claim on August 24, 2005. Pursuant to 11 U.S.C. § 502(b)(9) and Fed. R. Bankr. P. 3002(c), that proof of claim must be disallowed as untimely. See In re Osborne, 76 F.3d 306 (9<sup>th</sup> Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9<sup>th</sup> Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9<sup>th</sup> Cir. 1989); Zidell, Inc. V. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9<sup>th</sup> Cir. 1990).

This does not mean, however, that the Valley Credit Union has no claim in this case. A chapter 13 debtor may file a proof of claim on behalf of a creditor if that creditor fails to file a

1 timely claim. See 11 U.S.C. § 501(c); Fed. R. Bankr. P. 3004.  
2 Under Rule 3004, the debtor has an additional 30 days after the  
3 expiration of the bar date binding on the creditor. In this case  
4 and pursuant to Rule 3004, the debtor had until July 14, 2005 to  
5 file a claim for Valley Credit Union.

6 However, General Order 03-03 extends the latter deadline.  
7 At Paragraph 6(g), the General Order provides: "If a creditor  
8 fails to file a proof of claim within the time required by FRBP  
9 3002(c) or section 502, the debtor or the Trustee may file a  
10 proof of claim on behalf of the creditor pursuant to FRBP 3004.  
11 The time for the filing of such a claim is extended to 120 days  
12 after service on the debtor or his counsel of the Notice of Filed  
13 Claims."

14 In this case, the Notice of Filed Claims was served by the  
15 trustee on September 14, 2005. Thus, the deadline for the debtor  
16 to file a proof of claim on behalf of a creditor was extended to  
17 January 19, 2006.

18 The debtor filed a proof of claim on behalf of Valley Credit  
19 Union on September 15, 2005, after the original Rule 3004 bar  
20 date of July 14, 2005, but well before the extended deadline of  
21 January 19, 2006.

22 Therefore, while the creditor's proof of claim is untimely  
23 and must be disallowed, it still has an allowed claim because the  
24 debtor filed a proof of claim on its behalf. If the creditor  
25 disagrees with any aspect of the claim filed on its behalf, the  
26 creditor is free to amend the claim.

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