

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

March 5, 2018 at 10:00 a.m.

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1. 17-26125-A-11 FIRST CAPITAL RETAIL, MOTION FOR
18-2017 L.L.C. GEL-1 PRELIMINARY INJUNCTION
FIRST CAPITAL RETAIL, L.L.C. V. 2-19-18 [7]
FIRST CAPITAL REAL ESTATE

Final Ruling: The hearing has been continued to, and the TRO extended through, March 12, 2018 at 10:00 a.m. by the stipulation of the parties. Docket 19.

2. 15-29136-A-12 P&M SAMRA LAND MOTION FOR
MAS-11 INVESTMENTS L.L.C. RELIEF FROM AUTOMATIC STAY
AG-SEEDS UNLIMITED VS. 2-5-18 [550]

Tentative Ruling: The motion will be denied.

Creditor Ag-Seeds seeks relief from stay to record an abstract of the judgment it obtained against the debtor in state court. The movant had filed an action against the debtor and some non-debtor defendants. It has now obtained a judgment and it is seeking to record an abstract of the judgment against property of the debtor and some of the non-debtor state court defendants.

The court ordered relief from the automatic stay to the movant on October 19, 2016, permitting the movant to obtain a judgment in the state court action against the debtor, but not to enforce the judgment. Dockets 393 & 406.

On March 28, 2017, the court approved a compromise between the movant and the debtor. Docket 500. In its ruling approving the compromise, the court determined:

"Under the terms of the compromise, Ag shall have an allowed claim against the debtor in the amount of \$170,000. The claim will be secured by a judgment in that amount entered in the pending state court action against the debtor. The claim shall be paid in full through the debtor's chapter 12 plan. Ag shall record a lien based on the state court judgment, against the debtor's real property in Nicolaus, California. Ag shall also cease its prosecution of the discovery disputes, chapter 7 conversion and opposition to the chapter 12 plan."

Docket 490.

The court confirmed the debtor's consensual chapter 12 plan on March 29, 2017. Docket 502. The plan revested all property of the estate into the debtor and provided the following treatment of the movant's claim:

The claim of Ag-Seeds "is (or shall be) secured by a judgment lien on the Nicolaus Property. The Class 8 claim of AG-Seeds is fully secured and is in the

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amount of \$170,000.00. . . . AG-Seeds shall retain its lien on the Nicolaus Property and such lien shall not be affected in any way by the Plan." Docket 502 at 12 & 14.

The court sees no reason to allow something that has been already allowed by the terms of the parties' court-approved compromise and the terms of the confirmed plan.

Further, because all property of the estate has revested in the debtor, the automatic stay has expired as to that property. Docket 502 at 14; Docket 574. 11 U.S.C. § 362(c) (1)&(2).

3.	15-29136-A-12	P&M SAMRA LAND	OBJECTION TO
	NCK-11	INVESTMENTS L.L.C.	CLAIM
	VS. SOUTHERN COUNTIES OIL CO.		12-27-17 [503]

Tentative Ruling: The objection will be overruled.

The debtor objects to the \$4,809.47 general unsecured proof of claim of Southern Counties Oil Co. (POC 10-1), arguing that the claimant "has failed to allege facts sufficient to support the claim . . . [and] has failed to present any evidence showing it has actually suffered any damage at all in connection with the asserted Claim." Docket 503 at 2.

The proof of claim is presumed to be prima facie valid. 11 U.S.C. § 502(a).

"Inasmuch as Rule 3001(f) and section 502(a) provide that a claim or interest as to which proof is filed is "deemed allowed," the burden of initially going forward with the evidence as to the validity and the amount of the claim is that of the objector to that claim. In short, the allegations of the proof of claim are taken as true. If those allegations set forth all the necessary facts to establish a claim and are not self-contradictory, they prima facie establish the claim. Should objection be taken, the objector is then called upon to produce evidence and show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves. But the ultimate burden of persuasion is always on the claimant. Thus, it may be said that the proof of claim is some evidence as to its validity and amount. It is strong enough to carry over a mere formal objection without more."

Wright v. Holm (In re Holm), 931 F.2d 620, 623 (9th Cir. 1991) (quoting 3 L. King, Collier on Bankruptcy § 502.02, at 502-22 (15th ed. 1991)).

The presumptive validity of the claim may be overcome by the objecting party only if it offers evidence of equally probative value in rebutting that offered by the proof of claim. Holm at 623; In re Allegheny International, Inc., 954 F.2d 167, 173-74 (3rd Cir. 1992). The burden then shifts back to the claimant to produce evidence meeting the objection and establishing the claim. In re Knize, 210 B.R. 773, 779 (Bankr. N.D. Ill. 1997).

Here, the debtor has not produced evidence to rebut the presumptive validity of the proof of claim. The only evidence in the record is a declaration of Manjit Samra, the debtor's managing member, merely stating that:

"Stone Lake Farm does not owe the moneys stated in Claim 10-1 by Southern Counties Oil Company; based on the alleged purchase by Stone Lake Farm from Southern Counties Oil Company of petroleum based and fuel related products for farm purposes."

Docket 505 at 2.

The declaration does not explain the relationship between the debtor, P&M Samra Land Investments, L.L.C., and Stone Lake Farm, or why a debt owed to Stone Lake Farm is relevant to this objection or the validity of the proof of claim.

The objection lacks relevant and probative evidence to the merits of the proof of claim.

Moreover, the objection fails to address the judgment by the claimant that is attached to the proof of claim. The judgment serves as basis for the proof of claim. POC 10-1. The objection says nothing about the judgment. The objection will be overruled.

4.	16-21585-A-11	AIAD/HODA SAMUEL	STATUS CONFERENCE
			3-15-16 [1]

Tentative Ruling: None.