

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

**EOD**  
09/03/2015

IN RE: §  
§  
JAMES L. EMANUEL, § Case No. 14-41589  
§ (Chapter 13)  
Debtor. §

**MEMORANDUM OPINION AND ORDER**

This case is before the Court on the “*Objection to Claim No. 8 filed by Citibank, N.A.*” filed by James L. Emanuel (the “Debtor”). The Court heard the objection on July 9, 2015. At the conclusion of the hearing, the Court took the matter under advisement in order to provide this detailed written ruling.

**FINDINGS OF FACT**

The Debtor filed a petition for relief under Chapter 13 of the Bankruptcy Code on July 28, 2014. Citibank timely filed proof of an unsecured claim against the Debtor for a consumer credit card debt in the amount of \$5,924.94, which the Court assigned claim number 8. Citibank attached a statement of account to its claim which itemized the principle amount borrowed by the debtor as well as the interest included in its claim. Citibank’s statement of account reveals the last charge to the account was in October 2013, the last payment was in February 2014, and Citibank charged off the account in August 2014. Citibank’s statement of account also reflects that Citibank owned the account at all relevant times.

The Debtor does not dispute that he owes an unsecured debt to Citibank in the amount stated in Citibank’s claim. However, counsel for the Debtor sent an electronic

message to “Gentlemen” at “Citibank” requesting documents in support of its claim. Counsel used the email address listed on the proof of claim form. Citibank did not respond to the electronic message within 30 days.

The Debtor subsequently filed the objection now before the Court. The only basis for the Debtor’s objection to Citibank’s claim is Citibank’s failure to provide supporting documentation in response to his counsel’s electronic message. The Debtor seeks to disallow Citibank’s claim as well as an award of \$300 for his counsel’s work in filing the objection. Citibank did not respond to the Debtor’s objection to its claim or appear at the hearing on July 9, 2015.

## **DISCUSSION**

Bankruptcy Code § 502(a) provides:

A claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest, including a creditor of a general partner in a partnership that is a debtor in a case under chapter 7 of this title, objects.

11 U.S.C. § 502(a). If an objection to a claim is filed, § 502(b)(1) directs the Court to determine the amount of and allow such claim “except to the extent that such claim is unenforceable against the debtor ... under any agreement or applicable law ...” 11 U.S.C. § 502(b)(1).

Bankruptcy Rule 3001 governs the requirements for a proof of claim, including that the proof of claim be in writing and substantially conform to the appropriate official form. Subsection (c) sets forth the supporting information required for various types of claims. Subsection (f) provides: “A proof of claim executed and filed in accordance with

these rules shall constitute prima facie evidence of the validity and amount of the claim.”  
FED. R. BANKR. P. 3001(f).

The claim in this case is based on a written consumer credit agreement. Bankruptcy Rule 3001(c)(1) generally provides that when a claim is based on a writing, the writing must be filed with the proof of claim. However, effective December 1, 2012, Bankruptcy Rule 3001(c) was amended to add subparagraph (3), which specifically addresses the requirements for filing claims based on open-ended or revolving consumer credit agreements as follows:

*(3) Claim based on an Open-End or Revolving Consumer Credit Agreement.*

- (A) When a claim is based on an open-end or revolving consumer credit agreement-except one for which a security interest is claimed in the debtor's real property-a statement shall be filed with the proof of claim, including all of the following information that applies to the account:
- (i) the name of the entity from whom the creditor purchased the account;
  - (ii) the name of the entity to whom the debt was owed at the time of an account holder's last transaction on the account;
  - (iii) the date of an account holder's last transaction;
  - (iv) the date of the last payment on the account; and
  - (v) the date on which the account was charged to profit and loss.
- (B) On written request by a party in interest, the holder of a claim based on an open-end or revolving consumer credit agreement shall, within 30 days after the request is sent, provide the requesting party a copy of the writing specified in paragraph (1) of this subdivision.

FED. R. BANKR. P. 3001(c)(3). In addition, the Advisory Committee clarified that “[a] proof of claim executed and filed in accordance with subparagraph (A), as well as the applicable provisions of subdivisions (a), (b), (c)(2), and (e), constitutes prima facie

evidence of the validity and amount of the claim under subdivision (f).” FED. R. BANKR. P. 3001 Advisory Committee Note (2012).

Thus, with respect to credit card debts, “[a]fter the 2012 amendment, the focus of the claimant’s obligation under the rule [3001] ... shifted from the attachment of documents to the disclosure of particular information regarding the credit card account that the drafters of the Rule deemed most pertinent in the assessment by the debtor (or trustee) of the validity or proper amount of the claim.” *In re Umstead*, 490 B.R. 186, 195 (Bankr. E.D. Pa. 2013). The Advisory Committee recognized that credit card accounts are frequently “sold one or more times prior to the debtor's bankruptcy [and that] the debtor may not recognize the name of the person filing the proof of claim.” *Id.* The new disclosure requirement was intended to “assist the debtor in associating the claim with a known account.” *Id.* Pursuant to subsection (c)(3)(B), a claimant is only required to provide a copy of the credit agreement upon “written request.”

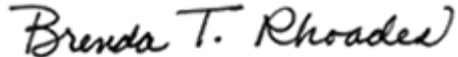
In this case, Citibank submitted a signed claim using the appropriate official form in compliance with Bankruptcy Rule 3001(a) and (b). Citibank’s claim contains all of the information required by Bankruptcy Rule 3001(c)(2) and (3)(A). It is, therefore, prima facie evidence of the amount and validity of the claim. *See* FED. R. BANKR. P. 3001 Advisory Committee Note (2012). Even if Citibank’s claim was not prima facie valid, the information included in Citibank’s claim as well as the Debtor’s own admissions in his schedules and at the hearing provide sufficient indicia of the claim’s validity and amount to justify imposing on the objector the burden and expense of responding with contrary evidence. The Debtor failed to meet this burden.

However, Citibank did not comply with Bankruptcy Rule 3001(c)(3)(B) by responding to the Debtor's request for a written copy of the credit agreement. A debtor is entitled to request documentation from a creditor in order to determine whether the claim is associated with a known account. In this case, the Debtor requested supporting documentation despite having no difficulty recognizing Citibank's account and no dispute regarding the claimed indebtedness. Bankruptcy Rule 3001(c)(2)(D) provides a bankruptcy court with discretion in determining the appropriate response to a claimant's noncompliance with Rule 3001(c). FED. R. BANK. P. 3001(c)(2)(D) (the court " 'may' ... take ... the following actions ..."). The Court concludes sanctions are not warranted under the circumstances of this case.

### **ORDER**

For the forgoing reasons, it is hereby **ORDERED** that the Debtor's "*Objection to Proof of Claim No. 8*" is **OVERRULED** and the claim is **ALLOWED** as filed.

Signed on 9/3/2015

 MD  
HONORABLE BRENDA T. RHOADES,  
UNITED STATES BANKRUPTCY JUDGE