

United States Bankruptcy Court
District of Delaware

CHIEF JUDGE BRENDAN LINEHAN SHANNON



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February 1, 2017

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Re: In re CWC Liquidation, Inc.
Case No. 14-10867 (BLS)

Dear Counsel:

This letter follows upon a hearing on the Liquidating Trustee's Twenty-Eighth Omnibus (Substantive) Objection to Certain Claims held on January 25, 2017 and subsequent briefing by the parties [Docket Nos. 1704, 1730, and 1739]. The Liquidating Trustee seeks disallowance of Claim #43 filed on behalf of Gaschain USA, LLC ("Gaschain") as duplicative of Claim #854 filed on behalf of Sam Jean, S.A. ("Sam Jean"). Gaschain and Sam Jean are effectively related parties and are represented by the same counsel. Counsel for all parties agreed at oral argument that Claim #43 and Claim #854 reflect the same transaction. The operative difference between the two claims is that Claim #43 states a § 503(b)(9) administrative claim in the amount of \$58,404.00, while Claim #854 only states a § 503(b)(9) administrative claim in the amount of \$28,987.95. Liquidating Trustee contends that Claim #854 supersedes the earlier filed Claim #43, and therefore moves to disallow Claim #43 as duplicative.

Section 502(a) of the Bankruptcy Code provides, in pertinent part, that "[a] claim or interest, proof of which is filed under § 501 of this title, is deemed allowed, unless a party in interest ... objects." 11 U.S.C. § 502(a). Once an objection to a claim is filed, the Court, after notice and hearing, shall determine the allowed amount of the claim. 11 U.S.C. § 502(b). While a properly filed claim is *prima facie* evidence of the claim's allowed amount, when an objecting party presents evidence to rebut a claim's *prima facie* validity, the claimant bears the burden of proving the claim's validity by a preponderance of evidence. See *In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992).

The Liquidating Trustee contends that Bankruptcy Rule 3003(c)(4), which states that “[a] proof of claim or interest executed and filed in accordance with this subdivision shall supersede any scheduling of that claim or interest pursuant to § 521(a)(1) of the Code,” supports disallowance of the earlier filed #43. Liquidating Trustee is incorrect in this regard. Rule 3003(c)(4) refers only to the interplay between a debtors’ schedules and proofs of claim filed by creditors.

Here, the supporting documentation for Claim #43 and Claim #854 each include an invoice titled Commercial Invoice SJTSG14-010CWC (“Invoice 010”). Invoice 010 attached to Claim #43 is dated March 25, 2014 in the amount of \$28,136.80 and signed by a representative of Gaschain. Invoice 010 attached to Claim #854 is dated March 19, 2014 in the amount of \$26,432.80 and stamped by a representative of Sam Jean.¹ Parties agree that the two claims reflect the same underlying sale of goods. One set of supporting documents fits the administrative priority criteria of 503(b)(9), the other does not. Neither party presented evidence to guide the Court as to which invoice is accurate and correct. In this context, it is incumbent on Gaschain/Sam Jean to demonstrate the validity of their claim. When, as here, the evidence is in equipoise, the party bearing the burden of proof loses.

Based upon the foregoing, the Liquidating Trustee’s objection to Gaschain’s claim is **SUSTAINED**. Counsel are requested to submit a form of order consistent with this ruling promptly under certification of counsel.

Very truly yours,



Brendan Linehan Shannon
Chief United States Bankruptcy Judge

BLS/jmw

¹The parties advised the Court at the hearing that the reason for the difference in amounts between the competing Invoice 010 derives from a percentage commission imposed by Gaschain for quality assurance and inspection services on Sam Jean shipments.