



ORDERED in the Southern District of Florida on July 27, 2007.

**A. Jay Cristol, Judge
United States Bankruptcy Court**

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA

IN RE:

CASE NO. 04-14066-BKC-AJC

IVO MARTINEZ and
CARLA ALTAMIRANO,

Chapter 13

Debtors.
_____ /

ORDER OVERRULING DEBTORS' OBJECTIONS TO CLAIMS

THIS CAUSE came before the Court upon Debtors' objection(s) to claim(s) filed November 29, 2005 [C.P. #40, hereinafter "Objections to Claims"], the Clerk's Notice of Cancellation of Hearing and Request to Re-notice Hearing [C.P. 41] and the proposed order submitted to the Court for entry.

The record indicates that counsel for the Debtors set the Objections to Claims for hearing on December 15, 2005. The Courtroom Deputy Clerk, having noted that the Court's monthly Chapter 13 calendars were scheduled for December 20 and December 22, 2005 (not December 15, 2005 as represented in the Objections to Claims) issued a Notice of Cancellation of Hearing and requested that the Debtors reset the matter. From a review of the docket, it does not appear

the Objections to Claims were ever rescheduled for hearing. Nonetheless, in July 2007, a proposed order sustaining the Objections to Claims was submitted to the Court for entry.

In the Objections to Claims, the Debtors sought to strike and disallow claim numbers 1, 2, 4, 5, 7, 8, 9, 10, 12, 14, 15, 16, 17, 18, 19, and 20. The basis for each of the sixteen objections is identical, to wit, “insufficient documentation has been provided”. However, insufficient documentation is not a proper basis for an objection to claim under 11 U.S.C. §502, particularly in light of the fact that the Debtors herein scheduled the debts owed to these creditors in amounts substantially similar to the amounts shown on the creditors’ claims and did not dispute any of the scheduled amounts. See *In re Moreno, et al*, 341 B.R. 813 (Bankr. S.D.Fla. 2006). If a claim is scheduled by a debtor as undisputed and in an amount equal to or greater than the amount in the proof of claim, little if any, documentation is necessary.

Where the Debtors admit in their schedules, which are signed under oath, that a given debt is due and owing, without dispute, the Court believes the Debtors may well be estopped from objecting to the claim, up to the amount that is admitted as due and owing. The Debtors’ listing of a creditor as an unsecured claimant constitutes a judicial admission that they in fact owe a debt to the entities listed. *See Morgan v. Musgrove (Matter of Musgove)*, 187 B.R. 808, 812-813 (Bankr. N.D. Ga. 1995); *see also Mann v. Gervich (In re Gervich)*, 570 F. 2d 247, 253 (8th Cir. 1978) (schedule may create judicial admission of debt’s existence); *In re Standfield*, 152 B.R. 528, 531 (Bankr. N.D. Ill. 1993) (verified schedules and statements may give rise to evidentiary admissions) (citations omitted); *In re Leonard*, 151 B.R. 639, 643 (Bankr. N.D. N.Y. 1992) (debtor’s schedule entry created admission of debt). By failing to qualify the schedule’s descriptions of the debts so as to include the term “disputed,” the Debtors are estopped from contesting the debts’ existence. *See Morgan*, 187 B.R. at 813; *see also In re McMonagle*, 30 B.R.

899, 903 (Bankr. D.S.D. 1983). “The Debtors’ acknowledgment of the debts in their original schedules coupled with the Debtors’ failure to come forward with some evidence which would challenge the proofs of claim lead this Court to question their good faith intentions.” *In re Cluff*, 313 B.R. 323, 342 (Bankr. D. Utah 2004).

The bankruptcy court is guided by principles of equity, and that the Court will act to assure that "fraud will not prevail, that substance will not give way to form, that technical considerations will not prevent substantial justice from being done." *Pepper v. Litton*, 308 U.S. 295, 305, 60 S. Ct. 238, 244, 84 L. Ed. 281 (1939). In this case, the claims are allowed claims under 11 U.S.C. §502 unless the Debtors establish an exception under subsection (b) of the statute. *Dove-Nation v. eCast Settlement Corp. (In re Dove-Nation)*, 318 B.R.147, 152 (8th Cir. BAP 2004). “The Bankruptcy Code could not be more clear: a claim, proof of which is filed, shall be allowed unless it falls within one of the exceptions set forth in Section 502(b).” *Dove-Nation*, 318 B.R. at 153. Here, the creditors filed proofs of claims and the Debtors failed to allege or present any evidence that the claims fell within one of the exceptions.

Thus, this Court having adopted the reasoning in *Moreno*, it is

ORDERED AND ADJUDGED that Debtors’ Objections to Claims are OVERRULED without prejudice to the Debtors filing renewed objections consistent with the limitations described herein, and more specifically addressed in *In re Moreno, et al*, 341 B.R. 813 (Bankr. S.D.Fla. 2006).

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James A. Poe, Esq is directed to serve a copy of this order on all interested parties and to file a certificate of service with the Clerk of the Court.