

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)	CASE NO.	12-13546
)	CHAPTER	13
LORELEE K. SENSIBAUGH)	REG/jd	
)		
)		
Debtor)		

DECISION AND ORDER OVERRULING LIMITED OBJECTION TO CLAIM

On July 21, 2015.

The debtor in this Chapter 13 case has filed a “limited objection” to a claim filed by Huntington National Bank. The essence of the objection is that the bank had a secured claim of approximately \$16,000, of which the trustee paid approximately half (plus interest) and a third party has paid the remaining balance. As a result, the court has been asked to enter an order “declaring [that] claim #1 of the Huntington National Bank [has been] paid in full.” There has been no response from the Bank within the time required and the matter is before the court for a decision. Despite the lack of any response, the objection is improper and therefore must be overruled.

Any consideration of the determination of claims must begin with § 502 of the Bankruptcy Code. Claims are deemed allowed unless objected to. 11 U.S.C. § 502(a). In the event of an objection, the court is to determine the amount due as of the date of the petition and allow the claim in that amount. 11 U.S.C. § 502(b). As a result, an objection to a claim implicates either the validity of the debt under non-bankruptcy law, one of the other reasons for which claim may be denied, or the amount due the creditor as of the date of the petition. These are the issues identified in § 502(b)(1)-(9). See, In re Taylor, 289 B.R. 379, 384-85 (Bankr. N.D. Ind. 2003); In re Dawson, 444 B.R. 688, 690 (Bankr. E.D. Va. 1998). If an “objection” to a claim has some other basis, it is not

a claim objection within the scope of § 502. It may well be something else, but it is not an objection to a claim.

The debtor's limited objection does not implicate any of the issues identified in § 502(b). It does not challenge the validity of the debt and it does not question the amount due as of the date of the petition. Quite to the contrary, it is based upon the proposition that the debt is valid and the amount the bank claimed was owed is correct. The objection is based entirely upon post-petition events and asks the court to determine, not how much was due, but that the debt has been paid by a combination of payments through the confirmed plan and a third party. Not only is this not a proper claim objection, but it appears to be a request for some type of declaratory relief: a declaration that the claim has been paid in full. Rule 7001 of the Federal Rules of Bankruptcy Procedure requires an adversary proceeding to obtain such relief, Fed. R. Bankr. P. Rule 7001(9), otherwise the request should be denied. See, Matter of Perkins, 902 F.2d 1254, 1258 (7th Cir. 1990).

The issues identified in the limited objection may be important ones but they are not part of the process for determining claims. Instead, they involve the mechanics of paying claims. In a Chapter 13 case, such as this, that is done through the plan: some claims will be paid by the trustee, some by the debtor and some through a surrender of property. Nonetheless, these are all mechanisms for the payment of a claim; not its allowance or disallowance. Dawson, 444 B.R. at 690. The Bankruptcy Code has a provision explicitly designed to deal with the very situation identified in the debtor's limited objection: a creditor with an allowed claim receives a payment other than through the Chapter 13 plan. A "plan may be modified . . . to – alter the amount of a distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of

such claim other than under the plan.” 11 U.S.C. § 1329(a)(3). That is the debtor’s limited objection to a “T”. Rather than objecting to the Bank’s claim or asking for a declaration that it has been paid in full, the debtor should follow the process laid out in the Bankruptcy Code and the applicable rules of procedure for modifying a confirmed plan.¹ See, 11 U.S.C. § 1329; Fed. R. Bankr. P. Rule 3015(g).

Debtor’s limited objection to the claim of Huntington National Bank is therefore
OVERRULED.

SO ORDERED.

/s/ Robert E. Grant
Chief Judge, United States Bankruptcy Court

¹Modification may or may not be appropriate. If the third party that paid the balance of the claim is subrogated to the bank’s position or had the claim transferred to it, modification would not be called for and, instead, the process for documenting the transfer of that claim should be followed by the transferee. See, Fed. R. Bankr. P. Rule 3001(e)(2).