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5 UNITED STATES BANKRUPTCY COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 In re)
9) Chapter 13
10 VELEDA CAROL VANN)
11) Bankruptcy No. 03-24789
12 Debtor.)
13) **MEMORANDUM DECISION**
14) **AND ORDER ON**
15) **OBJECTIONS TO CLAIMS**
16)

17 This matter came before the Court on the debtor's objections
18 to proofs of claim filed in the above case by Household Credit
19 Services/Household Receivable Acquisition (Claim No. 2 in the
20 amount of \$985.25), Premier Bankcard/Premier/CSI Dept. SDPR
21 (Claim No. 5 in the amount of \$374.53), eCast Settlement Corp.,
22 as assignee of Citibank USA NA (Claim No. 6 in the amount of
23 \$2,060.81), and eCast Settlement Corp., as assignee of MBNA
24 America Bank, N.A. (Claim no. 7 in the amount of \$694.35). The
25 creditors did not respond to the debtor's objections and the
26 debtor has submitted a declaration of no response and a proposed
27 order disallowing each claim on the ground that no response to
the objection has been filed. The proposed orders also bar each
creditor from filing any supplemental claim. For the following
reasons, the Court will deny the debtors' request to disallow

1 these claims, but will instead permit each creditor the
2 opportunity to provide additional support for its claim as
3 required by the Order below.

4 I. BACKGROUND

5 The debtor commenced this case under Chapter 13 of the
6 Bankruptcy Code¹ on November 14, 2003, and confirmed her Amended
7 Chapter 13 plan on November 5, 2004. The confirmed plan states
8 that the anticipated dividend to unsecured creditors will be 100%
9 of the amount of their claims (estimated at \$4,187.17) based upon
10 a liquidation analysis showing \$4,187.17 in funds available for
11 unsecured creditors. On November 29, 2004, the Chapter 13
12 trustee filed his Report of Filed Claims, showing every claim
13 filed in the case as of that date.

14 On August 31, 2004, the debtor filed an *ex parte* Motion to
15 Sell Real Property to Fund Plan to obtain court authority to sell
16 her personal residence. The sale, which was approved by order of
17 the Court on September 1, 2004, was expected to generate
18 \$33,650.11 in proceeds. Subsequent to the entry of the order
19 approving the sale, the debtor timely filed the objections to
20 claims that are at issue here.

21 II. DISCUSSION

22 A. Summary of the Court's Decision in *Henry*.

23 This Court issued the decision in *In re Henry*, 311 B.R. 813
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25
26 ¹ Unless otherwise indicated, all Chapter, Section and Rule
27 references are to the Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.*
and to the Federal Rules of Bankruptcy Procedure, Rules 1001 *et*
seq.

1 (Bankr. W.D. Wash. 2004) in an effort to establish reasonable and
2 cost-effective guidelines for dealing with small proofs of claim,
3 including credit card claims, in Chapter 13 cases. In *Henry*,
4 this Court held that the failure to comply with Rule 3001(c) by
5 attaching the writing upon which the claim is based negates the
6 *prima facie* validity of the claim under Bankruptcy Code § 502(a).
7 See *In re Consolidated Pioneer Mortgage*, 178 B.R. 222, 226 (9th
8 Cir. BAP 1995); *In re Stoecker*, 143 B.R. 879, 883 (N.D. Ill.
9 1992); *In re Petrich*, 43 F.2d 435, 437 (S.D. Cal. 1930); *In re*
10 *Lindell Drop Forge Co.*, 111 B.R. 137, 142-43 (Bankr. W.D. Mich.
11 1990). This Court also held that a credit card debt is a claim
12 based upon a writing and that to maintain *prima facie* validity, a
13 creditor should attach to its proof of claim form or file in
14 response to a claims objection (i) a sufficient number of monthly
15 account statements to show how the total amount asserted has been
16 calculated, and (ii) a copy of the agreement authorizing the
17 charges and fees included in the claim. Finally, this Court held
18 in *Henry* that in the absence of that minimum evidentiary
19 presentation, the creditor's claim could be disallowed. In
20 *Henry*, each of the creditors was given an opportunity to amend
21 its claim by submitting additional documentation.

22 Recently, the Court clarified its decision in *Henry* in a
23 case entitled *In re Crowe*, Bankruptcy Case No. 02-21809 (Bankr.
24 W.D. Wash. 1/18/05). In *Crowe*, this Court confirmed the ability
25 of a creditor to file a summary of its claim when the
26 documentation supporting the claim is voluminous. The Court
27 adopts the holding of the court in *In re Cluff*, which established

1 the following guidelines for the form of the summary: (i) it
2 should include the amount of the debt(s), (ii) it should identify
3 the name and account number of the debtor, (iii) it should be in
4 the form of a business record or some other equally reliable
5 format, and (iv) if the claim includes charges such as interest,
6 late fees and attorneys' fees, the summary should break down each
7 of those charges by category. *Cluff*, 313 B.R. 323, 335 (Bankr.
8 D. Utah 2004). The filing of a summary, however, does not
9 relieve a creditor of its obligation to provide all documents
10 supporting the claim to the debtor upon request. *In re Shank*,
11 315 B.R. 799, 816 (Bankr. N.D. Ga. 2004); *In re Kemmer*, 315 B.R.
12 706, 715 (Bankr. E.D. Tenn. 2004); *In re Cluff*, 313 B.R. at 335-
13 36. Nor does the filing of a summary negate the requirement that
14 a creditor check the box in paragraph 4 of the proof of claim
15 form if the claim includes interest or other charges in addition
16 to the principal amount of the claim and to attach, if
17 applicable, an "itemized statement of all interest or additional
18 charges."

19 The claims objections filed in this case are identical to
20 those filed in the *Crowe* case. Each of the objections states:

21 YOU MAY AVOID THIS HEARING by providing (1) a
22 minimum of 12 months of account statements from
23 the debtor's alleged account, (2) a copy of the
24 contract obligating the debtor to [the creditor],
25 (3) proof of a valid assignment (if applicable),
and (4) evidence of compliance with the Truth in
Lending Act, 16 U.S.C. §1692 (a signed application
by the debtor), PRIOR to the response date
indicated below.

26 This Court held in *Crowe* that this statement requires
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1 significantly more than the Court required in *Henry*. Nothing in
2 *Henry* requires a creditor to attach to its proof of claim 12
3 months of account statements, nor does *Henry* require a creditor
4 to submit proof that it has complied with the Truth in Lending
5 Act.

6 **B. Application of *Henry* and *Crowe* to the Facts.**

7 The Court has reviewed each claim at issue in this case to
8 determine if a proper summary or documentation complying with
9 *Henry* has been filed. The claims of Household Credit
10 Services/Household Receivable Acquisition, Premier
11 Bankcard/Premier/CSI Dept. SDPR, and eCast Settlement Corp., as
12 assignee of Citibank USA NA, each attach a summary of the debt
13 with no supporting documents and no breakdown of principal,
14 interest and fees. Each claim provides contact information if
15 supporting documents are desired. The claim of eCast Settlement
16 Corp. as assignee of MBNA America Bank, N.A., states that the
17 supporting documents are voluminous and therefore are not
18 attached to the proof of claim. Instead, a summary is attached
19 to the claim in the form of an internal report, but the Court
20 cannot find on that report any breakdown of the components of the
21 total amount of the debt. Accordingly, all of the proofs of
22 claim are deficient in that they do not break out the components
23 of the claim.

24 The debtor has listed three of the four claims in the
25 schedules, but at different amounts than set forth in the proof
26 of claim forms. The debtor lists a claim for Household at \$901,
27

1 a claim for Premier at \$341, and a claim for MBNA at \$735.² The
2 claim of Citibank does not appear to be scheduled.

3 **CONCLUSION**

4 Based upon the foregoing documentary presentation, the Court
5 will give the creditors an opportunity to supplement their claims
6 with additional information or supporting documentation. They
7 must provide a statement itemizing the total amount of the debt;
8 and if they are seeking interest and fees in addition to
9 principal, they must provide the agreement or other authority for
10 the amount or validity of the charge.

11 **ORDER**

12 For the foregoing reasons, it is hereby ORDERED that
13 Household Credit Services/Household Receivable Acquisition,
14 Premier Bankcard/Premier/CSI Dept. SDPR, and eCast Settlement
15 Corp., as assignee of Citibank USA NA, and eCast Settlement Corp.
16 as assignee of MBNA America Bank, N.A. shall have 45 days from
17 the date of this order to supplement their claims with additional
18 information or supporting documentation, which must include at a
19 minimum (i) a statement itemizing the total amount of the debt,
20 including principal, interest and other charges; and (ii) if a
21 creditor is seeking interest or other charges in addition to
22 principal, the agreement or other authority for the amount or
23 validity of the interest or charge.

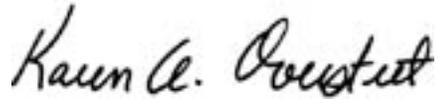
24 FURTHER ORDERED that the debtor shall promptly serve a copy
25 of this Memorandum Decision and Order on each creditor at the

26 _____
27 ² The debtor lists these claims as "unliquidated," but not
28 disputed.

1 address set forth in the proof of claim and at an address that
2 complies with Bankruptcy Rules 9014(b) and 7004.

3 FURTHER ORDERED that in the event any creditor fails to
4 provide the information described above, the Court may determine
5 the amount of the claim based upon the documents on file with the
6 Court or disallow the claim in its entirety.

7 DATED this 19th day of January, 2005.

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KAREN A. OVERSTREET
UNITED STATES BANKRUPTCY JUDGE