

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TENNESSEE

In re:

No. 01-14654
Chapter 13

JAVIER MARTINEZ
TAMMY KATY MARTINEZ

Debtors

**MEMORANDUM AND ORDER ON OBJECTION TO
CONFIRMATION FILED BY HALLMARK CREDIT**

This chapter 13 case is before the court on the objection by Hallmark Credit (“Hallmark”) to the debtors’ chapter 13 plan. It is the position of Hallmark that it has a perfected interest in non-voidable property which has not been properly provided for in the plan. Hallmark has not filed a proof of claim in this case. At the confirmation hearing, neither Hallmark nor its representative appeared. For the reasons hereinafter stated, the objection by Hallmark to the debtors’ chapter 13 plan is overruled as having been filed beyond the time set by the court.

This Memorandum constitutes findings of fact and conclusions of law as required by *Fed. R. Bankr. P. 7052*.

On July 23, 2001, the debtors filed a petition for relief under chapter 13 of the United States Bankruptcy Code. In connection with the filing of their petition, the debtors also filed a proposed chapter 13 plan which does not specifically mention Hallmark as holding a secured debt. General unsecured debts are to be paid 70 cents on the dollar.

On August 2, 2001, this court issued an order which provided in text that: “The creditors must file any objection to confirmation in writing at or before the meeting of creditors held pursuant to § 341 of the Bankruptcy Code.”

This provision was in bold type. This order was served on all scheduled creditors, including Hallmark. The meeting of creditors was held as scheduled on September 10, 2001. On August 29, 2001, the debtor filed an amended plan of reorganization which was served on Hallmark according to the attorney's certificate of service. The amended plan made no changes with respect to Hallmark either as a secured or unsecured creditor. Not until September 13, 2001, some three (3) days after the meeting of creditors did Hallmark file its objection to confirmation.

This court has repeatedly held in similar cases in this district that the notice and order requiring objections to confirmation be filed at or before the first meeting of creditors does not conflict with *Fed. R. Bankr. P.* 3015(f). *In re Vincent*, No. 99-15463 (Bankr. E.D. Tenn., May 25, 2000)(Stinnett); *In re Nimmons*, No. 99-16140 (Bankr. E.D. Tenn., Mar. 16, 2000)(Cook); and *In re Duncan*, No. 99-22144 (Bankr. E.D. Tenn., Jan. 5, 2000)(Parsons). Accordingly,

It is ORDERED that the objection to confirmation filed by Hallmark Credit was not timely filed and is hereby OVERRULED.

ENTER:

BY THE COURT

R. THOMAS STINNETT
UNITED STATES BANKRUPTCY JUDGE