

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF TENNESSEE

In re)	
)	
TIMOTHY LYNN HOPKINS)	Case No. 94-21358
)	Chapter 13
)	
Debtor)	

MEMORANDUM AND ORDER

On November 10, 1994, Grand Piano and Furniture ("Grand Piano") filed an "Objection to Debtor's Chapter 13 Plan" wherein it alleges that it is a secured creditor of the debtor, having a purchase money security interest in a washer and a dryer which were purchased by the debtor from Grand Piano in April, 1994. Grand Piano alleges that the debtor's plan undervalues this collateral and fails to pay adequate interest and that therefore the plan does not meet the requirements of 11 U.S.C. § 1325. Grand Piano requests that the court deny confirmation of the debtor's Chapter 13 plan.

The debtor's plan, however, has already been confirmed. On November 3, 1994, an order was entered confirming the debtor's Chapter 13 plan as proposed. Federal Rule of Bankruptcy Procedure 3015(f) provides that in a Chapter 13 case "[a]n objection to confirmation of a plan shall be filed ... before confirmation of the plan." Grand Piano's objection, therefore, is untimely. There is no allegation in the objection that Grand Piano did not receive notice of the plan in sufficient time to timely object to its

terms, and the court file reflects that Grand Piano was listed by the debtor in his schedules as a secured creditor and was given timely notice of this Chapter 13 case, the terms of the debtor's proposed plan, and the deadline for filing objections to confirmation. Because Grand Piano did not file its objection prior to confirmation, Grand Piano is bound by the terms of the confirmed plan.

Section 1327 of the Bankruptcy Code provides in material part:

The provisions of a confirmed plan bind the debtor and each creditor, whether or not the claim of such creditor is provided for by the plan, and whether or not such creditor has objected to, has accepted or has rejected the plan.

11 U.S.C. § 1327(a). As stated by the Seventh Circuit Court of Appeals:

Failure to object to the confirmation of a Chapter 13 plan is deemed acceptance Creditors must object to confirmation, appear at hearing, or otherwise put disputes before the bankruptcy court in order to raise objections. If the creditor fails to do so, the creditor is bound by the Chapter 13 plan.

In re Chappell, 984 F.2d 775, 782 (7th Cir. 1983). "Confirmation is the bright line in the life of the Chapter 13 case at which all the important rights of creditors and responsibilities of the debtor are defined and after which all rights and remedies must be determined with reference to the plan." Lundin, Chapter 13 Bankruptcy, ¶ 6.9, p. 6-4 (2d. ed. 1994).

Accordingly, for the reasons set forth above, Grand Piano's

objection is OVERRULED.

SO ORDERED.

ENTER: November 18, 1994

BY THE COURT

A handwritten signature in cursive script, reading "Marcia P. Parsons". The signature is written in dark ink and is positioned above the printed name.

MARCIA PHILLIPS PARSONS
UNITED STATES BANKRUPTCY JUDGE