The document below is hereby signed.

Signed: February 18, 2010.



S. Martin Teel, Jr. United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF COLUMBIA

In re)
)
STUART MILLS DAVENPORT,) Case No. 09-00772) (Chapter 13)
Debtor.) Not for Publication in
	West's Bankruptcy Reporter

MEMORANDUM DECISION AND ORDER OVERRULING OBJECTION TO PROOF OF CLAIM FILED BY OSHA

The debtor has objected to the proof of claim, assigned number 10 on the claims register, for \$1,500.00 filed by U.S. Department of Labor-OSHA, stating:

- 1. Claimant OSHA filed the above-referenced Proof of Claim on September 29, 2009. Claimant filed no attachments to its proof of claim that would tend to prove Debtor was personally responsible for this claim.
- 2. The proof of claim itself offers no evidence that Debtor is personally liable on the claim.
- 3. Debtor argues that, absent proof of his personal responsibility, Claimant's claim should be denied in the instant case.

OSHA has not responded. The debtor does not assert that he is

not personally liable on the debt. The proof of claim is prima facie correct. Fed. R. Bankr. P. 3001(f). The debtor's pleading burden is affirmatively to state non-conclusory facts demonstrating that the claim is invalid. He does not even come out and state that the debt is not owed. Unless the debtor affirmatively contends that he is not personally liable on the debt, he has not stated a valid objection to the claim, and there is no need to take evidence. It is thus

ORDERED that the Debtor's Objection to the Proof of Claim Filed by OSHA (Dkt. No. 54, filed January 7, 2010) is OVERRRULED without prejudice to filing an amended objection to claim stating a valid basis of objection.

[Signed and dated above.]

Copies to: Debtor; Debtor's Attorney; Chapter 13 Trustee;

U.S. Department of Labor-OSHA 1099 Winterston Road # 140 Linthicum, MS 21090-2218

¹ Even if he had done that, the burden would still remain for him to produce evidence that rebuts the prima facie correctness of the claim. An affidavit stating in conclusory terms that the debtor is not personally liable for the debt would not satisfy that burden.