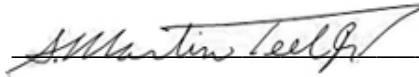


The document below is hereby signed.

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 ) **Not for Publication in**  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, ASSIGNED NUMBER 18 ON  
CLAIMS REGISTER, FILED BY WELLS FARGO BANK, N.A. FOR \$6,948.42

The debtor has objected to the proof of claim, assigned number 18 on the claims register, for \$6,948.42 filed by Wells Fargo Bank, N.A. (account ending in 3767). Wells Fargo has not responded.

The attachment to the proof of claim indicates "Davenport, Stuart M 'Big Bear Cafe.'" Contrary to the debtor's memorandum in support of the objection to claim, this attachment does not state "that the business is the entity responsible for the amount owed." The debtor does not assert that he is not personally liable on the debt, and instead argues that "absent proof of his personal responsibility, Claimant's claim should be denied in the instant case." But the proof of claim is prima facie correct.

Fed. R. Bankr. P. 3001(f). The debtor's pleading burden is affirmatively to state facts demonstrating that the claim is invalid. He does not even come out and state that the debt is not owed.<sup>1</sup> 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 Wells Fargo Bank (Dkt. No. 48) is OVERRULED 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;

Wells Fargo Bank  
BDD-Bankruptcy Department  
MAC S4101-08C  
100 W. Washington Street  
Phoenix, AZ 85003

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<sup>1</sup> Even if he had done that, the burden would still remain for him to produce evidence rebutting 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.