

# In the United States Bankruptcy Court

## for the Northern District of Iowa

TEDDY JOSEPH LEGG and  
LINDA MAYBERRY LEGG

*Debtor(s).*

Bankruptcy No. 93-30277XF

Chapter 13

### ORDER RE: TRUSTEE'S OBJECTION TO CLAIM OF ISU CREDIT UNION

Teddy and Linda Legg filed their joint chapter 13 petition on February 22, 1993. Their plan (docket no. 8) was confirmed in July 1993 (docket nos. 30 and 31). The plan made no provision for payment of allowed post-petition claims.

ISU Credit Union filed a claim on July 22, 1996 (claim no. 11). It was allegedly for monies loaned to Teddy Legg on July 15, 1994, after the petition was filed. It is an unsecured non-priority claim for \$8,820.75.

Carol Dunbar, the standing trustee, amended her prior claims report to take account of the Credit Union's claim (docket no. 46, filed December 12, 1997). Her recommendation to the court was "Post petition debt. Late filed claim. Allow \$0.00 to be paid through Plan." *Id.* She was objecting to allowance of the claim.

Because neither the Bankruptcy Code nor the Bankruptcy Rules of Procedure provide a deadline for the filing of post-petition claims, I set the objection for hearing. The clerk served notice of hearing for February 25, 1998 in Fort Dodge. The Credit Union was not served with the notice. This was corrected by a supplemental notice served February 19 (docket no. 49).

No one attended the hearing.

A creditor may file a post-petition claim for "a consumer debt, that arises after the date of the order for relief ... that is for property or services necessary for the debtor's performance under the plan." 11 U.S.C. § 1305(a) (2). Such claims are allowed or disallowed under § 502 except as provided under § 1305(c). The latter section states:

A claim filed under subsection (a) (2) of this section [1305] shall be disallowed if the holder of such claim knew or should have known that prior approval by the trustee of the debtor's incurring the obligation was practicable and was not obtained.

11 U.S.C. § 1305(c).

The trustee has not objected to the claim for an adequate reason. She says that the claim is untimely. But there is no statutory or rule deadline for the filing of post-petition claims. Nonetheless, I have examined the claim, and I find nothing in it to indicate that the Credit Union obtained the trustee's permission to make the loan, or to indicate that prior approval was not practical or that the Credit Union did not know, or should not have known, that prior approval of the trustee was required.

The Credit Union did not resist the trustee's objection to its claim, nor did it appear at the hearing. The proof of claim is insufficient on its face to support its allowance, although not for the reason stated by the trustee.

IT IS ORDERED that the claim filed by ISU Credit Union, identified in the case as claim no. 11, is disallowed.

SO ORDERED THIS 2<sup>nd</sup> DAY OF MARCH 1998.

William L. Edmonds  
Chief Bankruptcy Judge