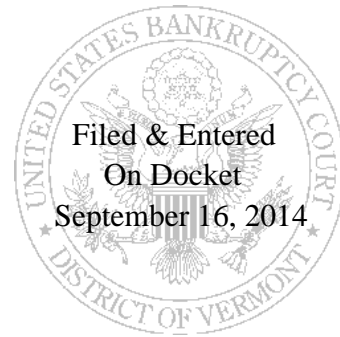


**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**



In re:

**Laurie Lynch,
Debtor.**

**Chapter 13 Case #
12-10313**

AMENDED* ORDER
DEFERRING RULING ON OBJECTION TO CLAIM, SETTING
BRIEFING SCHEDULE, AND CONTINUING HEARING

On August 7, 2014, the Trustee filed an objection to Claim #4, of the U.S. Department of Education ("the DOE"), which asserted that the Debtor owed it \$23,602.74 in student loans (doc. # 80)(the "Objection"). The Trustee argued that the claim should be disallowed, as it was not timely filed. Specifically, the Trustee asserted that the claims bar date for government entities was October 10, 2012, and the DOE did not file its proof of claim until May 20, 2014. The Debtor joined the Objection, and the DOE did not file any response to it.

Nevertheless, the Court finds it inappropriate to sustain the Objection at this time for two reasons. First, the certificate of service attached to the objection to claim shows service on both the address listed on the proof of claim, and on general counsel for the DOE at an address in Washington, D.C. However, the Trustee did not serve the United States Attorney in the District of Vermont, as required by Vt. LBR 2002-2. Second, it does not appear that the DOE ever received notice of this bankruptcy case that would have enabled it to timely file a proof of claim. The Debtor did not list the DOE as a creditor in her mailing matrix originally filed with the case or her subsequently amended schedules, and did not provide for any payment to the DOE through her Chapter 13 plan (doc. ## 1, 10, 28). The Court recognizes that there is a split in authority setting out two different views with respect to whether to disallow an untimely claim in a case where the creditor did not receive notice that would allow it to file a timely claim. See In re Adams, 502 B.R. 645 (Bankr. N.D. Ga. 2013). Further, the Court acknowledges that there is no controlling precedent in this district. Therefore, the Court finds it appropriate to give the parties an opportunity to brief the issue.

Accordingly, IT IS HEREBY ORDERED that

- 1) by noon on September 17, 2014, the Trustee shall serve the United States Attorney in the District of Vermont with a copy of the Objection and this Order;

- 2) by noon on September 30, 2014, the Trustee (and Debtor if she so desires) shall file a memorandum of law in support of the Objection;
- 3) by noon on October 15, 2014, the DOE shall file its response to the Trustee's Objection and memorandum of law.
- 4) by noon on October 22, 2014, the Trustee or Debtor may file a reply to the DOE's response;
- 5) at 9 a.m. on November 7, 2014, the parties shall appear for a hearing on the Objection at the United States Bankruptcy Court in Rutland, Vermont, and at select VIT sites; and
- 6) the hearing on the objection to claim, currently set for October 3, 2014, is cancelled.

SO ORDERED.

September 16, 2014
Burlington, Vermont



Colleen A. Brown
United States Bankruptcy Judge

*Amended solely to correct Order caption.