

**CASE NOTES**

**Puerto Rico Bankruptcy Court Denies Creditor's Requests to Amend Proof of Claim**

By Marcos A. Ramos

*[In re Martinez](#), Case No. 08-02404 (Bankr. D. P.R. July 31, 2014)*

In *In re Martinez*, the United States Bankruptcy Court for the District of Puerto Rico held that a creditor was responsible for its own failure to accurately identify the secured and unsecured portions of its claim and the Chapter 13 trustee did not have to verify the accuracy of the claim as filed by the creditor.

Debtors William A. Ruiz Martinez and Ileana Ortiz Santiago filed their case under Chapter 13 of the Bankruptcy Code on April 18, 2008. The debtors' proposed plan provided for the surrender of certain shares to creditor Cooperativa de Ahorro y Crédito de Camuy and the payment in full of an unsecured debt with the Creditor in the amount of \$20,773.04. The creditor did not object to confirmation of the debtors' plan.

After the plan was confirmed (in June 2008), the creditor filed a proof of claim under which it identified a secured claim against the debtors in the amount of \$19,901.40 (secured by shares and deposits) and an unsecured claim in the amount of \$6,916.10. After the Debtors completed payments under their plan (in May 2013), the creditor filed an amended proof of claim under which it inverted its prior identified secured and unsecured claim, with \$19,901.40 now identified as unsecured and \$6,916.10 identified as secured. The creditor also filed a motion to compel the trustee to recover distributions made to other unsecured creditors and to pay those recovered funds to the creditor on account of its amended unsecured claim. The trustee, meanwhile, filed its final report and moved for the debtors' discharge as all plan-related payments were complete.

The court noted that the creditors are required to file a proof of claim in order to receive a distribution under a confirmed plan and leave to amend a timely filed proof of claim generally should be freely allowed. When considering such a request, a court should weigh whether the proposed amendment (1) is a veiled attempt to assert a distinctly new right, (2) would result in unfair prejudice to other unsecured creditors, or (3) was the product of bad faith or dilatory tactics by the creditor.

Here, the court noted that the creditor's claim was timely filed and not objected to and thus was an allowed claim. While the court determined that the claim as amended did not really constitute a new claim, the court held that the creditor's attempt to amend the claim after the debtors completed payments provided for under the plan was untimely, dilatory and unfairly prejudicial

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to other creditors. In this regard, the court noted that the creditor had received payments under the plan for several years, all without any action by the creditor to amend its claim.

Further, the court held under the circumstances that the trustee did not have the duty to independently verify the claim originally filed by the creditor. In this regard, the court observed that “vigilance is good and somnolence is bad” and the creditor’s “inertia in correcting its mistake” only could be attributable to the creditor. Moreover, the creditor’s request for the court to require the trustee to recover distributed funds would “cause undue prejudice to the Debtors and other creditors.”

Accordingly, the court denied the creditor’s requests for relief and granted the debtors’ discharge.

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