

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF LOUISIANA**

**In re:** § **CASE NO. 06-10179**  
§  
**OCA, INC, et al.** §  
§ **CHAPTER 11**  
§  
**Debtors.** § **Jointly Administered**  
§

**RESPONSE OF LEWISVILLE INDEPENDENT SCHOOL DISTRICT AND GARLAND  
INDEPENDENT SCHOOL DISTRICT TO DEBTORS' OBJECTION TO TAX CLAIMS**

TO THE HONORABLE JUDGE OF SAID COURT:

Come now Creditors Lewisville Independent School District ("LISD") and Garland Independent School District ("GISD"), hereinafter collectively referred to as the "School Districts", and file this their Response to Debtors' Objection to Tax Claims and, in support thereof, respectfully submit the following:

**BACKGROUND**

1. On or about March 14, 2006, the Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.
2. On or about June 20, 2006, the School Districts filed certain claims for business personal property taxes against the Debtors as follows:

| <b><u>GISD Acct</u></b> | <b><u>Amount</u></b> | <b><u>Tax Yrs</u></b> | <b><u>Bnk. Case #</u></b> | <b><u>Claim No</u></b> |
|-------------------------|----------------------|-----------------------|---------------------------|------------------------|
| 0000261192              | \$743.03             | 2006 est              | 06-10179                  | 318                    |
| 0000261192              | \$743.03             | 2006 est              | 06-10230                  | 2                      |
| 0000251580              | \$1,809.95           | 2002-04               | 06-10179                  | 319                    |
| 0000251580              | \$1,809.95           | 2002-04               | 06-10216                  | 10                     |

| <u>LISD Acct</u> | <u>Amount</u> | <u>Tax Yrs</u> | <u>Bnk. Case #</u> | <u>Claim No</u> |
|------------------|---------------|----------------|--------------------|-----------------|
| P0920391         | \$8,325.11    | 99; 06         | 06-10179           | 317             |
| P0920391         | \$8,325.11    | 99; 06         | 06-10216           | 9               |

3. Debtors have objected to various tax claims, including those of GISD and LISD, asserting (a) they do not owe the amounts sought; (b) the claims are paid or subject to offsets; and (c) insufficient documentation. However, as discussed further below, Debtors have provided no evidence in support of their assertions and the School Districts' claims are not paid, not subject to offset, and were filed with sufficient documentation to support the claim. The School Districts acknowledge, however, that Claim Nos. 2, 9 and 10 are duplicates of Claim Nos. 317, 318, and 319 and, as such, only one of each claim should be allowed.

**ARGUMENT**

4. **Liability for Tax.** Pursuant to Texas law, a lien automatically attached to Debtors' property located within the School Districts on January 1 of each tax year to secure payment of all taxes, penalties, and interest ultimately imposed on the Debtors' property for the respective tax years. Texas Tax Code §32.01 provides in relevant part:

- (a) On January 1 of each year, a tax lien attaches to property to secure the payment of all taxes, penalties, and interest ultimately imposed for the year on the property . . .
- (b) A tax lien on inventory, furniture, equipment, or other personal property is a lien in solido and attaches to all inventory, furniture, equipment, and other personal property that the property owner owns on January 1 of the year the lien attaches or that the property owner subsequently acquires.

...

Furthermore, Pursuant to Section 32.07 of the Texas Tax Code, Debtors, as the owner of business personal property on January 1 of the relevant tax years, are personally liable for the full amount of taxes due.

5. **Proof of Claim Prima Facie Evidence of Validity.** Pursuant to Fed.R.Bankr.P. Rule 3001(f), “A proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim.” This evidentiary presumption arises when a proof of claim is filed in accordance with the Federal Rules of Bankruptcy Procedure. The School Districts’ claims were filed in accordance with Rule 3001 and should be afforded the evidentiary effect provided in Rule 3001(f). Once the School Districts’ prima facie evidence was presented, that is, when their proofs of claim were properly executed and filed, the burden shifts to the Debtors to present evidence sufficient to rebut this presumption. In order to overcome the School Districts’ prima facie evidence of the validity and amount of their claims, the Debtors must present “evidence sufficient to negate the prima facie validity of the filed claim.” *In re Allegheny Int’l, Inc.*, 954 F.2d 167, 173 (3rd Cir.(Pa.) Jan. 21, 1992); *see also In re Garner*, 246 B.R. 617, 622-23 (9th Cir.BAP (Cal.) Mar. 22, 2002). To overcome a properly filed proof of claim, “[t]he debtor’s burden is significant.” *In re Bertelt*, 206 B.R. 587, 594 (U. S. Bnk. Ct. – M.D. Fla. 1996). “An objection does not deprive a claim of its presumptive validity unless it is supported by *substantial evidence*.” *Id.* (emphasis added) *citing Kahn v. Juniper Development Group*, 510 U.S. 914, 114. “The consequences of the status of the proof of claim as constituting prima facie evidence of validity and amount is that the evidence of the proof of claim is strong enough to prevail over a mere formal objection without more.” *In re Garner*, 246 B.R. at 623 *citing Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9<sup>th</sup> Cir. 1991). In this case, the Debtors have not presented any evidence to support their assertion that the School Districts’ claims should be disallowed.

6. **Claims Not Paid or Subject to Offset.** According to the records of GISD and LISD, the taxes included in their claims have not been paid. Debtors have provided no evidence of payment. Furthermore, GISD and LISD are not aware of any offsets to their tax claims.

7. **Sufficient Documentation Provided.** Debtors' objection also asserts that some tax claims did not provide sufficient documentation to support the claim. However, GISD and LISD provided tax statements with each claim showing the amounts due, tax years owed, account numbers under which such taxes were assessed, ownership information, a brief property description, and property location. As such, GISD and LISD provided sufficient information to support their properly filed secured tax claims, and Debtors have not provided any evidence to rebut the supporting documentation.

WHEREFORE, PREMISES CONSIDERED, Lewisville Independent School District, and Garland Independent School District respectfully request that Debtors' Objection be denied as it pertains to the claims of the School Districts and that the claims of the School Districts be allowed in full, subject only to disallowance of duplicate claims as discussed herein.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the Response of Creditors Lewisville Independent School District and Garland Independent School District to Debtors' Objection to Tax Claims was served upon the following parties via facsimile and/or electronic delivery through the CM/ECF system this 16<sup>th</sup> day of October, 2006:

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/s/ Andrea Sheehan  
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