IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

IN RE: **CHAPTER 11**
PURSUE ENERGY CORPORATION **CASE NO. 0205339JEE**

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Edward Ellington, Judge

FINDINGS OF FACT AND CONCLUSIONS OF LAW ON THE *DEBTOR'S OBJECTIONS TO CLAIMS OF THE WATSON GROUP*

THIS MATTER came before the Court on May 29, 2009, for trial on the *Debtor's Objections to Claims of the Watson Group*, which was filed on September 12, 2005. After the conclusion of the trial, the Court instructed the parties to submit briefs to the Court. After considering the arguments of the parties at trial and the briefs submitted by the parties, the Court finds that the *Debtor's Objections to Claims of the Watson Group* are well taken and that the claims

filed by the Watson Group should be disallowed.

FINDINGS OF FACT

A more detailed background can be in found this Court's opinion of *In re Pursue Energy Corp.*, 379 B.R. 100 (Bankr. S.D. Miss. 2006), but for the purposes of this opinion, the Court will give a brief background of Pursue Energy Corporation's pre-petition history.

In the late 1970s, Pursue Energy Corporation (Debtor) acquired interests in various oil and gas leases in the Thomasville Field, Rankin County, Mississippi, to explore for gas. The raw gas produced from the Thomasville Field is poisonous or "sour" gas which, in its natural state, has no market value at the mouth of the well. In order to render the "sour" gas marketable, it must be processed to remove the poisons.

The Debtor therefore constructed a plant (Pursue Plant) to process the "sour" gas produced from its wells. In 1995, the Debtor purchased a separate "sour" gas processing plant owned by Shell Western E&P (Shell Plant). Upon the purchase of the Shell Plant, the Debtor abandoned the Pursue Plant and began processing all of the "sour" gas through the newly acquired Shell plant.

In early September of 2002, the Mississippi State Tax Commission issued a severance tax assessment against the Debtor which precipitated the Debtor's September 20, 2002, filing of a petition under Chapter 11 of the United States Bankruptcy Code.

Thereafter, the Debtor filed its *Summary of Schedules* (Schedules) and its mailing matrix. Listed on the Debtor's mailing matrix is the following entry:

VIRGINIA FAIRFIELD CLARK
% NERN TST CO #1004913
50 S LASALLE ST
CHICAGO, IL 60675-0001

However, no where in the Debtor's Schedules is Virginia Fairfield Clark's name listed.

As a result of the address of Virginia Fairfield Clark being listed on the matrix, a *Notice of Appearance of Counsel* was filed by attorney Phillip Buffington on behalf of Mona W. Clark, Pamelia Frances Moore, David Wilson Pollock, Virginia Fairfield Clark, Nicholas Wilson Clark, Peter Benjamin Clark, Mary Ann Hoyer aka Mary Ann Clark, Hilary Anne Clark and John Henry Raymond Clark (collectively, Watson Group) in June 2004.

In the Watson Group's *Response to Debtor's Motion to Remit Escheated funds to the State*[1], the Watson Group states that they are the heirs of a Lewis M. Watson and that "Mr. Watson held title to certain real property in Simpson County, Mississippi, upon which the Debtor operates a gas well(s). Based upon information and belief, Lewis M. Watson held mineral rights that entitled he and, therefore, his heirs to royalties and other payments held by the Debtor."[2] Mr. Buffington filed several other pleadings on behalf of the Watson Group, but on September 10, 2004, Mr. Buffington filed a motion to withdraw as the attorney for the Watson Group[3].

On September 17, 2004, a *Proof of Claim* (Claim #458[4]) was filed on behalf of the "Virginia Watson Parties as listed on Exhibit A" (the Watson Group). An attorney from Chicago, Illinois, by the name of William I. Kohn signed Claim #458 and dated it September 15, 2004.

Only three boxes on the claim form were filled out by the Watson Group. The following information was entered on Claim #458:

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[1]Filed on July 7, 2004, by Mr. Buffington.

[2]*Response to Debtor's Motion to Remit Escheated Funds to the State*, p. 1-2, ¶ 5 (July 7, 2004).

[3]An order was never entered on this motion. However, on November 30, 2004, James B. Sykes, III entered his appearance on behalf of the Watson Group.

[4]When a Proof of Claim is filed with the Court, it is placed on the Official Claims Registry and assigned a claim number.

1. Basis for Claim:

The box *Other* is checked, and *Contingent-Listed on Matrix but not on Schedules* is typed next to the box.

2. Date debt was incurred:

Unknown at this time is written.

4. Total Amount of Claim at Time Case Filed:

No dollar amount is listed and *Contingent-Unknown at this time* is typed in the box.

No other information is included on the form nor is there any documentation attached to Claim #458 which supports the Watson Group's claim.

On September 20, 2004, another *Proof of Claim* (Claim #459) was filed on behalf of the "Virginia Watson Parties as Listed on Exhibit A." The same attorney, William I. Kohn, also signed Claim #459, and it is also dated September 15, 2004. Every other aspect of Claim #459 is identical to Claim #458. It appears to the Court that Claim #459 is an exact duplicate of Claim #458 (hereafter collectively referred to as Claim).

On November 30, 2004, James B. Sykes, III entered his appearance as the attorney for the Watson Group. Mr. Sykes then filed a series of pleadings[5] seeking to obtain information and records from the Debtor that would show that the Watson Group was a creditor of the Debtor. On December 5, 2005, the Court entered an order in which the Debtor was ordered to produce any and all documents it had in its possession or control which named and/or listed any of the members of the Watson Group along with Lewis Watson or Arthur Wirtz.

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[5]Namely: *Watson Group's Motion for Order to Compel Answers to Interrogatories* filed on May 25, 2005, (a response thereto was filed by the Debtor on June 16, 2005); *Watson Group's Motion for Fees, Expenses and Sanctions* filed on August 23, 2005*; Motion for Order to Compel Answers to First Set of Interrogatories Propounded on Debtor by Watson Group* filed on October 3, 2005, (a response thereto was filed by the Debtor on October 19, 2005). In addition, on September 14, 2005, the Watson Group objected to confirmation of the Debtor's plan.

The Debtor filed its *Debtor's Objections to Claims of the Watson Group* (Objection) on September 12, 2005. In its Objection, the Debtor objected to both Claim #458 and Claim #459 based on its position that "(1) the Watson Group are not interest owners according to the records of the Debtor; and (2) as such, the Debtor does not have any obligation nor owe any monies to any Claimants comprising the Watson Group."[6] As both Claims were filed on the Official Form 10, the Debtor did not object on that ground.

As of this date, the Watson Group has not filed a response to the Debtor's objection to their proofs of claims.

An order was entered on March 2, 2006, allowing James B. Sykes, III and Mona W. Clark[7] to withdraw as the attorneys for the Watson Group. F. Douglas Montague and Paul B. Caston were substituted as the new attorneys for the Watson Group. At this point, another round of pleadings was filed in the ongoing discovery disputes between the Debtor and the Watson Group.[8]

Then on May 19, 2006, *Watson Group's Motion for Sanctions for Failure to Provide Discovery as Directed by Court Order* was filed. In their motion for sanctions, the Watson Group alleges that the Debtor had failed to turn over documentation in its possession which proved that the Watson Group was a creditor of the Debtor. On September 11, 2006, the Debtor filed *Reorganized Debtor's (A) Response in Opposition to Watson Group's Motion for Sanctions for Failure to Provide Discovery as Directed by Court Order and (B) Request for Relief.* In its response, the

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[6]*Debtor's Objections to Claims of the Watson Group*, p. 1, ¶ 3 (September 12, 2005).

[7]Mona W. Clark is a member of the Watson Group and is also an attorney. During the course of this case, Ms. Clark filed some pleadings on behalf of the Watson Group.

[8]Namely: *Pursue Energy Corporation's Motion for Order to Compel Answers to First Set of Interrogatories and First Request for Production of Documents to the Watson Group* filed on April 19, 2006; and the response thereto filed by the Watson Group on May 3, 2006.

Debtor states that it was a mistake for the name of Virginia Fairfield Clark to be listed on its matrix–that the Debtor's computers picked up her name from the Shell interest owner list that existed when the Debtor purchased the Shell interests in the Thomasville Field. The Debtor further states that "(t)he name 'Virginia Clark' does not appear as a royalty or working interest owner, but rather the grantor of a surface land easement, an easement which expired by its own terms years ago. This is not the same Virginia Clark that is a Watson Group member."[9]

On September 15, 2006, the Court held a trial on the above two pleadings (along with several other pleadings filed by the Debtor and the Watson Group which involved their ongoing discovery disputes). The Court found that the Debtor was not in contempt and that the Debtor had fully and completely complied with the December 5, 2005, order and that discovery was complete between the parties. An order was entered on September 25, 2006, memorializing this ruling. On October 4, 2006, the Watson Group filed an appeal of the Court's September 25, 2006, order. This appeal is currently pending in the United States District Court for the Southern District of Mississippi.[10]

On May 29, 2009, oral arguments were presented to the Court on the *Debtor's Objections to the Claims of the Watson Group.* At the conclusion of the trial, the parties submitted a briefing schedule.

On August 3, 2009, the Watson Group filed their *Memorandum Brief of the Watson Group in Support of their Proof of Claim*. In their brief, the Watson Group states that they are heirs of

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[9]*Reorganized Debtor's (A) Response in Opposition to Watson Group's Motion for Sanctions for Failure to Provide Discovery as Directed by Court Order and (B) Request for Relief*, p. 3, ¶ 2(d) (September 11, 2006).

[10]While the notice of appeal was filed on October 4, 2006, for a number of reasons, the record was not transmitted to the District Court until April 17, 2009. In District Court, the appeal was assigned case number: 3:09cv249HTW-LRA.

Lewis Watson. They further explain that their Claim was filed:

> (O)n the basis of their belief that Lewis Watson died owning interests in oil and gas properties in Simpson and Rankin Counties, Mississippi. Members of the Watson Group initially became convinced of Lewis Watson's ownership because Virginia Clark (who is the mother of Mona Watson Clark and the niece of the late Lewis Watson) began receiving correspondence and pleadings at her address at her bank, the Northern Trust Company, pertaining to. . .(the Debtor's bankruptcy case.) Mona Watson Clark then. . .determined that her mother's name, Virginia Clark, appeared on the matrix of Pursue Energy Corporation.
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> Further investigation by Mona Watson Clark revealed that her great uncle did indeed own properties in Simpson and Ranking (sic) counties, but that public records. . .had been destroyed as a result of flooding. Accordingly, the Watson Group. . .sought access to Pursue Energy's title opinions that (they) believed may contain information concerning the ownership interests of the Lewis Watson estate that would not have appeared in the public records.
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> On September 15, 2005, this Court heard arguments. . .whether Pursue should be compelled to grant Mona Watson Clark access to Pursue's title opinions so that she may determine for herself whether these title opinions reveal any interest in favor of Lewis Watson. At the conclusion of the hearing, the Court denied the Watson Group's motion. The Watson Group subsequently filed an appeal of this Court's ruling. . . .

Memorandum Brief of the Watson Group in Support of their Proof of Claim, p. 2 (August 3, 2009). The Watson Group then states that due to the fact that the Court has denied it access to the Debtor's title opinions, they are unable to provide documentation to support their Claim.

On September 10, 2009, the Debtor filed its *Memorandum Response Brief of Pursue Energy Corporation, Reorganized Debtor in Support of Objection to Claim of Watson Group.* In its brief, the Debtor states that discovery has gone on for over four years and has been extensive. Further, the Debtor asserts that this Court had found that the Debtor had completely complied with and responded to all discovery, and the fact that the Watson Group has appealed this Court's denial of their motion for contempt does not excuse the Watson Group from complying with the bankruptcy rules and code. Therefore, the Debtor asserts that the Claim of the Watson Group should be

disallowed because the Watson Group has failed to produce any documentation to show the validity and amount of their claim.

On October 12, 2009, the Watson Group filed their *Memorandum Rebuttal Brief of the Watson Group in Support of their Proofs of Claims*. In their rebuttal brief, the Watson Group asserts the same contention as in their original brief: that they are unable to prove their Claim because the Debtor has not produced and the Court did not order the Debtor to produce the title opinions.

CONCLUSIONS OF LAW

I.

This Court has jurisdiction of the subject matter and of the parties to this proceeding pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157. This is a core proceeding as defined in 28 U.S.C. § 157(b)(2)(A) and (B).

II.

A.

The filing of a proof of claim by a creditor is governed by 11 U. S. C. § 501[11]. A proof of claim filed by a creditor pursuant to § 501 is "deemed allowed, unless a party in interest . . . objects. [I]f such objection to a claim is made, the court. . .shall determine the amount of such claim . . . as of the date of the filing of the petition." 11 U. S. C. § 502(a) and (b) . "A proof of claim executed and filed in accordance with the Bankruptcy Rules constitutes prima facie evidence of the validity and amount of the claim. Bank. R. 3001(f)." *Simmons v. Savell, (In re Simmons)*, 765 F.2d 547, 551-52 (5th Cir. 1985)(footnote omitted).

In a prior opinion involving this same Debtor, the Court ruled upon the validity of the *Proof*

[11]Hereinafter, all code sections refer to the Bankruptcy Code found at Title 11 of the United States Code unless specifically noted otherwise.

of Claim of the Mississippi State Tax Commission. In that opinion the Court stated:

> An unsecured creditor must file a proof of claim or interest for the claim to be allowed. Fed. R. Bankr. P. 3002(a). A properly filed proof of claim constitutes prima facie evidence of the validity and amount of the claim. Fed. R. Bankr. P. 3001(f). A party objecting to a properly filed proof of claim "must then produce evidence rebutting the claimant or else the claimant will prevail." California State Bd. of Equalization v. Official Unsecured Creditors' Comm. (In the Matter of Fidelity Holding Co. Ltd.), 837 F.2d 696, 698 (5th Cir. 1988). "If, however, evidence rebutting the claim is brought forth, then the claimant must produce additional evidence to 'prove the validity of the claim by a preponderance of the evidence.'" In re Fidelity Holding Co., 837 F.2d at 698 (quoting In re WHET, Inc., 33 B.R. 434, 437 (D. Mass. 1983)). "The ultimate burden of proof always rests upon the claimant." Id. . . .
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> Moreover, in the case of Simmons v. Savell (In re Simmons), 765 F.2d 547, 552 (5th Cir. 1985), the United States Court of Appeals for the Fifth Circuit stated that "the filing of a proof of claim is tantamount to the filing of a complaint in a civil action . . . and the trustee's formal objection to the claim, the answer." In re Simmons, 765 F.2d at 552; *see also* In re Morton, 2003 WL 23744636, at *2 n. 2 (Bankr. N.D. Tex. Nov. 10, 2003) (proof of claim is viewed as analogous to a complaint and objection is responsive pleading); Jenkins v. Tomlinson (In re Basin Res. Corp.), 182 B.R. 489, 493 (Bankr. N.D. Tex. 1995) (proof of claim is seen as initial pleading and objection as responsive pleading).
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> Thus the (claimant) bears the ultimate burden of proof, by the preponderance of the evidence, as to the validity and amount of its proof of claim. . . .

In re Pursue Energy Corp., 379 B.R. 100, 105-06 (Bankr. S.D. Miss. 2006).

B.

In order to constitute prima facie evidence of the validity and amount of their Claim, the Watson Group's Claim must have been filed in accordance with Federal Rule of Bankruptcy Procedure 3001.[12] Rule 3001 states in pertinent part:

> **Rule 3001. Proof of Claim.**
>
> **(a) Form and Content.** A proof of claim is a written statement setting forth a creditor's claim. A proof of claim shall conform substantially to the appropriate

[12]Hereinafter, all rules refer to the Federal Rules of Bankruptcy Procedure unless specifically noted otherwise.

Official Form.

(b) Who May Execute. A proof of claim shall be executed by the creditor or the creditor's authorized agent. . . .

(c) Claim Based on a Writing. When a claim, or an interest in property of the debtor securing the claim, is based on a writing, the original or a duplicate shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim.

(d) Evidence of Perfection of Security Interest. If a security interest in property of the debtor is claimed, the proof of claim shall be accompanied by evidence that the security interest has been perfected.

. . . .

(f) Evidentiary Effect. 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.

Fed. R. Bank. P. 3001(a)-(d), (f).

Therefore, for a proof of claim to be sufficient to establish prima facie evidence of the validity and amount of the claim, the proof of claim "must be in writing; set forth the creditor's claim; be executed by the creditor or an authorized agent; attach writings on which a claim, or an interest in the debtor's property that secures the claim, is based; and attach documents evidencing perfection of any security interest." 9 Collier on Bankruptcy ¶ 3001.01, p. 3001-4-5 (Alan N. Resnick & Henry J. Sommer eds., 15th ed. rev.)(footnotes omitted). "The primary purpose of Rule 3001 is to afford claimants a procedure for filing a claim that is both efficient, *and* informative. At a minimum, a proof of claim must contain sufficient information for (the debtor) to evaluate the basis of the claim. A claim that includes no documentation and no statements explaining the basis of the claim does not state a cognizable claim." *In re Today's Destiny, Inc.*, 2008 WL 5479109, *7 (Bankr. S.D. Tex. 2008).

Applying these requirements to the case at bar, there is no dispute that the Claim is in writing

and executed by the creditor or authorized agent. However, the Claim does fail to meet the requirement of having writings or documents attached as evidence on which the claim is based.

In the case of *In re Armstrong,* 320 B.R. 97 (Bankr. N.D. Tex. 2005), the Bankruptcy Judges for the Northern District of Texas issued a joint opinion which addressed the issue of the effect of a proof of claim filed without the proper writings or documentation. In *Armstrong*, various credit card companies had filed proofs of claims without any supporting documentation attached. The court found that "(a) 'properly filed' proof of claim. . . consists of '(1) a creditor's name and address, (2) basis for claim, (3) date debt incurred, (4) amount of claim, (5) classification of claim, and (6) supporting documents.'. . .Thus, if a . . . creditor files a proof of claim meeting the standards of Bankruptcy Rule 3001(c) . . . then Bankruptcy Rule 3001(f) is triggered, giving the creditor's claim *prima facie* evidence of its validity." *Armstrong*, 320 B.R. at 104 (citations omitted).

The burden then shifts to the objecting party to produce evidence to rebut the claim. If the objecting party meets its burden, "then the claimant must produce additional evidence to 'prove the validity of the claim by a preponderance of the evidence.'" *Pursue Energy,* 379 B.R. at 105 (citations omitted).

In *Armstrong* the burden never shifted to the debtor because the court found that the creditors had not met the standards of Rule 3001, and therefore, the claim was not prima facie evidence of its validity. However, the court held that "(i)n cases where the creditor has not met the standards of Bankruptcy Rule 3001 and Official Form 10, the claim is not automatically disallowed; rather, it is deprived of the *prima facie* validity which it could otherwise have obtained." *Armstrong,* 320 B.R. at 104. In light of an objection, the claimant is therefore required to produce supporting documentation or evidence to meet its burden of proving the validity and the amount of its claim. *Id.* at 104.

In the case at bar, the Watson Group filed their Claim without supporting documentation. Therefore, the Claim is not prima facie evidence as to their validity and amount, and the burden does not shift to the Debtor. Consequently, the Watson Group must produce supporting documentation to carry their burden of proof.

The Court finds that the Watson Group has failed to meet their burden. At the trial on the Objection, the Watson Group failed to produce any documentation or evidence to support the validity of their claim or the amount of their claim. The Watson Group continued to state that the reason they cannot prove that they have a claim is because the Debtor has not given them the documentation they need. In effect, the Watson Group is attempting to shift the burden to the Debtor in order to make the Debtor produce evidence to support the existence of their claim. As the Court has previously ruled that the Debtor has fully complied with all ordered discovery, this position is not sufficient to allow the Watson Group to meet their burden under Rule 3001.

In neither their original brief nor in their rebuttal brief does the Watson Group cite any case which would support their position that the burden is on the Debtor to provide documentation to either prove that they have a claim or to prove that they do not have a claim. In their original brief, the only case cited by the Watson Group is the case of *Feld v. Zale Corp. (In re Zale)*, 62 F.3d 746 (5th Cir. 1995). The Watson Group cites the *Zale* case for the proposition that bankruptcy courts are courts of equity and that the Court should invoke equitable principles and not disallow their claim. While this Court agrees that bankruptcy courts are courts of equity and that equitable principles may be applied in some cases, this is not such a case. "Though the Court does not read Rule 3001 and § 502 as requiring per se disallowance of a claim because of a failure to strictly adhere to the Rule, the Court also does not read Rule 3001 as lacking minimum standards." *In re Today's Destiny*, 2008 WL at *7. The code and the rules are very clear that the Watson Group has the burden of proving the validity and the amount of their claim They have not met this burden.

Consequently, pursuant to § 502(b)(9)[13] the Claim of the Watson Group should be disallowed.

C.

In their original brief, filed on August 3, 2009, the Watson Group states that "the public records for certain periods of time had been destroyed as a result of flooding."[14]

In situations where a claimant alleges that documents have been lost or destroyed, Rule 3001requires that "(i)f the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim." Fed. R. Bank. P. 3001(c). "This language could not be more clear–creditors must attach documents (or copies thereof) to their proof of claim or explain why they have not." *In re Gilbreath*, 395 B.R. 356, 362 (Bankr. S.D. Tex. 2008). The *Gilbreath* court found further:

> Bankruptcy Rule 3001(c) provides that if the documents supporting the creditor's claim cannot be produced, "a statement of the circumstances of the loss or destruction shall be filed with the claim." Fed. R. Bankr. P. 3001(c). Further, paragraph 7 of Form 10 allows a creditor to attach a summary of documents supporting the claim and requires some explanation if the documents are unavailable. These rules and instructions appear to be designed specifically to accommodate creditors who claim to be unable to locate the documents on which their claims are based. Given these provisions, it is difficult to understand how providing a summary of documents supporting a claim, or at least providing an explanation for why the proof of claim has nothing attached to it, unduly burdens creditors.

Id. at 363.

In their reply brief, filed on October 12, 2009, the Watson Group states that at the September

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[13]11 U. S. C. § 502(b)(9) states in pertinent part: "(i)f such objection to a claim is made, the court . . . shall determine the amount of such claim in lawful currency . . . as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that–. . .(9) proof of such claim is not timely filed. . . . 11 U. S. C. § 502(b)(9).

[14]*Memorandum Brief of the Watson Group in Support of their Proof of Claim*, p. 2 (August 3, 2009).

15, 2005,[15] trial, the Watson Group introduced a letter from the clerk of a circuit court that stated that the clerk had no records prior to 1977. However, this letter is not attached to the brief. All that is attached to the brief are several pages from the transcript from the September 15, 2006, trial where Mona Watson Clark is testifying about her search of the land records of Rankin County and of Simpson County.

The Court can envision a situation in which an original document is not available, but nevertheless, at least a summary of the missing documents must be attached in order for the Court to liquidate the claim and fix a dollar amount. However in this case, neither the original document(s) nor a summary of the missing document(s) has been attached to their Claim by the Watson Group. Instead, the Watson Group attaches to their brief an excerpt from the transcript of a trial held in 2006. The Court finds that the excerpt from the 2006 trial does not satisfy the requirements of Rule 3001(c). The excerpt from the transcript does not enlighten the Court as to which county clerk wrote the letter nor explain why the clerk did not have records before the year 1977. In addition, there is no proof or statement that the county clerk ever had any records which would allow the Watson Group to prove their claim–nothing has been offered to establish the location of the supposed mineral interest(s), the number of acres involved or the fractional interest(s) involved.

Therefore, the Court finds that the Watson Group has not met the requirements of Rule 3001(c).

CONCLUSION

Pursuant to § 501 a claim is deemed allowed unless an objection is filed thereto. A properly

[15]The front page of the transcript and several pages of the transcript are attached to the rebuttal brief as Exhibit A. The front page is dated September 15, 2005. However, the trial was actually held on September 15, 2006.

filed claim is prima facie evidence of the validity and amount of the claim pursuant to Rule 3001(f). However, if a claim is not properly filed, the claimant must prove by a preponderance of the evidence the validity and the amount of its claim.

The Watson Group's Claim was filed without any supporting documentation as required by Rule 3001(c). Neither prior to nor at the trial on the Objection did the Watson Group produce sufficient evidence to support their Claim. Therefore, the Watson Group has not met their burden to prove the validity and the amount of their Claim. Consequently, the Claim of the Watson Group should be disallowed pursuant to § 502(b)(9).

A separate judgment will be entered in accordance with Federal Rules of Bankruptcy Procedure 7054 and 9021.

This the 23rd day of October, 2009.

/S/ EDWARD ELLINGTON
EDWARD ELLINGTON
UNITED STATES BANKRUPTCY JUDGE