

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

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In re: :

DEBORA RICHARD : BK No. 01-13943
Debtor Chapter 13

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TITLE: *In re Richard*

CITATION: 2002 WL 31433280 (Bankr. D.R.I. July 30, 2002)

ORDER OVERRULING DEBTOR'S AMENDED OBJECTION TO CLAIM

APPEARANCES:

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BEFORE ARTHUR N. VOTOLATO, United States Bankruptcy Judge

Before the Court is the Debtor's Amended Objection to the Claim of Bankers Trust Company of California, wherein the Debtor seeks to offset against Bankers Trust's proof of claim, by way of recoupment, her claim for alleged violations of the Truth in Lending Act ("TILA"), 15 U.S.C. § 1601 et seq. and the Home Ownership Equity Protection Act ("HOEPA") amendments to the TILA, 15 U.S.C. § 1639 et seq. At issue today is whether under Rhode Island law a TILA claim may be raised defensively under a recoupment theory that would otherwise be time barred by the statute of limitations. Bankers Trust argues, *inter alia*, that it is not permissible to raise these issues defensively in a proof of claim proceeding. After hearing arguments and reviewing the submissions of the parties, I agree with Bankers Trust on this point and adopt and incorporate herein its arguments and supporting authority. The Debtor's Amended Objection to Bankers Trust's claim is OVERRULED.

Dated at Providence, Rhode Island, this 30th day of July, 2002.

/s/ Arthur N. Votolato
Arthur N. Votolato
U.S. Bankruptcy Judge