

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF RHODE ISLAND

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In re: :

VINCENT R. CIUNCI : BK No. 10-14915  
MARY M. CIUNCI : Chapter 7  
Debtors

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**ORDER DENYING RECONSIDERATION**

Heard on Creditor New England Framing's ("NEF") Motion for Reconsideration of the disallowance of its Claim No. 9. Briefly, on May 19, 2011, NEF filed a proof of claim for money paid to the Debtors ("Ciunci") as a deposit on a contract to purchase real estate. The claim included the payment (\$135,000), and various additional expenses. The Ciuncis objected, and when NEF failed to respond, the objection was sustained. Six months later, NEF filed an Amended Proof of Claim and on January 27, 2012, filed the instant motion for reconsideration of the disallowance of its claim.

Under Rule 9006(b)(2), the Court has discretion to enlarge time to allow a late claim "where the failure to act was the result of excusable neglect." The obvious next question is - what constitutes "excusable neglect?" While a movant's current burden in seeking relief based upon excusable neglect is not a particularly heavy one, it is this Court's understanding that the mere filing of such a request is not an automatic and completely

free pass. See *In Re Electronica, Inc.*, 223 B.R. 393, 395 (D.P.R. 1998)(a claim was time barred when the creditor offered no explanation why she had failed to timely file proof of claim). Here, NEF has not once, either in its pleadings or oral arguments, mentioned *excusable neglect*, and in fact has offered no reason whatsoever in support of the relief it seeks. Accordingly, NEF's Motion to Reconsider is **DENIED**.

Enter.

A handwritten signature in black ink, appearing to read "Arthur N. Votolato", is written over a light gray rectangular background.

Arthur N. Votolato  
U.S. Bankruptcy Court

Entered on docket: 4/12/12