

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

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In re: :

GREGORY ANTHONY MERCURIO, JR. : BK No. 98-14990
Debtor Chapter 11

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ORDER GRANTING MOTION TO QUASH SUBPOENA
AND FOR PROTECTIVE ORDER

Before the Court is Franklin Credit Management Corporation's (hereinafter "Franklin") Motion to Quash Subpoena and for Protective Order, and the Debtor's objection thereto.

Because there is no dispute presently pending between the parties, the Motion to Quash the Subpoena and for Protective Order is **GRANTED**.

Franklin argues that the Debtor is time barred from objecting to its claim because the Debtor failed to file an objection by the Court imposed deadline of August 1, 1999. We disagree. At all relevant times, counsel for the Debtor and counsel for Franklin both knew that Franklin's claim was contested. In fact, on August 2, 1999, the parties executed and filed a Joint Pre-Trial Order in Franklin's Motion for Relief from Stay, wherein they both acknowledged that the amount owed to Franklin is disputed. See Joint Pre-Trial Order, Docket #61, at 5. Because of the extensive and ongoing litigation between

these parties, the Debtor's attorney was reasonable in his reliance and understanding that this issue would be resolved in the relief from stay litigation. On September 10, 1999, Franklin unilaterally withdrew its Motion for Relief from Stay.

In light of these circumstances, we find that the Debtor's failure to object to Franklin's claim before the Court imposed deadline of August 1, 1999, is not time barred. See *Pioneer Investment Services*, 507 U.S. 380 (1993). Accordingly, the Debtor has fifteen (15) days within which to file an objection to Franklin's claim.

ORDER:

ENTER:

Deputy Clerk

_____/s/ Arthur N.
Votolato_____
Arthur N. Votolato
U.S. Bankruptcy Judge
Date: 1/2/00

Entered on:
Document Number: