


ORDERED.

Dated: July 29, 2015



Karen S. Jennemann
Chief United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION
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In re)	
)	
NORTH AMERICAN CLEARING, INC.,)	Case No. 6:08-ap-00145-KSJ
)	Chapter 7
Debtor.)	
)	

ORDER DENYING GOBLE’S VERIFIED MOTION TO COMPEL TRUSTEE TO PAY EMPLOYEE COMPENSATION, REIMBURSEMENT OF EXPENSES, AND TAXES

Richard Goble, a *pro se* creditor in this Securities Investor Protection Act (“SIPA”)¹ liquidation proceeding of North American Clearing, Inc. (“NACI”), seeks immediate payment of wages and reimbursement of business expenses incurred immediately before the liquidation proceeding began.² Additionally, Goble seeks payment of his 2007 and 2008 personal income taxes from NACI, alleging NACI historically paid these taxes. The Trustee, Robert Gilbert, objects to Goble’s request.³

¹ The Securities Protection Investor Act is located 15 U.S.C. § 78aaa *et seq.*

² Doc. No. 590.

³ Doc. No. 613. Goble filed a reply. Doc. No. 630.

NACI was a broker-dealer and clearing house placed into SIPA liquidation as of May 27, 2008.⁴ Goble, through a trust, was the sole owner and an employee of NACI prior to the liquidation proceedings. Goble consistently has disputed the events that led to NACI's ultimate liquidation. He claims NACI is obligated to pay his May 2008 wages (\$14,427.02), reimburse him for May 2008 business expenses (\$21,190.63), and pay his personal income tax liability (\$307,976.97).

Goble is not entitled to immediate payment of pre-petition wages or reimbursement for pre-petition business expenses as an administrative claim, even assuming NACI was obligated to pay such claims. Goble's claim, if any, for pre-petition services rendered to or reimbursement for business expenses for the Debtor, NACI, is an unsecured claim. They certainly are not higher priority administrative expenses of the estate, as Goble was not employed by NACI's estate post-petition.⁵ Goble already has filed a proof of claim and cannot short-circuit the claims objection process through this motion.

Similarly, any claim for payment of Goble's individual taxes also would be unsecured and should have been included in his claim. The Court moreover can find no basis to support the contention that NACI was obligated to pay Goble's *personal* income taxes. Attached to his motion, Goble provides a single check to the Department of Treasury issued in 2004 from Advantage Trading Group, Inc., a predecessor to NACI.⁶ Even if this did show that NACI paid Goble's taxes at one time, years before the SIPA liquidation, it hardly provides any basis to *obligate* NACI to pay Goble's personal tax bill post-petition. Goble has provided no tangible support for his request.

⁴ Although the District Court's order appointing the Trustee was entered on July 28, 2008 (Doc. No. 1), the SIPA makes clear that the filing date relates back to the appointment of the initial receiver. *See* 15 U.S.C. § 78III(7)(B).

⁵ *Cf. In re ER Urgent Care Holdings, Inc.*, 474 B.R. 298 (Bankr. S.D. Fla. 2012).

⁶ Goble's Motion, Ex. 9, Doc. No. 590.

Goble must follow the standard proof of claim process for any such unsecured claims. The Court further notes that payment of any unsecured claim regardless of amount or the basis is unlikely given the substantial administrative claims incurred in this liquidation action. Goble's motion to compel payment of his pre-petition wages, pre-petition business expense reimbursement, and his personal taxes as administrative claims is denied.

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Attorney Hywel Leonard is directed to serve a copy of this order on interested parties who are non-CM/ECF users and file a proof of service within 3 days of entry of this order.