

ORDERED.

Dated: January 14, 2022



Grace E. Robson
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION
www.flmb.uscourts.gov

In re)	
)	
Richert Funding, LLC,)	Case No. 6:18-bk-06276-GER
)	Chapter 7
Debtor.)	
_____)	

**ORDER (1) DENYING MOTION TO ALLOW PROOF OF CLAIM NUMBER 32
OF HATCH FUNDING, LLC AS TIMELY FILED AND (2) CANCELLING HEARING**

This case came before the Court on the *Motion to Allow Proof of Claim Number 32 of Hatch Funding, LLC as Timely Filed* (the “Motion”).¹ The Court, having reviewed the Motion, **FINDS, ORDERS, AND ADJUDGES** as follows:

Background

A. The case was commenced by the filing of an involuntary petition under chapter 7 of the Bankruptcy Code on October 11, 2018.²

B. On October 22, 2018, the Debtor consented to the involuntary petition and entry of an order for relief.³

¹ Doc. No. 298.

² Doc. No. 1.

³ Doc. No. 16.

C. The petitioning creditors made an *ore tenus* motion to convert the case to chapter 11, which was granted,⁴ and the order for relief was entered on October 29, 2018.⁵

D. Hatch Funding, LLC (“Hatch Funding”) was listed as a creditor in the Debtor’s schedules.⁶

E. On December 28, 2018, the case was reconverted to chapter 7,⁷ and Hatch Funding received notice of the conversion and the deadline to file proofs of claim.⁸

F. Hatch Funding was represented by counsel during the case; however, it failed to file a proof of claim before the deadline.⁹

G. On November 4, 2021, Hatch Funding filed proof of claim number 32 (“Claim No. 32”).

H. On January 4, 2022, Hatch Funding filed the Motion seeking allowance of Claim No. 32 as timely filed based on excusable neglect.

Excusable Neglect

Hatch Funding requests that the Court deem Claim No. 32 timely filed based on the excusable neglect standard incorporated into Bankruptcy Rule 9006(b)(1). That rule provides, in relevant part:

(b) Enlargement.

(1) In General. Except as provided in paragraphs (2) and (3) of this subdivision, when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a

⁴ Doc. No. 21.

⁵ Doc. No. 30, as amended by Doc. No. 37.

⁶ Doc. No. 59.

⁷ Doc. No. 82.

⁸ See Doc. No. 83. The notice established the deadline to file proofs of claim as March 8, 2019.

⁹ See Doc. No. 298 at 1-2.

previous order or (2) on motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

....

(3) Enlargement Governed By Other Rules. The court may enlarge the time for taking action under Rule[] . . . 3002(c) . . . only to the extent and under the conditions stated in those rules.¹⁰

Bankruptcy Rule 9006(b)(3) provides that the Court may enlarge the time for filing proofs of claim only in accordance with Bankruptcy Rule 3002(c). Bankruptcy Rule 3002(c) provides that in an involuntary chapter 7 case, a proof of claim is timely filed if it is filed not later than 90 days after the order for relief is entered, except under the limited circumstances set forth in Bankruptcy Rule 3002(c), none of which are applicable to Hatch Funding. As a result, the Court does not have discretion to consider whether to allow Claim No. 32 as timely filed.¹¹

Accordingly, it is **ORDERED**:

1. The Motion (Doc. No. 298) is **DENIED**.
2. The February 10, 2022 hearing to consider the Motion is **CANCELLED**.¹²

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Attorney Bradley J. Anderson is directed to serve a copy of this Order on all interested parties who are not CM/ECF users and to file a proof of service within 3 days of the entry of this Order.

¹⁰ Fed. R. Bankr. P. 9006(b).

¹¹ See *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 389 n.4 (1993) ("One of the time requirements listed as excepted in Rule 9006(b)(3) is that governing the filing of proofs of claim in Chapter 7 cases. Such filings are governed exclusively by Rule 3002(c)."); *In re Boehm*, 252 B.R. 576, 578 (Bankr. M.D. Fla. 2000) ("The bankruptcy court does not have equitable discretion to extend the deadline for the filing of an untimely claim when none of the exceptions expressly provided in Rule 3002(c) exist and excusable neglect is not one of the exceptions.").

¹² All other hearings in this case scheduled for February 10, 2022 shall proceed.