

MAR 07 2016

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U.S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE NINTH CIRCUIT

In re:	)	BAP No.	CC-15-1271-TaKuF
	)		
HOLY HILL COMMUNITY CHURCH,	)	Bk. No.	2:14-bk-21070-WB
	)		
Debtor.	)		
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DANA PARK,	)		
	)		
Appellant,	)		
	)		
v.	)	<b>MEMORANDUM*</b>	
	)		
RICHARD J. LASKI, Chapter 11	)		
Trustee,	)		
	)		
Appellee.	)		
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Argued and Submitted on February 19, 2016  
at Pasadena, California

Filed - March 7 2016

Appeal from the United States Bankruptcy Court  
for the Central District of California

Honorable Julia W. Brand, Bankruptcy Judge, Presiding

Appearances: Marvin Levy argued for appellant Dana Park;  
Richard D. Buckley argued for appellee Richard J.  
Laski, Chapter 11 Trustee.

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Before: TAYLOR, KURTZ, and FARIS, Bankruptcy Judges.

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\* This disposition is not appropriate for publication.  
Although it may be cited for whatever persuasive value it may  
have (see Fed. R. App. P. 32.1), it has no precedential value.  
See 9th Cir. BAP Rule 8024-1(c)(2).

1 **INTRODUCTION**

2 Dana Park appeals from an order disallowing her proof of  
3 claim with prejudice. We AFFIRM.

4 **FACTS<sup>1</sup>**

5 Pre-petition, the Debtor - a Presbyterian church - obtained  
6 two loans from Hanmi Bank.<sup>2</sup> The loans were evidenced by  
7 promissory notes and secured by deeds of trust encumbering the  
8 Debtor's valuable real property in Los Angeles, California (the  
9 "Property"). Also pre-petition, internal discord arose between  
10 the church leadership and its membership and then between the  
11 church leadership and its governing organization. This discord  
12 culminated in the governing organization's spring 2011 ouster of  
13 the Debtor's pastor and board of elders; various litigation in  
14 California state court followed.

15 Eventually, in June 2014, the Debtor filed a chapter 11  
16 petition; the Trustee was appointed soon after.

17 While the record is unclear as to her history with the  
18 Debtor and its disputes, Park soon participated in the  
19 bankruptcy case. She filed a three-page proof of claim in the  
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21 <sup>1</sup> These parties were very recently before the Panel. In  
22 Park v. Laski (In re Holy Hill Community Church), 2016 WL 80032  
23 (9th Cir. BAP Jan. 5, 2016) ("Holy Hill I"), Park appealed from  
24 the bankruptcy court's order dismissing, with prejudice, her  
25 complaint against chapter 11 debtor Holy Hill Community Church.  
26 We concluded that the appeal was moot and, in the alternative,  
27 that a merits analysis did not warrant reversal. We include  
28 here only those facts most relevant to this appeal.

26 <sup>2</sup> We exercise our discretion to take judicial notice of  
27 documents electronically filed in the bankruptcy case. See  
28 Atwood v. Chase Manhattan Mortg. Co. (In re Atwood), 293 B.R.  
227, 233 n.9 (9th Cir. BAP 2003).

1 amount of \$4.1 million dollars. The proof of claim identified  
2 the creditor as "Dana Park, Beverly Real Estate Investments  
3 LLC/Golden Fish LLC." Both of the limited liability companies  
4 (the "LLCs") were Park-controlled entities. The proof of claim  
5 did not attach any supporting documents.

6 The bases of Park's alleged claim were two-fold. First,  
7 she asserted an ownership interest in the Property by virtue of  
8 a quitclaim deed (the "Beverly Deed"), which purported to  
9 transfer the Property from the Debtor to Beverly Real Estate  
10 Investments, LLC ("Beverly LLC"). The state court, however,  
11 ultimately deemed the deed invalid because it was executed by  
12 the Debtor's pastor and board of elders after their ouster from  
13 church leadership and management.

14 Second, Park alleged that she and her "companies" purchased  
15 the Hanmi notes for \$4.1 million dollars. She alleged that this  
16 saved the Property from foreclosure and that, in exchange for  
17 her assistance, the Debtor then executed the Beverly Deed.  
18 According to Park, she had no idea that there was internal  
19 church strife or that the pastor and board of elders had been  
20 removed from their positions at the time they executed the  
21 Beverly Deed.

22 The Trustee objected to Park's proof of claim, arguing that  
23 the claim lacked adequate documentation and evidentiary support.  
24 He asserted that there was no evidence that Park or the LLCs had  
25 a secured claim against the Property.

26 In opposition, Park relied on her alleged purchase of the  
27 Hanmi notes and the Beverly Deed. Concurrently, she filed an  
28 amended proof of claim that changed the name of the creditors

1 asserting a claim to "Dana Park dba Beverly Real Estate  
2 Investments, LLC; JB Sunset Management." The amended proof of  
3 claim also attached a number of documents,<sup>3</sup> although Park  
4 provided no explanation of the relevancy of these documents.

5 The Trustee replied that the law of the case doctrine  
6 barred Park from relying on arguments already decided against  
7 Park by the bankruptcy court when it dismissed Park's quiet  
8 title action based on the Beverly Deed. The Trustee further  
9 argued that Federal Rule of Civil Procedure 15 required  
10 disallowance because Park neither obtained his consent as the  
11 opposing party nor sought leave to amend the proof of claim from  
12 the bankruptcy court.

13 The bankruptcy court agreed with the Trustee; it sustained  
14 the Trustee's objection to the proof of claim, both as initially  
15 filed and as amended. It held that Park had not shown that she  
16 was the real party in interest entitled to assert a claim  
17 against the Debtor based on the Hanmi notes and related trust  
18 deeds. It also determined that Park was precluded from  
19 relitigating her alleged interest in the Property pursuant to  
20 the Beverly Deed.

21 The bankruptcy court entered an order disallowing Park's  
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23 <sup>3</sup> These documents included copies of: a proof of  
24 publication dated July 26, 2012 in a Los Angeles newspaper; an  
25 assignment of the first Hanmi trust deed, from Hanmi to  
26 JB Sunset Partnership; an estimated settlement statement dated  
27 July 27, 2011, showing Beverly LLC as the buyer; an amended sale  
28 agreement dated September 29, 2011, between Hanmi, Beverly LLC,  
and J Development, LLC; an escrow closing statement dated  
February 24, 2012, reflecting JB Sunset as the buyer; and emails  
between a Hanmi Bank representative and Park's brother.

1 proof of claim. Park timely appealed.

2 **JURISDICTION**

3 The bankruptcy court had jurisdiction pursuant to 28 U.S.C.  
4 §§ 1334 and 157(b) (2) (B). We have jurisdiction under 28 U.S.C.  
5 § 158.

6 **ISSUE<sup>4</sup>**

7 Whether the bankruptcy court erred in sustaining the  
8 Trustee's objection to Park's proof of claim.

9 **STANDARD OF REVIEW**

10 The bankruptcy court's decision on an objection to proof of  
11 claim is a mixed question of fact and law. We review its  
12 findings of fact for clear error and its conclusions of law de  
13 novo. See Cont'l Ins. Co. v. Thorpe Insulation Co. (In re  
14 Thorpe Insulation Co.), 671 F.3d 1011, 1030 (9th Cir. 2011). A  
15 factual finding is clearly erroneous if illogical, implausible,  
16 or without support in inferences that may be drawn from the  
17 facts in the record. TrafficSchool.com, Inc. v. Edriver Inc.,  
18 653 F.3d 820, 832 (9th Cir. 2011).

19 **DISCUSSION**

20 Federal Rule of Bankruptcy Procedure 3001(a) establishes  
21 that "[a] proof of claim is a written statement setting forth a  
22 creditor's claim." To the extent a claim or property interest  
23 is based on a writing, the creditor (or an agent) must attach  
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25 <sup>4</sup> The bankruptcy court also rejected Park's amended proof  
26 of claim on the basis that it named a new party (JB Sunset  
27 Partnership) and was filed after expiration of the claims bar  
28 date. Park, however, does not specifically argue or address  
this aspect of the bankruptcy court's ruling in her opening  
brief; thus, neither do we.

1 that writing to the proof of claim. Fed. R. Bankr.  
2 P. 3001(c)(1).

3 Here, as the Trustee acknowledged to the bankruptcy court  
4 and at oral argument before this Panel, there is no dispute with  
5 respect to the validity of or the Debtor's liability on the  
6 Hanmi notes. The Debtor scheduled the debts as undisputed  
7 claims. We also note that, while this appeal was pending, the  
8 Trustee obtained bankruptcy court approval of a compromise  
9 between the Trustee and another party asserting rights under the  
10 Hanmi notes; the settlement recitals state that the Trustee does  
11 not dispute the validity of the liens created as a result of the  
12 Hanmi notes and trust deeds.

13 Instead, the bankruptcy court determined that Park had not  
14 shown that she was the real party in interest entitled to assert  
15 claims based on the Hanmi notes and the related trust deeds.  
16 Thus, the bankruptcy court determined that Park failed to show  
17 that she had standing to file her proof of claim based on the  
18 Hanmi notes. On this record, we conclude that the bankruptcy  
19 court did not err. Consequently, Park's several arguments in  
20 regards to the prima facie validity of a proof of claim are  
21 inapposite. See Veal v. Am. Home Mortg. Servicing, Inc.  
22 (In re Veal), 450 B.R. 897, 922 (9th Cir. BAP 2011) ("[S]tanding  
23 is a prerequisite to the evidentiary benefits set forth in  
24 Rule 3001(f).").

25 The record shows that the proof of claim consisted only of  
26 the three-page official bankruptcy form; Park did not attach any  
27 other documents, even though she later alleged that her claim  
28 was based on the Beverly Deed and her purchase of the Hanmi

1 notes. The form proof of claim identified Park and the LLCs as  
2 the creditor and included the following handwritten comment: "I  
3 have claim [sic] to the [P]roperty on 1111 Sunset Blvd Los  
4 Angeles, CA 90015."

5 The bankruptcy court found that on the date of petition,  
6 another non-Park controlled entity held the liens against the  
7 Property – not Park. It found that this was consistent with the  
8 Debtor's schedules, which listed the other, non-Park controlled  
9 entity. The bankruptcy court, thus, determined that Park had  
10 not shown that she had a right to assert a claim, either on her  
11 own behalf or as the authorized agent of the non-Park controlled  
12 entity. We agree.

13 As stated, there was no documentary evidence that Park or  
14 the LLCs held the Hanmi notes or had rights to enforce the  
15 related trust deeds. The record here does not supply other  
16 evidence supporting her right to assert claims based on the  
17 Hanmi notes and trust deeds, either personally or through the  
18 LLCs. Indeed, at oral argument, Park's counsel conceded that  
19 the claim was asserted on behalf of third parties.

20 It may well be that Park orchestrated the 2011 purchase of  
21 the Hanmi notes and contributed some of the purchase price.  
22 But, the record simply does not support that, from a legal  
23 standpoint, either she or the LLCs owned the Hanmi notes or had  
24 rights to enforce the trust deeds securing those notes. Thus,  
25 the bankruptcy court correctly determined that Park could not  
26 assert a claim against the estate based on her status as a  
27 lienholder or as a party entitled to enforce the Hanmi notes.

28 And, to the extent Park continued to assert a claim based

1 on an alleged ownership interest in the Property, the bankruptcy  
2 court concluded that the issue had been determined by the state  
3 court and was not subject to re-litigation. As stated in Holy  
4 Hill I, the state court determined that the Beverly Deed was  
5 invalid; the pastor and board of elders who executed the deed  
6 lacked the authority to do so. Insofar as Park continues to  
7 challenge this determination, it is now beyond dispute. Thus,  
8 Park did not have an ownership interest in the Property that  
9 supplied her with a claim against the estate.

10 **CONCLUSION**

11 Based on the foregoing, we AFFIRM.

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