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NOT FOR PUBLICATION

SUSAN M. SPRAUL, CLERK
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

In re:
HERBERT PRYOR,
Debtor.

BAP No. CC-26-1029-CGN

Bk. No. 2:23-bk-10709-WB

TRACY LYNN GAMBLE,
Appellant,

v.
HERBERT PRYOR; NANCY K. CURRY,
Chapter 13 Trustee,
Appellees.

MEMORANDUM*

Appeal from the United States Bankruptcy Court
for the Central District of California
Julia Wagner Brand, Chief Bankruptcy Judge, Presiding

Before: CORBIT, GAN, and NIEMANN Bankruptcy Judges.

INTRODUCTION

Tracy Gamble appeals the bankruptcy court's order denying her motion to reopen Herbert Pryor's bankruptcy case. Because the bankruptcy court did not abuse its discretion, we AFFIRM.

* 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.

FACTS

Tracy Gamble and debtor Herbert Pryor divorced in 2017. It appears that prior to the dissolution, the parties resided at 15151 Foothill Blvd., Unit 14, Sylmar, California 91342 (“Property”). After the dissolution, Mr. Pryor became the sole owner of the Property.

On February 8, 2023, Mr. Pryor filed a chapter 13¹ bankruptcy petition. Mr. Pryor’s initial schedules and Master Mailing List did not list Ms. Gamble as a creditor. Sometime after filing his initial schedules, Mr. Pryor discovered that Ms. Gamble was alleging she held a mechanic’s lien against the Property. Consequently, on March 20, 2023, Mr. Pryor added Ms. Gamble’s name to his Master Mailing List and listed her on his Schedule E/F as a creditor holding a contingent, unliquidated and disputed, general unsecured claim in the amount of \$0.0. A copy of the amended schedule was sent to “Tracy L. Ms. Gamble” at “P.O. Box 7236, Van Nuys, California 91406.”

The § 341(a) meeting of creditors was initially scheduled for March 23, 2023, but was rescheduled by the chapter 13 trustee (“Trustee”) to April 13, 2023. On March 28, 2023, Trustee filed and served her amended notice of the § 341(a) meeting of creditors on all creditors including “Tracy L. Gamble” at “P.O. Box 7236, Van Nuys, California 91409-7236.”

¹ Unless specified otherwise, all chapter and section references are to the Bankruptcy Code, 11 U.S.C. §§ 101–1532 and all “LBR” references are to the Local Bankruptcy Rules for the Central District of California.

Ms. Gamble did not attend the 341 meeting of creditors. Ms. Gamble did not file a proof of claim.

In August 2023, Mr. Pryor filed a motion to sell the Property pursuant to LBR 3015-1(p).² Mr. Pryor provided notice of the motion to sell pursuant to LBR 9013-1(o). Seventeen days later, Mr. Pryor filed a notice that no objections had been received, and no party requested a hearing. On September 8, 2023, the bankruptcy court granted Mr. Pryor's motion to sell the Property.

² LBR 3015-1 is the local rule governing procedures in chapter 13 cases. LBR 3015-1 states in relevant part:

(p) Sale or Refinance of Real Property. A sale or refinancing of the debtor's principal residence or other real property must be approved by the court. A motion to approve a sale or refinance of real property may be made by noticed motion in accordance with subsections (w) and (x) of this rule.

....

(w) Motions and Applications Filed on Notice of Opportunity to Request a Hearing.

(1) The following motions and applications may be made on notice of opportunity to request a hearing pursuant to LBR 9013-1(o):

....

(C) Motion for approval of sale or refinancing of debtor's residence, subject to subsection (p) of this rule, if the entire equity therein is exempt from the claims of creditors; provided, however, notice is not required if the sale or refinance will pay off the plan and the plan allows 100% to the unsecured claims; and

....

(2) No Response Filed. If no response has been timely filed and served with respect to a motion or application listed in subsection (w)(1) of this rule, or the chapter 13 trustee's only response is to take no position, the provisions of LBR 9013-1(o)(3) must be complied with, subject to the following modifications: [not applicable in this case]

On October 27, 2023, the bankruptcy court entered an order confirming Mr. Pryor's chapter 13 plan.³ On October 29, 2023, the clerk of the court gave notice of the confirmation order to all creditors including notice to "Tracy L. Gamble" at "P.O. Box 7236, Van Nuys, California 91409-7236."

On April 4, 2025, after Mr. Pryor completed all plan payments, the bankruptcy court entered an order discharging Mr. Pryor. On April 6, 2025, the clerk of the court gave notice of Mr. Pryor's discharge to all creditors including notice to "Tracy L. Gamble" at "P.O. Box 7236, Van Nuys, California 91409-7236."

On November 13, 2025, Ms. Gamble filed a motion to reopen Mr. Pryor's chapter 13 bankruptcy case. Ms. Gamble alleged that it was necessary to reopen the bankruptcy case so the bankruptcy court could determine whether the debt owed to her was nondischargeable. Ms. Gamble asserted that she filed a mechanic's lien on February 8, 2017, for \$187,000.00 related to housekeeping and similar services she provided at the Property. She asserted that she filed another mechanic's lien on November 8, 2023, with the Los Angeles County Recorder's office in the amount of \$1,000,000 secured against the Property. Ms. Gamble alleged her claim was nondischargeable. Ms. Gamble stated her tardiness in filing a claim in Mr. Pryor's bankruptcy case was because she failed to receive

³ Because Ms. Gamble did not have an allowed claim, Mr. Pryor's chapter 13 plan did not include Ms. Gamble as a creditor and did not provide for any payments to her.

“timely and adequate notice.” Ms. Gamble claimed that she failed to receive proper notice because she did not receive several notices and several bankruptcy notices were sent to the wrong zip code, 91406 instead of 91409.⁴

Mr. Pryor opposed Ms. Gamble’s motion to reopen his case. First, Mr. Pryor asserted that Ms. Gamble received adequate notice but failed to timely exercise her rights or assert her claims. Mr. Pryor provided copies of several certificates of service demonstrating that Ms. Gamble had notice of the bankruptcy case. Second, Mr. Pryor asserted that the mechanic’s lien was recorded on November 8, 2023, after a third-party purchased the Property pursuant to the bankruptcy court’s order. Therefore, Mr. Pryor alleged that the “claim of mechanic’s lien was ineffective and did not encumber the Debtor’s Property and cannot be the basis of any claim against the Debtor or the Property.”

After a hearing, the bankruptcy court issued an order denying the motion (“Order Denying Reopening”) which Ms. Gamble timely appealed.

JURISDICTION

The bankruptcy court had jurisdiction under 28 U.S.C. §§ 1334 and 157(b)(2). We have jurisdiction under 28 U.S.C. § 158.

⁴ There is nothing in the record showing the wrong zip code was used after the Master Mailing List was amended.

ISSUE

Whether the bankruptcy court abused its discretion when it denied Ms. Gamble's motion to reopen the bankruptcy case.

STANDARD OF REVIEW

A decision regarding reopening of a bankruptcy case "is committed to the sound discretion of the bankruptcy court, and will not be set aside absent an abuse of discretion." *Kozman v. Herzig (In re Herzig)*, 96 B.R. 264, 266 (9th Cir. BAP 1989). A bankruptcy court abuses its discretion if it applies the wrong legal standard, or misapplies the correct legal standard, or if it makes factual findings that are illogical, implausible, or without support in inferences that may be drawn from the facts in the record. *See United States v. Hinkson*, 585 F.3d 1247, 1262 (9th Cir. 2009) (en banc)).

DISCUSSION

Section 350(b) provides that a case may be reopened "to administer assets, to accord relief to the debtor, or for other cause." Ms. Gamble argued before the bankruptcy court that the debt owed to her by Mr. Pryor was nondischargeable under § 523(a) and that the case should be reopened to allow her to file a nondischargeability complaint. The bankruptcy court denied Ms. Gamble's motion to reopen on the basis that she received adequate notice of the bankruptcy case and therefore reopening the case would be futile because a dischargeability complaint would be untimely. We agree.

Proof of mailing creates a rebuttable presumption of its receipt. *Hagner v. United States*, 285 U.S. 427, 430 (1932); *Strickland v. U.S. Tr. (In re Wojcik)*, 560 B.R. 763, 768 (9th Cir. BAP 2016) (“Due process is a relatively minimal standard that only requires ‘notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.’”) (quoting *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950)). Self-serving declarations of non-receipt generally do not suffice to rebut the presumption of receipt. *Herndon v. De la Cruz (In re De la Cruz)*, 176 B.R. 19, 23 (9th Cir. BAP 1994); *see also Moody v. Bucknum (In re Bucknum)*, 951 F.2d 204, 206-07 (9th Cir. 1991) (mail properly addressed, stamped and deposited is presumed to be received by the addressee); *Lawrence Tractor Co. v. Gregory (In re Gregory)*, 705 F.2d 1118, 119-23 (9th Cir. 1983) (holding that notice regarding a § 341 meeting of creditors was sufficient to put creditor on inquiry notice of the bankruptcy case). Indeed, “[i]f a party were permitted to defeat the presumption of receipt of notice resulting from the certificate of mailing by a simple affidavit to the contrary, the scheme of deadlines and bar dates under the Bankruptcy Code would come unraveled.” *Osborn v. Ricketts (In re Ricketts)*, 80 B.R. 495, 497 (9th Cir. BAP 1987).

Here, Ms. Gamble admits she had notice of the bankruptcy case. Regardless, she points to early notices before she was added as a creditor and a few addressed to the wrong zip code as evidence that her notice was

not adequate and that she should be excused from the time limits imposed by the Bankruptcy Code. Ms. Gamble's assertions are without merit. When a creditor "receives *any* notice from the bankruptcy court that its debtor has initiated bankruptcy proceedings, it is under constructive or inquiry notice that its claim may be affected, and it ignores the proceedings to which the notice refers at its peril." *In re Gregory*, 705 F.2d at 1123 (emphasis added). "The statutory language [of § 523(a)(3)(B)] clearly contemplates that mere knowledge of a pending bankruptcy proceeding is sufficient to bar the claim of a creditor who took no action, whether or not that creditor received official notice from the court of various pertinent dates." *In re De la Cruz*, 176 B.R. at 23 (quoting *Byrd v. Alton (In re Alton)*, 837 F.2d 457, 460 (11th Cir. 1988)).

Because Ms. Gamble received adequate notice of the bankruptcy case, the bankruptcy court did not abuse its discretion in denying her motion to reopen.⁵

CONCLUSION

Based on the foregoing, we AFFIRM.

⁵ We note that the reopening of the bankruptcy case is a ministerial act of little or no legal significance. It merely enables the bankruptcy court clerk to manage the bankruptcy docket and case file and treat the case as an active, pending matter. *Staffer v. Predovich (In re Staffer)*, 306 F.3d 967, 972-73 (9th Cir. 2002); *Menk v. Lapaglia (In re Menk)*, 241 B.R. 896, 910-13 (9th Cir. BAP 1999). There is no jurisdictional requirement that a closed bankruptcy case be reopened prior to the adjudication of a complaint relating to the dischargeability of a debt. *In re Staffer*, 306 F.3d at 972; *In re Menk*, 241 B.R. at 910.