

Phyllis Bracher
1760 Lee Trevino
El Paso, Tx 79936

**Trustee's Recommendations
Concerning Claims**

IN RE: **DAVID M. MONTELONGO**

Case Number: **03-31980**

Judge LARRY E. KELLY

***** COURT COPY *****

BY ORDER OF THE COURT, THE RECOMMENDATION CONCERNING CLAIMS SHALL BE DEEMED TO SET A BAR DATE FOR OBJECTING TO CLAIMS, FOR CONTESTING THE VALIDITY OR PRIORITY OF LIENS, AND FOR CHALLENGING THE PRIORITY OF CLAIMS. SAID BAR DATE SHALL BE DEEMED TO BE THE TWENTIETH DAY AFTER THE SERVICE OF THE RECOMMENDATION CONCERNING CLAIMS, AS REFLECTED IN THE CERTIFICATE OF SERVICE ATTACHED THERETO. ANY OBJECTION TO CLAIM, ANY MOTION OR ADVERSARY PROCEEDING CONTESTING THE VALIDITY OR PRIORITY OF ANY CLAIM MAY NOT BE FILED AFTER THE EXPIRATION OF THE BAR DATE EXCEPT UPON LEAVE OF COURT, AFTER MOTION REQUESTING SUCH LEAVE, AND UPON NOTICE AND HEARING TO THE STANDING CHAPTER 13 TRUSTEE, THE DEBTOR, THE DEBTOR'S COUNSEL, AND ALL CREDITORS AND PARTIES IN INTEREST:

"NO HEARING WILL BE CONDUCTED ON THIS RECOMMENDATION CONCERNING CLAIMS (OR IT'S TREATMENT OF ANY CLAIMS) UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE COURT AND SERVED UPON THE CHAPTER 13 TRUSTEE AT THE FOLLOWING ADDRESS: PHYLLIS BRACHER, CHAPTER 13 TRUSTEE, 1760 LEE TREVINO, EL PASO, TX 79936. SUCH RESPONSE MUST BE FILED AND SERVED WITHIN TWENTY (20) DAYS FROM THE DATE OF SERVICE OF THIS RECOMMENDATION CONCERNING CLAIMS (THE DATE OF SERVICE IS INDICATED ON THE RECOMMENDATION CONCERNING CLAIMS), UNLESS THE COURT, UPON MOTION EXTENDS THE TIME FOR SUCH FILING. IF NO RESPONSE IS TIMELY FILED AND SERVED, THE TREATMENT IF CLAIMS REFLECTED IN THIS RECOMMENDATION CONCERNING CLAIMS SHALL BE DEEMED APPROVED BY THE COURT WITHOUT FURTHER HEARING OR ORDER. IF A RESPONSE IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING THEREON ON NOT LESS THAN THIRTY (30) DAYS NOTICE."

TO THE HONORABLE Judge Larry E. Kelly:

COMES NOW Phyllis Bracher, Trustee in these proceedings, and making this her recommendation concerning claims, would respectfully show the Court as follows:

- 1, Pursant to the Rule 2015(c), all parties-in-interest are specifically advised that, among others, L. Rule 3007 shall apply to the Trustee's Recommendation Concerning Claims.
2. The time for filing claims in this proceeding has expired. The Trustee has reviewed all of the claims filed in this proceeding. Attached are Schedules I and II containing the Trustee's recommendations as to various matters concerning claims, including the amount of each creditor's claim, as well as the extent and validity of each creditor's security interest, if any.
3. If a party-in-interest disagrees with any of the Trustee's Recommendations, such as party may file a response to the Trustee's objections or other recommendations, or may file an objection to any disputed claim. However responses and objections **MUST BE FILED** within twenty (20) days from the date of service hereof. Each claim for which there is no response or objection filed within twenty (20) days from the date of service hereof will be treated as listed in the attached Schedules, **AND SUCH TREATMENT WILL BE FINAL AND BINDING ON ALL PARTIES WITHOUT FURTHER ORDER OF THE COURT.**

VALUATION OF COLLATERAL

4. The Court has previously made a final and binding determination of the value of certain property which constitutes collateral securing certain creditor's claims. These valuations are of the collateral specified and provided for under the Debtor's Plan as of confirmation, as well as any other collateral valued at the confirmation hearing or other hearing held by the Court. All such valuations have been given effect in the treatment of such creditor's claims as set forth in Schedules I and/or II.

5. Certain creditors may have timely proofs of claim which evidence a perfected security interest in additional collateral not previously valued by the Court. The Trustee has made a recommendation to the Court in Schedule I and II concerning the value of such collateral and the treatment of each such creditor's claim herein. Such recommendation is deemed to be a motion to determine the value of such creditor's secured claim. **UNLESS A RESPONSE OR OBJECTION IS FILED TO SUCH VALUATION AND TREATMENT OF SUCH CREDITOR'S CLAIM WITHIN TWENTY (20) DAYS FROM THE DATE OF SERVICE HEREOF, SUCH VALUATION OF COLLATERAL AND TREATMENT OF THE CREDITOR'S CLAIM WILL BE FINAL AND BINDING ON ALL PARTIES WITHOUT FURTHER ORDER OF THE COURT.**

TRUSTEE'S OBJECTIONS TO CLAIMS

6. The Trustee contests the amounts, validity, or extent of the security interest(s) listed in the proofs of claims in the attached Schedule I to the Trustee's Recommendation Concerning Claims. If no response or objection is timely filed, such claim(s) will be treated in the manner and amount listed in the attached Schedules to the Trustee's Recommendation Concerning Claims.

7. Parties-in-interest should carefully examine the attached Schedules to the Trustee's Recommendation Concerning Claims. If any party disagrees with the Trustee's recommendation concerning the amount or status of any claim, such party must file a response or objection within twenty (20) days from the date of service hereof or the Trustee's recommendation will become final and binding.

8. If the Trustee's recommendation concerning any claim differs from the amount indicated in the creditor's proof of claim, the recommendation is deemed to be an objection to such claim. Unless a timely response or objection is filed contesting the Trustee's recommendation, the objection will be sustained and such claim will be allowed only in the amount listed in the attached Schedules to the Trustee's Recommendations Concerning Claims.

9. If the Trustee's recommendation concerning a creditor's claim indicates that such creditor is not a secured creditor, the recommendation is deemed to be an action to determine the validity of such creditor's security interest or to avoid such creditor's security interest. Unless a timely response or objection is filed contesting the Trustee's recommendation, the security interest will be avoided or disallowed in accordance with the attached Schedules to the Trustee's Recommendations Concerning Claims.

PARTIES-IN-INTEREST SHOULD TAKE NOTICE THAT THE TRUSTEE'S RECOMMENDATION CONCERNING CLAIMS MAY INCLUDE AN OBJECTION TO THE AMOUNT OF A CREDITOR'S PROOF OF CLAIM OR TO A CREDITOR'S SECURED STATUS. PARTIES MUST RESPOND OR OBJECT WITHIN TWENTY (20) DAYS FROM THE DATE OF SERVICE HEREOF OF THE ATTACHED TREATMENT OF SUCH CLAIMS WILL BE FINAL AND BINDING.

CLAIMS TAKEN FROM PROOF OF CLAIM WITHOUT TRUSTEE'S OBJECTION

10. The amounts in the attached Schedule II to the Trustee's Recommendation Concerning Claims were taken directly from the proofs of claims. The trustee does not contest these claims. If any party-in-interest contests any of these claims, an objection to each claim must be filed within twenty (20) days from the date of service hereof.

NOTICE OF BAR DATE FOR OBJECTION TO CLAIMS

11. Responses to the Trustee's recommendations or additional objections to claims must be filed within twenty (20) days from the date of service hereof with the United States Bankruptcy Clerk, 8515 Lockhead, El Paso, Texas 79925, and served on the appropriate parties in accordance with the Bankruptcy Rules.

Dated: 08/17/2004

Phyllis Bracher
1760 Lee Trevino
El Paso, Tx 79936
(915) 598-6769

IN THE UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF TEXAS

IN RE: **DAVID M. MONTELONGO**

Schedules I & II

Case Number: **03-31980**

Schedule I

Creditor Name and Address	Account No.	Code	Amount	Classification/Comments
ECAST SETTLEMENT CORP. P.O. BOX 35480 NEWARK, NJ 07193-5480	C77103083323765	97	\$ 900.31	UNSECURED CLAIM FILED WAL-MART INT RATE .00%

Schedule II

Creditor Name and Address	Account No.	Code	Amount	Classification/Comments
CITIFINANCIAL 500 N. ZARAGOZA RD. #P EL PASO, TX 79917-4737	67430717-0121640	75	\$ 1,450.00	SECURED CLAIM FILED A-F 84 MERCURY INT RATE 12.00%
U.S. ATTORNEY GENERAL MAIN JUSTICE BUILDING RM 5111 10TH & CONSTITUTION AVE. N.W. WASHINGTON, DC 20530		9	\$.00	NOTICE ONLY NOT FILED DUP/NOTICE INT RATE .00%
BANK OF AMERICA P.O. BOX 2278 NORFOLK, VA 23501-2278	4024-0820-0009-6489		\$ 3,938.12	UNSECURED CLAIM FILED INT RATE .00%
ECAST SETTLEMENT CORP. P.O. BOX 35480 NEWARK, NJ 07193-5480	5183-3883-6000-0118		\$ 1,388.92	UNSECURED CLAIM FILED CHASE MANHATTAN INT RATE .00%
DRIVE-IN LOANS 320 S. STANTON ST. EL PASO, TX 79901	8703-4		\$.00	UNSECURED NOT FILED INT RATE .00%
EL GALLITO INGLES 9407 ALAMEDA AVE. EL PASO, TX 79907	6008-9700-0048-4207		\$.00	UNSECURED NOT FILED CSN INT RATE .00%
EL PASO PHYSICAL THERAPY %LOUIS ZUNIGA 8111 N. LOOP #B EL PASO, TX 79907	001511-00		\$.00	UNSECURED NOT FILED INT RATE .00%

This schedule is continued on the next page

Schedule II

Creditor Name and Address	Account No.	Code	Amount	Classification/Comments
F.H.A./H.U.D. %FEDERAL OFFICE BUILDING 1205 TEXAS AVENUE LUBBOCK, TX 79401		9	\$.00	NOTICE ONLY NOT FILED DUP/NOTICE INT RATE .00%

FIRST FINANCE CO. 408 E. PAISANO DR. EL PASO, TX 79901	038510		\$ 787.14	UNSECURED CLAIM FILED INT RATE .00%

ECAST SETTLEMENT CORP. P.O. BOX 35480 NEWARK, NJ 07193-5480	5490-9944-9208-9107		\$ 8,291.02	UNSECURED CLAIM FILED MBNA BANK INT RATE .00%

PLAZA FINANCE 300 E. SAN ANTONIO, SUITE B EL PASO, TX 79901	684		\$.00	UNSECURED NOT FILED INT RATE .00%

T.A.M. FINANCE CO. 615 N. ZARAGOZA #70 EL PASO, TX 79907	30016 OR 1301		\$.00	LATE FILED CLAIM FILED ORDER 3/30/04 INT RATE .00%

U.S. ATTORNEY/F.H.A./H.U.D. 601 N.W. LOOP 410 #600 SAN ANTONIO, TX 78216		9	\$.00	NOTICE ONLY NOT FILED DUP/NOTICE INT RATE .00%

U.S. ATTORNEY/V.A. 601 N.W. LOOP 410 #600 SAN ANTONIO, TX 78216		9	\$.00	NOTICE ONLY NOT FILED DUP/NOTICE INT RATE .00%

UNION FINANCE 400 S. STANTON EL PASO, TX 79901	103367		\$ 870.37	UNSECURED CLAIM FILED INT RATE .00%

VETERANS ADMINISTRATION %SUPPORT SERVICES DIVISION 243 701 CLAY AVE. WACO, TX. 76799-0001		9	\$.00	NOTICE ONLY NOT FILED DUP/NOTICE INT RATE .00%

WASHINGTON MUTUAL FINANCE 1360 N. LEE TREVINO DR. #206 EL PASO, TX 79936	877-205		\$.00	UNSECURED NOT FILED INT RATE .00%

EDUARDO MONTELONGO 9238 BETEL #B EL PASO, TX 79907		9	\$.00	NOTICE ONLY NOT FILED DUP/NOTICE INT RATE .00%

This schedule is continued on the next page

Schedule II

Creditor Name and Address	Account No.	Code	Amount	Classification/Comments
CITIFINANCIAL 500 N. ZARAGOZA RD. #P EL PASO, TX 79917-4737	67430717-0121640	75	\$ 832.00	UNSECURED CLAIM FILED Split Claim INT RATE .00%

IN RE: **DAVID M. MONTELONGO**

EXPLANATION OF CODES

Case Number: **03-31980**

1. Debtor avoids 11 U.S.C. § 522(f).
2. No description of collateral attached to claim.
3. No claim filed.
4. Debtor reports that collateral has been stolen.
5. To be paid by the Debtor outside of the Plan as part of living expenses.
6. All value in the collateral for this claim is exhausted by previous claim.
7. Only the arrearages are to be paid under the Plan.
8. Filed unsecured.
9. Duplicate.
10. Unsecured because Pensions of Municipal employees are not subject to assignment, 61.006 of Title 11b of the Texas Statutes.
11. Purchase of insurance policy.
12. According to the Debtor, this obligation is being paid by disability insurance, medical insurance or property insurance.
13. To be paid by ex-wife.
14. To be paid by ex-husband.
15. Debtor reports collateral awarded to spouse in divorce.
16. Debtor reports collateral was salvaged (worn out).
17. Debtor reports collateral was given as a gift.
18. To be paid by cosigner.
19. This is an executory contract rejected by Debtor 11 U.S.C. § 365.
20. Collateral has been surrendered.
21. Collateral is to be sold and the obligation to this creditor is to be paid from the proceeds of the sale.
22. This obligation is to be paid by set-off.
23. No non-exempt property is owned by the Debtor in El Paso County.
24. No evidence of lien or security interest attached.
25. Debtor no longer has collateral.
26. No proof of purchase money attached to claim.
27. Debtor reports that collateral has no value.
28. No U.C.C.-1 filed.
29. No Abstract of Judgment attached to claim.
30. Contingent claim-Disallowed 11 U.S.C. § 502(j).
75. Plan calls for 12% interest or contract rate, if lower.
77. Contract rate of interest.
97. Filed for more than scheduled amount.
98. Unsecured Creditor.
99. Value has changed from previously scheduled amount.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was sent to all parties listed on the matrix on file with the U.S. Bankruptcy Clerk's Office on or about the time this document was electronically filed with the Clerk on 08/17/2004. A copy of Certificate of Mailing of this document is on file and may be viewed at the U.S. Bankruptcy Clerk's Office.

Electronically Filed by
Phyllis Bracher, Chapter 13 Trustee