

**UNITED STATES BANKRUPTCY COURT
FOR THE
WESTERN DISTRICT OF KENTUCKY**

IN RE:)
)
 ALEX J. BUCHNER) CASE NO. 07-10748(1)
 GLENYS A. BUCHNER)
)
)
 _____ Debtor(s))

MEMORANDUM-OPINION-ORDER

This matter is before the Court on the Debtors' Alex J. Buchner and Glenys A. Buchner ("Debtors") Objection to Proof of Claim of Creditor S & A Capital Partner, Inc. ("S & A") as Secured. The Court considered the Objection of the Debtors, S & A's Response to the Objection and the comments of counsel at the hearing held October 18, 2007.

On August 21, 2007, Debtors filed their Objection to S & A's Proof of Claim contending the debt in issue, a mortgage, was not secured because S & A did not record the mortgage in the county where the property was located. S & A filed a Response to Debtors' Objection and the Court set the matter for a hearing.

On October 18, 2007, the Court held a hearing and counsel for S & A requested additional time to supplement the record. The Court issued an Order on October 22, 2007 giving S & A until November 2, 2007 to submit a supplemental brief in support of its position. No brief was filed and counsel representing S & A subsequently filed a Notice of Withdrawal as attorney for S & A and requested an additional 30 days to allow S & A to supplement the record. The Court by Order dated November 5, 2007 granted S & A an extension of time to December 2, 2007 to file its supplemental brief, but to date, no such brief has been filed.

There being no evidence of record in contravention of Debtors' Objection to S & A's Proof of Claim, and the Court being duly advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Objection of Debtors Alex J. Buchner and Glenys A. Buchner to the Proof of Claim of Creditor S & A Capital Partners, Inc. as Secured, be and hereby is, **SUSTAINED**. Claim No. 4 in the amount of \$38,343.89 is disallowed as a secured claim and allowed as a general unsecured claim to be paid consistent with the Order of Confirmation.