

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

IN RE:)
)
 ENOCH BUSH and NEATOYA) Case No. 17-00031
 DAWNYELLE MCCONNELL,)
 Debtors.)

ORDER ON MOTION TO DETERMINE MORTGAGE FEES AND EXPENSES

This case is before the court on the debtors’ motion (doc. 44) to determine mortgage fees and expenses pursuant to Federal Rule of Bankruptcy Procedure 3002.1(e). The debtors challenge the fees, expenses, and charges listed on Regions Bank’s Notice of Postpetition Mortgage Fees, Expenses, and Charges under Rule 3002.1 filed on May 1, 2017. Specifically, Regions listed “Bankruptcy/Proof of claim fees” in the amount of \$300.00 and “Plan Review” fees in the amount of \$350.00. For the reasons discussed below, the court will disallow those charges.

A Rule 3002.1 notice “is not subject to Rule 3001(f)” and thus, unlike a proof of claim, is not entitled to a presumption of validity. *See* Fed. R. Bankr. P. 3002.1(d). The official form used for a Rule 3002.1 notice, like the one filed by Regions, “does not invite elaboration regarding the fees. However, once a debtor files a Motion to Determine Fees pursuant to Rule 3002.1(e), the burden shifts to the creditor to substantiate the fees, expenses, and charges stated in the Rule 3002.1 Notice.” *See In re Ochab*, No. 16-12205-WRS, 2018 WL 1614164, at *5-6 (Bankr. M.D. Ala. Mar. 30, 2018). Regions did not respond to the debtors’ motion, did not appear at the hearing, and did not meet its burden of substantiating the fees listed in its notice. Accordingly, the court finds that the postpetition fees and expenses totaling \$650.00 listed in Regions’ Rule 3002.1 notice filed on May 1, 2017 should be and are hereby disallowed. *See id.*

While the debtors also argued that the mortgage in this case does not provide for the fees, the court is not reaching that issue.

Dated: June 7, 2018


HENRY A. CALLAWAY
CHIEF U.S. BANKRUPTCY JUDGE