

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No. 04-42802 NCD
Chapter 13

Michael Laurence Schlieff and
Julie Marie Schlieff,

Debtors.

OBJECTION TO CONFIRMATION

TO: Debtors Michael Laurence Schlieff and Julie Marie Schlieff; Attorney for Debtors, Stephen R. Conroy; Michael J. Farrell, Chapter 13 Trustee; U.S. Trustee; and other parties in interest.

1. AmeriCredit Financial Services, Inc., (“AmeriCredit”), a secured creditor of Debtors, by its undersigned attorney, makes this objection to the confirmation of the proposed plan of the Debtors.

2. This objection is filed pursuant to Fed. R. Bankr. P. 3020(b) and AmeriCredit requests this Court to enter an order denying confirmation of Debtors's proposed Chapter 13 plan (the "Plan"). This Court has jurisdiction over this motion pursuant to 28 U.S.C. Sec. 1334(a) and 157(a), 11 U.S.C. §1325 and applicable rules. This is a core proceeding.

3. Hearing on confirmation of the Plan is scheduled for **10:00 a.m. on August 5, 2004**, before the Honorable Nancy C. Dreher, in Courtroom 7 West, United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota 55415, or as soon thereafter as counsel can be heard.

4. The petition commencing this Chapter 13 case was filed on May 17, 2004 and the case is now pending in this Court.

5. AmeriCredit holds a valid, perfected interest in a 2000 GMC Jimmy, VIN 1GKDT13W7Y2208198, (the "Vehicle"). The value of the Vehicle is \$11,975.00.

6. Copies of AmeriCredit's agreement with Debtors (the "Contract") and evidence of perfection of AmeriCredit's interest in the Vehicle are attached hereto as Exhibits A and B and incorporated herein by reference.

7. The balance due to AmeriCredit as of the petition date totals \$15,927.56 together with interest accruing at the contract rate of 17.95%. The fair market value of the Vehicle is \$11,975.00. Accordingly, the claim of AmeriCredit should be treated as secured to the extent of \$11,975.00.

8. The Plan, however, provides for (i) AmeriCredit's secured claim of \$5,000.00; (ii) total payment on AmeriCredit's secured claim of \$5,289.09; and (iii) monthly payments of \$377.79 commencing in month 1 for 14 months.

9. The Debtor's Plan fails to comply with the requirements of 11 U.S.C. § 1325(a)(5)(B)(ii), as the property proposed to be distributed by the Debtor under the terms of the Plan is less than the amount of the secured claim.

10. The Plan does not provide AmeriCredit with adequate protection of its interest in the vehicle.

11. Movant gives notice that it may, if necessary, call Tommie Greer, or another representative of AmeriCredit to testify at the hearing.

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION WILL BE USED FOR THAT PURPOSE.

WHEREFORE, AmeriCredit respectfully requests this Court to enter an order denying confirmation of the Debtors' proposed plan and such other further relief as is just and equitable.

Dated: __July 13, 2004_____

RIEZMAN BERGER, P.C.

/e/ Marilyn J. Washburn

Marilyn J. Washburn (#0324140)

7700 Bonhomme, 7th Floor

St. Louis, MO 63105

(314) 727-0101

Attorneys for AmeriCredit

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

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Chapter 13

Michael Laurence Schlieff and
Julie Marie Schlieff,

Debtors.

***MEMORANDUM IN SUPPORT OF
OBJECTION TO CONFIRMATION***

AmeriCredit submits this memorandum of law in support of its objection to confirmation in the above-entitled matter.

FACTS

AmeriCredit holds a valid, perfected interest in a 2000 GMC Jimmy, VIN 1GKDT13W7Y2208198 (the "Vehicle").

The balance due to AmeriCredit as of the petition date totals \$15,927.56. The interest rate on the Contract is 17.95%. The fair market value of the Vehicle is \$11,975.00.

Accordingly, the claim of AmeriCredit should be treated as secured to the extent of \$11,975.00.

The Plan, however, provides for (i) AmeriCredit's secured claim of \$5,000.00; (ii) total payment on AmeriCredit's secured claim of \$5,289.09; and (iii) monthly payments of \$377.79 commencing in month 1 for 14 months.

DISCUSSION

Pursuant to 11 U.S.C. §1325(a)(5), a plan must distribute deferred cash payments equal to the present value of the secured claim. *Rake v. Wade*, 113 S.Ct. 2187, 124 L.Ed.2d 424 (1993).

In this case, the Debtors has proposed payments that do not adequately protect the interest of AmeriCredit, as the property proposed to be distributed by the Debtor under the terms of the Plan

is less than the amount of the secured claim. Accordingly, the Plan does not meet the confirmation requisites and should be denied.

CONCLUSION

For all of the reasons set forth herein, AmeriCredit respectfully requests that the Court deny confirmation of Debtors Chapter 13 Plan.

Dated: July 13, 2004

RIEZMAN BERGER, P.C.

/e/ Marilyn J. Washburn
Marilyn J. Washburn (#0324140)
7700 Bonhomme, 7th Floor
St. Louis, MO 63105
(314) 727-0101
Attorneys for AmeriCredit

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

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Debtors.

UNSWORN DECLARATION FOR PROOF OF SERVICE

Marilyn J. Washburn, an attorney licensed to practice law in this court, and employed by Riezman Berger, P.C., with an office address of 7700 Bonhomme, 7th Floor, St. Louis, MO 63105, declares that on the date set forth below, I served the annexed **Objection to Confirmation** upon each of the entities named below by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid and depositing same in the post office at St. Louis, Missouri addressed to each of them as follows:

United States Trustee
300 South 4th Street, Suite 1015
Minneapolis, MN 55415

(Attorney for Debtors)
Stephen R. Conroy
PO Box 999
Monticello, MN 55362

(Debtor)
Michael Laurence Schlieff
15248 309th Avenue
Princeton, MN 55371

(Trustee)
Michael J. Farrell
P.O. Box 519
Barnesville, MN 56514

(Debtor)
Julie Marie Schlieff
15248 309th Avenue
Princeton, MN 55371

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: July 13, 2004

Signed: /e/ Marilyn J. Washburn

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Case No. 04-42802 NCD
Chapter 13

In re:

Michael Laurence Schlief and
Julie Marie Schlief,

Debtors.

ORDER

This matter came before this Court for confirmation of the Chapter 13 plan of reorganization of Debtors. Appearances were noted in the record. Based upon all the files and records, the Court makes this Order pursuant to the Federal Rules of Bankruptcy Procedure.

IT IS HEREBY ORDERED, That confirmation of the Chapter 13 plan of Debtors is denied.

Dated: _____

Nancy C. Dreher
United States Bankruptcy Judge

ADDITIONAL TERMS OF THIS CONTRACT AND SECURITY AGREEMENT

GENERAL TERMS: You have been given the opportunity to purchase the Vehicle and described services for the Cash Price or the Total Sale Price. The Total Sale Price is the total price of the Vehicle and any services if you buy them over time. You agreed to purchase the items over time. The Total Sale Price shown in the TRUTH IN LENDING DISCLOSURE assumes that all payments will be made as scheduled. The actual amount that you will pay may be more or less depending on your payment record.

We do not intend to charge or collect, and you do not agree to pay, any finance charge or fee, that is more than the maximum amount permitted for this sale by state or federal law. If you pay a finance charge or fee that is contrary to this provision, you have a right to a refund of the excess charge. If you agree, or if you do not make a timely request for a refund, we will apply the refund amount first to reduce the principal balance, and when the principal has been paid in full, refund it to you.

You understand and agree that some payments to third parties as a part of this Contract may involve money retained by us or paid back to us as commissions or other remuneration.

If any section or provision of this Contract is not enforceable, the other terms will remain part of this Contract.

PREPAYMENT: You may prepay this Contract in full or in part at any time. Any partial prepayment will not excuse any later scheduled payments until you pay in full.

A refund of any prepaid, unearned insurance premiums may be obtained from us or from the insurance company named in your policy or certificate of insurance, but no refund will be paid if the amount of the refund would be less than \$5.00.

OWNERSHIP AND DUTIES TOWARD PROPERTY: By giving us a security interest in the Property, you represent and agree to the following:

- Our security interest will not extend to consumer goods unless you acquire rights to them within 10 days after we enter into this Contract, or they are installed in or affixed to the Vehicle.
- You will defend our interests in the Property against claims made by anyone else. You will do whatever is necessary to keep our claim to the Property ahead of the claim of anyone else.
- The security interest you are giving us in the Property comes ahead of the claim of any other of your general or secured creditors. You agree to sign any additional documents or provide us with any additional information we may require to keep our claim to the Property ahead of the claim of anyone else. You will not do anything to change our interest in the Property.
- You will keep the Property in your possession in good condition and repair. You will use the Property for its intended and lawful purposes. Unless otherwise agreed in writing, the Property will be located at your address listed on page 1 of this Contract.
- You will not attempt to sell the Property (unless it is properly identified inventory) or otherwise transfer any rights in the Property to anyone else, without our prior written consent.
- You will pay all taxes and assessments on the Property as they become due.
- You will notify us of any loss or damage to the Property. You will provide us reasonable access to the Property for the purpose of inspection. Our entry and inspection must be accomplished lawfully, and without breaching the peace.

DEFAULT: You will be in default on this Contract if any one of the following occurs (except as prohibited by law):

- You fail to perform any obligation that you have undertaken in this Contract.
- We, in good faith, believe that you cannot, or will not, pay or perform the obligations you have agreed to in this Contract.

If you default, you agree to pay our costs for collecting amounts owing, including court costs, attorneys' fees, and fees for repossession, repair, storage and sale of the Property securing this Contract. If this Contract is subject to Minn. Stat. § 168.71, the amount of our attorneys' fees you must pay will not exceed 15% of the amount due and payable under this Contract.

If an event of default occurs as to any one of you, we may exercise our remedies against any or all of you.

REMEDIES: If you are in default on this Contract, we have all of the remedies provided by law and this Contract:

- We may require you to immediately pay us, less any refund required by law, the remaining unpaid balance of the amount financed, finance charges and all other agreed charges.
- We may pay taxes, assessments, or other liens or make repairs to the Property if you have not done so. We are not required to do so. Any amount we pay will be added to the amount you owe us and will be due immediately. This amount will earn finance charges from the date paid at the interest rate described in the PROMISE TO PAY AND PAYMENT TERMS section until paid in full.
- We may require you to make the Property available to us at a place we designate that is reasonably convenient to you and us.
- We may immediately take possession of the Property by legal process or self-help, but in doing so we may not breach the peace or unlawfully enter onto your premises. We may then sell the Property and apply what we receive as provided by law to our reasonable expenses and then toward what you owe us.
- Except when prohibited by law, we may sue you for additional amounts if the proceeds of a sale do not pay all of the amounts you owe us.

By choosing any one or more of these remedies, we do not give up our right to later use another remedy. By declining not to use any remedy, we do not give up our right to consider the event a default if it happens again.

You agree that if any notice is required to be given to you of an intended sale or transfer of the Property, notice is reasonable if mailed to your last known address, as reflected in our records; at least 10 days before the date of the intended sale or transfer (or such other period of time as is required by law).

You agree that, subject to your right to recover such property, we may take possession of personal property left in or on the Property securing this Contract and taken into possession as provided above.

RETURN CHECK CHARGE: You agree to pay a service charge for each returned check or returned automatic payment request. The amount of the service charge will generally be \$20.00, but if we use a law enforcement agency to collect payment and the service charge is used to reimburse the law enforcement agency, the amount of the service charge will be \$25.00.

INSURANCE: You agree to buy property insurance on the Property protecting against loss and physical damage and subject to a maximum deductible amount indicated in the PROPERTY INSURANCE section, or as we will otherwise require. You will name us as loss payee on any such policy. (Generally, loss payee is the one to be paid the policy benefits in case of loss or damage to the property.) In the event of loss or assurances of payment before we allow insurance proceeds to be used to repair or replace the Property, if the insurance proceeds do not cover the amounts you still owe us, you will pay the difference. You may purchase or provide the insurance through any insurance company reasonably acceptable to us. You will keep the insurance in full force and effect until this Contract is paid in full.

If you fail to obtain or maintain this insurance, or name us as a loss payee, we may obtain insurance to protect our interest in the Property. We will notify you if we do so. This insurance may include coverages not required of you. This insurance may be written by a company other than one you would choose. It may be written at a rate higher than a rate you would choose. We will add the premium for this insurance to the amount you owe us. Any amount we pay will be due immediately. This amount will earn finance charges from the date paid at the interest rate described in the PROMISE TO PAY AND PAYMENT TERMS section until paid in full.

OBLIGATIONS INDEPENDENT: Each person who signs this Contract agrees to pay this Contract according to its terms. This means the following:

- You must pay this Contract even if someone else has also signed it.
- We may release any co-buyer or guarantor and you will still be obligated to pay this Contract.
- We may release any security and you will still be obligated to pay this Contract.
- If we give up any of our rights, it will not affect your duty to pay this Contract.
- If we extend new credit or renew this Contract, it will not affect your duty to pay this Contract.

WAIVER: To the extent permitted by law, you agree to give up your rights to require us to do certain things. We are not required to: (1) demand payment of amounts due; (2) give notice that amounts due have not been paid, or have not been paid in the appropriate amount, time or manner; (3) give notice that we intend to make, or are making, this Contract immediately due; or, (4) obtain official certification of nonpayments.

THIRD PARTY AGREEMENT

By signing below you agree to give us a security interest in the Property described in the SALE section. You also agree to the terms of this Contract, including the WAIVER section above, except that you will not be liable for the payments it requires. Your interest in the Property may be used to satisfy the Buyer's obligation. You agree that we may renew, extend, change this Contract, or release any party or property without releasing you from this Contract. We may take these steps without notice or demand upon you.

You acknowledge receipt of a completed copy of this Contract.

Signature _____

Date _____

NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

IF YOU ARE BUYING A USED VEHICLE, THE INFORMATION YOU SEE ON THE WINDOW FORM FOR THIS VEHICLE IS PART OF THIS CONTRACT. INFORMATION ON THE WINDOW FORM OVERRIDES ANY CONTRARY PROVISIONS IN THE CONTRACT OF SALE.

ASSIGNMENT BY SELLER

Seller sells and assigns this Retail Installment Contract and Security Agreement, (Contract), to the Assignee, its successors and assigns, including all its rights, title and interest in this Contract, and any guarantee executed in connection with this Contract. Seller gives Assignee full power, either in its own name or in Seller's name, to take all legal or other actions which Seller could have taken under this Contract. (SEPARATE AGREEMENT: If this Assignment is made "under the terms of a separate agreement" as indicated on page 1, the terms of this assignment are described in a separate writing(s) and not as provided below.)

Seller warrants:

- This Contract represents a sale by Seller to Buyer on a time price basis and not on a cash basis.
 - The statements contained in this Contract are true and correct.
 - The down payment was made by the Buyer in the manner stated on page 1 of this Contract and, except for the application of any manufacturer's rebate, no part of the down payment was loaned or paid to the Buyer by Seller or Seller's representatives.
 - This sale was completed in accordance with all applicable federal and state laws and regulations.
 - This Contract is valid and enforceable in accordance with its terms.
 - The names and signatures on this Contract are not forged, fictitious or assumed, and are true and correct.
 - This Contract is vested in the Seller free of all liens, is not subject to any claims or defenses of the Buyer, and may be sold or assigned by the Seller.
 - A completely filled-in copy of this Contract was delivered to the Buyer at the time of execution.
 - The Vehicle has been delivered to the Buyer in good condition and has been accepted by Buyer.
 - Seller has or will perfect a security interest in the Property in favor of the Assignee.
- If any of these warranties is breached or untrue, Seller will, upon Assignee's demand, purchase this Contract from Assignee. The purchase shall be in cash in the amount of the unpaid balance (including finance charges) plus the costs and expenses of Assignee, including attorneys' fees.
- Seller will indemnify Assignee for any loss sustained by it because of judicial set-off or as the result of a recovery made against Assignee as a result of a claim or defense Buyer has against Seller.

Seller waives notice of the acceptance of this Assignment, notice of non-payment or non-performance and notice of any other remedies available to Assignee.

Assignee may, without notice to Seller, and without affecting the liability of Seller under this Assignment, compound or release any rights against, and grant extensions of time for payment to be made, to Buyer and any other person obligated under this Contract.

UNLESS OTHERWISE INDICATED ON PAGE 1, THIS ASSIGNMENT IS WITHOUT RECOURSE.

WITH RECOURSE: If this Assignment is made "with recourse" as indicated on page 1, Assignee takes this Assignment with certain rights of recourse against Seller. Seller agrees that if the Buyer defaults on any obligation of payment or performance under this Contract, Seller will, upon demand, repurchase this Contract for the amount of the unpaid balance, including finance charges, due at that time.

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
 DRIVER & VEHICLE SERVICES DIVISION
 445 MINNESOTA ST., ST. PAUL, MN 55101
 CONFIRMATION OF L.I.C. PERFECTION - DEBTOR NAME AND ADDRESS
SCHLIEF MICHAEL LAURENCE OR
SCHLIEF JULIE MARIE
 15248 309TH AVE
 PRINCETON MN 55371

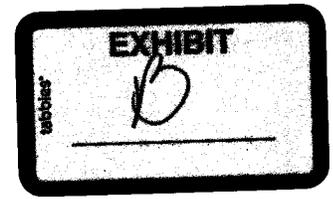
First Class
 U.S. Postage
PAID
 Permit No. 171
 St. Paul, MN

GFL767
 1ST SECURED PARTY
LIEN HOLDER

00	GMC	4WJ/E	J1210N697
Year	Make	Model	Title #/R
16KDT13W7Y2208198	04/11/01	NO	
VIN	Security Date	Holdout	

RETAIN THIS DOCUMENT - See reverse
 side of this form for removing this lien

AMERICREDIT FINANCIAL SERV
 PO BOX 182673
 ARLINGTON TX 76096-2673



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Case No. 04-42802 NCD
Chapter 13

Michael Laurence Schlieffand
Julie Marie Schlieff,

Debtors.

VERIFICATION

Jammi Green, an employee of AmeriCredit Financial Services, Inc.
named in the foregoing Objection to Confirmation, declare under penalty of perjury that the
foregoing is true and correct according to the best of my knowledge, information and belief.

DATED: July 15, 2004.

SIGNED: Jammi Green