

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION**

In Re: John G. Hernandez
 Gwendolyn D. Hernandez

Case No. Bky 04-35005-GFK
Chapter 13 Case

Debtor(s).

OBJECTION TO CONFIRMATION OF PLAN

TO: John G. Hernandez, 8493 State Hwy 254, Frost, Minnesota 56033, Gwendolyn D. Hernandez, 8493 State Hwy 254, Frost, Minnesota 56033, Debtor(s) and his/her/their attorney, Stephen J Behm, PO Box 1056, Mankato, MN 56002, and other parties in interest:

Affinity Plus, a secured creditor in the above-referenced matter, hereby objects to

Confirmation of the Debtor's plan on the following grounds:

1. The Petition commencing this Chapter 13 case was filed on August 26, 2004.

The Court will hold a hearing on this matter at 10:00 a.m. on Thursday, October 28, 2004 in Courtroom No. 228C, U.S. Bankruptcy Court, U.S. Courthouse, St. Paul, MN 55101

2. Any response to this Objection must be filed and delivered not later than Monday, October 25, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and Holidays), or filed and served by mail not later than Tuesday, October 19, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays, and Holidays). **UNLESS A RESPONSE OPPOSING THE OBJECTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

3. Affinity Plus has a claim secured by a 1993 Ford Ranger and 1969 Ford 1/2 Ton Pickup Truck. The present balance on the claim is \$5,038.66. Affinity Plus's monthly payments under its Retail Installment Contract are \$206.83.

4. Defendant signed the Retail Installment Contract on August 29, 2002. Under the proposed Chapter 13 plan, Affinity Plus is listed as a secured creditor only to the extent of

\$3,480.00. The NADA value of the 1993 Ford Ranger is \$3,000.00. The NADA value of the 1969 Ford 1/2 Ton Pickup is \$6,325.00.

5. The value of the property to be distributed under the plan to Affinity Plus is less than the amount of Affinity Plus's claim and thus the plan does not comply with 11 U.S.C. §1325(a)(5).

6. Movant is not adequately protected in its treatment under the proposed Chapter 13 Plan as payments to Movant are not scheduled to begin until month #12 of the Plan. Movant is also not adequately protected in its treatment under the proposed Chapter 13 Plan due to the fact that the interest rate to be paid through the Plan is 0.00%, while the interest on Movant's Retail Installment Contract with Debtor accrues at 11.00%. In addition, based on the above, the Debtor's plan has not been proposed in good faith in violation of 11 U.S.C §1325(a)(3).

WHEREFORE, Affinity Plus requests that the Court deny Confirmation of Debtor's proposed plan and dismiss this case, and for such other relief as the Court deems just and equitable.

Dated: 9/16/14

MESSERLI & KRAMER, P.A.



William C. Hicks, #142505
Attorneys for Movant
3033 Campus Drive
Suite 250
Plymouth, MN 55441
Telephone: (763) 548-7900

IMPORTANT NOTICE

This communication is from a debt collector and is an attempt to collect a debt. Any information obtained will be used for that purpose.

AFFIDAVIT OF SERVICE BY MAIL

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Ryan Leddy, of the City of Minneapolis, County of Hennepin, in the State of Minnesota, being duly sworn, says that on 9/16/04, he served by U.S. mail the following documents:

1. Objection to Confirmation of Plan;

to:

United States Trustee
1015 U.S. Courthouse
300 S. 4th St.
Minneapolis MN 55415

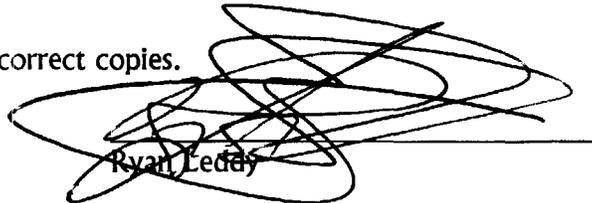
Michael J. Farrell, Trustee
PO Box 519
Barnesville, MN 56033

Stephen J Behm
PO Box 1056
Mankato, MN 56002

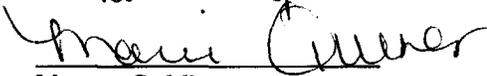
John G. Hernandez
8493 State Hwy 254
Frost, Minnesota 56033

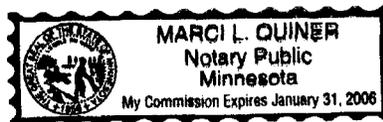
Gwendolyn D. Hernandez
8493 State Hwy 254
Frost, Minnesota 56033

by depositing and mailing to them true and correct copies.


Ryan Leddy

Subscribed and sworn to before me
this 16th day of September, 2004


Notary Public



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: John G. Hernandez
Gwendolyn D. Hernandez

Case No. Bky 04-35005-GFK
Chapter 13 Case

Debtor(s).

ORDER

This matter is before the Court on Affinity Plus's Objection to Confirmation of Chapter 13 Plan. The Objection came on for hearing on Thursday, October 28, 2004 at 10:00 a.m., at St. Paul, MN. Appearances are as noted in the record.

The Court being advised fully in the Premises, and upon the Affidavit and all files and records herein,

NOW ORDERS:

That the Confirmation of Debtor's Plan 13 is hereby denied and this case is dismissed. Notwithstanding Federal Rule of Bankruptcy Procedure 4001 (a)(3), this Order shall be effective immediately.

Dated: _____

BY THE COURT:

United States Bankruptcy Judge