

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re: Donald R Padgett
Joy A Padgett

Case No: 06-52898
Chapter 13 Judge Preston
341 Date: 07/20/2006

Debtor(s) :
:

CHAPTER 13 TRUSTEE'S 1st AMENDED OBJECTION TO CONFIRMATION

Now comes Frank M. Pees, Standing Chapter 13 Trustee, and objects to the confirmation of the plan and request that the Court enter an Order denying confirmation for the reasons set forth below and dismissing the case, pursuant to 11 U.S.C. §1307(c)(5). This objection supersedes any prior objection filed in this case by the Trustee.

Above median income Below median income

11 U.S.C. §1325(a)(1)—Plan does not comply with all provisions of Chapter 13 of Title 11 and the other applicable provisions of Title 11:

Debtor(s) failed to appear at the schedules meeting of creditors.

Debtor(s) have failed to file a plan.

Debtor(s)' debts exceed the limits for non-contingent, liquidated, unsecured debt and/or for non-contingent, liquidated, secured debt.

Plan does not provide for full payment of claims entitled to priority under section 507. (NB: If 5 year plan, please do not check.)

Trustee is unable to accurately determine length.

Plan takes over 60 months to complete. Plan at 90 months due to claims filed to date; Trustee to object to application for additional attorney fees.

_____ Debtor has failed to file a complete list of creditors, statement of financial affairs, schedules including current income and expenses, or other filing requirements, pursuant to 11 U.S.C. § 521.

Other: Per review of documents need further documentation and explanation as to why property is not a fraudulent transfer.

_____ **11 U.S.C. §1325(a)(3)**—Plan has not been proposed in good faith.

11 U.S.C. §1325(a)(4)—Plan does not meet the best interest test. Trustee unable to determine Best Interest, need further discovery regarding Transfer of real estate.

_____ Trustee is unable to accurately determine best interest as Debtor(s) have failed to provide an acceptable appraisal, pursuant to LBR 3015-3(e)(3).

_____ Trustee is unable to accurately determine best interest.

_____ **11 U.S.C. §1325(a)(5)**—Plan does not provide for lien retention rights for secured creditors and/or interest rate for rejecting secured creditors.

_____ Debtor(s) do not have liability insurance on all vehicles that are driven or as required by any relevant security agreement, pursuant to LBR 3015(e)(6).

_____ Debtor(s) do not have insurance on their real estate, pursuant to LBR 3015(e)(6).

_____ Plan does not provide regular periodic payments in equal monthly amounts for secured creditors, pursuant to 11 U.S.C. §1325(a)(5)(B)(iii)(1).

_____ Other: [Deficiencies such as time and details for sale of house and inappropriate treatment of mortgage.]

X **11 U.S.C. §1325(a)(6)**—Plan is not feasible based on income, living expenses, and plan payments. Based on no explanation of income after first two years of plan.

 Other: [Deficiencies in Schedules I and J (tax returns, job/income change, and/or income projections.)]

 11 U.S.C. §1325(a)(7)—Petition has not been proposed in good faith.

 11 U.S.C. §1325(a)(8)—Debtor(s) have failed to pay all domestic support obligations that became due after the filing of the petition.

 11 U.S.C. §1325(a)(9)—Debtor(s) have failed to file all applicable federal, state, and local tax returns for 4 years prior to filing.

 Plan does not provide for full payment of debt on motor vehicle purchased within 910 days of filing or debt secured by other personal property purchased within 1 year of filing.

 11 U.S.C. §1325(b)—Plan will complete in less than 36 months.

 11 U.S.C. §1325(b)—Plan does not meet disposable income test.

 Debtor has failed to commit all disposable income to plan for the applicable commitment period.

 If above median income, Debtor(s) expenses exceed amounts specified under the national and local standards issued by IRS 707(b)(2).

 11 U.S.C. Section 1326(a)(1)—Debtor(s) have failed to tender the following pre-confirmation payments not later than 30 days from the filing of the plan or petition (whichever is earlier):

- (A) _____ payments proposed by the plan to the Trustee;
- (B) _____ post-petition lease payments;
- (C) _____ adequate protection payments to secured creditors.

_____ **11 U.S.C. Section 1326(a)(1)(C)** _____ Plan does not provide adequate protection payments.

Pursuant to LBR 3015-2(a), amendments necessary to place the plan in a posture for confirmation must be filed at least ten (10) days prior to the hearing on confirmation set for 11/30/2006, unless Debtor(s) have entered into an Agreed Order with the Trustee and so are bound by the terms of that Order.

Further, Trustee notes that:

- _____ Debtor(s) have failed to attend Debtor Orientation.
- _____ Debtor(s)' counsel to add language to Plan to advise Trustee/Court
- _____ Debtor(s)' counsel to upload an Order to Implement Wage Withholding.
- _____ Debtor(s)' counsel failed to file and serve a statement of compensation paid, or such statement is not signed pursuant to Federal Rules of Bankruptcy Procedure 9011.

Therefore, the Trustee prays that confirmation is denied and this case be dismissed for cause pursuant to §1307(c)(5).

TERMS OF THE PLAN: Below median income _____
Above median income X

Dividend: 19%, BI: Unable to determine%, Plan payments: \$7000 mo 1 mo; \$825 mo 4 mo's; \$897 mo remainder.

Threshold dividend based on CMI 0%; Length: 90 mo's

Dated: 11/21/2006

Respectfully submitted,

/s/ Frank M. Pees

Frank M. Pees
 Chapter 13 Trustee
 130 E. Wilson Bridge Road, #200
 Worthington, OH 43085

(614) 436-6700

CERTIFICATE OF SERVICE

The undersigned hereby certified that on the date shown below a copy of the Trustee's Objection to Confirmation was served electronically on the Office of the United States Trustee and Debtor's attorney, and on the Debtor(s) at the address as currently shown in the Trustee's records by regular first class mail, postage prepaid.

Dated: 11/21/2006

/s/Frank M. Pees

Frank M. Pees, Standing Chapter 13 Trustee
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