

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

IN RE: )  
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DIANA MARTIN, ) Case No. 21-20196  
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Debtor. )

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IN RE: )  
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JACQUELINE ANN NEELY, ) Case No. 22-20005  
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Debtor. )

ORDER OVERRULING OBJECTIONS TO PLANS

In *In re Jones*, case no. 20-10704, this court sustained the trustee’s objection to confirmation of a plan in which the debtor proposed to retain and pay through the trustee for vehicles for both herself and her 31-year-old son. (*See* doc. 29 in case no. 20-10704). Although the plan provided for the son to contribute to the plan payment, the court found that the plan was not proposed in good faith because it was dependent upon “the vicissitudes of her son’s income and expenses and the vagaries of his payments to her.” *See In re Solis*, 356 B.R. 398, 414 (Bankr. S.D. Tex. 2006). The court also questions whether the Bankruptcy Code should be used to “cram down” payments on a vehicle which is not necessary to the debtor’s reorganization.

These two cases present a somewhat different scenario. In each case, the plan provides for the non-debtor relative to make “direct” payments (not through the trustee) to the creditor. In case 21-20196, the extra car is being driven by the debtor’s sister and will be paid off in late 2023. In case 22-20005, the extra car is being driven by the debtor’s adult daughter and will be paid off a couple of months after the proposed sixty month plan is completed. In both cases, the debtor is the only one on the note and title, the pay history is good, the payments are current, the

loan will be paid on contractual terms, there is no prepetition arrearage, and the vehicle is insured. If the court sustains the trustee's objection in each case and requires the debtor to surrender the vehicle, the creditor will have no borrower to look to and is likely to repossess – probably resulting in a deficiency claim against the estate which will reduce the amounts paid to other unsecured creditors.

After receiving evidence at the confirmation hearings, the court finds in both of these cases that it would be in the best interest of the debtors, their bankruptcy estates, and their unsecured creditors to allow the non-debtor relatives to continue to make direct payments to the creditors, thus avoiding or at least minimizing any deficiency claims. The court thus finds that the plans were proposed in good faith, overrules the trustee's objections, and will confirm the plans upon filing of final plan summaries.

Dated: May 17, 2022

  
HENRY A. CALLAWAY  
CHIEF U.S. BANKRUPTCY JUDGE