

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF: ) CASE NO. BK08-82138-TLS  
)  
HINES WALTER LIKELY and ) CH. 13  
VALERIE JEAN LIKELY, )  
)  
Debtor(s). )

ORDER

Hearing was held in Omaha, Nebraska, on April 13, 2009, regarding Filing #18, First Amended Chapter 13 Plan, filed by the debtors; Filing #29, Objection to Confirmation of Plan, filed by National Auto Finance Company; and Filing #30, Amended Response, filed by the debtors. Robin L. Meyers appeared for the debtors, Frederick D. Stehlik appeared for National Auto Finance Company, and Tom Kenny appeared for the Chapter 13 trustee.

National Auto Finance Company ("National") has objected to confirmation of the debtors' plan because it does not, according to National, properly identify the amount of National's claim. The claim is secured by a 2004 Kia Sedona minivan. National claims the minivan, on the date of the petition, was worth \$8,575, as shown in the N.A.D.A. Official Used Car Guide for August 2008 under the "Clean Retail" classification.

In contrast, the debtors' expert witness has appraised the vehicle using the N.A.D.A. Guide from February 2009. That retail value, including low mileage, is \$6,925. From that amount the appraiser deducted \$3,300 for needed repairs, leaving a net value of \$3,625.

In addition to the identification of repairs needed, the appraiser states, "Van is not usable. Currently in dead storage in owners [sic] garage. Impossible to sell or trade in this condition."

The Bankruptcy Code at 11 U.S.C. § 502(b) requires, if there is an objection to a claim, the court to determine the amount of such claim as of the date of the filing of the petition. Therefore, the use of the February 2009 N.A.D.A. values is incorrect and the evidence presented is not competent. I find that the value of \$8,575 is the allowed amount of National's secured claim.

IT IS ORDERED: The First Amended Chapter 13 Plan, Filing #18, is denied confirmation. The debtors may file an amended plan by May 1, 2009.

DATED: April 15, 2009.

BY THE COURT:

/s/ Timothy J. Mahoney  
United States Bankruptcy Judge

Notice given by the Court to:

\*Robin L. Meyers Tom Kenny  
Frederick D. Stehlik U.S. Trustee

\*Movant is responsible for giving notice to other parties if required by rule or statute.