

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:)	CASE NO. BK 13-81082
)	
JAMES EDWARD NOVAK, JR., and)	CH. 13
CINDY KAY NOVAK,)	
)	
Debtor(s).)	

ORDER

Hearing was held in Omaha, Nebraska, on December 16, 2013, regarding Fil. #25, Objection to Claim, filed by debtors, and Fil. #32, Resistance, filed by American National Bank; Fil. #50, Third Amended Chapter 13 Plan, filed by debtors; Fil. #52, Objection, filed by American National Bank; and Fil. #58, Response to American National Bank's Objection, filed by the debtors. Roxanne M. Alhejaj appeared for the debtors and Dave Koukol and Kristen Stiffler appeared for American National Bank.

American National Bank and the debtors have a dispute concerning the value of a 2005 Ford Ranger pickup. The debtors have an appraisal that is significantly inconsistent with the deposition testimony of Mr. Novak. He says the car is in good condition, but for some hail damage and right front bumper damage.

The appraisal uses a 2013 NADA price report that discounts even the rough trade-in value of \$5,675 shown on the report. The bank presented both a June NADA report and a September NADA report. In June, the report shows the value of the vehicle at \$11,425 under the "clean retail" valuation. In September, the NADA report reduces the value by \$450 for high mileage and is inconsistent with the list of options. The September "clean retail" value is \$10,250.

After considering the debtors' appraisal and the various NADA value reports, I find that the value of the vehicle is \$10,250. The claim is \$10,288.56. Since the value of the vehicle has been found to be \$10,250, the bank is secured to the value of the vehicle and unsecured to the extent of \$38.56. The objection to claim is denied except for the \$38.56.

The hearing on the objection to claim also included an objection to the plan by American National Bank. That objection is based on the same valuation issue and since the bank has been relatively successful on the valuation issue, this plan cannot be confirmed and the debtors are given 21 days to file an amended plan in conformance with the determination of the value of the claim.

IT IS ORDERED that the Objection to Claim, Fil. #25, is denied, and the Third Amended Chapter 13 Plan is not confirmed. The debtors are given 21 days to file an amended plan in conformance with the determination of the value of the claim.

DATED this 18th day of December 2013.

BY THE COURT:

/s/ Timothy J. Mahoney
United States Bankruptcy Judge

Notice given by the Court to:

*Roxanne Alhejaj

Dave Koukol

Kristen Stiffler

Kathleen Laughlin

* Movant is responsible for giving notice of this order to all other parties not listed above if required by rule or statute.