

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:) CASE NO. BK08-83264-TLS
)
KIM WILSON LAMB and) CH. 13
TRACI LYNN LAMB,)
)
Debtor(s).)

ORDER

Hearing was held in Omaha, Nebraska, on April 13, 2009, regarding Filing #3, Chapter 13 Plan, filed by the debtors; Filing #11, Objection to Confirmation of Plan, filed by GMAC; and Filing #15, Response, filed by the debtors. Trinh Tran appeared for the debtors, Frederick Stehlik appeared for GMAC, and Tom Kenny appeared for the Chapter 13 trustee.

GMAC has objected to confirmation of the debtors' plan because the plan does not properly value the GMAC claim. The collateral is a 2004 Chevrolet Impala V-6 4-door sedan. GMAC has valued the vehicle by using the N.A.D.A. Used Car Guide for December 2008, the month the bankruptcy petition was filed. That valuation is \$11,000. However, GMAC asserted in its objection to the plan that the vehicle was worth only \$9,300.

The debtors, on the other hand, base their valuation on the Kelly Blue Book using a "Private Party Pricing Report." That report does not indicate the month the valuation is determined. At any rate, the Kelly Blue Book value for the vehicle in "excellent" condition is \$7,910 and in "good" condition is \$7,385. Although there is no evidence describing the vehicle as either in "excellent" condition or "good" condition, the response to GMAC's objection uses \$7,385, the "good" classification.

The Bankruptcy Code at 11 U.S.C. § 502(b) directs the court to determine the amount of the claim as of the date of the filing of the petition. The petition was filed in December 2008. GMAC clearly used a December 2008 valuation. I cannot determine what month the Kelly Blue Book valuation refers to.

Since the objection to plan suggested that the valuation should be \$9,300, I determine that to be the amount of the allowed secured claim. The plan is denied confirmation. Debtors may file an amended plan by May 1, 2009.

IT IS ORDERED: GMAC's objection to confirmation (Fil. #11) is sustained. 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:

*Trinh Tran Tom Kenny
Frederick Stehlik U.S. Trustee

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