

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

FILED

2000 MAR 17 PM 3:04

IN RE:

Herbert Fraygious Johnson,

Debtor.

U.S. BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA
C/A No. 99-51095

ORDER

Chapter 13

ENTERED

MAR 20 2000

K.K.M.

THIS MATTER comes before the Court on February 23, 2000 upon the Objection filed on January 21, 2000 by Vanderbilt Mortgage and Finance, Inc. ("Vanderbilt") to the Debtor's Chapter 13 Plan. The Objection asserts that the Plan fails to meet the requirements of 11 U.S.C. §1325(a)(5) in that the Plan provides an inadequate valuation of Vanderbilt's collateral, a 1998 Norris Mobile Home, Brookwood Model, 16x80. The amended Chapter 13 Plan filed February 14, 2000 proposes to value that collateral at \$22,000.00 to be paid in full at 10% interest through monthly payments of \$505.00. Vanderbilt has filed a secured claim in this case in the amount of \$37,492.65.

At the confirmation hearing and hearing on the Vanderbilt's Objection to valuation, the Debtor testified that the value of the mobile home is \$19,000.00 due to the need for repairs in the estimated amount of \$3,000.00. The Debtor had no training or expertise in mobile home valuation and arrived at the value according to his testimony "by looking around at other homes". Vanderbilt offered the testimony of the manager of the mobile home lot which sold the subject mobile home to the Debtor in August of 1997. That witness has an ongoing business relationship with Vanderbilt and is therefore not independent or impartial. Vanderbilt's witness had not inspected the subject mobile home and did not have a present knowledge of its condition

or location. However, he opined that mobile homes of similar age and model would have a retail value of between \$34,000.00 and \$36,000.00. He stated the value of the subject mobile home to be \$36,000.00. Neither the Debtor nor Vanderbilt offered any evidence or testimony from an independent appraiser nor did either present a written report of comparable sales, a copy of an industry valuation guide such as that published by NADA, or even pictures indicating the present condition of the subject collateral.

Considering the significant range of difference between the values offered by the parties, \$19,000.00 and \$36,000.00, the Court finds there is no credible or convincing evidence before it which would establish the value of the collateral. In as much as it is the Debtor's burden to meet the requirements of 11 U.S.C. §1325, the Court denies confirmation of the Plan filed on February 14, 2000. Any amended plan must be filed within ten (10) days of the entry of this Order.

AND IT IS SO ORDERED.

Columbia, South Carolina,
March 17, 2000.


UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF MAILING

The undersigned deputy clerk of the United States
Bankruptcy Court for the District of South Carolina hereby certifies
that a copy of the document on which this stamp appears
was mailed on the date listed below to:

MAR 20 2000

TO BNC:
Von Keller

✓ Richey

HB

DEBTOR, DEBTOR'S ATTORNEY, TRUSTEE

KELLEY MORGAN

Deputy Clerk