

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**IN RE: CANDICE B. SMITH
a/k/a CANDICE KESSLER SMITH
Debtor**

**CASE NO. 06-51308 ERG
CHAPTER 13**

FINDINGS OF FACT¹

1. Candice B. Smith a/k/a Candice Kessler Smith, the Debtor herein, filed a petition for relief under Chapter 13 of Title 11 of the United States Code on November 21, 2006. The Debtor filed her Chapter 13 Plan on the same date. Attached thereto was a 3 page document entitled, "Plan Addendum." Under the "Plan Addendum" heading, the document stated in all capital letters "YOUR RIGHTS MAY BE AFFECTED BY THIS PLAN ADDENDUM!!" The Addendum includes nine numbered paragraphs containing provisions relating to the consequences and effects of the Debtor's plan. The Plan Addendum is attached hereto as Appendix "A."

2. Trustmark National Bank, a creditor holding a secured claim on a 2001 Ford F-150 vehicle, filed its objection to confirmation of the plan. (Dkt. No. 17). In its objection, Trustmark

¹ These findings and conclusions are entered to supplement the court's July 31, 2007 (Dkt. No. 61) order sustaining Trustmark's Objection to Confirmation of Plan. The factual recitation herein relates to the procedural aspects of this case. No disputed factual matters were presented for determination and there was no evidentiary presentation upon which the court would need to make specific findings of fact. The court finds that the purposes of Fed. R. Bankr. P. 7052 were served by the prior order sustaining Trustmark's objection to confirmation, as there were no factual issues to determine, and where the court indicated its agreement with the legal analysis of Trustmark for the basis of its the legal conclusions. *See, Ramirez v. Hofheinz*, 619 F. 2d 442 (5th Cir. 1980)(Rule 52 serves two purposes: to engender care on the part of the trial judge in ascertaining the facts; and to make possible meaningful review in the appellate courts). The court enters the findings and conclusions herein in an effort to further clarify its ruling in the event it may be useful.

claimed that the Plan Addendum attempted to supercede, modify and alter established case law, procedure and provisions of the Bankruptcy Code. The Objection to Confirmation of Plan is attached hereto as Appendix "B."

3. The Debtor subsequently filed her response to Trustmark's objection that contained a Motion for More Definite Statement. The Debtor's Response to Objection to Confirmation of Plan and Motion for More Definite Statement is attached as Appendix "C." On February 5, 2007, Trustmark filed its More Definite Statement. Trustmark's More Definite Statement is attached as Appendix "D." A briefing schedule was submitted by the parties, was subsequently modified, and the issue was submitted on briefs without an evidentiary presentation.

4. Trustmark states the following in its brief:

Trustmark has filed an Objection to Confirmation of Plan contending that (1) the plan addendum has not been approved by this Court, (2) the plan addendum deviates from the chapter 13 plan form that has been approved by this Court, (3) the plan addendum conflicts with the provisions of the Bankruptcy Code or confirmation order used by this Court, (4) the plan addendum is unduly burdensome on creditors and chapter 13 trustees to make a determination whether such language is proper or permissible and whether the plan addendum conflicts with State Law, (5) the plan addendum language is largely unnecessary and superfluous, (6) the plan addendum is not applicable to the situation of the debtor, (7) the plan addendum is an inappropriate attempt to unilaterally adjudicate matters that are properly the subject of an adversary proceeding, and (8) any additions that Debtor wishes to have in her plan would better be addressed in the claims objection process.

Brief of Trustmark National Bank in Support of its Objection to Confirmation of Plan at 1.

5. The court entered its order sustaining Trustmark's Objection to Confirmation of Plan and holding the analysis of law presented by Trustmark to be correct.

6. An order confirming the debtor's plan was entered on August 9, 2007.

7. The Debtor filed a Motion for Findings by the Court on August 10, 2007, requesting

that the court provide specific findings of fact and conclusions of law and to amend the order of July 31, 2007. (Dkt. No. 65).

CONCLUSIONS OF LAW

The matter before the court is a core proceeding pursuant to 28 U.S.C. § 157. The court has jurisdiction over the subject matter and the parties pursuant to 28 U.S.C. §1334 and § 157.

In its prior order sustaining Trustmark's Objection to Confirmation of Plan, this court indicated that Trustmark's analysis of the law and contested issues was correct. Trustmark's analysis included citation to and attachment of decisions on this issue that have been rendered by other bankruptcy judges in the Northern and Southern Districts of Mississippi. On April of 2007, the court in *In re Mayo*, No. 06-10569 (Bankr. N.D.Miss., Apr. 10, 2007), sustained the Chapter 13 Trustee's objection to confirmation. The court held that, "the additions that Debtor seeks to add to the plan sheet would better be addressed in the claims objection process rather than as an addition to the plan sheet." In the case of *In re Merchant*, No. 06-02742 (Bankr. S.D.Miss., Apr. 10, 2007), the court held that "the Court finds that the additions that Debtor seeks to add to the Uniform Local Plan Form would better be addressed in the claims objection process rather than as an addition to the plan sheet. See, *In re Reed*, No. 06-02743 (Bankr. S.D.Miss., Apr. 10, 2007); *In re Edwards*, No. 06-02926 (Bankr. S.D.Miss., Apr. 10, 2007); *In re Phillips*, No. 07-00259 (Bankr. S.D.Miss., Apr. 10, 2007); *In re Howie*, No. 06-02948 (Bankr. S.D.Miss., Apr. 10, 2007). See also, *In re Rickman*, No. 06-02244 (Bankr. S.D.Miss., Feb. 23, 2007) (agreed order entered requiring debtor to delete general and special conditions applicable to the chapter 13 plan and conform to the form plan approved by the court). This court agrees with the other bankruptcy courts in these jurisdictions that have previously ruled in this matter. Further, the court finds no

prejudice or harm to the debtor by this process. The debtor retains the right to deal specifically with its own debts and creditors.

The Debtor's Plan Addendum contains numerous items apparently intended to cover a wide range of situations and that are not specifically formulated to deal with this particular debtor and her creditors. As pointed out by Trustmark, the provisions of the Plan Addendum that relate to treatment of claims secured by real property, or home mortgage claims, (paragraph 1 containing subparagraphs A-E) are entirely irrelevant here because the debtor has no home mortgage.

Trustmark argues in response to several of the Plan Addendum provisions that the language reiterates existing rights and does not add to the confirmation process. Trustmark also argues that some of the provisions are contrary to law or conflict with other rules, including provisions relating to lien releases, claim transfers and arbitration clauses. Trustmark states in its brief:

Trustmark agrees with Debtor that § 1322(b)(11) provides that the plan may "include any other appropriate provisions not inconsistent with its title." The operative word is "appropriate." The first five paragraphs (out of 14) of the plan addendum deal with claims secured by real property that the debtor intends to retain. This debtor has no real property. Debtor realizes this limitation and even refers to this limitation in her brief. Therefore, is this plan language an "appropriate provision" under § 1322(b)(11)? It is difficult to so conclude.

Plan provisions must have a valid, legal purpose that furthers the overall purpose and function of a chapter 13 plan, which is repayment of debt. Absent a valid, legal purpose, miscellaneous provisions should not be allowed to stand in a chapter 13 plan. This is true even if the provisions duplicate the Bankruptcy Code, case law, local rules, or even local practices . . . In this case, the plan addendum proposed by Debtor consists of 14 paragraphs and 93 lines of vague legalese without explanation or justification. Some of these provisions unnecessarily iterate the Bankruptcy Code while others appear to be for the purposes of giving Debtor a competitive advantage in a hypothetical, future civil case against an unwary creditor.

Brief of Trustmark at 2-3. Trustmark further comments as follows regarding the claims process as an appropriate manner of dealing with these issues:

Any debtor may obtain any reasonable and necessary language concerning a particular claim by objecting to that claim. This procedure promotes judicial economy since the desired language is tailored to the case and the particular debtor rather than a “shotgun” approach to provisions that are, at best, inapplicable or impermissible surplusage and, at worse, a trap for the unwary creditor.

A debtor is being deprived of no right whatsoever by being required to address a dispute to a claim by the claims objection process.

Brief of Trustmark at 9.

Statements and arguments by the debtor indicate that the debtor or debtor’s counsel is advocating a change to the local chapter 13 plan form through this debtor’s plan confirmation process. The debtor’s brief contains the following statement, “Debtor’s supplementation of the Form is proper under the Code, and is necessary to protect and implement debtors’ rights under the Code – especially since October 17, 2005. Evolving creditor tactics in bankruptcy practice ... arguably require debtor attorneys to adapt to protect their clients.” Debtor’s Brief on Trustmark’s Objection to Confirmation at 10. However, the court finds that specific determinations as to the legality or propriety of certain provisions of the Plan Addendum would not be appropriate or relevant here, as those general issues are not ripe issues for judicial determination in this individual debtor’s Chapter 13 proceeding. Further, the court does not consider it a proper function of this court at this time to adopt or allow for usage in this district a Chapter 13 plan form for implementation by one debtor’s attorney that has not been approved for local use through a more appropriate procedure, such as a process delegated pursuant to Federal Rule of Bankruptcy

Procedure 9029, or through the Region V United States Trustee.² *See In re Schiffman*, 388 B.R. 422 (Bankr. D.Or. 2006)(the court noted that the local chapter 13 plan form was approved and promulgated by all bankruptcy judges in the district and submitted to various constituencies prior to approval including chapter 13 trustees and the Department of Justice); *In re Walat*, 89 B.R. 11 (E.D. Va. 1988)(court held that local plan form is a valid exercise of court's authority to regulate local practices and procedure, noting that central purpose of form is efficiency); *In re Coover*, 2006 WL 4491439 (Bankr. D. Kan. 2007) (the court noted that a change in local form plan language was recommended by a Bench Bar Committee and adopted by the court.)

The court's decision, herein, is not an adjudication on the merits of any of the specific legal points addressed by the debtor's Plan Addendum proposed as a response to new bankruptcy legislation.

The foregoing Findings of Fact and Conclusions of Law are provided as a supplement to the court's Order of July 31, 2007 sustaining the Objection to Confirmation of Plan by Trustmark National Bank.

DATED this the 6th day of September, 2007.

/s/ Edward R. Gaines
EDWARD R. GAINES
UNITED STATES BANKRUPTCY JUDGE

² The Chapter 13 Plan Form that is currently in use in this district is available on the Region 5 United States Trustee's website. The form indicates that it was revised on October 24, 2005. The Chapter 13 Plan Form is also available on the website maintained by the Clerk of this court.

PLAN ADDENDUM

YOUR RIGHTS MAY BE AFFECTED BY THIS PLAN ADDENDUM !!

You should read the Plan and this Plan Addendum carefully, and discuss each of the provisions hereof that may affect you as a creditor with your attorney, if you have one. If you do not have an attorney, you may wish to consult with one.

1. On Claims secured by real property which the Debtor intends to retain:
 - A. Post-petition payments will be paid directly to you by the Debtor(s), unless the Plan or Order of the Court provides otherwise.
 - B. Pre-petition arrearages will be treated as a separate secured claim to be paid by the Trustee over the life of the Plan, which payments shall be deemed to provide adequate protection to each such creditor.
 - C. Confirmation of the Plan shall impose on the holders and/or servicers of claims secured by liens on real property a duty to: (i) apply the payments received from the Trustee on the pre-petition arrearages, if any, and only to such arrearages; (ii) deem the pre-petition arrearages as contractually cured by confirmation (during the pendency of the Plan); (iii) apply the direct mortgage payments, if any, paid by the Trustee or by the Debtor(s) to the month in which they were made under the Plan or directly by the Debtor(s), whether such payments are immediately applied to the loan or placed in some type of suspense account; (iv) notify the Trustee, the Debtor(s) and the Attorney for the Debtor(s) of any changes in the interest rate for an adjustable rate mortgage, of the effective date of such adjustment, and of the new payment amount resulting from such adjustment; (v) notify the Trustee, the Debtor(s) and the Attorney for the Debtor(s) of any changes in the taxes and/or insurance related to the collateral that would either increase or reduce the escrow portion of the monthly mortgage payment, and; (vi) otherwise comply with 11 U.S.C. § 524(i) and all other provisions of Title 11 of the United States Code.
 - D. Upon completion of a confirmed plan and receipt of a Chapter 13 Discharge, any pre-petition arrearage shall be deemed cured in full and, absent a specific Order by the Court to the contrary, any post-petition arrearage shall be deemed cured and paid in full, and the secured claim and/or contract or account on which said claim is based (in whole or in part) shall be deemed current in all respects.
 - E. Confirmation of this Plan shall impose an affirmative and direct duty on each such secured party to comply with these provisions.
2. Confirmation of this Plan shall constitute a finding that the Debtor(s) do not waive, release or discharge—but rather retain and reserve for themselves and/or the Chapter 13

CHAPTER 13 PLAN, PAGE 3 OF 5

Trustee—any and all pre-petition claims, and any and all post-petition claims, that they could or might assert against any party or entity arising under, or otherwise related to, any state or federal consumer statute, or under state or federal common law (including, but not limited to, fraud, misrepresentation, breach of contract, unfair and deceptive acts and practices, retail installment sales act violations, Truth in Lending Act violations, Home Equity Protection Act violations, Real Estate Settlement Protection Act violations, Fair Debt Collection Practices Act violations, Fair Credit Reporting Act violations, Equal Credit Opportunity Act violations, Fair Credit Billing Act violations, Consumer Leasing Act violations, Federal Garnishment Act violations, Electronic Funds Transfer Act violations, and any and all violations arising out of rights or claims provided by Title 11 of the United States Code, by the Federal Rules of Bankruptcy Procedure and/or by the Local Rules of this Court).

3. Upon satisfaction or other discharge of a security interest in a motor vehicle, mobile home, or in any other property of this estate in bankruptcy for which the certificate of title is in the possession of the secured party (or under the control thereof), the secured party shall within 10 days after demand, and in any event within 30 days of receipt of the notice of the entry of the Discharge Order under Chapter 13, execute a release of its security interest on the said title or certificate, in the space provided therefor on the certificate or title (or as the applicable state or federal entity regulating such matters prescribes), and mail or deliver the certificate and release to the Debtor(s) or the Attorney for the Debtor(s). Confirmation of this Plan shall impose an affirmative and direct duty on each such secured party to comply with this provision. This provision shall be enforced in a proceeding filed before the Bankruptcy Court and each such creditor consents to such jurisdiction by failure to file any timely objection to this Plan. Such an enforcement proceeding may be filed by the Debtor(s) in this case either before or after the entry of the Discharge Order, and either before or after the closing of this case. The Debtor(s) specifically reserve the right to file a Motion to reopen this case under Section 350 of Title 11 of the United States Code (and any other applicable provision thereof) to pursue the rights and claims provided for herein.

4. If a claim is or has been transferred by the holder thereof after the holder has filed a proof of claim with the Trustee, then the failure of the transferee to file evidence of the terms of the transfer with the Clerk of the Bankruptcy Court, with the Trustee, and with the Attorney for the Debtor(s) shall not serve to remove the transferor as a creditor in this case, and in such situations all actions taken by the transferee subsequent to the transfer shall be deemed acts of the transferor to the same extent as if the transferee was a duly-appointed agent of the transferor that is acting fully within the course and scope of his, her or its agency.

5. Acceptance by creditors of payments under this Plan, and/or failure of any creditor to file an objection to confirmation of the Plan herein, constitutes a waiver of any right(s) of said creditor(s) to seek enforcement of any arbitration agreement and constitutes consent to the removal of any arbitration clause from any type of contract or contracts with the Debtor(s) herein.

6. If the Debtor files an objection to any proof of claim filed herein, a notice of transfer of a filed claim, or an adversary proceeding related to such an original or transferred claim, then and in that event this Plan and the Debtor's applicable Schedules shall be deemed to be automatically amended to indicate that such a claim is disputed, contingent and/or unliquidated. The Debtor(s) also reserves to the estate and/or the Debtor(s) all claims or causes of action that the Debtor(s) may have, could have or might have that is based on any claim filed with the Trustee in this case by any creditor, assignee or transferee, and nothing in this Plan or in the Debtor's Schedules shall be deemed a waiver of any such claims or causes of action.

7. Property of the estate includes all of the property specified in 11 U.S.C. Sections 541 and 1306, and any confirmation Order shall not change that status.

8. Any and all provisions of the Plan and/or this Plan Addendum may be enforced in a proceeding filed before the Bankruptcy Court and each creditor with rights or claims materially affected hereby consents to such jurisdiction by failure to file any timely objection to this Plan. Such an enforcement proceeding may be filed by the Debtor(s) in this case either before or after the entry of the Discharge Order, and either before or after the closing of this case. The Debtor(s) specifically reserve the right to file a Motion to reopen this case under Section 350 of Title 11 of the United States Code (and any other applicable provision thereof) to pursue the rights and claims provided for herein.

9. Upon confirmation of the Plan, all provisions of this Plan Addendum shall be fully enforceable and binding as provided herein and as are other provisions of the Plan, with the Plan Addendum being deemed to be incorporated by reference into the Plan as if copied verbatim therein fully in words and figures.

Dated: 11/21/06

Debtor: Candice Smith

Dated: _____

Debtor: _____

Dated: 11/21/06

[Signature]
Attorney For Debtor(s)

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

IN RE: CANDICE B. SMITH a.k.a. Candice Kessler Smith
TRUSTMARK NATIONAL BANK

DEBTOR(S)
CASE NO. 06-51308-ERG
CREDITOR

OBJECTION TO CONFIRMATION OF PLAN

COMES NOW Trustmark National Bank (Trustmark), by counsel, and objects to confirmation as follows:

1. Trustmark holds a secured claim covering a 2001 Ford F-150 vehicle.
2. Debtor's plan provides that Trustmark will retain its lien until the plan is completed.

Trustmark should retain its lien until the debtor receives a discharge.

3. Further, no provision is made in the chapter 13 plan for payment of adequate protection.

4. Further, the plan contains a "plan addendum" that attempts to supercede, modify, and/or alter established case law and procedure and provisions of the bankruptcy code.

The objectionable provisions of this addendum are as follows:

1A. Such language is superfluous since the chapter 13 miniplan already specifies this information.

1B. Adequate protection is an issue to be resolved by the Court or agreed to by the parties, and adequate protection cannot be unilaterally dictated by the debtor.

1C. The duties of the holders of allowed secured claims should be determined by the bankruptcy code, the confirmation order, State law, and the contract, not unilaterally dictated by the debtor.

1D. Whether the secured claim is current at the time of completion of the plan depends upon the payments actually made by the debtor and should not depend upon the debtor's assertion that the account is current at the time of completion of the plan even though payments may not be current.

1E. Since the provisions of the addendum are objectionable, imposing a duty on the secured party to comply with such provisions is likewise objectionable.

5. Debtor(s) should not be allowed to change statutes of limitation or the Doctrine of Laches.

6. State law amply provides remedies for release of a motor vehicle Certificate of Title, and this provision attempts to confer subject matter jurisdiction and personal jurisdiction upon creditors that would otherwise not be subject to such jurisdiction.

7. State law amply covers the law of agency, and a debtor should not be permitted to enlarge upon existing law.

8. Debtor should not be allowed to unilaterally modify contractual provisions unrelated to the bankruptcy proceeding.

9. The bankruptcy code sets forth the duties of a debtor as to the debtor's applicable schedules, and the debtor should not be allowed to alter those duties. Further, debtors should not be allowed to modify existing law on waiver.

9. 11 U. S. C. §1306 provides that the debtor shall remain in possession of all property of the estate, except as provided in the confirmed plan or an order confirming the plan. Debtors should not be allowed to enlarge on that provision.

10. Debtors should neither be allowed to unilaterally subject creditors to subject matter jurisdiction or personal jurisdiction, nor should debtors be allowed to enforce provisions of the plan after the closing of the case.

11. Since the individual provisions of the addendum are objectionable, paragraph 9 is likewise objectionable.

12. The chapter 13 plan of Debtor does not comply with the provisions of the bankruptcy code, the plan should not be confirmed, and the case should be dismissed.

WHEREFORE, Trustmark objects to confirmation as aforesaid and requests that this case be dismissed; and Trustmark requests such other relief to which it may be entitled in the premises.

Respectfully submitted,

TRUSTMARK NATIONAL BANK

by: /s/Larry Spencer, Its Attorney

KING & SPENCER, ATTORNEYS
POST OFFICE BOX 123
JACKSON, MS 39205
PHONE: 601-948-1547, MB #7730

CERTIFICATE OF SERVICE

I, Larry Spencer, Attorney for Trustmark National Bank, do hereby certify that I have this day electronically mailed a true and correct copy of the above and foregoing objection to:

Allen Flowers
allen.flowers@aflowerslaw.net
ATTORNEY FOR DEBTOR(S)

J. C. Bell
mdg@jcbell.net
TRUSTEE

SO CERTIFIED, this the 5th day of December 2006.

/s/Larry Spencer

IN THE U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI

IN THE MATTER OF:
CANDICE B. SMITH

CHAPTER 13 PROCEEDING
CASE NO. 06-51308-ERG

RESPONSE TO OBJECTION TO CONFIRMATION OF PLAN
& MOTION FOR MORE DEFINITE STATEMENT

COMES NOW THE DEBTOR, CANDICE B. SMITH, by and through the undersigned Attorney, and files this Response to Trustmark National Bank's Objection To Confirmation Of Plan (hereinafter "the Objection"), and would reply as follows:

DEFENSES

1. The Objection should be dismissed because it fails to state a claim upon which relief can be granted.

MOTION FOR MORE DEFINITE STATEMENT

2. Given the general nature of Trustmark's allegations in the Objection, Debtor moves the Court to order Trustmark to provide a more definite statement of any valid objection it might claim to have to Debtor's Plan. Among other things, Trustmark has cited none of the "established case law and procedure and provisions of the bankruptcy code" that it claims the Plan attempts to "supercede, modify and/or alter."

3. Without elucidation from Trustmark, Debtor cannot formulate a definitive response to paragraphs 4 (including all sub-parts thereof), 5, 6, 7, 8, 9 (first), 10 (sic 11), and/or 12 (sic) 13 of the Objection.

RESPONSE

Without waiving any of the foregoing defenses or motions, Debtor would respond to the Objection as follows:

4. Debtor Admits that Trustmark has a claim that appears to be secured by her 2001 Ford F-150 vehicle.

5. Debtor Denies the allegations in paragraph 2 of the Motion because in this case Trustmark raises a distinction without a difference.

6. Debtor Denies the allegations in paragraph 3 of the Motion, and would show instead that the rules adopted by this Court for plan confirmation provide Trustmark (and every other creditor) with adequate protection. As noted in response to a companion pleading by Trustmark, there would be no adequate protection issue at bar but for Trustmark's curious pleadings that have delayed confirmation. Moreover, Trustmark is entitled to no payments under 11 U.S.C. Sec. 1326(a)(C) at this time, but Trustmark can remedy that condition by withdrawing its vexatious pleadings that have caused delay in this Proceeding.

7. Debtor Admits that a Plan Addendum is attached to, and incorporated into, her proposed Plan. Debtor Denies that Trustmark has demonstrated that her Plan Addendum fails to comply with 11 U.S.C. Sec. 1325(a), and would show that Trustmark has no authority to object to confirmation under 11 U.S.C. Sec. 1325(b).

8. Due to the unduly vague nature of Trustmark's allegations in the Objection, all that the Debtor can say in response to the allegations in paragraph 4 the Objection at this point is that:

- A. If the Plan language is indeed superfluous, it cannot really be objectionable;
- B. Adequate protection is being addressed by these parties in a separate companion pleading, but 11 U.S.C. Sec.

1326(a)(1) makes clear that this Court still has discretion on this issue, and the Debtor has proposed a Plan in good faith that the Court could (and the Debtor believes should) adopt to accomplish that task and others;

- C. The Plan proposes to impose upon secured creditors no duty prohibited by law, nor that is inequitable in nature;
- D. Trustmark would not have a valid objection to secured claims being deemed current at plan completion unless it intends to add fees and/or charges to an account that are not presented to or approved by this Court, and Trustmark has no practical objection in this case as its claim will be paid long before plan completion;
- E. That Trustmark finds the Plan objectionable does not make it so, especially because Trustmark has cited no legal basis for its claims.

Debtor Denies any remaining allegations in paragraph 4 of the Objection.

9. Debtor Denies the allegations in paragraph 5 of the Objection, and further Denies that said paragraph presents a fair representation of the intent or impact of Debtor's proposed Plan.

10. Debtor Denies the allegations of paragraph 6 of the Objection, but again notes that Trustmark has cited none of the legal authority that it purports to rely on.

11. Debtor Denies the allegations of paragraph 7 of the Objection, noting that Trustmark has cited none of the legal

authority it purports to rely on.

12. Debtor Denies the allegation, and the notion, that a Plan cannot modify contractual provisions; Debtor Denies any remaining allegations in paragraph 8 of the Objection.

13. Debtor Admits that all debtors have duties set by law, but Denies any remaining allegation in paragraph 9 of the Objection.

14. Debtor Admits the allegations in paragraph 9 (sic 10) of the Objection, but would show affirmatively that Debtor's Plan complies with 11 U.S.C. Sec. 1327(b).

15. Debtor Denies the allegations of paragraph 10 (sic) 11 the Objection, but would show that this Court has subject matter and personal jurisdiction over the parties to this dispute, and will retain that jurisdiction to address any automatic stay and/or discharge injunction violation by any creditor.

16. Debtor cannot comprehend the allegations in paragraph 11 (sic) 12 the Objection, and therefore Denies same.

17. Debtor Denies the allegations in paragraph 12 (sic 13) of the Objection, and demands strict proof thereof.

18. Debtor reserves the right to further respond to any additional and/or more definite pleadings that Trustmark might file herein.

19. Debtor would show that, at bottom, Trustmark has objected to her proposed plan because it is different from what Trustmark is accustomed to seeing. This does not make a plan objectionable. Indeed, how Trustmark expects any debtor to propose a plan after October 17, 2005, that is not different from what most are

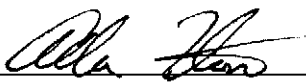
accustomed to, is lost on the Debtor and her Counsel.

20. Because the Debtor finds the Objection to be groundless, Debtor moves this Court to award to her a reasonable attorney's fee for having to defend against the Objection.

WHEREFORE, PREMISES CONSIDERED, Debtor prays that the Objection be Dismissed or that, in the alternative, the Court will Order Trustmark to submit a more definite statement of its objections before dismissing the pleading, that Debtor be awarded a reasonable Attorney's Fee for having to defend against the spurious Objection, and for such other general, specific or equitable relief that this Court deems appropriate.

Respectfully submitted this, the 20th day of December, 2006.

CANDICE B. SMITH


BY: ALLEN FLOWERS
Attorney for the Debtor
341 N. 25th Avenue
Hattiesburg, MS 39401
Telephone: (601) 583-9300
MSB No. 7494

CERTIFICATE OF SERVICE

I, Allen Flowers, Attorney for the Debtor herein, do hereby certify that I have this day caused to be mailed a true and correct copy of the above and foregoing Answer to the following:

Hon. Larry Spencer
P.O. Box 123
Jackson, MS 39205

and by electronic transmission to:

U.S. Trustee at USTPRegion05.JA.ECF@usdoj.gov

Hon. J.C. Bell, Standing Trustee at mdg@jcbell.net

All on this, the 20th day of Dec., 2006.


ALLEN FLOWERS

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

IN RE: CANDICE B. SMITH a.k.a. Candice Kessler Smith
TRUSTMARK NATIONAL BANK

DEBTOR(S)
CASE NO. 06-51308-ERG
CREDITOR

MORE DEFINITE STATEMENT

COMES NOW Trustmark National Bank (Trustmark), by counsel, and file this its More Definite Statement of matters contained in its Objection to Confirmation as follows:

1. As to Paragraph 4 of the objection, Trustmark believes that a more definite statement is not needed since the debtor does not have a claim secured by real property.

2. As to paragraph 5 of the objection, the proposed plan language in question provides that such language may be enforced by the debtor in this case either before or after the entry of a discharge order and either before or after the closing of this case. Debtor provides no time limitation, and debtor's language can conceivably be construed as an attempt to alter applicable statutes of limitation and/or the Doctrine of Laches.

3. State law already provides remedies in the event a motor vehicle Certificate of Title is not timely released, and to impose upon a secured party a 10-day provision for release of a title, with no provision for the particular facts of the case, makes a secured creditor ipso facto liable for damages. Further, the proposed plan language confers jurisdiction of such action by the debtor against the secured party in the bankruptcy court when such jurisdiction is a State Law matter. Further, the proposed plan language states that such a proceeding may be brought either before or after the entry of the discharge order and either before or after the closing of this case although the bankruptcy court loses jurisdiction after the closing of the case.

4. One of the provisions of the proposed plan language is that if a claim has been transferred by the holder, the failure of the transferee to file evidence of the terms of the transfer with the bankruptcy court clerk, the trustee, and the attorney for the debtor. This language imposes strict liability upon the transferor for any acts of the transferee, violating established law on agency.

5. Among other things, the proposed plan language attempts to void enforcement of any arbitration agreement without any finding by a court that such language is either procedurally or substantively deficient.

6. Part of the proposed plan language confers subject matter and personal jurisdiction in the bankruptcy court in matters that are State Law matters over which the bankruptcy court has no jurisdiction.

7. Further, Debtor maintains that some of the proposed plan language is merely a restatement of the Bankruptcy Code. If so, such language is surplus and is not needed by Debtor.

8. Further, any specific plan provision that debtor reasonably and necessarily requires in the chapter 13 plan may be obtained by objection or motion practice.

9. Further, it is unduly burdensome upon the Court, the chapter 13 trustees, and creditors to have to scrutinize such additional language to find out if such language may conflict with the chapter 13 plan that is approved by the Court, the Bankruptcy Code, or established case law. The instant proposed language is not the only variation of plan language being used by chapter 13 debtors. Sorting through such plan language and variations thereof unnecessarily delays confirmation.

WHEREFORE, having filed its More Definite Statement, Trustmark states that it should be released from further obligation to provide further information by pleadings.

Respectfully submitted,

Trustmark National Bank

by: /s/Larry Spencer, Its Attorney

CERTIFICATE OF SERVICE

I, Larry Spencer, Attorney for Trustmark National Bank, do hereby certify that I have this day electronically mailed a true and correct copy of the above and foregoing statement to:

Allen Flowers
allen.flowers@aflowerslaw.net
ATTORNEY FOR DEBTOR(S)

J. C. Bell
mdg@jcbell.net
TRUSTEE

SO CERTIFIED, this the 31st day of January 2007.

/s/Larry Spencer

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