



SO ORDERED,

A handwritten signature in blue ink that reads "Katharine M. Samson".

**Judge Katharine M. Samson
United States Bankruptcy Judge
Date Signed: June 11, 2018**

The Order of the Court is set forth below. The docket reflects the date entered.

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

**IN RE: MICHAEL WAYNE LANDRUM
JENNIFER LYNN LANDRUM**

CASE NO. 17-52357-KMS

DEBTORS

CHAPTER 13

**OPINION AND ORDER
SUSTAINING OBJECTION TO CONFIRMATION**

This matter came on for hearing on the Objection to Confirmation (ECF No. 18) by creditor 21st Mortgage Corporation (“21st Mortgage”) with Response by Debtors Michael Wayne Landrum and Jennifer Lynn Landrum (ECF No. 24). This matter is within the bankruptcy court’s core jurisdiction. *See* 28 U.S.C. § 157(b)(2)(B),(K), (L).

The Objection asserts that the chapter 13 plan (“Plan”) impermissibly proposes to pay 21st Mortgage less than the replacement value of its collateral, a manufactured home. At the close of the hearing, the Court took the valuation question under advisement.

Based on the appraisals, expert testimony, and arguments at hearing, the Objection is sustained. But the Court rejects the value urged by 21st Mortgage, finding instead that the value of the manufactured home is \$70,500.00.

FINDINGS OF FACT

In September 2013, Michael Wayne Landrum (“Landrum”) borrowed \$106,360.00 from 21st Mortgage to buy a 2012 manufactured home (“Home”). Cr’s Ex. 1 at 1-2, ECF No. 48 at 1-2. In exchange, he granted 21st Mortgage a security interest in the Home. The Landrums do not own the real property, and the Home is not attached by a permanent foundation.

Approximately four years later, the Landrums filed this bankruptcy case, in which 21st Mortgage filed a proof of claim for \$100,539.74, Cl. No. 5-1 at 2. According to the proof of claim, the entire amount is secured by the Home. But the Landrums propose to pay 21st Mortgage only \$35,868.23 over the life of the Plan, ECF No. 13 at 2, hence the Objection.

At hearing, the parties disagreed not only about the Home’s value but also about facts relevant to valuation: the manufacturer and model/trade name. Relying on Debtors’ Exhibit 3 (ECF No. 49-2), identified as a photograph of the Department of Housing and Urban Development label located under the Home’s kitchen sink, the Court finds that the manufacturer is Cavalier Home Builders LLC. Relying on testimony from the expert witness for 21st Mortgage (“Creditor’s Expert”), which was uncontroverted by the expert witness for the Landrums (“Debtors’ Expert”), the Court finds that the model/trade name is Buccaneer. The Court further finds that the substitution of a “9” for a “0” in the Home’s serial number in the appraisal by the Creditor’s Expert is a typographical error, not an indication that the Creditor’s Expert appraised a different manufactured home. *Compare* Debtors’ Ex. 3, ECF No. 49-2, *with* Cr’s Ex. 3 at 3, ECF No. 48 at 12.

CONCLUSIONS OF LAW

When a chapter 13 debtor intends to keep a secured creditor’s collateral and the creditor has objected to confirmation, the plan may nevertheless be confirmed by “cramming down” the

creditor's claim to the present value of the collateral, paid over the life of the plan. 11 U.S.C. § 1325(a)(5)(B)(ii); *Assocs. Commercial Corp. v. Rash*, 520 U.S. 953, 957 (1997). When the collateral is personal property, the value of the claim is based on the replacement value of the property. 11 U.S.C. § 506(a)(2). "With respect to property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* Here, it is undisputed that the Home is personal property acquired for personal, family, or household purposes. The question, then, is how much a manufactured home seller would charge for a home of the same type, age, and condition as Landrum's.

"The Bankruptcy Code does not prescribe any particular method of valuing collateral, but instead leaves valuation questions to judges on a case-by-case basis." *Fin. Sec. Assurance Inc. v. T-H New Orleans Ltd. P'ship (In re T-H New Orleans Ltd. P'ship)*, 116 F.3d 790, 799 (5th Cir. 1997). As this Court has previously recognized, "[t]he bankruptcy court is not bound by valuation opinions or reports submitted by appraisers" and may: (1) "form its own opinion as to the value of property in bankruptcy proceedings"; (2) "accept an appraisal in its entirety"; or (3) "choose to give weight only to those portions of an appraisal that assist the Court in its determination." *In re The Grind Coffee & Nosh, LLC*, No. 11-50011-KMS, 2011 WL 1301357, at *6 (Bankr. S.D. Miss. Apr. 4, 2011).

When determining the replacement value of a manufactured home, this Court and others have favored the use of the National Appraisal System (NAS) with the National Automobile Dealers Association (NADA) price guide. *See In re Munro*, No. 17-50039, 2017 WL 3141917, at *4 (Bankr. S.D. Miss. July 24, 2017); *see also In re Edwards*, No. 17-02821-5-SWH, 2017 WL 6754026, at *7 (Bankr. E.D.N.C. Dec. 29, 2017); *In re Thornton*, No. 15-6762-RLM-13, 2016 WL

3092280, at *3 (Bankr. S.D. Ind. May 23, 2016). The NAS/NADA method uses “a formulaic and standardized” approach to generate a value that courts use as a starting point, which may then be adjusted up or down based on the evidence in a particular case. *In re Edwards*, 2017 WL 6754026, at *7.

Here, the Creditor’s Expert appraised the Home by the NAS/NADA method, identifying the Home as a 2012 home manufactured by Cavalier under the trade name Buccaneer, with a base value of \$66,152.00 from the NADA guide. Cr’s Ex. 3 at 4, ECF No. 48 at 13. Factoring in a 97% multiplier for the Home’s location in Mississippi and a 111% multiplier for its “good” condition as determined by physical inspection, then adjusting downward for the cost of needed repairs and upward for various components and accessories, the Creditor’s Expert calculated the Home’s replacement value as \$77,600.00. *Id.*

The Debtors’ Expert appraised the Home by the market approach, in which she used the Multiple Listing Service (MLS) to search through tens of thousands of manufactured homes, looking for sold listings similar to the Home in age, size, and location. Hr’g Tr. 96:17, 102:10-12, ECF No. 57 at 96, 102. She compared the photos and descriptions in the MLS to the Home’s features as evaluated on physical inspection and identified three comparables. *Id.* at 102:18-20. Assessing the Home’s condition as “fair” to “average,” *id.* at 101:9, she valued the Home at \$45,000.00, Debtors’ Ex. 2 at 2, ECF No. 49-1 at 2.

On cross-examination, the Debtors’ Expert acknowledged that the MLS does not include sales at manufactured home lots or dealerships and that her appraisal did not consider such sales. Hr’g Tr. 110:17-19, 112:2-11. But where, as here, a manufactured home is not attached to the land by a permanent foundation, valuation that does not consider retail sales might not yield replacement value. A manufactured home not attached to the land is more like a vehicle to which

NADA values apply than like a site-built house to which MLS values apply. Here, the Home is not permanently attached to the land. Further, the Debtors' Expert testified that her estimate was not replacement value: "Buyers and sellers are not into replacement value." *Id.* at 112:1. Because the standard under § 506(a)(2) is replacement value, the Court rejects the value calculated by the Debtors' Expert.

The opinion of the Debtors' Expert is, however, relevant to determining the Home's condition. Two months passed between the inspection by the Creditor's Expert and the inspection by the Debtors' Expert, during which time it would be reasonable to expect that the Home continued to deteriorate. Landrum's opinion of the Home's condition is also relevant. *See In re Sweeney*, 556 B.R. 208, 217 (Bankr. E.D.N.C. 2016) (describing debtor's testimony as "relevant, useful, and credible" concerning condition of manufactured home where she lived). Landrum testified that based on the repairs he believes the Home needs "to get it in a good or sellable condition," the current condition of the Home is only "fair." Hr'g Tr. 85:16-19.

Considering Landrum's opinion as well as the passage of time between the two appraisals, the Court concludes that the Home is in "average" condition. The replacement value of the Home in average condition is \$70,500.00, calculated by applying a 100% multiplier instead of a 111% multiplier, as the Creditor's Expert described. *See id.* at 54:2-3.

ORDER

IT IS THEREFORE ORDERED THAT the Objection to Confirmation is **SUSTAINED**,
and

FURTHER ORDERED THAT the value of the manufactured home is \$70,500.00

##END OF ORDER##