

The document below is hereby signed.

Signed: December 14, 2016



S. Martin Teel, Jr.

S. Martin Teel, Jr.
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

In re)	
)	
JEFFREY J. PELT,)	Case No. 16-00425
)	(Chapter 13)
Debtor.)	
)	Not for Publication in
)	West's Bankruptcy Reporter

MEMORANDUM DECISION AND ORDER DENYING MOTION TO
VALUE COLLATERAL AND MODIFY INTEREST RATE OF SECURED DEBT

The debtor seeks an order valuing his car for purposes of fixing the amount of the allowed secured claim of Americredit Financial Services, Inc. dba GM Financial, which has a lien on the car, and lowering the interest rate that must be paid on the allowed secured claim. The hanging paragraph of 11 U.S.C. § 1325(a) does not apply because the car was bought more than 910 months before the commencement of this case, and thus the debtor may obtain a determination of the allowed amount of the secured claim under 11 U.S.C. § 506(a).

However, he seeks to use a private party value¹ as the basis

¹ The motion refers to an exhibit evidencing an Edmunds.com valuation, but no exhibit is attached to the motion.

of the valuation. Under § 506(a)(2), the valuation ought to be retail value if the car was purchased for personal, family, or household purposes, and the debtor does not allege that he bought the car for some other purpose.

Moreover, a motion is not an appropriate vehicle to lower a secured creditor's interest rate. The debtor's proposed plan calls for direct payment of the allowed secured claim with no alteration. The only way that the debtor can alter the creditor's rights in that regard is via a plan provision under 11 U.S.C. § 1325(a)(5)(B)(ii). See *In re Foster*, 670 F.2d 478 (5th Cir. 1982) (opining that the modification of creditor's rights generally must be under a plan). The plan contains no such provision. Nor has the debtor alleged facts demonstrating that the interest rate he proposes would be appropriate under *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004).

In accordance with the foregoing, it is

ORDERED that the debtor's *Motion to Value Collateral and Modify Interest Rate of Secured Debt* (Dkt. No. 21) is DENIED without prejudice.

[Signed and dated above.]

Copies to: E-recipients of orders;

AmeriCredit Financial Services, Inc.
dba GM Financial
P O Box 183853
Arlington, TX 76096

Corporation Service Co.

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Washington, DC 20005